

## OFFERING MEMORANDUM DATED APRIL 19, 2022

### **NEW ISSUE -- BOOK-ENTRY ONLY**

*In the opinion of Hinckley, Allen & Snyder LLP, Bond Counsel, based upon an analysis of existing law and assuming, among other matters, compliance with certain covenants, interest on the Series 2022 Bonds is excluded from gross income for federal income tax purposes under the Internal Revenue Code of 1986, as amended (the "Code"). Interest on the Series 2022 Bonds is not a specific preference item for purposes of the federal alternative minimum tax. Under existing statutes, the interest on the Series 2022 Bonds is exempt from the New Hampshire personal income tax on interest and dividends. Bond Counsel expresses no opinion regarding any other tax consequences related to the ownership or disposition of, or the accrual or receipt of interest on, the Bonds. See "TAX EXEMPTION" herein.*

**\$188,700,000\***

### **BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE**

#### **REVENUE BONDS**

#### **(THE BALDWIN AT WOODMONT COMMONS PROJECT)**

#### **SERIES 2022**

consisting of

<b>\$87,800,000*</b> Senior Revenue Bonds Series 2022A	<b>\$15,000,000</b> Senior Revenue Bonds Series 2022B	<b>\$38,500,000*</b> Senior Revenue Bonds Series 2022C	<b>\$30,000,000*</b> Senior Revenue Bonds Series 2022D	<b>\$17,400,000</b> Subordinate Revenue Bonds Series 2022E
<i>of which</i>				
<b>\$5,055,000</b> Senior Revenue Bonds Series 2022A	<b>\$15,000,000</b> Senior Revenue Bonds Series 2022B	<b>\$2,220,000</b> Senior Revenue Bonds Series 2022C	<b>\$1,725,000</b> Senior Revenue Bonds Series 2022D	<b>\$17,400,000</b> Subordinate Revenue Bonds Series 2022E

*shall be delivered on or about April 21, 2022*

#### **Dated: Date of Issuance**

The Business Finance Authority of the State of New Hampshire Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022 (the "Series 2022 Bonds") are being issued by the Business Finance Authority of the State of New Hampshire (the "Issuer"), in order to (i) refinance the Business Finance Authority of the State of New Hampshire Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2020, (ii) finance the construction and equipping of a continuing care retirement community (the "Project") to be owned by The Baldwin Senior Living (the "Borrower"), (iii) make a deposit to the Tax-Exempt Senior Debt Service Reserve Fund and the Subordinate Debt Service Reserve Fund, (iv) pay capitalized interest on the Series 2022 Bonds and (v) pay certain costs of issuing the Series 2022 Bonds.

The Series 2022 Bonds are issuable only as fully-registered bonds initially in Authorized Denominations (as defined herein). All of the Series 2022 Bonds initially will be maintained under a book-entry system and registered in the name of Cede & Co., as registered owner and nominee for The Depository Trust Company ("DTC"). DTC will act as securities depository for the Series 2022 Bonds. Purchases of the Series 2022 Bonds will be in book-entry form only. So long as the Series 2022 Bonds are maintained under a book-entry system, payments of the principal of and premium, if any, and interest on the Series 2022 Bonds will be made when due by UMB Bank, National Association (the "Trustee") to DTC in accordance with the Trust Indenture by and between the Issuer and the Trustee (the "Bond Indenture"), and the Trustee will have no obligation to make any payments to any beneficial owner of any Series 2022 Bonds. See "THE SERIES 2022 BONDS -- Book-Entry Only System."

Interest will accrue on the Outstanding amount of the Series 2022 Bonds from the date of the initial delivery of the Series 2022 Bonds. Interest on the Series 2022 Bonds is payable on October 1, 2022 and on each April 1 and October 1 thereafter.

**The Series 2022 Bonds constitute limited obligations of the Issuer payable solely from (i) payments made by the Borrower to the Trustee pursuant to the Loan Agreement and (ii) payments by Edgewood Retirement Community, Inc. (the "Support Provider") under the Support Agreement.** The obligation of the Borrower to pay its obligations under the Loan Agreement will be secured by a pledge of the Borrower's Gross Revenues and the Mortgages (defined herein) from the Borrower to the Trustee with respect to certain real and tangible personal property of the Borrower. See "SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2022 BONDS." *The lien and right of payment of the Subordinate Bonds will be subordinate to the payment of the Senior Bonds.* See "SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2022 BONDS."

**THE SERIES 2022 BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OF THE STATE OF NEW HAMPSHIRE OR OF THE ISSUER EXCEPT TO THE EXTENT PERMITTED BY NEW HAMPSHIRE RSA 162-I. ALL AMOUNTS OWED UNDER THE LOAN AGREEMENT ARE PAYABLE ONLY FROM THE SOURCES PROVIDED IN THE BOND INDENTURE, AND NO PUBLIC FUNDS MAY BE USED FOR THAT PURPOSE. THE ISSUER HAS NO TAXING POWER.**

**THE SERIES 2022 BONDS ARE NOT RATED. THE SERIES 2022 BONDS INVOLVE A HIGH DEGREE OF RISK. NO PROSPECTIVE PURCHASER OF THE SERIES 2022 BONDS SHOULD MAKE A DECISION TO PURCHASE ANY SERIES 2022 BONDS WITHOUT FIRST READING AND CONSIDERING IN FULL THE SECTION ENTITLED "CERTAIN BONDHOLDERS' RISKS."**

*The Series 2022 Bonds are subject to mandatory and optional redemption prior to maturity as described herein under  
"THE SERIES 2022 BONDS -- Redemption Provisions."*

The Series 2022 Bonds will be delivered from time-to-time as funds are required to finance the Project. The initial subseries of Series 2022 Bonds offered hereby will initially bear interest until, if applicable, the consolidation date as follows:

#### **SERIES 2022A-1 BONDS**

Term Bond Due (April 1)	Principal Amount	Initial Interest Rate**	Price	CUSIP
2029	\$5,055,000	5.75%	100%	64468KCC8

#### **SERIES 2022B BONDS**

Term Bond Due (April 1)	Principal Amount	Interest Rate	Price	CUSIP
2029	\$15,000,000	5.75%	100%	64468KCD6

#### **SERIES 2022C-1 BONDS**

Term Bond Due (April 1)	Principal Amount	Initial Interest Rate**	Price	CUSIP
2027	\$2,220,000	3.75%	100%	64468KCE4

#### **SERIES 2022D-1 BONDS**

Term Bond Due (April 1)	Principal Amount	Initial Interest Rate**	Price	CUSIP
2027	\$1,725,000	5.50%	100%	64468KCF1

#### **SERIES 2022E BONDS**

Term Bond Due (April 1)	Principal Amount	Interest Rate**	Price	CUSIP
2029	\$17,400,000	10.00%	96%	64468KCG9

**THE BONDHOLDER REPRESENTATIVES FOR THE INITIAL PURCHASERS OF THE SERIES 2022 BONDS WILL BE REQUIRED TO SIGN AN INVESTOR LETTER IN THE FORMS INCLUDED IN APPENDIX E-1 OR APPENDIX E-2 TO THIS OFFERING MEMORANDUM, AS APPLICABLE.**

So long as the Bondholder Representative for the Senior Bonds represents the Beneficial Owners holding more than 50% of the aggregate principal amount of the Outstanding Senior Bonds (or, if no Senior Bonds remain Outstanding, the Bondholder Representative for the Subordinate Bonds represents the Beneficial Owners holding more than 50% of the aggregate principal amount of the Outstanding Subordinate Bonds), such entity has substantial power, including (without limitation) the ability to modify the Bond Indenture, the Loan Agreement, the Continuing Covenants Agreements, the Pledge Agreement, the Support Agreement, and the Mortgages and direct remedies following the occurrence of an Event of Default thereunder. Specifically, among other powers, (i) the Bondholder Representative representing the Beneficial Owners of more than 50% of the aggregate principal amount of the Outstanding Senior Bonds has the right to approve certain modifications involving the maturity of, the principal amount of, the rate of, or the time of payment of interest on the Senior Bonds and (ii) the Bondholder Representative representing the Beneficial Owners of more than 50% of the aggregate principal amount of the Outstanding Subordinate Bonds has the right to approve certain modifications involving the maturity of, the principal amount of, the rate of, or the time of payment of interest on the Subordinate Bonds. For the avoidance of doubt, all such amendments or modifications approved by a Bondholder Representative shall apply equally and ratably to all Senior Bonds or Subordinate Bonds then Outstanding, as the case may be, regardless of the Beneficial Owner. See "CERTAIN BONDHOLDER RISKS -- Control of Rights and Remedies," "THE SERIES 2022 BONDS -- Bondholder Representatives Deemed Owner of Series 2022 Bonds," and the proposed forms of the Bond Indenture, the Loan Agreement, the Continuing Covenants Agreements, the Pledge Agreement, the Support Agreement, and the Mortgages in Appendix C to this Offering Memorandum.

The Series 2022 Bonds are offered, subject to prior sale, when, as and if issued by the Issuer and accepted by Odeon Capital Group LLC, the Underwriter, subject to the approval of their validity by Hinckley, Allen & Snyder LLP, Bond Counsel, and to certain other conditions. Certain legal matters will be passed upon for the Borrower, the Parent and the Support Provider by their counsel, Nixon Peabody LLP, for the Underwriter by McKenna Shelton & Henn LLP and for the Trustee by Hinckley, Allen & Snyder LLP. It is anticipated that the Series 2022 Bonds will be available for delivery through the facilities of DTC on or about April 21, 2022.

**ODEON CAPITAL GROUP LLC**

\* Maximum aggregate principal amount.

\*\* See "THE SERIES 2022 BONDS -- Interest."

No dealer, broker, salesman or other person has been authorized to give any information or to make any representation other than those contained in this Offering Memorandum in connection with the offering described herein, and, if given or made, such other information or representation must not be relied upon as having been authorized. This Offering Memorandum does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any such offer or solicitation, in any jurisdiction in which it is unlawful for such person to make such offer or solicitation. Neither the delivery of this Offering Memorandum nor the sale of any of the Series 2022 Bonds implies that the information herein is correct as of any date subsequent to the date thereof.

The information contained herein has been obtained from the Issuer, the Borrower and the Support Provider and other sources believed to be reliable. The Underwriter has provided only the following sentence for inclusion in this Offering Memorandum: The Underwriter has reviewed the information in this Offering Memorandum in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information. The information contained herein is subject to change after the date of this Offering Memorandum, and this Offering Memorandum speaks only as of its date.

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THE SERIES 2022 BONDS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THE BOND INDENTURE HAS NOT BEEN QUALIFIED UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, IN RELIANCE UPON EXEMPTIONS CONTAINED IN SUCH ACTS. THE REGISTRATION OR QUALIFICATION OF THE SERIES 2022 BONDS UNDER THE LAWS OF ANY STATE OR ANY EXEMPTION FROM REGISTRATION OR QUALIFICATION CANNOT BE REGARDED AS A RECOMMENDATION THEREOF. NO STATE OR OTHER GOVERNMENTAL ENTITY HAS PASSED UPON THE MERITS OF THE SERIES 2022 BONDS OR THE ACCURACY OR COMPLETENESS OF THIS OFFERING MEMORANDUM. ANY REPRESENTATION TO THE CONTRARY MAY BE A CRIMINAL OFFENSE.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVER ALLOT OR EFFECT TRANSACTIONS WHICH STABILIZE OR MAINTAIN THE MARKET PRICE OF THE SERIES 2022 BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

This Offering Memorandum is not to be construed as a contract or agreement between the Issuer and the purchasers or holders of any of the Series 2022 Bonds (collectively, the "Bondholders").

*Certain statements included or incorporated by reference in this Offering Memorandum constitute "forward looking statements." Such statements are generally identifiable by the terminology used such as "plan," "expect," "estimate," "budget," "forecast" or other similar words. Such forward-looking statements include, among others, certain of the information in "CERTAIN BONDHOLDERS' RISKS" herein and in Appendix A. The achievement of certain results or other expectations in such forward looking statements involves known and unknown risks, uncertainties and other factors which may cause actual results, performance or achievements described to be materially different from any future results, performance or achievements expressed or implied by such forward looking statements. The Borrower and the Support Provider do not plan to issue any updates or revisions to those forward looking statements if or when their expectations, or events, conditions or circumstances on which such statements are based, occur or fail to occur.*

All quotations from and summaries and explanations of provisions of laws and documents herein do not purport to be complete and reference is made to such laws and documents for full and complete statements of their provisions. Any statements made in this Offering Memorandum involving estimates or matters of opinion, whether or not expressly so stated, are intended merely as estimates or opinions and not as representations of fact. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Offering Memorandum nor any sale of the Series 2022 Bonds shall under any circumstances create any implication that there has been no change in the affairs of the Issuer, the Borrower or the Support Provider since the date hereof.

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Appendix D -- Form of Continuing Disclosure Agreement

Appendix E-1-- Form of Bondholder Representative Letter (Senior Bonds)

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## OFFERING MEMORANDUM

relating to

**\$188,700,000\***  
**BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE**  
**REVENUE BONDS**  
**(THE BALDWIN AT WOODMONT COMMONS PROJECT)**  
**SERIES 2022**

consisting of

<b>\$87,800,000*</b> Senior Revenue Bonds Series 2022A	<b>\$15,000,000</b> Senior Revenue Bonds Series 2022B	<b>\$38,500,000*</b> Senior Revenue Bonds Series 2022C	<b>\$30,000,000*</b> Senior Revenue Bonds Series 2022D	<b>\$17,400,000</b> Subordinate Revenue Bonds Series 2022E
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## INTRODUCTORY STATEMENT

### **General**

This Offering Memorandum, the cover page and appendices set forth certain information for use in connection with the issuance by the Business Finance Authority of the State of New Hampshire (the “Issuer”), a body corporate and politic of the State of New Hampshire, pursuant to New Hampshire RSA 162-I, as amended (the “Act”), of its Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022A in the maximum aggregate principal amount of \$87,800,000 (the “Series 2022A Bonds”), its Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022B in the aggregate principal amount of \$15,000,000 (the “Series 2022B Bonds”), its Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022C in the maximum aggregate principal amount of \$38,500,000 (the “Series 2022C Bonds”), its Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022D in the maximum aggregate principal amount of \$30,000,000 (the “Series 2022D Bonds” and together with the Series 2022A Bonds, the Series 2022B Bonds and the Series 2022C Bonds, the “Senior Bonds”) and its Subordinate Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022E in the aggregate principal amount of \$17,400,000 (the “Series 2022E Bonds” or the “Subordinate Bonds” and collectively with the Senior Bonds, the “Series 2022 Bonds”). The Series 2022 Bonds are issued under and pursuant to the Act and a Trust Indenture dated as of April 1, 2022 (the “Bond Indenture”) between the Issuer and UMB Bank, National Association (the “Trustee”). For the definitions of certain other words and terms used in this Offering Memorandum and not otherwise defined herein, see Appendix C.

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\*maximum aggregate principal amount

The Series 2022 Bonds are being issued at the request of The Baldwin Senior Living, a New Hampshire nonprofit corporation (the “Borrower”), the sole member of which is Edgewood Senior Solutions Group, Inc., a Massachusetts nonprofit corporation (the “Parent”). The Borrower will apply a portion of the proceeds of the Series 2022 Bonds to (i) refinance the Business Finance Authority of the State of New Hampshire Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2020 (the “Series 2020 Bonds”) and (ii) finance the construction and equipping (the “Project”) of a 230-unit life plan continuing care retirement community (the “Community” or the “Facilities”) located on an approximately 15 acre parcel of land located in the Town of Londonderry, New Hampshire (the “Land”).

The Parent was formed in June 2017 for the purpose of supporting and managing an integrated system of senior living communities. The Parent is the sole corporate member of the Borrower. Appendix B sets forth recent audited financial statements of the Parent and its subsidiaries, audited by RSM US LLP. Such financial statements include affiliates of the Borrower and the Parent that have no obligation with respect to the Series 2022 Bonds.

The Support Provider has made a recoverable grant to the Borrower in the aggregate amount of \$10,000,000 (the “Subordinate Recoverable Grant”), which will be applied to pay a portion of the costs of the Project and to pay the costs of issuing the Series 2022 Bonds. Repayment of the Subordinate Recoverable Grant will be subordinate to the payment of the Series 2022 Bonds.

The initial outstanding balance of the Series 2022 Bonds shall be \$41,400,000. Additional advances of the Series 2022 Bonds are expected to be drawn pursuant to the Bond Indenture from time to time upon the terms and conditions set forth in the Bond Indenture. See “THE SERIES 2022 BONDS -- Advances.”

## **Financial Projections and Market Information**

Appendix G to this Offering Memorandum includes information on the population, senior population and income of the areas that the Borrower considers its primary market area and projections based on certain assumptions stated therein. Appendix G also includes certain financial projections (the “Financial Projections”) in connection with the issuance of the Series 2022 Bonds in order to evaluate its ability to meet operating expenses, working capital needs and other financial requirements, including the debt service requirements associated with the Series 2022 Bonds, respectively, during the five-year period ending December 31, 2026. The Financial Projections are based on certain assumptions stated therein. See “CERTAIN BONDHOLDERS’ RISKS -- Caution Regarding Forward-Looking Statements.” The consultant that prepared the Market Study and Financial Projections included in Appendix G is also the financial advisor to the Borrower. See “RELATIONSHIPS.”

## **Risk Factors; Forward-Looking Statements; Investor Letter**

*The Series 2022 Bonds are not rated. The Series 2022 Bonds involve a high degree of risk. No prospective purchaser of the Series 2022 Bonds should make a decision to purchase any Series 2022 Bonds without first reading and considering in full the information under the*

*caption “CERTAIN BONDHOLDERS’ RISKS” to determine the suitability of investing in the Series 2022 Bonds.*

This Offering Memorandum contains statements relating to future results that constitute “forward-looking statements.” When used in this Offering Memorandum, the words “estimate,” “expect,” “project,” “intend,” “anticipate,” “believe,” “may,” “will,” “continue” and similar expressions identify forward-looking statements. Any forward-looking statement is subject to uncertainty and risks that could cause actual results to differ, possibly materially, from those contemplated in such forward-looking statements. Inevitably, some assumptions used to develop forward-looking statements will not be realized and unanticipated events and circumstances may occur. Therefore, investors should be aware that there are likely to be differences between forward-looking statements and actual results, and that those differences could be material.

*Hamlin Capital Management, LLC (“Hamlin”), as bondholder representative for holders of the Senior Bonds will be required to execute and deliver an investor letter in the form included in Appendix E-1 to this Offering Memorandum in connection with the initial advance of the Senior Bonds. Ecofin Advisors, LLC (“Ecofin”), as bondholder representative for the Subordinate Bonds will be required to execute and deliver an investor letter in the form included in Appendix E-2 to this Offering Memorandum in connection with the issuance of the Subordinate Bonds. Hamlin and Ecofin are collectively referred to herein as the “Bondholder Representatives.”*

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## ESTIMATED SOURCES AND USES OF FUNDS

The proceeds of the Series 2022 Bonds and certain other funds are expected to be applied as follows:

Sources of funds:

Series 2022A Bonds .....	\$87,800,000	(1)
Series 2022B Bonds .....	15,000,000	
Series 2022C Bonds .....	38,500,000	(1)
Series 2022D Bonds .....	30,000,000	(1)
Series 2022E Bonds.....	16,704,000	(2)
Transfer from Funds for Series 2020 Bonds.....	1,119,119	
Borrower Equity .....	13,112,800	(3)
Subordinate Recoverable Grant.....	4,000,000	(4)
Total sources of funds .....	<u>\$206,235,919</u>	

Uses of funds:

Refinancing of Series 2020 Bonds .....	\$19,159,953	
Deposit to Project Fund .....	145,987,184	
Deposit to Tax Exempt Senior Capitalized Interest Account.....	12,065,157	(5)
Deposit to Subordinate Capitalized Interest Account.....	3,915,000	(6)
Deposit to Tax-Exempt Senior Debt Service Reserve Fund.....	7,039,825	(7)
Deposit to Subordinate Debt Service Reserve Fund.....	1,740,000	
Deposit to Working Capital Fund.....	10,392,800	(8)
Cost of issuance.....	<u>5,936,000</u>	(9)
Total uses of funds .....	<u>\$206,235,919</u>	

Note: Columns may not add due to rounding.

- (1) Based on the assumption that (i) advances of the Series 2022A Bonds in the aggregate principal amount of \$87,800,000 are made, (ii) advances of the Series 2022C Bonds in the aggregate principal amount of \$38,500,000 are made and (iii) advances of the Series 2022D Bonds in the aggregate principal amount of \$30,000,000 are made.
- (2) Par amount of \$17,400,000 less original issue discount of \$696,000.
- (3) This amount shall be deposited with the Trustee as Entrance Fees are received and will not be deposited with the Trustee upon the initial Advance of the Bonds.
- (4) \$6,000,000 of the \$10,000,000 Subordinate Recoverable Grant was spent to finance pre-development financing.
- (5) Interest on the Senior Bonds for the period estimated to extend for approximately 27 months from the date of the initial advance of the Senior Bonds. Only an amount equal to \$444,173.67 will be deposited to the Tax-Exempt Senior Capitalized Interest Account upon the closing of the initial Advance of the Senior Bonds.
- (6) Interest on the Subordinate Bonds for the period estimated to extend for approximately 27 months from the date of the delivery of the Subordinate Bonds.
- (7) Only an amount equal to \$1,079,586.58 will be deposited to the Tax Exempt Senior Debt Service Reserve Fund upon closing of the initial Advance of the Senior Bonds.
- (8) This amount shall be funded from future Advances of the Senior Bonds and Entrance Fees and will not be funded upon the initial Advance of the Senior Bonds.
- (9) Includes the Underwriter's fee, certain fees and expenses of the financial advisor to the Borrower, the limited special purpose financial advisor to the Borrower, Bond Counsel, legal counsel to the Borrower, the Parent and the Support Provider, the Issuer, the Bondholder Representatives and the Underwriter and certain accounting fees, as well as costs of printing costs, fees and expenses of the Trustee and other miscellaneous expenses.

## **PLAN OF FINANCING**

The proceeds of the initial advance Series 2022 Bonds will be used to (i) refinance the Series 2020 Bonds; (ii) make a deposit to the Project Fund to pay the costs of the Project; (iii) pay interest on the Senior Bonds for the period estimated to extend from the date of their initial delivery to approximately July 2024; (iv) pay interest on the Subordinate Bonds for the period estimated to extend from the date of their initial delivery to approximately July 2024; (v) make a deposit to certain reserves, including the Tax-Exempt Senior Debt Service Reserve Fund and the Subordinate Debt Service Reserve Fund; and (vi) pay certain costs of issuance of the Series 2022 Bonds. See “ESTIMATED SOURCES AND USES OF FUNDS.”

The Issuer will lend the proceeds of the Series 2022 Bonds to the Borrower pursuant to a Loan Agreement (the “Loan Agreement”) between the Issuer and the Borrower. Under the Loan Agreement, the Borrower will agree to make payments to the Trustee to provide for the full and prompt payment when due of the principal of, premium, if any, and interest on the Series 2022 Bonds. Pursuant to the Bond Indenture, the Issuer will assign to the Trustee all of its right, title and interest in and to the Loan Agreement, except for certain reserved rights.

The Borrower will pledge and assign all Gross Revenues to the Trustee as security for its obligations under the Loan Agreement. In addition, the Parent, as sole member of the Borrower, will enter into a Pledge Agreement under which it will pledge its membership interest in the Borrower to the Trustee (the “Pledge Agreement”) and the Borrower will enter into a deposit account control agreement with TD Bank, N.A. (“TD”) under which the Borrower will grant to the Trustee a security interest in the primary operating account of the Borrower held by TD (the “DACA”).

In addition, as security for the performance of the obligations of the Borrower with respect to the Series 2022 Bonds, Edgewood Retirement Community, Inc. (the “Support Provider”), an affiliate of the Borrower and the Parent, will enter into a Support Agreement with the Trustee (the “Support Agreement”). See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2022 BONDS -- Support Agreement.”

To further secure the performance of the obligations of the Borrower under the Loan Agreement (i) with respect to the Senior Bonds, the Borrower will grant a first lien upon and a security interest in the Land and improvements (the “Mortgaged Property”) pursuant to a Mortgage, Assignment of Leases and Rents, Security Agreement, and Fixture Filing Statement from the Borrower in favor of the Trustee (the “Senior Mortgage”) and (ii) with respect to the Subordinate Bonds, the Borrower will grant a second lien on the Mortgaged Property pursuant to a Second Mortgage, Assignment of Leases and Rents, Security Agreement, and Fixture Filing Statement from the Borrower in favor of the Trustee (the “Second Mortgage” and together with the Senior Mortgage, the “Mortgages”). The liens created by the Loan Agreement and the Mortgages will be subject to Permitted Encumbrances. An Event of Default under a Mortgage will be an Event of Default under the Loan Agreement.

To induce the Issuer to (i) issue the Senior Bonds and the owners thereof to purchase the Senior Bonds from time to time, the Borrower will enter into a Continuing Covenants Agreement

with the Trustee (the “Senior Continuing Covenants Agreement”) pursuant to which the Borrower will agree to comply with certain covenants so long as the Senior Bonds are Outstanding and (ii) issue the Subordinate Bonds and the owners thereof to purchase the Subordinate Bonds from time to time, the Borrower will enter into a Continuing Covenants Agreement with the Trustee (the “Subordinate Continuing Covenants Agreement” and together with the Senior Continuing Covenants Agreement, the “Continuing Covenants Agreements”) pursuant to which the Borrower will agree to comply with certain covenants so long as the Subordinate Bonds are Outstanding. See the proposed forms of the Continuing Covenants Agreements in Appendix C. An Event of Default under a Continuing Covenants Agreement will be an Event of Default under the Loan Agreement.

*Pursuant to the Bond Indenture, the lien on and right of payment of the Subordinate Bonds will be subordinate to the lien and right of payment of the Senior Bonds.*

## THE ISSUER

The Issuer is a body politic and corporate, created and existing under New Hampshire RSA 162-A:3 and authorized by the Constitution and laws of the State of New Hampshire, including specifically the Act, to issue the Series 2022 Bonds in the manner contemplated by the Bond Indenture. The Issuer has adopted resolutions authorizing the issuance of the Series 2022 Bonds. The Issuer has authorized the Underwriter to use this Offering Memorandum in connection with the offer and sale of the Series 2022 Bonds.

**THE SERIES 2022 BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OF THE ISSUER OR OF THE STATE OF NEW HAMPSHIRE OR ANY POLITICAL SUBDIVISION THEREOF EXCEPT TO THE EXTENT PERMITTED BY NEW HAMPSHIRE RSA CHAPTER 162-I. NO PUBLIC FUNDS MAY BE USED TO PAY THE PRINCIPAL OR PURCHASE PRICE OF, PREMIUM, IF ANY, OR INTEREST ON THE SERIES 2022 BONDS, WHICH SHALL BE PAYABLE SOLELY FROM THE REVENUES AND FUNDS PLEDGED FOR THEIR PAYMENT UNDER THE BOND INDENTURE. THE ISSUER HAS NO TAXING POWER.**

The Issuer has not participated in the preparation or reviewed or approved this Offering Memorandum except the material under this heading and the section entitled “LITIGATION” (first paragraph only). The distribution of this Offering Memorandum has been duly approved and authorized by the Issuer. Such approval and authorization does not, however, constitute a representation or approval by the Issuer of the accuracy or sufficiency of any information contained herein except to the extent of the information contained under this heading and the section entitled “LITIGATION” (first paragraph only).

## **SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2022 BONDS**

### **Limited Obligations**

**THE SERIES 2022 BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OF THE STATE OF NEW HAMPSHIRE OR OF THE ISSUER EXCEPT TO THE EXTENT PERMITTED BY NEW HAMPSHIRE RSA 162-I. ALL AMOUNTS OWED UNDER THE LOAN AGREEMENT ARE PAYABLE ONLY FROM THE SOURCES PROVIDED IN THE BOND INDENTURE, AND NO PUBLIC FUNDS MAY BE USED FOR THAT PURPOSE. THE ISSUER HAS NO TAXING POWER.**

### **Loan Agreement and Mortgages**

#### ***General***

The Loan Agreement is a general obligation of the Borrower and will remain in full force and effect until all of the Series 2022 Bonds and the interest thereon have been paid or provision for the payment thereof has been made in accordance with the Bond Indenture and all other obligations thereunder have been satisfied. Under the Loan Agreement, the Borrower will agree to make payments to the Trustee to provide for the full and prompt payment when due of the principal of, premium, if any, and interest on the Series 2022 Bonds. Pursuant to the Bond Indenture, the Issuer will assign to the Trustee all of its right, title and interest in and to the Loan Agreement, except for certain reserved rights.

#### ***Security Interest in Gross Revenues***

Under the Loan Agreement, as security for the payments due thereunder, the Borrower grants to the Issuer a security interest in the Gross Revenues. The terms “Gross Revenues” includes all receipts, revenues, rentals, income, insurance proceeds and other money received by or on behalf of the Borrower, including (without limitation) revenues derived from (i) the ownership, operation or leasing of any property of the Borrower (including, without limitation, Entrance Fees, monthly fees and any other fees payable by or on behalf of residents or other clients of the Facilities), (ii) contributions from the Support Provider or the Parent, (iii) gifts, grants, bequests, donations and contributions heretofore or hereafter made that are legally available to meet any of the obligations of the Borrower incurred in the financing, operation, maintenance or repair of any portion of the Facilities, (iv) other operating revenues, (v) unrestricted investment income and (vi) net proceeds from business interruption insurance, and all rights to receive the same, whether in the form of accounts, accounts receivable, contract rights, general intangibles, chattel paper, instruments, investment property or other rights, and the proceeds of such rights, whether now existing or hereafter coming into existence or whether now owned or held or hereafter acquired.

#### ***Lien on Real Property and Security Interest in Personal Property***

Under the Mortgages, as security for the payments required to be made under the Loan Agreement, the Borrower grants a mortgage on the Land and a security interest in all personal property of the Borrower.

## **Continuing Covenants Agreements**

So long as the Senior Bonds are outstanding, the agreements made by the Borrower in the Senior Continuing Covenants Agreement will remain in force and effect and so long as the Subordinate Bonds are outstanding, the agreements made by the Borrower in the Subordinate Continuing Covenants Agreement will remain in force and effect. Certain of the provisions contained in the Continuing Covenants Agreements are more restrictive than those included in the Bond Indenture, and the provisions of the Continuing Covenants Agreement shall control without limiting in any way the obligations of the Borrower under the Bond Indenture, the DACA or the Mortgages. See “Relation to Other Documents; Acknowledgment of Different Provisions of Related Documents; Incorporation by Reference” in the proposed form of the Continuing Covenants Agreements included in Appendix C to this Offering Memorandum.

### ***Rate Covenant***

The Continuing Covenants Agreements require the Borrower to charge and collect such rents, fees and other charges with respect to the Mortgaged Property and will restrict expenses relating to the Mortgaged Property as shall be necessary to achieve in each 12-month period ending on the last day of each Fiscal Quarter ending after the earlier of the first Fiscal Year after the Stabilization Date or June 30, 2026 (each, a “Debt Service Coverage Ratio Testing Date”), a Debt Service Coverage Ratio of at least 1.20 to 1.00; provided that for purposes of calculating the Debt Service Coverage Ratio (i) on or before June 30, 2026, the calculation shall be based on a trailing 6-month basis and (ii) on September 30, 2026, the calculation shall be based on a trailing 9-month basis. See Section 4.12 of the proposed forms of the Continuing Covenants Agreements included in Appendix C to this Offering Memorandum.

If the Borrower fails to achieve the Debt Service Coverage Ratio for any such Debt Service Coverage Ratio Testing Date, then the Borrower shall deliver to the Trustee, the Bondholder Representative for the Senior Bonds and the Bondholder Representative for the Subordinate Bonds a written report of management of the Borrower within 60 days after such Debt Service Coverage Ratio Testing Date, describing in detail its operations and other factors resulting in the failure to meet such Debt Service Coverage Ratio and its plan to increase the Debt Service Coverage Ratio so as to meet the requirement of the Continuing Covenants Agreements, which report shall have been approved by action of the Governing Body of the Borrower. If the Borrower fails to achieve the required Debt Service Coverage Ratio for two consecutive Debt Service Coverage Ratio Testing Dates, then the Borrower shall employ, at the expense of the Borrower, as soon as practicable thereafter, a Consultant acceptable to the Bondholder Representative for the Senior Bonds (or if the Senior Bonds are no longer Outstanding, the Bondholder Representative for the Subordinate Bonds), to submit a written report and recommendations with respect to the rents, fees and other charges of the I Borrower in connection with the operation of the Facilities and with respect to improvements or changes in the operation and management of the Facilities unless such requirement for a Consultant is waived in writing by the Bondholder Representative for the Senior Bonds (or if the Senior Bonds are no longer Outstanding, the Bondholder Representative for the Subordinate Bonds). Such report shall be submitted to the Trustee, the Bondholder Representative for the Senior Bonds and the Bondholder Representative for the Subordinate Bonds as soon as practicable but in no event later than 60 days after the second such Debt Service Coverage Ratio Testing Date.

The Borrower shall revise or cause to be revised such rents, fees (including Entrance Fees and related healthcare obligations), rates, expenses and other charges in conformity with any recommendations of the Consultant and shall otherwise follow the recommendations of the Consultant, in each case as approved by the Bondholder Representative for the Senior Bonds (or if the Senior Bonds are no longer Outstanding, the Bondholder Representative for the Subordinate Bonds), unless the Governing Body of the Borrower determines by resolution, a copy of which shall be provided to the Trustee, the Bondholder Representative for the Senior Bonds and the Bondholder Representative for the Subordinate Bonds, that compliance with such recommendations would jeopardize the tax-exempt status of the Borrower. If the Bondholder Representative for the Senior Bonds (or if the Senior Bonds are no longer Outstanding, the Bondholder Representative for the Subordinate Bonds) waives in writing the requirement for a Consultant or the Borrower complies with the requirements of the Continuing Covenants Agreements then the failure of the Borrower to meet the required Debt Service Coverage Ratio as of any Debt Service Coverage Ratio Testing Date shall not constitute an Event of Default under the Continuing Covenants Agreements.

Notwithstanding anything to the contrary contained herein if (i) the Borrower fails to achieve a Debt Service Coverage Ratio of 1.00 as of any Debt Service Coverage Ratio Testing Date or (ii) the Borrower fails to achieve the required Debt Service Coverage Ratio for three consecutive Debt Service Coverage Ratio Testing Dates, an Event of Default shall be deemed to have occurred under the Continuing Covenants Agreements unless waived in writing by the Bondholder Representative for the Senior Bonds (or if the Senior Bonds are no longer Outstanding, the Bondholder Representative for the Subordinate Bonds).

### ***Liquidity Covenant***

The Continuing Covenants Agreements require the Borrower to maintain, as of each June 30 and December 31 of each fiscal year commencing with the earlier of the first June 30 or December 31 following the Stabilization Date or June 30, 2026 (each, a “Liquidity Testing Date”), (i) prior to the termination of the Support Agreement, at least 90 Days’ Cash on Hand, and (ii) after termination of the Support Agreement, at least 100 Days’ Cash on Hand (the “Liquidity Requirement”). See Section 4.13 of the proposed forms of the Continuing Covenants Agreements included in Appendix C to this Offering Memorandum.

If the Borrower fails to achieve the Liquidity Requirement for any such Liquidity Testing Date, then the Borrower shall deliver to the Trustee, the Bondholder Representative for the Senior Bonds and the Bondholder Representative for the Subordinate Bonds a written report of management of the Borrower within 60 days after such Liquidity Testing Date, describing in detail its operations and other factors resulting in the failure to meet such Liquidity Requirement and its plan to increase the Days’ Cash on Hand so as to meet the requirement of this Section, which report shall have been approved by action of the Governing Body of the Borrower. If the Borrower fails to achieve the Liquidity Requirement for two consecutive Liquidity Testing Dates, then the Borrower shall employ, at the expense of the Borrower, as soon as practicable thereafter, a Consultant acceptable to the Bondholder Representative for the Senior Bonds (or if the Senior Bonds are no longer Outstanding, the Bondholder Representative for the Subordinate Bonds), to submit a written report and recommendations with respect to the rents, fees and other charges of the Borrower in connection with the operation of the Facilities and with respect to

improvements or changes in the operation and management of the Facilities unless such requirement for a Consultant is waived in writing by the Bondholder Representative for the Senior Bonds (or if the Senior Bonds are no longer Outstanding, the Bondholder Representative for the Subordinate Bonds). Such report shall be submitted to the Trustee, the Bondholder Representative for the Senior Bonds and the Bondholder Representative for the Subordinate Bonds as soon as practicable but in no event later than 60 days after the second such Liquidity Testing Date.

The Borrower shall revise or cause to be revised such rents, fees (including Entrance Fees and related healthcare obligations), rates, expenses and other charges in conformity with any recommendations of the Consultant and shall otherwise follow the recommendations of the Consultant, in each case as approved by the Bondholder Representative for the Senior Bonds (or if the Senior Bonds are no longer Outstanding, the Bondholder Representative for the Subordinate Bonds), unless the Governing Body of the Borrower determines by resolution, a copy of which shall be provided to the Trustee, the Bondholder Representative for the Senior Bonds and the Bondholder Representative for the Subordinate Bonds, that compliance with such recommendations would jeopardize the tax-exempt status of the Borrower. If the Bondholder Representative for the Senior Bonds (or if the Senior Bonds are no longer Outstanding, the Bondholder Representative for the Subordinate Bonds) waives in writing the requirement for a Consultant or the Borrower complies with the requirements of the Continuing Covenants Agreements then the failure of the Borrower meet the required Liquidity Requirement as of any Liquidity Testing Date shall not constitute an Event of Default under the Continuing Covenants Agreements.

Notwithstanding the foregoing, if (i) the Borrower fails to achieve at least 70 Days' Cash on Hand as of any Liquidity Testing Date or (ii) the Borrower fails to achieve the Liquidity Requirement for three consecutive Liquidity Testing Dates, an Event of Default shall be deemed to have occurred under the Continuing Covenants Agreements unless waived in writing by the Bondholder Representative for the Senior Bonds (or if the Senior Bonds are no longer Outstanding, the Bondholder Representative for the Subordinate Bonds).

### ***Occupancy Covenant***

(a) The Continuing Covenants Agreements require that for each three-month period ending on the last day of each Fiscal Quarter beginning with the quarter ended December 31, 2023 (each, an "Occupancy Testing Date"), the average number of Independent Living Units, Assisted Living Units and Memory Care Units that are Occupied Units, each shall be not less than the following:

Fiscal Quarter Ending	Number of Independent Living Units that are Occupied Units	Percentage of Independent Living Units that are Occupied Units	Number of Assisted Living Units and Memory Care Units that are Occupied Units	Percentage of Assisted Living Units and Memory Care Units that are Occupied Units
December 31, 2023	18	9.3%	-	-
March 31, 2024	50	26.1	-	-
June 30, 2024	76	40.0	3	7.5%
September 30, 2024	94	49.7	7	17.5
December 31, 2024	108	56.8	12	30.0
March 31, 2025	122	64.0	17	42.0
June 30, 2025	133	70.3	20	50.0
September 30, 2025	153	80.8	23	58.0
December 31, 2025	163	85.5	26	66.0
March 31, 2026	163	85.5	31	76.5
June 30, 2026	163	85.5	34	83.7
September 30, 2026 and thereafter	163	85.5	34	85.0

See Section 4.15 of the proposed forms of the Continuing Covenants Agreements included in Appendix C to this Offering Memorandum.

If the Borrower fails to meet such requirement as of two consecutive Occupancy Testing Dates, then the Borrower shall employ, at the Borrower's expense, as soon as practicable thereafter, a Consultant reasonably acceptable to the Bondholder Representative for the Senior Bonds (or if the Senior Bonds are no longer Outstanding, the Bondholder Representative for the Subordinate Bonds) to submit a written report and recommendations with respect to the marketing of the Units unless such requirement for a Consultant is waived in writing by the Bondholder Representative for the Senior Bonds (or if the Senior Bonds are no longer Outstanding, the Bondholder Representative for the Subordinate Bonds). Such report shall be submitted to the Trustee, the Bondholder Representative for the Senior Bonds and the Bondholder Representative for the Subordinate Bonds as soon as practicable but in no event later than 60 days after the last day of the second such Occupancy Testing Date. Promptly following receipt of such report, the Borrower will adjust its marketing efforts in conformity with any recommendations of the Consultant and shall otherwise follow the recommendations of the Consultant (including, without limitation, implementing a sales commission structure), in each case as approved by the Bondholder Representative for the Senior Bonds (or if the Senior Bonds are no longer Outstanding, the Bondholder Representative for the Subordinate Bonds), unless the Governing Body of the Borrower determines by resolution, a copy of which shall be provided to the Trustee, the Bondholder Representative for the Senior Bonds and the Bondholder Representative for the Subordinate Bonds, that compliance with such recommendations would jeopardize the tax-exempt status of the Borrower. If the Bondholder Representative for the Senior Bonds (or if the Senior Bonds are no longer Outstanding, the Bondholder Representative for the Subordinate Bonds) waives in writing the requirement for a Consultant or the Borrower complies with the requirements of the Continuing Covenants Agreements then the failure of the Borrower to meet the occupancy requirement as of two consecutive Occupancy Testing Dates shall not constitute an Event of Default under the Continuing Covenants Agreements.

Failure by the Borrower to meet the occupancy requirement as of three consecutive Occupancy Testing Dates shall constitute an Event of Default under the Continuing Covenants Agreements.

## **Collateral Assignment**

As security for the performance by the Borrower of its obligations under the Loan Agreement, the Borrower and the Trustee will enter into a Collateral Assignment of Contract Rights under which the Borrower will collaterally assign to the Trustee, its rights and interests to and under certain contracts related to the Project and the Facilities.

## **Support Agreement**

Pursuant to the Support Agreement, the Support Provider (i) is obligated to fund on a limited basis the Borrower in the event that it breaches certain financial covenants contained in its agreements with lenders, including the Loan Agreement and the Continuing Covenants Agreements, (ii) guarantees the full and prompt payment of the Senior Bonds as the same shall become due and payable in an amount not to exceed the Guaranteed Amount and (iii) after the payment in full of the Senior Bonds, guarantees the full and prompt payment of the Subordinate Bonds as the same shall become due and payable in an amount not to exceed the Guaranteed Amount (after taking into account any prior payments under the Support Agreement). “Guaranteed Amount” means: (i) \$10,000,000, or (ii) \$8,000,000 if (A) no Default or Event of Default hereunder or under the Continuing Covenants Agreements or any of the other Related Documents has occurred and is continuing, and (B) average occupancy of the total number of Units in the Project has been at least 80% for four consecutive Fiscal Quarters (for the avoidance of doubt, for 12 consecutive full months), and (C) the Series 2022C Bonds and the Series 2022D Bonds have been paid in full, and (D) all monthly payments due with respect to the Series 2022 Bonds as of such date have been made, and (E) the amount on deposit in the Tax-Exempt Senior Debt Service Reserve Fund is not less than the Debt Service Reserve Fund Requirement.

The Support Provider’s obligations under the Support Agreement terminates upon the earliest of the following dates: (a) the last day of the first Fiscal Quarter in which (i) average occupancy of the total number of Units in the Project has been at least 90% for eight consecutive Fiscal Quarters, and (ii) the Debt Service Coverage Ratio of the Borrower has been not less than 1.40 to 1.00, exclusive of all contributions from the Support Provider or the Parent or any source other than the revenues derived from the operation of the Mortgaged Property and (iii) the Days’ Cash on Hand of the Borrower has been not less than 100, exclusive of all contributions from the Support Provider or the Parent or any source other than revenues derived from operation of the Mortgaged Property, and (iv) the Series 2022C Bonds and the Series 2022D Bonds have been paid in full, and (v) all monthly payments due with respect to the Series 2022 Bonds as of such date have been made, and (vi) the amount on deposit in the Tax-Exempt Senior Debt Service Reserve Fund is not less than the Debt Service Reserve Fund Requirement; (b) the date on which the Series 2022 Bonds fully and finally paid or provision for the payment thereof shall have been made in accordance with the Bond Indenture; or (c) the date upon which the total of amounts tendered by the Support Provider pursuant to the Support Agreement is equal to at least the Guaranteed Amount. See the proposed form of the Support Agreement included in Appendix C.

In the Support Agreement, the Support Provider has agreed on March 31 and September 30 to maintain Unrestricted Cash and Marketable Securities (excluding the Subordinate Debt) in an aggregate amount not less than the sum of (i) 1.25 times the Guaranteed Amount, plus (ii) the greatest then applicable amount of Unrestricted Cash and Marketable Securities required to be maintained by the Support Provider under any other agreement or instrument to which the Support Provider is a party or otherwise.

As of December 31, 2021, the market value of the unrestricted cash and investments of the Support Provider was \$38,652,542. The ability of the Support Provider to meet its obligations under the Support Agreement upon any default by the Borrower will depend on the creditworthiness of the Support Provider. See “CERTAIN BONDHOLDERS RISKS -- Creditworthiness of Support Provider.”

*The Support Agreement is not a full guaranty of the Support Provider to pay the principal of, premium, if any, and interest on the Series 2022 Bonds as a result of the inability of the Borrower to pay such amounts as they become due or to pay them upon maturity.*

## **Debt Service Reserve Funds**

### ***Tax-Exempt Senior Debt Service Reserve Fund***

Upon the initial delivery of the Senior Bonds, there will be deposited in the Tax-Exempt Senior Debt Service Reserve Fund (the “Senior Reserve Fund”) established under the Bond Indenture an amount equal to \$1,079,586.58. In connection with the final advance of the Series 2022 Bonds, there shall be deposited in the Senior Reserve Fund an amount which, together with the funds on deposit in the Senior Reserve Fund, would equal 50% Maximum Annual Debt Service on all Outstanding Senior Bonds. Thereafter, to the extent permitted by law and after the payment of any refunds due, the Borrower shall pay 100% of Entrance Fees received from the residents of each Unit to the Trustee for deposit in the Senior Reserve Fund until there shall be deposited in the Senior Reserve Fund an amount which, together with the funds on deposit in the Senior Reserve Fund, would equal Maximum Annual Debt Service on all Outstanding Senior Bonds. The Senior Reserve Fund secures only the Senior Bonds.

### ***Subordinate Debt Service Reserve Fund***

Upon the delivery of the Subordinate Bonds, there will be deposited in the Subordinate Debt Service Reserve Fund (the “Subordinate Reserve Fund”) established under the Bond Indenture an amount equal to \$1,740,000. The Subordinate Reserve Fund secures only the Subordinate Bonds.

## **Deposit Account Control Agreement**

As further security for the Series 2022 Bonds, the Borrower will enter into the DACA under which the Borrower will grant to the Trustee a security interest in the primary operating account held by the Borrower with TD. The parties will enter into the DACA to perfect the Trustee’s security interest in and to provide for control by the Trustee of such account and all funds, checks, cash, items, instruments, and other things of value at any time paid, deposited,

payable or credited to such account and all proceeds of the foregoing which are secured by the DACA. The amounts pledged under the DACA are available for use by the Borrower, and the Trustee's control of such amounts pursuant to its security interest shall commence upon the occurrence of an Event of Default under the Bond Indenture or any Related Documents.

### **Pledge Agreement**

The Parent, as sole member of the Borrower, will enter into a Pledge Agreement whereby it will grant to the Trustee a security interest in all of its rights, title and interest to its equity interests in the Borrower, which includes all of its interest in the Borrower's property and distributions therefrom. If an Event of Default under the Pledge Agreement has occurred and remains uncured, the Trustee and the Bondholder Representative for the Senior Bonds (or if no Senior Bonds remain Outstanding, the Bondholder Representative for the Subordinate Bonds) shall have the right, at their option, to exercise all voting rights of the Parent and the right to receive all distributions of property to be held as substitute collateral under the Pledge Agreement or to be applied to the payment of the Series 2022 Bonds as set forth in the Bond Indenture.

In addition to the other remedies set forth in the Pledge Agreement, upon the occurrence and during the continuance of an Event of Default under the Pledge Agreement, the Trustee may, with the consent of the Bondholder Representative for the Senior Bonds (or if no Senior Bonds remain Outstanding, the Bondholder Representative for the Subordinate Bonds), designate a successor sole member for the Borrower, which may, at the option of the Trustee or Bondholder Representative for the Senior Bonds (or if no Senior Bonds remain Outstanding, the Bondholder Representative for the Subordinate Bonds), be a receiver appointed by a court of competent jurisdiction.

## **THE SERIES 2022 BONDS**

### **General**

The Series 2022 Bonds are issued only as fully-registered bonds in Authorized Denominations. "Authorized Denominations" means (i) for any Hamlin Investor Bond (as defined in the Bond Indenture), \$5,000 and any integral multiple of \$5,000 in excess thereof, and (ii) for any other Series 2022 Bond, \$100,000 and any integral multiple of \$1,000 in excess thereof unless (A) the Series 2022 Bonds have an Investment Grade Rating from a Rating Agency, or (B) the Series 2022 Bonds have defeased in accordance with the Bond Indenture. The Series 2022 Bonds initially shall be maintained under a book-entry system.

Transfers of the Series 2022 Bonds may be made only in accordance with the securities laws of any state or other jurisdiction. See Section 2.11 of the proposed form of Bond Indenture included in Appendix C. Beneficial Owners shall have no right to receive physical possession of the Series 2022 Bonds and payments of the principal of, premium, if any, and interest on the Series 2022 Bonds will be made as described below under "Book-Entry Only System."

The outstanding balance of the Senior Bonds on their date of issuance shall be \$24,000,000 and shall be subsequently increased in connection with any future advances

pursuant to the Bond Indenture and decreased in connection with any payments; provided, however, that the total principal amount of Senior Bonds issued under the Bond Indenture shall not exceed \$171,300,000. See “Advances” below. The outstanding balance of the Subordinate Bonds on their date of issuance shall be \$17,400,000 and shall be subsequently decreased in connection with any payments.

The Series 2022 Bonds will be dated the date of, and bear interest from the date of, their delivery.

## **Interest**

The Series 2022 Bonds will bear interest at the annual rate set forth on the cover of this Offering Memorandum. Interest will be payable on October 1, 2022 and on each April 1 and October 1 thereafter (each, an “Interest Payment Date”). Subject to the optional and mandatory redemption provisions set forth below, (i) the Series 2022A Bonds mature on April 1, 2029, (ii) the Series 2022B Bonds mature on April 1, 2029, (iii) the Series 2022C Bonds mature on April 1, 2027, (iv) the Series 2022D Bonds mature on April 1, 2027 and (v) the Series 2022E Bonds mature on April 1, 2029.

Interest on the Series 2022 Bonds shall be computed on the basis of a 360-day year consisting of twelve 30-day months.

Of the interest on the Subordinate Bonds, interest shall be paid on each Interest Payment Date unless an Event of Default shall have occurred, such payment shall cause the Days’ Cash on Hand to be below the Liquidity Requirement or there is insufficient money to make such payment; *provided, however,* such events shall not preclude interest on the Subordinate Bonds to be paid from the Subordinate Reserve Fund or the Subordinate Capitalized Interest Account. See the proposed form of the Bond Indenture included in Appendix C. Any interest on the Subordinate Bonds not paid on an Interest Payment Date shall accrue and shall compound semiannually, with interest calculated based on the outstanding par amount of the Subordinate Bonds, and shall be payable on any subsequent Interest Payment Date, subject to the terms and conditions of the Bond Indenture.

The Senior Bonds will accrue interest on the principal amount Outstanding based upon the par amount of the related advance at the rate set forth on the cover page of this Offering Memorandum but only to the extent advances are actually made by the Holders.

On the first Interest Payment Date that occurs at least 45 days after the final delivery of Series 2022 Bonds, (i) the various Subseries of Series 2022A Bonds shall be consolidated pursuant to Section 2.02(e) of the Bond Indenture into one Series 2022A Bond certificated with a new CUSIP bearing interest at a rate determined as the average of the interest rates of all Subseries of Series 2022A Bonds weighted by stated principal amount and rounded up to the nearest hundredth by the Underwriter; (ii) the various Subseries of Series 2022C Bonds shall be consolidated pursuant to Section 2.02(e) of the Bond Indenture into one Series 2022C Bond certificated with a new CUSIP bearing interest at a rate determined as the average of the interest rates of all Subseries of Series 2022C Bonds weighted by stated principal amount and rounded up to the nearest hundredth by the Underwriter; and (iii) the various Subseries of Series 2022D

Bonds shall be consolidated pursuant to Section 2.02(e) of the Bond Indenture into one Series 2022D Bond certificated with a new CUSIP bearing interest at a rate determined as the average of the interest rates of all Subseries of Series 2022D Bonds weighted by stated principal amount and rounded up to the nearest hundredth by the Underwriter.

## **Advances**

The Borrower may cause future advances of the Senior Bonds in minimum increments of \$3,000,000 (or such smaller amount as shall be approved by the Bondholder Representative for the Senior Bonds) to be made to the Borrower to fund additional deposits to the Project Fund, the Tax-Exempt Senior Capitalized Interest Account and the Senior Reserve Fund and to pay costs of issuance. The Trustee shall authenticate and deliver Subsequent Subseries of the Senior Bonds upon its receipt of (a) an Advance Certificate of an Authorized Representative of the Borrower, (b) the purchase price of such Series 2022 Bonds in an amount equal to the principal amount of such advance, (c) a certificate of the Authorized Representative of the Borrower stating, among other things, that on the date of the advance (i) it has taken no action, or omitted to take any action, to cause an Event of Default, (ii) no change in federal income tax law has occurred which would adversely affect the exclusion from gross income of interest on the Series 2022 Bonds (unless the Borrower shall provide a Bond Counsel Opinion to such effect), (iii) no Event of Default has occurred and is continuing and (iv) a mortgagee title insurance policy or an endorsement to the existing mortgagee title insurance policy on the Mortgaged Property in an amount equal to the Advance amount and acceptable to the Bondholder Representative for the Senior Bonds, (d) any required date downs or endorsements to the title policy needed to maintain the first priority of the Senior Mortgage; and (e) such other opinions and certifications, including, but not limited to, opinions of Bond Counsel and counsel to the Borrower, as may be reasonably requested by the Trustee or the Bondholder Representative for the Senior Bonds.

## **Redemption Provisions**

### *Optional Redemption*

The Series 2022A Bonds are subject to redemption prior to maturity at the option of the Issuer, at the direction of the Borrower, in whole or in part at any time on or after April 1, 2027, but before April 1, 2028, at a redemption price of 103%, at any time on or after April 1, 2028, but before April 1, 2029, at a redemption price of 102%, and on April 1, 2029 at a redemption price of 101% (including at maturity), plus, in each case, all accrued interest thereon to, but not including, the redemption date.

The Series 2022B Bonds, the Series 2022C Bonds and the Series 2022D Bonds are subject to redemption prior to maturity at the option of the Issuer, at the direction of the Borrower, in whole or in part at any time at a price of 100% of the principal amount thereof plus accrued interest thereon to, but not including, the redemption date. Notwithstanding the foregoing, (A) the Series 2022C Bonds shall be redeemed in full prior to any Series 2022D Bonds and (B) the Series 2022B Bonds shall only be redeemed after the Series 2022C Bonds and the Series 2022D Bonds are redeemed in full.

The Subordinate Bonds are subject to redemption prior to maturity beginning April 1, 2025 at the option of the Issuer, at the direction of the Borrower, in whole or in part at any time, at a redemption price of 100%, plus, in each case, all accrued interest thereon to, but not including, the redemption date, provided that the Senior Bonds are paid or redeemed in full.

So long as the Series 2022 Bonds are maintained under a book-entry system, the selection of individual ownership interests in the Series 2022 Bonds to be credited with any partial redemption shall be made as described below under “Book-Entry Only System.”

#### ***Mandatory Sinking Fund Redemption***

The Series 2022A Bonds are subject to mandatory sinking fund redemption at a price of 100% of the principal amount of such Series 2022A Bonds to be redeemed plus accrued interest thereon to the redemption date, on April 1 of the following years and in the following principal amounts. If the maximum principal amount of Series 2022A Bonds are not funded, the principal amount to be redeemed in each year shall be reduced on a pro-rata basis in Authorized Denominations to take into account such unfunded principal amount.

<b>Year</b>	<b>Amount</b>
2027	\$ 300,000
2028	1,180,000
2029*	86,320,000

\*final maturity

#### ***Mandatory Redemption from Entrance Fee Fund***

The Series 2022C Bonds and the Series 2022D Bonds (the “Entrance Fee Bonds”) are subject to mandatory redemption, at a redemption price equal to the principal amount thereof, plus accrued interest to, but not including, the redemption date, on the 1<sup>st</sup> day of each month, in whole or in part, to the extent of moneys available in the Entrance Fee and Deposit Fund. See Section 3.01(e) of the proposed form of Bond Indenture and Section 3.3 of the proposed form of Loan Agreement, each included in Appendix C.

#### ***Mandatory Redemption of Series 2022B Bonds from Excess Cash***

Provided that (i) the Series 2022C Bonds and the 2022D Bonds are no longer outstanding, (ii) all operating expenses, annual capital expenditures and Bond obligations have been met, (iii) the Tax-Exempt Senior Debt Service Reserve Fund is fully funded, (iv) no event of default under the Bond Documents related to the Senior Bonds has occurred and is continuing, (v) no event of default has occurred and is continuing with respect to the payment of interest on the Subordinate Bonds and (vi) the Borrower is in compliance with all covenants in the Related Documents, to the extent that the Days’ Cash on Hand of the Borrower exceeds the Days’ Cash on Hand Threshold (defined below) on any January 31 or July 31 after giving consideration to the Series 2022B Bond redemption payments, the Senior Continuing Covenants Agreement requires the Borrower to pay such excess to the Trustee, which shall be used to redeem the Series 2022B Bonds in accordance with the terms of the Indenture. “Days’ Cash on Hand Threshold” means 100 Days’ Cash on Hand; provided that the required Days’ Cash on Hand Threshold

increases to (i) 120 Days' Cash on Hand commencing January 1, 2028 and (ii) 110 Days' Cash on Hand if the Support Agreement has been terminated. See Section 3.01(f) of the proposed form of Bond Indenture included in Appendix C.

### ***Mandatory Redemption of Series 2022 Bonds upon Determination of Taxability***

The Series 2022 Bonds are subject to mandatory redemption in whole at a redemption price equal to 105% of the principal amount of the Series 2022 Bonds to be redeemed plus accrued interest thereon to, but not including, the redemption date on any Business Day within 45 days after the occurrence of a Determination of Taxability; provided, however, that if mandatory redemption on account of a Determination of Taxability of less than all of the Series 2022 Bonds would result, in the Opinion of Bond Counsel delivered to the Trustee and the applicable Bondholder Representative, in the interest on the Series 2022 Bonds Outstanding following such mandatory redemption not being includable in the gross income of the Holders of such Series 2022 Bonds Outstanding, then the Series 2022 Bonds are subject to mandatory redemption upon the occurrence of a Determination of Taxability in the amount specified in such opinion, provided that such redemption must be in an Authorized Denomination. Notwithstanding the foregoing, no Subordinate Bonds may be redeemed upon a Determination of Taxability if any Senior Bonds remain Outstanding.

### ***Extraordinary Redemption***

The Series 2022 Bonds are subject to mandatory redemption in whole or in part at a redemption price equal to 100% of the principal amount of the Series 2022 Bonds to be redeemed plus accrued interest thereon to, but not including, the redemption date, if the Mortgaged Property or any portion thereof are taken in the exercise of the power of eminent domain, condemnation or through the exercise of any right or any obligation on the part of any public authority to purchase the same, or as a result of any agreement between the Borrower and any such public authority in lieu thereof. See Section 4.18 of the proposed forms of Continuing Covenants Agreements included in Appendix C. Notwithstanding the foregoing, no Subordinate Bonds may be redeemed as a result of a taking or condemnation of the Mortgaged Property if any Senior Bonds remain Outstanding.

### ***Notice of Redemption***

So long as the Series 2022 Bonds are maintained under a book-entry system, notice of the call for any redemption of the Series 2022 Bonds shall be given as described below under "Book-Entry Only System." The Trustee shall mail notice of the call for any redemption not less than 20 days nor more than 60 days prior to the redemption date to the registered owners of each Series 2022 Bond to be redeemed at their addresses as they appear on the registration books maintained by the Trustee, but failure to mail any such notice to any of such registered owners or the defect in any notice shall not affect the validity of the proceedings for the redemption of any Series 2022 Bond.

With respect to any optional redemption of the Series 2022 Bonds for which the Trustee is to issue a notice of redemption as described above, the Trustee is authorized under the Bond Indenture to issue a conditional notice of redemption, making the redemption of any Series 2022

Bonds conditional on the occurrence or non-occurrence of such event or events as shall be specified in such notice of optional redemption and may also be subject to revocation.

### ***Purchase in Lieu of Redemption***

In lieu of redeeming any Series 2022 Bonds called for redemption, the Borrower will have the option to cause such Series 2022 Bonds to be purchased. Such option may be exercised by delivery to the Trustee, at least three Business Days prior to the first date upon which notice may be given for the applicable redemption date, of a written notice of the Borrower, with the written consent of the applicable Bondholder Representative, specifying that the Series 2022 Bonds (or a particular Series of Series 2022 Bonds so specified) shall not be redeemed, but instead shall be subject to purchase pursuant to this Section. Upon delivery of such notice, the Series 2022 Bonds (or the particular Series of Series 2022 Bonds so specified) shall not be redeemed but shall instead be subject to mandatory tender at the Purchase Price (as defined below) on the date that would have been the redemption date. Any Series 2022 Bonds purchased in lieu of redemption shall be cancelled by the Trustee and shall be credited in inverse order of maturity or the due date of any mandatory sinking fund payments, as specified by the Borrower with the consent of the applicable Bondholder Representative. “**Purchase Price**” shall mean the price negotiated with the applicable Bondholder Representative or the Bondholder if not represented by a Bondholder Representative in connection with delivery of such Bondholder Representative’s consent; provided that the Purchase Price for the Subordinate Bonds shall not be in excess of the par amount of the Subordinate Bonds.

### **Book-Entry Only System**

All of the Series 2022 Bonds initially will be maintained under a book-entry system under which The Depository Trust Company (“DTC” and, together with any successor securities depository for the Series 2022 Bonds, the “Securities Depository”), will act as securities depository. The Series 2022 Bonds will be issued as fully-registered securities registered in the name of Cede & Co., DTC’s partnership nominee. Purchases of beneficial interests in the Series 2022 Bonds will be in book-entry form only and purchasers of beneficial ownership interests will not receive certificates representing their interests in the Series 2022 Bonds purchased. So long as the Series 2022 Bonds are in book-entry only form, the principal of and interest on the Series 2022 Bonds will be payable, and redemption and other notices with respect to the Series 2022 Bonds will be given, only to DTC, as the registered owner of the Series 2022 Bonds, and not to the beneficial owners of such Series 2022 Bonds, and neither the Issuer nor the Trustee will have any responsibility or obligation with respect to payments or notices to beneficial owners. Beneficial owners may wish to take certain steps to augment transmission to them of notices of significant events with respect to the Series 2022 Bonds, such as ascertaining whether the nominee holding the Series 2022 Bonds for their benefit has agreed to obtain and transmit notices to beneficial owners or providing their names and addresses to the Trustee and requesting that copies of the notices be provided directly to them. For a further description of the book-entry only system, see Appendix H to this Offering Memorandum.

## **Registration and Exchange of Series 2022 Bonds**

So long as the Series 2022 Bonds are maintained under a book-entry system, transfers of ownership interests in the Series 2022 Bonds will be made as described above under “Book-Entry Only System.” If the book-entry only system is discontinued, any Series 2022 Bond may be exchanged for other Series 2022 Bonds of any Authorized Denominations and of the same series, subseries, and aggregate principal amount as the Series 2022 Bonds to be exchanged, and the transfer of any Series 2022 Bond may be registered, upon presentation and surrender of such Series 2022 Bond at the designated office of the Trustee, together with an assignment duly executed by the registered owner or his attorney or legal representative. The Borrower may require the person requesting any such exchange or transfer to pay any tax or other governmental charge payable in connection therewith.

## **Acceleration**

Upon the occurrence of certain events, the due date for the payment of the principal amount of the Series 2022 Bonds may be accelerated. See Section 902 (Acceleration) and Section 9.03 (Other Remedies; Rights of Bondholders) in the proposed form of the Bond Indenture included in Appendix C to this Offering Memorandum.

## **Bondholder Representatives Deemed Owners of Series 2022 Bonds**

Under the Bond Indenture, so long as the Bondholders have designated a Bondholder Representative within the meaning of the Bond Indenture, such entity shall be deemed to be the owner of such Series 2022 Bonds and entitled to provide all consents and control all remedies with respect thereto to the exclusion of such Bondholders so long as such Bondholder Representative is duly authorized and designated. Accordingly, the Bondholder Representative for the Senior Bonds may direct the pursuit of remedies under the Bond Indenture, the Loan Agreement, the Senior Continuing Covenants Agreement, the Pledge Agreement, the Support Agreement, and the Senior Mortgage and the giving or withholding of consent to amendments to the Bond Indenture, the Loan Agreement, the Senior Continuing Covenants Agreement, the Pledge Agreement, the Support Agreement and the Senior Mortgage in situations in which such Bondholder Representative is not the investment advisor to certain Bondholders of the Senior Bonds. Or, if no Senior Bonds remain Outstanding, the Bondholder Representative for the Subordinate Bonds may direct the pursuit of remedies under the Bond Indenture, the Loan Agreement, the Support Agreement, the Subordinate Continuing Covenants Agreement, the Pledge Agreement, and the Second Mortgage and the giving or withholding of consent to amendments to the Bond Indenture, the Loan Agreement, the Support Agreement, the Subordinate Continuing Covenants Agreement, the Pledge Agreement, and the Second Mortgage in situations in which such Bondholder Representative is not the investment advisor to certain Bondholders of the Subordinate Bonds. For a complete description of the Bondholder Representative’s rights, investors should read the proposed forms of the Bond Indenture, the Loan Agreement, the Continuing Covenants Agreements, the Pledge Agreement, the Support Agreement, and the Mortgages included in Appendix C to this Offering Memorandum.

In addition to other amendments permitted under the Bond Indenture, subject to the terms of the Bond Indenture (i) the Bondholder Representative for the Senior Bonds or the Holders of a

majority of Senior Bonds shall have the right from time to time, to consent to and approve the execution by the Issuer and the Trustee of such other indenture or indentures supplemental thereto as shall be deemed necessary or desirable by the Issuer, the Trustee, the Borrower, the Bondholder Representative for the Senior Bonds or the Holders of a majority of Senior Bonds for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in the Bond Indenture or in any supplemental indenture and (ii) the Bondholder Representative for the Subordinate Bonds or the Holders of a majority of Subordinate Bonds shall have the right from time to time, to consent to and approve the execution by the Issuer and the Trustee of such other indenture or indentures supplemental thereto as shall be deemed necessary or desirable by the Issuer, the Trustee, the Borrower, the Bondholder Representative for the Subordinate Bonds or the Holders of a majority of Subordinate Bonds for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in the Bond Indenture or in any supplemental indenture. See “CERTAIN BONDHOLDERS’ RISKS -- Control of Rights and Remedies.”

### **ANNUAL DEBT SERVICE REQUIREMENTS OF SERIES 2022 BONDS**

The following table sets forth for each 12-month period ending April 1: (i) the principal and interest due on the Senior Bonds, assuming the maximum principal amount of the Senior Bonds are advanced; (ii) the principal and interest due on the Subordinate Bonds; and (iii) the total estimated debt service requirements of the Series 2022 Bonds.

<b>Year</b>	<b>Senior Bonds</b>		<b>Subordinate Bonds</b>		<b>Total Debt Service on Series 2022 Bonds</b>
	<b>Principal *</b>	<b>Interest**</b>	<b>Principal</b>	<b>Interest</b>	
2023	-	\$2,527,154	-	\$ 1,643,333	\$4,170,488
2024	-	7,652,218	-	1,740,000	9,392,218
2025	-	8,936,747	-	1,740,000	10,676,747
2026	-	9,004,750	-	1,740,000	10,744,750
2027	\$68,800,000	9,004,750	-	1,740,000	79,544,750
2028	1,280,000	5,893,750	-	1,740,000	8,813,750
2029	101,320,000	5,825,900	\$17,400,000	1,740,000	126,285,900

\*Assumes the entire maximum principal amount of the Senior Bonds are advanced.

\*\*Assumes: (i) the Series 2022A Bonds bear interest at a rate of 5.75%; (ii) the Series 2022C Bonds bear interest at a rate of 3.75%; and (iii) the Series 2022D Bonds bear interest at a rate of 5.50%.

### **NEW HAMPSHIRE REGULATION OF SENIOR LIVING PROVIDERS**

Continuing care communities in the State are regulated by the Commissioner of Insurance (the “Commissioner”) under the provisions of RSA 420-D of New Hampshire Revised Statutes Annotated (“RSA 420-D”), which was enacted in 1988 and became effective on January 1, 1989. On June 7, 2019, the Borrower received a Certificate of Authority (license) from the New Hampshire Insurance Department to establish and operate a continuing care

community in accordance with RSA 420-D. This Certificate of Authority enables the Borrower to enter into binding Residency Agreements and to accept Entrance Fee deposits.

Regulating and Reporting Requirements. New continuing care contracts with residents must comply with the requirements of RSA 420-D. Before any new agreement may be signed or before the initial transfer of funds with a prospective resident, the provider must provide each prospective resident with a disclosure statement approved by the Commissioner which contains financial and other information concerning the Community and the provider. The disclosure statement must be in conspicuous large type and include items such as the right to cancel the agreement within 10 days of signing without obligations, ownership and investment interest more than 5%, fee arrangements and other items required by law. See RSA 420-D:4. In addition, the provider must submit an annual report to the Commissioner concerning its financial condition, including a disclosure statement, annual financial statement, estimated financial statement for the new fiscal year and audited financial statements. RSA 420-D:7. The Borrower must also procure and maintain certain facilities licenses under Chapter 151 of New Hampshire Revised Statutes Annotated (“RSA 151”).

Entrance Fee deposits paid by prospective residents before occupancy of a living unit and which total over \$1,000 shall be deposited in an escrow account. These escrowed amounts can be released only upon certain conditions set forth in RSA 420-D:10. The Entrance Fee escrow requirement does not apply to any non-refundable application fee which is less than one month's periodic payment. In compliance with RSA 420-D, the Borrower has established an escrow account in which to hold these Entrance Fee deposits received from prospective residents of the Community at Citizens Bank, located in Riverside, Rhode Island, and such amounts are not required to be deposited in the Entrance Fee Fund under the Bond Indenture until such time as the statutory conditions for release of such funds to the Borrower have been satisfied.

RSA 420-D:10 describes the release of escrowed amounts to the provider and return of certain funds, including interest, which must also apply to Ins. 1807.01 of the New Hampshire Administrative Code. The escrow provisions shall not apply to nonrefundable application fees that do not exceed one month's periodic payments for services rendered by the provider. If approved by the Commissioner, a provider may post bond, negotiable securities, or a letter of credit with the Commissioner in lieu of the escrow. The institution providing a bond or a letter of credit must meet all requirements of and have the full approval of the Commissioner. The amount of the bond, negotiable securities, or letter of credit shall be in the same amount as if the funds received from residents or prospective residents had been placed in escrow.

Under RSA Section 420-D:8, liquid reserves must be maintained equal to 12 months' principal and interest payments plus that portion of two months' operating expenses which relate to continuing care residents. When a provider calculates whether the value of its liquid reserves meets the amount RSA 420-D:8 requires, the provider may include the values of the following assets: (1) cash held in an account of a financial institution; and (2) the following assets that can be liquidated, based upon the net value after liquidation: certificates of deposit issued by a financial institution; money-market funds issued by an “investment company” as defined by U.S.C. Title XV, Section 80a-3; acceptable negotiable securities which shall include

only United States government obligations and corporate debt obligations rated A or above in Moody's or S&P corporate bond rating publication or a 1 or 2 rating by the NAIC valuation of securities publication; and commercial paper in the form of promissory obligations of an issuer with an original maturity date not exceeding 9 months from the date of issuance, having the highest rating in a rating publication indicated under the regulations. See Ins 1805.01.

The Commissioner may require liquid reserves to be placed in an escrow account if s/he finds the provider is in financial difficulty, for example, if the provider's average accounts payable exceed 45 days, a major supplier has placed the provider on a C.O.D. status, a tax lien is filed against the provider, 50% of accounts receivable average more than 45 days, or expenses exceed revenues for three or more consecutive months. To the extent permitted by law, the Borrower will treat amounts on deposit in the Senior Reserve Fund and the Subordinate Reserve Fund as "liquid reserves" for purposes of compliance with the liquid reserves requirement.

Termination of Residence and Care Agreements. Each contract between a provider and a resident must be written in plain, non-technical language and include the requirements of RSA 420-D:12.I and its accompanying regulations Ins 1808.02. No contract issued shall allow dismissal of a resident prior to the end of a contractual period, except for just cause in written form or if 2 doctors, one of whom is not an employee or associated with the facility, find that the resident is a danger to himself or to others. In such cases, the minimum refund shall be the unearned portion of the entrance fee in the contract with the resident. RSA 420-D:12.II(a). RSA 420-D:12(m) provides that contracts with prospective residents include certain termination rights prior to occupancy, including a 10-day rescission period following the execution of a residence and care agreement. The Commissioner or her/his designee shall intervene prior to a dismissal if so requested by the resident. If the Commissioner finds that a resident is being or has been unjustly dismissed, s/he may, in his capacity as the intervenor, order the return of the entire entrance fee or take any other necessary action on behalf of a resident. RSA 420-D:12.II(b).

The New Hampshire Insurance Department has promulgated regulations under RSA 420-D, including Ins 1808.02(d), which requires continuing care retirement communities to refund the refundable portion of the Entrance Fee if a resident terminates the residence and care agreement because of hardship, regardless of any provision in the agreement stating that the refund is not payable until a new resident has signed a residence and care agreement for the unit being vacated. "Hardship" is defined as a change in circumstances making the resident unable to obtain acceptable living accommodations or health care services at the community and thus necessitating the termination of the agreement, and the resident cannot otherwise pay for necessary room, board or health care services outside of the community without a return of the Entrance Fee. Ins 1808.02 requires the return of the refundable portion of an Entrance Fee in the event of a hardship no later than 12 months from the date of termination if the community is at 80% or greater occupancy, or no later than 24 months from the date of termination if the community is at less than 80% occupancy. The application of this hardship provision may impair the cash flow of the Borrower.

Enforcement: Lien of the Commissioner. The Commissioner may revoke, deny or suspend a Certificate of Authority for any number of reasons, including fraud or misrepresentation of a material statement in the disclosure statement to be filed with the Commissioner, a demonstrated lack of fitness or trustworthiness or such unsound financial condition or any other practice which may be hazardous or injurious to the residents of the facility or to the general public and failure to maintain a complete list of all entrance fees paid by each resident or prospective resident by the provider or its escrow agent. RSA 420-D:5

A provider is liable for damages and attorney's fees if: (a) it enters into a contract for continuing care for a facility that does not have a temporary or permanent Certificate of Authority; (b) it fails to deliver a disclosure document before entering into a contract; or (c) a disclosure document is misleading.

The Commissioner shall file a lien on all real and personal property of a provider if he deems it necessary to protect the interests of the residents of the facility. RSA 420-D:5II and RSA 420-D:9. A lien established by the Commissioner shall not have priority over certain mortgages, security agreements or other security documents (such as the Loan Agreement or the Mortgages) on property not otherwise encumbered which were recorded at least four months prior to the institution by the Commissioner of rehabilitation or liquidation proceedings. In the event of foreclosure of the Commissioner's lien, he shall prepare a plan for distribution of any proceeds thereof in a manner which will best permit the satisfaction of any continuing care contracts in effect at that time. Copies of such plan are required to be sent to contract holders for comment. Even as a subordinate lienholder, however, the Commissioner may petition the appropriate court to appoint a trustee to liquidate the facility if it is in the best interests of the residents, using proceeds of such liquidation, after payment of prior liens, to pay for care of residents at other facilities. Such lien shall be effective for the period determined necessary by the Commissioner and may be renewed if the circumstances warrant it. A lien shall only be foreclosed to protect the investment of residents, and the proceeds shall be distributed in a manner to satisfy any continuing care contracts in effect at that time. See RSA 420-D:9

The Commissioner may petition the appropriate court for rehabilitation or liquidation of a continuing care provider if the Commissioner finds after notice and hearing that a provider is insolvent, has failed to maintain the required reserves, is about to become unable to meet its cash flow or income projections, has had its Certificate of Authority suspended or revoked or has sold its interest in the facility without the approval of the Commissioner. A rehabilitation order shall authorize the Commissioner or a court-appointed trustee to take possession of and operate the facility, including the employment or discharge of employees and to take such other measures as the court may direct. If attempts to rehabilitate the facility fail, the Commissioner may apply to the court for an order to liquidate.

## **CERTAIN BONDHOLDERS' RISKS**

The Series 2022 Bonds are payable solely from the payments to be made by the Borrower pursuant to the Loan Agreement and, to an extent, by the Support Provider pursuant to the Support Agreement. Future revenues and expenses of the Borrower and the Support Provider are

subject to conditions which may change in the future to an extent that cannot be determined at this time.

The paragraphs below discuss certain Bondholders' risks, but are not intended to be a complete enumeration of all risks associated with the Borrower, the Support Provider or the purchase or holding of the Series 2022 Bonds. The order in which such risks are presented does not necessarily reflect the relative importance of such risks or the likelihood that any of the events or circumstances described below will occur or exist. *No assurance can be given as to the nature of such factors or the potential effects thereof on the Borrower or the Support Provider. Additionally, all or any of the risks described below could be exacerbated by the COVID-19 pandemic described below.*

### **Caution Regarding Forward-Looking Statements**

When used in this Offering Memorandum and in any continuing disclosure by the Borrower or the Support Provider, in a Borrower's or Support Provider's press release or in oral statements made with the approval of an authorized officer of the Borrower or the Support Provider, the words or phrases "will likely result," "are expected to," "will continue," "is anticipated," "estimate," "project" or similar expressions are intended to identify "forward looking statements." Such statements are subject to certain risks and uncertainties that could cause actual results to differ materially from those presently anticipated or projected. The Borrower and the Support Provider caution readers not to place undue reliance on any such forward-looking statements. The Borrower and the Support Provider advise readers that certain factors could affect the financial performance of the Borrower and the Support Provider and could cause the actual results of the Borrower and the Support Provider for future periods to differ materially from any opinions or statements expressed with respect to future periods in any current statements.

### **General**

The Series 2022 Bonds are payable solely from the payments to be made by the Borrower under the Loan Agreement and by the Support Provider under the Support Agreement, respectively. No representation can be made or assurance given that revenues will be realized by the Borrower in amounts sufficient to make the payments necessary to meet the obligations of the Borrower, including the obligations of the Borrower under the Loan Agreement. Future revenues and expenses of the Borrower are subject to, among other things, the capabilities of the management of the Borrower and future economic conditions and other conditions which are unpredictable, and which may affect revenues and the ability of the Borrower to make payments of principal of and interest sufficient to pay the Series 2022 Bonds and other obligations of the Borrower. Such conditions may include an inability to generate monthly service fees (the "Monthly Fees") or entrance fees (the "Entrance Fees") payable by residents of the Community, or to control personal care costs, in a period of inflation or rising health care costs and difficulties in increasing Monthly Fees and third-party payments while maintaining the amount and quality of services offered by the Borrower at the Community, or difficulties properly managing and controlling expenses at the Community, including utility costs, changes in government licensing procedures, regulation and competition and changes in the rules and guidelines governing reimbursement for health care by third party payors.

## **Limited Obligations**

THE SERIES 2022 BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OF THE STATE OF NEW HAMPSHIRE OR OF THE ISSUER EXCEPT TO THE EXTENT PERMITTED BY NEW HAMPSHIRE RSA 162-I. ALL AMOUNTS OWED UNDER THE LOAN AGREEMENT ARE PAYABLE ONLY FROM THE SOURCES PROVIDED IN THE BOND INDENTURE, AND NO PUBLIC FUNDS MAY BE USED FOR THAT PURPOSE. THE ISSUER HAS NO TAXING POWER.

## **Risks Associated with the Subordinate Bonds**

The liens securing the holders of the Subordinate Bonds are junior and subordinate to the liens securing the Senior Bonds. See Section 4.10 in the proposed form of Bond Indenture included in Appendix C.

### **COVID-19 Pandemic; Turmoil in U.S. Economy**

**General.** The COVID-19 pandemic has had numerous and varied medical, economic, and social impacts, any and all of which have and may continue to adversely affect the Borrower's operations and financial condition. National, state, and local governments have taken, and are likely to continue to take, various actions, including the passage of laws and regulations, on a wide array of topics, in an attempt to slow the spread of COVID-19 and to address the health and economic consequences of the outbreak. Many of these actions have caused substantial changes to the way health care is provided and how society in general functions. It is not clear how long such measures will remain in place or what any new measures will require.

**Operational Disruption.** Various states and local governments issued general "stay at home" or "shelter in place" orders that mandated social distancing, imposed restrictions and additional requirements on certain senior living facilities and hospitals, closed school systems and closed or limited non-essential business activities and non-essential medical procedures in an effort to slow the spread of COVID-19. The effects of COVID-19 could affect the Borrower's ability to construct the Community on budget and on schedule. In addition, the effects of COVID-19 have affected the Support Provider's ability to conduct normal business operations and, as a result, the operations, financial condition and financial performance of the Support Provider have been materially adversely affected.

**Economic and Market Disruption.** The COVID 19 pandemic has affected, and is expected to continue to affect, travel, commerce, economic growth and financial markets negatively. The COVID 19 pandemic has resulted in volatility in the United States and global financial markets. Financial results, generally, and liquidity, in particular, may be materially diminished. The future impact of COVID 19 on the Borrower's operations and financial results or the Support Provider's operations and financial results cannot be predicted at this time due to the dynamic nature of this virus, including uncertainties relating to its duration and severity, as well as what actions may still be taken by governmental authorities and other institutions to contain or mitigate its impact. The continued spread of COVID 19 and containment and

mitigation efforts could have a material adverse effect on the future operations of the Borrower and the Support Provider and on state, national, and global economies.

### **Creditworthiness of the Support Provider; Limited Guaranty**

The ability of the Support Provider to meet its obligations under the Support Agreement will depend on the creditworthiness of the Support Provider. *Only the Support Provider (and not any of its affiliates or subsidiaries) is obligated to perform under the Support Agreement.* There is no assurance that cash and investments currently under the control of the Support Provider will be available in the future such that the Support Provider will be able to meet its obligations under the Support Agreement.

*Furthermore, the Support Provider's total obligation to the Trustee under the Support Agreement is limited to \$10,000,000 and is not a guaranty of the payment of the principal of, premium, if any, and interest on the Series 2022 Bonds in excess of such limitation. As a result, investors should not solely rely upon the Support Agreement as the basis for the full payment of the principal of, interest on and premium, if any, on the Series 2022 Bonds.*

### **Project Funding - Conditional Nature of Future Advances**

A portion of the costs of constructing, equipping and placing the Project in operation is to be paid from the proceeds of the Series 2022 Bonds. On the date of the delivery of the initial subseries of the Series 2022 Bonds, only \$41,400,000 of the total maximum aggregate principal amount of the Series 2022 Bonds will be advanced by Bondholders. While the Borrower expects the balance of the principal amount of the Senior Bonds to be advanced, there is no assurance that the total amount required to pay the costs of constructing, equipping and placing the Project in operation will be available or obtainable by the Borrower. Neither the Underwriter nor the Bondholder Representative for the Senior Bonds is legally required to make any such Advances. See "THE SERIES 2022 BONDS -- Advances."

Future advances of the Senior Bonds are conditioned on, among other things, (i) the delivery of a certificate of the Borrower stating that, among other things, (a) no Event of Default has occurred and is continuing and (b) that it has not taken or omitted to take any action (unless the Borrower shall provide a Bond Counsel Opinion to such effect), and no change in federal income tax law has occurred, which would adversely affect the exclusion from gross income of interest on the Series 2022 Bonds. See Section 2.02(d) in the proposed form of the Bond Indenture included in Appendix C. If the conditions to future advances are not satisfied, the Underwriter and the Bondholder Representative for the Senior Bonds fail to obtain purchasers for Senior Bonds to fund future advances or the Borrower's equity is insufficient and the Borrower is not able to obtain another source of funding, the Borrower may not be able to complete the Project, materially adversely affecting on the results of operations and the financial condition of the Borrower.

### **Delays in Completion of the Project**

The Project is subject to the risk of delays due to a variety of factors including, among others, delays in obtaining the necessary permits, licenses and other governmental approvals, site

difficulties, labor disputes, delays in delivery and shortage of materials, weather conditions, fire and other casualties and default by the Borrower, the contractor or subcontractors, any of which could be exacerbated by the COVID-19 pandemic. If completion of the Project is delayed beyond the estimated construction period, receipt of revenues projected from the operation of the Community will be delayed and may have a material adverse impact on the ability of the Borrower to pay debt service on the Series 2022 Bonds.

The Borrower has not yet obtained all permits and governmental approvals for the Project and the permitting process is subject to potential administrative and judicial appeals and delays. See “THE PROJECT – Permits and Approvals” in Appendix A.

### **Construction Cost Overruns**

The Borrower believes that the proceeds of the Series 2022 Bonds, together with other funds of the Borrower, will be sufficient to finance the costs of the Project. The cost of the Project may be increased if actual costs exceed the Borrower’s estimates or if there are change orders. Further, the cost of construction of the Project may be affected by other factors beyond the control of the Borrower or the contractors constructing any portion of the Project, including, but not limited to, delays or denials of the necessary permits, licenses and other governmental approvals, labor disputes, delays in delivery and shortage of materials, site difficulties, adverse weather conditions, subcontractor defaults, fire and casualty and unknown contingencies. See “THE PROJECT” in Appendix A.

### **Failure to Achieve and Maintain Occupancy**

The economic viability of the Community depends on, among other things, achieving and maintaining a certain level of occupancy and income from fees paid with respect to the Community. No assurance can be given that marketing of new and vacated units will take place as quickly as assumed by the Borrower. Various factors may adversely affect the marketing of units, including, without limitation, any difficulty arising from general conditions affecting the sale of residential real estate or otherwise, including conditions that prospective residents may encounter selling their homes in order to raise amounts necessary to pay their Entrance Fees and Monthly Fees. In addition, no assurance can be given that remarketing of vacated units will take place as quickly as assumed by management of the Borrower.

If a substantial number of residents live beyond the life expectancies anticipated by management of the Borrower, new residents will be admitted at a slower rate and the receipt of additional Entrance Fees will be curtailed with a consequent impairment of the Borrower’s cash flow. In addition, even if the anticipated attrition levels are realized and maintained, no assurance can be given that remarketing of vacated units will take place as quickly as assumed by management of the Borrower.

Occupancy in the Community, and accordingly, the Borrower’s revenues, could be adversely affected by a decline in the economic conditions of the market area of the Community. Adverse economic conditions in the market area of the Community could also decrease the number of individuals who are able to pay the Entrance Fees and Monthly Fees charged

residents of the Community. Any of these or other similar events may have a material adverse impact on the ability of the Borrower to pay debt service on the Series 2022 Bonds.

## **Competition**

The Community faces competition from similar facilities in or near the market area, from other residential facilities for older adults and from existing facilities offering independent living, personal care and assisted living care, including facilities financed with bonds issued by the Issuer. For additional information on competitors, see the market information in Appendix G. The Community may also face additional competition in the future as a result of changing demographic conditions and the construction of new, or the renovation or expansion of existing continuing care facilities and personal care and assisted living facilities in the geographic areas served by the Community. Further, the Community faces competition from other forms of retirement living, including condominiums, apartment buildings and facilities not specifically designed for the elderly and home health services, some of which may be designed to offer similar facilities, but not necessarily similar services, at lower prices. There are few entry barriers to future competitors because competing facilities generally do not require a certificate of need approval for residential living facilities. All of these factors combine to make the elderly housing industry volatile and subject to material change that cannot be currently predicted.

## **Security for the Series 2022 Bonds**

### ***Security Interest in Gross Revenues***

The Trustee's security interest in the Gross Revenues and the other assets of the Borrower is subject to Permitted Encumbrances as set forth in the proposed forms of the Continuing Covenants Agreements included in Appendix C to this Offering Memorandum, including, among others, the following:

- (i) liens for *ad valorem* taxes, special assessments, levies, fees, water and sewer rents or charges not then delinquent;
- (ii) liens arising by reason of any good faith deposit made to secure any public or statutory obligation or the payment of taxes or assessments or other similar charges, and any deposit given as a condition to the transaction of any business or the exercise of any privilege or license or in connection with workers' compensation, unemployment insurance, any pension or profit sharing plan or other social security;
- (iii) any lien of any mechanic, materialman, laborer, supplier or vendor for work or services performed or materials furnished in connection with such property that is not due and payable or the amount or validity of which is being contested and execution thereon stayed;
- (iv) such minor defects, irregularities, encumbrances, easements, rights of way and clouds on title as normally exist with respect to properties similar in character to the Mortgaged Property that do not in the aggregate, in the opinion of a Consultant, materially impair the use of property affected thereby for the purposes for which it was acquired or is held by the Borrower, or the value of such property;

(v) liens securing indebtedness permitted by the Senior Continuing Covenants Agreement;

(vi) encumbrances identified in the mortgagee's title insurance policy delivered in connection with the issuance of the Series 2022 Bonds; and

(vii) other liens and encumbrances as shall be approved in writing by the Bondholder Representative for the Senior Bonds (or the Bondholder Representative for the Subordinate Bonds if no Senior Bonds remain Outstanding).

The Gross Revenues will not include any revenues generated from the use and operation of the Borrower's property, if any, after any person other than the Borrower obtains possession of such property, whether by voluntary transfer, foreclosure under a mortgage or other security agreement or enforcement of a statutory or judicially created lien. Such liens and encumbrances and any liens created in violation of the Continuing Covenants Agreements may give the holders of the obligations secured thereby priority in payment over the Series 2022 Bonds, from the property so encumbered in the event of the enforcement thereof. In addition, the Continuing Covenants Agreements permit the Borrower to dispose of assets subject to certain limitations stated therein. See the proposed forms of the Continuing Covenants Agreements included in Appendix C to this Offering Memorandum.

#### ***Recovery Value of Mortgaged Property***

The Mortgaged Property is expected to be specifically designed and constructed as a retirement facility and as such, may not be practically suited to alternative uses. The number of entities that could be expected to purchase or lease the Community in the event of a default under the Loan Agreement is therefore limited and, as a result, the remedies available to the Trustee may be limited. The realization of revenues from the sale or leasing of the Community following foreclosure of the Mortgages might thus be materially and adversely affected. If any Event of Default were to occur under the Loan Agreement, it is unlikely that the amount received upon any foreclosure and sale of the Mortgaged Property would be sufficient to pay the principal of and interest on the Outstanding Series 2022 Bonds.

While governmental taxes, assessments and charges are common claims against property, there are other, less common claims that may affect the value and marketability of property. One of the most serious is a claim related to the release, presence or handling of hazardous substances on property. The federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, sometimes referred to as "CERCLA" or the "Superfund Act," is the most well-known and widely applicable of these laws. Under many of these laws, the owner (or operator) is obligated to remedy a hazardous substance condition on property, whether or not the owner (or operator) had or has anything to do with the creation or handling of the hazardous substance. If any part of the Mortgaged Property is affected by a hazardous substance, the marketability and value of the property may be reduced by the cost of remedying the condition. See "Environmental Risks" below.

### ***Priority of the Liens***

*The liens created by the Second Mortgage for the benefit of the holders of the Subordinate Bonds will be subordinate to the liens created by the Senior Mortgage for the benefit of the holders of the Senior Bonds.*

The liens created under the Mortgages are subject to Permitted Encumbrances and are subordinate to liens for general property taxes, special taxes and assessments. Additional special taxes or assessments taking priority over the liens created by the Mortgages may be imposed on the Mortgaged Property in the future.

The Borrower covenants in the Continuing Covenants Agreements not to create or permit to exist any mortgage or other lien on its property, except Permitted Encumbrances. The existence of any such liens or encumbrances could have an adverse effect on the treatment of holders of the Series 2022 Bonds in any bankruptcy proceeding involving the Borrower. See “Bankruptcy” below.

### **Bankruptcy**

The Series 2022 Bonds, the Bond Indenture, the Loan Agreement, the Continuing Covenants Agreements, the DACA, the Support Agreement, the Pledge Agreement and the Mortgages are subject to bankruptcy, insolvency, moratorium, reorganization and other state and federal laws affecting the enforcement of creditors’ rights and to general principles of equity. A claim for payment of the principal of or interest on the Series 2022 Bonds could be made subject to any statutes that may be constitutionally enacted by the United States Congress (“Congress”) or the New Hampshire Legislature affecting the time and manner of payment or imposing other constraints upon enforcement. The obligations of the Borrower and the Support Provider to make payments of debt service on the Series 2022 Bonds may not be enforceable under applicable state insolvency, fraudulent conveyance, bankruptcy, trust and other laws affecting the Borrower or the Support Provider.

If the Borrower or the Support Provider were to file a petition for relief under the United States Bankruptcy Code (as amended and supplemented, the “Bankruptcy Code”), the filing could operate as an automatic stay of the commencement or continuation of any judicial or other proceeding against the Borrower, the Support Provider and their respective property. If the bankruptcy court so ordered, the Borrower or the Support Provider, including its accounts receivable and proceeds thereof, could be used for the benefit of the Borrower or the Support Provider despite the claims of its creditors.

In a case under the Bankruptcy Code, the Borrower or the Support Provider could file a plan of reorganization. The plan is the vehicle for satisfying, and provides for the comprehensive treatment of, all claims against the debtor, and could result in the modification of rights of creditors generally, or the rights of any class of creditors, secured or unsecured. Under certain circumstances, those voting against the plan or not voting at all are nonetheless bound by the terms thereof. Other than as provided in the confirmed plan, all claims and interests are discharged and extinguished. If less than all the impaired classes accept the plan, the plan may

nevertheless be confirmed by the bankruptcy court, and the dissenting claims and interests bound thereby.

The Bankruptcy Code permits a bankruptcy court to modify the rights of a secured creditor. In the event of a bankruptcy proceeding involving the Borrower or the Support Provider, the Trustee could be treated under the Bankruptcy Code as one holding a secured claim, to the extent provided in the Continuing Covenants Agreements, the DACA, the Support Agreement, the Loan Agreement, the Pledge Agreement and the Mortgages. The potential effects of the bankruptcy of the Borrower or the Support Provider could be to delay substantially the enforcement of remedies otherwise available to the Trustee and to allow the bankruptcy court, under certain circumstances (i) to substitute other assets of the Borrower or the Support Provider for collateral under the Continuing Covenants Agreements, the Loan Agreement, the Mortgages, the Pledge Agreement and the DACA, in the case of the Borrower and under the Support Agreement, in the case of the Support Provider, (ii) to sell all or part of the collateral under the Continuing Covenants Agreements, the Loan Agreement, the Support Agreement or the Mortgages without application of the proceeds to the payment of the Series 2022 Bonds, (iii) to subordinate the Continuing Covenants Agreements, the Loan Agreement, the DACA, the Support Agreement, and the Mortgages to liens securing borrowings approved by the bankruptcy court, (iv) to permit the Borrower or the Support Provider to cure defaults and reinstate the Continuing Covenants Agreements, the Loan Agreement, the DACA, the Pledge Agreement or the Mortgages, in the case of the Borrower, and the Support Agreement, in the case of the Support Provider, (v) to compel the termination of the Continuing Covenants Agreements, the Loan Agreement, the DACA, the Pledge Agreement, the Support Agreement, or the Mortgages by payment of an amount determined by the bankruptcy court to be the value of the collateral pledged by the Borrower or the Support Provider thereunder (even though less than the total amount of the Series 2022 Bonds Outstanding), or (vi) to modify the terms of or payments due under the Loan Agreement, the Continuing Covenants Agreements, the DACA, the Pledge Agreement, the Support Agreement, or the Mortgages (as the case may be). For additional detail, see the Bankruptcy Code, 11 U.S.C. §101 *et seq.*

## **Rights of Residents**

Before a resident may occupy a unit at the Community, he, she or they will be required to enter into a residency agreement (collectively, the “Residency Agreements”). Although, under the Residency Agreements, residents of the Community are not expected to have a lien on or claim against any property of the Borrower, there can be no certainty that residents of the Community could not successfully claim or otherwise restrict the use of the Borrower’s property in bankruptcy proceedings or other disputes. In the event that the Trustee seeks to enforce any of the remedies provided by the Loan Agreement, the Continuing Covenants Agreements, and the Mortgages upon the occurrence of a default thereunder, it is impossible to predict any judicial resolution of competing claims between the Trustee and the residents of the Community who have fully complied with all the terms and conditions of their Residency Agreements. The ability of the Trustee to foreclose its lien on the Mortgaged Property or enforce other rights and remedies under the Loan Agreement, or the Continuing Covenants Agreements may be adversely affected by litigation on behalf of residents of the Community with respect to the Mortgages.

## **Additional Limitations on Enforceability**

There exists, in addition to the foregoing, common law authority and authority under various state statutes pursuant to which courts may terminate the existence of a nonprofit corporation or undertake supervision of its affairs on various grounds, including a finding that such a corporation has insufficient assets to carry out its stated charitable purposes or has taken some action which renders it unable to carry out such purposes. Such court action may arise on the court's own motion or pursuant to a petition of a state attorney general or other persons who have interests different from those of the general public pursuant to the common law and statutory power to enforce charitable trusts and to see to the application of their funds to their intended charitable uses. A court could restrict the ability of the Trustee to compel the liquidation of the Borrower or the Support Provider and its respective property to pay a judgment against it because it is a nonprofit corporation carrying out charitable purposes.

In addition to the limitations on enforceability described above, the realization of any rights under the Bond Indenture, the Loan Agreement, the Continuing Covenants Agreements, the DACA, the Pledge Agreement and the Mortgages upon a default by the Borrower and with respect to the Support Agreement upon a default by the Support Provider depends upon the exercise of various remedies specified in the Bond Indenture, the Continuing Covenants Agreements, the Loan Agreement, the DACA, the Pledge Agreement, the Support Agreement, and the Mortgages, respectively. These remedies may require judicial action which is often subject to discretion and delay. Under existing law, certain of the remedies specified in the Bond Indenture, the Loan Agreement, the Continuing Covenants Agreements, the DACA, the Pledge Agreement, the Support Agreement, and the Mortgages may not be readily available or may be limited. For example, a court may decide not to order the specific performance of certain covenants contained in the Bond Indenture, the Loan Agreement, the Continuing Covenants Agreements, the DACA, the Pledge Agreement, the Support Agreement, and the Mortgages. Accordingly, the ability of the Trustee to exercise remedies under the Bond Indenture, the Loan Agreement, the Continuing Covenants Agreements, the DACA, the Pledge Agreement, the Support Agreement, and the Mortgages upon an Event of Default could be impaired by the need for judicial or regulatory approval.

## **Requirements of Other Credit Facility Providers**

Any future credit arrangements entered into by the Borrower (the "Other Credit Agreements") may contain certain terms that are more restrictive than those described herein, including, among others, requirements that the Borrower generate a greater debt service coverage ratio, maintain a certain level of unrestricted cash and marketable securities, maintain certain credit ratings and meet other financial tests, as well as certain limitations on the incurrence by the Borrower of additional Indebtedness and other obligations and on dispositions of assets, that have been required by banks and swap counterparties providing such credit facilities. Any such future terms may be waived by the respective credit facility providers without notice to or the consent of the holders of the Series 2022 Bonds. Any default under any such terms that is not remedied within any applicable cure period or waived by such credit facility provider could cause an Event of Default under the Loan Agreement, which could result in a decline in the market value of the Series 2022 Bonds and acceleration of the Series 2022 Bonds.

## **Discretion of Borrower's Board of Directors**

The ability of the Borrower to generate revenues sufficient to pay debt service on the Series 2022 Bonds and its other obligations is dependent in large measure on the decisions of the Borrower's Board of Directors and management team with respect to any such transactions. The Borrower may enter into transactions that could materially affect its businesses, organizational structure and control, subject to certain limitations contained in the Continuing Covenants Agreements. Such transactions could include, among others, divestitures of affiliates, substantial new joint ventures and mergers, consolidations or other forms of affiliations in which control of the Borrower could be materially changed. The ability of the Borrower to generate revenues sufficient to pay debt service on the Series 2022 Bonds and its other obligations is dependent in large measure on the decisions of management with respect to any such transactions.

## **Control of Rights and Remedies**

Under the Bond Indenture, so long as the Bondholders have designated a Bondholder Representative within the meaning of the Bond Indenture, such entity shall be deemed to be the owner of such Series 2022 Bonds and entitled to provide all consents and control all remedies with respect thereto to the exclusion of such Bondholders so long as such Bondholder Representative is duly authorized and designated. Accordingly, the Bondholder Representative for the Senior Bonds may direct the pursuit of remedies under the Bond Indenture, the Loan Agreement, the Senior Continuing Covenants Agreement, the Pledge Agreement, the Support Agreement, and the Senior Mortgage and the giving or withholding of consent to amendments to the Bond Indenture, the Loan Agreement, the Senior Continuing Covenants Agreement, the Pledge Agreement, the Support Agreement and the Senior Mortgage, *including changes in the principal and the rate of interest payable on the Senior Bonds and the due dates for such payments*, in situations in which a Bondholder is not represented by such Bondholder Representative. Or, if no Senior Bonds remain Outstanding and in certain circumstances described in Section 13.01 of the Bond Indenture, the Bondholder Representative for the Subordinate Bonds may direct the pursuit of remedies under the Bond Indenture, the Loan Agreement, the Support Agreement, the Subordinate Continuing Covenants Agreement, the Pledge Agreement, and the Second Mortgage and the giving or withholding of consent to amendments to the Bond Indenture, the Loan Agreement, the Support Agreement, the Subordinate Continuing Covenants Agreement, the Pledge Agreement, and the Second Mortgage *including changes in the principal and the rate of interest payable on the Subordinate Bonds and the due dates for such payments*, in situations in which a Bondholder is not represented by such Bondholder Representative. For a complete description of the Bondholder Representatives' rights, investors should read the proposed forms of the Bond Indenture, the Loan Agreement, the Continuing Covenants Agreements, the Support Agreement, and the Mortgages, the proposed forms of which are included in Appendix C to this Offering Memorandum.

In addition to other amendments permitted under the Bond Indenture, the Bondholder Representative for the Senior Bonds or the Holders of a majority of Senior Bonds shall have the right from time to time, notwithstanding any other provision of the Bond Indenture to the contrary, to consent to and approve the execution by the Issuer and the Trustee of such other indenture or indentures supplemental thereto as shall be deemed necessary or desirable by the

Issuer, the Trustee, the Borrower, the Bondholder Representative for the Senior Bonds or the Holders of a majority of Senior Bonds for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in the Bond Indenture or in any supplemental indenture, including, without limitation, (a) an extension of the maturity of the principal of or the interest on any such Senior Bond or any mandatory redemption of any such Senior Bond, (b) a reduction in the principal amount of any Senior Bond or the rate of interest thereon, or (c) an extension of time or a reduction in amount of any payment required by any sinking fund that may be applicable to any Senior Bond; provided that written consent of owners of 100% of the Senior Bonds affected by such supplemental indenture or the Bondholder Representative for the Senior Bonds shall be required to permit (i) the deprivation of the owner of any Senior Bonds then Outstanding of the lien created by the Bond Indenture except as originally permitted thereby (for the avoidance of doubt, a reduction in a Debt Service Reserve Fund Requirement does not constitute a deprivation of the lien), or (ii) a privilege or priority of any Series of Senior Bonds over any other Series of Senior Bonds, except as provided on the date thereof, or (iii) a reduction in the aggregate principal amount of Senior Bonds required for consent to such supplemental indenture.

In addition to other amendments permitted under the Bond Indenture, subject to the terms of the Bond Indenture, and after the Senior Bonds are no longer outstanding or with the written consent of the Bondholder Representative for the Senior Bonds, the Bondholder Representative for the Subordinate Bonds or the Holders of a majority of Subordinate Bonds shall have the right from time to time, to consent to and approve the execution by the Issuer and the Trustee of such other indenture or indentures supplemental thereto as shall be deemed necessary or desirable by the Issuer, the Trustee, the Borrower, the Bondholder Representative for the Subordinate Bonds or the Holders of a majority of Subordinate Bonds for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in the Bond Indenture or in any supplemental indenture, including, without limitation, (a) an extension of the maturity of the principal of or the interest on any such Subordinate Bond or any mandatory redemption of any such Subordinate Bond, (b) a reduction in the principal amount of any Subordinate Bond or the rate of interest thereon, or (c) an extension of time or a reduction in amount of any payment required by any sinking fund that may be applicable to any Subordinate Bond; provided that written consent of owners of 100% of the Subordinate Bonds affected by such supplemental indenture or the Bondholder Representative for the Subordinate Bonds shall be required to permit (i) the deprivation of the owner of any Subordinate Bonds then Outstanding of the lien created by the Bond Indenture except as originally permitted thereby (for the avoidance of doubt, a reduction in a Debt Service Reserve Fund Requirement does not constitute a deprivation of the lien), or (ii) a privilege or priority of any Series of Series 2022 Bonds over any Subordinate Bond Series, except as provided on the date hereof, or (iii) a reduction in the aggregate principal amount of Subordinate Bonds required for consent to such supplemental indenture.

For the avoidance of doubt, all such amendments or modifications approved by a Bondholder Representative shall apply equally and ratably to all Senior Bonds or Subordinate Bonds then Outstanding, as the case may be, regardless of the Beneficial Owner. See Section 11.02 (Supplemental Indentures Requiring Consent of Bondholders) in the proposed form of the Bond Indenture included in Appendix C to this Offering Memorandum.

## **Impact of Market Turmoil**

Economic turmoil has historically, from time to time, led to a scarcity of credit, lack of confidence in the financial sector, volatility in the real estate and financial markets, fluctuations in interest rates, reduced economic activity, increased business failures and increased consumer and business bankruptcies.

Any economic instability and any decline in general economic conditions or conditions in the market area of the Community could (i) adversely affect the ability of prospective residents to sell their homes and (ii) cause a decline in the net worth and future investment earnings of prospective residents. These factors could render prospective residents unable or unwilling to pay the Entrance Fees and Monthly Fees required for residency in the Community. See “The Nature of the Income of the Elderly” and “Sale of Homes” below.

In addition, existing market conditions and any future deterioration of market conditions could adversely affect future investment earnings on the Borrower’s available funds. See “Fluctuation of Investment Earnings” below.

When investor confidence wanes, investments previously recognized as stable, such as tax-exempt money market funds (which are among the largest purchasers of tax-exempt bonds), have at times experienced significant withdrawals. See “Project Funding - Conditional Nature of Future Advances” above.

## **Fluctuation of Investment Earnings**

A portion of the Borrower’s nonoperating revenues are expected to come from investment earnings on the investment of available funds. Investment income may also be a source of payment of Monthly Fees of residents of the Community. The amount of such investment earnings fluctuates with changes in prevailing market conditions.

As described below under “The Nature of the Income of the Elderly,” investment income of the residents may be adversely affected by declines in market interest rates and other investment earnings, also resulting in payment difficulties.

## **The Nature of the Income of the Elderly**

A large percentage of the monthly income of some of the residents of the Community is expected to be fixed income derived from pensions and Social Security. In addition, some residents of the Community may liquidate assets in order to pay the Entrance Fees, Monthly Fees and other charges for occupancy at the Community. If, due to inflation or otherwise, substantial increases in Monthly Fees and other charges are required to cover increases in operating costs, wages, benefits and other expenses, without a corresponding cost of living increase in retirement pay, pensions and social security, some residents may have difficulty paying or may be unable to pay such increased Monthly Fees and other charges. Furthermore, investment income of the residents may be adversely affected by declines in market interest rates, also resulting in payment difficulties.

## **Sale of Homes**

It is anticipated that many prospective residents of the Community will need to sell their current homes prior to occupancy in order to pay the Entrance Fees and Monthly Fees and meet the other financial obligations for residence at the Community. If prospective residents encounter difficulties in selling their homes due to any local and national economic conditions affecting the sale of residential real estate or otherwise, they may not have sufficient funds to pay fees or other obligations under their Residency Agreements, thereby causing a delay in marketing the units at the Community. Any such delay could have an adverse impact on the revenues of the Borrower and the ability of the Borrower to pay debt service on its obligations, including the Series 2022 Bonds.

## **Federal and State Regulation**

The Borrower may be subject to regulatory actions by a number of federal, state and local agencies. See “NEW HAMPSHIRE REGULATION OF SENIOR LIVING PROVIDERS.” Failure by the Borrower to meet applicable standards could result in the loss of licensure, the delay in or loss of reimbursement or an inability to deliver services.

The Borrower does not currently plan for the Community to participate in Medicare or Medicaid programs. If the Borrower were to participate in federal healthcare programs including Medicare and Medicaid or in the future, the Borrower would be subject to additional regulatory oversight, including (without limitation), federal and state anti-kickback laws, the federal Civil False Claims Act (the “FCA”), the Civil Monetary Penalties Law (the “CMP”), financial reporting, surveys, investigations, penalties, and audits and retroactive audit adjustments with respect to reimbursement claimed under those programs. The implementation of such regulations could have a material adverse effect on the financial condition and operations of the Borrower.

Further, regulatory provisions may be promulgated from time to time, and it is not possible to predict the effect of any such future regulatory provisions on the Borrower. Future actions by the federal, state or local government increasing the required services to be provided to residents of the Community or otherwise changing existing regulations or their interpretation could increase the cost of operation of the Community and adversely affect the revenues of the Borrower. No assurance can be given that any future legislation that is enacted will not materially adversely affect the Borrower.

## ***Commercial Third-Party Payor Audits and Withholdings***

Contracts between health care providers and third-party payors often have contractual audit, setoff and withhold provisions that may cause substantial, retroactive adjustments. Such contractual adjustments also could have a material adverse effect on the financial condition and results of operations of the Borrower. No assurance can be given that, in the future, third-party payor payments or other payments will not be withheld or setoff, which could materially and adversely affect the financial condition or results of operations of the Borrower.

### ***Health Insurance Portability and Accountability Act of 1996***

The Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) addresses the confidentiality of individuals’ health information and requires the establishment of privacy and security protections for individually identifiable health information.

HIPAA also included administrative simplification provisions intended to facilitate the processing of health care payments by encouraging the electronic exchange of information and the use of standardized formats for health care information. Congress recognized, however, that standardization of information formats and greater use of electronic technology present additional privacy and security risks due to the increased likelihood that databases of personally identifiable health care information will be created and the ease with which vast amounts of such data can be transmitted. Therefore, HIPAA requires the establishment of distinct privacy and security protections for individually identifiable health information.

Regulations of HHS designed to protect patient medical records and other personal health information maintained by health care providers, hospitals, health plans, health insurers and health care clearinghouses provide specific federal penalties if a patient’s right to privacy is violated. For non-criminal violations of the privacy standards by such persons, subject to the standards, including disclosures made in error, there are civil monetary penalties. In addition, criminal penalties are provided in HIPAA for certain types of violations of the statute that are committed knowingly. The Borrower may incur additional expense to ensure that their operations and information systems comply with the HIPAA privacy regulations.

The Office of Inspector General received substantial enforcement funding through HIPAA. In addition, U.S. Attorneys are actively prosecuting a number of cases, including criminal FCA cases, against health care providers, some of which are exempt organizations. A substantial failure of the Borrower to meet its responsibilities under the law could materially adversely affect the financial condition of the Borrower.

### ***HITECH Act***

The federal Health Information Technology for Economic and Clinical Health Act (“HITECH Act”), enacted in 2009, included an approximately \$20 billion appropriation for the development and implementation of national health information technology standards and the adoption of electronic health care records. The HITECH Act also significantly expanded the HIPAA privacy and security provisions applicable to covered entities such as the Borrower. Changes to the privacy provisions include modifications to the minimum necessary requirement, the fundraising and marketing rules, the rules governing accounting for disclosures of protected health information and the right of individuals to restrict disclosure of protected health information in certain circumstances. HHS is charged with developing guidance and implementing regulations for these requirements.

The HITECH Act provides that a substantial part of the HIPAA administrative, physical and technical safeguards, as well as security policies, procedures and documentation requirements will now extend beyond “covered entities” and apply directly to all of their

business associates. In addition, the HITECH Act makes certain privacy provisions directly applicable to business associates. As a result of these changes, business associates will be directly regulated by HHS for those requirements, and as a result, will be subject to penalties imposed by HHS or the State Attorney General.

The HITECH Act also added new requirements for notification of individuals and the Secretary of HHS when there has been a breach of unsecured protected health information. There are strict timing and notice content requirements under the HITECH Act and its implementing regulations. Further, the HITECH Act requires HHS to perform periodic audits to ensure that covered entities and business associates are complying with HITECH's new privacy and security provisions.

HIPAA imposes civil monetary penalties for violations and criminal penalties for knowingly obtaining or using individually identifiable health information. The HITECH Act revises the civil monetary penalties associated with violations of HIPAA, as well as provides state attorneys general with authority to enforce the HIPAA privacy and security regulations in some cases, through a damages assessment or an injunction against the violator. The revised civil monetary penalty provisions establish a tiered system. Violations of HIPAA can result in civil monetary penalties ranging from \$100 to \$50,000 per violation, with caps of \$25,000 to \$1.5 million for all violations of a single requirement in a calendar year, depending on the severity of the violation and the level of culpability involved. Further, the HITECH Act requires HHS to promulgate a regulation to distribute a portion of civil monetary penalty proceeds directly to harmed individuals, which may serve as an incentive for individuals to file complaints.

The costs of continuing compliance with HIPAA and the administrative simplification regulations may be substantial.

Upon the initial operation of the Community, the Borrower anticipates that it will be in compliance with HIPAA and HITECH regulations. However, no guarantee can be made that the Borrower will be compliant in the future.

#### ***Breaches and Unauthorized Uses and Disclosures of Protected Health Information***

In addition to penalties that may be assessed under regulations promulgated under the HITECH Act as described above, the unauthorized use and disclosure of protected health information and the public nature of breaches of unsecured protected health information exposes health organizations to increased risk of individual or class action lawsuits from patients or other affected persons. Failure to comply with restrictions on patient privacy or to maintain robust information security safeguards, including taking steps to ensure that contractors who have access to sensitive patient information maintain the confidentiality of such information, could consequently damage a health care provider's reputation and materially adversely affect business operations.

## ***Health Care Reform***

In March, 2010, Congress enacted the Patient Protection and Affordable Care Act, as modified by the Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 (collectively, the “Health Care Reform Act”). Since then, there have been numerous judicial challenges to the Health Care Reform Act and Republican leaders of Congress have repeatedly cited health care reform, and particularly, repeal and replacement of the Health Care Reform Act, as a key goal, but efforts to do so have been unsuccessful to date.

On December 22, 2017, President Trump signed significant federal tax legislation, commonly known as the Tax Cuts and Jobs Act (the “2017 Tax Act”), which, among other things, repealed the Health Care Reform Act’s “individual mandate.” In general, prior to enactment of the 2017 Tax Act, the Health Care Reform Act required individuals who were not covered by a health plan that provided at least minimum essential coverage to pay a “shared responsibility payment” with their federal tax return. For months beginning after December 31, 2018, the amount of the individual shared responsibility payment is reduced to zero. The repeal of the individual mandate could have a material adverse effect on the Borrower’s business or financial condition.

Even without a full repeal, the Health Care Reform Act may instead be dismantled through various legislative efforts, judicial actions or executive orders. Management of the Borrower cannot predict whether any bill aimed at repealing and replacing all or a portion of the Health Care Reform Act will become law. Any legislative or judicial action that has the effect of reducing federal health care program spending, increasing the number of individuals without health insurance, or otherwise significantly altering the health care delivery system or insurance markets could have a material adverse effect on the Borrower’s business or financial condition.

Possible impacts of the Health Care Reform Act on the Borrower include, without limitation, an increase in the number of insured residents and a possible reduction in charity-care and bad-debt write-offs; significant regulatory changes that increase the cost of operations; increased activity by government agencies regarding fraud, waste and abuse; decreased reimbursements from third party payors; significant changes to current payment methodologies for services; and changes to costs and expenses of providing health insurance coverage to employees. Possible impacts of a repeal or replacement of the Health Care Reform Act on the Borrower include, without limitation, a reduction in the number of insured residents; decreased reimbursements from third party payors; significant changes to current payment methodologies for services; and higher deductibles and less coverage by insurance. The uncertainty of the impact of the Health Care Reform Act, or of any repeal or replacement bill, on the Borrower is likely to continue for the foreseeable future as legislative and judicial attempts to repeal or amend the Health Care Reform Act continue, as noted above.

Management of the Borrower is analyzing the Health Care Reform Act and legislation and judicial action aimed at repealing and replacing all or a portion of the Health Care Reform Act and will continue to do so in order to assess the effects on current and projected operations, financial performance and the financial condition of the Borrower. However, management cannot predict with any degree of certainty what impact such legislation or judicial action may have on the Borrower.

### **Stark Law**

The federal “Stark” statute prohibits a physician or immediate family member who has a financial relationship with an entity (including a hospital) from referring federal health care program patients to such entity for the furnishing of designated health services, with limited statutory and regulatory exceptions. Designated health services under the Stark Law include physical therapy services, occupational therapy services, outpatient speech language pathology services, radiology or other diagnostic services (including MRIs, CT scans and ultrasound procedures), durable medical equipment, radiation therapy services, parenteral and enteral nutrients, equipment and supplies, prosthetics, orthotics and prosthetic devices, home health services, outpatient prescription drugs, inpatient and outpatient hospital services and clinical laboratory services. The Stark Law also prohibits the entity receiving the referral from filing a claim or billing for the services arising out of the prohibited referral. The government does not need to prove that the entity knew that the referral was prohibited to establish a Stark violation. Sanctions for violation of the Stark Law include denial of payment for the services provided in violation of the prohibition, refunds of amounts collected in connection with prohibited referrals, exclusion from the federal health care programs and civil penalties, which could be substantial. Knowing violations of the Stark Law may also serve as the basis for liability under the FCA. The types of financial arrangements between a physician and an entity that trigger the self-referral prohibitions of the Stark Law are broad, and include ownership and investment interests and compensation arrangements. Arrangements that implicate the Stark Law that do not fall within a statutory or regulatory exception are not subject to a case-by-case review, unlike violations of the Anti-Kickback Law. Rather, such arrangements are prohibited in all cases by the Stark Law. Violations of the Stark Law, even if inadvertent, carry substantial penalties. If the violations of the Stark Law were knowing, the government may also seek civil monetary penalties of up to almost \$25,820 per claim submitted in violation of the Stark Law. The penalty for circumnavigating the Stark Law’s restrictions on physician self-referrals is currently \$172,137. In addition, violations of the Stark Law are increasingly being prosecuted under the FCA, triggering the FCA penalties discussed above. Potential repayments to CMS, settlements, fines or exclusion for a Stark Law violation or an alleged violation could have a material adverse impact on the Borrower.

Because of the complexity of the Stark Law and the requirement to meet a statutory or regulatory exception, there can be no assurance that the Borrower will not be found to have violated the Stark Law. Penalties for such violations could have a material adverse effect on the operations and financial condition of the Borrower, as could any significant penalties, demands for refunds or denials of payment. Although the Stark Law applies only to federal health care programs, a number of states, including New Hampshire, have passed similar statutes pursuant to which similar types of prohibitions are made applicable to all types of providers and all other health plans or third party payors.

### **Fair Housing and Anti-Discrimination Laws**

There are a number of federal and state laws governing discrimination on the basis of age, disability, familial status, religion, race, and national origin, including the Age Discrimination Act of 1975, the Americans with Disabilities Act, the Fair Housing Amendments

Act of 1989, and the Fair Housing Act of 1968. There are no assurances that the Borrower will not be subject to regulatory action to enforce these laws with respect to residents and the Community or legal action by residents to enforce their rights under these laws.

### **Future Laws and Regulations**

The enactment of additional legislation restricting or regulating the operation of residential care facilities, creating additional residents' rights or requiring certain financial reserves could adversely affect the financial condition of the Borrower and may limit the terms and enforceability of and remedies under Residency Agreements.

Further, new regulatory provisions may be promulgated from time to time, and it is not possible to predict the effect of any such future promulgations on the Borrower. Future actions by the federal, state or local government increasing the required services to be provided to residents of the Community or otherwise changing existing regulations or their interpretation, could increase the cost of operation of the Community and adversely affect the revenues of the Borrower. No assurance can be given that any future legislation that is enacted will not materially adversely affect the Borrower.

### **Organized Resident Activity**

The Borrower may, from time to time, be subject to pressure from organized groups of residents seeking, among other things, to raise the level of services or to maintain the level of Monthly Fees or other charges without increase. While such pressure from small groups of residents is not unusual, no assurance can be given that such pressure will not escalate into more serious organized activity such as a general payment strike. Moreover, management of the Borrower may be subject to conflicting pressures from different groups of residents, some of whom may seek an increase in the level of services while others may wish to hold down Monthly Fees and other charges. In such event, no assurance can be given that management of the Borrower will be able to satisfactorily meet the needs of such residents and dissatisfied residents may choose to terminate their Residency Agreements.

### **Risks Associated with Residents' Financial Positions**

Although the Borrower screens potential residents to ensure that they have adequate assets and income to pay their obligations to the Borrower during their lifetime, there can be no assurance that such assets and income will be sufficient in all cases. The pricing of Entrance Fees, refund provisions, Monthly Fees and health care benefits are determined from actuarial projections of the expected morbidity and mortality of the projected resident population.

The Borrower may assist residents who become unable to pay fees and other charges of the Borrower by reason of circumstances beyond their control. However, the increased cost of care resulting from cost increases generally and financial assistance to a significant number of residents could adversely affect the financial condition of the Borrower.

## **Entrance Fee Refunds**

Following departure of certain residents from the Facilities, the Borrower will be obligated to refund all or a portion of the departing resident's Entrance Fee upon a new resident being obtained for the departing resident's unit. See "THE RESIDENCY CONTRACT AND FEES" in Appendix A to this Offering Memorandum.

## **Insurance and Legal Proceedings**

The Continuing Covenants Agreements require the Borrower to carry certain insurance. See Section 4.4 of the proposed forms of the Continuing Covenants Agreements in Appendix C to this Offering Memorandum. Uninsured claims and increases in insurance premiums could, to the extent not covered by increased revenues, adversely affect the financial condition of the Borrower.

The provision of personal and health care services entails an inherent risk of liability. In recent years, participants in the senior living and health care services industry have become subject to an increasing number of lawsuits alleging negligence, malpractice or related theories, many of which involve large claims and result in significant legal defense costs. The Borrower carries property and general liability insurance and professional liability insurance in amounts deemed adequate by management of the Borrower and consistent with other comparable institutions. See "THE BORROWER - Insurance" in Appendix A to this Offering Memorandum. However, there can be no assurance that any future claims will not exceed applicable insurance coverage. A claim against the Borrower not covered by, or in excess of, the insurance carried by or on behalf of the Borrower could have a material adverse effect upon the Borrower.

In addition, the insurance policies of the Borrower must be renewed annually. Because the increased litigation in the retirement and assisted living business has resulted in increased insurance premiums and an increased difficulty in obtaining insurance at reasonable rates, there can be no assurance that insurance coverage will continue to be available to the Borrower at reasonable premiums, if at all.

The Borrower currently is not a party to any legal proceeding that management of the Borrower believes would have a material adverse effect on the business, financial condition or results of operations of the Borrower.

To the extent that insurance coverage maintained by or on behalf of the Borrower is inadequate to cover judgments against it, such claims may be required to be discharged by payments from the Borrower's own funds. To the extent that insurance coverage maintained by others with whom the Borrower may have joint and several liability is inadequate, the Borrower (or its insurers to the extent of applicable coverage) may incur additional liability for such claims. Further increases in the cost or limitations on the availability of insurance could adversely affect the operating results of the Borrower.

## **Tax Consequences to Residents**

Section 7872 (Treatment of Loans with Below Market Interest Rates) of the Code provides for, in certain circumstances, the imputation of interest income to a lender when the rate of interest charged by the lender is below prevailing market rates (as determined under a formula) or, even if the below market interest rate loan would otherwise be exempt from the provisions of Section 7872, when one of the principal purposes for such below market rate loan is the avoidance of federal income taxation.

A refundable entrance fee or deposit payment made by a resident to certain continuing care facilities has been determined under Section 7872 to constitute a below market interest rate loan by the resident to the facility to the extent that the resident is not receiving a market rate of interest on the refundable portion of the entrance fee or deposit. Section 7872(h) provides a “safe harbor” exemption for certain types of refundable entrance fees. The statutory language of Section 7872 does not permit a conclusive determination as to whether the Residency Agreements come within the scope of the continuing care facility safe harbor or within the statute itself.

Provided the Residency Agreements falls within the scope of Section 7872, the safe harbor exemption under Section 7872(h) is applicable (i) if such loan was made pursuant to a continuing care contract, (ii) if the resident (or the resident’s spouse) has attained age 62 before the close of the year and (iii) irrespective of the amount of the “loan” by the resident (or the resident’s spouse) to the continuing care facility. The Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 amended Section 7872(h) to make the exemption for loans to qualifying care facilities permanent.

Any determination of applicability of Section 7872 could have the effect of discouraging potential residents from becoming or remaining residents of the Community.

## **Environmental Risks**

There are potential risks relating to the release, presence or handling of hazardous substances on property. The federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, sometimes referred to as “CERCLA” or the “Superfund Act,” is the most well-known and widely applicable law relating to liability of property owners for environmental hazards with respect to property. If hazardous substances are found to be located on or to have migrated from property, the owner of such property may be held liable for costs and other liabilities related to the removal of such substances. If any part of the Mortgaged Property is affected by a hazardous substance, the marketability and value of the property may be reduced by the cost of remedying the condition, which could exceed the value of the property. The Borrower has no reason to believe that the site on which the Community is expected to be located has environmental problems of a material nature. However, there can be no assurances that such sites are free of environmental concerns.

The Borrower may be subject to liability for investigating and remedying any hazardous substances that have come to be located on its real property, including any such substances that may have migrated off its real property.

## **Personnel**

Management of the Borrower believes that its salary and benefits package for employees will be competitive with other comparable institutions in the area in which the Community operates. In recent years, the health care industry has experienced a shortage of nurses and other health care personnel. The Borrower will compete for both professional and non-professional employees. There can be no assurance that labor shortages will not affect the Borrower's ability to attract and maintain an adequate staff of professional and non-professional personnel. A lack of qualified personnel could result in significant increases in labor costs, a limitation on the number of residents that the Borrower can admit to the Community, or otherwise adversely affect the Borrower's operating results.

## **Limitation on Transfers of Series 2022 Bonds**

Unless the Borrower or the Series 2022 Bonds have received an Investment Grade Rating, each initial beneficial owner of the Series 2022 Bonds will be either (1) a "Qualified Institutional Buyer" or (2) an "Accredited Investor" (each as defined in the rules promulgated under the Securities Act). Subsequent to the initial purchase of the Senior Bonds, the Senior Bonds may be sold or transferred to another beneficial owner for whom Hamlin is not the Bondholder Representative, provided that such Senior Bonds are certificated in Authorized Denominations of not less than \$100,000; provided that such restrictions shall not apply in the event that the Borrower or the Senior Bonds shall have received an Investment Grade Rating.

## **No Rating; Secondary Market**

No application has been made for a credit rating for the Series 2022 Bonds. The absence of a rating may adversely affect the market for the Series 2022 Bonds. There can be no assurance that there will be a secondary market for the purchase or sale of the Series 2022 Bonds. The secondary market, if any, for the Series 2022 Bonds will depend upon prevailing market conditions and the financial condition and results of operations of the Borrower. The Series 2022 Bonds should therefore be considered long-term investments in which funds are committed to maturity.

## **No Independent Financial Projections**

Neither the Financial Projections nor the assumptions on which they are based have been reviewed or otherwise evaluated by an independent certified public accountant.

## **Actual Results May Differ from Historical Results**

Certain audited financial information regarding the Parent and its subsidiaries are forth in Appendix B to this Offering Memorandum. There can be no assurance that the financial results achieved in the future will be similar to historical results. Such future results will vary from historical results and the variations may be material. Therefore, the historical financial results cannot be taken as a representation that the Support Provider will be able to fulfill its obligations under the Support Agreement.

The Financial Projections included in Appendix G to this Offering Memorandum were prepared by OnePoint Partners LLC (“OnePoint”) in consultation with the management of the Borrower based on certain assumptions made by management and OnePoint. OnePoint is also the financial advisor to the Borrower. See “RELATIONSHIPS.” There usually will be differences between the forecasted and actual results because events and circumstances frequently do not occur as expected, and those differences may be material. In addition, the Financial Projections cover only the years ending December 31, 2022 through December 31, 2026 and, consequently, do not cover the entire period during which the Series 2022 Bonds may be Outstanding.

Moreover, the Financial Projections have not been prepared in accordance with generally accepted accounting principles. The Financial Projections are “forward-looking statements” and are subject to the general qualifications and limitations described under “Caution Regarding Forward-Looking Statements” above. The Underwriter has not independently verified such Financial Projections, and makes no representations and gives no assurances that such Financial Projections, or the assumptions underlying them, are complete or correct.

No assurance can be given that the results described in the Financial Projections will be achieved, or that there will not be changes in underlying considerations after the date of this Offering Memorandum. Refer to Appendix G to this Offering Memorandum to review the Financial Projections and the various factors that could cause actual results to differ significantly from projected results. The Borrower does not intend to update the Financial Projections and, accordingly, there are risks inherent in using the Financial Projections in the future as they become outdated.

The Financial Projections set forth in this Offering Memorandum were not prepared with a view toward complying with the guidelines established by the American Institute of Certified Public Accountants with respect to prospective financial information but, in the view of the Borrower’s management, were prepared on a reasonable basis, reflect the best currently available estimates and judgments, and present, to the best of management’s knowledge and belief, the expected course of action and the expected future financial performance of the Borrower. However, this information is not fact and should not be relied upon as being necessarily indicative of future results, and readers of this Offering Memorandum are cautioned not to place undue reliance on the prospective financial information. Neither the Borrower’s independent auditor nor any other independent auditors have compiled, examined or performed any procedures with respect to the prospective financial information contained herein, nor have they expressed any opinion or any other form of assurance on such information or its achievability. Neither the Borrower’s independent auditor nor any other independent auditors have been consulted in connection with the preparation of the prospective financial information set forth in this Offering Memorandum, which is solely the product of the Borrower and OnePoint, and the independent auditors assume no responsibility for its content.

Because there is no assurance that the actual events will correspond with the assumptions made, no guarantee can be made that the results actually achieved in the future will correspond with the Financial Projections. Actual operating results may be affected by many uncontrollable factors, including but not limited to, increased costs, failure by management of the Borrower to execute its plans, lower than anticipated revenues, employee regulations, taxes, governmental

controls, changes in applicable governmental regulation, changes in demographic trends, changes in the retirement living and health care industries and general economic conditions.

## **Tax Exemptions**

### ***Tax-Exempt Status of Interest on the Series 2022 Bonds***

The Code imposes a number of requirements that must be satisfied for interest on state and local obligations, such as the Series 2022 Bonds, to be excludable from gross income for federal income tax purposes. These requirements include limitations on the use of proceeds of the Series 2022 Bonds and the facilities financed or refinanced with such proceeds, limitations on the investment of amounts deemed to be proceeds of the Series 2022 Bonds prior to expenditure, a requirement that certain investment earnings on amounts deemed to be proceeds of the Series 2022 Bonds be paid periodically to the United States and a requirement that the Issuer file an information report with the Internal Revenue Service (the “IRS”).

The Issuer and the Borrower have made certain covenants regarding actions required to maintain the excludability from gross income for federal income tax purposes of interest on the Series 2022 Bonds. Failure to comply with the requirements stated in the Code and related regulations, rulings and policies may result in the treatment of interest on the Series 2022 Bonds as taxable, retroactively to the date of issuance. If interest on the Series 2022 Bonds were declared to be includable in gross income for purposes of federal income taxation, the Series 2022 Bonds may be subject to mandatory redemption. See “THE SERIES 2022 BONDS -- Redemption Provisions.”

The IRS has increased the number of audits of tax-exempt bonds in the charitable organization sector in recent years. IRS officials have indicated that more resources will be invested in these audits. Tax-exempt organizations must complete schedules to IRS Form 990 - Return of Organizations Exempt From Income Tax. Schedule K to such Form 990 requires detailed information related to outstanding tax-exempt bond issues, including information regarding operating, management and research contracts as well as private use compliance; and Schedule J to such Form 990 requires reporting of compensation information for the organizations’ officers, directors, trustees, key employees and other highly compensated employees. There can be no assurance that responses by the Borrower to Form 990 will not lead to an IRS audit.

The Series 2022 Bonds may be subject to audits by the IRS from time to time. No ruling with respect to the tax-exempt status of the Series 2022 Bonds has been or will be sought from the IRS, and the opinion of Bond Counsel as to the excludability from gross income of the interest on the Series 2022 Bonds for federal income tax purposes is not binding on the IRS or the courts. In addition, if the Series 2022 Bonds were to be audited, the market for and the market value of the Series 2022 Bonds could be adversely affected during the pendency of the examination and thereafter, even if the outcome of the audit were to be favorable.

For a further discussion of certain of these and other federal income tax matters affecting the Series 2022 Bonds, see “TAX EXEMPTION” herein.

### ***Tax-Exempt Status of the Borrower***

The tax-exempt status of the Series 2022 Bonds presently depends upon the maintenance by the Borrower of its status as an organization described in Section 501(c)(3) of the Code. In addition, if the Borrower were to lose its tax-exempt status, property and revenues of the Borrower could become subject to federal, state and local income taxation. For this reason, loss of the tax-exempt status of the Borrower could have a material adverse effect on the results of operations and financial condition of the Borrower.

The maintenance of the federal tax-exempt status of an organization is contingent on compliance with general rules promulgated in the Code and related regulations regarding the organization and operation of tax-exempt entities, including their operation for charitable and educational purposes and their avoidance of transactions which may cause their earnings or assets to inure to the benefit of private individuals. As these general principles were developed primarily for public charities which do not conduct large-scale technical operations and business activities, they often do not adequately address the myriad of operations and transactions entered into by modern nonprofit organizations.

In 2004, the IRS began a compliance program to measure compliance by tax-exempt organizations with prohibitions on excessive compensation of and benefits to officers and other insiders. In 2009, the IRS issued its Hospital Compliance Project Final Report, which indicated that the IRS will continue to heavily scrutinize executive compensation arrangements, practices and procedures of tax-exempt hospitals and other tax-exempt organizations and, in certain circumstances, may conduct further investigations or impose fines on such organizations.

One of the tools available to the IRS to discipline a tax-exempt entity for private inurement or unlawful private benefit is revocation of the entity's tax-exempt status.

### ***State Income Tax Exemption and Local Property Tax Exemption***

It is likely that the loss by the Borrower of federal tax exemption would also result in a challenge to the state tax exemption of the Borrower. Depending on the circumstances, such event could be adverse and material.

In recent years, state, county and local taxing authorities have been undertaking audits and reviews of the operations of tax-exempt organizations with respect to their real property tax exemptions. In some cases, the real property tax exemption of the organizations has been questioned. The loss of these exemptions could adversely affect the financial condition of the Borrower.

### ***Unrelated Business Taxable Income***

In recent years, the IRS and state, county and local taxing authorities have been undertaking audits and reviews of the operations of tax-exempt organizations with respect to their exempt activities and the generation of unrelated business taxable income ("UBTI"). Management intends to properly account for and report UBTI; nevertheless, an investigation or audit could lead to a challenge which could result in taxes, interest and penalties with respect to

unreported UBTI and in some cases could affect the tax-exempt status of the Borrower as well as the excludability from gross income for federal income tax purposes of the interest payable on the Series 2022 Bonds and any other tax-exempt debt issued on behalf of the Borrower.

## **Legislative Developments**

Legislative proposals currently under consideration or proposed after issuance and delivery of the Series 2022 Bonds could adversely affect the market value of the Series 2022 Bonds. Further, if enacted into law, any such proposal could cause the interest on the Series 2022 Bonds to be subject, directly or indirectly, to federal income taxation and could otherwise alter or amend one or more of the provisions of federal tax law described below under “TAX EXEMPTION” or their consequences.

The 2017 Tax Act significantly changed the individual and corporate income tax rates and eliminated or modified the alternative minimum tax for individuals and corporations effective for tax years beginning after 2017. Such legislation made a number of sweeping changes to the taxation of the business and foreign income.

Prospective purchasers of the Series 2022 Bonds should consult with their tax advisors as to the status and potential effect of pending and future legislative proposals, as to which Bond Counsel expresses no opinion.

## **Prepayment Risks**

The Series 2022 Bonds are subject to redemption in advance of their stated maturity. See “THE SERIES 2022 BONDS -- Redemption Provisions.” Upon the occurrence of certain events of default, the payment of the principal of and interest on the Series 2022 Bonds may be accelerated. See “Acceleration” in Section 902 of the proposed form of Bond Indenture included in Appendix C to this Offering Memorandum. Thus, there can be no assurance that the Series 2022 Bonds will remain Outstanding until their stated maturity.

## **Other Regulatory and Contractual Matters**

The Borrower is subject to extensive federal, State and local regulations governing licensure, conduct of operations at its existing facilities, construction of new facilities, cost containment and reimbursement for services rendered. Failure by the Borrower to meet applicable standards could result in the loss of a license, the delay in or loss of reimbursement or the loss of an ability to deliver services. There can be no assurance that federal, State, local governments or other governmental authorities will not impose additional restrictions on the operations of the Borrower that might adversely affect its business and as a result, the financial condition of the Borrower.

## **Cybersecurity Risks**

Similar to other organizations, the Borrower relies on electronic systems and technologies to conduct its operations. There have been numerous attempts to gain unauthorized access to electronic systems of large organizations for the purposes of misappropriating assets or

personal, operational, financial or other sensitive information, or causing operational disruption. These attempts, which are increasing, include highly sophisticated efforts to electronically circumvent security measures or freeze assets as well as more traditional intelligence gathering aimed at obtaining information necessary to gain access. The Borrower maintains a security posture designed to deter “cyber-attacks,” and is committed to deterring attacks on its electronic systems and responding to such attacks to minimize their impact on operations. However, no assurances can be given that the Borrower’s security measures will prevent cyber-attacks on its electronic systems, and no assurances can be given that any cyber-attacks, if successful, will not have a material adverse effect on the operations or financial condition of the Borrower.

## **Certain Other Risks**

The following factors, among others, may also adversely affect the Borrower and the Support Provider, to an extent that cannot be determined at this time:

- (1) changes in key management personnel and inability to hire new personnel for management or operations as needed to operate the Community upon opening;
- (2) reductions in utilization of continuing care retirement facilities, assisted living, memory care and other senior living facilities as a result of increased payment for and expansion of home health services, preventive medicine, improved occupational health and safety, development and utilization of medical and scientific research and technological advances and other developments;
- (3) future legislation and regulations affecting continuing care retirement facilities, assisted living, memory care and other senior living facilities, governmental and commercial medical insurance and the long-term care industry in general;
- (4) cost and availability of malpractice and other insurance in the State, as well as the potential for claims in excess of available insurance funds;
- (5) changes in public or private insurance programs;
- (6) increased costs of attracting and retaining or decreased availability of a sufficient number of nurses and other health care personnel or increased costs resulting from unionization of the employees of the Borrower or the utilization by a non-union employee of the Borrower of proceedings available under the National Labor Relations Act;
- (7) increased costs resulting from enhanced requirements governing the quality of care or services provided in retirement communities and assisted living and memory care facilities;

(8) increases in costs, including costs associated with, among other things, salaries, wages and fringe benefits, supplies, technology and equipment, insurance, energy and other utilities, compliance with or violation of environmental laws and regulations and other costs that could result in a sizable increase in expenditures without a corresponding increase in revenues;

(9) any inability of the Borrower to obtain future governmental approvals to undertake additional projects necessary to remain competitive as to rates, charges and the quality and scope of care or any limitation on the availability of tax-exempt or other financing for future projects;

(10) the occurrence of natural disasters, including floods, hurricanes, tornadoes and earthquakes, or the occurrence of criminal or terrorist acts or other calamities that could damage the facilities of the Borrower, interrupt utility service or otherwise impair the operations of the facilities of the Borrower and the generation of revenues from such facilities, any losses resulting from the occurrence of any such event that is not covered by insurance covering the Borrower and any insufficiency in available insurance to cover any losses resulting from the occurrence of any such event; and

(11) an outbreak of an infectious disease such as COVID-19 (Coronavirus), the Zika virus, the Ebola virus, or another similar disease in the Borrower's service area that could result in reduced demand for senior living facilities such as the Community, a temporary diversion of new move-ins, increased regulatory requirements pertaining to screening of employees, visitors and/or residents or otherwise impair operations or the generation of revenues from the Community.

Regulatory and other changes resulting from the factors mentioned above, among others, or the occurrence of other unanticipated events, could have a material adverse effect on the Borrower or the Support Provider.

The paragraphs above discuss certain Bondholders' risks, but are not intended to be a complete enumeration of all risks associated with the purchase or holding of the Series 2022 Bonds.

## **FINANCIAL PROJECTIONS**

OnePoint, in consultation with management of the Borrower has prepared the Financial Projections for the years ending December 31, 2022 through December 31, 2026 which are presented in Appendix G to this Offering Memorandum in connection with the issuance of the Series 2022 Bonds. *These projections are based on assumptions that cannot be assured. Neither the Financial Projections nor the assumptions on which they are based have been reviewed or evaluated by an independent consultant.* See "CERTAIN BONDHOLDERS' RISKS -- Actual Results May Differ from Projections."

## UNDERWRITING

The Series 2022 Bonds are being purchased by Odeon Capital Group LLC (the “Underwriter”). The Bond Purchase Agreement for the Series 2022 Bonds provides that the Underwriter will purchase the Series 2022 Bonds advanced at closing in the aggregate principal amount of \$41,400,000 and, upon satisfaction of certain conditions, will purchase the remaining Advances to be made under the Senior Bonds, if any, as advances are made in accordance with the Bond Indenture. The Underwriter has agreed to purchase the Series 2022 Bonds advanced at closing for a fee of \$62,100 plus expenses, and will purchase any future Advances of the Senior Bonds, upon compliance with the terms of the Bond Indenture and the Bond Purchase Agreement, as advances may be made in accordance with the Bond Indenture for a fee equal to 0.15% (i.e., 15 basis points) of the aggregate principal amount of the Senior Bonds advanced on the advance date plus expenses as set forth in the Bond Purchase Agreement. The Borrower has agreed to indemnify the Underwriter and the Issuer against losses, claims, damages and liabilities arising out of any incorrect statement or information contained in or information omitted from this Offering Memorandum to the extent set forth in the Bond Purchase Agreement. The Underwriter reserves the right to join with dealers and other underwriters in offering the Series 2022 Bonds to the public. The obligation of the Underwriter to accept delivery of the Series 2022 Bonds is subject to various conditions contained in the Bond Purchase Agreement. The obligation of the Underwriter to advance funds for the initial Advance of the Series 2022 Bonds and with respect to any future advance thereunder is subject to the conditions set forth in the Bond Purchase Agreement.

The Underwriter and its affiliates are full service financial institutions engaged in various activities, which may include sales and trading, commercial and investment banking, advisory, investment management, investment research, principal investment, hedging, market making, brokerage and other financial and non-financial activities and services. The Underwriter and its affiliates have provided, and may in the future provide, a variety of these services to persons and entities that may have relationships with the Issuer, the Borrower, the Parent or the Support Provider for which they received or will receive customary fees and expenses.

In the ordinary course of their various business activities, the Underwriter and its affiliates, officers, directors and employees may purchase, sell or hold a broad array of investments and actively trade securities, derivatives, loans, commodities, currencies, credit default swaps and other financial instruments for their own account and for the accounts of their customers, and such investment and trading activities may involve or relate to assets, securities and instruments of the Issuer, the Borrower, the Parent or the Support Provider (directly, as collateral securing other obligations or otherwise) and persons and entities with relationships with the Issuer, the Borrower, the Parent or the Support Provider. The Underwriter and its affiliates may also communicate independent investment recommendations, market color or trading ideas and publish or express independent research views in respect of such assets, securities or instruments and may at any time hold, or recommend to clients that they should acquire, long and short positions in such assets, securities and instruments.

## **NO RATINGS**

No ratings have been applied for or received in connection with the issuance of the Series 2022 Bonds.

## **TAX EXEMPTION**

In the opinion of Hinckley, Allen & Snyder LLP, Bond Counsel to the Issuer (“Bond Counsel”), based upon an analysis of existing laws, regulations, rulings, and court decisions, and assuming, among other matters, compliance with certain covenants, interest on the Series 2022 Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”). Bond Counsel is of the further opinion that interest on the Series 2022 Bonds is not a specific preference item for purposes of the federal alternative minimum tax. Bond Counsel expresses no opinion regarding any other federal tax consequences arising with respect to the ownership or disposition of, or the accrual or receipt of interest on, the Series 2022 Bonds.

The Code imposes various requirements relating to the exclusion from gross income for federal income tax purposes of interest on obligations such as the Series 2022 Bonds. Failure to comply with these requirements may result in interest on the Series 2022 Bonds being included in gross income for federal income tax purposes, possibly from the date of original issuance of the Series 2022 Bonds. The Issuer and the Borrower have covenanted to comply with such requirements to ensure that interest on the Series 2022 Bonds will not be included in federal gross income. The opinion of Bond Counsel assumes compliance with these covenants.

Bond Counsel is also of the opinion that, under existing statutes, the interest on the Series 2022 Bonds is exempt from the New Hampshire personal income tax on interest and dividends. Bond Counsel expresses no opinion regarding any other New Hampshire tax consequences arising with respect to the Series 2022 Bonds. Bond Counsel has not opined as to the taxability of the Series 2022 Bonds or the income therefrom under the laws of any state other than New Hampshire. A complete copy of the proposed form of opinion of Bond Counsel with respect to the Series 2022 Bonds is set forth in Appendix F hereto.

To the extent the issue price of any maturity of the Series 2022 Bonds is less than the amount to be paid at maturity of such Series 2022 Bonds (excluding amounts stated to be interest and payable at least annually over the term of such Series 2022 Bonds), the difference constitutes “original issue discount,” the accrual of which, to the extent properly allocable to each owner thereof, is treated as interest on the Series 2022 Bonds which is excluded from gross income for federal income tax purposes. For this purpose, in general, the issue price of a particular maturity of the Series 2022 Bonds may be established by reference to the first price at which a substantial amount of such maturity of the Series 2022 Bonds is sold to the public. The original issue discount with respect to any maturity of the Bonds accrues daily over the term to maturity of such Series 2022 Bonds on the basis of a constant interest rate compounded semiannually (with straight-line interpolations between compounding dates). The accruing original issue discount is added to the adjusted basis of such Series 2022 Bonds to determine taxable gain or loss upon disposition (including sale, redemption, or payment on maturity) of such Series 2022 Bonds. Bondholders should consult their own tax advisors with respect to the tax consequences of

ownership of Series 2022 Bonds with original issue discount, including the treatment of purchasers who do not purchase such Series 2022 Bonds in the original offering to the public at the issue price established therefor.

Series 2022 Bonds purchased, whether at original issuance or otherwise, for an amount greater than the stated principal amount to be paid at maturity of such Bonds, or, in some cases, at the earlier redemption date of such Series 2022 Bonds (“Premium Bonds”), will be treated as having amortizable bond premium for federal income tax purposes. No deduction is allowable for the amortizable bond premium in the case of obligations, such as the Premium Bonds, the interest on which is excluded from gross income for federal income tax purposes. However, a Bondholder’s basis in a Premium Bond will be reduced by the amount of amortizable bond premium properly allocable to such Bondholder. Owners of Premium Bonds should consult their own tax advisors with respect to the proper treatment of amortizable bond premium in their particular circumstances.

Prospective Bondholders should be aware that certain requirements and procedures contained or referred to in the Bond Indenture and other relevant documents may be changed and certain actions (including, without limitation, defeasance of the Series 2022 Bonds) may be taken or omitted under the circumstances and subject to the terms and conditions set forth in such documents. Bond Counsel has not undertaken to determine (or to inform any person) whether any actions taken (or not taken) or events occurring (or not occurring) after the date of issuance of the Series 2022 Bonds may adversely affect the value of, or the tax status of interest on, the Series 2022 Bonds.

Prospective Bondholders should be aware that from time to time legislation is or may be proposed which, if enacted into law, could result in interest on the Series 2022 Bonds being subject directly or indirectly to federal income taxation, or otherwise prevent Bondholders from realizing the full benefit provided under current federal tax law of the exclusion of interest on the Series 2022 Bonds from gross income. To date, no such legislation has been enacted into law. However, it is not possible to predict whether any such legislation will be enacted into law. Further, no assurance can be given that any pending or future legislation, including amendments to the Code, if enacted into law, or any proposed legislation, including amendments to the Code, or any future judicial, regulatory or administrative interpretation or development with respect to existing law, will not adversely affect the market value and marketability of, or the tax status of interest on, the Series 2022 Bonds. Prospective Bondholders are urged to consult their own tax advisors with respect to any such legislation, interpretation or development.

Although Bond Counsel is of the opinion that interest on the Series 2022 Bonds is excluded from gross income for federal income tax purposes, the ownership or disposition of, or the accrual or receipt of interest on, the Series 2022 Bonds may otherwise affect a Bondholder’s federal or state tax liability. The nature and extent of these other tax consequences will depend upon the particular tax status of the Bondholder or the Bondholder’s other items of income, deduction or exclusion. Bond Counsel expresses no opinion regarding any such other tax consequences, and Bondholders should consult with their own tax advisors with respect to such consequences.

## **LEGAL MATTERS**

Hinckley, Allen & Snyder LLP is acting as Bond Counsel to the Issuer in connection with the issuance of the Series 2022 Bonds. The proposed form of Bond Counsel's approving opinion appears as Appendix F to this Offering Memorandum. Certain legal matters will be passed upon for the Underwriter by McKennon Shelton & Henn LLP, for the Borrower, the Parent and the Support Provider by their legal counsel, Nixon Peabody LLP, and for the Trustee by Hinckley, Allen & Snyder LLP.

## **FINANCIAL ADVISOR**

Hamlin Capital Advisors LLC ("HCA") will act as a limited special purpose financial advisor to the Borrower with respect to the Series 2022 Bonds. HCA has not prepared any portion of this Offering Memorandum and is not obligated to undertake, and has not undertaken, either to make an independent verification of or to assume responsibility for, the accuracy, completeness or fairness of the information contained in this Offering Memorandum. HCA is a financial advisory firm and is not engaged in the business of underwriting, creating or distributing securities.

OnePoint Partners, LLC ("OnePoint") will act as a financial advisor to the Borrower with respect to the Series 2022 Bonds. OnePoint has not prepared any portion of this Offering Memorandum and is not obligated to undertake, and has not undertaken, either to make an independent verification of or to assume responsibility for, the accuracy, completeness or fairness of the information contained in this Offering Memorandum. OnePoint is a financial advisory firm and is not engaged in the business of underwriting, creating or distributing securities. OnePoint also prepared the Market Study and Financial Projections included in Appendix G. See "RELATIONSHIPS.

## **INDEPENDENT AUDITOR**

The financial statements of the Parent and its subsidiaries, included in this Offering Memorandum as Appendix B, have been audited by RSM US LLP, auditors, to the extent and for the periods indicated in their report thereon. Such financial statements include subsidiaries of the Parent that are affiliates to the Borrower that are not obligated on the Series 2022 Bonds.

## **LITIGATION**

From time to time the Issuer receives inquiries and requests for documents and information pertaining to unrelated bond issues from various regulatory agencies, including the Securities & Exchange Commission, and in connection with audits by the IRS. To the Issuer's knowledge, as of the date of this Offering Memorandum, there is not pending or threatened, any litigation restraining or enjoining the issuance or delivery of the Series 2022 Bonds or questioning or affecting the validity of the Series 2022 Bonds or the proceedings or authority under which they are to be issued or which in any manner questions the right of the Issuer to enter into the Bond Indenture or the Loan Agreement or to secure the Series 2022 Bonds in the manner provided therein.

There is currently no litigation of any nature to which the Borrower, the Parent or the Support Provider is a party pending or, to the knowledge of the Borrower, the Parent or the Support Provider threatened, against the Borrower, the Parent or the Support Provider to restrain or enjoin the issuance, sale, execution or delivery of the Series 2022 Bonds or the execution and delivery by the Borrower of the Loan Agreement, the Continuing Covenants Agreements, the DACA, the Pledge Agreement, the Bond Purchase Agreement, the Continuing Disclosure Agreement and the Mortgages (collectively, the “Borrower Documents”) or the execution and delivery by the Support Provider of the Support Agreement or the execution by the Parent of the Pledge Agreement or in any way contesting or affecting the validity of the Series 2022 Bonds, the execution and delivery by the Borrower of the Borrower Documents, the execution and delivery by the Support Provider of the Support Agreement, the execution and delivery by the Parent of the Pledge Agreement or any proceedings taken with respect to the issuance or sale of the Series 2022 Bonds, the execution and delivery of the Borrower of the Borrower Documents or the execution and delivery of the Support Provider of the Support Agreement or the execution and delivery of the Parent of the Pledge Agreement or in any way contesting or affecting the validity of or application of the proceeds of the Series 2022 Bonds or the security provided for the Series 2022 Bonds, including (without limitation) the Borrower Documents, the Support Agreement and the Pledge Agreement or the existence or powers of the Borrower, the Parent or the Support Provider, or which, in the opinion of management, would adversely affect the financial condition of the Borrower, the Parent or the Support Provider or alter the security therefor or the ability of the Borrower to perform its obligations under the Borrower Documents, the ability of the Support Provider to perform its obligations under the Support Agreement or the ability of the Parent to perform its obligations under the Pledge Agreement.

## **RELATIONSHIPS**

HCA, the limited special purpose financial advisor to the Borrower, has certain common ownership with Hamlin Capital Management, LLC (“HCM”), the Bondholder Representative for the holders of the Senior Bonds.

McKennon Shelton & Henn LLP, counsel to the Underwriter, represents HCA, the limited special purpose financial advisor to the Borrower, in various matters.

OnePoint, the consultant that prepared the Market Study and Financial Projections included in Appendix G is also the financial advisor to the Borrower.

Hinckley, Allen & Snyder LLP serves as Bond Counsel to the Issuer and as counsel to the Trustee with respect to the Series 2022 Bonds.

## **CONTINUING DISCLOSURE**

In accordance with Rule 15c2-12 (the “Rule”) promulgated by the United States Securities and Exchange Commission, the Borrower has undertaken for the benefit of the holders of the Series 2022 Bonds to provide certain financial information and operating data and audited financial statements, and to provide notices of the occurrence of certain events, in accordance

with the Continuing Disclosure Agreement. A copy of the form of Continuing Disclosure Agreement is included in Appendix D to this Offering Memorandum.

In connection with the Series 2020 Bonds, the Borrower and the Parent, each as an “obligated person” under the Rule with respect to the Series 2020 Bonds, were late in filing with EMMA certain documents required to be included in the annual report for the year ended December 31, 2020. Such filings are currently available on EMMA.

## MISCELLANEOUS

The references herein to the Act, the Bond Indenture, the Loan Agreement, the Continuing Covenants Agreements, the Pledge Agreement, the DACA, the Support Agreement, the Continuing Disclosure Agreement and the Mortgages and other materials are brief outlines of certain provisions thereof. Such outlines do not purport to be complete and, for full and complete statements of such provisions, reference is made to such instruments, documents and other materials, copies of which are on file at the offices of the Trustee.

The information contained in this Offering Memorandum has been compiled or prepared from information obtained from the Borrower, the Parent, the Support Provider and other sources deemed to be reliable, and while not guaranteed as to completeness or accuracy, is believed to be correct as of this date. Any statements involving matters of opinion, whether or not expressly so stated, are intended as such and not as representations of fact.

The attached Appendices are integral parts of this Offering Memorandum and should be read in their entirety together with all of the foregoing information.

*[Remainder of Page Left Intentionally Blank]*

The execution and delivery of this Offering Memorandum by an authorized officer of the Borrower has been duly authorized by the Borrower.

Approved: April 19, 2022

**THE BALDWIN SENIOR LIVING**

By: /s/ Marlene Rotering

Name: Marlene Rotering

Title: Executive Director

**APPENDIX A**

**THE BORROWER, THE SUPPORT PROVIDER, AND THE PROJECT**

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## OVERVIEW

The Baldwin Senior Living (the “The Baldwin Senior Living” or the “Borrower”) is developing and will own and operate a senior living community in Londonderry, New Hampshire which will be known as “The Baldwin” (“The Baldwin,” the “Project,” or the “Community”). The Baldwin Senior Living is a participant in a system of other nonprofit senior living organizations described below.

## THE BORROWER

### **General**

The Baldwin Senior Living is a New Hampshire nonprofit corporation that is exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”). The Baldwin Senior Living is registered with, and reports annually to, the New Hampshire Director of Charitable Trusts, a division of the New Hampshire Department of Justice. Edgewood Retirement Community, Inc. (“Edgewood” or the “Support Provider”) is a Massachusetts nonprofit corporation that is also exempt from federal income taxes under Section 501(c)(3) of the Code. Edgewood Senior Solutions Group, Inc. (“ESSG”), a Massachusetts nonprofit corporation exempt from federal income taxes under Section 501(c)(3) of the Code, is the sole member of the Borrower and Edgewood.

Edgewood owns and operates a life care senior living facility in North Andover, Massachusetts as described below. The corporate purpose of ESSG is to support the nonprofit mission of Edgewood, The Baldwin Senior Living, and future subsidiaries by establishing and managing a system of collaborative and integrated nonprofit senior living organizations. The corporate purpose of Edgewood and The Baldwin Senior Living is exclusively to meet the housing, health care, and financial security needs of aged individuals.

As the Borrower’s parent company, ESSG must approve certain decisions of The Baldwin Senior Living’s Board, including the incurrence of significant debt, the selection, evaluation and compensation of the Borrower’s Executive Director and material changes to programming. The Baldwin Senior Living has determined that participation in the ESSG network of senior living facilities provides it with experienced management oversight and an opportunity for certain economic and programmatic support and diversity. In exchange, ESSG has a limited right to use excess funds of the Borrower (if any exist) for system needs, but only if the funds are not necessary for the ongoing operation of The Baldwin and if all other legal and fiduciary requirements are met. Neither ESSG nor Edgewood, nor any future subsidiary of ESSG, however, has any legal obligation for the liabilities of The Baldwin Senior Living, except with regard to the Support Agreement. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2022 BONDS -- Support Agreement” in the front part of this Offering Memorandum.

### **Board of Trustees and Officers**

The Baldwin Senior Living is governed by a Board of Trustees (the “Board”) who volunteer their time and service and have no proprietary interest in the Community, except for the ESSG Chief Executive Officer, an *ex officio* Trustee, who is compensated by the Borrower for providing management services to the Community. The Board consists of individuals who have extensive experience in business, finance, senior living, military service, law and social services. The initial Board consists of five Trustees, and The Baldwin Senior Living expects to expand the size of its Board when the Community has been built and is ready to open for operation. The following is a list of the members of the Board and officers of The Baldwin Senior Living as of the date of this Offering Memorandum:

Chair, Timothy L. Vaill. Mr. Vaill holds a BS degree in Mathematics from Tufts University, an MBA in Finance from the Harvard Business School, and a Master’s in Public Administration (MPA) from the Harvard Kennedy School. Formerly, he was the Chairman and Chief Executive Officer of Boston Private Financial Holdings, Inc., a publicly-held national financial services company. Currently, Mr. Vaill serves as Chairman of the Board of Directors for Edgewood and he is on the board of the Washington DC-based ICMA Retirement Corporation. He is also on the Investment Committee for MassPRIM—the Commonwealth of Massachusetts’ pension fund. Since 2011

he has been the Chairman of the Economic Development Council for the Town of Andover, Massachusetts, where he resides.

Vice Chair, Donald P. Piccirillo. Mr. Piccirillo earned a BS degree from the Whittemore School of Business at the University of New Hampshire in Durham. He has been employed at Jackson Lumber & Millwork Co., Inc. in Lawrence, Massachusetts since 1982, and currently is responsible for software design and development as the company's IT Director and Business Development Leader. Mr. Piccirillo resides in Salem, New Hampshire.

Secretary, Camille Miragliotta-Daly. Ms. Miragliotta-Daly graduated from Assumption College and received her Juris Doctor from New England School of Law. She currently practices real estate law. She is the closing attorney for BankNorth, Fleet Bank, Lawrence Savings Bank, and Wells Fargo Home Mortgage, as well as an agent for Lawyers Title Insurance and the corporate counsel to Jackson Lumber & Millwork Co., Inc. Ms. Miragliotta-Daly lives in Seabrook, New Hampshire.

Treasurer, Michael W. Hawkins. Mr. Hawkins received a Bachelor's degree from University of Massachusetts. He has extensive experience managing financial operations and providing management information to key decision makers. He is retired as the Chief Financial Officer of Resonetics, Inc. Mr. Hawkins resides in Atkinson, New Hampshire.

Trustee, Hugo F. Overdeput. Mr. Overdeput is Vice President of Colliers International in New Hampshire and is a licensed real estate broker in both New Hampshire and Massachusetts. He is fluent in French, Dutch, English, and Portuguese. He began his career in commercial real estate in 2000, and in 2003, he obtained his Certified Commercial Investment Member (CCIM) designation at the CCIM National Convention held in San Antonio, TX. Mr. Overdeput, a long-time resident of Salem, New Hampshire, is currently serving a third term on the Salem Economic Development Action Committee, which gives him valuable insight on plans for upcoming economic development in the area. He is also an active member with the Greater Salem Rotary Club. Before joining Colliers International, Mr. Overdeput ran his own consulting firm in Portugal, Europe. During that period, he was contacted by Planal sa, the owner of a 2,000-acre exclusive resort in Southern Europe known as Quinta do Lago, to implement, develop, and direct their worldwide commercial division. Under his management, the biannual "Unique" magazine, published by Planal sa, received the Algarve Tourism Board Award in 1996. Prior to Portugal, Mr. Overdeput was active in the financial banking industry as the International Sales and Marketing Director for SWIFT, sc, headquartered in Brussels, Belgium.

*Ex Officio* Trustee, Marlene Rotering, Executive Director and ESSG CEO. Ms. Rotering served as Executive Director of Edgewood Retirement Community beginning in August 1996, and in 2012 became Edgewood's President and Chief Executive Officer. She serves as the Chief Executive Officer of ESSG. Formerly, Ms. Rotering was employed by Life Care Services for almost 21 years. Her career in senior housing management started in 1991, when she joined Life Care Services as an administrator-in-training. Ms. Rotering earned a Bachelor of Science Degree from the School of Business at Quinnipiac University. She is a member of the LeadingAge of Massachusetts. She previously served on the Sisters of Mercy Board of Directors, on the Novare Consortium, LLC, a national group of leaders in senior housing and participated as a member of the Boston Executive Board. Ms. Rotering resides in Windham, New Hampshire.

### **Conflict of Interest Policy**

The Borrower's Conflict-of-Interest Policy requires any Trustee or Officer of the organization to disclose any direct or indirect financial, other material interest, co-investment interest or other strategic or operational interest that he or she has or reasonably expects to have in any proposed or existing contract, transaction, or arrangement with the Borrower, or in any other matter under consideration or to be considered by the Board, or any other Board committee.

### **Litigation**

As of the date of this Offering Memorandum, there is no litigation pending or, to the Borrower's knowledge, threatened against the Borrower.

## **Insurance**

ESSG works with the Marsh and McLennan Agency, LLC to insure complete coverage for itself and all its' subsidiaries. The package includes commercial property insurance provided by Zurich Insurance Company, general and professional liability with AIX Specialty Insurance Company, and automobile coverage by Hanover Insurance Company. Additionally, excess liability umbrella coverage is provided by AIX Specialty Insurance Company. The Borrower's management and crime policy is with Chubb Insurance Company, cyber coverage is with Beazley Insurance Company and workers compensation is with MEMIC Insurance Company. Policy term on all coverages is August 30, 2021 to August 30, 2022.

## **Other Indebtedness**

Other than the Series 2020 Bonds, which will be refinanced with the proceeds of the Series 2022 Bonds, the Borrower has no indebtedness.

# **THE COMMUNITY**

## **The Site**

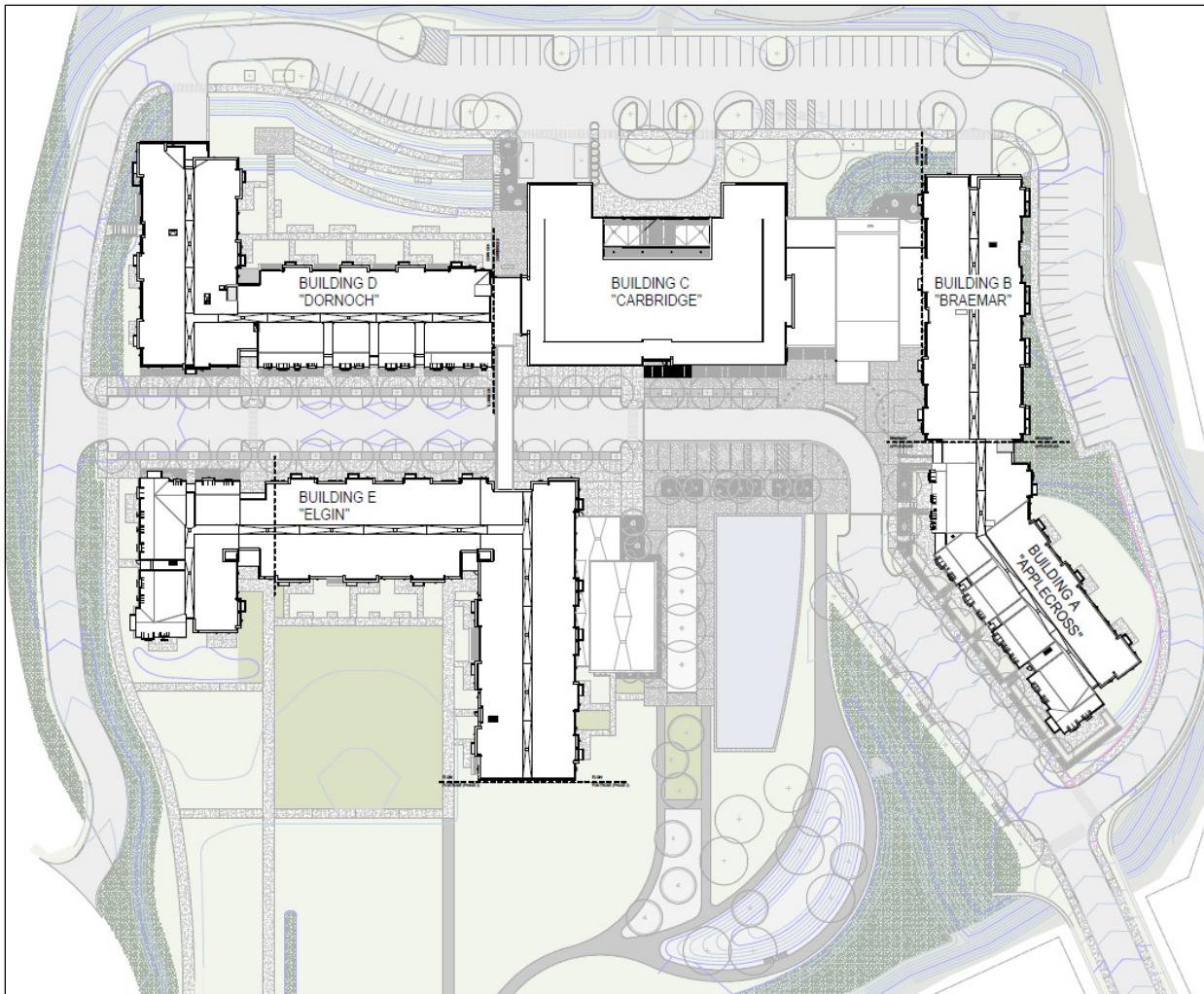
The Community will be located within a new planned mixed-use development in Londonderry, New Hampshire, referred to as "Woodmont Commons". Woodmont Commons is being developed by Pillsbury Realty Development, LLC. Woodmont Commons comprises over 600 acres of land and will consist of a variety of retail shops, parks and other green space, office space, and housing. Construction of Woodmont Commons began in 2017 and continues to advance. The site is shown as Lot 41-1 on Map 10 of the Town of Londonderry tax maps and is adjacent to Interstate Route 93 ("I-93"). Woodmont Commons also will have access to the proposed exit 4A to I-93, which is scheduled to open in 2022.

The Baldwin will be located adjacent to the downtown section of the Woodmont Commons development, surrounded by complementary commercial and retail uses. Restaurants, entertainment, assorted retail, and green spaces will all be accessible by future residents and within walking distance. While the entirety of the Woodmont Commons development will take several years to complete, the section in which The Baldwin will be constructed will be the first to be developed, with many of the retail and dining options scheduled to be in place by the time The Baldwin opens.

## **The Facilities**

The residents of The Baldwin (the "Residents") will enter into residence and care agreements (each a "Residence and Care Agreement" and described in greater detail below) under which they may be provided a continuum of lifetime services from independent living to supported residential care (sometimes called "Assisted Living Supportive Care"). The Baldwin will consist of 190 independent living ("Independent Living") apartments and 40 Assisted Living Supported Residential Care suites (the "Supported Residential Care" suites), all of which are adaptable for Residents requiring memory support.

The Baldwin will be comprised of five interconnected buildings, referred to as Building A, Building B, Building C, Building D, and Building E as shown in the schematic below. Building A, Building B, Building D, and Building E will be four stories and Building C will be three stories. All buildings (except Building A) will sit on top of a parking garage level. The Supported Residential Care suites will be located on two floors in Building C, which will be connected to Building E and other common areas by a pedestrian bridge across the main entry drive. Building A, Building B, Building D and Building E will contain the Independent Living apartments.



The Independent Living apartments will consist of one- and two-bedrooms units, and range in size from 860 square feet to 1,518 square feet. Some units will include a den. The Independent Living apartments will have an open living and dining area, with a full kitchen that includes a refrigerator, dishwasher, range with oven and microwave. Each will be equipped with a clothes washer and dryer, an emergency call system, fire detectors and a sprinkler system, and a television and internet hook-up. The one-bedroom Independent Living apartments will have one full and one half bathrooms, and the two bedroom Independent Living apartments will have two full bathrooms. All Independent Living apartments will have resilient flooring in the living areas, kitchen and bathrooms, and wall-to-wall carpeting in the bedrooms. They will have approximately eight and a half feet high ceilings, large windows and most will have five feet by seven feet balconies. Most ground floor Independent Living apartments will include private garden terraces. Residents may select optional upgrades, such as flooring, cabinetry and appliance updates, at an additional non-refundable cost.

The 40 Supported Residential Care suites will be configured in one of four “households” of ten suites located on the second or third floors of Building A. Each household will have a living room, dining room, kitchen, den and laundry room that are shared in common with the other Residents of the household in which the Supported Residential Care suite is located. There are two households on each floor that share administrative space, a large activity room and an outdoor terrace. Each Supported Residential Care suite will be a studio apartment 360 square feet in size containing a combined sleeping and living area with approximately eight and a half feet high ceilings, a private bathroom, and direct access to the household’s common areas.

The Baldwin's common spaces will include various dining venues, lounges, lobbies, a library and computer room, social and recreational facilities, a fitness area with pool, a hair salon, gardens, and lighted parking areas. The Baldwin buildings and associated landscape will have a modern New England village design, so that The Baldwin will serve as an active and walkable community hub with connections to Woodmont Commons' Main Street. The common grounds of The Baldwin will encourage a range of activities and uses, including community gardens, areas for passive recreation such as strolling through a meadow and around a reflecting pond, areas for active recreation such as pickleball courts, multiple community spaces for gatherings and activities, and flexible-use urban plazas.

### **The Residents**

The Community will be open to persons aged 62 and over. Each Resident who occupies an Independent Living apartment must be able to demonstrate that he or she is in good health, able to live safely and independently and capable of meeting the Resident's financial responsibilities to The Baldwin. Residents who occupy Supported Residential Care suites must be able to demonstrate that supported residential care will meet their health and living needs and that they are capable of meeting their financial responsibilities to The Baldwin. By integrating the Community into the village-like Woodmont Commons development and its "Main Street" motif, the Borrower seeks to allow its Residents to enjoy a stimulating, individualized and independent lifestyle.

### **Licensing**

The Baldwin Senior Living has obtained a Certificate of Authority from the New Hampshire Insurance Department to offer Community residents a life care contract (described below under "RESIDENCY CONTRACTS AND FEES – The Life Care Concept") according to the terms of the Residence and Care Agreements described below and as required by applicable law and regulation. Upon completion of construction and prior to operation of the Supported Residential Care suites at The Baldwin, the Borrower will be required to obtain a license from the New Hampshire Department of Health and Human Services to provide the supported residential care services described herein. The Baldwin's Supported Residential Care suites and related common areas will be designed and constructed to meet all safety and other requirements under the applicable supported residential care regulations.

## **THE RESIDENCY CONTRACT AND FEES**

### **The Life Care Concept**

When Residents sign a Residence and Care Agreement and move into the Community, they receive the right to live in the Community and enjoy its amenities for life. If a Resident needs assistance with daily living, memory support or other Assisted Living Supportive Care services, the Resident is entitled to receive such Assisted Living Supportive Care services at or through the Community during his or her lifetime. Assisted Living Supportive Care will be provided on a temporary or permanent basis in a Supported Residential Care suite.

As described below under "Types of Fee Plans and Entrance Fee Refunds", The Baldwin plans to offer two options of Residence and Care Agreements: Type A Continuing Life Care Plan and Type C Standard Plan. Residents choosing a Type A Continuing Life Care Plan will not be required to pay an increase in their Monthly Fee to receive Assisted Living Supportive Care (other than periodic increases and the charge for any additional meals per day). Residents who choose a Type C Standard Plan will be required to pay the then current Monthly Fee for the level of Assisted Living Supportive Care they require, which fee is higher than the Monthly Fee for Independent Living apartments.

The Baldwin will not provide or pay for any required hospital care or physician services under the Residence and Care Agreement. Residents will be required to obtain, and pay for, any skilled nursing facility, hospital, or physician care from other providers.

### **Entrance Fees and Deposit**

Each new Resident of the Community must pay a one-time Entrance Fee. The total Entrance Fee varies with the fee plan chosen by the Resident, as described below, and the size and nature of the apartment selected by the

Resident. The Entrance Fee is payable in two parts: (i) a deposit equal to 10% of the total Entrance Fee, which must be paid by the Resident upon signing the Residence and Care Agreement; and (ii) the balance of the entrance fee, which must be paid by the Resident prior to occupying the apartment, which must occur no later than 60 days after the apartment becomes available for occupancy unless this time is extended in writing by The Baldwin Senior Living.

A portion of the Entrance Fee may be refunded to the Resident or to the Resident's estate or other designee depending upon the type of plan chosen by the Resident, as described in the section entitled "Types of Fee Plans and Entrance Fee Refunds" below. If an Entrance Fee refund is owed, The Baldwin Senior Living will pay it when the Resident no longer resides in the Community and a subsequent Resident pays the total Entrance Fee for the apartment that was vacated. This refund will occur sooner, however, if the departing Resident is experiencing "Hardship" (as described in the Residence and Care Agreement).

If the Baldwin apartment will be occupied by two people, then the Residents must pay a second person fee when the balance of the Entrance Fee is paid. The second person fee is not refundable.

### **Types of Fee Plans and Entrance Fee Refunds**

Residents can choose from two different types of life care plans: the Type A Continuing Life Care Plan and the Type C Standard Plan. Within each of these two plans, Residents can choose the "Guaranteed 85% Refundable Entrance Fee" or the "Declining Balance Entrance Fee." The primary distinctions between these plans are: (i) the size of the Entrance Fee; (ii) how much of the Entrance Fee is refunded; and (iii) when and to what extent the Resident will incur a higher Monthly Fee for Assisted Living Supportive Care.

**The Continuing Life Care Plan (Type A).** Under the Type A Continuing Life Care Plan, a Resident who resides in an Independent Living apartment is guaranteed Assisted Living Supportive Care if needed without any additional cost (except annual increases) beyond the Monthly Fee for the Resident's Independent Living apartment and a charge for the additional meals not covered by the Resident's meal plan for a total of three (3) meals per day. The Resident must relocate to a Supported Residential Care suite, either temporarily or permanently depending upon the Resident's needs, to receive Assisted Living Supportive Care. Monthly Fees under the Type A Continuing Life Care Plan will differ from the fees under the Type C Standard Plan.

**The Standard Plan (Type C).** Under the Type C Standard Plan, a Resident is guaranteed Assisted Living Supportive Care if the need arises, but the Resident must pay the higher Monthly Fee for a Supported Residential Care suite as soon as the Resident begins receiving Assisted Living Supportive Care, whether on a temporary or permanent basis. If a Resident requires "Core Plus" Assisted Living Supportive Care as described in the Resident and Care Agreement, then the Monthly Fee will be higher than the Monthly Fee for Core Assisted Living Supportive Care. The Assisted Living Supportive Care will be provided in a Supported Residential Care suite.

**The Two Types of Entrance Fee Refunds.** After a prospective Resident selects one of the desired care plan described above, then the Resident selects from one of two Entrance Fee refund features. The Entrance Fee is the same for a similar apartment under the Type A Continuing Life Care Plan as it is under the Type C Standard Plan, but the Resident choosing a Type A plan will pay an additional nonrefundable life care fee. The size of the Entrance Fee will vary depending upon the refund provision selected by the Resident.

Under a Residence and Care Agreement with a Guaranteed 85% Refundable Entrance Fee provision, the amount of the Entrance Fee refund will be reduced by 1% upon initial occupancy and then by another 1% for each subsequent month of occupancy until the Entrance Fee amount to be refunded is reduced to 85% of the Entrance Fee paid by the Resident. Thereafter, the Baldwin Senior Living will refund to the Resident or to the Resident's estate or designee 85% of the Entrance Fee paid by the Resident without further reduction except for certain fees or expenses remaining unpaid by the Resident as described in the Residence and Care Agreement. Under a Residence and Care Agreement with a Declining Balance Entrance Fee provision, the amount of the Entrance Fee refund will be reduced by 2% upon initial occupancy and then by another 2% for each subsequent month of occupancy until the Entrance Fee amount to be refunded is reduced to zero.

The Entrance Fee under the Declining Balance Entrance Fee Residence and Care Agreement is lower than the Entrance Fee under the Guaranteed 85% Refundable Entrance Fee Residence and Care Agreement, as shown in

the chart below. Any refund of an Entrance Fee is due and payable by The Baldwin Senior Living as described above in the section entitled "Entrance Fees and Deposit".

The Board reserves the right, in its discretion, to increase the Entrance Fees and to determine the amount and timing of any such increase, for any apartments in the Community. The Baldwin will give notice of entrance fee increases before they take effect. Once a Residence and Care Agreement is executed, however, the entrance fee identified in that agreement will not change.

The proposed Entrance Fee and Monthly Fee pricing at The Baldwin for the two life care contracts and two Entrance Fee refund options is outlined in the table below.

The Baldwin - Unit Mix and Pricing							
in 2023\$	# of Units	Wtd avg sq ft	Entrance Fee - Type C		Monthly Fee <sup>(1)(2)</sup>		
			Fee-for-Service Contract	85% Refund Plan	Declining Balance Plan	Fee-for-Service	
<b>Independent Living Apartments</b>							
One-Bedroom Deluxe	22	880	\$ 372,470	\$ 206,963	\$ 3,506		
One-Bedroom w/ Den	36	1,021	\$ 443,602	\$ 246,420	\$ 4,176		
Two-Bedroom	39	1,142	\$ 525,160	\$ 291,701	\$ 4,602		
Two-Bedroom Deluxe	48	1,250	\$ 589,611	\$ 327,576	\$ 5,025		
Two-Bedroom w/ Den	30	1,353	\$ 655,836	\$ 364,367	\$ 5,454		
Two-Bedroom w/ Den Jumbo	15	1,496	\$ 730,349	\$ 405,792	\$ 5,941		
Total / weighted average	190	1,177	\$ 545,142	\$ 302,854	\$ 4,742		
Second Person			<i>Non-refundable entrance fee:</i>	\$ 30,007	\$ 1,376		
<b>Add-on for Type A LifeCare Contract (per person)</b>			<i>Non-refundable entrance fee:</i>	\$ 81,955	\$ 997		
<b>Supported Residential Care Suites</b>							
Core Services	30	350	n/a	n/a	\$ 10,202		
Core Plus Services	10	350	n/a	n/a	\$ 13,295		

## Marketing of the Community

The Borrower began officially allowing for 10% deposits from future Residents late in 2019 but treated this as a “soft” presale targeted to people immediately ready to convert and overall has remained focused on further building the priority deposit list and nurturing this base to position it to become the main wave of presales. In late 2020, The Baldwin shifted to a more concerted focus of converting priority depositors to 10% depositors. As of December 31, 2021, there were 144 10% depositors on record for The Baldwin. The velocity of presales is detailed in the following table.

The Baldwin - Pre-Sales Velocity				
Fiscal Year/Month	10% Deposit Sales	Cancels	Cumulative Net Sales	Net % Sold
<b>2020</b>				
Prior	20	0	20	11%
October	3	0	23	12%
November	4	0	27	14%
December	10	0	37	19%
<b>2021</b>				
January	2	1	38	20%
February	9	2	45	24%
March	6	0	51	27%
April	8	0	59	31%
May	10	0	69	36%
June	17	2	84	44%
July	10	1	93	49%
August	9	1	101	53%
September	8	2	107	56%
October	14	1	120	63%
November	6	2	124	65%
December	22	2	144	76%
<b>Total</b>	<b>158</b>	<b>14</b>	<b>144</b>	<b>76%</b>

Of the existing 144 depositors, 84 (i.e., 58%) are from New Hampshire, 33 (i.e., 23%) are from Massachusetts, and the remaining 27 (i.e., 19%) are from different states thus demonstrating the wide geographic pull of The Baldwin. Of the 58% of depositors from New Hampshire, 35.4% originate from within the ten-mile radius primary market area (defined in the Market & Financial Feasibility Analysis included as Appendix G to this Offering Memorandum), compared to 65% to 70% per industry standards.

## THE PROJECT

The current project schedule, which is contingent upon the procurement of all necessary land use and building permits and financing, is detailed below.

The Baldwin - Project Timing		
Land Closing - Series 2020 Bonds issued		October 2020
Commenced site work		October 2021
Commenced construction	(25 month total construction period)	February 2022
Construction financing		April 2022
Buildings A & B available for occupancy	(65 ILUs)	October 2023
Supportive Residential Care Units available for occupancy	(40 AL/MC units)	November 2023
Building E available for occupancy	(69 ILUs)	January 2024
Building D available for occupancy	(56 ILUs)	March 2024
Achieve stabilized occupancy - Independent Living Units	(24 month fill-up period)	October 2025
Achieve stabilized occupancy - Supported Residential Care Units	(24 month fill-up period)	November 2025
First full fiscal year of stabilized operations		2026
Refinance to permanent debt		April 2029

## Contracted Service Providers

The Baldwin Senior Living has contracted with certain companies to provide skills and services needed to successfully construct and operate the Community. A list of primary contractors follows:

### **Project Development Services.**

The Borrower engaged Trident Project Advisors and Development Group (“Trident”) to serve as the Owner’s Representative for the Project. Trident will provide due-diligence phase, design team and construction team phase oversight and advice to Borrower for the entire pre-planning, design, construction, commissioning and closeout process of the Project. Trident also provides advice and oversight regarding the procurement of other consultants and vendors needed for the Project. Trident has extensive experience in project management and a seasoned staff with pre-planning design, construction, engineering and management oversight expertise, all of whom are members of professional associations and many of whom hold postgraduate degrees.

### **Architectural Services.**

The Borrower selected DiMella Shaffer Associated, Inc. (“DiMella Shaffer”) to serve as the architect for the Project. DiMella Shaffer is a nationally-recognized leader in the planning and design of senior living facilities and serves as the architect for the Project. DiMella Shaffer is an award-winning architecture, planning and design firm with more than 35 years of experience in the senior living industry. Over those years, its team of experts has helped shape the senior living market through the design and implementation of new models of living for the older adult. Guided by the desire to design better homes for the older population, DiMella Shaffer has designed independent living, assisted living, supportive housing and nursing homes that contribute to the de-institutionalization of the senior housing market. It has planned multi-acre sites and developed unique building programs based on the user group, project location and client preferences. With many years of expertise in senior housing, DiMella Shaffer has guided and advised numerous clients along their development journey. DiMella Shaffer’s projects have won international recognition for their creativity and innovation such as Orchard Cove in Canton, Massachusetts, Legacy at Willow Bend in Plano, Texas, and Leonard Florence Center in Chelsea, Massachusetts.

### **Construction Management Services.**

The Baldwin Senior Living contracted with Harvey Construction Corporation (“Harvey”) for construction management services. The roots of Harvey can be traced back to 1939, when Paul Harvey founded the original Harvey Construction Company. By the 1960’s, the firm broadened its scope to include the general construction and renovation of hospitals, residential facilities, nursing homes, hi-tech facilities, office buildings, schools, college buildings and wastewater treatment facilities. In the past ten years Harvey has completed over \$1 billion of New Hampshire construction. Since more than 90% of its annual business is delivered under construction management, sourcing, and design/build contracts, recurring preconstruction and design services, Harvey has mastered: management of design and engineering plans and specifications; cost estimating, early GMP development; schedule engineering; procurement processes; technology integration; and team communications.

In addition, the Borrower entered into an agreement dated December 17, 2021 with Harvey for construction of the Community (the “Construction Contract”).

In the Construction Contract, Harvey has agreed to construct the Community for a guaranteed maximum price not in excess of \$129,621,654 (the “Guaranteed Maximum Price”). The Guaranteed Maximum Price includes the costs of the work to be performed by separate trade contractors, costs for labor and materials, Harvey’s fee and construction manager, costs of insurance, bonding and taxes, and an amount of \$2,461,027 as a contingency for unanticipated costs.

Although it is expected that the work will be completed at or below the Guaranteed Maximum Price, it is possible that the cost of construction could be adjusted to a level in excess of the Guaranteed Maximum Price. The Guaranteed Maximum Price may be increased or decreased by written change orders authorized by the Borrower, or Harvey could be entitled to an increase in the Guaranteed Maximum Price under certain circumstances, such as unexpected subsurface conditions or delays. In addition, the costs of construction may increase to an amount in excess of the Guaranteed Maximum Price as the result of certain insured casualties or suspension of the work due to certain governmental actions.

### **Management Services.**

The Baldwin Senior Living has entered into a management services agreement with ESSG. Under the agreement, ESSG will make the services of its senior management team available to The Baldwin and The Baldwin Executive Director will report to the ESSG Chief Executive Officer and The Baldwin Director of Finance will report to the ESSG Chief Financial Officer.

### **Financial Advisory Services.**

The Borrower has contracted with OnePoint Partners LLC (“OnePoint”) to provide financial planning and feasibility services for the Community, and to assist the organization in obtaining financing for the Project while serving as municipal advisor. OnePoint is a boutique senior living and care advisory firm providing integrated strategic, capital, and development advisory services.

OnePoint specializes in working with nonprofit senior living and care providers in creating and executing a future state strategy. OnePoint provides a unique blend of market, strategic, financial, and capital expertise, as well as deep experience in project master planning, project management, and development. OnePoint is positioned to assist organizations from concept all the way through execution to project completion.

The Financial Projections included in Appendix G to this Offering Memorandum were prepared by OnePoint in consultation with the management of the Borrower based on certain assumptions made by management and OnePoint.

### **Marketing and Sales Services.**

The Borrower has engaged Illumia for marketing support. Illumia is dedicated to the success of senior living organizations and businesses that provide daily living solutions for seniors. Together, its partners have more than 70

years of experience in marketing and advertising; the vast majority in the senior living industry with both for-profit and not-for-profit clients. Illumia has successfully strategized and led marketing efforts for blue-sky development, expansion and turnaround projects across the United States, and has helped many senior living communities maintain high levels of occupancy and expand their wait lists using a complete arsenal of strategic, creative and marketing tools and tactics.

### **Permits and Approvals**

The Borrower has obtained all required permits and approvals other than: (i) the Town of Londonderry Building Department Full Building permit (application was submitted on October 25, 2021) and (ii) the National Pollution Discharge Elimination System (“NPDES”) General Permit for Discharges from Construction Activities NPDSE ID #NHR 1001 CQ (the Notice of Intent was submitted on November 2, 2021). The Borrower has received the foundation permit from the Londonderry Building Department and anticipates the building permits to follow.

### **THE SUPPORT PROVIDER**

Edgewood opened Edgewood Retirement Community on 100 acres in North Andover, Massachusetts in March 1997. Edgewood Retirement Community consists of 216 residential apartment residences and 24 cottages. Edgewood Retirement Community offers a number of common spaces available to all residents, including various dining areas, studios, a library and computer room, resident meeting rooms, and fitness facilities. Edgewood Retirement Community also includes a 59-bed health center known as “The Meadows” that consists of private and semiprivate rooms, a physical therapy room, an arts and crafts therapy area, a dining room and a lounge. The Meadows also contains one hospice bed.

In 2018, Edgewood opened The Woodlands Inn on its North Andover campus. The Woodlands Inn is a state-of-the-art memory support and assisted living facility. It provides a warm, homelike setting that empowers members to maintain their highest level of independence. Each specialized residence is based on the innovative Small House model that operates using a small neighborhood concept to provide residents with more direct personal care. Along with a highly trained 24/7 care team, The Woodlands Inn offers a secure and interpersonal atmosphere that contributes to greater wellness and quality of life.

Edgewood has an excellent reputation in its market and seeks to create and nurture an environment where “the residents are architects of their own well-being.” The success of this approach is reflected in Edgewood Retirement Community’s consistently high occupancy, which is detailed in the table below:

Edgewood Retirement Community - Historical Occupancy						
	2015	2016	2017	2018	2019	2020
Independent Living						
Avg units available	241	241	241	240	240	240
Avg Occupancy	96.4%	95.9%	95.0%	93.5%	96.3%	94.3%
						94.1%

Edgewood also offers a waitlist for prospective residents. As of December 31, 2021, 61 prospective residents had paid a 10% deposit to be on the Edgewood Retirement Community’s waitlist.

### **Conflict of Interest Policy**

The Support Provider’s Conflict-of-Interest Policy requires any Trustee or Officer of the organization to disclose any direct or indirect financial, other material interest, co-investment interest or other strategic or operational interest that he or she has or reasonably expects to have in any proposed or existing contract, transaction, or

arrangement with the Support Provider, or in any other matter under consideration or to be considered by the Board, or any other Board committee.

### **Investment Policy**

The Support Provider maintains an investment fund (the “Fund”) with the objectives to preserve capital, allow for long-term growth, and to provide liquidity. To ensure adequate liquidity for distributions and to facilitate rebalancing, the Finance Committee of Edgewood’s Board of Trustees will conduct a periodic review of total Fund liquidity. The Fund has an intermediate-term (10 year) investment horizon with relatively low liquidity needs. For this reason, the Fund can tolerate short- and intermediate-term volatility provided that long-term returns meet or exceed its investment objective. The Fund’s long-term, strategic asset allocation is presented in the following table, which also lists the long-term policy target allocations for each asset category and the permissible ranges of actual investment exposure.

Asset Allocation	Policy	Policy
	Target	Range (%)
Total Equity	40	30-50
Flexible Capital	20	10 - 30
Total Fixed Income	30	20 - 40
Total Real Assets	10	0 – 20
Total Cash	0	0 - 10

### **Litigation**

As of the date of this Offering Memorandum, there is no litigation outstanding against the Support Provider. A complaint against the Support Provider has been filed with the Massachusetts Commission Against Discrimination. The Support Provider’s attorneys are currently handling the complaint and it is not expected to have a material impact on the Support Provider’s operations or condition.

### **COVID-19 Disclosure**

During calendar year 2021, the Support Provider had zero residents in Independent Living, three residents in the Health Center who were infected when admitted from the hospital and one resident in Assisted Living who tested positive for COVID-19.

The Support Provider closed one dining room for dinner service for a period of ten weeks due to a shortage in staff as a result of COVID-19. Both dining venues are currently open at full capacity and regularly scheduled hours. Visitors, however, are currently not allowed to dine in any dining venues.

During the second quarter of 2021, the Support Provider held its health center census at 40 beds due to the number of open health care positions. The Support Provider offered commitment bonuses to attract new staff which resulted in filling several positions.

The Support Provider is currently testing all staff who work in the Health Center, Assisted Living and Resident Services department weekly with a PCR test. In addition, the Support Provider is testing all unvaccinated staff as well as all direct care workers (Health Center, Assisted Living and Resident Services department) who are fully vaccinated but not boosted prior to the start of their shift with a rapid test.

There can be no assurance that COVID-19 will not have a material effect on the Support Provider's operations in the future. See "CERTAIN BONDHOLDERS' RISKS – COVID-19 Pandemic; Turmoil in the U.S. Economy."

## FINANCIAL INFORMATION

### **Summary Financial Statements**

The following summary of the Balance Sheet of the Borrower as of December 31, 2020 is derived from the audited financial statements and supplemental schedules of the Borrower. The summary of the Balance Sheet as of January 31, 2022 is derived from the unaudited financial statements of the Borrower. The unaudited financial statements include all adjustments, consisting of normal recurring accruals that the Borrower considers necessary for a fair presentation of the Balance Sheet for the period covered by the unaudited financial statements.

#### **The Baldwin Senior Living Balance Sheet**

	<b>Unaudited</b>	
	<b>12/31/2020</b>	<b>1/31/2022</b>
<b>Assets</b>		
Cash & cash equivalents	\$ 15,416	\$ 78,763
Prepaid Expenses	37,323	0
Assets limited as to use	4,598,249	2,588,571
Property & Equipment, net	8,662,516	17,010,990
Predevelopment costs	5,455,506	0
<b>Total Assets</b>	<b>\$18,769,010</b>	<b>\$19,678,324</b>
<b>Liabilities</b>		
Accounts Payable	180,972	98,685
Intercompany Accounts Payable	6,125,968	8,695,845
Accrued Payroll Liabilities	0	22,167
Accrued Interest & Current Debt	198,978	363,791
Bonds Payable	16,703,100	18,642,797
Other Current Liabilities	11,900	12,700
<b>Total Liabilities</b>	<b>23,220,918</b>	<b>27,835,985</b>
<b>Net deficit</b>		
Net deficit without owner restrictions	(4,451,908)	(8,157,661)
<b>Total liabilities and net deficit</b>	<b>\$18,769,010</b>	<b>\$19,678,324</b>

## **Management's Discussion and Analysis**

Unaudited Balance Sheet as of January 31, 2022. Assets limited as to use decreased year over year with additional funding added and preconstruction soft costs being paid. Intercompany accounts increased over the year, with interim funding being provided by the Support Provider in addition to ESSG providing management services. Debt increased with the second advance of the Series 2020 Bonds in October 2021 for an additional \$1.6 million to cover the start of site work.

Fiscal Year ended December 31, 2020 vs. December 31, 2019. Other assets increased over the year due to the purchase of the land for The Baldwin as well as additional soft costs expenses related to development of the Community. The intercompany accounts decreased as a result of the first advance of the Series 2020 Bonds in October 2020 which allowed for a payment back to the Support Provider in the amount \$3,666,116. The amount of the Series 2020 Bonds advanced in October 2020 was \$17,450,000.

### **MARKETING AND COMPETITION**

Included as Appendix G to this Offering Memorandum is market information including information on the population, senior population, and income of the areas that the Borrower considers its primary market area. Appendix G also includes information about the Borrower's competitors in the market. See Appendix G. This market information was obtained and compiled by OnePoint, the Borrower's financial advisor, and has not been reviewed by any independent party not affiliated with the Borrower.

### **INCORPORATION BY REFERENCE**

All matters set forth in the Offering Memorandum to which this Appendix A is attached, including the section entitled "Certain Bondholders' Risks," are incorporated herein by reference and all matters set forth in this Appendix A are qualified in their entirety by the content of the Offering Memorandum. Terms not otherwise defined herein have the respective meaning set forth in the Offering Memorandum.

[End of Appendix A]

# **Edgewood Senior Solutions Group, Inc. and Subsidiaries**

Consolidated Financial Report  
December 31, 2020

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## Independent Auditor's Report

RSM US LLP

Board of Trustees  
Edgewood Senior Solutions Group, Inc. and Subsidiaries

### Report on the Financial Statements

We have audited the accompanying consolidated financial statements of Edgewood Senior Solutions Group, Inc. and Subsidiaries, (collectively, the Community) which comprise the consolidated balance sheets as of December 31, 2020 and 2019, the related consolidated statements of operations, changes in net assets (deficit) and cash flows for the years then ended, and the related notes to the consolidated financial statements (collectively, the financial statements).

### Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Community's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Community's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Community as of December 31, 2020 and 2019, and the changes in its net assets and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

*RSM US LLP*

Boston, Massachusetts  
April 7, 2021

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**Edgewood Senior Solutions Group, Inc. and Subsidiaries**

**Consolidated Balance Sheets**  
**December 31, 2020 and 2019**

	2020	2019
<b>Assets</b>		
Current assets:		
Cash and cash equivalents (Note 2)	\$ 10,069,396	\$ 8,174,154
Current portion of assets limited as to use (Notes 2 and 6)	936,629	-
Accounts receivable - Health Center, net (Notes 2 and 5)	1,070,633	954,392
Accounts receivable - residents (Note 2)	377,723	303,593
Prepaid expenses	599,084	524,039
Supplies inventory	225,730	142,951
<b>Total current assets</b>	<b>13,279,195</b>	<b>10,099,129</b>
Long-term assets:		
Investments (Notes 2, 3 and 4)	29,361,118	26,407,881
Assets limited as to use, net of current portion (Notes 2 and 6)	3,661,620	1,551,503
Property and equipment, net (Note 8)	94,860,526	87,472,577
Predevelopment costs	5,455,506	4,922,021
<b>Total long-term assets</b>	<b>133,338,770</b>	<b>120,353,982</b>
<b>Total assets</b>	<b>\$ 146,617,965</b>	<b>\$ 130,453,111</b>
<b>Liabilities and Net Deficit</b>		
Current liabilities:		
Accounts payable	\$ 871,190	\$ 1,405,885
Accrued liabilities:		
Payroll and compensated absences	717,340	1,046,002
Interest	258,352	61,413
Other	243,824	290,510
Current portion of bonds payable, net of deferred financing costs (Note 9)	1,575,298	1,796,066
Refundable deposits (Note 10)	2,739,800	3,224,599
<b>Total current liabilities</b>	<b>6,405,804</b>	<b>7,824,475</b>
Long-term liabilities:		
Entrance fee liabilities:		
Health Center and Assisted Living - permanently assigned residents	9,303,810	9,043,080
Refundable entrance fees	89,068,143	87,027,471
Deferred entrance fees	8,908,209	8,518,786
<b>Total long-term entrance fee liabilities</b>	<b>107,280,162</b>	<b>104,589,337</b>
Bonds payable, net of current portion and deferred financing costs (Note 9)	67,605,580	52,477,778
<b>Total long-term liabilities</b>	<b>174,885,742</b>	<b>157,067,115</b>
<b>Total liabilities</b>	<b>181,291,546</b>	<b>164,891,590</b>
Commitment (Note 14)		
Net assets (deficit)		
Net deficit without donor restrictions	(34,765,310)	(34,527,418)
Net assets with donor restrictions (Note 12)	91,729	88,939
<b>Total net deficit</b>	<b>(34,673,581)</b>	<b>(34,438,479)</b>
<b>Total liabilities and net deficit</b>	<b>\$ 146,617,965</b>	<b>\$ 130,453,111</b>

See notes to consolidated financial statements.

**Edgewood Senior Solutions Group, Inc. and Subsidiaries**

**Consolidated Statements of Operations**  
**Years Ended December 31, 2020 and 2019**

	<b>2020</b>	<b>2019</b>
Revenues and other support without donor restrictions:		
Net resident service revenue, independent living unit	\$ 16,058,598	\$ 16,712,837
Entrance fees earned and cancellation penalties	1,431,271	1,520,477
Net resident service revenue, health center fees	5,091,154	5,379,618
Net resident service revenue, assisted living	1,854,189	1,382,814
Net assets released from restrictions (Note 13)	2,913,201	228,551
<b>Total revenues and other support without donor restrictions</b>	<b>27,348,413</b>	<b>25,224,297</b>
Expenses (Notes 7, 11 and 16):		
General and administrative	5,282,977	5,208,572
Plant operations	3,123,300	3,207,283
Environmental services	1,057,818	1,014,519
Culinary services	4,012,751	3,987,332
Nursing	5,773,315	5,106,519
Resident care services	1,172,366	1,664,125
Assisted living	1,335,900	1,100,510
Wellness	249,874	277,432
Depreciation	4,419,124	4,308,816
Interest	1,690,517	1,453,704
<b>Total expenses</b>	<b>28,117,942</b>	<b>27,328,812</b>
<b>Loss from operations</b>	<b>(769,529)</b>	<b>(2,104,515)</b>
Nonoperating (losses) gains without donor restrictions:		
Investment income	497,586	631,067
Loss on disposal of property and equipment	(1,547)	(2,523)
Realized gains on investments	1,540,953	33,048
Development expense	(2,500,299)	(1,671,756)
Contributions	53,085	16,382
<b>Total nonoperating losses without donor restrictions</b>	<b>(410,222)</b>	<b>(993,782)</b>
<b>Deficit of revenues over expenses</b>	<b>(1,179,751)</b>	<b>(3,098,297)</b>
Other changes in net assets without donor restrictions:		
Unrealized gains on investments	<b>941,859</b>	<b>2,732,568</b>
<b>Change in net assets without donor restrictions</b>	<b>\$ (237,892)</b>	<b>\$ (365,729)</b>

See notes to consolidated financial statements.

**Edgewood Senior Solutions Group, Inc. and Subsidiaries**

**Consolidated Statements of Changes in Net Assets (Deficit)**  
**Years Ended December 31, 2020 and 2019**

	<b>2020</b>	<b>2019</b>
Net assets without donor restrictions:		
Loss from operations	\$ (769,529)	\$ (2,104,515)
Nonoperating losses without donor restrictions	(410,222)	(993,782)
Other changes in net assets without donor restrictions	941,859	2,732,568
<b>Decrease in net assets without donor restrictions</b>	<b>(237,892)</b>	<b>(365,729)</b>
Net assets with donor restrictions:		
CARES Act funds	2,620,946	-
Contributions	295,045	228,925
Net assets released from restrictions (Note 13)	(2,913,201)	(228,551)
<b>Increase net assets with donor restrictions</b>	<b>2,790</b>	<b>374</b>
<b>Change in net assets</b>	<b>(235,102)</b>	<b>(365,355)</b>
Cumulative effect of change in accounting principle	-	(549,597)
Net deficit at beginning of year	<b>(34,438,479)</b>	(33,523,527)
Net deficit at end of year	<b>\$ (34,673,581)</b>	<b>\$ (34,438,479)</b>

See notes to consolidated financial statements.

**Edgewood Senior Solutions Group, Inc. and Subsidiaries**

**Consolidated Statements of Cash Flows**  
**Years Ended December 31, 2020 and 2019**

	<b>2020</b>	<b>2019</b>
Cash flows from operating activities:		
Change in net assets	\$ (235,102)	\$ (365,355)
Adjustments to reconcile change in net assets to net cash provided by operating activities:		
Depreciation	4,419,124	4,308,816
Amortization of deferred financing costs	80,326	12,426
Loss on disposal of property and equipment	1,547	2,523
Net unrealized and realized gains on investments	(2,482,812)	(2,765,616)
Amortization of entrance fees	(1,431,271)	(1,520,477)
Proceeds from nonrefundable entrance fees	1,820,694	1,203,601
Change in accounts receivable	(190,371)	493,747
Change in prepaid expenses	(75,045)	94,276
Change in supplies inventory	(82,779)	(60,926)
Change in accounts payable	(374,252)	297,600
Change in accrued liabilities	(178,409)	24,200
Change in deferred revenue - Health Center	-	(60,190)
<b>Total adjustments</b>	<b>1,506,752</b>	<b>2,029,980</b>
<b>Net cash provided by operating activities</b>	<b>1,271,650</b>	<b>1,664,625</b>
Cash flows from investing activities:		
Purchase of investments	(9,897,995)	(631,067)
Proceeds from investments	9,427,570	34,975
Purchase of predevelopment costs	(1,010,552)	(2,932,379)
Purchase of property and equipment	(11,491,996)	(3,249,377)
<b>Net cash used in investing activities</b>	<b>(12,972,973)</b>	<b>(6,777,848)</b>
Cash flows from financing activities:		
Repayments of bonds	(1,808,492)	(1,766,534)
Proceeds from bonds	17,450,000	-
Payment of bond issuance costs	(814,800)	-
Refunds of refundable entrance fees	(8,515,913)	(7,511,667)
Proceeds from refundable entrance fees and deferred fees	10,817,315	8,791,400
Refunds of wait list deposits	(638,400)	(213,700)
Proceeds from wait list deposits	153,601	934,299
<b>Net cash provided by financing activities</b>	<b>16,643,311</b>	<b>233,798</b>
<b>Change in cash, cash equivalents and restricted cash</b>	<b>4,941,988</b>	<b>(4,879,425)</b>
Cash, cash equivalents and restricted cash:		
Beginning of year	<b>9,725,657</b>	<b>14,605,082</b>
End of year	<b>\$ 14,667,645</b>	<b>\$ 9,725,657</b>
Supplemental disclosures of cash flow information:		
Cash paid during the year for interest	<b>\$ 1,413,252</b>	<b>\$ 1,442,370</b>
Noncash operating and investing activities - property and equipment in accounts payable	<b>\$ 256,373</b>	<b>\$ 189,749</b>
Noncash operating and investing activities - predevelopment costs in accounts payable	<b>\$ 180,594</b>	<b>\$ 407,661</b>

See notes to consolidated financial statements.

## **Edgewood Senior Solutions Group, Inc. and Subsidiaries**

### **Notes to Consolidated Financial Statements**

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#### **Note 1. Nature of Activities and Significant Accounting Policies**

**Nature of activities:** Edgewood Senior Solutions Group, Inc. (Senior Solutions) is a not-for-profit corporation organized and existing under the laws of the Commonwealth of Massachusetts. Senior Solutions was incorporated on July 6, 2017 and its purpose is the development, support and oversight of an integrated system of continuing care retirement communities/senior living facilities and related providers to expand and diversify Edgewood Retirement Community Inc.'s (Edgewood) mission and services as well as the centralization of management and administrative functions. In 2019, Senior Solutions became the sole member of The Baldwin Senior Living (The Baldwin). On June 11, 2020, Senior Solutions became the sole member of Edgewood.

Edgewood is a not-for-profit corporation organized and existing under the laws of the Commonwealth of Massachusetts. Edgewood was incorporated in 1993 to provide housing, healthcare and other related services to seniors through the construction and operation of the life-care community known as "Edgewood" in North Andover, Massachusetts.

Edgewood includes 216 residential units, 24 cottage homes, common space, and 59 nursing care beds (the Health Center). Edgewood operates under the "life care" concept in which residents enter into a residency agreement, which requires payment of a one-time entrance fee and monthly service fees. These payments entitle residents to the use and privileges of Edgewood for life. The residents do not acquire an interest in the real estate and property.

On June 26, 2018, Edgewood completed and opened the Woodlands Inn (the Inn) on its North Andover campus. In May 2019, the Inn received its assisted living license and began operating as an assisted living facility. In 2018, the Inn operated as an enhanced living facility. The Inn is a community that consists of 40 units. The Inn offers an additional option to Edgewood's continuum of care that residents may choose. In addition, private pay residents may also enter the Inn. Private pay residents enter into a residency agreement, which requires a community fee and a monthly service fee. These payments entitle the residents to occupy a residence and entitle the residents to the use of and privileges of certain amenities outside of a life-care agreement.

Pond Pastures, LLC (PP LLC) is a Massachusetts limited liability company. It was formed on January 12, 2016. Edgewood is the sole member of PP LLC. The purpose of PP LLC is to purchase land, own and operate real estate, and make real estate investments. During the years ended December 31, 2020 and 2019, there was no activity in PP LLC. PP LLC was dissolved during the year ended December 31, 2020.

On February 15, 2019 a New Hampshire not-for-profit corporation, The Baldwin was formed. The purpose of The Baldwin is to meet the housing, health care, and financial security needs of seniors. As of December 31, 2020 and 2019, The Baldwin is in the predevelopment phase.

**Principles of consolidation:** The accompanying consolidated financial statements include the accounts of Senior Solutions and its subsidiaries which consist of Edgewood, PP LLC, and The Baldwin (collectively, the Community).

A summary of the Community's significant accounting policies is as follows:

**Classification and reporting of net assets:** The Community's financial statement presentation follows the requirements of the Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 958, Not-for-Profit Entities. Under ASC 958, the Community is required to report information regarding its financial position and activities according to two classes of net assets: net assets without donor restrictions and net assets with donor restrictions.

Net assets without donor restrictions represent the portion of net assets of the Community that is neither restricted by donor-imposed stipulations or time restrictions. Net assets without donor restrictions include expendable funds available for support of the Community, as well as funds invested in the physical plant, including buildings and equipment.

## **Edgewood Senior Solutions Group, Inc. and Subsidiaries**

### **Notes to Consolidated Financial Statements**

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#### **Note 1. Nature of Activities and Significant Accounting Policies (Continued)**

Net assets with donor restrictions represent contributions and other inflows of assets that have donor-imposed restrictions that require that they be held permanently, or whose use may or will be met by actions of the Community or the passage of time.

**Use of estimates:** The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America (U.S. GAAP) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from these estimates. Management periodically evaluates estimates used in the preparation of the financial statements for continued reasonableness. Appropriate adjustments, if any, to the estimates used are made prospectively based upon such periodic evaluation. It is reasonably possible that changes may occur in the near term that would affect management's estimates. Estimates significant to the consolidated financial statements include the allowance for doubtful accounts, the estimated life expectancy of residents used to amortize the deferred entrance fees, and the assumptions used in the calculation of the obligation to provide future services.

**Cash, cash equivalents and restricted cash:** The Community maintains its cash in bank deposit accounts at financial institutions whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC) up to \$250,000 per depositor. The Community may have balances above this limit at various times during the years ending December 31, 2020 and 2019. The Community has not experienced any losses in such accounts. The Community believes it is not exposed to any significant credit risks on cash.

For purposes of reporting cash flows, the Community defines cash equivalents as short-term, highly-liquid investments with original maturities of three months or less.

The following table provides a reconciliation of cash, cash equivalents and restricted cash reported within the consolidated balance sheets that sum to the total of the same such amounts shown in the consolidated statements of cash flows.

	2020	2019
Cash and cash equivalents	\$ 10,069,396	\$ 8,174,154
Assets limited as to use, cash	4,598,249	1,551,503
	<u>\$ 14,667,645</u>	<u>\$ 9,725,657</u>

Assets limited as to use include cash held by trustees under its indenture agreement and construction funds for future projects.

**Accounts receivable:** Resident accounts receivable, where a third-party payor is responsible for paying the amount, are carried at a net amount determined by the original charge for the service provided, less an estimate made for contractual adjustments or discounts provided to third-party payors.

Resident accounts receivable due directly from the residents are carried at the original charge for the service provided, less amounts covered by third-party payors and less an estimated allowance for doubtful receivables. Management determines the allowance for doubtful accounts by identifying troubled accounts and by historical experience applied to an aging of accounts. Resident receivables are written off as bad debt expense when deemed uncollectible. Recoveries of receivables previously written off are recorded as a reduction of bad debt expense when received.

## **Edgewood Senior Solutions Group, Inc. and Subsidiaries**

### **Notes to Consolidated Financial Statements**

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#### **Note 1. Nature of Activities and Significant Accounting Policies (Continued)**

**Property and equipment:** Property and equipment acquisitions are recorded at cost. Depreciation and amortization of property and equipment are provided over the estimated useful lives of the respective assets on the straight-line basis as follows:

	<u>Years</u>
Buildings	40
Buildings and land improvements	8 to 20
Furnishings and equipment	3 to 15
Vehicles	3 to 5

Expenditures for major renewals and improvements are capitalized, while expenditures for maintenance and repairs are expensed as incurred.

The Community follows ASC 410, Asset Retirement and Environmental Obligations. ASC 410 requires that a liability be recorded for the fair value of an asset retirement obligation specific to certain legal environmental obligations. The recording of a liability is required if such conditions exist and the obligation can be reasonably estimated. As of December 31, 2020 and 2019, the Community is unaware of any such obligations. The Community will recognize a liability in the period in which it becomes aware of such liability and sufficient information is available to reasonably estimate the fair value.

**Predevelopment costs:** Predevelopment costs include architectural expenses and other costs that have been capitalized related to future projects that have not yet begun construction. Once construction begins, these costs will be transferred to construction in progress until placed into service.

**Development expense:** Development expense relates to costs associated with the development of The Baldwin including salaries, benefits, marketing expenses and other costs that are not permitted to be capitalized.

**Assessment of long-lived assets:** The Community follows ASC 360, Property Plant and Equipment, as it relates to the accounting for impairment or disposal of long-lived assets, which requires that long-lived assets and certain identifiable intangibles held and used by an entity be reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. As of December 31, 2020 and 2019, the Community has not identified any impairment indicators.

**Investments:** Investments are recorded at fair value. Investment income is included in revenue and other support without donor restrictions in the consolidated statements of operations. Changes in fair value are reflected in the consolidated statements of operations as realized gains (losses) on investments or unrealized gains (losses) on investments.

**Other than temporary impairments:** The Community reviews its investments to identify those that have a fair value that is below cost. The Community makes a determination as to whether the investment should be considered other than temporarily impaired based on guidelines established in ASC 320, Investments—Debt and Equity Securities. At December 31, 2020 and 2019, no losses have been recognized.

**Operating activities:** The consolidated statements of operations reflect a subtotal for the income (loss) from operations. This subtotal reflects revenues (losses) that the Community received (incurred) for operating purposes. Nonoperating activity reflects all other activity, including, but not limited to, investment income, realized gains on investments, contributions, loss on disposal of property and equipment, and development expense.

## **Edgewood Senior Solutions Group, Inc. and Subsidiaries**

### **Notes to Consolidated Financial Statements**

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#### **Note 1. Nature of Activities and Significant Accounting Policies (Continued)**

**Deficit of revenues over expenses:** The consolidated statements of operations include deficit of revenues over expenses. Changes in net assets without donor restrictions which are excluded from deficit of revenues over expenses, consistent with industry practice, include unrealized gains on investments.

**Deferred entrance fees:** The Community currently has three different residency agreements in force. The following summarizes each type of agreement:

**Traditional agreement:** Upon death or voluntary withdrawal of the resident and reoccupancy of the vacated unit by another resident, the resident or the resident's estate receives a refund of the entrance fee, less 1% per month of occupancy. This contract has not been issued since November 1997 and is not currently marketed. As of December 31, 2020 and 2019, one and two, respectively, of such contracts are still in existence, but no refunds will be owed for these contracts.

**50% return of capital agreement:** Upon death or voluntary withdrawal of the resident and reoccupancy of the vacated unit by another resident, the resident or the resident's estate receives a refund of the entrance fee, less the lesser of 50% of the entrance fee or 1% per month of occupancy. As of December 31, 2020 and 2019, eight and six, respectively, of such contracts are in existence.

**90% return of capital agreement:** Upon death or voluntary withdrawal of the resident and reoccupancy of the vacated unit by another resident, the resident or the resident's estate receives a refund of the entrance fee, less the lesser of 10% of the entrance fee or 1% per month of occupancy. This is the standard contract in force at the Community, and all other contracts other than those previously documented take this form as of December 31, 2020 and 2019.

Under the Community's 90% return-of-capital residency plan, a portion of the entrance fee (10%) is nonrefundable and is recorded as deferred revenue. This deferred revenue is recognized as revenue earned on a straight-line basis over the estimated remaining life, actuarially adjusted annually, of each resident beginning with the date of each resident's occupancy. Any unrecognized deferred entrance fee at the date of death or termination of occupancy of the respective resident is recorded as income in the period in which death or termination of occupancy occurs. The remaining amount of the entrance fee represents that portion of the entrance fee, less unreimbursed fees and expenses, which is refunded to the resident or the resident's estate upon termination of occupancy after receipt of a new entrance fee from a successor resident and is recorded as refundable entrance fees.

At December 31, 2020 and 2019, the gross amount of contractual refund obligations under existing contracts was \$98,371,953 and \$96,070,551, respectively.

**Obligation to provide future services:** The Community annually calculates the present value of the net cost of future services and use of facilities to be provided to current residents and compares that amount with the balance of deferred revenue from deferred entrance fees. If the present value of the net cost of future services and use of facilities exceeds the deferred revenue from deferred entrance fees, a liability is recorded (obligation to provide future services and use of facilities) with the corresponding charge to income. The obligation is discounted at a rate based on the current tax-exempt non-investment grade borrowing rate of 2.5% at December 31, 2020 and 2019. At December 31, 2020 and 2019, the comparison between the estimated future costs to serve residents and the revenues from those residents that were parties to a resident agreement resulted in a surplus. Accordingly, there is no obligation in excess of deferred revenue to provide future services to residents at December 31, 2020 and 2019.

## **Edgewood Senior Solutions Group, Inc. and Subsidiaries**

### **Notes to Consolidated Financial Statements**

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#### **Note 1. Nature of Activities and Significant Accounting Policies (Continued)**

**Revenue recognition:** The Community accounts for revenue in accordance with ASC Topic 606, Revenue from Contracts with Customers, which provides a five-step model for recognizing revenue from contracts with customers as follows: (1) identify the contract with a customer, (2) identify the performance obligations in the contract, (3) determine the transaction price, (4) allocate the transaction price to the performance obligations in the contract and (5) recognize revenue when or as a performance obligation(s) is/are satisfied. Revenue is recognized when promised goods or services are transferred to the customer in an account that reflects the consideration expected in exchange for those goods or services. The Community adopted ASC Topic 606 on January 1, 2019 utilizing the modified retrospective method. Results for reporting periods beginning January 1, 2019 are presented under Topic 606 while prior-period amounts are not adjusted and continue to be reported under the accounting standards in effect for the prior period. The most significant impact of adopting the new standard related to capitalization of sales and promotional costs. The new standard also created ASC Subtopic 340-40, "Other Asset and Deferred Costs – Contracts with Customers" which superseded the previous standard that allowed sales and promotional costs to be capitalized. Under ASC Subtopic 340-40 these costs are no longer allowed to be capitalized and any costs previously capitalized need to be written off.

The Community recorded a net decrease of \$549,597 to the beginning net deficit as of January 1, 2019 due to the cumulative impact of adopting Topic 606, as detailed below.

	<b>January 1, 2019</b>		
	<b>As Previously Reported</b>	<b>Topic 606 Adjustments</b>	<b>As Adjusted</b>
<b>Assets</b>			
Deferred expenses, net	\$ 327,562	\$ (327,562)	\$ -
Predevelopment costs	2,249,298	(222,035)	2,027,263
<b>Net deficit</b>			
Net deficit without donor restrictions	(33,612,092)	(549,597)	(34,161,689)

**Independent and assisted living:** Resident fees at independent and assisted living facilities consist of monthly charges for basic housing and support services. Prior to admission to the Community, a resident agreement is required. In addition, residents can be directly admitted to the assisted living facility. Monthly fees for residents in assisted living are recorded over the month the performance obligation is satisfied as they are considered month to month contracts. There may be ancillary services provided that are not included in the monthly fees that are considered separate performance obligations for which revenue is recognized as the services are provided.

## **Edgewood Senior Solutions Group, Inc. and Subsidiaries**

### **Notes to Consolidated Financial Statements**

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#### **Note 1. Nature of Activities and Significant Accounting Policies (Continued)**

Performance obligations are determined based on the nature of the services provided by the Community. Revenue for performance obligations satisfied over time is recognized based on actual charges incurred in relation to total expected or actual charges. The Community believes that this method provides a faithful depiction of the transfer of services over the term of the performance obligation based on the inputs needed to satisfy the obligation. Generally, performance obligations satisfied over time relate to the monthly resident fee and entrance fee amortization for residents with life care contracts. The Community measures the performance obligation from the move-in date through the estimated life expectancy of the resident for life-care residents. Revenue for performance obligations satisfied at a point in time is recognized when services are provided and the Community does not believe it is required to provide additional goods or services to the resident.

The Community determines the transaction price based on standard charges for goods and services provided, reduced by implicit price concessions. The Community determines its estimate of implicit price concessions based on its historical collection experience with the residents.

**Health center revenue:** Health center revenue is derived from providing care in the Community's health center to residents requiring long-term or specialized care and is reported at the amount that reflects the consideration for which the Community expects to be entitled to in exchange for providing resident care. Amounts are based on daily rates which are generally fixed and are due from residents and/or third-party payors, including Medicare. The Community determines the transaction price based on standard charges adjusted for explicit price adjustments consisting of contractual allowances provided third-party payors and discounts provided in conjunction with the resident agreements. Revenue is recognized as the performance obligation is satisfied.

Patient care services in the health center represent a bundle of services based on the needs of the resident and are not capable of being distinct, accordingly, the Community has determined that the overall provision of a day of healthcare services to a resident is one performance obligation.

Healthcare services rendered to Medicare beneficiaries were reimbursed based on a classification system referred to as a Resource Utilization Groups (RUG-IV). These rates were determined annually and were based on the care needs of the resident and the type and intensity of therapy services provided to the resident. On October 1, 2019, a new case-mix classification system for Medicare beneficiaries in skilled nursing facilities, the Patient Driven Payment Model (PDPM) replaced RUG-IV. PDPM relies more on clinically relevant factors rather than the volume based therapy measures used under RUG-IV for determining Medicare reimbursement. In addition, PDPM per diem payments are adjusted during a resident's stay to reflect varying costs throughout the time the resident is in the facility. During the years ended December 31, 2020 and 2019, approximately 6% and 8%, respectively, of operations revenues is received from Medicare funding sources as third-party reimbursement of costs.

**Contributions:** Contributions received with donor-imposed restrictions that are met in the same year as received are reported as revenues of the net assets with donor restrictions class, and a reclassification to net assets without donor restrictions is made to reflect the expiration of such restrictions.

**Grant revenue:** Individual grant arrangements have been evaluated and determined to be nonreciprocal, meaning the granting entity has not received a direct benefit in exchange for the resources provided. Instead, revenue is recognized like a conditional contribution, i.e., when the barrier to entitlement is overcome. The barrier to entitlement is considered overcome when expenditures associated with each grant are determined to be allowable and all significant conditions of the grant are met.

**Advertising costs:** The Community follows the policy of charging the production costs of advertising expense as incurred.

## **Edgewood Senior Solutions Group, Inc. and Subsidiaries**

### **Notes to Consolidated Financial Statements**

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#### **Note 1. Nature of Activities and Significant Accounting Policies (Continued)**

**Income tax status:** Edgewood, Senior Solutions and The Baldwin are qualified under Section 501(c)(3) of the Internal Revenue Code and are exempt from federal and state income taxes. PP LLC is a single member LLC with its sole member (Edgewood) being an exempt company under Section 501(c)(3) of the Internal Revenue Code, and is therefore considered a disregarded entity for tax purposes.

**Uncertainty of income taxes:** The Community follows ASC 740, Income Taxes, which clarifies the accounting for uncertainty in income taxes by prescribing the recognition threshold a tax position is required to meet before being recognized in the financial statements. The Community recognizes a tax benefit from an uncertain tax position only if it is more likely than not that the tax position will be sustained on examination by the taxing authorities. As of December 31, 2020 and 2019, management has evaluated the Community's tax positions and concluded that the Community had no material uncertainties in income taxes that require disclosure in the financial statements. With few exceptions, the Community is no longer subject to income tax examinations by U.S. federal, state or local tax authorities for three years after the date filed.

**Recent accounting pronouncements:** In June 2016, the FASB issued ASU 2016-13, "Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments", which creates a new credit impairment standard for financial assets measured at amortized cost and available-for-sale debt securities. The ASU requires financial assets measured at amortized cost (including loans, trade receivables and held-to-maturity debt securities) to be presented at the net amount expected to be collected, through an allowance for credit losses that are expected to occur over the remaining life of the asset, rather than incurred losses. The ASU requires that credit losses on available-for-sale debt securities be presented as an allowance rather than as a direct write-down. The measurement of credit losses of newly recognized financial assets (other than certain purchased assets) and subsequent changes in the allowance for credit losses are recorded in the statement of income as the amounts expected to be collected change. The effective date of this standard, as amended by ASU 2019-10, is for fiscal years beginning after December 15, 2022, including interim periods within those fiscal years. The Community is currently evaluating the impact of adopting this new guidance on its consolidated financial statements.

In September 2020, the FASB issued ASU 2020-07, "Not-for-Profit Entities (Topic 958): Presentation and Disclosures by Not-for-Profit Entities for Contributed Nonfinancial Assets." This ASU increases the transparency of contributed nonfinancial assets through enhancements to presentation and disclosure. ASU 2020-07 is effective for annual periods beginning after June 15, 2021, and interim periods with annual periods beginning after June 15, 2022. Early adoption is permitted. The Community is currently evaluating the impact of this new standard on the financial statements.

#### **Note 2. Liquidity**

As of December 31, 2020 and 2019, financial assets available within one year for general expenditure, such as operating expenses, principal and interest payments, and capital expenditures not financed by debt were as follows:

	2020	2019
Cash and cash equivalents	\$ 10,069,396	\$ 8,174,154
Accounts receivable, net	1,448,356	1,257,985
Investments	26,361,118	26,407,881
Assets limited as to use expected to be spent within one year	3,604,686	1,551,503
	<hr/> <u>\$ 41,483,556</u>	<hr/> <u>\$ 37,391,523</u>

## **Edgewood Senior Solutions Group, Inc. and Subsidiaries**

### **Notes to Consolidated Financial Statements**

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#### **Note 2. Liquidity (Continued)**

In addition to financial assets available to meet general expenditures over the next 12 months, the Community operates with a balanced budget and anticipates collecting sufficient revenue to cover general expenditures. Refer to the consolidated statements of cash flows, which identify the sources and uses of the Community's cash and show positive cash generated by operations for the years ending December 31, 2020 and 2019. Excluded from the investment balance above is \$3,000,000 that is required to be held as part of the guarantor support agreement associated with the 2020 bonds (Note 9).

#### **Note 3. Fair Value Measurements**

Under the FASB's authoritative guidance on fair value measurements, fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. In determining fair value, the Community uses various methods, including market, income and cost approaches. Based on these approaches, the Community often utilizes certain assumptions that management believes market participants would use in pricing the asset or liability, including assumptions about risk and/or the risks inherent in the inputs to the valuation technique. These inputs can either be readily observable, corroborated by market data, or generally unobservable. The Community utilizes valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs. Based on the observability of the inputs used in the valuation techniques, the Community is required to provide the following information according to the fair value hierarchy. The fair value hierarchy ranks the quality and reliability of the information used to determine fair values. Financial assets and liabilities carried at fair value will be classified and disclosed in one of the following three categories:

**Level 1:** Quoted prices for identical assets and liabilities traded in active exchange markets, such as the New York Stock Exchange.

**Level 2:** Observable inputs other than Level 1 inputs, including quoted prices for similar assets or liabilities, quoted prices in less active markets, or other observable inputs that can be corroborated by observable market data. Level 2 inputs also include derivative contracts whose value is determined using a pricing model with observable market inputs or can be derived principally from or corroborated by observable market data.

**Level 3:** Unobservable inputs supported by little or no market activity for financial instruments whose value is determined using pricing models, discounted cash flow methodologies, or similar techniques, as well as instruments for which the determination of fair value requires significant management judgment or estimation; also includes observable inputs for nonbinding single-dealer quotes not corroborated by observable market data.

In some instances, the inputs used to measure fair value may align with different levels of the fair value hierarchy. In such instances, the inputs are based on the lowest level of input that is significant to the fair value measurement. The Community has various processes and controls in place to ensure that fair value is reasonably estimated.

While the Community believes its valuation methods are appropriate and consistent with other market participants, the use of different methodologies or assumptions to determine the fair value of certain financial instruments could result in a different estimate of fair value at the reporting date.

During the years ended December 31, 2020 and 2019, there were no changes to the Community's valuation techniques that had, or are expected to have, a material impact on its consolidated balance sheets or results of operations.

## **Edgewood Senior Solutions Group, Inc. and Subsidiaries**

### **Notes to Consolidated Financial Statements**

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#### **Note 3. Fair Value Measurements (Continued)**

The following is a description of the valuation methodologies used for instruments measured at fair value:

***Domestic equity mutual funds, flexible capital, international equity mutual funds, fixed income mutual funds, and inflation hedging securities fund:*** The fair value of domestic equity mutual funds, international equity mutual funds, fixed income mutual funds, flexible capital, and inflation hedging securities fund is the market value based on quoted market prices, when available, or market prices provided by recognized broker-dealers. If listed prices or quotes are not available, fair value is based upon externally developed models that use unobservable inputs due to the limited market activity of the instrument.

All investments are classified as level 1 in the fair value hierarchy. The following summary details the assets and liabilities that the Community measures at fair value on a recurring basis, by level, within the fair value hierarchy at December 31:

2020	Level 1
Assets:	
Investments:	
Domestic equity mutual funds	
\$ 6,727,876	
Flexible capital	
5,797,447	
International equity mutual funds	
5,260,403	
Fixed income mutual funds	
8,613,130	
Inflation hedging securities fund	
2,962,262	
	<u>\$ 29,361,118</u>

2019	Level 1
Assets:	
Investments:	
Domestic equity mutual funds	
\$ 5,705,796	
Flexible capital	
5,172,742	
International equity mutual funds	
5,339,554	
Fixed income mutual funds	
7,809,859	
Inflation hedging securities fund	
2,379,930	
	<u>\$ 26,407,881</u>

## **Edgewood Senior Solutions Group, Inc. and Subsidiaries**

### **Notes to Consolidated Financial Statements**

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#### **Note 4. Investments**

The following table shows the gross unrealized losses and fair value of the Community's investments that are not deemed to be other-than-temporarily impaired, aggregated by investment category and length of time that individual securities have been in a continuous unrealized loss position at December 31, 2020 and 2019.

Description of Securities	2020					
	Less than 12 Months		More than 12 Months		Total	
	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses
International equity mutual funds	\$ -	\$ -	\$ 749,004	\$ (82,441)	\$ 749,004	\$ (82,441)
Fixed income mutual funds	7,108,894	(378,882)	-	-	7,108,894	(378,882)
	<u>\$ 7,108,894</u>	<u>\$ (378,882)</u>	<u>\$ 749,004</u>	<u>\$ (82,441)</u>	<u>\$ 7,857,898</u>	<u>\$ (461,323)</u>

Description of Securities	2019					
	Less than 12 Months		More than 12 Months		Total	
	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses	Fair Value	Unrealized Losses
International equity mutual funds	\$ -	\$ -	\$ 880,932	\$ (110,087)	\$ 880,932	\$ (110,087)
	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 880,932</u>	<u>\$ (110,087)</u>	<u>\$ 880,932</u>	<u>\$ (110,087)</u>

#### **Note 5. Accounts Receivable – Health Center**

The Community grants credit without collateral to its patients, most of whom are insured under third-party payor agreements. The mix of receivables from patients and third-party payors is as follows at December 31:

	2020		2019	
Medicare	\$ 621,988		\$ 486,411	
Private patients	458,567		462,506	
Other third-party payors	362,155		280,697	
	<u>1,442,710</u>		<u>1,229,614</u>	
Allowance	(372,077)		(275,222)	
	<u>\$ 1,070,633</u>		<u>\$ 954,392</u>	

#### **Note 6. Assets Limited as to Use**

Assets limited as to use include funds that are required under the terms of the Community's bonds and trust indenture agreements. These assets are comprised of cash at December 31, 2020 and 2019.

Under the terms of Edgewood's trust indenture, the Community was required to maintain a project fund. The project fund is used to pay capital costs relating to the construction of the Woodlands Inn which was completed in 2019. Under the terms of The Baldwin's trust indenture, the Community is required to maintain a project fund for the pre-construction costs of The Baldwin as well as a debt service reserve fund and funded interest to cover future payments of the bond.

## **Edgewood Senior Solutions Group, Inc. and Subsidiaries**

### **Notes to Consolidated Financial Statements**

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#### **Note 6. Assets Limited as to Use (Continued)**

The following summary details the carrying values of assets limited as to use at December 31:

	2020	2019
Project fund	\$ 2,668,057	\$ 1,551,503
Debt service reserve fund	985,972	-
Funded interest	944,220	-
	<hr/> <u>\$ 4,598,249</u>	<hr/> <u>\$ 1,551,503</u>

#### **Note 7. Advertising**

Advertising expense was \$949,831 and \$920,172 for the years ended December 31, 2020 and 2019, respectively.

#### **Note 8. Property and Equipment**

Property and equipment consist of the following at December 31:

	2020	2019
Buildings and building improvements	\$ 126,580,861	\$ 123,722,600
Land and land improvements	16,765,405	8,102,135
Furnishings and equipment	6,415,026	6,137,054
Vehicles	726,389	645,485
Total cost	<hr/> 150,487,681	<hr/> 138,607,274
Less accumulated depreciation and amortization	<hr/> 55,780,966	<hr/> 51,404,390
	<hr/> 94,706,715	<hr/> 87,202,884
Construction in progress	153,811	269,693
	<hr/> \$ 94,860,526	<hr/> \$ 87,472,577

As of December 31, 2020, construction in progress relates miscellaneous renovations which were completed in January 2021 for an additional cost of approximately \$50,000. As of December 31, 2019, construction in progress represented costs associated with the clubhouse renovation. This project was completed and placed into service during the year ended December 31, 2020.

## **Edgewood Senior Solutions Group, Inc. and Subsidiaries**

### **Notes to Consolidated Financial Statements**

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#### **Note 9. Bonds Payable**

The following summary details the status of the Community's bonds payable at December 31:

	2020	2019
Massachusetts Development Finance Agency Revenue Bonds, Edgewood Life Care Community Obligated Group Issue, Series 2017, are comprised of \$58,700,000 of bonds at a fixed rate of 2.53% per annum, with maturity dates ranging from May 15, 2017 through April 15, 2047	\$ 52,802,912	\$ 54,611,403
Business Finance Authority of the State of New Hampshire Revenue Bonds, The Baldwin at Woodmont Commons Project Series 2020, are comprised of \$17,450,000 of bonds at a fixed rate of 5.65% per annum, with a maturity date of October 1, 2023	17,450,000	-
Less current portion, net of current deferred financing costs	(1,575,298)	(1,796,066)
Less deferred financing costs	<u>(1,072,034)</u>	<u>(337,559)</u>
Bonds payable net of current portion and deferred financing costs	<u>\$ 67,605,580</u>	<u>\$ 52,477,778</u>

The Series 2017 bonds are subject to optional redemption in whole or in part at any time at a redemption premium of 1% of the principal amount redeemed multiplied by the remaining term in years, plus interest accrued to the redemption date. The bonds are secured by a mortgage encumbering the real estate owned by Edgewood.

The Series 2020 bonds are secured by all assets of The Baldwin. Senior Solutions is a guarantor on the Series 2020 bonds for an amount not to exceed \$2,500,000. The bonds are to finance the predevelopment costs of The Baldwin as well as to purchase the land for the new community which took place during the year ended December 31, 2020. As part of the Series 2020 agreement, there is a \$5,000,000 subordinated intercompany borrowing to fund part of the predevelopment costs incurred by The Baldwin which is payable to Edgewood.

Financing costs relating to the bonds are included as a reduction of bonds payable, and are being amortized over the term of the bonds using the effective interest method. In conjunction with the Community's financing agreements the Community must adhere to certain financial covenants, such as debt service coverage ratio, liquidity ratio, and nonfinancial covenants. As of December 31, 2020 and 2019, the Community was in compliance with these covenants. As part of the Series 2020 bonds, there is a semi-annual covenant beginning March 31, 2021 requiring Senior Solutions to maintain \$3,000,000 of unrestricted cash and investments. As of March 31, 2021 Senior Solutions is in compliance with this covenant. On March 1, 2021, the Community amended the Continuing Covenants Agreement of the Series 2020 bonds which changed the requirements of a nonfinancial covenant. The Community was in compliance with that covenant as of December 31, 2020 and the amended covenant subsequent to year end.

## **Edgewood Senior Solutions Group, Inc. and Subsidiaries**

### **Notes to Consolidated Financial Statements**

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#### **Note 9. Bonds payable (Continued)**

Estimated maturities of the bonds payable are as follows for years ending December 31:

	Long-Term Debt	Deferred Financing Costs	Net
2021	\$ 1,859,324	\$ (284,026)	\$ 1,575,298
2022	1,907,583	(284,026)	1,623,557
2023	19,407,094	(216,126)	19,190,968
2024	2,004,541	(12,426)	1,992,115
2025	2,059,919	(12,426)	2,047,493
Thereafter	43,014,451	(263,004)	42,751,447
	<hr/> <u>\$ 70,252,912</u>	<hr/> <u>\$ (1,072,034)</u>	<hr/> <u>\$ 69,180,878</u>

#### **Note 10. Refundable Entrance Fee Deposits**

When a residency agreement is signed, a deposit of approximately 10% of the entrance fee is collected. The balance of the entrance fee is payable 15 days following the date occupancy is offered to the resident. Generally, depositors may cancel their residency agreements at any time prior to admission and receive at least a partial refund of the entrance fee deposit. Deposits of \$2,739,800 and \$3,224,599 had been received from future residents who have signed residency agreements as of December 31, 2020 and 2019, respectively.

#### **Note 11. Retirement Plan**

The Community participates in a tax-deferred annuity plan (the Plan) as described in Section 401(k) of the Internal Revenue Code that covers all eligible employees beginning after their first full year of service. The Community makes "safe harbor" matching contributions to participants in accordance with Plan requirements. The Community contributed \$194,598 and \$206,775 to the Plan during the years ended December 31, 2020 and 2019, respectively.

## **Edgewood Senior Solutions Group, Inc. and Subsidiaries**

### **Notes to Consolidated Financial Statements**

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#### **Note 12. Net Assets With Donor Restrictions**

The following summary details net assets with donor restrictions as of December 31:

	2020	2019
Subject to expenditure for specific purpose:		
For the benefit of employees	\$ 31,009	\$ 28,219
Nursing education fund	24,500	24,500
Music fund	17,970	17,970
For the benefit of residents	10,000	10,000
Current event speakers fund	4,300	4,300
Transportation fund	1,300	1,300
	<hr/> 89,079	<hr/> 86,289
Subject to the Community's spending policy and appropriation:		
Assets held in perpetuity (including original gift amount of \$2,650 as of December 31, 2020 and 2019) and the income earned to support operations	<hr/> 2,650	<hr/> 2,650
Total net assets with donor restrictions	<hr/> <hr/> \$ 91,729	<hr/> <hr/> \$ 88,939

The endowment fund is currently being held in the Community's operating cash account. There was no endowment activity during the years ended December 31, 2020 and 2019. When the endowment fund is invested, investment income will be classified as net assets with donor restrictions until those amounts are appropriated for expenditures by the Community in a manner consistent with the standard of prudence prescribed by the Massachusetts Uniform Prudent Management of Institutional Funds Act (UPMIFA). The UPMIFA is a model act approved by the Uniform Law Commission that serves as a guideline for states to use in enacting legislation. This standard also requires disclosures about an organization's endowment funds (both donor-restricted endowment funds and board-designated endowment funds).

The Board of Trustees (the Board) has interpreted state law as requiring realized and unrealized gains of net assets restricted in perpetuity, and interest and dividends earned to be retained in net assets with donor restrictions until appropriated by the Board and expended. The Community has not adopted a formal spending policy and investment policy for endowment funds. The Community has not made any appropriations during 2020 and 2019 and believes spending would not be prudent at this time.

The General Laws of Massachusetts allow the Board to appropriate for expenditure or accumulate so much of an endowment fund as the Community determines is prudent for the uses, benefits, purposes and duration for which the endowment fund is established. In making a determination to appropriate or accumulate, the Community shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and shall consider, if relevant, the following factors: the duration and preservation of the endowment fund; the purposes of the Community and the endowment fund; general economic conditions; the possible effect of inflation or deflation; the expected total return from income and the appreciation of investments; other resources of the Community; and the investment policy of the Community.

## **Edgewood Senior Solutions Group, Inc. and Subsidiaries**

### **Notes to Consolidated Financial Statements**

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#### **Note 13. Net Assets Released From Restrictions**

During the years ended December 31, 2020 and 2019, net assets were released from restrictions by incurring expenses satisfying the restricted purposes or by the occurrence of other events specified by donors.

The following summary details net assets released from restrictions during the years ended December 31:

	<b>2020</b>	<b>2019</b>
For the benefit of employees	\$ 292,255	\$ 228,551
CARES Act funds	2,620,946	-
	<b>\$ 2,913,201</b>	<b>\$ 228,551</b>

#### **Note 14. Medical Malpractice Claims**

The Community purchases professional and general liability insurance to cover medical malpractice claims through an occurrence basis policy effective June 30, 2014. Prior to June 30, 2014, the professional and general liability insurance covering medical malpractice claims was a claims-made basis policy. The Company purchased tail coverage relative to the period prior to June 30, 2014, which expired on June 10, 2019. There are no known claims and incidents that may result in the assertion of additional claims, as well as no claims from unknown incidents that may be asserted arising from services provided to patients. Based on historical evidence, the Community believes that a reserve for claims from unknown incidents is not necessary, and as such, no reserve has been accrued in the consolidated financial statements as of December 31, 2020 and 2019.

#### **Note 15. Risks and Uncertainties**

The spread of COVID-19, a novel strain of coronavirus, is altering the behavior of businesses and people throughout the world. The continued spread of COVID-19 may adversely impact the local, regional, national and world economies. The extent to which the coronavirus impacts the Community's results will depend on future developments, which are highly uncertain and cannot be predicted. The impact is highly dependent on the breadth and duration of the outbreak and could be affected by other factors that cannot be currently predicted. Accordingly, management cannot presently estimate the overall operational and financial impact to the Community. Management has taken steps to prevent future outbreaks including vaccinating 98% of current residents and offering the vaccine to new residents in advance of move in.

#### **Note 16. Functional Expenses**

The financial statements report certain categories of expense that are attributable to one or more programs or supporting services of the Community. Those expenses include depreciation and amortization, insurance and taxes, interest, utilities, information technology, food, and the compliance department. Depreciation and amortization, insurance and taxes, interest and utilities are allocated based on a square footage basis, information technology is allocated based on the number of devices used, food is allocated based on the number of meals, and the compliance department is allocated based on the estimated time where efforts are made.

## **Edgewood Senior Solutions Group, Inc. and Subsidiaries**

### **Notes to Consolidated Financial Statements**

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#### **Note 16. Functional Expenses (Continued)**

The functional classification of expenses for the Community is as follows for the year ended December 31, 2020:

	Independent Living	Health Center	Assisted Living	General and Administrative	Total
Wages, benefits and other employee related costs	\$ 5,220,560	\$ 4,911,824	\$ 1,335,242	\$ 1,676,658	\$ 13,144,284
Outside labor	390,571	-	-	-	390,571
Professional fees and licenses	10,198	63,531	687	316,170	390,586
Information technology	131,407	104,452	30,325	70,758	336,942
Promotional development	689,470	21,363	223,948	-	934,781
Repairs and maintenance	529,175	68,300	-	5,836	603,311
Food and supplies	978,264	418,720	375,813	94	1,772,891
Activities	32,921	7,540	9,791	-	50,252
Medical expenses	21,764	1,100,317	20,430	-	1,142,511
Other services	32,170	8,626	3,094	217,727	261,617
Occupancy	2,419,046	312,219	222,615	26,675	2,980,555
Depreciation	3,501,441	451,919	419,188	46,576	4,419,124
Interest	1,130,040	145,850	135,287	279,340	1,690,517
	<b>\$ 15,087,027</b>	<b>\$ 7,614,661</b>	<b>\$ 2,776,420</b>	<b>\$ 2,639,834</b>	<b>\$ 28,117,942</b>

The functional classification of expenses for the Community is as follows for the year ended December 31, 2019:

	Independent Living	Health Center	Assisted Living	General and Administrative	Total
Wages, benefits and other employee related costs	\$ 5,866,594	\$ 4,955,765	\$ 1,170,380	\$ 1,975,752	\$ 13,968,491
Outside labor	399,369	-	-	-	399,369
Professional fees and licenses	10,609	38,197	5,654	281,795	336,255
Information technology	106,690	84,805	24,621	57,450	273,566
Promotional development	583,541	4,887	332,053	-	920,481
Repairs and maintenance	459,209	59,268	67,414	5,065	590,956
Food and supplies	945,808	403,705	187,270	40,091	1,576,874
Activities	56,835	13,255	3,385	-	73,475
Medical expenses	-	777,814	-	-	777,814
Other services	55,461	85,083	3,050	89,947	233,541
Occupancy	1,962,042	253,234	178,559	21,635	2,415,470
Depreciation	3,420,205	441,434	409,462	37,715	4,308,816
Interest	1,153,905	148,931	138,144	12,724	1,453,704
	<b>\$ 15,020,268</b>	<b>\$ 7,266,378</b>	<b>\$ 2,519,992</b>	<b>\$ 2,522,174</b>	<b>\$ 27,328,812</b>

## **Edgewood Senior Solutions Group, Inc. and Subsidiaries**

### **Notes to Consolidated Financial Statements**

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#### **Note 17. CARES Act funds**

The Community received funding from the federal government for a grant under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) as part of the Payroll Protection Program (PPP) through the Small Business Administration (SBA). The total amount of the funding was \$1,812,500 with a requirement that the Community use no less than 60% of the funds for payroll costs and the remainder for business utility expenses, rent or lease payments, or mortgage interest expenses. In addition, staffing and wages need to be maintained at existing levels as defined within the program terms. The Community elected the eight week spending period which began April 21, 2020, the date of initial funding. The grant is conditional on the Community being eligible at the time of funding, maintaining their staffing through the covered period and upon them spending the money in accordance with the grant requirements. These barriers were met during the year and the revenue was recognized as grant revenue with donor restrictions and subsequently released upon the money being spent in accordance with the grant guidelines. The Community applied for forgiveness to the SBA and the loan was forgiven in March 2021.

Due to the Coronavirus pandemic, the U.S. Department of Health and Human Services (HHS) made available emergency relief grant funds to health care providers through the CARES Act Provider Relief Fund (PRF). Total grant funds approved by HHS and received by the Community were \$808,446. The PRF's are subject to certain restrictions on eligible expenses or uses, reporting requirements, and will be subject to audit. The grant funds are conditional upon the Community spending the funds in accordance with the program's allowable cost guidelines which consist of costs incurred to manage COVID-19 within the Community or to support lost revenue that the Community has incurred as a result of the pandemic. During the year ended December 31, 2020, the Community recognized \$808,446 as grant revenue with donor restrictions which was subsequently released upon the money being spent in accordance with the grant guidelines.

#### **Note 18. Subsequent Events**

The Community has evaluated subsequent events for recognition or disclosure through April 7, 2021, the date the financial statements were issued. The Community has determined there were no events or transactions other than what has been disclosed that warrant recognition or disclosure in the financial statements.

### **Independent Auditor's Report on the Supplementary Information**

Board of Trustees  
Edgewood Senior Solutions Group, Inc. and Subsidiaries

We have audited the consolidated financial statements of Edgewood Senior Solutions Group, Inc. and Subsidiaries as of and for the years ended December 31, 2020 and 2019, and have issued our report thereon, dated April 7, 2021, which contained an unmodified opinion on those financial statements. Our audits were performed for the purpose of forming an opinion on the financial statements as a whole.

The accompanying supplementary information is presented for purposes of additional analysis and is not a required part of the financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the financial statements as a whole.

*RSM US LLP*

Boston, Massachusetts  
April 7, 2021

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**Edgewood Senior Solutions Group, Inc. and Subsidiaries**

**Consolidating Balance Sheet**  
**December 31, 2020**

	Senior Solutions	Edgewood	The Baldwin	Eliminations	Consolidated Totals
<b>Assets</b>					
Current assets:					
Cash and cash equivalents	\$ -	\$ 10,053,980	\$ 15,416	\$ -	\$ 10,069,396
Current portion of assets limited as to use	-	-	936,629	-	936,629
Accounts receivable - Health Center, net	-	1,070,633	-	-	1,070,633
Accounts receivable - residents	-	377,723	-	-	377,723
Prepaid expenses	-	561,761	37,323	-	599,084
Supplies inventory	-	225,730	-	-	225,730
Intercompany receivable	-	6,759,174	-	(6,759,174)	-
<b>Total current assets</b>	<b>-</b>	<b>19,049,001</b>	<b>989,368</b>	<b>(6,759,174)</b>	<b>13,279,195</b>
Long-term assets:					
Investments	-	29,361,118	-	-	29,361,118
Assets limited as to use, net of current portion	-	-	3,661,620	-	3,661,620
Property and equipment, net	-	86,198,010	8,662,516	-	94,860,526
Predevelopment costs	-	-	5,455,506	-	5,455,506
<b>Total long-term assets</b>	<b>-</b>	<b>115,559,128</b>	<b>17,779,642</b>	<b>-</b>	<b>133,338,770</b>
<b>Total assets</b>	<b>\$ -</b>	<b>\$ 134,608,129</b>	<b>\$ 18,769,010</b>	<b>\$ (6,759,174)</b>	<b>\$ 146,617,965</b>
<b>Liabilities and Net Deficit</b>					
Current liabilities:					
Accounts payable	\$ -	\$ 690,218	\$ 180,972	\$ -	\$ 871,190
Accrued liabilities:					
Payroll and compensated absences	-	717,340	-	-	717,340
Interest	-	59,374	198,978	-	258,352
Other	-	243,824	-	-	243,824
Current portion of bonds payable, net of deferred financing costs	-	1,846,898	(271,600)	-	1,575,298
Refundable deposits	-	2,727,900	11,900	-	2,739,800
Intercompany payable	633,206	-	6,125,968	(6,759,174)	-
<b>Total current liabilities</b>	<b>633,206</b>	<b>6,285,554</b>	<b>6,246,218</b>	<b>(6,759,174)</b>	<b>6,405,804</b>
Long-term liabilities:					
Entrance fee liabilities:					
Health Center and Assisted Living - permanently assigned residents	-	9,303,810	-	-	9,303,810
Refundable entrance fees	-	89,068,143	-	-	89,068,143
Deferred entrance fees	-	8,908,209	-	-	8,908,209
<b>Total long-term entrance fee liabilities</b>	<b>-</b>	<b>107,280,162</b>	<b>-</b>	<b>-</b>	<b>107,280,162</b>
Bonds payable, net of current portion and deferred financing costs	-	50,630,880	16,974,700	-	67,605,580
<b>Total long-term liabilities</b>	<b>-</b>	<b>157,911,042</b>	<b>16,974,700</b>	<b>-</b>	<b>174,885,742</b>
<b>Total liabilities</b>	<b>633,206</b>	<b>164,196,596</b>	<b>23,220,918</b>	<b>(6,759,174)</b>	<b>181,291,546</b>
Commitment					
Net assets (deficit):					
Net deficit without donor restrictions	(633,206)	(29,680,196)	(4,451,908)	-	(34,765,310)
Net assets with donor restrictions	-	91,729	-	-	91,729
<b>Total net deficit</b>	<b>(633,206)</b>	<b>(29,588,467)</b>	<b>(4,451,908)</b>	<b>-</b>	<b>(34,673,581)</b>
<b>Total liabilities and net deficit</b>	<b>\$ -</b>	<b>\$ 134,608,129</b>	<b>\$ 18,769,010</b>	<b>\$ (6,759,174)</b>	<b>\$ 146,617,965</b>

**Edgewood Senior Solutions Group, Inc. and Subsidiaries**

**Consolidating Statement of Operations**

**Year Ended December 31, 2020**

	Senior Solutions	Edgewood	The Baldwin	Eliminations	Consolidated Totals
Revenues and other support without donor restrictions:					
Net resident service revenue, independent living unit	\$ -	\$ 16,058,598	\$ -	\$ -	\$ 16,058,598
Entrance fees earned and cancellation penalties	-	1,431,271	-	-	1,431,271
Net resident service revenue, health center fees	-	5,091,154	-	-	5,091,154
Net resident service revenue, assisted living	-	1,854,189	-	-	1,854,189
Net assets released from restrictions	-	2,913,201	-	-	2,913,201
<b>Total revenues and other support without donor restrictions</b>	<b>-</b>	<b>27,348,413</b>	<b>-</b>	<b>-</b>	<b>27,348,413</b>
Expenses:					
General and administrative	83,721	5,199,256	-	-	5,282,977
Plant operations	-	3,123,300	-	-	3,123,300
Environmental services	-	1,057,818	-	-	1,057,818
Culinary services	-	4,012,751	-	-	4,012,751
Nursing	-	5,773,315	-	-	5,773,315
Resident care services	-	1,172,366	-	-	1,172,366
Assisted living	-	1,335,900	-	-	1,335,900
Wellness	-	249,874	-	-	249,874
Depreciation	-	4,411,159	7,965	-	4,419,124
Interest	-	1,423,639	266,878	-	1,690,517
<b>Total expenses</b>	<b>83,721</b>	<b>27,759,378</b>	<b>274,843</b>	<b>-</b>	<b>28,117,942</b>
<b>Loss from operations</b>	<b>(83,721)</b>	<b>(410,965)</b>	<b>(274,843)</b>	<b>-</b>	<b>(769,529)</b>
Nonoperating gains (losses) without donor restrictions:					
Investment income	-	497,586	-	-	497,586
Loss on disposal of property and equipment	-	(1,547)	-	-	(1,547)
Realized gains on investments	-	1,540,953	-	-	1,540,953
Development expense	-	-	(2,500,299)	-	(2,500,299)
Contributions	-	53,085	-	-	53,085
<b>Total nonoperating gains (losses) without donor restrictions</b>	<b>-</b>	<b>2,090,077</b>	<b>(2,500,299)</b>	<b>-</b>	<b>(410,222)</b>
<b>Excess (deficit) of revenues over expenses</b>	<b>(83,721)</b>	<b>1,679,112</b>	<b>(2,775,142)</b>	<b>-</b>	<b>(1,179,751)</b>
Other changes in net assets without donor restrictions:					
Unrealized gains on investments	-	941,859	-	-	941,859
<b>Change in net assets without donor restrictions</b>	<b>\$ (83,721)</b>	<b>\$ 2,620,971</b>	<b>\$ (2,775,142)</b>	<b>\$ -</b>	<b>\$ (237,892)</b>

**Edgewood Senior Solutions Group, Inc. and Subsidiaries**

**Consolidating Statement of Changes in Net Assets (Deficit)**

**Year Ended December 31, 2020**

	<b>Senior Solutions</b>	<b>Edgewood</b>	<b>The Baldwin</b>	<b>Eliminations</b>	<b>Consolidated Totals</b>
Net assets without donor restrictions:					
Loss from operations	\$ (83,721)	\$ (410,965)	\$ (274,843)	\$ -	\$ (769,529)
Nonoperating gains (losses) without donor restrictions	-	2,090,077	(2,500,299)	-	(410,222)
Other changes in net assets without donor restrictions	-	941,859	-	-	941,859
<b>Decrease in net assets without donor restrictions</b>	<b>(83,721)</b>	<b>2,620,971</b>	<b>(2,775,142)</b>	<b>-</b>	<b>(237,892)</b>
Net assets with donor restrictions:					
CARES Act funds	-	2,620,946	-	-	2,620,946
Contributions	-	295,045	-	-	295,045
Net assets released from restrictions	-	(2,913,201)	-	-	(2,913,201)
<b>Increase in net assets with donor restrictions</b>	<b>-</b>	<b>2,790</b>	<b>-</b>	<b>-</b>	<b>2,790</b>
<b>Change in net assets</b>	<b>(83,721)</b>	<b>2,623,761</b>	<b>(2,775,142)</b>	<b>-</b>	<b>(235,102)</b>
Net deficit at beginning of year	<b>(549,485)</b>	<b>(32,212,228)</b>	<b>(1,676,766)</b>	<b>-</b>	<b>(34,438,479)</b>
Net deficit at end of year	<b>\$ (633,206)</b>	<b>\$ (29,588,467)</b>	<b>\$ (4,451,908)</b>	<b>\$ -</b>	<b>\$ (34,673,581)</b>

**APPENDIX C**

**PROPOSED FORM OF TRUST INDENTURE**

**PROPOSED FORM OF LOAN AGREEMENT**

**PROPOSED FORM OF CONTINUING COVENANTS AGREEMENT (SENIOR  
BONDS)**

**PROPOSED FORM OF CONTINUING COVENANTS AGREEMENT (SUBORDINATE  
BONDS)**

**PROPOSED FORM OF PLEDGE AGREEMENT**

**PROPOSED FORM OF SUPPORT AGREEMENT**

**PROPOSED FORM OF  
MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT  
AND FIXTURE FILING STATEMENT**

**and**

**PROPOSED FORM OF SECOND  
MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT  
AND FIXTURE FILING STATEMENT**

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**PROPOSED FORM**

**TRUST INDENTURE**

between

**BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE,**  
as Authority

and

**UMB BANK, NATIONAL ASSOCIATION,**  
as Trustee

dated as of April 1, 2022

*Relating to:*

Business Finance Authority of the State of New Hampshire

Not to Exceed \$87,800,000 Senior Revenue Bonds (The Baldwin at Woodmont Commons Project),	\$15,000,000 Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022A
Not to Exceed \$38,500,000 Senior Revenue Bonds (The Baldwin at Woodmont Commons Project),	Not to Exceed \$30,000,000 Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022D
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This TRUST INDENTURE dated as of April 1, 2022 (this "Trust Indenture"), between the BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE (the "Authority"), a body corporate and politic of the State of New Hampshire (the "State"), and UMB BANK, NATIONAL ASSOCIATION, a national banking association, having a corporate trust office in St. Louis, Missouri, as Trustee (in such capacity, together with any successor in such capacity, the "Trustee").

WITNESSETH:

WHEREAS, the Authority is authorized by New Hampshire RSA 162-I, as amended (collectively, the "Act"), to issue bonds and to loan the proceeds thereof for the purpose of financing and refinancing certain projects for the benefit of, among others, nonprofit organizations in the State; and

WHEREAS, the Authority desires to promote such purposes by assisting in the financing and refinancing of the 2022 Project (as defined herein) owned by The Baldwin Senior Living (the "Borrower"), a New Hampshire nonprofit corporation and affiliate of Edgewood Senior Solutions Group, Inc., a Massachusetts nonprofit corporation; and

WHEREAS, the Borrower has requested that the Authority issue not to exceed \$87,800,000 aggregate principal amount of its Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 202A (the "Series 202A Bonds"), \$15,000,000 aggregate principal amount of its Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 202B (the "Series 202B Bonds"), not to exceed \$38,500,000 aggregate principal amount of its Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 202C (the "Series 202C Bonds"), not to exceed \$30,000,000 aggregate principal amount of its Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 202D (the "Series 202D Bonds") and together with the Series 202A Bonds, Series 202B Bonds and Series 202C Bonds, the "Tax-Exempt Senior Bonds" or "Senior Bonds" and \$17,400,000 aggregate principal amount of its Subordinate Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 202E (the "Subordinate Bonds") and, together with the Senior Bonds, the "Series 202 Bonds" pursuant to this Trust Indenture in order to loan the proceeds of the Senior Bonds (the "Senior Loan") and the proceeds of the Subordinate Bonds (the "Subordinate Loan" and, together with the Senior Loan, the "Loan") to the Borrower to finance a portion of a project consisting of: (i) the refinancing of the Authority's Revenue Bonds (The Baldwin at Woodmont Commons Project) Series 2020 (the "Series 2020 Bonds"), which (A) financed the acquisition of a land parcel consisting of approximately 15.1 acres with frontage on First Avenue between First Avenue's intersections with Main Street and Pillsbury Road in Londonderry, New Hampshire (the "Project Site"), (B) funded certain predevelopment costs, (C) funded a debt service reserve fund for the Series 2020 Bonds and (D) paid certain costs of issuance for the Series 2020 Bonds; (ii) the financing of the construction, equipping and furnishing on the Project Site of a 230-unit life plan continuing care retirement community, consisting of one or more buildings with approximately 190 independent living units and approximately 40 enhanced assisted living-memory care units, including related amenities and common facilities; (iii) funding capitalized interest on all or a portion of the Series 2022 Bonds during the construction period;

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(iv) funding capitalized interest on all or a portion of the Series 2022 Bonds for a certain duration after the construction period; (v) funding working capital expenditures related to the 2022 Project (as defined below); (vi) funding one or more reasonably required reserve funds, if necessary; and (vii) paying certain costs associated with the authorization and issuance of the Series 2022 Bonds (collectively, the "2022 Project"); and

WHEREAS, the Guarantor will also cause to be made an equity contribution to the costs of the 2022 Project; and

WHEREAS, the Authority has authorized the issuance of the Series 2022 Bonds, the proceeds of which shall be loaned to the Borrower to finance the 2022 Project pursuant to a Loan Agreement between the Authority and the Borrower dated as of even date herewith (as it may be supplemented or amended, the "Loan Agreement"), whereby the Borrower agrees to make loan payments to the Authority in an amount which, when added to other funds available under this Trust Indenture, will be sufficient to pay the Bonds and to pay all costs and expenses related thereto when due; and

WHEREAS, the obligations of the Borrower under the Loan Agreement with respect to the Senior Loan will be secured by, among other things, a first priority lien on and security interest in the Mortgaged Property (as such term is defined in the hereinafter defined Senior Mortgage) pursuant to a Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing Statement dated as of April 1, 2022 and effective April 21, 2022 from the Borrower to the Trustee (the "Senior Mortgage"); and

WHEREAS, the obligations of the Borrower under the Loan Agreement with respect to the Subordinate Loan will be secured by, among other things, a second priority lien on and security interest in the Mortgaged Property pursuant to a Second Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing Statement dated as of April 1, 2022 and effective April 21, 2022 from the Borrower to the Trustee (the "Second Mortgage," and together with the Senior Mortgage, the "Mortgages"); and

WHEREAS, all things necessary to make the Series 2022 Bonds, when authenticated by the Trustee and issued as provided in this Trust Indenture, valid, binding and legal limited obligations of the Authority and to constitute this Trust Indenture a valid and binding agreement securing the payment of the principal of and premium, if any, and interest on the Series 2022 Bonds issued hereunder have been done and performed, and the execution and delivery of this Trust Indenture and the execution and issuance of the Series 2022 Bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, THIS TRUST INDENTURE FURTHER WITNESSETH:

That, as security for payment of the principal of, premium, if any, and interest on the Series 2022 Bonds when due, the Authority does hereby pledge and assign to, and grant a security interest to the Trustee in, the following described property:

A. All rights, title and interest of the Authority under, in and to the Loan Agreement, the Security Instruments (defined herein) and all revenues and receipts receivable

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by the Authority therefrom and the security therefor (except the Authority's Unassigned Rights, as hereinafter defined, and payments in respect thereof);

B. The other funds, including money, investment income and investments therein, held by the Trustee in the Funds and Accounts (defined herein) pursuant to the terms of this Trust Indenture; and

C. All other property of any kind, if any, mortgaged, pledged or hypothecated at any time as and for additional security for the Series 2022 Bonds hereunder by the Authority or by anyone properly authorized on its behalf or with its written consent in favor of the Trustee, which is hereby authorized to receive all such property at any time and to hold and apply it subject to the terms hereof;

TO HAVE AND TO HOLD all the same with all privileges and appurtenances hereby conveyed and assigned, or agreed or intended to be, to the Trustee and its assigns forever;

IN TRUST, however, for the equal and proportionate benefit and security of the Holders from time to time of the Senior Bonds, without privilege, priority or distinction as to the lien or otherwise of any of the Senior Bonds over any of the other Senior Bonds except as otherwise provided in or pursuant to this Trust Indenture, and on a subordinate basis except as otherwise provided in or pursuant to this Trust Indenture, for the equal and proportionate benefit, protection and security of the Holders of any and all of the Subordinate Bonds, and for securing the observance and performance of all the conditions, covenants, promises, stipulations, agreements and terms and provisions of this Trust Indenture and the uses and purposes herein expressed and declared.

THE SERIES 2022 BONDS DO NOT CONSTITUTE INDEBTEDNESS OF THE STATE OR OF THE AUTHORITY EXCEPT TO THE EXTENT PERMITTED BY NEW HAMPSHIRE RSA 162-I. ALL AMOUNTS OWED HEREUNDER ARE PAYABLE ONLY FROM THE SOURCES PROVIDED IN THIS TRUST INDENTURE, AND NO PUBLIC FUNDS MAY BE USED FOR THAT PURPOSE.

The Authority hereby covenants and agrees with the Trustee and with the respective registered owners, from time to time, of the Series 2022 Bonds as follows:

ARTICLE I  
DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.01 Definitions.

The following words and terms shall have the following meanings in this Trust Indenture unless the context otherwise requires:

"Act" shall mean New Hampshire RSA 162-I, as the same may be amended and supplemented from time to time.

"Additional Payments" shall have the meaning set forth in the Loan Agreement.

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"Additional Premium" shall have the meaning set forth in Section 2.02(b)(i) hereof.

"Advance" shall mean an advance of Tax-Exempt Senior Bond proceeds as described in Section 2.02(d) hereof.

"Advance Certificate" shall mean a certificate executed by an Authorized Representative of the Borrower requesting an additional Advance which shall be substantially in the form of Exhibit D.

"Assignment" shall mean the Collateral Assignment of Contract Rights dated as of April 1, 2022 by the Borrower for the benefit of the Trustee.

"Authority" shall mean the Business Finance Authority of the State of New Hampshire, its successors and assigns.

"Authorized Denomination" shall mean (i) for any Hamlin Investor Bond, \$5,000 and any integral multiple of \$5,000 in excess thereof, and (ii) for any other Bond, \$100,000 and any integral multiple of \$1,000 in excess thereof unless (A) the Bonds have an Investment Grade Rating from a Rating Agency, or (B) the Bonds have defased in accordance with this Trust Indenture.

"Authorized Representative of the Borrower" shall have the meaning set forth in the Loan Agreement.

"Authorized Signatory" shall mean any officer, director, member or other person designated by resolution of the Authority (whether such resolution is adopted in connection with the issuance of the Series 2022 Bonds or otherwise) as an 'Authorized Signatory' empowered to, among other things, execute and deliver on behalf of the Authority this Trust Indenture, the Loan Agreement and the Series 2022 Bonds.

"Bond Counsel" shall mean Hinckley, Allen & Snyder LLP or any other firm of attorneys nationally recognized on the subject of tax-exempt municipal finance selected by the Borrower with the approval of the Trustee and the Bondholder Representative.

"Bond Funds" shall mean the Tax-Exempt Senior Bond Fund and the Subordinate Bond Fund so designated and established by Section 6.01.

"Bondholder," "bondholder" or "Holder" shall mean the registered owner of any Series 2022 Bond.

"Bondholder Representative" shall mean (i) with respect to the Senior Bonds, (a) Hamlin Capital Management, so long as a majority in aggregate principal amount of the Outstanding Senior Bonds are beneficially owned by persons for whom Hamlin Capital Management serves as investment advisor or a manager of a limited partnership; and (b) at any other time, the designee, if any, of the holders of a majority in aggregate principal amount of the Outstanding Senior Bonds, and (ii) with respect to the Subordinate Bonds, (a) Ecofin so long as a majority in aggregate principal amount of the Outstanding Subordinate Bonds are beneficially

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owned by persons for whom Ecofin serves as investment advisor or subadvisor; and (b) at any other time, the designee, if any, of the holders of a majority in aggregate principal amount of the Outstanding Subordinate Bonds. In either case, if there shall be no designee, the term Bondholder Representative shall be disregarded and all notices and consents shall be given to and by, respectively, the other parties referenced in the Loan Agreement and this Trust Indenture. Hamlin Capital Management will provide immediate written notice to the Trustee, the Borrower, Ecofin and the Authority when clause (i)(a) is no longer applicable. Ecofin will provide immediate written notice to the Trustee, the Borrower, Hamlin Capital Management and the Authority when clause (ii) (a) is no longer applicable.

Unless otherwise provided in this Trust Indenture, any provision herein requiring the consent or written direction of or taking of any action by the Bondholder Representative shall be deemed to require the consent or direction of or taking of any action by (i) the Bondholder Representative for the Senior Bonds, so long as any Senior Bonds remain Outstanding and (ii) if no Senior Bonds remain Outstanding, then the Bondholder Representative for the Subordinate Bonds. If at any time there is no Bondholder Representative for the Senior Bonds or the Subordinate Bonds (as the case may be), any reference to the Bondholder Representative shall be of no further force and effect.

**"Bond," "Bonds" or "Series 2022 Bonds"** shall mean collectively, the Tax-Exempt Senior Bonds and Subordinate Bonds issued by the Authority pursuant to this Trust Indenture.

**"Borrower"** shall mean The Baldwin Senior Living, a New Hampshire nonprofit corporation.

**"Business Day"** shall mean any day, other than (i) a Saturday or a Sunday, (ii) a day on which banks located in the city in which the designated corporate trust office of the Trustee is located are required or authorized to remain closed and (iii) a day on which the New York Stock Exchange is closed.

**"Capitalized Interest Fund"** shall mean the Capitalized Interest Fund so designated and established by Section 6.01.

**"Closing Memorandum"** shall mean the Closing Memorandum delivered by the Borrower on the Issue Date.

**"Code"** shall mean the Internal Revenue Code of 1986, as amended, including applicable amendments thereto and rulings and regulations thereunder.

**"Collateral"** shall mean the Senior Bond Collateral and the Subordinate Bond Collateral.

**"Completion Certificate"** shall have the meaning set forth in the Continuing Covenants Agreements.

**"Completion Date"** means the date of receipt by the Trustee of a duly executed Completion Certificate.

**"Construction Account"** shall mean the Tax-Exempt Senior Construction Account established in the Project Fund.

**"Construction Monitor"** shall mean Valstin, LLP.

**"Continuing Covenants Agreements"** shall mean, together, the Senior Continuing Covenants Agreement and the Subordinate Continuing Covenants Agreement.

**"Control Agreement"** shall mean the Deposit Account Control Agreement dated as of April 21, 2022 among the Borrower, the Trustee and TD Bank, National Association, and any other deposit account control agreement executed and delivered by the Borrower in favor of the Trustee.

**"Costs of Issuance"** shall have the meaning given in the Tax Certificate.

**"Costs of the Project"** shall have the meaning set forth in Section 5.03.

**"Debt Service Reserve Fund"** shall mean, collectively, the Tax-Exempt Senior Debt Service Reserve Fund and the Subordinate Debt Service Reserve Fund, if any.

**"Debt Service Reserve Fund Requirement"** shall (i) for the Tax-Exempt Senior Debt Service Reserve Fund, have the meaning as set forth in the Senior Continuing Covenants Agreement and (ii) for the Subordinate Debt Service Reserve Fund mean \$1,740,000.

**"Default Rate"** shall mean, for any day, a rate of interest per annum equal to the lesser of (i) the highest rate of interest borne by any of the Bonds as of such date plus three percent (3.00%) and (ii) the Maximum Interest Rate, in each case with any change in such rate being effective as of the date such change is announced.

**"Defeasance Obligations"** shall mean (i) direct general obligations of the United States of America; and (ii) evidences of ownership of proportionate interests in future interest or principal payments on obligations specified in clause (i) of this definition held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor on the underlying obligations described in clause (i) of this definition, and which underlying obligations are not available to satisfy any claim of the custodian or any person claiming through the custodian or to whom the custodian may be obligated.

**"Determination of Taxability"** shall mean and shall be deemed to have occurred on the first to occur of the following:

(a) the filing by the Borrower of any statement, supplemental statement or other tax schedule, return or document which discloses that the interest on any Bond is includable in the gross income of the owner of such Bond for federal income tax purposes;

(b) receipt by the Borrower of notice that the Trustee, a Bondholder Representative or any Bondholder or former Bondholder or former Bondholder has received a written opinion of Bond Counsel to the effect that the interest on any Bond is includable in the gross income of

the owner of such Bond for federal income tax purposes unless, within 100 days after receipt by the Borrower of such notice, the Borrower shall deliver to the Trustee and each Bondholder Representative a ruling or determination letter issued to or on behalf of the Issuer or the Borrower by the Commissioner or any District Director of the Internal Revenue Service (or any other governmental official exercising the same or a substantially similar function from time to time) to the effect that, after taking into consideration such facts as form the basis for such opinion the interest on such Bonds is not includable in the gross income of the owners of such Bonds for federal income tax purposes;

(c) receipt by the Issuer, the Trustee, a Bondholder Representative or any Bondholder or former Bondholder of written notice from the Commissioner or any District Director of the Internal Revenue Service (or any other government official or agent exercising the same or a substantially similar function from time to time) that the interest on any Bond is includable in the gross income of the owner of such Bond for federal income tax purposes; or

(d) receipt by the Issuer, the Trustee, a Bondholder Representative or any Bondholder or former Bondholder of written notice that the Internal Revenue Service (or any other government official or agency exercising the same or a substantially similar function from time to time) has assessed as includable in the gross income of such Bondholder or such former Bondholder the interest on any Bonds.

Notwithstanding the foregoing, no event described in clause (c) or (d) above shall constitute a Determination of Taxability unless the Borrower has been afforded the opportunity, at its sole expense, to contest any such assessment for a period of no more than 100 days so long as the Guarantor, the Sole Member or the Borrower is contesting the same during such 100-day period in good faith by appropriate proceedings diligently pursued until the earliest of (i) the date on which the Guarantor, the Sole Member or the Borrower, respectively, abandons the contest, (ii) the date on which such contest has been concluded adversely to the Guarantor, the Sole Member or the Borrower and no further appeals are possible, and (iii) the date that is six months after the initial receipt by the Issuer, the Trustee, a Bondholder Representative or any Bondholder or former Bondholder of such notice or assessment; *provided, however,* that upon demand from the Trustee or a Bondholder Representative, the Borrower shall promptly reimburse the Trustee, each Bondholder Representative, such Bondholder or such former Bondholder for any payments, including any taxes, interest, penalties, charges or expenses incurred by the Trustee, each Bondholder Representative, such Bondholder or such former Bondholder as a result of such Determination of Taxability.

**"Draw-Down Bonds"** shall mean the Tax-Exempt Senior Bonds where the purchase price of such Bonds is advanced from time to time by the purchasers thereof.

**"DTC"** shall have the meaning set forth in Section 2.10.

**"Ecofin"** shall mean Ecofin Advisors, LLC, a Delaware limited liability company, and its successors and assigns, which has been designated as the initial Bondholder Representative for the Subordinate Bonds.

**"Electronic Means"** shall mean telecopy, facsimile transmission, e-mail transmission or other similar electronic means of communication providing evidence of transmission, including a telephonic communication confirmed by any other method set forth in this definition.

**"Enforcement Action"** shall have the meaning set forth in Section 13.01.

**"Entrance Fee and Deposit Fund"** shall mean the Entrance Fee and Deposit Fund so designated and established by Section 6.01.

**"Entrance Fee Bonds"** shall mean, collectively, the Series 2022C Bonds and the Series 2022D Bonds.

**"Equity Contribution"** shall mean the \$4 million contributed to the Borrower by the Guarantor pursuant to the Recoverable Grant Letter.

**"Equity Costs of Issuance Account"** shall mean the Equity Costs of Issuance Account of the Project Fund so designated and established by Section 6.01.

**"Event of Default"** shall mean any of the events enumerated in Section 9.01.

**"Exigent Circumstance"** shall mean an event or circumstance that in the good faith judgment of the Trustee, in consultation with the Bondholder Representative for the Senior Bonds, imminently threatens the ability of the Trustee or the Holders of the Senior Bonds to realize upon all or any material portion of the Senior Bond Collateral, including removal, concealment, or abscondment thereof, destruction or material waste thereof, or failure of the Borrower after reasonable demand to maintain or reinstate adequate casualty insurance coverage thereon, or which, in the good faith judgment of the Trustee, in consultation with the Bondholder Representative for the Senior Bonds, could result in a material diminution in value of the Senior Bond Collateral.

**"Facility"** shall mean the assisted living and senior care community that will have frontage on First Avenue between First Avenue's intersections with Main Street and Pillsbury Road in the Town of Londonderry, New Hampshire, and owned and operated by the Borrower.

**"Fitch"** shall mean Fitch Ratings or its successors in the business of providing investment rating services, provided that if neither Fitch nor any successor is then in such business the reference to Fitch and ratings thereof shall be of no further force and effect.

**"Funds"** and **"Accounts"** shall mean, unless the context otherwise requires, the funds and accounts established and maintained under this Trust Indenture for the Series 2022 Bonds.

**"GAAP"** shall mean generally accepted accounting principles in effect from time to time in the United States.

**"General Enforcement Action"** shall mean any action by the Bondholder Representative for the Subordinate Bonds or the Trustee to accelerate payment of any of the Subordinate Bonds, commence or join in the commencement against the Borrower of any

Insolvency or Liquidation Proceeding, or commence or join in the commencement of any litigation, action, or proceeding against the Borrower in respect of any of the Subordinate Bonds.

**"Government Obligations"** shall mean direct obligations of, or obligations the timely payment of the principal of and interest on which is unconditionally guaranteed by, the United States of America.

**"Gross Revenues"** shall have the meaning set forth in the Continuing Covenants Agreements.

**"Guarantor"** shall mean Edgewood Retirement Community, Inc., a Massachusetts nonprofit corporation.

**"Guaranty Agreement"** shall mean the Support Agreement dated as of April 1, 2022 between the Guarantor and the Trustee for the benefit of the Holders of the Senior Bonds.

**"Hamlin Capital Management"** shall mean Hamlin Capital Management, LLC, a Delaware limited liability company and its successors and assigns initially serving as the Bondholder Representative to all of the holders of the Senior Bonds.

**"Hamlin Investor Bond"** shall mean the Bonds for which all the following conditions are met: (i) the holders of the Bonds are advised by Hamlin Capital Management under the Investment Advisors Act of 1940 pursuant to a written investment advisory agreement or a limited partnership agreement with respect to a limited partnership for which Hamlin Capital Management acts as the manager; and (ii) the Bonds are held in managed accounts or commingled investment vehicles of accredited investors or qualified institutional buyers as such terms are defined in the Securities Act of 1933, as amended, and Regulation D thereunder.

**"HCA"** means Hamlin Capital Advisors, LLC and its successors and assigns.

**"Highest Lawful Rate"** shall mean the maximum interest rate allowed by applicable law relating to usury as is in effect on the issue date of the Series 2022 Bonds or, to the extent allowed by applicable law, such higher interest rate as may thereafter be allowed.

**"Initial Subseries"** shall mean the Subseries of a Series of Draw-Down Bonds delivered on the date of closing.

**"Insolvency or Liquidation Proceeding"** shall mean: (a) any voluntary or involuntary case or proceeding under Title 11 of the United States Code (as now and hereafter in effect or any successor statute) with respect to the Borrower; (b) any other voluntary or involuntary insolvency, reorganization, or bankruptcy case or proceeding, or any receivership, liquidation, reorganization, or other similar case or proceeding with respect to the Borrower or with respect to a material portion of the Borrower's assets; (c) any liquidation, dissolution, reorganization, or winding up of the Borrower, whether voluntary or involuntary and whether or not involving insolvency or bankruptcy; or (d) any assignment for the benefit of creditors or any other marshalling of assets and liabilities of the Borrower.

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**"Interest Account"** shall mean the account in the applicable Bond Fund so designated and established by Section 6.01.

**"Interest Payment Date"** shall mean each April 1 and October 1, commencing October 1, 2022.

**"Issue Date"** shall mean April 21, 2022.

**"Investment Grade Rating"** shall mean a rating of "BBB-minus" (or its equivalent) or higher by any Rating Agency.

**"Lien"** shall mean any lien, mortgage, pledge, assignment, security interest, charge, or encumbrance of any kind (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement, and any lease in the nature thereof) and any option, trust, UCC financing statement, or other preferential arrangement having the practical effect of any of the foregoing.

**"Lien Enforcement Action"** shall mean any action by (i) the Trustee or any Holder of Senior Bonds or the Bondholder Representative for the Senior Bonds to exercise or seek to exercise any rights or remedies under any of the Security Instruments or applicable law with respect to any of the Collateral, including (a) any action by the Trustee or any Holder of Senior Bonds or the Bondholder Representative for the Senior Bonds to foreclose on the Lien of such person on all or any portion of the Collateral, (b) any action by the Trustee or any Holder of Senior Bonds or the Bondholder Representative for the Senior Bonds to take possession of, dispose of, or otherwise realize (judicially or nonjudicially) upon all or any portion of the Collateral (including, without limitation, by setoff, notification of account debtors, or the exercise of any rights under any lockbox agreement, account control agreement, landlord waiver or bailee's letter, or similar agreement or arrangement, or the solicitation of bids to dispose of any Collateral and the engagement of any broker or banker to dispose of any Collateral), or (c) the commencement by the Trustee or any Holder of Senior Bonds or the Bondholder Representative for the Senior Bonds of any action or proceeding against the Borrower or with respect to all or any portion of the Collateral to facilitate the exercise of any rights or remedies under any of the Security Instruments securing the Subordinate Bonds or applicable law with respect to any of the Subordinate Collateral, including (a) any action by the Subordinate Lender to foreclose on the Lien of such person on all or any portion of the Subordinate Collateral, (b) any action by the Subordinate Lender to take possession of, dispose of, or otherwise realize (judicially or non-judicially) upon all or any portion of the Subordinate Collateral (including, without limitation, by setoff, notification of account debtors, or the exercise of any rights under any lockbox agreement, account control agreement, landlord waiver or bailee's letter, or similar agreement or arrangement, or the solicitation of bids to dispose of any Subordinate Collateral and the engagement of any broker or banker to dispose of any Subordinate Collateral), or (c) the commencement by the Subordinate Lender of any action or proceedings against the Borrower or with respect to all or any portion of the Subordinate Collateral to facilitate any of the actions described in (a) or (b) above.

**"Loan"** shall mean, collectively, the Senior Loan and the Subordinate Loan.

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**"Loan Agreement"** shall mean the Loan Agreement dated as of April 1, 2022 between the Authority and the Borrower, as amended and supplemented from time to time.

**"Loan Payment"** shall mean the repayment of principal and payments of interest and other payments required to be made under the Loan Agreement by the Borrower to the Trustee or to others pursuant to the Loan Agreement.

**"Maximum Interest Rate"** shall mean the maximum rate of interest permitted by applicable Law.

**"Moody's"** shall mean Moody's Investors Service, Inc. or its successors in the business of providing investment rating services, provided that if neither Moody's nor any successor is then in such business the reference to Moody's and ratings thereof shall be of no further force and effect.

**"Mortgaged Property"** shall mean the real and personal property subject to the liens of the Mortgages.

**"Mortgages"** shall mean collectively the Senior Mortgage and the Second Mortgage.

**"Non-Hamlin Investor Bond"** shall mean any Bond (or any portion thereof) which does not qualify as a Hamlin Investor Bond.

**"Opinion of Bond Counsel"** shall mean an opinion in writing signed by Bond Counsel.

**"Outstanding"** or **"Bonds Outstanding"** shall mean each Series or Subseries of Series 2022 Bonds (individually or collectively) that have been authenticated and delivered by the Trustee under this Trust Indenture, except the following:

(a) Series 2022 Bonds canceled or purchased by or delivered to the Trustee for cancellation pursuant to the provisions of this Trust Indenture;

(b) Series 2022 Bonds that have become due (at maturity or on redemption, acceleration or otherwise) and for the payment, including interest accrued to the due date, of which sufficient money is held by the Trustee;

(c) Series 2022 Bonds deemed paid pursuant to Section 8.01;

(d) Series 2022 Bonds owned by, or on behalf of, the Borrower, the Sole Member, the Guarantor or any affiliate thereof; and

(e) Series 2022 Bonds that have been authenticated under Section 2.06 (relating to registration and exchange of Series 2022 Bonds) or Section 2.08 (relating to mutilated, lost, stolen, destroyed or undelivered Series 2022 Bonds) in lieu of other Series 2022 Bonds.

**"Participants"** shall have the meaning set forth in Section 2.10.

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**"Permitted Investments"** shall mean, with respect to the proceeds of the Series 2022 Bonds:

(a) obligations which are direct, full faith and credit obligations of the United States of America or are obligations with respect to which the United States of America has unconditionally guaranteed the timely payment of all principal or interest or both, but only to the extent of the principal or interest so guaranteed and bonds or securities issued or guaranteed as to principal and interest by a commission, board or other instrumentality of the federal government;

(b) short-term discount obligations of the Federal National Mortgage Association;

(c) certificates of deposit or time deposits constituting direct obligations of any bank the full amount of which is insured by the Federal Deposit Insurance Corporation;

(d) time deposits in any credit union, bank, savings bank, trust company or savings and loan association which is authorized to transact business in the State if the time deposits mature in not more than three years;

(e) bonds or securities of any county, city, drainage district, technical college district, village, town or school district of the State security that have a rating which is at least the third highest rating category assigned by S&P, Moody's or other similar nationally recognized rating agency;

(f) any security which matures or which may be tendered for purchase at the option of the holder within not more than seven years of the date on which it is acquired, if that security has a rating which is the highest or second highest rating category assigned by S&P, Moody's or other similar nationally recognized rating agency or if that security is senior to, or on a parity with, a security of the same issuer which has such a rating;

(g) securities of an open-end management investment company or investment trust if the investment company or investment trust does not charge a sales load, if the investment company or investment trust is registered under the Investment Company Act of 1940, 15 USC 80a-1 to 80a-64 and if the portfolio of the investment company or investment trust is limited to the following: (i) bonds and securities issued by the federal government or a commission, board or other instrumentality of the federal government, (ii) bonds that are guaranteed as to principal and interest by the federal government or a commission, board or other instrumentality of the federal government and (iii) repurchase agreements that are fully collateralized by bonds or securities described under (i) or (ii); and

(h) any other obligation or security which constitutes a permitted investment for money of the Authority under the laws of the State if the prior written consent of the Authority and Senior Bondholder Representative are obtained.

**"Pledge Agreement"** shall mean the Pledge Agreement (Membership Interest) dated as of April 1, 2022, from the Sole Member to the Trustee.

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**"Principal Account"** shall mean the account in the applicable Bond Fund so designated and established by Section 6.01.

**"Project Completion Date"** shall mean the date on which completion of the 2022 Project has been certified pursuant to Section 5.05.

**"Project Fund"** shall mean the Project Fund so designated and established by Section 6.01.

**"Qualified Project Costs"** shall mean costs paid with respect to the 2022 Project that meet each of the following requirements:

(i) the costs are properly chargeable to capital account (or would be so chargeable with a proper election by the Borrower or but for a proper election by the Borrower to deduct such costs); provided that interest accruing after the date of completion of the 2022 Project shall not be a Qualified Project Cost; and provided still further that if any portion of the 2022 Project is being constructed by an affiliate (whether as general contractor or a subcontractor), Qualified Project Costs shall include only (A) the actual out-of-pocket costs incurred by such affiliate in constructing the 2022 Project (or any portion thereof), (B) any reasonable fees for supervisory services actually rendered by such affiliate, and (C) any overhead expenses incurred by such affiliate which are directly attributable to the work performed on the 2022 Project, and shall not include, for example, intercompany profits resulting from members of an affiliated group (within the meaning of Section 1504 of the Code) participating in the construction of the 2022 Project or payments received by such affiliate due to early completion of the 2022 Project (or any portion thereof);

(ii) the costs are paid after the earlier of 60 days prior to the date of a declaration of "official intent" to reimburse costs paid with respect to the 2022 Project (within the meaning of §1.150-2 of the United States Treasury Regulations) or the date of issue of the Bonds; and

(iii) if the costs of the acquisition and construction of the 2022 Project were previously paid and are to be reimbursed with proceeds of the Tax-Exempt Bonds such costs were (A) costs of issuance of the Bonds, (B) preliminary capital expenditures (within the meaning of United States Treasury Regulations §1.150-2(f)(2)) with respect to the 2022 Project (such as architectural, engineering and soil testing services incurred before commencement of acquisition and construction of the 2022 Project that do not exceed twenty percent (20%) of the issue price of the Bonds (as defined in United States Treasury Regulations §1.148-1), or (C) were capital expenditures with respect to the 2022 Project that are reimbursed no later than eighteen (18) months after the later of the date the expenditure was paid or the date the 2022 Project is placed in service (but no later than three (3) years after the expenditures is paid).

**"Rating Agency"** shall mean Moody's, Fitch or S&P.

**"Rebate Amount"** shall have the meaning set forth in Section 6.07.

**"Rebate Fund"** shall mean the fund so designated and established in accordance with Section 6.01.

**"Record Date"** shall mean the close of business on the fifteenth (15th) day of the calendar month preceding such Interest Payment Date, regardless of whether such day is a Business Day.

**"Recoverable Grant Letter"** shall mean the letter agreement between the Borrower and the Guarantor with respect to the Equity Contribution.

**"Repair and Replacement Fund"** shall mean the fund by that name created pursuant to Section 6.01 hereof.

**"Repair and Replacement Fund Requirement"** shall mean an initial amount equal to \$350 per Unit (as such term is defined in the Continuing Covenants Agreements), which will be funded annually, with monthly payments commencing on the first day of the first month following the receipt of a certificate of occupancy by the Borrower.

**"Requisition"** shall mean a requisition of proceeds of the Series 2022 Bonds as described in Section 5.04 or Section 6.11 hereof, as applicable, and a Requisition Certificate provided thereunder.

**"Requisition Certificate"** shall mean a certificate executed by the Authorized Representative of the Borrower and approved by the Bondholder Representative for the Senior Bonds or the Construction Monitor, as applicable, requesting a requisition of proceeds of the Senior Bonds or the Repair and Replacement Fund, as applicable, which shall be substantially in the form of Exhibit B.

**"Responsible Officer"** when used with respect to the Trustee shall mean the authorized person in the corporate trust department of the Trustee having direct responsibility for administration of this Trust Indenture.

**"Second Mortgage"** shall mean the Second Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing Statement dated as of April 1, 2022 and effective April 21, 2022, from the Borrower, as Mortgagor, to the Trustee, as Mortgagor, for the benefit of the Holders of the Subordinate Bonds, and which grants a second lien on the Mortgaged Property, including any amendments and supplements thereto.

**"Securities Act"** shall mean the Securities Act of 1933, as amended.

**"Security Instruments"** shall mean the Assignment, the Mortgages, the Continuing Covenants Agreements, the Guaranty Agreement, the Control Agreement and the Pledge Agreement, as the same may be amended and supplemented from time to time.

**"Senior Bond Collateral"** shall mean all of the assets and property of the Borrower, whether real, personal, or mixed, and whether now existing or hereafter acquired, with respect to which a Lien is granted to secure any Senior Bonds and all proceeds thereof.

**"Senior Bonds"** shall mean the Tax-Exempt Senior Bonds.

**"Senior Continuing Covenants Agreement"** shall mean the Continuing Covenants Agreement with respect to the Senior Bonds dated as of April 1, 2022 between the Borrower and the Trustee, as amended and supplemented from time to time.

**"Senior Lender"** shall have the meaning set forth in Section 13.01.

**"Senior Mortgage"** shall mean the Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing Statement dated as of April 1, 2022 and effective April 21, 2022, from the Borrower, as Mortgagor, to the Trustee, as Mortgagor, for the benefit of the Holders of the Senior Bonds, and which grants a first lien on the Mortgaged Property, including any amendments and supplements thereto.

**"Series"** shall refer to Bonds that share the same series designation, as Tax-Exempt Senior Bonds or Subordinate Bonds.

**"Series 2020 Bonds"** shall mean the Authority's Revenue Bonds (The Baldwin at Woodmont Commons Project) Series 2020, outstanding in the principal amount of \$19,100,000.00.

**"Sole Member"** shall mean Edgewood Senior Solutions Group, Inc., the sole member of the Borrower.

**"State"** shall mean the State of New Hampshire.

**"Subordinate Bond Collateral"** shall mean all of the assets and property of the Borrower, whether real, personal, or mixed, and whether now existing or hereafter acquired, with respect to which a Lien is granted to secure any Subordinate Bonds and all proceeds thereof.

**"Subordinate Bonds"** shall mean the \$17,400,000 Business Finance Authority of the State of New Hampshire Subordinate Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022E.

**"Subordinate Capitalized Interest Account"** shall mean the Subordinate Capitalized Interest Account of the Project Fund so designated and established by Section 6.01.

**"Subordinate Continuing Covenants Agreement"** shall mean the Continuing Covenants Agreement with respect to the Subordinate Bonds dated as of April 1, 2022 between the Borrower and the Trustee, as amended and supplemented from time to time.

**"Subordinate Costs of Issuance Account"** shall mean the Subordinate Costs of Issuance Account of the Project Fund so designated and established by Section 6.01.

**"Subordinate Debt Service Reserve Fund"** shall mean the Subordinate Debt Service Reserve Fund so designated and established by Section 6.01.

**"Subordinate Lender"** shall have the meaning set forth in Section 13.01.

**"Subsequent Subseries"** shall mean any Subseries of the Tax-Exempt Senior Bonds issued after the Initial Subseries of such Tax-Exempt Senior Bonds, if any.

**"Subseries"** when used with respect to a Series of Draw-Down Bonds, shall mean the various subseries of such Series of Draw-Down Bonds issued and separately designated as a subseries.

**"S&P"** shall mean S&P Global Ratings, a division of S&P Global Inc., or its successors in the business of providing investment rating services, provided that if neither S&P nor any successor is then in such business the references to S&P and ratings thereof shall be of no further force and effect.

**"Tax Certificate"** shall mean the Tax Certificate and Agreement dated April 21, 2022, executed by the Authority and acknowledged by the Borrower.

**"Tax and Insurance Escrow Fund"** shall mean a fund so designated and established in accordance with Section 6.01.

**"Taxable Period"** shall mean the period, if any, for which interest on the Tax-Exempt Bonds is included in the gross income of a Bondholder.

**"Taxable Rate"** shall mean, with respect to a Taxable Period, the product of (i) the interest rate on the applicable Series of Tax-Exempt Bonds during such period and (ii) 1.4.

**"Tax-Exempt Bonds"** shall mean the Series 2022 Bonds.

**"Tax-Exempt Senior Bonds"** shall mean, collectively, (i) the not to exceed \$87,800,000 Business Finance Authority of the State of New Hampshire Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022A, (ii) the \$15,000,000 Business Finance Authority of the State of New Hampshire Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022B, (iii) the not to exceed \$38,500,000 Business Finance Authority of the State of New Hampshire Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022C, and (iv) the not to exceed \$30,000,000 Business Finance Authority of the State of New Hampshire Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022D.

**"Tax-Exempt Senior Capitalized Interest Account"** shall mean the Tax-Exempt Senior Capitalized Interest Account of the Project Fund so designated and established by Section 6.01.

**"Tax-Exempt Senior Construction Account"** shall mean the Tax-Exempt Senior Construction Account of the Project Fund so designated and established by Section 6.01.

**"Tax-Exempt Senior Costs of Issuance Account"** shall mean the Tax-Exempt Senior Costs of Issuance Account of the Project Fund so designated and established by Section 6.01.

**"Tax-Exempt Senior Debt Service Reserve Fund"** shall mean the Tax-Exempt Senior Debt Service Reserve Fund so designated and established by to Section 6.01.

**"Trust Estate"** shall mean (i) all rights, title and interest of the Authority under, in and to the Loan Agreement, the Security Instruments and all revenues and receipts receivable by the Authority therefrom and the security therefor (except the Authority's Unsigned Rights), but excluding the payments made directly to the Authority pursuant to the Loan Agreement, (ii) all money and securities on deposit in the Funds and Accounts established under this Trust Indenture, together with investment earnings thereon (except any amounts on deposit in the Rebate Fund), and (iii) all other property of any kind mortgaged, pledged or hypothecated at any time as and for additional security for the Series 2022 Bonds.

**"Trust Indenture"** or **"Indenture"** shall mean this Trust Indenture, including any amendments or supplements thereto.

**"Trustee"** shall mean the entity at the time serving as such under this Trust Indenture, whether the original or successor trustee.

**"2022 Project"** shall have the meaning as set forth in the recitals.

**"Unsigned Rights"** shall mean all of the rights of the Authority under the Loan Agreement and under this Trust Indenture to be held harmless and indemnified, to be paid its fees and expenses, to give or withhold consent to amendments, changes, modifications and alterations, to receive notices and reporting requirements, to inspect and audit the books, records and premises of the Borrower and of the 2022 Project, the right to collect its attorneys' fees and related expenses, the right to specifically enforce the Borrower's covenant to comply with applicable federal law, including, but not limited to federal tax law, and State law, and the right to enforce, in its own name and on its own behalf, those provisions hereof, and of the Loan Agreement and any other document, instrument or agreement entered into with respect to the Series 2022 Bonds that provide generally for the foregoing enumerated rights or any similar rights of the Authority, its officers, members, employees and agents.

**"Underwriter"** shall mean Odeon Capital Group LLC, as underwriter of the Bonds pursuant to that certain Bond Purchase Agreement dated April 19, 2022, among the Borrower, the Authority and Odeon Capital Group, LLC.

**"Working Capital Fund"** shall mean a fund so designated and established in accordance with Section 6.01.

**"5 Year MMD"** shall mean as of any particular date, an interest rate equal to the Municipal Market Data Index for general obligation bonds having a "Aaa," "Aaa" or "AAA" credit rating from Moody's or S&P, respectively, having a term equal to five years, published on the most recent date on or prior to such date by Thomson Reuters in the Thompson Municipal Market Monitor, or if such index is not available, another comparable index determined by the Trustee (who may rely upon an opinion of a commercial or investment banking firm knowledgeable in Municipal Market Data Index) and approved by the Bondholder Representative for the Senior Bonds.

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**"7 Year MMD"** shall mean as of any particular date, an interest rate equal to the Municipal Market Data Index for general obligation bonds having a "Aaa," "Aaa" or "AAA" credit rating from Moody's or S&P, respectively, having a term equal to seven years, published on the most recent date on or prior to such date by Thomson Reuters in the Thompson Municipal Market Monitor, or if such index is not available, another comparable index determined by the Trustee (who may rely upon an opinion of a commercial or investment banking firm knowledgeable in Municipal Market Data Index) and approved by the Bondholder Representative for the Senior Bonds.

## Section 1.02 Rules of Construction.

The following rules shall apply to the construction of this Trust Indenture unless the context otherwise requires:

(a) Singular words shall connote the plural number as well as the singular and vice versa.

(b) Words importing the redemption or calling for redemption of a Series of Series 2022 Bonds shall not be deemed to refer to or connote the payment of a Series of Series 2022 Bonds at their stated maturity.

(c) All references herein to particular articles or sections are references to articles or sections of this Trust Indenture.

(d) The headings and Table of Contents herein are solely for convenience of reference and shall not constitute a part of this Trust Indenture nor shall they affect its meaning, construction or effect.

(e) All references herein to the payment of Series 2022 Bonds are references to payment of principal of and interest on Series 2022 Bonds.

(f) Unless otherwise specified, all references to time shall mean New York City time.

## ARTICLE II AUTHORIZATION, EXECUTION, AUTHENTICATION, REGISTRATION AND DELIVERY OF SERIES 2022 BONDS

### Section 2.01 Authorization of Series 2022 Bonds.

(a) There is hereby authorized the issuance of five Series of Series 2022 Bonds consisting of:

(i) Series 2022A Bonds, in the form attached hereto as Exhibit A-1, which shall be designated "Business Finance Authority of the State of New Hampshire Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022A" in an aggregate principal amount not to exceed EIGHTY-SEVEN MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$87,800,000.00) for the purpose of refinancing a portion of the Series 2020 Bonds, financing a portion of the Costs of the Project, funding a portion of the Tax-Exempt Senior Debt Service Reserve Fund, paying capitalized interest on the Series 2022B Bonds during the construction period and paying a portion of the costs of issuance of the Series 2022B Bonds permitted to be financed with proceeds of tax-exempt bonds under the Code;

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1, 2022, and (B) with respect to any Subsequent Subseries, as set forth therein, and shall mature on April 1, 2029, subject to redemption prior to maturity as provided herein. The Series 2022A Bonds shall be subject to the Additional Premium payable upon the maturity of the Series 2022A Bonds.

(ii) The Series 2022B Bonds shall be issued as Tax-Exempt Bonds, will bear interest as described in Section 2.02(b) below, payable on each Interest Payment Date commencing October 1, 2022, and shall mature on April 1, 2029, subject to redemption prior to maturity as provided herein.

(iii) The Series 2022C Bonds shall be issued as Tax-Exempt Bonds and as Draw-Down Bonds, will bear interest as described in Section 2.02(b) below, payable on each Interest Payment Date commencing (A) with respect to the Initial Subseries of Series 2022C Bonds, October 1, 2022, and (B) with respect to any Subsequent Subseries, as set forth therein, and shall mature on April 1, 2027, subject to redemption prior to maturity as provided herein.

(iv) The Series 2022D Bonds shall be issued as Tax-Exempt Bonds and as Draw-Down Bonds, will bear interest as described in Section 2.02(b) below, payable on each Interest Payment Date commencing (A) with respect to the Initial Subseries of Series 2022D Bonds, October 1, 2022, and (B) with respect to any Subsequent Subseries, as set forth therein, and shall mature on April 1, 2027, subject to redemption prior to maturity as provided herein.

(v) The Subordinate Bonds shall be issued as Tax-Exempt Bonds, will bear interest as described in Section 2.02(b) below, payable on each Interest Payment Date commencing October 1, 2022 and shall mature on April 1, 2029, subject to redemption prior to maturity as provided herein.

### Section 2.02 Details of Series 2022 Bonds.

#### (a) General.

The Series 2022 Bonds shall be issuable as registered bonds in Authorized Denominations and shall be dated the date of their delivery. Interest shall accrue on the Outstanding principal amount of the Series 2022 Bonds from the date of delivery of such Series 2022 Bonds at the rates determined as provided in this Section.

The principal of and premium, if any, and interest on the Series 2022 Bonds shall be payable in lawful money of the United States of America, but only from the Trust Estate. Principal of and premium, if any, on the Series 2022 Bonds shall be payable upon presentation and surrender of such Series 2022 Bonds as they become due at the designated trust operations office of the Trustee. Interest on the Series 2022 Bonds shall be payable to the registered owners by check or draft mailed to such owners at their addresses as they appear on registration books kept by the Trustee as bond registrar as of the Record Date. Any Holder of at least \$1,000,000 in aggregate principal amount of Series 2022 Bonds may elect, by written request to the Trustee delivered prior to the applicable Record Date, to have payment of interest made by federal funds, wire transfer or any other customary banking arrangement acceptable to the Trustee to a bank located within the continental United States for deposit to an account designated in writing by such Holder. Notwithstanding the foregoing, while DTC's nominee is the Holder of any Series 2022 Bonds, payments of the principal of and premium, if any, and

portion of the Costs of the Project, funding a portion of the Tax-Exempt Senior Debt Service Reserve Fund, paying capitalized interest on the Series 2022A Bonds during the construction period and paying a portion of the costs of issuance of the Series 2022A Bonds permitted to be financed with proceeds of tax-exempt bonds under the Code;

(ii) Series 2022B Bonds, in the form attached hereto as Exhibit A-1, which shall be designated "Business Finance Authority of the State of New Hampshire Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022B" in an aggregate principal amount of FIFTEEN MILLION DOLLARS (\$15,000,000.00) for the purpose of refinancing a portion of the Series 2020 Bonds, financing a portion of the Costs of the Project, funding a portion of the Tax-Exempt Senior Debt Service Reserve Fund, paying capitalized interest on the Series 2022B Bonds during the construction period and paying a portion of the costs of issuance of the Series 2022B Bonds permitted to be financed with proceeds of tax-exempt bonds under the Code;

(iii) Series 2022C Bonds, in the form attached hereto as Exhibit A-2, which shall be designated "Business Finance Authority of the State of New Hampshire Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022C" in an aggregate principal amount not to exceed THIRTY-EIGHT MILLION FIVE HUNDRED THOUSAND DOLLARS (\$38,500,000.00) for the purpose of financing a portion of the Costs of the Project, funding a portion of the Tax-Exempt Senior Debt Service Reserve Fund, paying capitalized interest on the Series 2022C Bonds during the construction period and paying a portion of the costs of issuance of the Series 2022C Bonds permitted to be financed with proceeds of tax-exempt bonds under the Code;

(iv) Series 2022D Bonds, in the form attached hereto as Exhibit A-3, which shall be designated "Business Finance Authority of the State of New Hampshire Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022D" in an aggregate principal amount not to exceed THIRTY MILLION DOLLARS (\$30,000,000.00) for the purpose of financing a portion of the Costs of the Project, funding a portion of the Tax-Exempt Senior Debt Service Reserve Fund, paying capitalized interest on the Series 2022D Bonds during the construction period and paying a portion of the costs of issuance of the Series 2022D Bonds permitted to be financed with proceeds of tax-exempt bonds under the Code; and

(v) Subordinate Bonds, in the form attached hereto as Exhibit A-4, which shall be designated "Business Finance Authority of the State of New Hampshire Subordinate Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022E" in an aggregate principal amount of SEVENTEEN MILLION FOUR HUNDRED THOUSAND DOLLARS (\$17,400,000.00) for the purpose of refinancing a portion of the Series 2020 Bonds, funding the Subordinate Debt Service Reserve Fund, paying capitalized interest on the Subordinate Bonds during the construction period and paying a portion of the costs of issuance of the Subordinate Bonds permitted to be financed with tax-exempt proceeds under the Code.

(b) The general terms of each Series of Series 2022 Bonds are as set forth below:

(i) The Series 2022A Bonds shall be issued as Tax-Exempt Bonds and as Draw-Down Bonds, will bear interest as described in Section 2.02(b) below, payable on each Interest Payment Date commencing (A) with respect to the Initial Subseries of Series 2022A Bonds, October

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interest on such Series 2022 Bonds shall be made in accordance with existing arrangements between the Trustee and DTC.

If any principal or premium, if any, or interest on any Series 2022 Bond is not paid when due (whether at maturity, upon acceleration or call for redemption or otherwise), then the overdue installments of principal and, to the extent permitted by law, interest shall bear interest until paid at the Default Rate.

(b) **Designations and Interest Rate.**

(i) The Initial Subseries of the Series 2022A Bonds shall be designated Subseries 2022A-1 and each Subsequent Subseries designation shall be numbered consecutively upward from Subseries 2022A-1. Individual bond certificates evidencing the Initial Subseries of the Series 2022A Bonds shall be numbered consecutively from A1R-1. The interest rate on Subseries 2022A-1 of the Series 2022A Bonds shall be 5.75% per annum and the principal amount of Subseries 2022A-1 of the Series 2022A Bonds is \$5,055,000. Each Subsequent Subseries of the Series 2022A Bonds issued thereafter shall accrue interest at a rate determined at 4:30 p.m. on the third Business Day before the date of the related Advance equal to the 7 Year MMD plus 350 basis points; provided, however, that in no event shall the interest rate be less than 5.45% or exceed the lesser of 5.75% or the Highest Lawful Rate. Upon the occurrence of a Determination of Taxability, the Series 2022A Bonds shall bear interest during a Taxable Period at the Taxable Rate. On the first Interest Payment Date that occurs at least 45 days after the final delivery of the Series 2022 Bonds, the various Subseries of Series 2022A Bonds shall be consolidated pursuant to subsection (e) of this Section 2.02 into one Series 2022A Bond certificated with a new CUSIP bearing interest at a rate determined as the average of the interest rates of all Subseries of Series 2022A Bonds weighted by stated principal amount and rounded up to the nearest hundredth by the Underwriter. Upon maturity, the Series 2022A Bonds shall be payable at 100% of the stated principal amount thereof, and upon maturity an amount, equal to 1.00% of the outstanding principal amount of the Series 2022A Bonds, shall also be payable with respect to the Series 2022A Bonds (such additional amount being referred to as the **"Additional Premium"**). The Additional Premium shall not constitute principal or interest on the Series 2022A Bonds.

(ii) The Series 2022B Bonds shall be designated Subseries 2022B-1. Individual bond certificates evidencing the Series 2022B Bonds shall be numbered consecutively from B1R-1. The interest rate on the Series 2022B Bonds shall be 5.75% per annum and the principal amount of the Series 2022B Bonds is \$15,000,000. Upon the occurrence of a Determination of Taxability, the Series 2022B Bonds shall bear interest during a Taxable Period at the Taxable Rate.

(iii) The Initial Subseries of the Series 2022C Bonds shall be designated Subseries 2022C-1 and each Subsequent Subseries designation shall be numbered consecutively upward from Subseries 2022C-1. Individual bond certificates evidencing the Initial Subseries of the Series 2022C Bonds shall be numbered consecutively from C1R-1. The interest rate on Subseries 2022C-1 of the Series 2022C Bonds shall be 3.75% per annum and the principal amount of Subseries 2022C-1 of the Series 2022C Bonds is \$2,220,000. Each Subsequent Subseries of the Series 2022C Bonds issued thereafter shall accrue interest at a rate determined at 4:30 p.m. on the third Business Day before the date of the related Advance equal

to the 5 Year MMD plus 280 basis points; provided, however, that in no event shall the interest rate be less than 3.00% or exceed the lesser of 3.75% or the Highest Lawful Rate. Upon the occurrence of a Determination of Taxability, the Series 2022C Bonds shall bear interest during a Taxable Period at the Taxable Rate. On the first Interest Payment Date that occurs at least 45 days after the final delivery of the Series 2022 Bonds, the various Subseries of Series 2022C Bonds shall be consolidated pursuant to subsection (e) of this Section 2.02 into one Series 2022C Bond certificated with a new CUSIP bearing interest at a rate determined as the average of the interest rates of all Subseries of Series 2022C Bonds weighted by stated principal amount and rounded up to the nearest hundredth by the Underwriter.

(iv) The Initial Subseries of the Series 2022D Bonds shall be designated Subseries 2022D-1 and each Subsequent Subseries designation shall be numbered consecutively upward from Subseries 2022D-1. Individual bond certificates evidencing the Initial Subseries of the Series 2022D Bonds shall be numbered consecutively from D1R-1. The interest rate on Subseries 2022D-1 of the Series 2022D Bonds shall be 5.50% per annum and the principal amount of Subseries 2022D-1 of the Series 2022D Bonds is \$1,725,000. Each Subsequent Subseries of the Series 2022D Bonds issued thereafter shall accrue interest at a rate determined at 4:30 p.m. on the third Business Day before the date of the related Advance equal to the 5 Year MMD plus 350 basis points; provided, however, that in no event shall the interest rate be less than 5.00% or exceed the lesser of 5.50% or the Highest Lawful Rate. Upon the occurrence of a Determination of Taxability, the Series 2022D Bonds shall bear interest during a Taxable Period at the Taxable Rate. On the first Interest Payment Date that occurs at least 45 days after the final delivery of the Series 2022 Bonds, the various Subseries of Series 2022D Bonds shall be consolidated pursuant to subsection (e) of this Section 2.02 into one Series 2022D Bond certificated with a new CUSIP bearing interest at a rate determined as the average of the interest rates of all Subseries of Series 2022D Bonds weighted by stated principal amount and rounded up to the nearest hundredth by the Underwriter.

(v) The interest rate on the Subordinate Bonds shall be 10% per annum and the principal amount of the Subordinate Bonds is \$17,400,000. Except as payable from the Subordinate Capitalized Interest Account or the Subordinate Debt Service Reserve Fund as provided in this Trust Indenture, interest shall be paid on each Interest Payment Date unless an Event of Default shall have occurred, such payment shall cause Days' Cash on Hand to be below 90 or 100 days, as applicable, as set forth in Section 4.13 of the Senior Continuing Covenants Agreement, or there is insufficient money to make such payment. Any interest not paid on an Interest Payment Date shall accrue and shall compound semiannually, with interest calculated based on the outstanding par amount of the Subordinate Bonds, and shall be payable on any subsequent Interest Payment Date, subject to the terms and conditions of this Trust Indenture. Upon the occurrence of a Determination of Taxability, the Subordinate Bonds shall bear interest during a Taxable Period at the Taxable Rate. In order to demonstrate compliance with the Days' Cash on Hand requirement of this paragraph, the Executive Director of the Borrower shall deliver a certificate on each March 1 and September 1 to the Trustee and each Bondholder Representative, setting forth the calculation of the Borrower's Days' Cash on Hand as of each January 31 and July 31; such certificate shall be subject to the review, confirmation and approval of the Bondholder Representative for the Senior Bonds and the Bondholder Representative for the Subordinate Bonds, which review, confirmation and approval shall be completed by March 15 or September 15, as applicable.

(vi) Interest on all Series 2022 Bonds shall be computed on the basis of a 360-day year consisting of twelve 30-day months and shall be payable on each Interest Payment Date.

(c) **Execution.**

The Series 2022 Bonds shall be signed by the manual or facsimile signature of an Authorized Signatory of the Authority. In case any officer whose signature or a facsimile of whose signature shall appear on any Series 2022 Bond shall cease to be such officer before the delivery of such Series 2022 Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes if he had remained in office until such delivery. Any Series 2022 Bond may bear the facsimile signature of such persons as at the actual time of the execution thereof shall be the proper officers to sign such Series 2022 Bond although at the date of delivery of such Series 2022 Bond such persons may not have been such officers.

(d) **Advances of Tax-Exempt Senior Bonds.**

Subject to terms and conditions contained in this Trust Indenture, Advances (excluding the Initial Advance) in minimum increments of \$3,000,000 or (i) in the case of the final Advance, such smaller amount as is needed to advance the remaining principal balance of the Tax-Exempt Senior Bonds, or (ii) in the case of any Advance, such smaller amount as shall be approved by the Bondholder Representative for the Senior Bonds, shall be made to the Borrower under the Loan Agreement to finance a portion of the Costs of the Project, in accordance with this subsection.

The Borrower shall provide notice by Electronic Means to the following individuals (or such other contact persons as may be provided to the Borrower): (i) the Bondholder Representative at Joe Bridy (jbridy@hamlincm.com) and Charlie Harkin (charkin@hamlincm.com); (ii) HCA at Michael Armstrong (marmstrong@hamlinadvisors.com) and Sharon Ioannidis (sioannidis@hamlinadvisors.com); (iii) the Underwriter at Scott Kayser (skayser@odeoncap.com); (iv) the Authority at James Key-Wallace (jameskw@nhbfa.com); and (v) the Trustee at Brian Krippner (brian.krippner@umb.com), at least forty-five (45) days prior to the date of the funding of each Advance, or such fewer number of days preceding an Advance as shall be acceptable to the Bondholder Representative for the Senior Bonds. Each such Advance shall be in an Authorized Denomination. Advances shall be funded on a Business Day, but in no event more frequently than once every calendar month.

The Trustee shall authenticate and deliver Subsequent Subseries of Tax-Exempt Senior Bonds evidencing each of the subsequent Advances of proceeds of such Tax-Exempt Senior Bonds upon its receipt of: (i) the Advance Certificate, executed by an Authorized Representative of the Borrower, a form of which is attached hereto as **Exhibit D**, requesting the Underwriter to assign a CUSIP number and requesting the Trustee to authenticate such Subsequent Subseries of Tax-Exempt Senior Bonds; (ii) the purchase price of such Subseries of Tax-Exempt Senior Bonds in an amount equal to the principal amount of such Advance; (iii) a certificate of the Authorized Representative of the Borrower stating that on the date of such Advance (A) it has not taken or omitted any action (unless the Borrower shall provide a Bond

Counsel Opinion to such effect), and, no change in federal income tax law has occurred which would adversely affect the exclusion from gross income of interest on the Tax-Exempt Senior Bonds of such Series or Subseries, as the case may be, (B) no Default or Event of Default has occurred and is continuing and the Borrower has taken no action or omitted to take any action to cause an Event of Default, (C) taking into account the information that the Borrower has filed with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system pursuant to the Continuing Disclosure Agreement (as defined in the Loan Agreement), the statements and information contained in any offering document for the Bonds are true, correct, and complete in all material respects, and such statements and information do not contain any untrue statement of a material fact and do not omit to state any material fact required to be stated therein or necessary to make the statements therein in light of the circumstances under which they were made, not misleading in any material respect, (D) no adverse litigation (including any action, suit, proceeding or investigation at law or in equity before or by any court, public board or body) is pending or, to his or her knowledge, threatened against or is affecting the Borrower, and (E) no action by any State regulatory body is pending, has been threatened against or is affecting the Borrower; (iv) a request and authorization of the Authority to the Trustee to authenticate and deliver the Subsequent Subseries of Tax-Exempt Senior Bonds to such person or persons named therein upon payment to the Trustee for the account of the Authority of a specified sum; (v) such other certifications as the Trustee, the Authority, the Bondholder Representative for the Senior Bonds, the Underwriter or Bond Counsel may reasonably specify; (vi) such opinions of Bond Counsel and counsel to the Borrower as may be reasonably requested by the Trustee or the Bondholder Representative for the Senior Bonds; (vii) a FA 6.11 endorsement on the title policy needed to maintain the first priority of the Senior Mortgage and/or such other endorsements as may reasonably be required by Trustee; and (viii) funds from the Borrower for deposit into the Capitalized Interest Fund and Tax-Exempt Senior Debt Service Reserve Fund hereunder in such amount as acceptable to the Bondholder Representative for the Senior Bonds.

The delivery of the purchase price of such Subseries of Tax-Exempt Senior Bonds in an amount equal to the principal amount of such Advance and such documents specified above to the Trustee shall be deemed to be conclusive evidence (upon which the Trustee may conclusively rely) that the Bondholder Representative has received all such certifications, opinions, title policy endorsements or other documentation required to be delivered to it by this Section 2.02(d).

For any Advance occurring after April 21, 2025, the Borrower shall deliver to the Trustee and the Authority an Opinion of Bond Counsel to the effect that any Advance made after such date will not have an adverse effect on the exemption from federal income taxation to which the interest on the Tax-Exempt Bonds is entitled.

In the event that the current federal tax treatment of interest on municipal tax-exempt bonds is revised, the interest rates for all Advances of Tax-Exempt Senior Bonds requested after the effective date of such revision will be negotiated between the Bondholder Representative for the Senior Bonds and the Borrower in order to reflect the new effective after-tax return, such rate(s) shall apply to all Advances of Tax-Exempt Senior Bonds made after the effective date of such revision and the Borrower shall deliver to the Trustee and the Authority an Opinion of Bond Counsel to the effect that: (i) the change in rate will not effect a

reissuance/refunding or (ii) to the extent that such a reissuance/refunding occurs, the interest on the Tax-Exempt Senior Bonds is excluded from the gross income of the holders thereof and that such interest is not subject to the alternative minimum tax.

(e) **Consolidation of Series 2022A Bonds, Series 2022C Bonds and Series 2022D Bonds.**

As described in Subsection (b)(i) of this Section 2.02 above, on the first Interest Payment Date that occurs at least 45 days after the final delivery of the Series 2022 Bonds and in any event no later than April 21, 2025, a new bond certificate numbered consecutively from the last Series 2022A Bond certificate delivered shall be executed by the Authority and authenticated by the Trustee in accordance with this Trust Indenture and exchanged pursuant to an exchange notice sent by the Trustee for all of the Series 2022A Bond certificates previously delivered (such previously-delivered Series 2022A Bond certificates being referred to herein as the "Prior Series 2022A Bond Certificates" and such replacement bond certificate being referred to herein as the "Consolidated Series 2022A Bond Certificate"). The Consolidated Series 2022A Bond Certificate shall be in a stated principal amount representing the aggregate of all Advances outstanding for the Series 2022A Bonds and shall bear a single rate of interest per annum as calculated in Subsection (b)(i) of this Section 2.02 above. The Prior Series 2022A Bond Certificates shall be stamped or otherwise annotated with "cancelled" and disposed of in accordance with Section 2.09 hereof.

As described in Subsection (b)(iii) of this Section 2.02 above, on the first Interest Payment Date that occurs at least 45 days after the final delivery of the Series 2022 Bonds and in any event no later than April 21, 2025, a new bond certificate numbered consecutively from the last Series 2022C Bond certificate delivered shall be executed by the Authority and authenticated by the Trustee in accordance with this Trust Indenture and exchanged pursuant to an exchange notice sent by the Trustee for all of the Series 2022C Bond certificates previously delivered (such previously-delivered Series 2022C Bond certificates being referred to herein as the "Prior Series 2022C Bond Certificates" and such replacement bond certificate being referred to herein as the "Consolidated Series 2022C Bond Certificate"). The Consolidated Series 2022C Bond Certificate shall be in a stated principal amount representing the aggregate of all Advances outstanding for the Series 2022C Bonds and shall bear a single rate of interest per annum as calculated in Subsection (b)(iii) of this Section 2.02 above. The Prior Series 2022C Bond Certificates shall be stamped or otherwise annotated with "cancelled" and disposed of in accordance with Section 2.09 hereof.

As described in Subsection (b)(iv) of this Section 2.02 above, on the first Interest Payment Date that occurs at least 45 days after the final delivery of the Series 2022 Bonds and in any event no later than April 21, 2025, a new bond certificate numbered consecutively from the last Series 2022D Bond certificate delivered shall be executed by the Authority and authenticated by the Trustee in accordance with this Trust Indenture and exchanged pursuant to an exchange notice sent by the Trustee for all of the Series 2022D Bond certificates previously delivered (such previously-delivered Series 2022D Bond certificates being referred to herein as the "Prior Series 2022D Bond Certificates" and such replacement bond certificate being referred to herein as the "Consolidated Series 2022D Bond Certificate"). The Consolidated Series 2022D Bond Certificate shall be in a stated principal amount representing the aggregate

of all Advances outstanding for the Series 2022D Bonds and shall bear a single rate of interest per annum as calculated in Subsection (b)(iv) of this Section 2.02 above. The Prior Series 2022D Bond Certificates shall be stamped or otherwise annotated with "cancelled" and disposed of in accordance with Section 2.09 hereof.

**Section 2.03 Authentication of Series 2022 Bonds.**

The Series 2022 Bonds shall bear a certificate of authentication, substantially in the form set forth in Exhibits A-1, A-2, A-3 or A-4, as applicable, duly executed by the Trustee. The Trustee shall authenticate each Series 2022 Bond with the signature of an authorized officer of the Trustee, but it shall not be necessary for the same officer to authenticate all of the Series 2022 Bonds. Only such authenticated Series 2022 Bonds shall be entitled to any right or benefit under this Trust Indenture, and such certificate on any Series 2022 Bond issued and is secured hereunder shall be conclusive evidence that the Series 2022 Bond has been duly issued and is secured by the provisions hereof.

**Section 2.04 Form of Series 2022 Bonds.**

The Series 2022 Bonds shall be substantially in the forms set forth in Exhibits A-1, A-2, A-3 and A-4, with appropriate variations, omissions and insertions as permitted or required by this Trust Indenture.

**Section 2.05 Delivery of Series 2022 Bonds; Application of Bond Proceeds.**

Prior to the issuance of the Series 2022 Bonds, the Trustee shall have received each of the following:

- (a) a certified copy of a resolution or resolutions of the Authority authorizing the issuance, sale, execution and delivery of the Series 2022 Bonds, the execution and delivery of this Trust Indenture and the execution and delivery of the Loan Agreement;
- (b) an original executed counterpart of this Trust Indenture;
- (c) an original executed counterpart of the Loan Agreement;
- (d) original executed counterparts of the Security Instruments;
- (e) an opinion of counsel to the Borrower in form and content acceptable to the Authority, Bond Counsel, Underwriter and Bondholder Representatives;
- (f) an opinion of counsel to the Sole Member to the effect that the Pledge Agreement has been duly authorized, executed and delivered by the Sole Member and is enforceable against such party, subject to customary exceptions (e.g., bankruptcy and equitable principles);
- (g) an opinion of counsel to the Guarantor to the effect that the Guaranty Agreement has been duly authorized, executed and delivered by the Guarantor and is

enforceable against such party, subject to customary exceptions (e.g., bankruptcy and equitable principles);

(h) an Opinion of Bond Counsel in form and content acceptable to the Authority, Underwriter and Bondholder Representatives;

(i) a request and authorization of the Authority to the Trustee to authenticate and deliver the Series 2022 Bonds to such person or persons named therein upon payment to the Trustee for the account of the Authority of a specified sum plus accrued interest to the date of delivery;

(j) two title insurance policies covering the Mortgaged Property;

(k) letters from each of the Bondholder Representatives substantially in the forms of Exhibit C-1 and C-2, as applicable; and

(l) such other closing documents and opinions of counsel as the Trustee, the Authority, the Bondholder Representatives, the Underwriter or Bond Counsel may reasonably specify.

**Section 2.06 Exchange of Series 2022 Bonds; Persons Treated as Owners.**

The Trustee shall maintain registration books for the registration of exchange of Series 2022 Bonds. Upon surrender of any Series 2022 Bond at the designated corporate trust office of the Trustee, together with an assignment duly executed by the registered owner or his duly authorized attorney or legal representative in such form as shall be satisfactory to the Trustee, such Series 2022 Bond may be exchanged for an equal aggregate principal amount of Series 2022 Bonds of the same Series, Subseries and maturity and bearing interest at the same rate or rates as the Series 2022 Bonds surrendered in other Authorized Denominations and registered in the name or names requested by the then registered owner. The Authority shall execute and the Trustee shall authenticate any Series 2022 Bonds necessary to provide for exchange of Series 2022 Bonds pursuant to this Section.

Prior to due presentment for registration of transfer of any Series 2022 Bond, the Trustee shall treat the registered owner as the person exclusively entitled to payment of principal, premium, if any, and interest and the exercise of all other rights and powers of the owner, except that interest payments shall be made to the person registered on the most recent Record Date as owner on the registration books maintained by the Trustee.

**Section 2.07 Charges for Exchange of Series 2022 Bonds.**

Any exchange of Series 2022 Bonds shall be at the expense of the Borrower, except that the Trustee as bond registrar shall make a charge to any Bondholder requesting such exchange in the amount of any tax or other governmental charge required to be paid with respect thereto.

**Section 2.08 Mutilated, Lost or Destroyed Series 2022 Bonds.**

If any Series 2022 Bond has been mutilated, lost or destroyed, the Authority shall execute, and the Trustee shall authenticate and deliver, a new Series 2022 Bond of like date and tenor in exchange and substitution for, and upon cancellation of, such mutilated Series 2022 Bond or in lieu of and in substitution for such lost or destroyed Series 2022 Bond; provided, however, that the Authority and the Trustee shall so execute, authenticate and deliver such new Series 2022 Bond only if the holder has paid the reasonable expenses and charges of the Authority and the Trustee in connection therewith and, in the case of a lost or destroyed Series 2022 Bond, (a) has filed with the Authority and the Trustee evidence satisfactory to them that such Series 2022 Bond was lost or destroyed and that the holder was the owner thereof and (b) has furnished to the Authority and the Trustee indemnity reasonably satisfactory to them. If any such Series 2022 Bond has matured, instead of issuing a new Series 2022 Bond, the Trustee may pay the same without surrender thereof.

**Section 2.09 Cancellation and Disposition of Series 2022 Bonds.**

All Series 2022 Bonds that have been paid (whether at maturity, upon acceleration or call for redemption or otherwise) or delivered to the Trustee by the Borrower for cancellation shall not be reissued, and the Trustee shall, unless otherwise directed by the Authority, cremate, shred or otherwise dispose of such Series 2022 Bonds in accordance with the standard procedures of the Trustee. The Trustee shall, upon request, deliver to the Authority a certificate of any such cremation, shredding or other disposition.

**Section 2.10 Book Entry Provisions.**

(a) The Series 2022 Bonds will be registered in the name of Cede & Co., a nominee of The Depository Trust Company, New York, New York (with its successors or assigns, "DTC"), and immobilized in DTC's custody. Beneficial owners of the Series 2022 Bonds will not receive physical delivery of the Series 2022 Bonds. Individual purchases of the Series 2022 Bonds may be made in book-entry form only in Authorized Denominations. Payments of principal of and premium, if any, and interest on the Series 2022 Bonds will be made to DTC or its nominee as the sole Bondholder on the applicable payment date.

DTC is responsible for the transfer of the payments of the principal of and premium, if any, and interest on the Series 2022 Bonds to its participants, which include securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations (the "Participants") and selection of Series 2022 Bonds of any Series and maturity to be redeemed in the case of a partial redemption. Transfer of the payments of the principal of and premium, if any, and interest on the Series 2022 Bonds to beneficial owners of the Series 2022 Bonds is the responsibility of the Participants and other nominees of such beneficial owners.

Transfer of the beneficial ownership interests in the Series 2022 Bonds shall be made by DTC and its Participants, acting as nominees of the beneficial owners of the Series 2022 Bonds, in accordance with rules specified by DTC and its Participants. Neither the Authority nor the Trustee makes any assurances that DTC, its Participants or other nominees of the

beneficial owners of the Series 2022 Bonds will act in accordance with such rules or on a timely basis.

THE AUTHORITY AND THE TRUSTEE DISCLAIM ANY RESPONSIBILITY OR OBLIGATION TO THE PARTICIPANTS OR THE BENEFICIAL OWNERS WITH RESPECT TO (I) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR ANY PARTICIPANT; (II) THE PAYMENT BY DTC TO ANY PARTICIPANT OR BY ANY PARTICIPANT TO ANY BENEFICIAL OWNER OF ANY AMOUNT DUE TO ANY BENEFICIAL OWNER IN RESPECT OF THE PRINCIPAL OR PREMIUM, IF ANY, AND INTEREST ON THE SERIES 2022 BONDS; (III) THE DELIVERY BY DTC TO ANY PARTICIPANT OR BY ANY PARTICIPANT TO ANY BENEFICIAL OWNER OF ANY NOTICE TO ANY BENEFICIAL OWNER WHICH IS REQUIRED OR PERMITTED UNDER THE TERMS OF THIS TRUST INDENTURE TO BE GIVEN TO BONDHOLDERS; (IV) THE SELECTION OF THE BENEFICIAL OWNERS TO RECEIVE PAYMENT IN ANY PARTIAL REDEMPTION OF THE SERIES 2022 BONDS, OR (V) ANY OTHER ACTION TAKEN BY DTC AS BONDHOLDER.

So long as Cede & Co., as nominee of DTC, is the sole Bondholder, references in this Trust Indenture to the Bondholders, holders or registered owners of the Series 2022 Bonds shall mean Cede & Co. and not the beneficial owners of the Series 2022 Bonds. Any notice to or consent requested of Bondholders under this Trust Indenture shall be given to or requested of Cede & Co.; provided, however, that as long as there is a Bondholder Representative for a Series of Series 2022 Bonds, any consent shall only be requested of the applicable Bondholder Representative.

(b) Unless DTC procedures provide otherwise, replacement Series 2022 Bonds (the "Replacement Bonds") will be registered in the name of and be issued directly to beneficial owners of such Series of the Series 2022 Bonds rather than to DTC, or its nominee, but only if:

(i) DTC determines not to continue to act as securities depository for the Series 2022 Bonds; or

(ii) The Trustee or the Authority, at the direction of the Borrower, with the consent of the applicable Bondholder Representative, has advised DTC of the Trustee's or the Authority's determination that DTC is incapable of discharging its duties or that it is otherwise in the best interests of the beneficial owners of the Series 2022 Bonds to discontinue the book-entry system of transfer.

Upon the occurrence of an event described in clause (i) or (ii) (and the Trustee and the Authority undertake no obligation to make any investigation regarding the matters described in clause (ii)), the Authority, at the expense and direction of the Borrower, may attempt to locate another qualified securities depository; provided that any such successor securities depository is subject to the approval of the applicable Bondholder Representative. If the Authority fails to locate another qualified securities depository to replace DTC, the Authority and the Trustee shall follow the procedures of DTC for such termination, and if such procedures are not applicable or available, the Authority, at the expense of the Borrower, shall execute and the

Trustee shall authenticate and deliver to the Participants the Replacement Bonds (substantially in the form set forth in Exhibits A-1, A-2, A-3 and A-4 with such appropriate variations, omissions and insertions as are permitted or required by this Trust Indenture) to which the Participants are entitled for delivery to the beneficial owners of the Series 2022 Bonds. The Trustee shall be entitled to rely on the records provided by DTC as to the Participants entitled to receive Replacement Bonds. The Holders of the Replacement Bonds shall be entitled to the lien and benefits of this Trust Indenture.

## Section 2.11 Restrictions on Ownership and Transfer.

Notwithstanding any other provision hereof, and unless the Borrower or the Bonds have received an Investment Grade Rating as described below, each initial beneficial owner of such Bonds shall be either (i) a "Qualified Institutional Buyer" (as defined in Rule 144A under the Securities Act of 1933, as amended); or (ii) an "accredited investor" (as defined in Rule 501 of Regulation D under the Securities Act of 1933, as amended) and shall be a client of the applicable Bondholder Representative. At the time of closing, each Bondholder Representative shall provide a "Bondholder Representative Letter" in the form of Exhibit C-1 or Exhibit C-2, as applicable.

In the event that Hamlin Capital Management no longer represents a beneficial owner of a Senior Bond, the Bondholder Representative (i) shall exercise its rights under the investment advisory agreement entered into with the beneficial owner to liquidate any Senior Bonds held in such beneficial owner's portfolio that are in an aggregate principal amount less than \$100,000 and (ii) may exercise its rights under such investment advisory agreement for Senior Bonds held in such portfolio that are in an aggregate principal amount equal to or greater than \$100,000, in each case for sale or transfer to such other clients of Hamlin Capital Management as Hamlin Capital Management may determine. Notwithstanding any provision to the contrary, subsequent to the initial purchase of Senior Bonds, such Senior Bonds may be sold or transferred to a Non-Hamlin Investor, provided such Senior Bonds are re-certified in Authorized Denominations applicable to Non-Hamlin Investor Bonds. In such event any of the Senior Bonds are required to be re-certified by the above provisions, such Senior Bond must be assigned a CUSIP (the "Non-Hamlin CUSIP") that is separate from any CUSIP initially assigned to Senior Bonds beneficially owned by a Hamlin Capital Management client (the "Hamlin CUSIP"). Hamlin Capital Management shall notify the Trustee and the Borrower, in writing, prior to taking any action that would cause any Outstanding Hamlin Investor Bond to become a Non-Hamlin Investor Bond. If at any time that any Hamlin Investor Bonds are Outstanding and the Trustee receives written notice from the Bondholder Representative that any Hamlin Investor Bond is proposed to become a Non-Hamlin Investor Bond, the Trustee shall request the Underwriter, at the expense of the Borrower, decrease the principal amount of Senior Bonds allocated to the applicable Hamlin Investor Bond CUSIP by an amount corresponding to the increase in the Non-Hamlin Investor Bonds and such proposed Non-Hamlin Investor Bonds shall only be issued in the applicable Authorized Denominations. All Non-Hamlin Investor Bonds will need to be delivered through DTC using DTC's then current procedures in order to obtain Senior Bonds with the separate CUSIP number described in the preceding sentence.

## ARTICLE III REDEMPTION AND PURCHASE OF SERIES 2022 BONDS

### Section 3.01 Redemption Dates and Prices.

The Bonds shall be subject to redemption as provided below:

(a) Optional Redemption. (i) The Series 2022A Bonds are subject to redemption prior to maturity at the option of the Authority, at the direction of the Borrower, in whole or in part at any time on or after April 1, 2027, but before April 1, 2028, at a redemption price of 103%, at any time on or after April 1, 2028, but before April 1, 2029, at a redemption price of 102%, and on April 1, 2029 at a redemption price of 101% (including payment on the maturity date), plus, in each case, all accrued interest thereon to, but not including, the redemption date.

The Series 2022B Bonds, the Series 2022C Bonds and the Series 2022D Bonds are subject to redemption prior to maturity at the option of the Authority, at the direction of the Borrower, in whole or in part at any time at a price of 100% of the principal amount thereof plus accrued interest thereon to, but not including, the redemption date. Notwithstanding the foregoing, (A) the Series 2022C Bonds shall be redeemed in full prior to any Series 2022D Bonds and (B) the Series 2022B Bonds shall only be redeemed after the Entrance Fee Bonds are redeemed in full.

The Borrower shall provide the Trustee, the Authority and the Bondholder Representative for the Senior Bonds at least thirty (30) days' notice (or such shorter time period as agreed to by the Bondholder Representative for the Senior Bonds, the Authority and the Trustee) of its intent to optionally redeem all or part of the Senior Bonds.

In the event of a partial redemption of a Series of Senior Bonds, the principal amount of such Senior Bonds redeemed shall be credited against the sinking fund payments, in inverse order of their due dates in Authorized Denominations unless otherwise approved by the Bondholder Representative for the Senior Bonds.

(ii) The Subordinate Bonds are subject to redemption prior to maturity beginning April 1, 2025, at the option of the Authority, at the direction of the Borrower, in whole or in part at any time, at a redemption price of 100%, plus, in each case, all accrued interest thereon to, but not including, the redemption date, provided that the Senior Bonds are paid or redeemed in full.

The Borrower shall provide the Trustee, the Authority and the Bondholder Representative for the Subordinate Bonds at least thirty (30) days' notice (or such shorter time period as agreed to by the Bondholder Representative for the Subordinate Bonds, the Authority and the Trustee) of its intent to optionally redeem all or part of the Subordinate Bonds.

(b) Extraordinary Redemption. The Series 2022 Bonds are subject to mandatory redemption, in whole or in part, at a redemption price equal to 100% of the principal amount thereof, plus accrued interest to, but not including, the redemption date, without premium, on the earliest date for which notice of redemption can be given to the extent the

Borrower makes a prepayment on the Loan in accordance with Section 4.18 of the applicable Continuing Covenants Agreement. In the event of a partial extraordinary redemption, the principal amount of Series 2022 Bonds redeemed shall be credited against the sinking fund payments, in inverse order of their due dates; in such event, such redemptions shall be in Authorized Denominations, unless otherwise approved by the Bondholder Representative for the Senior Bonds; provided that no Subordinate Bonds shall be redeemed until the Senior Bonds are redeemed in full.

(c) Mandatory Redemption upon Determination of Taxability. The Series 2022 Bonds are subject to mandatory redemption in whole at a redemption price equal to 105% of the principal amount of the Bonds to be redeemed plus accrued interest thereon to, but not including, the redemption date on any Business Day within forty-five (45) days after the occurrence of a Determination of Taxability, except as provided in Section 3.3(a) of the applicable Continuing Covenants Agreement; provided that no Subordinate Bonds shall be redeemed until the Senior Bonds are redeemed in full. Unless and until the Tax-Exempt Bonds are redeemed following a Determination of Taxability, during the Taxable Period the Tax-Exempt Bonds shall bear interest at the Taxable Rate.

(d) Mandatory Sinking Fund Redemption of Series 2022A Bonds. The Series 2022A Bonds are subject to mandatory sinking fund redemption at a price of 100% of the principal amount of such Series 2022A Bonds to be redeemed plus accrued interest thereon to the redemption date, on April 1 of the following years and in the following principal amounts. Notwithstanding the foregoing, if the maximum principal amount of Series 2022A Bonds are not funded, the principal amount to be redeemed in each year shall be reduced on a pro-rata basis in Authorized Denominations to take into account such unfunded principal amount.

Year	Amount
2027	\$ 300,000
2028	1,180,000
2029*	86,320,000

\*Final Maturity

(e) Redemption from Entrance Fee and Deposit Fund. The Entrance Fee Bonds are subject to redemption, in whole or in part, at a redemption price equal to 100% of the principal amount thereof, plus accrued interest to, but not including, the redemption date, on the first (1<sup>st</sup>) day of each month, to the extent there is money available therefore in the Entrance Fee and Deposit Fund pursuant to Section 3.3 of the Loan Agreement and in the order of priority detailed in Section 3.3 of the Loan Agreement. In the event of a partial redemption, the Series 2022C Bonds shall be redeemed prior to the Series 2022D Bonds.

Upon payment in full of the Entrance Fee Bonds, to the extent there is money available in the Entrance Fee and Deposit Fund pursuant to Section 3.3 of the Loan Agreement and in the order of priority detailed in Section 3.3 of the Loan Agreement, such excess shall be transferred to the Borrower and the Entrance Fee and Deposit Fund shall be closed.

The Trustee shall provide notice of redemption of the Entrance Fee Bonds pursuant of this Section 3.01(e) in the form described in Section 3.02 below and on or before twenty (20) days preceding the redemption date designated in such notice of redemption.

(f) **Redemption of Series 2022B Bonds from Excess Days' Cash on Hand**

To the extent that the Days' Cash on Hand of the Borrower exceeds the Days' Cash on Hand Threshold set forth in C. below on any January 31 or July 31, as determined pursuant to Section 2.02(b)(v) of this Indenture, the Borrower shall pay on each April 1 and October 1, as applicable, such excess to the Trustee for deposit in the Redemption Account of the Tax-Exempt Senior Bond Fund, which shall be used to redeem the Series 2022B Bonds on each May 1 and November 1, at a redemption price equal to 100% of the principal amount thereof, plus accrued interest to, but not including, the redemption date, subject to the following conditions:

- A. The Entrance Fee Bonds are no longer Outstanding;
- B. All operating expenses, annual capital expenditures and Senior Bond obligations have been met;
- C. The Borrower maintains Days' Cash on Hand (as defined in the Senior Continuing Covenants Agreement) of no less than 100 days (the "Days' Cash on Hand Threshold") after giving consideration to the Series 2022B Bond redemption payments; provided that the required Days' Cash on Hand Threshold for such payments increases to (i) 120 days commencing January 1, 2028 and (ii) 110 days if the Support Agreement has terminated;
- D. The Tax-Exempt Senior Debt Service Reserve Fund is fully funded;
- E. No Event of Default has occurred and is continuing with respect to the payment of interest on the Series 2022E Bonds;
- F. No Event of Default under the Bond Documents related to the Senior Bonds has occurred and is continuing; and
- G. The Borrower is otherwise in compliance with all covenants in the Related Documents (defined in the Senior Continuing Covenants Agreement) related to the Senior Bonds.

Notwithstanding anything to the contrary contained herein, the Bondholder Representative for the Senior Bonds shall not waive any such condition to effect redemption of the Series 2022B Bonds pursuant to this Section 3.01(f) without the written consent of the Bondholder Representative for the Subordinate Bonds.

The Trustee shall provide notice of redemption of the Series 2022B Bonds pursuant of this Section 3.01(f) in the form described in Section 3.02 below and on or before twenty (20) days preceding the redemption date designated in such notice of redemption.

**Section 3.02 Notice of Redemption.**

So long as the Series 2022 Bonds are maintained under a book entry system, notice of the call for any redemption of the Series 2022 Bonds shall be given as described in this Section. The Trustee shall cause notice of any call for redemption identifying the Series 2022 Bonds to

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be redeemed to be sent by first class mail not less than 20 nor more than 60 days prior to the redemption date to the owner of each Series 2022 Bond to be redeemed at his address as it appears on the registration books. Failure to give such notice by mail, or any defect therein, shall not affect the validity of any proceedings for the redemption of any Series 2022 Bond with respect to which no such failure or defect has occurred.

Any notice of redemption mailed as specified in this Section shall be deemed to have been duly given when mailed by the Trustee. Any such notice shall be given in the Authority's name, identify the Series 2022 Bonds to be redeemed by name, Series and Subseries, if any, certificate number, CUSIP number, interest rate, maturity date and any other descriptive information determined by the Trustee as necessary to identify the Series 2022 Bonds. All such notices shall also state that on the redemption date the Series 2022 Bonds called for redemption will be payable at the Trustee's designated corporate trust office and that from that date interest will cease to accrue.

A notice of optional redemption shall describe the conditions under which the call for redemption may be revoked. The revocation of any redemption in accordance with any condition described in the related notice of redemption shall not constitute an Event of Default hereunder.

On or before the date fixed for redemption, notice of redemption having been duly given as aforesaid (and not revoked), the Borrower shall deposit funds with the Trustee to pay the principal of and premium, if any, and interest accrued thereon to the redemption date on the Series 2022 Bonds called for redemption. Upon the happening of the above conditions, the Series 2022 Bonds or portions thereof thus called for redemption shall cease to bear interest from and after the redemption date, shall no longer be entitled to the benefits provided by this Trust Indenture and shall not be deemed to be Outstanding under the provisions of this Trust Indenture.

**Section 3.03 Selection of Series 2022 Bonds to be Redeemed.**

The Series 2022 Bonds will be redeemed only in Authorized Denominations. If less than all of the Series 2022 Bonds are being redeemed, such Series 2022 Bonds shall be redeemed as set forth in Section 3.01(a) above. If less than all of a particular maturity of a particular Series or Subseries is being redeemed, the depository will select the particular Series 2022 Bonds of such maturity of such Series or Subseries pursuant to its rules and procedures or, if a book entry system with respect to the Series 2022 Bonds is discontinued, the Trustee will select the particular Series 2022 Bonds of such maturity of such Series or Subseries to be redeemed by lot. If a portion of a Series 2022 Bond is called for redemption, a new Series 2022 Bond in principal amount equal to the unredeemed portion will be issued to the registered owner upon the surrender of the Series 2022 Bond, except as otherwise provided under arrangements with DTC or any other securities depository for the Series 2022 Bonds.

**Section 3.04 Purchase in Lieu of Redemption.**

The Borrower shall have the option as set forth in this Section to cause any Series or all of the Series 2022 Bonds, as the case may be, to be purchased in lieu of redemption pursuant to

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this Article. Such option may be exercised by delivery to the Trustee (with a copy to the Authority), at least three (3) Business Days prior to the first date upon which notice may be given for the applicable redemption date, of a written notice of the Borrower, with the written consent of the applicable Bondholder Representative, specifying that the Series 2022 Bonds (or a particular Series of Series 2022 Bonds so specified) shall not be redeemed, but instead shall be subject to purchase pursuant to this Section. Upon delivery of such notice, the Series 2022 Bonds (or the particular Series of Series 2022 Bonds so specified) shall not be redeemed but shall instead be subject to mandatory tender at the Purchase Price (as defined below) on the date that would have been the redemption date. Any Series 2022 Bonds purchased in lieu of redemption shall be cancelled by the Trustee and shall be credited in inverse order of maturity or the due date of any mandatory sinking fund payments, as specified by the Borrower with the consent of the applicable Bondholder Representative. For purposes of this Section, "Purchase Price" shall mean the price negotiated with the applicable Bondholder Representative or the Bondholder if not represented by a Bondholder Representative in connection with delivery of such Bondholder Representative's consent; provided that the Purchase Price for the Subordinate Bonds shall not be in excess of the par amount of the Subordinate Bonds.

**ARTICLE IV  
GENERAL COVENANTS AND PROVISIONS**

**Section 4.01 Payment of Series 2022 Bonds; Limited Liability.**

The Authority shall promptly pay when due, but solely from the Trust Estate, the principal of (whether at maturity, upon acceleration or call for redemption or otherwise) and premium, if any, and interest on the Series 2022 Bonds at the places, on the dates and in the manner provided herein and in the Series 2022 Bonds.

Notwithstanding anything to the contrary contained herein, the Series 2022 Bonds of each Series are special limited obligations of the Authority payable solely from funds pledged for their payment in accordance with this Trust Indenture and, except from such sources, none of the Authority, the State or any political subdivision or agency thereof or any political subdivision approving the issuance of the Series 2022 Bonds shall be obligated to pay the principal of, premium, if any, or interest thereon or any costs incidental thereto. The Series 2022 Bonds do not, directly, indirectly or contingently, obligate, in any manner, the Authority, the State or any political subdivision or agency thereof or any political subdivision approving the issuance of the Series 2022 Bonds to levy any tax or to make any appropriation for payment of the Series 2022 Bonds. Neither the faith and credit nor the taxing power of the State or any political subdivision or agency thereof or any political subdivision approving the issuance of the Series 2022 Bonds, nor the faith and credit of the Authority shall be pledged to the payment of the principal of, premium, if any, or interest on, the Series 2022 Bonds or any costs incidental thereto. No owner of the Series 2022 Bonds shall have the right to compel the exercise of the taxing power of any political subdivision to pay any principal of, or premium, if any, or interest on the Series 2022 Bonds. The Authority has no taxing power.

**Section 4.02 Covenants and Representations of Authority.**

(a) The Authority shall observe and perform all covenants, conditions and agreements on its part contained in this Trust Indenture, in every Series 2022 Bond executed, authenticated and delivered hereunder and in all its proceedings pertaining thereto; provided, however that the liability of the Authority under any such covenant, condition or agreement for any breach or default by the Authority thereof or thereunder shall be limited solely to the Trust Estate.

(b) None of the provisions of this Trust Indenture shall require the Authority to expend or risk its own funds or otherwise to incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers hereunder, unless payable from the Trust Estate, including the revenues and receipts derived by the Authority from and in connection with this Trust Indenture, or unless the Authority shall first have been adequately indemnified to its satisfaction against the cost, expense and liability which may be incurred thereby. The Authority shall not be under any obligation hereunder to perform any administrative service with respect to the Series 2022 Bonds or the 2022 Project (including, without limitation, record keeping and legal services), it being understood that such services shall be performed or provided by the Trustee or the Borrower. The Authority covenants that it will faithfully perform at all times any and all of its covenants, undertakings, stipulations and provisions expressly contained in this Trust Indenture, and any and every Series 2022 Bond executed, authenticated and delivered under this Trust Indenture; provided, however, that the Authority shall not be obligated to take any action or execute any instrument pursuant to any provision hereof unless and until it shall have (i) been requested to do so by the Borrower, the applicable Bondholder Representative or the Trustee having authority to so direct; (ii) received from the party requesting such action or execution assurance satisfactory to the Authority that the Authority's reasonable expenses incurred or to be incurred in connection with taking such action or executing such instrument have been paid or will be paid or reimbursed to the Authority; and (iii) if applicable, received in a timely manner the instrument or document to be executed, in form and substance satisfactory to the Authority. In complying with any provision herein or in the Loan Agreement requiring the Authority to "cause" another Person (as defined in the Loan Agreement) to take or omit any action, the Authority shall be entitled to rely conclusively (and without independent investigation or verification) on the faithful performance by the Trustee or the Borrower, as the case may be, of their respective obligations hereunder and under the Loan Agreement. In acting, or in refraining from acting under this Trust Indenture, the Authority may conclusively rely on the advice of its counsel. The Authority shall not be required to take any action hereunder or under the Loan Agreement that it reasonably believes to be unlawful.

(c) The Authority represents that it is duly authorized under the laws of the State, including particularly and without limitation the Act, to issue the Series 2022 Bonds authorized hereby and to execute this Trust Indenture, to execute and assign the Loan Agreement and to pledge the Trust Estate in the manner and to the extent herein set forth; that all action on its part for the issuance of the Series 2022 Bonds and the execution and delivery of this Trust Indenture has been duly and effectively taken; and that the Series 2022 Bonds in the hands of the Holders thereof, when issued and the purchase price paid therefor, are and will be valid and enforceable limited obligations of the Authority according to the terms thereof except

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as limited by bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to the limitation on legal remedies against governmental units of the State.

#### **Section 4.03 Instruments of Further Assurance.**

At the cost and expense of the Borrower, and subject to Section 4.02(b) hereof and the corresponding provision of the Loan Agreement, the Authority shall do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such Subsequent Subseries of Series 2022 Bonds delivered with respect to future Advances as the Borrower may request pursuant to Section 2.02 and such further acts, instruments and transfers as the Trustee or a Bondholder Representative may reasonably require for the better assuring, transferring, conveying, pledging and assigning to the Trustee all the rights assigned hereby and the revenues and receipts pledged hereby to the payment of the principal of, and premium, if any, and interest on the Series 2022 Bonds. The Authority shall reasonably cooperate with the Borrower, the Trustee, the applicable Bondholder Representative and applicable Bondholders in protecting the respective rights and security of such Bondholders.

#### **Section 4.04 Inspection of Books and Records.**

All books and documents in the Authority's possession relating to the 2022 Project, the Loan Agreement and the Security Instruments and the revenues derived therefrom shall be open for inspection during the Authority's normal business hours by such agents as the Trustee, the Bondholder Representatives or the Holders of 25% in aggregate principal amount of Series 2022 Bonds of a Series then Outstanding may from time to time designate; provided, however, that the Authority shall be required to maintain as its books and records pertaining to the Series 2022 Bonds solely an electronic copy of the transcript of proceedings prepared by Bond Counsel relative to the proceedings for issuance of the Series 2022 Bonds and such electronic copy shall be deemed to be the only "documents in the Authority's possession" in respect thereof.

#### **Section 4.05 Rights under the Loan Agreement and the Security Instruments.**

The Trustee, in its own name or in the name of the Authority, or the Bondholder Representative for the Senior Bonds (or the Bondholder Representative for the Subordinate Bonds once the Senior Bonds are no longer Outstanding) may enforce all rights of the Authority and all obligations of the Borrower under and pursuant to the terms of the Loan Agreement and the Security Instruments for and on behalf of the Holders of the Series 2022 Bonds, whether or not the Authority is in default hereunder; provided, that this Section 4.05 shall not apply to the Unassigned Rights and the Borrower's obligations with respect thereto, which may be enforced only by and in the name of the Authority, its officers, members, employees and agents, as applicable.

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enforce compliance by the Borrower or the Authority with the terms of the Tax Certificate or this Section.

#### **Section 4.08 Non-Liability of Authority.**

The Authority shall not be obligated to pay the principal, or premium, if any, or interest on the Series 2022 Bonds, except from the Trust Estate. The Authority shall not be liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with this Trust Indenture, the Series 2022 Bonds or the Loan Agreement, except only to the extent amounts are received for the payment thereof from the Borrower, and except as may result solely from the Authority's own willful misconduct.

The Trustee hereby acknowledges that the Authority's sole source of moneys to repay each Series of Series 2022 Bonds will be provided by the Trust Estate, including the revenues and receipts derived from the Loan Agreement and Security Instruments, and hereby agrees that if such amounts shall ever prove insufficient to pay all principal, premium, if any, and interest on the Series 2022 Bonds of a Series as the same shall become due (whether by maturity, redemption, acceleration or otherwise) or any costs incidental thereto, then the Trustee shall give notice to the Borrower in accordance with Section 9.12 of this Trust Indenture to pay such amounts as are required from time to time to prevent any deficiency or default in the payment of such principal, premium, if any, or interest, or costs incidental thereto including, but not limited to, any deficiency caused by acts, omissions, nonfeasance or malfeasance on the part of the Trustee, the Borrower, the Authority or any third party, subject to any right of reimbursement from the Trustee, the Authority or any such third party, as the case may be, therefor.

#### **Section 4.09 Reports by Trustee.**

The Trustee shall make monthly reports available to each of the Bondholder Representatives of all money received and expended by it under this Trust Indenture

### **ARTICLE V CUSTODY AND APPLICATION OF BOND PROCEEDS; PROJECT FUND; CONSTRUCTION AND COSTS OF ISSUANCE ACCOUNTS**

#### **Section 5.01 Establishment of Project Fund and Accounts.**

For the Series 2022 Bonds, there will be established under Section 6.01 a Project Fund, as a trust fund under this Trust Indenture, to be held by the Trustee. The Trustee shall establish within the Project Fund the following: (a) an account to be designated the "Tax-Exempt Senior Construction Account;" (b) an account to be designated the "Tax-Exempt Senior Costs of Issuance Account;" (c) an account to be designated the "Equity Costs of Issuance Account;" and (d) an account to be designated the "Subordinate Costs of Issuance Account."

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#### **Section 4.06 No Obligation to Enforce Assigned Rights.**

Notwithstanding anything to the contrary in this Trust Indenture, the Authority shall have no obligation to, and instead the Trustee or the Bondholder Representative for the Senior Bonds (or the Bondholder Representative for the Subordinate Bonds once the Senior Bonds are no longer Outstanding), as the case may be, in accordance with this Trust Indenture, shall have the right, without any direction from the Authority whatsoever, to take any and all steps, actions and proceedings, to enforce any or all rights of the Authority under this Trust Indenture and the Loan Agreement (other than the Unassigned Rights), including, without limitation, the rights to enforce the remedies upon the occurrence and continuation of an Event of Default and the obligations of the Borrower under the Loan Agreement.

#### **Section 4.07 Prohibited Activities; Arbitrage Covenant; Tax Covenant.**

The Authority and the Trustee covenant for the benefit of the Holders of the Tax-Exempt Bonds that they will not knowingly, to the extent within their control, take any action to cause the proceeds of such Tax-Exempt Bonds, the earnings on those proceeds or any money on deposit in any Fund or Account maintained with respect to such Tax-Exempt Bonds (whether such money was derived from the proceeds of the sale of such Tax-Exempt Bonds or from other sources) to be used in a manner that will cause any Tax-Exempt Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code (including but not limited to ensuring compliance with the ongoing requirements of Section 148 of the Code concerning the rebate and non-purpose investment rules) all in accordance with the Tax Certificate. This covenant shall survive the defeasance or payment in full of such Tax-Exempt Bonds, notwithstanding any other provision of this Trust Indenture, until requirements for payment of any rebate amounts pursuant to Section 148(f) of the Code have been satisfied with respect to such Tax-Exempt Bonds.

The Authority and the Trustee covenant for the benefit of the Holders of the Tax-Exempt Bonds that they will not knowingly, to the extent within their control, take any action to cause or knowingly permit any action to be taken that would cause the interest on any Tax-Exempt Bonds to be includable in gross income for federal income tax purposes. This covenant shall survive the defeasance or payment in full of such Tax-Exempt Bonds notwithstanding any other provision of this Trust Indenture, until the requirements for payment of any rebate amounts pursuant to Section 148(f) of the Code have been fully satisfied.

In furtherance of the covenants in this Section 4.07, the Authority and the Borrower shall execute, deliver and comply with the provisions of the Tax Certificate. The Trustee agrees it will invest funds held under this Trust Indenture in accordance with the terms of this Trust Indenture and the Tax Certificate (this covenant shall extend throughout the term of the Tax-Exempt Bonds, to all Funds and Accounts created under this Trust Indenture and all moneys on deposit to the credit of any Fund or Account). The Trustee further agrees to notify the Borrower of the Borrower's obligation under Section 4.7 of the Loan Agreement with respect to the calculation of rebatable arbitrage.

The Trustee shall be deemed conclusively to have complied with this Section if it follows the written direction of the Borrower and shall have no liability or responsibility to

#### **Section 5.02 Deposit of Series 2022 Bond Proceeds and Equity Funds.**

The Trustee shall deposit the proceeds received by the Authority from each Series of Series 2022 Bonds into the Funds and Accounts as follows:

- (a) The proceeds of the Initial Subseries of Series 2022A Bonds in the amount of \$5,055,000.00 shall be deposited as follows:
  - (i) \$4,860,556.55 of proceeds shall be deposited in the Tax-Exempt Senior Construction Account of the Project Fund;
  - (ii) \$93,554.08 of proceeds shall be deposited in the Tax-Exempt Senior Capitalized Interest Account of the Capitalized Interest Fund; and
  - (iii) \$100,889.37 of proceeds shall be deposited in the Tax-Exempt Senior Costs of Issuance Account of the Project Fund.
- (b) The proceeds of the Series 2022B Bonds in the amount of \$15,000,000.00 shall be deposited as follows:
  - (i) \$7,325,834.03 of proceeds shall be applied to the redemption of the Series 2020 Bonds in accordance with the Closing Memorandum.
  - (ii) \$1,079,586.58 of proceeds shall be deposited in the Tax-Exempt Senior Debt Service Reserve Fund;
  - (iii) \$6,017,595.84 of proceeds shall be deposited in the Tax-Exempt Senior Construction Account of the Project Fund;
  - (iv) \$277,608.54 of proceeds shall be deposited in the Tax-Exempt Senior Capitalized Interest Account of the Capitalized Interest Fund; and
  - (v) \$299,375.00 of proceeds shall be deposited in the Tax-Exempt Senior Costs of Issuance Account of the Project Fund.

(c) The proceeds of the Initial Subseries of Series 2022C Bonds in the amount of \$2,220,000.00 shall be deposited as follows:

- (i) \$2,134,606.44 of proceeds shall be deposited in the Tax-Exempt Senior Construction Account of the Project Fund;
  - (ii) \$41,086.06 of proceeds shall be deposited in the Tax-Exempt Senior Capitalized Interest Account of the Capitalized Interest Fund; and
  - (iii) \$44,307.50 of proceeds shall be deposited in the Tax-Exempt Senior Costs of Issuance Account of the Project Fund.
- (d) The proceeds of the Initial Subseries of Series 2022D Bonds in the amount of \$1,725,000.00 shall be deposited as follows:

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- (i) \$1,658,646.89 of proceeds shall be deposited in the Tax-Exempt Senior Construction Account of the Project Fund;
- (ii) \$31,924.98 of proceeds shall be deposited in the Tax-Exempt Senior Capitalized Interest Account of the Capitalized Interest Fund; and
- (iii) \$34,428.13 of proceeds shall be deposited in the Tax-Exempt Senior Costs of Issuance Account of the Project Fund.
- (e) The proceeds of the Subordinate Bonds in the amount of \$16,704,000.00 shall be deposited as follows:

- (i) \$10,715,000.00 of proceeds shall be applied to the redemption of the Series 2020 Bonds in accordance with the Closing Memorandum;
- (ii) \$334,000.00 shall be deposited in the Subordinate Costs of Issuance Account of the Project Fund;
- (iii) \$1,740,000.00 of proceeds shall be deposited in the Subordinate Debt Service Reserve Fund; and
- (iv) \$3,915,000.00 shall be deposited in the Subordinate Capitalized Interest Account of the Capitalized Interest Fund.

(f) The proceeds of any Subsequent Subseries of Tax-Exempt Senior Bonds shall be deposited as set forth in the Advance Certificate.

(g) One business day before the Issue Date of the Series 2022 Bonds, the Borrower shall wire to the Trustee the amount of \$558,483.93 which the Trustee shall deposit in the Equity Costs of Issuance Account of the Project Fund. Equity funds provided by the Borrower in connection with the issuance of any Subsequent Series of Series 2022 Bonds shall be deposited as set forth in the Advance Certificate.

#### **Section 5.03 Costs of the Project.**

When used with respect to the Construction Account, "Costs of the Project" shall include the following:

- (a) any Qualified Project Costs;
- (b) the cost of labor, materials, machinery and equipment as payable to contractors, builders and materialmen in connection with the construction and equipping of the 2022 Project;
- (c) the costs of acquisition of real estate in connection with the 2022 Project;

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(a) A Requisition Certificate, signed by an Authorized Representative of the Borrower and approved by the Bondholder Representative for the Senior Bonds or the Construction Monitor, stating:

- (i) the name of the person, firm or corporation to whom the payment is due or if paid as reimbursement to the Borrower a description thereof;
- (ii) the amount to be paid; and
- (iii) the purpose in reasonable detail for which the obligation to be paid was incurred;

(b) An invoice or other appropriate evidence of the obligation described in the Requisition Certificate required by subsection (a) above;

(c) As to Costs of the Project, an itemized "Cost Statement" executed by the Borrower, and approved by the Construction Monitor, together with invoices for all items of Costs of the Project covered thereby; and

(d) As to amounts to be paid to any contractors, builders and materialmen in connection with the construction and equipping of the 2022 Project: (i) an itemized Application and Certificate for Payment (AIA Document G702 or similar form approved by the Bondholder Representative for the Senior Bonds or the Construction Monitor) containing the certifications of such contractors, builders and materialmen; (ii) certificates of such contractors, builders and materialmen; (iii) an affidavit of the Borrower, in accordance with New Hampshire Revised Statutes Annotated Chapter 447, Section 12-a, in form required by the Bondholder Representative for the Senior Bonds or the Construction Monitor, that the work for which such advance is to be made has been completed and that the subcontractors and suppliers of materials or labor have been paid for their share of such work, or will be paid out of such disbursement; (iv) a copy of the notice required under New Hampshire Revised Statutes Annotated Chapter 447, Section 12-b, along with a certification by the Borrower or its agent that such notice was posted within 10 Business Days of the execution of the Senior Mortgage; (v) a FA 61.1 endorsement to the title policy needed to maintain the first priority of the Senior Mortgage and/or such other endorsements as may reasonably be required by the Trustee; and (vi) copies of requisitions and invoices from subcontractors and/or material men supporting all items of cost covered by such application; and partial lien waivers for all contractors, subcontractors, and/or materialmen for the previous requisitions paid by the Trustee.

Upon receipt of each such Requisition Certificate, the Trustee shall within two (2) Business Days make payment from the Construction Account, as specified on the Requisition Certificate. The Trustee may rely upon the Requisition Certificate in disbursing funds from the Construction Account and shall have no obligation to evaluate or confirm receipt of any invoice or other evidence accompanying the Requisition Certificate. All such payments shall be made by electronic transfer, check or draft payable as directed by the Borrower in the Requisition Certificate approved by the Bondholder Representative for the Senior Bonds or the Construction Monitor (i) directly to the person, firm or corporation to be paid, (ii) to both the Borrower and such person, firm or corporation, or (iii) upon receipt of evidence that the

(d) governmental charges levied or assessed during construction of the 2022 Project, or on any property acquired therefor, and premiums on insurance in connection with the 2022 Project during construction;

(e) expenses necessary or incident to determining the feasibility or practicability of undertaking the 2022 Project, the fees and expenses of architects, engineers and management consultants for making studies, surveys and estimates of costs and of revenues and other estimates, and fees and expenses of architects and engineers for preparation of plans, drawings and specifications and for administration of the construction contract or contracts for the 2022 Project, as well as for the performance of all other duties of architects and engineers in relation to the acquisition, construction and equipping of the 2022 Project;

(f) expenses of administration, supervision and inspection properly chargeable to the 2022 Project, costs of development of, and working capital for, the 2022 Project, legal expenses and fees of the Borrower in connection with the construction or equipping of the 2022 Project (but not the issuance of Series 2022 Bonds), costs of abstracts and reports on title to real estate, owner's title insurance premiums, costs of managing investments of money deposited in the funds created hereunder and all other items of expense not elsewhere specified in this Section incident to the construction and placing in operation of the 2022 Project;

(g) any other cost relating to the 2022 Project that is permitted by the Act other than, with respect to Costs of the Project being paid from the Tax-Exempt Senior Construction Account, Costs of Issuance of Series 2022 Bonds; and

(h) reimbursement to the Borrower for any costs described above paid by it.

#### **Section 5.04 Payments from the Construction Account.**

The Trustee shall use money in the Tax-Exempt Senior Construction Account solely to pay the Costs of the Project.

Not less than 95% of the Tax-Exempt Bond proceeds representing net proceeds of the Tax-Exempt Bonds, including Investment Income on moneys in the Tax-Exempt Senior Construction Account, will be expended for Qualified Project Costs (the "95% Requirement"). Amounts deposit in the Tax-Exempt Senior Construction Account of the Project Fund shall be allocated to, and disbursed from time to time by the Trustee, for the sole purpose of paying Qualified Project Costs and other costs that are the subject of a Requisition Certificate and approved in writing by the Bondholder Representative for the Senior Bonds or the Construction Monitor as provided in the next sentence, which Requisition Certificate shall include a certification of compliance by the Borrower with the 95% Requirement.

Before any payment shall be made from the Tax-Exempt Senior Construction Account, there shall be filed with the Trustee:

Borrower has previously paid such amount, to the Borrower. Under the provisions of the Foreign Account Tax Compliance Act, the Trustee is obligated to withhold 30% from any disbursement to a payee who has not provided the Trustee with a properly completed taxpayer identification number on a current Internal Revenue Service Form W-9 or applicable Form W-8 (series). The Borrower shall provide the Trustee with a copy of such completed Form W-9 or W-8, as applicable, for the initial disbursement to any payee.

Upon the occurrence and continuance of an Event of Default under this Trust Indenture or the Loan Agreement, unless otherwise directed in writing by the Bondholder Representative for the Senior Bonds, the Trustee shall apply amounts on deposit in the Tax-Exempt Senior Construction Account in accordance with Section 9.05.

#### **Section 5.05 Disposition of Balance in Tax-Exempt Senior Construction Account.**

When the 2022 Project shall have been completed and the Trustee shall have received a certificate of an Authorized Representative of the Borrower and approved by the Bondholder Representative stating the date of completion of the 2022 Project and specifying the Costs of the Project, if any, that have not been paid and for the payment of which money should be reserved in the Tax-Exempt Senior Construction Account, the balance of any money remaining in the Tax-Exempt Senior Construction Account in excess of the amount to be reserved for payment of unpaid items of the Costs of the Project (as set forth in such certificate of the Borrower) shall be transferred to the extent available in the following order and amounts:

(i) from the Tax-Exempt Senior Construction Account:

(A) to the Debt Service Reserve Fund established for the Tax-Exempt Senior Bonds, if such fund does not then contain the Debt Service Reserve Fund Requirement, an amount sufficient to provide therein the amount of the Debt Service Reserve Fund Requirement; and

(B) to the Principal Account established for the Tax-Exempt Senior Bonds, to be credited against required transfers thereto with respect to the Tax-Exempt Senior Bonds; provided, however, that if any amount representing original proceeds of the Tax-Exempt Senior Bonds so transferred will be held to pay principal more than twelve (12) months after the date of such transfer, such amounts shall be applied by the Trustee in accordance with an Opinion of Bond Counsel.

(ii) [Reserved].

Notwithstanding the foregoing, to the extent no other funds are available therefor, upon the written direction of the Bondholder Representative for the Senior Bonds, the Trustee shall use amounts on deposit in the Tax-Exempt Senior Construction Account to pay principal of and interest on the Tax-Exempt Senior Bonds in the event of a default by the Borrower in making payments to the Trustee to pay such principal and interest in order to prevent the occurrence of an Event of Default.

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#### **Section 5.06 Costs of Issuance Fund.**

(a) The Trustee shall use amounts in the Accounts held under the Costs of Issuance Fund (drawing first from the Equity Costs of Issuance Account, second from the Subordinate Costs of Issuance Account and lastly from the Tax-Exempt Senior Costs of Issuance Account) at the written direction of the Borrower to pay Costs of Issuance of the Series 2022 Bonds and, to the extent not needed for such costs, as provided in subsection (d) hereof.

(b) The Trustee shall use amounts in the Accounts held under the Costs of Issuance Fund to pay the Costs of Issuance of the Series 2022 Bonds as set forth in the Closing Memorandum (or in an exhibit thereto) executed by the Borrower, approved by the Bondholder Representative for the Senior Bonds and delivered to the Trustee in connection with the issuance of the Series 2022 Bonds, and the delivery of the Closing Memorandum containing such a direction from the Borrower to the Trustee shall constitute a representation by the Borrower that, with respect to all amounts therein to be paid constituting Costs of Issuance, the representations set forth in Sections 5.06(c)(i)(A) through (F) below are true and correct.

(c) Before any payment shall be made from any Account of the Costs of Issuance Fund, other than payments made pursuant to the Closing Memorandum, there shall be filed with the Trustee:

(i) a requisition signed by an Authorized Representative of the Borrower and approved by the Bondholder Representative for the Senior Bonds stating:

(A) the name of the person, firm or corporation to whom the payment is due;

(B) the amount to be paid;

(C) the purpose, in reasonable detail, for which the obligation to be paid was incurred;

(D) that the obligation stated on the requisition constitutes Costs of Issuance, and that such item is a proper charge against the applicable Costs of Issuance Account and has not been the basis for a prior requisition that has been paid;

(E) that as of the date of such requisition no event or condition has happened or existed or is happening or exists that constitutes, or that, with notice or lapse of time or both, would constitute, an Event of Default hereunder or under the Loan Agreement or, if such an event or condition has happened or existed, or is happening or exists, the specific nature and date of the occurrence of such event or condition and describing the action the Borrower has taken, is taking or proposes to take with respect thereto; and

(F) with respect to each requisition from the Tax-Exempt Senior Costs of Issuance Account or the Subordinate Costs of Issuance Account, that the payment will not result in more than 2% of the net proceeds of the Tax-Exempt Bonds being used to pay Costs of Issuance of the Tax-Exempt Bonds; and

(ii) an invoice or other appropriate evidence of the obligation described in the requisition.

(d) Upon receipt of each such requisition, the Trustee shall within two (2) Business Days make payment from the applicable Costs of Issuance Account in accordance with such requisition; provided, however, that if such requisition states any Event of Default exists, the Trustee shall not make such payment without the written consent of the Bondholder Representative for Senior Bonds. The Trustee may rely upon the requisition in disbursing funds from the Costs of Issuance Accounts and shall have no obligation to confirm receipt or evaluate any invoice or other evidence accompanying the requisition. All such payments shall be made by electronic transfer, check or draft payable either (i) directly to the person, firm or corporation to be paid, (ii) to both the Borrower and such person, firm or corporation, or (iii) upon receipt of evidence that the Borrower has previously paid such amount, to the Borrower. Under the provisions of the Foreign Account Tax Compliance Act, the Trustee is obligated to withhold 30% from any disbursement to a payee who has not provided the Trustee with a properly completed taxpayer identification number on a current Internal Revenue Service Form W-9. The Borrower shall provide the Trustee with a copy of such completed Form W-9 for the initial disbursement to any payee.

(e) Upon the receipt by the Trustee of a certificate of the Borrower signed by an Authorized Representative of the Borrower and approved by the Bondholder Representative for the Senior Bonds stating that all Costs of Issuance have been paid, the balance of any money remaining in any Account of the Costs of Issuance Fund shall be transferred to the Tax-Exempt Senior Construction Account.

#### **ARTICLE VI REVENUES AND FUNDS**

##### **Section 6.01 Establishment of Funds and Accounts.**

The Trustee shall establish, as necessary, the following Funds and Accounts for the Series 2022 Bonds, each of which shall be maintained by the Trustee as a separate trust account hereunder:

- (a) Working Capital Fund;
- (b) Tax-Exempt Senior Debt Service Reserve Fund;
- (c) Subordinate Debt Service Reserve Fund;
- (d) Entrance Fee and Deposit Fund;
- (e) Project Fund and the following accounts therein:
  - (i) Tax-Exempt Senior Construction Account;
  - (ii) Tax-Exempt Senior Costs of Issuance Account;

(iii) Equity Costs of Issuance Account;

(iv) Subordinate Costs of Issuance Account;

(f) Tax-Exempt Senior Bond Fund and the following accounts therein:

(i) Interest Account;

(ii) Principal Account; and

(iii) Redemption Account;

(g) Subordinate Bond Fund and the following accounts therein:

(i) Interest Account;

(ii) Principal Account; and

(iii) Redemption Account;

(h) Rebate Fund;

(i) Tax and Insurance Escrow Fund;

(j) Repair and Replacement Fund; and

(k) Capitalized Interest Fund and the following accounts therein:

(i) Tax-Exempt Senior Capitalized Interest Account; and

(ii) Subordinate Capitalized Interest Account.

All money required to be deposited with or paid to the Trustee for the credit of any Fund or Account under any provision of this Trust Indenture and all investments made therewith shall be held by the Trustee in trust solely for the benefit and security of the Holders of the Series 2022 Bonds and applied only in accordance with the provisions of this Trust Indenture, and while held by the Trustee shall constitute part of the Trust Estate and be subject to the lien hereof. Except as otherwise provided herein, all payments and receipts derived from the Loan Agreement and the Security Instruments shall be collected, held and applied for the equal and ratable benefit and security of all the Holders of the Senior Bonds, and, on a subordinate basis, for the equal and ratable benefit and security of all the Holders of the Subordinate Bonds.

#### **Section 6.02 Funds Received; Additional Payments.**

The Trustee shall deposit all Entrance Fees in the Entrance Fee and Deposit Fund and shall deposit all other payments and receipts derived from the Loan Agreement and the Security Instruments as received in the following order:

(a) to the Interest Account and the Principal Account established for the Tax-Exempt Senior Bonds amounts which, when made in monthly installments, will be sufficient, with other available money in such Accounts, to enable the Trustee to make the payments of principal of and interest on the Senior Bonds when due in accordance with Section 6.03; provided that if the amount received by the Trustee on any date is insufficient to pay in full amounts due and owing under this Subsection (a), such amount shall be applied first to the Interest Account for the Senior Bonds pro rata among each such Series, and second to the Principal Account for the Senior Bonds pro rata among each such Series;

(b) to the Tax-Exempt Senior Debt Service Reserve Fund, amounts which, when made in monthly installments in accordance with Section 6.04 hereof, will be sufficient with other available money in such Fund, to account for any deficiency in such Fund resulting from any reduction in the value of assets therein as a result of the investment thereof or from any amounts withdrawn from such Fund, until the amount on deposit therein equals the Debt Service Reserve Requirement for the Senior Bonds;

(c) To the Rebate Fund, an amount equal to the Rebate Amount, if any, then required to be deposited therein pursuant to the Loan Agreement;

(d) Reserved;

(e) Reserved;

(f) To the Tax and Insurance Escrow Fund, one-twelfth (1/12) of the annual insurance premiums, real estate taxes and assessments with respect to the 2022 Project as required by the Continuing Covenants Agreements until the amount on deposit therein equals the amounts due for each such year;

(g) (i) To the Interest Account established for the Subordinate Bonds amounts which, when made in monthly installments, will be sufficient, with other available money in such Account, to enable the Trustee to make the payments of interest on the Subordinate Bonds when due in accordance with Section 6.03; and

(ii) To the Principal Account established for the Subordinate Bonds amounts which, when made in monthly installments, will be sufficient, with other available money in such Account, to enable the Trustee to make the payments of principal of the Subordinate Bonds when due in accordance with Section 6.03; and

(h) To the Subordinate Debt Service Reserve Fund, amounts which, when made in monthly installments pursuant to Section 6.05 hereof, will be sufficient with other available money in such Fund, to account for any deficiency in such Fund resulting from any reduction in the value of assets therein as a result of the investment thereof or from any amounts withdrawn from such Fund, until the amount on deposit therein equals the Debt Service Reserve Requirement for the Subordinate Bonds.

To the extent that Gross Revenues of the Borrower are deposited and held by the Trustee as provided in Section 3.3 of the Loan Agreement, such amounts shall be applied by the Trustee in accordance with the written direction of the Bondholder Representative for the

Senior Bonds to the payment of expenses of the Borrower or shall be deposited in such Funds and Accounts as shall be directed by the Bondholder Representative for the Senior Bonds.

Notwithstanding the foregoing, the Trustee shall transfer any Additional Payments (as defined in the Loan Agreement) and any payments in respect of the Unassigned Rights as may come into the Trustee's possession, promptly upon receipt thereof from the Borrower, to the applicable party at the address specified therein or as otherwise directed by the Borrower.

#### Section 6.03 Bond Funds.

The Bond Fund established for each of the Tax-Exempt Senior Bonds and the Subordinate Bonds and the money and investments therein shall be held and used solely and exclusively to pay the principal of and premium, if any, and interest on such Bonds except as otherwise directed by the applicable Bondholder Representative.

(a) Interest Account. There shall be deposited in the Interest Account established for each of the Tax-Exempt Senior Bonds and the Subordinate Bonds Loan Payments received by the Trustee from the Borrower under the Loan Agreement, as follows:

(i) on the first day of each month an amount equal to the sum of one-sixth (1/6), as adjusted for a shorter or longer initial period as provided in the applicable Continuing Covenants Agreement, of the amount of interest due on the Senior Bonds on the next Interest Payment Date, taking into account amounts on deposit, if any, in the Tax-Exempt Senior Capitalized Interest Account for payment of such interest due on such Senior Bonds; provided, however, with respect to Tax-Exempt Senior Bonds, if at any time between Interest Payment Dates, an Advance evidenced by such Bonds occurs pursuant to the provisions of Section 2.02(d), then the Trustee shall re-calculate after such Advance the amount due as of the first day of each month remaining until the next Interest Payment Date, taking into account the additional interest accruing on the then outstanding Tax-Exempt Senior Bonds, from the date of the Advance to the next Interest Payment Date; provided, further that during the period from the Closing Date to the date of the final Advance for which there are available funds for each Advance during such period to fund a deposit to the Tax-Exempt Senior Capitalized Interest Account, the Borrower shall not be required to make any monthly interest payment required under this Section 6.03(a)(i) so long as each such Advance scheduled to be made immediately prior to an Interest Payment Date includes a deposit to the Tax-Exempt Senior Capitalized Interest Account in an amount sufficient to pay the interest due on the Bonds on such Interest Payment Date;

(ii) on the first day of each month an amount equal to the sum of one-sixth (1/6), as adjusted for a shorter or longer initial period, of the amount of interest due on the Subordinate Bonds on the next Interest Payment Date, taking into account amounts on deposit, if any, in the Subordinate Capitalized Interest Account for payment of such interest due on such Subordinate Bonds; provided, however, that all amounts required to be deposited for such month pursuant to Section 6.02(a) through (d), inclusive, shall have been so deposited first before any deposits pursuant to this Subsection 6.03(a)(ii) shall be made; and

(iii) notwithstanding the foregoing, the amount required by (i) above with respect to the Senior Bonds and by (ii) above with respect to the Subordinate Bonds shall first take into account any money already on deposit in such Interest Account and earnings thereon. The Trustee shall pay when due interest on such Series 2022 Bonds from money in the applicable Interest Account.

In the event the balance in an Interest Account established for any Series of Senior Bonds on the 15th day preceding an Interest Payment Date is insufficient for the payment of interest becoming due on such Senior Bonds on such Interest Payment Date, the Trustee shall notify the Borrower, the Guarantor, the Sole Member and each of the Bondholder Representatives of the amount of the deficiency. Upon notification, the Borrower shall immediately deliver, or cause to be delivered, to the Trustee an amount sufficient to cure the deficiency. If the amount so delivered is not sufficient to cure the deficiency in the applicable Interest Account by the 10th day preceding the Interest Payment Date, the Trustee shall, not later than the first Business Day thereafter, deliver a written notice thereof to each of the Bondholder Representatives, the Sole Member and the Guarantor, and request approval from the Bondholder Representative for the Senior Bonds to transfer funds from the Working Capital Fund and the Tax-Exempt Senior Debt Service Reserve Fund, to cure the deficiency, and, provided approval from such Bondholder Representative is given, the Trustee shall deposit into the applicable Interest Account all amounts transferred to cure such deficiency, in the order of priority set forth in subpart (d) of this Section 6.03 below.

In the event the balance in an Interest Account established for the Subordinate Bonds on the 15th day preceding an Interest Payment Date is insufficient for the payment of interest becoming due on such Subordinate Bonds on such Interest Payment Date, the Trustee shall notify the Borrower, the Guarantor, the Sole Member and each of the Bondholder Representatives of the amount of the deficiency. Subject to the terms of this Trust Indenture, upon notification, the Borrower shall immediately deliver, or cause to be delivered, to the Trustee an amount sufficient to cure the deficiency.

(b) Principal Account. There shall be deposited in the Principal Account established for each of the Tax-Exempt Senior Bonds and the Subordinate Bonds Loan Payments received by the Trustee from the Borrower under the Loan Agreement, as follows:

(i) on the first day of each month an amount equal to the sum of one-twelfth (1/12), as adjusted for the shorter or longer initial period as provided in the applicable Continuing Covenants Agreement, of the amount of principal that will become due on the outstanding Senior Bonds on the following April 1 or such lesser amount that, together with money on deposit therein and earnings thereon, will be sufficient to pay principal becoming due on each such Series of Senior Bonds on the next succeeding principal payment date; and

(ii) on the first day of each month an amount equal to the sum of one-twelfth (1/12), as adjusted for a shorter or longer initial period, of the amount of principal that will become due on the outstanding Subordinate Bonds on the following April 1 or such lesser amount that, together with money on deposit therein and earnings thereon, will be sufficient to pay principal becoming due on each such Subordinate Bond on the next succeeding principal payment date; provided, however, that all amounts required to be deposited for such month

pursuant to Section 6.02(a) through (e), inclusive, shall have been so deposited first before any deposits pursuant to this Subsection 6.03(b)(ii) shall be made.

The Trustee shall pay when due the principal becoming due on each such Series of Series 2022 Bonds at the maturity thereof or by acceleration from money in the Principal Account.

In the event the balance in a Principal Account established for any Series of Senior Bonds on the 15th day preceding any April 1 (or other principal payment date, as applicable) is insufficient for the payment of principal becoming due on such date, the Trustee shall notify the Borrower, the Sole Member, the Guarantor and each of the Bondholder Representatives of the amount of the deficiency. Upon notification, the Borrower shall immediately deliver, or cause to be delivered, to the Trustee an amount sufficient to cure the deficiency. If the amount so delivered is not sufficient to cure the deficiency in the applicable Principal Account by the 10th day preceding April 1 (or other principal payment date, as applicable), the Trustee shall, not later than the first Business Day thereafter, deliver a written notice thereof to each of the Bondholder Representatives, the Sole Member and the Guarantor, and request approval from the Bondholder Representative for the Senior Bonds to transfer funds from the Working Capital Fund and the Tax-Exempt Senior Debt Service Reserve Fund, to cure the deficiency, and, provided approval from such Bondholder Representative is given, the Trustee shall deposit into the applicable Principal Account all amounts transferred to cure such deficiency, in the order of priority set forth in subpart (d) of this Section 6.03 below.

In the event the balance in a Principal Account established for the Subordinate Bonds on the 15th day preceding any April 1 (or other principal payment date, as applicable) is insufficient for the payment of principal becoming due on such date, the Trustee shall notify the Borrower, the Sole Member, the Guarantor and each of the Bondholder Representatives of the amount of the deficiency. Subject to the terms of this Trust Indenture, upon notification, the Borrower shall immediately deliver, or cause to be delivered, to the Trustee an amount sufficient to cure the deficiency.

(c) Redemption Account. There shall be deposited into the Redemption Account established for each of the Tax-Exempt Senior Bonds and the Subordinate Bonds money received from the Borrower to pay the redemption price of such Series 2022 Bonds, or to provide for the purchase in lieu of redemption permitted pursuant to Section 3.04 hereof, which money shall be used for such purpose on the applicable redemption date.

(d) Application of Moneys in Bond Funds. The Trustee shall pay when due interest on each Series of Series 2022 Bonds from all amounts on deposit in the respective Bond Fund and Accounts therein for such Series of Series 2022 Bonds in the following order of priority:

(i) First, after the amounts on deposit in the Tax-Exempt Senior Capitalized Interest Account of the Capitalized Interest Fund have been expended for the payment of the Senior Bonds to pay or provide for the payment of the interest due on the Tax-Exempt Senior Bonds on such Interest Payment Date;

(ii) Second, to pay or provide for the payment of the mandatory sinking fund payment due on the Senior Bonds on such redemption date in accordance with Section 3.01(d);

(iii) Third, to pay or provide for the payment of the redemption price of Senior Bonds pursuant to Sections 3.01(a)(i), 3.01(b), 3.01(c) or 3.01(e), or the Purchase Price of Senior Bonds to be purchased in lieu of redemption pursuant to Section 3.04, provided moneys have been transferred or deposited into the respective Bond Fund and Redemption Account for such Senior Bonds, or Purchase Price has been provided to the Trustee, for such purpose;

(iv) Fourth, after the applicable amounts on deposit in the Subordinate Capitalized Interest Account of the Capitalized Interest Fund have been expended for the payment of the Subordinate Bonds, if the conditions set forth in Section 13.01 have been satisfied, to pay or provide for the payment of the interest due on the Subordinate Bonds on the next Interest Payment Date from the Interest Account in the Subordinate Bond Fund; and

(v) Fifth, to pay or provide for the redemption price of Subordinate Bonds pursuant to Sections 3.01(a)(ii), 3.01(b), 3.01(c), 3.01(d) or 3.01(e), or the Purchase Price of Subordinate Bonds to be purchased in lieu of redemption pursuant to Section 3.04, provided moneys have been transferred or deposited into the Redemption Account of the Subordinate Bond Fund, or Purchase Price has been provided to the Trustee, for such purpose.

If the amounts held in the Tax-Exempt Senior Bond Fund are insufficient to pay the principal of or interest on the Tax-Exempt Senior Bonds when due, to the extent so directed by the Bondholder Representative for the Senior Bonds, the Trustee shall pay such amounts from first, amounts on deposit in the Working Capital Fund, second, from amounts on deposit in the Tax-Exempt Senior Construction Account of the Project Fund, and third, from amounts on deposit in the Tax-Exempt Senior Debt Service Reserve Fund.

If the amounts held in the Subordinate Bond Fund are insufficient to pay the principal of or interest on the Subordinate Bonds when due, to the extent so directed by the Bondholder Representative for Subordinate Bonds, the Trustee shall pay such amounts from amounts on deposit in the Subordinate Debt Service Reserve Fund.

#### Section 6.04 Tax-Exempt Senior Debt Service Reserve Fund.

The Trustee shall establish and maintain the Tax-Exempt Senior Debt Service Reserve Fund as security solely for the Tax-Exempt Senior Bonds.

If the principal or interest paid by the Borrower or the amount otherwise available to the Trustee to pay the principal of and interest on Outstanding Tax-Exempt Senior Bonds secured by the Tax-Exempt Senior Debt Service Reserve Fund is less than the amount of principal or interest then due on such Tax-Exempt Senior Bonds, and no amounts are available to cure the deficiency in the Working Capital Fund (or, in the event any such amounts are available, such amounts are not permitted to be used for such purpose by the Bondholder Representative for the Senior Bonds) with the written consent of the Bondholder Representative for the Senior

Bonds, the Trustee shall immediately withdraw from the Tax-Exempt Senior Debt Service Reserve Fund the amount of such deficiency and transfer the amount withdrawn to the Tax-Exempt Senior Interest Account and the Tax-Exempt Senior Principal Account to cure the deficiency. The Trustee shall immediately provide written notice to the Borrower and Guarantor of any such withdrawal from the Tax-Exempt Senior Debt Service Reserve Fund.

Beginning on the first (1st) day of the month following a month in which money is withdrawn from the Tax-Exempt Senior Debt Service Reserve Fund, the Borrower shall promptly pay or cause to be paid to the Trustee for deposit into the Tax-Exempt Senior Debt Service Reserve Fund one-twelfth (1/12) of the amount or amounts so withdrawn and such payments shall continue each month until the amount then on deposit in the Tax-Exempt Senior Debt Service Reserve Fund is equal to the Tax-Exempt Senior Debt Service Reserve Fund Requirement. If an additional withdrawal is made from the Tax-Exempt Senior Debt Service Reserve Fund prior to the restoration of the initial withdrawal, such additional withdrawal shall be restored by the Borrower in equal monthly installments over the remainder of the restoration period for the initial withdrawal.

If on any date of valuation the money held in the Tax-Exempt Senior Debt Service Reserve Fund established for the Tax-Exempt Senior Bonds exceeds the Debt Service Reserve Fund Requirement for the Tax-Exempt Senior Bonds, including any excess created in whole or in part by the interest earnings on the Tax-Exempt Senior Debt Service Reserve Fund, an amount equal to such excess shall be transferred by the Trustee to the applicable Interest Account to the extent of any deficiency therein, and thereafter to the applicable Principal Account or the Redemption Account, as directed in writing by the Borrower and approved by the Bondholder Representative for the Senior Bonds; provided that any excess created by a refunding (or other payment or defeasance) of a portion of any Tax-Exempt Bonds may be applied in any manner which, in an Opinion of Bond Counsel delivered to the Trustee, will not cause the interest on any Tax-Exempt Bonds to be includable in the gross income of the owners thereof under the Code.

For the purpose of determining the amount on deposit in the Tax-Exempt Senior Debt Service Reserve Fund or account therein, Permitted Investments in such Fund shall be valued at the market value of such Permitted Investments.

The Trustee shall value the Permitted Investments in the Tax-Exempt Senior Debt Service Reserve Fund three (3) Business Days prior to each April 1 and October 1 and at such times as shall be requested in writing by the Borrower in order for the Borrower to comply with federal income tax law applicable to the Tax-Exempt Senior Bonds. In addition, the Permitted Investments shall be valued by the Trustee at any time requested in writing by the Borrower upon reasonable notice to the Trustee (which period of notice may be waived or reduced by the Trustee); provided, however, that the Trustee shall not be required to value the Permitted Investments more than once in any calendar month other than as provided herein. If, upon valuation of the Tax-Exempt Senior Debt Service Reserve Fund, the balance in such Fund is less than 100% of the Tax-Exempt Senior Debt Service Reserve Fund Requirement, the Trustee shall compute the amount by which the Tax-Exempt Senior Debt Service Reserve Fund Requirement exceeds such balance and shall immediately give the Bondholder Representative

for the Senior Bonds, the Sole Member, the Guarantor and the Borrower notice of such deficiency and the amount necessary to cure the same.

On the first day of the month following a valuation made in accordance with this Section in which the amount on deposit in the Tax-Exempt Senior Debt Service Reserve Fund is less than one hundred percent (100%) of the Tax-Exempt Senior Debt Service Reserve Fund Requirement due to a loss resulting from a decline in the value of Permitted Investments held for the credit of the Tax-Exempt Senior Debt Service Reserve Fund, the Borrower shall pay or cause to be paid to the Trustee for deposit into the Tax-Exempt Senior Debt Service Reserve Fund the amount by which the Tax-Exempt Senior Debt Service Reserve Fund Requirement exceeds such balance.

#### Section 6.05 Subordinate Debt Service Reserve Fund.

The Trustee shall establish and maintain the Subordinate Debt Service Reserve Fund as security solely for the Subordinate Bonds.

If the principal or interest paid by the Borrower or the amount otherwise available to the Trustee to pay the principal of and interest on Outstanding Subordinate Bonds secured by the Subordinate Debt Service Reserve Fund is less than the amount of principal or interest then due on such Subordinate Bonds, and no amounts are available to cure the deficiency in the Working Capital Fund (or, in the event any such amounts are available, such amounts are not permitted to be used for such purpose by the Bondholder Representative for the Subordinate Bonds) with the written consent of the Bondholder Representative for the Subordinate Bonds, the Trustee shall immediately withdraw from the Subordinate Debt Service Reserve Fund the amount of such deficiency and transfer the amount withdrawn to the Subordinate Interest Account and the Subordinate Principal Account to cure the deficiency. The Trustee shall immediately provide written notice to the Borrower, the Sole Member and the Guarantor of any such withdrawal from the Subordinate Debt Service Reserve Fund.

Beginning on the first (1st) day of the month following a month in which money is withdrawn from the Subordinate Debt Service Reserve Fund, the Borrower shall promptly pay or cause to be paid to the Trustee for deposit into the Subordinate Debt Service Reserve Fund one-twelfth (1/12) of the amount or amounts so withdrawn and such payments shall continue each month until the amount then on deposit in the Subordinate Debt Service Reserve Fund is equal to the Subordinate Debt Service Reserve Fund Requirement. If an additional withdrawal is made from the Subordinate Debt Service Reserve Fund prior to the restoration of the initial withdrawal, such additional withdrawal shall be restored by the Borrower in equal monthly installments over the remainder of the restoration period for the initial withdrawal.

If on any date of valuation the money held in the Subordinate Debt Service Reserve Fund exceeds the Debt Service Reserve Fund Requirement for the Subordinate Bonds, including any excess created in whole or in part by the interest earnings on the Subordinate Debt Service Reserve Fund, an amount equal to such excess shall be transferred by the Trustee to the Subordinate Interest Account to the extent of any deficiency therein, and thereafter to the Subordinate Principal Account or the Redemption Account, as directed in writing by the Borrower and approved by the Bondholder Representative for the Subordinate Bonds; provided

that any excess created by a refunding (or other payment or defeasance) of a portion of any Tax-Exempt Bonds may be applied in any manner which, in an Opinion of Bond Counsel delivered to the Trustee, will not cause the interest on any Tax-Exempt Bonds to be includable in the gross income of the owners thereof under the Code.

For the purpose of determining the amount on deposit in the Subordinate Debt Service Reserve Fund or account therein, Permitted Investments in such Fund shall be valued at the market value of such Permitted Investments.

The Trustee shall value the Permitted Investments in the Subordinate Debt Service Reserve Fund three (3) Business Days prior to each April 1 and October 1 and at such times as shall be requested in writing by the Borrower in order for the Borrower to comply with federal income tax law applicable to the Subordinate Bonds. In addition, the Permitted Investments shall be valued by the Trustee at any time requested in writing by the Borrower upon reasonable notice to the Trustee (which period of notice may be waived or reduced by the Trustee); provided, however, that the Trustee shall not be required to value the Permitted Investments more than once in any calendar month other than as provided herein. If, upon valuation of the Subordinate Debt Service Reserve Fund, the balance in such Fund is less than 100% of the Subordinate Debt Service Reserve Fund Requirement, the Trustee shall compute the amount by which the Subordinate Debt Service Reserve Fund Requirement exceeds such balance and shall immediately give the Bondholder Representative for the Subordinate Bonds, the Sole Member, the Guarantor and the Borrower notice of such deficiency and the amount necessary to cure the same.

On the first day of the month following a valuation made in accordance with this Section in which the amount on deposit in the Subordinate Debt Service Reserve Fund is less than one hundred percent (100%) of the Subordinate Debt Service Reserve Fund Requirement due to a loss resulting from a decline in the value of Permitted Investments held for the credit of the Subordinate Debt Service Reserve Fund, the Borrower shall pay or cause to be paid to the Trustee for deposit into the Subordinate Debt Service Reserve Fund the amount by which the Subordinate Debt Service Reserve Fund Requirement exceeds such balance.

#### Section 6.06 Working Capital Fund.

The Trustee shall establish and maintain a separate fund to be known as the Working Capital Fund. All moneys held in the Working Capital Fund shall be trust funds under the terms of this Trust Indenture. Such moneys shall be held in trust and applied in accordance with the provisions of this Trust Indenture. The funds held in the Working Capital Fund shall secure the payment of the Senior Bonds, but not the Subordinate Bonds.

The Working Capital Fund shall be funded as set forth in Section 3.3 of the Loan Agreement. The Borrower may requisition amounts from the Working Capital Fund based upon its budget with the approval of the Bondholder Representative for the Senior Bonds, which will not be withheld so long as such amounts are within the budget approved by the Bondholder Representative for the Senior Bonds.

#### Section 6.07 Rebate Fund.

There is hereby established with the Trustee a Rebate Fund (the "Rebate Fund"). Any provisions in this Trust Indenture to the contrary notwithstanding, amounts credited to the Rebate Fund shall be free and clear of any lien hereunder. The Trustee shall establish separate accounts for the Rebate Fund for each Series of Tax-Exempt Bonds.

The Trustee shall deposit in the Rebate Fund the amount paid to the Trustee by the Borrower pursuant to the Loan Agreement. Except as otherwise set forth in the Tax Certificate, within sixty (60) days after each date on which rebate is required to be computed by the Code, the Trustee, at the direction of the Borrower and acting on behalf of the Authority, shall pay to the United States of America in accordance with Section 148(f) of the Code from the moneys then on deposit in the Rebate Fund an amount equal to 90% (or such greater percentage not in excess of 100% as the Borrower may direct the Trustee to pay) of the amount certified by the Borrower to be the required rebate to the United States of America as calculated under Section 148(f)(2) of the Code (hereinafter called the "Rebate Amount"). The Borrower shall direct the Trustee to pay, within sixty (60) days after the payment in full of all Tax-Exempt Bonds to the United States of America, from the moneys then on deposit in the Rebate Fund, an amount determined in accordance with Section 148(f) of the Code to be equal to 100% of the Rebate Amount and any moneys remaining in the Rebate Fund following such payment shall be paid to the Borrower.

The Trustee and the Authority shall be entitled to rely on the calculations made pursuant to this Section and neither the Authority nor the Trustee shall be responsible for any loss or damage resulting from any good faith action taken or omitted to be taken in reliance upon such calculations.

The Trustee shall keep those records of the computations made pursuant to this Section that are furnished by the Borrower or the Authority to the Trustee until six (6) years after the retirement of the Tax-Exempt Bonds provided that nothing in this Trust Indenture shall impose any obligation on the Trustee with respect to requesting, preparing, obtaining or verifying any such records or any computations therein.

Moneys in the Rebate Fund may be invested as provided in Section 7.01 for the investment of the Project Fund and the Bond Funds.

#### Section 6.08 Tax and Insurance Escrow Fund.

There is hereby established with the Trustee a Tax and Insurance Escrow Fund (the "Tax and Insurance Escrow Fund").

The Trustee shall deposit in the Tax and Insurance Escrow Fund the amount, if any, paid to the Trustee by the Borrower pursuant to the Continuing Covenants Agreements. At the written direction of the Borrower, the Trustee shall apply any amounts in the Tax and Insurance Escrow Fund to pay, if and when due, real estate taxes and assessments for the 2022 Project and insurance premiums therefor.

Moneys in the Tax and Insurance Escrow Fund may be invested as provided in Section 7.01 for the investment of the Project Fund and the Bond Funds.

#### Section 6.09 Capitalized Interest Fund.

From proceeds of the Initial Subseries of Tax-Exempt Senior Bonds, there shall be deposited \$444,173.67 into the Tax-Exempt Senior Capitalized Interest Account of the Capitalized Interest Fund. With respect to any Subsequent Subseries of Tax-Exempt Senior Bonds, the Trustee shall deposit such amount into the Tax-Exempt Senior Capitalized Interest Account of the Capitalized Interest Fund as so directed by the Borrower in connection with the Advance but only upon receipt of a certification from the Borrower that such amounts shall only be used to pay interest on the Tax-Exempt Senior Bonds during the construction period. The Trustee shall establish and maintain the Tax-Exempt Senior Capitalized Interest Account of the Capitalized Interest Fund as security solely for the Senior Bonds.

From proceeds of the Subordinate Bonds, there shall be deposited \$3,915,000.00 into the Subordinate Capitalized Interest Account of the Capitalized Interest Fund. The Trustee shall establish and maintain the Subordinate Capitalized Interest Account of the Capitalized Interest Fund as security solely for the Subordinate Bonds.

In connection with the issuance of any Subsequent Subseries of Tax-Exempt Senior Bonds, the Borrower shall deposit with the Trustee such amounts into the Tax-Exempt Senior Capitalized Interest Account of the Capitalized Interest Fund as are set forth on the Advance Certificate delivered in connection with the Advance.

In accordance with Section 6.03(a) hereof, the Trustee shall take into account amounts on deposit in the respective Capitalized Interest Account established for the respective Senior Bonds and Subordinate Bonds when making the monthly transfers required pursuant to Section 6.03(a) and shall, without further direction, on or before the 1st day of the month preceding any Interest Payment Date, transfer from the respective Capitalized Interest Account established for the particular Series of Bonds the amount necessary to make the interest payment due on the respective Series of Bonds.

When the 2022 Project shall have been completed and the Trustee shall have received a certificate of an Authorized Representative of the Borrower and approved by the Bondholder Representative for the Senior Bonds stating the date of completion of the 2022 Project, the balance of any money remaining in either of the Accounts of the Capitalized Interest Fund shall be transferred to the extent available in the following order and amounts:

(i) from the Tax-Exempt Proceeds Subaccount of the Tax-Exempt Senior Capitalized Interest Account of the Capitalized Interest Fund;

(A) to the Tax-Exempt Senior Debt Service Reserve Fund, if such fund does not then contain the Debt Service Reserve Fund Requirement, an amount sufficient to provide therein the amount of the Debt Service Reserve Fund Requirement; and

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(B) to the Principal Account established for the Tax-Exempt Senior Bonds, to be credited against required transfers thereto with respect to the Tax-Exempt Senior Bonds; provided, however, that if any amount representing original proceeds of the Tax-Exempt Senior Bonds so transferred will be held to pay principal more than twelve (12) months after the date of such transfer, such amounts shall be applied by the Trustee in accordance with an Opinion of Bond Counsel.

(ii) from the Subordinate Capitalized Interest Account of the Capitalized Interest Fund:

(A) to the Subordinate Debt Service Reserve Fund, if such fund does not then contain the Subordinate Debt Service Reserve Fund Requirement, an amount sufficient to provide therein the amount of the Subordinate Debt Service Reserve Fund Requirement; and

(B) to the Principal Account established for the Subordinate Bonds, to be credited against required transfers thereto with respect to the Subordinate Bonds; provided, however, that if any amount representing original proceeds of the Subordinate Bonds so transferred will be held to pay principal more than twelve (12) months after the date of such transfer, such amounts shall be applied by the Trustee in accordance with an Opinion of Bond Counsel.

#### Section 6.10 Entrance Fee and Deposit Fund.

Pursuant to Section 3.3 of the Loan Agreement, the Borrower is required on the first (1<sup>st</sup>) day of each month to deposit all Entrance Fees with the Trustee for deposit into the Entrance Fee and Deposit Fund. The Trustee shall, not later than the fifth (5<sup>th</sup>) day of each month transfer all amounts on deposit in the Entrance Fee and Deposit Fund in accordance with the order of priority detailed in Section 3.3 of the Loan Agreement.

#### Section 6.11 Repair and Replacement Fund.

(a) The Trustee shall deposit into the Repair and Replacement Fund all amounts required to be deposited therein pursuant to this Trust Indenture and all payments required to be made by the Borrower pursuant to Section 3.1(a)(viii) of the Continuing Covenants Agreements.

(b) The Trustee shall, at the request of an Authorized Representative of the Borrower, disburse moneys from the Repair and Replacement Fund in payment of the costs set forth in subsection (c) below upon receipt by the Trustee of a Requisition Certificate signed by an Authorized Representative of the Borrower and approved in writing by the Bondholder Representative for the Senior Bonds (or if there are no Senior Bonds Outstanding, the Bondholder Representative for the Subordinate Bonds). The Trustee shall be fully protected in releasing moneys from the Repair and Replacement Fund based on such requisition signed by an Authorized Representative of the Borrower and approved by the applicable Bondholder Representative.

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(c) Moneys in the Repair and Replacement Fund shall be disbursed by the Trustee (i) to the Borrower or to the Borrower's order to pay (A) the cost of improvements to the Facility, (B) replacement or repair of equipment or other components of the Facility, or (C) to purchase additional equipment for the Facility; or (ii) to pay principal and interest on the Senior Bonds to the extent payments by the Borrower are insufficient therefor and, if there are no Senior Bonds Outstanding, to pay principal and interest on the Subordinate Bonds. In no event will the balance of the Repair and Replacement Fund be required to exceed the Repair and Replacement Fund Requirement. As long as no Event of Default has occurred and is continuing, if, at any time, the balance of the Repair and Replacement Fund exceeds the Repair and Replacement Fund Requirement, at the written request of the Borrower, the sum of such excess shall be deposited in the Interest Account of the Tax-Exempt Senior Bond Fund, or, if there are no Senior Bonds Outstanding, to the Interest Account of the Subordinate Bond Fund.

(d) The Trustee shall keep and maintain adequate records pertaining to the Repair and Replacement Fund and all disbursements therefrom and, unless it is doing so more frequently, shall annually file an accounting thereof with the Authority (upon request), the Bondholder Representative for the Senior Bonds, the Bondholder Representative for the Subordinate Bonds and the Borrower.

## ARTICLE VII INVESTMENTS

#### Section 7.01 Investment of Funds.

All money deposited with the Trustee hereunder in excess of the amount guaranteed by the Federal Deposit Insurance Corporation ("FDIC") or other federal agency shall be continuously invested, for the benefit of the Holders of the Series 2022 Bonds secured thereby, to the extent practicable, in Permitted Investments in accordance with the written instructions of the Borrower. In the absence of the receipt of written investment instructions of the Borrower, the Trustee is hereby directed to invest and re-invest such moneys in the money market fund(s) described in paragraph (g) of the definition of Permitted Investments.

Money held in the Bond Funds shall at the written direction of the Borrower be invested in Permitted Investments selected by the Borrower maturing not later than the dates on which such money will be needed to pay principal of (whether at maturity or by mandatory sinking fund redemption) or interest on the applicable Series of Series 2022 Bonds.

Permitted Investments deposited in a Debt Service Reserve Fund shall mature on the earlier of four years from the date on which such obligations were deposited therein, except as otherwise permitted by the applicable Bondholder Representative. Notwithstanding the foregoing, no investments in a Debt Service Reserve Fund may mature beyond the latest maturity date of such Series 2022 Bonds at the time such investments are deposited unless irrevocable instructions shall have been given to redeem such investment on a date or dates not later than the latest maturity date of any such Series 2022 Bonds. For the purposes of this Section, investments shall be considered as maturing on the date on which they are redeemable without penalty at the option of the holder or the date on which the Trustee may require their repurchase, pursuant to a repurchase agreement qualifying as described above. The maturity

date of repurchase agreements for Government Obligations or other obligations is the maturity date of such repurchase agreements and not the maturity date of the underlying Government Obligations or other obligations.

Money held in any Fund established hereunder other than the Debt Service Reserve Funds and the Bond Funds shall be invested at the written direction of the Borrower in Permitted Investments selected by the Borrower maturing not later than the date on which it is estimated that such monies will be required for the purposes specified in this Trust Indenture.

All such investments shall be held by or under the control of the Trustee and while so held shall be deemed a part of the Fund or Account in which such money was originally held, except as otherwise provided herein. The interest accruing from such investment and any profit realized therefrom shall be credited to such Funds or Accounts and any loss resulting from such investments shall be charged to such Funds or Accounts. The Trustee shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any Fund or Account is insufficient for the purposes thereof. So long as all investment restrictions applicable to each Fund or Account created hereunder are complied with, the Trustee may commingle the Funds and Accounts held by it hereunder for purposes of investing amounts held therein.

The Trustee shall make available to the Borrower and the Bondholder Representatives reports in reasonable detail regarding the investment of the Funds and Accounts held by the Trustee pursuant to this Trust Indenture, which may be in the form of the Trustee's regular corporate trust account statements.

For the purpose of determining the amount on deposit to the credit of any such Fund or Account, as reflected by annual accounting statements, obligations purchased as an investment of money therein shall be valued at least annually at the market price thereof, exclusive of accrued interest.

#### Section 7.02 Investments through Trustee's Bond Department.

The Trustee may make investments permitted by Section 7.01 through its own bond department.

## ARTICLE VIII DISCHARGE OF TRUST INDENTURE

#### Section 8.01 Discharge of Trust Indenture.

The Series 2022 Bonds shall be deemed paid for all purposes of this Trust Indenture when (a) payment of the principal of and interest on such Series 2022 Bonds to the due date of such principal and interest (whether at maturity, upon redemption, acceleration or otherwise) either (i) has been made or (ii) has been provided for by depositing with the Trustee (A) money sufficient to make such payment which otherwise meets the definition of Defeasance Obligations or (B) noncallable Defeasance Obligations maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient money to make such

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payment without regard to the reinvestment thereof; and (b) all compensation and expenses of the Authority, the Bondholder Representatives and the Trustee (as well as the fees and expenses of their counsel) pertaining to each such Series 2022 Bond in respect of which such payment or deposit is made have been paid or provided for to their respective satisfaction. When a Series 2022 Bond is deemed paid, it shall no longer be secured by or entitled to the benefits of this Trust Indenture, except for payment from money or Defeasance Obligations under clause (a) above and except that it may be transferred, exchanged, registered, discharged from registration or replaced as provided in Article II.

Notwithstanding the foregoing, no deposit under clause (a) above made for the purpose of paying the redemption price of such Series 2022 Bond (as opposed to the final payment thereof upon maturity) will be deemed a payment of such Series 2022 Bond as aforesaid until (1) notice of redemption of such Series 2022 Bond is given in accordance with Article III or, if such Series 2022 Bond is not to be redeemed within the next 60 days, until the Borrower has given the Trustee, in form satisfactory to the Trustee, irrevocable written instructions to notify, as soon as practicable, the holder of such Series 2022 Bond, that the deposit required by subsection (a) above has been made with the Trustee and that such Series 2022 Bond is deemed to be paid under this Article and stating the redemption date upon which money is to be available for the payment of the principal of such Series 2022 Bond or (2) the maturity of such Series 2022 Bond. Additionally, and while the deposit under clause (a) above made for the purpose of paying the final payment of a Series 2022 Bond upon its maturity shall be deemed a payment of such Series 2022 Bond as aforesaid, the Trustee shall mail notice to the holder of such Series 2022 Bond as soon as practicable stating that the deposit required by clause (a) above has been made with the Trustee and that such Series 2022 Bond is deemed to be paid under this Article.

When all Series 2022 Bonds issued hereunder have been deemed paid under the foregoing provisions of this Section and other sums due hereunder and under the Loan Agreement are paid in full, the Trustee shall, upon request, acknowledge the discharge of the Authority's obligations under this Trust Indenture with respect to the Series 2022 Bonds, except for obligations under Article II in respect of the transfer, exchange, registration, discharge from registration and replacement of Series 2022 Bonds, and obligations under Section 1001 with respect to the Trustee's compensation and indemnification. Series 2022 Bonds delivered to the Trustee for payment shall be cancelled pursuant to Section 2.09.

In connection with the delivery of a deposit of noncallable Defeasance Obligations in accordance with this Section, the Trustee shall receive from the Borrower and shall be fully protected in relying upon a certificate of an independent certified public accountant or nationally recognized financial consultant to the effect that a deposit will be sufficient to defease the Series 2022 Bonds as provided in this Section.

## ARTICLE IX

### DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND BONDHOLDERS

#### Section 9.01 Events of Default.

Each of the following events shall be an Event of Default with respect to the Series 2022 Bonds:

(a) if any Senior Bonds are Outstanding, a default in the due and punctual payment of any interest upon the Senior Bonds when such interest becomes due and payable; or

(b) if any Senior Bonds are Outstanding, a default in the due and punctual payment of principal of, or premium on, the Senior Bonds when such Senior Bond principal or premium becomes due and payable, whether at its stated maturity, by declaration of acceleration or call for redemption or otherwise; or

(c) a default in the punctual payment of any interest upon the Subordinate Bonds when such interest becomes due and payable; or

(d) a default in the punctual payment of principal of, or premium on, the Subordinate Bonds when such Subordinate Bond principal or premium becomes due and payable, whether at its stated maturity, by declaration of acceleration or call for redemption or otherwise; or

(e) failure to fund the Tax-Exempt Senior Debt Service Reserve Fund in full within one year of receipt of the certificate of occupancy by the Borrower; or

(f) an "Event of Default" under the Loan Agreement, a Continuing Covenants Agreement, the Pledge Agreement, the Mortgages, or the Guaranty Agreement, which "Event of Default" shall not have been remedied within any applicable cure period provided under the relevant document or waived; and

(g) subject to the provisions of Section 9.12, default in the observance or performance of any other covenant, condition or agreement on the part of the Authority under this Trust Indenture which adversely affects the Holders of such Series 2022 Bonds or under such Series 2022 Bonds.

#### Section 9.02 Acceleration.

If an Event of Default occurs with respect to the Senior Bonds and is continuing, the Trustee may, with the prior written consent of the Bondholder Representative for the Senior Bonds, or shall, at the direction of the Bondholder Representative for the Senior Bonds, declare the entire unpaid principal of and interest on the outstanding Senior Bonds due and payable, and, thereupon, the entire unpaid principal of and interest on outstanding Senior Bonds shall forthwith become due and payable. Upon any such declaration, the Authority shall forthwith pay to the Holders of the outstanding Senior Bonds the entire unpaid principal of and accrued interest on such Senior Bonds, but only from the Trust Estate.

If an Event of Default occurs with respect to the Subordinate Bonds and is continuing, the Trustee may, with the prior written consent of the Bondholder Representative for the Subordinate Bonds, or shall, at the direction of the Bondholder Representative for the Subordinate Bonds, by notice to the Authority, the Borrower and the Bondholder Representative for the Senior Bonds, declare the entire unpaid principal of and interest on the outstanding Subordinate Bonds due and payable, and, thereupon, the entire unpaid principal of and interest on outstanding Subordinate Bonds shall forthwith become due and payable. Subject to the provisions of the last paragraph of this Section 9.02, upon any such declaration, the Authority shall forthwith pay to the Holders of the outstanding Subordinate Bonds the entire unpaid principal of and accrued interest on such Subordinate Bonds, but only from the Trust Estate.

Upon the occurrence of an Event of Default and a declaration of acceleration hereunder, the Trustee as assignee of the Authority shall immediately exercise its option under the Loan Agreement to declare all payments due thereunder to be immediately due and payable. Notwithstanding the provisions of this Article IX, the Trustee shall not exercise any remedies, including without limitation, acceleration of the Subordinate Bonds or foreclosure of the Second Mortgage, unless otherwise permitted under Section 13.01 of this Trust Indenture and unless and until the Bondholder Representative for the Senior Bonds or the Trustee has exercised remedies on behalf of the Holders of the Senior Bonds, in which case the Trustee shall only exercise the same remedies on behalf of the Holders of the Subordinate Bonds as it has exercised on behalf of the Holders of the Senior Bonds.

#### Section 9.03 Other Remedies; Rights of Bondholders.

Upon the occurrence of an Event of Default with respect to a Series of Series 2022 Bonds, the Trustee may, subject to the provisions of this Section 9.03, with the prior written consent of the Bondholder Representative, proceed to protect and enforce its rights and the rights on behalf of the Bondholders by mandamus or other action, suit or proceeding at law or in equity for specific performance of any agreement herein contained with respect to such Series of Series 2022 Bonds. No remedy conferred by this Trust Indenture upon or reserved to the Trustee, the Bondholder Representatives or the Bondholders is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee, the Bondholder Representatives or the Bondholders hereunder or now or hereafter existing at law or in equity or by statute.

Upon the occurrence and continuation of any Event of Default, the Trustee may, with the consent of the Bondholder Representative for the Senior Bonds, or shall, at the direction of the Bondholder Representative for the Senior Bonds, proceed forthwith to protect and enforce its rights and the rights of the Bondholders of the Senior Bonds by such suits, actions or proceedings as the Bondholder Representative for the Senior Bonds shall deem expedient. Upon the exercise of the foregoing remedies on behalf of the Bondholders of the Senior Bonds, the Trustee may exercise the same remedies, including without limitation, acceleration of the Subordinate Bonds or foreclosure of the Second Mortgage, in the same manner as the Bondholder Representative for the Senior Bonds or the Trustee has exercised remedies on behalf of the Bondholders of the Senior Bonds, however, in each case, the Trustee shall only

exercise the same remedies on behalf of the Bondholders of the Subordinate Bonds as it has exercised on behalf of the Bondholders of the Senior Bonds.

Notwithstanding anything to the contrary contained in this Trust Indenture, the Trustee shall not exercise any of its rights or remedies under this Article IX or otherwise hereunder or under the Security Instruments as a result of the occurrence of an Event of Default hereunder unless and until instructed by written direction to do so by the applicable Bondholder Representative. The Trustee shall in such event exercise such rights and remedies as so instructed by the applicable Bondholder Representative (if it gave written direction to the Trustee pursuant to this Section 9.03); provided, that before taking any action requested by the applicable Bondholder Representative (except for acceleration of the Series 2022 Bonds), the Trustee may require reasonably satisfactory security or indemnity as provided in Section 10.01(k) herein from the applicable Bondholder Representative for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its own gross negligence or willful misconduct by reason of any such action so taken.

No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default or Event of Default hereunder, whether by the Trustee pursuant to Section 9.11, the applicable Bondholder Representative or the Bondholders, shall extend to or shall affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereon. So long as there is a Bondholder Representative for a Series of Series 2022 Bonds, the Trustee shall not waive an Event of Default without the prior written approval of such Bondholder Representative.

If the Trustee exercises any of its rights or remedies under this Section, it shall give notice of such exercise to the Borrower, the Sole Member and the Guarantor (a) in writing in the manner provided in Section 12.04 and (b) by telephone or electronic communication, provided that failure to give such notice by telephone or electronic communication shall not affect the validity of the exercise of any right or remedy under this Section.

#### Section 9.04 Right of the Bondholder Representative or Bondholders to Direct Proceeding.

Anything in this Trust Indenture to the contrary notwithstanding, upon the occurrence of an Event of Default with respect to a Series of Series 2022 Bonds, the applicable Bondholder Representative or the Holders of a majority in aggregate principal amount of outstanding Series 2022 Bonds of such Series shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee and accompanied by indemnification as provided in Section 10.01(k), to direct the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Trust Indenture or any other proceedings hereunder; provided, however, that such direction shall not be otherwise than in accordance with the provisions of law and of this Trust Indenture and provided further that,

if any Senior Bonds remain Outstanding, neither the Bondholder Representative for the Subordinate Bonds nor the Holders of a majority in aggregate principal amount of Outstanding Subordinate Bonds shall have any right to direct any proceedings in connection with the enforcement of the terms and conditions of this Trust Indenture without the consent of the Bondholder Representative for the Senior Bonds.

#### Section 9.05 Application of Money.

All amounts on deposit in the Funds and Accounts and all money received by the Trustee pursuant to any right given or action taken under the provisions of this Article upon the occurrence of an Event of Default with respect to a Series of Series 2022 Bonds shall be applied in the following order, at the date or dates fixed by the Trustee as directed by the Bondholder Representative for the Senior Bonds, and upon presentation of the Series 2022 Bonds and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

(a) First, the costs and expenses of the proceedings resulting in the collection of such money, the expenses, liabilities and advances incurred or made by the Trustee and the Bondholder Representative for the Senior Bonds, the fees and reasonable legal expenses of the Trustee and the Bondholder Representative for the Senior Bonds and thereafter the fees and expenses of the Authority in carrying out this Trust Indenture or the Loan Agreement (including any Additional Payments and any payments then due to the Authority in respect of the Unassigned Rights);

(b) Second, any interest due and payable under the Senior Bonds;

(c) Third, any principal amount due and payable under the Senior Bonds;

(d) Fourth, any amounts needed to replenish the Tax-Exempt Senior Debt Service Reserve Fund and the Rebate Fund;

(e) Fifth, subject to Article XIII hereof, any interest due and payable under the Subordinate Bonds;

(f) Sixth, subject to Article XIII hereof, any principal amount due and payable under the Subordinate Bonds; and

(g) Seventh, any amounts needed to replenish the Subordinate Debt Service Reserve Fund.

No payment to the Authority under sub-paragraph (a) of this Section 9.05 shall relieve the Borrower of any obligation with respect thereto that is not fully discharged by such payment, which obligation shall remain in full force and survive the defeasance or payment in full of the Series 2022 Bonds.

(b) As set forth in this subsection (b), but subject to the last paragraph of this subsection (b) and subject to Article XIII hereof, the Trustee, at the written direction of the Bondholder Representative for Senior Bonds, shall have the right, in its own name or on behalf of the Issuer, to declare any default and exercise any remedies under the Loan Agreement, whether or not the Senior Bonds or Subordinate Bonds, as applicable, have been accelerated or declared due and payable by reason of an Event of Default. Any money collected by the Trustee pursuant to the exercise of any remedies under the Loan Agreement shall be applied as provided in Section 9.05 hereof. Upon the exercise of any such foregoing remedies on behalf of the Bondholders of the Senior Bonds, the Trustee may exercise the same remedies available to the Bondholders of the Subordinate Bonds, in the same manner as the Bondholder Representative for the Senior Bonds or the Trustee has exercised remedies on behalf of the Bondholders of the Senior Bonds, however, in each case, the Trustee shall only exercise the same remedies on behalf of Bondholders of the Subordinate Bonds as it has exercised on behalf of the Bondholders of the Senior Bonds. No Bondholders of the Subordinate Bonds shall have any right to institute or direct proceedings while Senior Bonds remain Outstanding.

If an Event of Default has occurred and is continuing, the Trustee, at the written direction of the Bondholder Representative for Senior Bonds, shall enforce this Trust Indenture, the Loan Agreement and the Security Instruments and pursue the rights and remedies thereunder whether or not the Series 2022 Bonds have been accelerated or declared due and payable.

Notwithstanding anything to the contrary contained in this Trust Indenture, the Trustee shall not exercise any of its rights or remedies under the Loan Agreement or any of the other Security Instruments as a result of the occurrence of a Loan Agreement Default, or an Event of Default under the Mortgages or any default or event of default under any of the other Security Instruments and the expiration of the applicable grace period or notice and cure period, if any, specified therein, without the prior written consent of the Bondholder Representative for the Senior Bonds. The Trustee shall in such event exercise such rights and remedies as so instructed by the Bondholder Representative for the Senior Bonds; provided that such Bondholder Representative for the Senior Bonds or the Borrower shall have offered to the Trustee in writing indemnity reasonably satisfactory to the Trustee as provided for in Section 10.01(k) herein against the costs and expenses to be incurred by the Trustee in compliance with any such instructions; further provided, however, such indemnity need not protect the Trustee against losses caused by the Trustee's gross negligence or willful misconduct.

#### Section 9.09 Unconditional Right to Receive Principal, Premium and Interest.

Notwithstanding any other provision in this Trust Indenture, other than those set forth in Sections 4.01 and 12.03, to the contrary, the Bondholders of the Senior Bonds shall have the right which is absolute and unconditional to receive payment on the Senior Bonds when due and, subject to Section 9.08 hereof, to institute suit for the enforcement of any such payment, and such rights shall not be impaired without the written consent of the Bondholders of a majority in principal amount of the Senior Bonds Outstanding or of the Bondholder Representative for the Senior Bonds.

#### Section 9.06 Remedies Vested in Trustee.

All rights of action (including the right to file proof of claims) under this Trust Indenture or under any of the Series 2022 Bonds may be enforced by the Trustee without the possession of any of the Series 2022 Bonds or the production thereof in any trial or other proceeding relating thereto and any such suit or proceeding instituted by the Trustee may be brought in its name as Trustee (subject to the rights of the Bondholder Representatives to direct proceedings hereunder) without the necessity of joining as plaintiffs or defendants any holders of the Series 2022 Bonds. Any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the benefit of the Bondholders, in respect of whom such judgment has been recovered, subject to the provisions of Section 9.05 hereof.

#### Section 9.07 No Impairment of Unassigned Rights

Nothing in this Trust Indenture shall be deemed or construed to limit, impair or affect in any way the Authority's right (or the rights of any of its officers, members, employees or agents) to enforce the Unassigned Rights, regardless of whether there is then existing an Event of Default (including, without limitation, a payment default), or any action based thereon or occasioned by an Event of Default or alleged Event of Default, and regardless of any waiver or forbearance granted by the Trustee or any Bondholder in respect thereof. No waiver of any breach or default in respect of the Unassigned Rights may be granted by the Trustee or any Bondholder except upon the Authority's written consent.

#### Section 9.08 Limitation on Suits; Remedies Under Loan Agreement.

(a) Subject to the provisions of subsection (b) below and to the rights specifically given to the Bondholder Representative for the Senior Bonds, neither the Bondholder Representative for the Subordinate Bonds nor the Bondholders of Senior Bonds or Subordinate Bonds shall have any right to institute any proceeding, judicial or otherwise, under or with respect to this Trust Indenture, or for the appointment of a receiver or trustee or for any other remedy hereunder, unless:

(i) Such Bondholder previously has given written notice to the Trustee of a continuing Event of Default;

(ii) Such Bondholder shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;

(iii) Such Bondholder (either alone or together with other Bondholders) has offered to the Trustee in writing reasonable indemnity as provided in 10.01(k) against the costs, expenses and liabilities to be incurred in compliance with such request, and the Trustee has thereafter failed or refused to exercise remedies hereunder; and

(iv) No remedies have been exercised by the Bondholder Representative for the Senior Bonds or the Trustee for a period of sixty (60) days from the date the Bondholder of Senior Bonds provided reasonable indemnity pursuant to clause (iii) above.

Notwithstanding any other provision in this Trust Indenture, other than those set forth in Sections 4.01, 12.03 and 13.01, to the contrary, the Bondholders of the Subordinate Bonds shall have the right which is absolute and unconditional to receive payment of the Subordinate Bonds when due and, subject to Section 9.08 hereof, to institute suit for the enforcement of any such payment, and such rights shall not be impaired without the written consent of the Bondholders of a majority in principal amount of the Subordinate Bonds Outstanding or of the Bondholder Representative for the Subordinate Bonds.

#### Section 9.10 Termination of Proceedings.

In case the Trustee, the Bondholder Representative for the Senior Bonds (or the Bondholder Representative for the Subordinate Bonds once Senior Bonds are no longer Outstanding) or any of the Bondholders of the Senior Bonds (or the Bondholders for the Subordinate Bonds once Senior Bonds are no longer Outstanding) shall have proceeded to enforce any right under this Trust Indenture and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee, the Bondholder Representatives or to the Bondholders, then and in every such case the Authority, the Trustee, the Bondholder Representatives and the Bondholders shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Authority, the Trustee, the Bondholder Representatives and the Bondholders shall continue as if no such proceedings had been taken.

#### Section 9.11 Waiver of Events of Default.

The Trustee may, with the prior written consent of the applicable Bondholder Representative, waive any Event of Default with respect to the applicable Series of the Series 2022 Bonds hereunder and its consequences and rescind any declaration of maturity of principal or of interest on the applicable Series of the Series 2022 Bonds, and shall, subject to Section 10.01(k), do so on the written request of the applicable Bondholder Representative or holders of a majority in aggregate principal amount of outstanding Series 2022 Bonds of such Series; provided, however, that no declaration of acceleration under Section 9.02 shall be rescinded unless requested by the applicable Bondholder Representative or holders of a majority in aggregate principal amount outstanding of Series 2022 Bonds of such Series. No such waiver or rescission shall extend to any subsequent or other default or impair any right consequent thereon.

#### Section 9.12 Notice of Defaults; Opportunity of the Borrower to Cure Defaults.

Anything herein to the contrary notwithstanding, no default specified in Section 9.01(f) on the part of the Authority shall constitute an Event of Default with respect to the Series 2022 Bonds until (a) notice of such default shall be given (i) by the Trustee to the Authority, the Borrower and the Bondholder Representatives or (ii) by the Bondholder Representative for the Senior Bonds or the Holders of at least 25% in aggregate principal amount of the outstanding Senior Bonds to the Trustee, the Authority, the Borrower and the Bondholder Representative for the Subordinate Bonds, or (iii) by the Bondholder Representative for the Subordinate Bonds or the Holders of at least 25% in aggregate principal amount of the outstanding Subordinate

Bonds to the Trustee, the Authority, the Borrower and the Bondholder Representative for the Senior Bonds, and (b) the Authority and the Borrower shall have had thirty (30) days after receipt of such notice to correct such default or cause such default to be corrected and shall not have corrected such default or caused such default to be corrected within such period; provided, however, that if any default specified in Section 9.01(f) shall be such that it cannot be corrected within such period, it shall not constitute an Event of Default if corrective action is instituted by the Authority or the Borrower within such period and diligently pursued until such default is corrected, as long as such default is corrected within 90 days (unless extended in writing by the Bondholder Representative for the Senior Bonds).

With regard to any alleged default concerning which notice is given to the Borrower under this Section, the Borrower may perform any covenant, condition or agreement the nonperformance of which is alleged in such notice to constitute a default, in the name and stead of the Authority, with full power to do any and all things and acts to the same extent that the Authority could do and perform any such things and acts and with power of substitution.

## ARTICLE X THE TRUSTEE

### Section 10.01 Acceptance of Trusts and Obligations.

The Trustee hereby accepts the trusts and obligations imposed upon it by this Trust Indenture and the Loan Agreement and agrees to perform such trusts and obligations, but only upon and subject to the following express terms and conditions, and no implied covenants or obligations shall be read into this Trust Indenture or the Loan Agreement against the Trustee:

(a) The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default that may have occurred, undertakes to perform such duties and only such duties are specifically set forth in this Trust Indenture and the Loan Agreement. In case an Event of Default has occurred (which has not been cured or waived), the Trustee shall exercise such rights and powers vested in it by this Trust Indenture and use the same degree of care and skill in their exercise as a prudent man ordinarily would exercise and use under the circumstances in the conduct of his own affairs.

(b) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees and shall not be answerable for any negligent act of its attorneys, agents or receivers which have been selected by the Trustee with due care, and shall be entitled to act or refrain from acting on the written direction of the applicable Bondholder Representative as set forth herein or on the opinion or advice of its counsel concerning all matters of trust hereof and the duties hereunder, and shall be fully protected in acting upon such advice and may in all cases pay, and shall be reimbursed for, reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trust hereof. As a condition to the taking, suffering or omission of any action hereunder, the Trustee may demand and act on an opinion of counsel and shall not be responsible for any loss or damage resulting from any action or nonaction by it taken or omitted to be taken in good faith in reliance on such written direction or opinion of counsel.

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(c) The Trustee shall not be responsible for any recital herein or in the Series 2022 Bonds (except in respect to the certificate of the Trustee endorsed on the Series 2022 Bonds) or for insuring the Borrower's facilities or collecting any insurance money, or for the validity of the execution by the Authority of this Trust Indenture or of any supplements hereto or instruments of further assurance, or for the sufficiency of the security for the Series 2022 Bonds issued hereunder or intended to be secured hereby, or for the value of or title to any property or otherwise as to the maintenance of the security hereof; except that in the event the Trustee takes possession of any security under any Security Instrument pursuant to any provision of this Trust Indenture or the Loan Agreement it shall use due diligence in preserving such part. The Trustee shall not be liable for any debts contracted or for damages to persons or to personal property insured or damaged, or for salaries or nonfulfillment of contracts during any period in which it may be in possession of or managing any such property. The Trustee shall not be bound to ascertain or inquire as to the observance or performance of any covenants, conditions or agreements on the part of the Authority or on the part of the Borrower under the Loan Agreement or any Security Instrument, except as set forth herein, but the Trustee may reasonably require of the Authority or the Borrower full information and advice as to the observance or performance of such covenants, conditions or agreements. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of money made by it in accordance with Section 7.01.

(d) The Trustee shall not be accountable for the use of any Series 2022 Bonds authenticated or delivered hereunder. The bank with trust powers or the trust company acting as Trustee and its directors, officers, employees or agents may in good faith buy, sell, own, hold and deal in Series 2022 Bonds and may join in any action which any Bondholder may be entitled to take with like effect as if such bank or trust company were not the Trustee. To the extent permitted by law, such bank or trust company may also receive tenders and purchase in good faith Series 2022 Bonds from itself, including any department, affiliate or subsidiary, with like effect as if it were not the Trustee.

(e) The Trustee shall be entitled to rely and shall be protected in acting, or refraining from acting, on any notice, request, consent, certificate, order, affidavit, letter or other paper or document reasonably believed by it to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by the Trustee pursuant to this Trust Indenture on the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the owner of any Series 2022 Bond shall be conclusive and binding on all future owners of the same Series 2022 Bond and on Series 2022 Bonds issued in exchange therefor or in place thereof.

(f) As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely on a certificate signed on behalf of the Authority by an authorized officer thereof, or such other person or persons as may be designated for such purposes by resolution of the Authority, or a certificate signed by an authorized officer of the Borrower or the Sole Member, as sufficient evidence of the facts therein contained, and prior to the occurrence of a default of which the Trustee has been notified as provided in subsection (h) of this Section, or of which it is deemed to have notice, may also accept a similar certificate to the effect that any particular dealing,

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transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same.

(g) The permissive right of the Trustee to do things enumerated in this Trust Indenture shall not be construed as a duty, and the Trustee shall not be answerable for other than its negligence or willful misconduct.

(h) The Trustee shall not be required to take notice or be deemed to have notice of any default with respect to a Series of Series 2022 Bonds hereunder, except for (i) Events of Default specified in Section 9.01, (ii) the failure of the Borrower to make any payments due to the Trustee under the Loan Agreement, (iii) the failure of the Borrower to file any financial statements, certificates or documents specifically required to be filed with the Trustee by a certain date pursuant to the provisions of the Loan Agreement or any Security Instrument to which the Trustee is a party, beneficiary or assignee, or (iv) any other event of which a Responsible Officer of the Trustee has actual knowledge and which, with the giving of notice or lapse of time or both, would constitute an Event of Default with respect to such Series 2022 Bonds under this Trust Indenture or the Loan Agreement or any Security Instrument, unless specifically notified by written direction by the Trustee, the Borrower, the Bondholder Representatives or any owners of the Series 2022 Bonds.

(i) The Trustee shall not be required to give any bond or surety with respect to the execution of its rights and obligations hereunder.

(j) Notwithstanding any other provision of this Trust Indenture, the Trustee shall have the right, but shall not be required, to demand, as a condition of any action by the Trustee in respect of the authentication of any Series 2022 Bonds, the withdrawal of any cash, the release of any property or any action whatsoever within the purview of this Trust Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that required by the terms hereof.

(k) The Trustee shall not be required to expend or risk its own funds or incur any financial liability in the performance of its duties hereunder unless reasonable indemnity is provided therefor. Further, before taking any action under this Trust Indenture or the Loan Agreement, the Trustee may require that reasonable indemnity be furnished to it for the reimbursement of all expenses to which it may be put (including reasonable counsel fees) and to protect it against all liability by reason of any action so taken including reasonable costs incurred in defending itself against any and all charges, claims, complaints, allegations, assertions or demands of any nature whatsoever, except liability that is adjudicated to have resulted from its negligence or willful misconduct. Notwithstanding the foregoing, the Trustee shall not be entitled to indemnification prior to taking such steps as shall be necessary to make payments on the Series 2022 Bonds, including redemption of the Series 2022 Bonds, when due from money available to it, or to accelerate Series 2022 Bonds as required pursuant to Section 9.02.

(l) All money received by the Trustee shall, until used or applied or invested as herein provided, be held in trust in the manner and for the purposes for which it was received but need not be segregated from other funds except to the extent required by this Trust

Indenture or law. The Trustee shall not be under any liability for interest on any money received hereunder except such as may be agreed upon.

(m) The Trustee shall cooperate with the Borrower in the contest, at the expense of the Borrower, of any condemnation proceeding or contest over title with respect to any property and shall, to the extent it may lawfully do so, permit the Borrower to litigate in any such proceeding or contest in the name and on behalf of the Trustee. In no event shall the Trustee voluntarily settle, or consent to the settlement of, any condemnation proceeding or contest over title with respect to any property pledged under any Security Instrument without the consent of the Bondholder Representative for the Senior Bonds (and if no Senior Bonds remain Outstanding, then the Bondholder Representative for the Subordinate Bonds) and of the Borrower, which consents shall not be unreasonably withheld.

(n) The Trustee shall not be responsible for the tax-exempt status of any Tax-Exempt Senior Bonds or Subordinate Bonds, provided that the Trustee shall not knowingly take any action that will cause (i) any Tax-Exempt Bond to become an "arbitrage bond" within the meaning of Section 103(b)(2) of the Code or (ii) the interest on any Tax-Exempt Bond otherwise to become taxable to the recipients thereof under the federal income tax laws, unless directed to do so by the Bondholder Representative for the Senior Bonds (and if no Senior Bonds remain Outstanding, then the Bondholder Representative for the Subordinate Bonds) or required by other provisions of this Trust Indenture or the Loan Agreement or by law.

(o) The Trustee shall not be liable for any action it takes or omits to take which in good faith, absent negligence, it believes to be authorized or within its powers hereunder.

(p) The Trustee shall file or record, or cause the Borrower to file and record, any continuation statements for originally-filed financing statements timely delivered to it and necessary to protect and preserve the Trustee's security interests in the Trust Estate provided that, unless otherwise notified in writing by the Borrower, the Trustee may rely conclusively upon the originally filed financing statements in filing any continuation statements; and, provided further that in no event shall the Trustee be required to file or otherwise be responsible for any initial financing statement or other amendment thereto.

(q) In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, epidemics, pandemics, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services, it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

(r) In no event shall the Trustee be liable to any person for special, punitive, indirect, consequential or incidental loss or damage of any kind whatsoever (including lost profits), even if the Trustee has been advised of the likelihood of such loss or damage.

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(s) The Trustee shall have no responsibility with respect to any information, statement or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds and shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds.

#### Section 10.02 Fees, Charges and Expenses of Trustee.

Absent a specific agreement as to payment of the Trustee's fees, charges and expenses, the Trustee and any paying agents shall be entitled to payment and reimbursement from the Borrower for reasonable fees for services rendered hereunder with respect to the Series 2022 Bonds (including reasonable fees for extraordinary services performed) and all advances, counsel fees and disbursements and other out-of-pocket or extraordinary expenses reasonably made or incurred by the Trustee in connection with such services, provided that the Trust Estate shall not be liable for costs or expenses of the Trustee incurred as a result of the negligence or willful misconduct of the Trustee. Upon an Event of Default with respect to a particular Series of Series 2022 Bonds, but only upon such an Event of Default, the Trustee shall have a first lien with right of payment prior to payment on account of principal of and premium, if any, and interest on any Series 2022 Bond upon the Trust Estate created hereby for the foregoing fees, charges and expenses incurred by the Trustee. When the Trustee incurs expenses or renders services after the occurrence of such an Event of Default, the expenses and the compensation for the services are intended to constitute expenses of administration under any federal or state bankruptcy, insolvency, arrangement, moratorium, reorganization or other debtor relief law.

#### Section 10.03 Notice Required of Trustee.

If the Borrower fails to make any payment under the Loan Agreement on the day such payment is due and payable, the Trustee shall give notice thereof by telephone, facsimile or other electronic or similar communication capable of producing a written record to the Borrower, the Sole Member, the Guarantor and the Bondholder Representatives on the next succeeding Business Day and shall confirm such notice in writing by first class mail. In the event of (a) the continuance of any such failure to make payment for thirty (30) days after such payment was due or (b) notification to the Trustee by the Authority, a Bondholder Representative or holders of at least 25% in aggregate principal amount of the Outstanding Senior Bonds or Outstanding Subordinate Bonds, as the case may be, of any default hereunder, the Trustee shall give notice thereof to the registered owner of each Bonds of such Series 2022 Bond then Outstanding, unless such registered owner is represented by the Bondholder Representatives, in which case such notice shall be sent to the applicable Bondholder Representative in lieu of the registered owner.

#### Section 10.04 Intervention by Trustee.

In any judicial proceeding to which the Authority is a party and which in the opinion of the Trustee has a substantial bearing on the interests of the Holders of Outstanding Bonds of a particular Series of Series 2022 Bonds, the Trustee may, in addition to the remedies it may exercise pursuant to Article IX, intervene on behalf of the Bondholders with the consent of the applicable Bondholder Representative and, subject to Section 10.01(k), shall do so if requested

by such Bondholder Representative or the Holders of at least 25% in aggregate principal amount of such Series 2022 Bonds.

#### Section 10.05 Merger or Consolidation of Trustee.

Any corporation or association into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party shall be and become successor Trustee hereunder and vested with all the trusts, powers, discretion, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding; however, notice be provided to the Authority, the Bondholder Representatives, the Sole Member, the Guarantor, and the Borrower.

#### Section 10.06 Resignation by Trustee.

The Trustee may at any time resign from the trusts hereby created by giving thirty (30) days' notice to the Authority, the Sole Member, the Guarantor, the Borrower, the Bondholder Representatives and any registered owner of any Series 2022 Bonds then Outstanding which has not been designated a Bondholder Representative. Such resignation shall take effect upon the appointment of a successor or temporary Trustee by the Bondholder Representative for the Senior Bonds (and if no Senior Bonds remain Outstanding, then the Bondholder Representative for the Subordinate Bonds), the Borrower, with consent of the Bondholder Representative for the Senior Bonds (or the Bondholder Representative for the Subordinate Bonds if no Senior Bonds remain Outstanding), or the Authority as set forth in Section 10.08 hereof. In the event that no successor or temporary Trustee is appointed within thirty (30) days of the Trustee's giving of notice of its resignation, the Trustee shall have the right at the expense of the Borrower to petition any court of competent jurisdiction for such court's appointment of a temporary Trustee.

#### Section 10.07 Removal of Trustee.

The Trustee may be removed at any time (a) by an instrument or concurrent instruments in writing delivered to the Trustee and the Authority and signed by the Bondholder Representative for the Senior Bonds (and if no Senior Bonds remain Outstanding, then the Bondholder Representative for the Subordinate Bonds) or the owners of a majority in aggregate principal amount of Senior Bonds then Outstanding (or the owners of a majority in aggregate principal amount of Subordinate Bonds then Outstanding if no Senior Bonds are Outstanding), or (b) by any instrument signed by an authorized officer of the Borrower, with consent of the Bondholder Representative for the Senior Bonds (or the Bondholder Representative for the Subordinate Bonds if no Senior Bonds remain Outstanding) provided no Event of Default has occurred and is continuing. The removal shall take effect upon the appointment of a temporary or successor Trustee by the Bondholder Representative for the Senior Bonds (and if no Senior Bonds remain Outstanding, then the Bondholder Representative for the Subordinate Bonds), the Borrower (with the approval of the Bondholder Representative for the Senior Bonds, and if

no Senior Bonds remain Outstanding, then the Bondholder Representative for the Subordinate Bonds), or a court of competent jurisdiction.

#### Section 10.08 Appointment of Successor Trustee; Temporary Trustee.

In case the Trustee hereunder shall resign, be removed, be dissolved, be in course of dissolution or liquidation or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers or of a receiver appointed by a court, a successor may be appointed by the Bondholder Representative for the Senior Bonds (and if no Senior Bonds remain Outstanding, then the Bondholder Representative for the Subordinate Bonds) with written notice delivered to the Authority, the Borrower, the Bondholder Representative for the Subordinate Bonds, and the predecessor Trustee; provided, however, that if no successor Trustee shall have been appointed by the Bondholder Representative for the Senior Bonds (or the Bondholder Representative for the Subordinate Bonds if no Senior Bonds remain Outstanding), then in case of such vacancy, the Authority may appoint a temporary Trustee with the approval of the Bondholder Representative for the Senior Bonds (or the Bondholder Representative for the Subordinate Bonds if no Senior Bonds remain Outstanding) to fill such vacancy until a successor Trustee shall be appointed by the Bondholder Representative for the Senior Bonds (or the Bondholder Representative for the Subordinate Bonds if no Senior Bonds remain Outstanding) in the manner provided above; and any such temporary Trustee so appointed shall immediately and without further act be superseded by the Trustee so appointed by the Bondholder Representative for Senior Bonds (or the Bondholder Representative for the Subordinate Bonds if no Senior Bonds remain Outstanding), such Bondholders or the Borrower. Every such Trustee appointed pursuant to this Section shall be, if there be such an institution willing, qualified and able to accept the trust upon reasonable or customary terms, a bank with trust powers or trust company, organized under the laws of the United States of America, or the State, in good standing and having a combined capital, surplus and undivided profits of not less than \$50,000,000.

#### Section 10.09 Concerning any Successor Trustee.

Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Authority an instrument in writing accepting such appointment hereunder, and thereafter such successor, without any further act, deed or conveyance, shall become fully vested with all the properties, rights, powers, trusts, duties and obligations of its predecessor, but such predecessor shall, nevertheless, on the written request of the Authority or its successor, execute and deliver an instrument transferring to such successor Trustee all the properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and money held by it as Trustee hereunder to its successor. Should any instrument in writing from the Authority be required by any successor Trustee for more fully and certainly vesting in such successor the properties, rights, powers and duties hereby vested or intended to be vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Authority. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article, shall be filed or recorded by the successor Trustee in each recording office where this Trust Indenture may have been filed and/or recorded.

#### Section 10.10 Right of Trustee or Bondholder Representatives to Pay Taxes and Other Charges.

In case any tax, assessment or governmental or other charge on any part of the property conveyed pursuant to the Loan Agreement or any Security Instrument is not paid as required herein or therein, the Trustee, with the written consent of the Bondholder Representative for the Senior Bonds (or the Bondholder Representative for the Subordinate Bonds if no Senior Bonds remain Outstanding), may pay such tax, assessment or governmental charge, without prejudice, however, to any rights of the Trustee, the Bondholder Representatives or the Bondholders hereunder arising in consequence of such failure. Any amount at any time so paid under this Section, with interest thereon from the date of payment at the Prime Rate, as defined in the Loan Agreement, shall become additional indebtedness secured by this Trust Indenture, and such indebtedness shall be given a preference in payment over any of the Bonds of a particular Series of Series 2022 Bonds, and shall be paid out of the Trust Estate, if not otherwise caused to be paid; but the Trustee and the Bondholder Representatives shall be under no obligation to make any such payment unless the Trustee shall have been provided with adequate funds for the purpose of such payment.

#### Section 10.11 Successor Trustee as Bond Registrar, Custodian of Funds and Paying Agent.

In the event of a change in the office of Trustee, the predecessor Trustee which has resigned or been removed shall cease to be bond registrar, custodian of the Funds and Accounts created under this Trust Indenture and paying agent for principal of and interest on the Series 2022 Bonds and the successor Trustee shall become such bond registrar, custodian and paying agent.

#### Section 10.12 Removal and Resignation Not to Affect Fees.

No resignation or removal of the Trustee shall affect the obligation of the Borrower under the Loan Agreement to pay the Trustee its fees, expenses and any indemnity due hereunder with respect to any Series 2022 Bonds that have accrued prior to the effective date of such resignation or removal and reasonable expenses of transferring funds, records and other necessary items and information to the successor trustee hereunder.

#### Section 10.13 Trustee Article Controlling.

Regardless of whether expressly so provided therein, every provision of this Trust Indenture, the Loan Agreement, the Continuing Covenants Agreements or any other Security Instrument relating to the conduct or affecting the liability of the Trustee shall be subject to the provisions of this Article.

#### **Section 10.14 No Recourse Against Officers or Employees of Trustee.**

No recourse with respect to any claim related to any obligation, duty or agreement contained herein shall be had against any officer, shareholder, director or employee of the Trustee, except in case of negligence or willful misconduct of such persons.

#### **Section 10.15 Trustee Acknowledgement and Agreement.**

For the avoidance of doubt, the Trustee acknowledges and agrees that this Trust Indenture requires actions to be taken, including without limitation the exercise of remedies and the entry into supplemental indentures, at the direction of the Bondholders of a majority of the aggregate principal amount of the Senior Bonds or Subordinate Bonds, as applicable, or the applicable Bondholder Representative (and in the case of the applicable Bondholder Representative, even when it does not represent 100% of the applicable Bondholders).

In the case that the Trustee is directed by the applicable percentage of the applicable Bondholders or the applicable Bondholder Representative and indemnified in accordance with Article X, the Trustee acknowledges and agrees that it shall follow such direction without any requirement for (i) an order from any court pursuant to any state statute or (ii) disclosure of the names of any clients of the applicable initial Bondholder Representative.

### **ARTICLE XI SUPPLEMENTAL INDENTURES; AMENDMENTS OF LOAN AGREEMENT AND SECURITY INSTRUMENTS**

#### **Section 11.01 Supplemental Indentures Not Requiring Consent of Bondholders.**

The Authority and the Trustee may, with the consent of the Bondholder Representative for the Senior Bonds (or the Bondholder Representative for the Subordinate Bonds if no Senior Bonds remain Outstanding), but without the consent of, or notice to, any of the Bondholders, enter into such indenture or indentures supplemental to this Trust Indenture as shall not be inconsistent with the terms and provisions hereof for any one or more of the following purposes:

- (a) to cure any ambiguity or formal defect or omission in this Trust Indenture;
- (b) to grant to or confer on the Trustee for the benefit of the Bondholders any additional rights, remedies, powers or authority that may lawfully be granted to or conferred on the Bondholders or the Trustee or either of them;
- (c) to subject to this Trust Indenture additional revenues, properties or collateral;
- (d) to cure any ambiguity or to cure or correct any defect or inconsistent provisions contained in this Trust Indenture or to make provisions in regard to matters or

questions arising under this Trust Indenture as may be necessary or desirable and not contrary to or inconsistent with this Trust Indenture;

(e) to modify, amend or supplement this Trust Indenture in such manner as required to permit the qualification hereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect or any state securities law and, if they so determine, to add to this Trust Indenture such other terms, conditions and provisions as may be required by said Trust Indenture Act of 1939, as amended, or similar federal statute or state securities law;

(f) to modify, amend or supplement this Trust Indenture in such manner as required to prevent this Trust Indenture or any Fund, Account or deposit created, established or made pursuant hereto from being deemed an "investment company" as such term is defined in Section 3 of the Investment Company Act of 1940, as amended, or otherwise subject to registration under Section 8 of such Act; and

(g) to make any other change herein that, in the opinion of the Trustee (which opinion may be based on the advice or opinion of counsel), shall not prejudice in any material respect the rights of the Holders of the Series 2022 Bonds then Outstanding.

The Trustee will provide the Bondholder Representatives with at least ten (10) Business Days written notice of any proposed supplemental indenture.

#### **Section 11.02 Supplemental Indentures Requiring Consent of Bondholders.**

Exclusive of supplemental indentures covered by Section 11.01 and subject to the terms and provisions contained in this Section, the Bondholder Representative for the Senior Bonds or the Holders of a majority in aggregate principal amount of the Outstanding Senior Bonds shall have the right from time to time, notwithstanding any other provision of this Trust Indenture to the contrary, to consent to and approve the execution by the Authority and the Trustee of such other indenture or indentures supplemental hereto as shall be deemed necessary or desirable by the Authority, the Trustee, the Borrower, the Bondholder Representative for the Senior Bonds or the Holders of a majority in aggregate principal amount of the Outstanding Senior Bonds for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Trust Indenture or in any supplemental indenture, including, without limitation, (a) an extension of the maturity of the principal of or the interest on any such Senior Bond or any mandatory redemption of any such Senior Bond, (b) a reduction in the principal amount of any Senior Bond or the rate of interest thereon, or (c) an extension of time or a reduction in amount of any payment required by any sinking fund that may be applicable to any Senior Bond; provided that written consent of owners of 100% of the Senior Bonds affected by such supplemental indenture or the Bondholder Representative for the Senior Bonds shall be required to permit (i) the deprivation of the owner of any Senior Bonds then Outstanding of the lien created by this Trust Indenture except as originally permitted hereby except for the avoidance of doubt, a reduction in a Debt Service Reserve Fund requirement does not constitute a deprivation of the lien, or (ii) a privilege or priority of any Series of Series 2022 Bonds over any Subordinate Bonds, except as provided on the date hereof, or (iii) a reduction in the aggregate principal amount of Subordinate Bonds required for consent to such supplemental indenture.

provided on the date hereof, or (iii) a reduction in the aggregate principal amount of Senior Bonds required for consent to such supplemental indenture.

Notwithstanding any other provision of this Trust Indenture, no supplemental indenture or amendment to this Trust Indenture shall become effective without the consent of the Bondholder Representative for the Subordinate Bonds or the Holders of a majority in aggregate principal amount of the Outstanding Subordinate Bonds that would result in (a) an extension of the maturity of the principal of or the interest on any such Subordinate Bond or any mandatory redemption of any such Subordinate Bond, (b) a reduction in the principal amount of any Subordinate Bond or the rate of interest thereon, or (c) an extension of time or a reduction in amount of any payment required by any sinking fund that may be applicable to any Subordinate Bond; provided that written consent of the owners of 100% of the Subordinate Bonds affected by such supplemental indenture or the Bondholder Representative for the Subordinate Bonds shall be required to permit (i) the deprivation of the owner of any Subordinate Bonds then Outstanding of the lien created by this Trust Indenture except as originally permitted hereby for the avoidance of doubt, a reduction in a Debt Service Reserve Fund requirement does not constitute a deprivation of the lien, or (ii) a privilege or priority of any Series of Series 2022 Bonds over any Subordinate Bonds, except as provided on the date hereof, or (iii) a reduction in the aggregate principal amount of Subordinate Bonds required for consent to such supplemental indenture.

Exclusive of supplemental indentures covered by Section 11.01, subject to the terms and provisions contained in this Section and Section 13.01, and after the Senior Bonds are no longer outstanding or with the written consent of the Bondholder Representative for the Senior Bonds, the Bondholder Representative for the Subordinate Bonds or the Holders of a majority in aggregate principal amount of the Outstanding Subordinate Bonds shall have the right from time to time to consent to and approve the execution by the Authority and the Trustee of such other indenture or indentures supplemental hereto as shall be deemed necessary or desirable by the Authority, the Trustee, the Borrower, the Bondholder Representative for the Subordinate Bonds or the Holders of a majority in aggregate principal amount of the Outstanding Subordinate Bonds for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Trust Indenture or in any supplemental indenture, including, without limitation, (a) an extension of the maturity of the principal of or the interest on any such Subordinate Bond or any mandatory redemption of any such Subordinate Bond, (b) a reduction in the principal amount of any Subordinate Bond or the rate of interest thereon, or (c) an extension of time or a reduction in amount of any payment required by any sinking fund that may be applicable to any Subordinate Bond; provided that written consent of owners of 100% of the Subordinate Bonds affected by such supplemental indenture or the Bondholder Representative for the Subordinate Bonds shall be required to permit (i) the deprivation of the owner of any Subordinate Bonds then Outstanding of the lien created by this Trust Indenture except as originally permitted hereby for the avoidance of doubt, a reduction in a Debt Service Reserve Fund requirement does not constitute a deprivation of the lien, or (ii) a privilege or priority of any Series of Series 2022 Bonds over any Subordinate Bonds, except as provided on the date hereof, or (iii) a reduction in the aggregate principal amount of Subordinate Bonds required for consent to such supplemental indenture.

Series 2022 Bonds owned or held by or for the account of the Authority, the Guarantor or the Borrower or any person controlling, controlled by or under common control with any of them shall not be deemed Outstanding for the purpose of consent or any calculation of Outstanding Series 2022 Bonds provided for in this Article. At the time of any such calculation, the Borrower shall furnish the Trustee a certificate, upon which the Trustee may rely, describing all Series 2022 Bonds so to be excluded.

#### **Section 11.03 Amendments of Loan Agreement and Security Instruments.**

(a) The Authority and the Trustee shall, upon the direction of the Bondholder Representative for the Senior Bonds (or the Bondholder Representative for the Subordinate Bonds if no Senior Bonds remain Outstanding) but without the consent of or notice to the Bondholders, consent to any amendment, change or modification of the Loan Agreement or any Security Instrument as may be required.

(i) by the provisions of the Loan Agreement, any Security Instrument or this Trust Indenture,

(ii) for the purpose of curing any ambiguity or formal defect or omission therein,

(iii) in connection with additional real estate, furnishings, machinery or equipment that is to become part of the 2022 Project pursuant to the Loan Agreement or any Security Instrument so as to identify the same more precisely, or

(iv) in connection with any other change therein that, in the opinion of the Trustee (which opinion may be based on the advice or opinion of counsel), will not prejudice in any material respect the rights of the Holders of the Series 2022 Bonds then Outstanding.

(b) Except for amendments, changes or modifications as provided in subsection (a) above, without the written consent of the Bondholder Representative for the Senior Bonds (or the Bondholder Representative for the Subordinate Bonds if no Senior Bonds remain Outstanding) or Holders of a majority in aggregate principal amount of the Senior Bonds then Outstanding (or Holders of a majority in aggregate principal amount of the Subordinate Bonds then Outstanding if no Senior Bonds remain Outstanding), neither the Authority nor the Trustee shall consent to any amendment, change or modification of the Loan Agreement or any Security Instrument.

#### **Section 11.04 Consent of the Borrower Required.**

Notwithstanding any other provision of this Trust Indenture, no supplemental indenture or amendment shall become effective unless the Borrower shall have consented in writing to the execution and delivery of such supplemental indenture or amendment, provided that, if an Event of Default has occurred hereunder and is continuing, the consent of the Borrower shall not be required unless such supplemental indenture or amendment will have a material adverse effect on the rights, duties, obligations or other interests of the Borrower.

#### **Section 11.05 Trustee's Obligation Regarding Supplemental Indentures and Amendments of Loan Agreement and Security Instruments.**

The Trustee shall not unreasonably (a) refuse to enter into any supplemental indenture permitted by this Article or (b) withhold its consent to any amendment, change or modification of the Loan Agreement or any Security Instrument; provided, however, that any such refusal or withholding shall not be unreasonable if the Trustee reasonably believes that such supplemental indenture or amendment, change or modification affects adversely the rights and immunities of, or increases the duties of, the Trustee.

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article or the modifications thereto, the trusts created by this Indenture and in consenting to any amendment to the Loan Agreement, Security Instrument or to any indenture supplemental to this Indenture, the Trustee will receive (unless waived by the Bondholder Representative), and shall be fully protected in relying upon, an Opinion of Counsel stating that (i) the execution of such supplemental indenture and any consent to any amendment, change or modification of the Loan Agreement and/or Security Instrument is authorized or permitted by this Indenture and all conditions precedent have been satisfied and (ii) the amendment proposed to be adopted by such supplemental will not adversely affect the exclusion from gross income for federal income tax purposes of the interest on any Bonds otherwise entitled to such exclusion.

#### **Section 11.06 Limitation on Amendments.**

Without the consent of the Holders of a majority in aggregate principal amount of the applicable Series of Series 2022 Bonds then Outstanding or the applicable Bondholder Representative, to the extent such Bondholder Representative represents the Holders of at least a majority in aggregate principal amount of the Outstanding applicable Series of Series 2022 Bonds, no amendment, change or modification may decrease the obligation of the Borrower under the Loan Agreement or any Security Instrument to pay amounts sufficient to pay principal of, premium, if any, and interest on the applicable Series 2022 Bonds as the same become due.

### **ARTICLE XII MISCELLANEOUS**

#### **Section 12.01 Consents of Bondholders.**

Any consent, request, direction, approval, objection or other instrument required by this Trust Indenture to be signed and executed by the Bondholders may be in any number of concurrent writings of similar tenor and may be signed or executed by such Bondholders in person or by agent appointed in writing. Proof of the execution of any such consent, request, direction, approval, objection or other instrument or of the writing appointing any such agent shall be sufficient for any of the purposes of this Trust Indenture and shall be conclusive in favor of the Trustee with regard to any action taken under such request or other instrument, if the fact and date of the execution by any person of any such writing is proved by the certification of any officer in any jurisdiction who by law has power to take acknowledgments

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(d) if to the Underwriter, at Odeon Capital Group LLC, Municipals Department, 750 Lexington Avenue, 27th Floor, New York, NY 10022 (Attention: Scott Kayser);

(e) if to the Bondholder Representative for the Senior Bonds, at Hamlin Capital Management, LLC, 640 Fifth Avenue, 11<sup>th</sup> Floor, New York, New York 10019;

(f) if to the Bondholder Representative for the Subordinate Bonds, at EoFin Advisors, LLC, 6363 College Boulevard, Overland Park, Kansas 66211 (Attention: Social Infrastructure Team);

(g) if to HCA, at Hamlin Capital Advisors, LLC, 5550 West Executive Drive, Suite 235, Tampa, Florida 33609;

(h) if to the Sole Member, at Edgewood Senior Solutions Group, Inc., 575 Osgood Street, North Andover, Massachusetts 01845 (Attention: Jane Sullivan, Chief Financial Officer); and

(i) if to the Borrower, at the address designated in the Loan Agreement, with a copy to the Sole Member and Guarantor.

A duplicate copy of each demand, notice, approval, request, consent, opinion or other communication given hereunder (i) by either the Authority or the Trustee to the other shall also be given to the Borrower, each of the Bondholder Representatives and HCA and (ii) to each of the Bondholder Representatives shall also be given to the Underwriter. The Authority, the Borrower, the Trustee, each of the Bondholder Representatives, HCA, the Sole Member, the Guarantor and the Underwriter may, by notice given hereunder, designate any further or different addresses to which subsequent demands, notices, approvals, consents, requests, opinions or other communications shall be sent or persons to whose attention the same shall be directed.

Any such communication also may be transmitted to the appropriate party by Electronic Means and shall be deemed given or made at the time of such transmission if, and only if, such transmission of notice shall be confirmed in writing as specified above or by Electronic Means.

#### **Section 12.05 Payment or Performance Due on Holidays.**

Except as otherwise expressly provided herein, if any date specified herein for the payment of the Series 2022 Bonds or the performance of any act shall not be a Business Day, such payment or performance shall be made on the next succeeding Business Day with the same effect as if made on such date, and in case any payment of the principal or redemption price or of interest on the Series 2022 Bonds shall be due on a date that is not a Business Day, interest on such principal amount shall cease to accrue on the date on which such payment was due if such payment is made on the immediately succeeding Business Day.

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within such jurisdiction that the person signing such writing acknowledged before him the execution thereof, or by affidavit of any witness to such execution.

For all purposes of this Trust Indenture and of the proceedings for its enforcement, such person shall be deemed to continue to be the Holder of such Series 2022 Bond until the Trustee shall have received notice in writing to the contrary.

#### **Section 12.02 Limitation of Rights.**

With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Trust Indenture or the Series 2022 Bonds is intended or shall be construed to give to any person or company other than the parties hereto, the Borrower, the Bondholder Representatives and the Holders of the Series 2022 Bonds any legal or equitable right, remedy or claim under or in respect to this Trust Indenture or any covenants, conditions and agreements herein contained; this Trust Indenture and all of the covenants, conditions and agreements hereof being intended to be and for the sole and exclusive benefit of the parties hereto, the Borrower, the Bondholder Representatives and the Holders of the Series 2022 Bonds as herein provided.

#### **Section 12.03 Waiver of Personal Liability.**

No officials, officers or employees of the Authority shall be individually or personally liable for the payment of any principal, premium, if any, or interest on the Series 2022 Bonds or any costs incidental thereto or any sum hereunder or under the Loan Agreement or be subject to any personal liability or accountability by reason of the execution and delivery of this Trust Indenture, a supplemental indenture, the Series 2022 Bonds or the Loan Agreement.

#### **Section 12.04 Notices.**

Unless otherwise provided herein, all demands, notices, approvals, consents, requests, opinions and other communications hereunder shall be in writing and shall be deemed to have been given when delivered in person or mailed by first class mail, postage prepaid, addressed as follows:

(a) if to the Guarantor, at Edgewood Retirement Community, Inc., 575 Osgood Street, North Andover, Massachusetts 01845 (Attention: Jane Sullivan, Chief Financial Officer);

(b) if to the Authority, at Business Finance Authority of the State of New Hampshire, 135 N. State Street, Concord, New Hampshire 03301-4954 (Attention: Executive Director);

(c) if to the Trustee, at UMB Bank, National Association, 2 South Broadway, Suite 600, St. Louis, Missouri 63102;

#### **Section 12.06 Severability.**

If any provision of this Trust Indenture shall be held invalid by any court of competent jurisdiction, such holding shall not invalidate any other provision hereof.

#### **Section 12.07 Applicable Law.**

This Trust Indenture shall be governed by the applicable laws of the State, without regard to conflicts of law principles.

#### **Section 12.08 Counterparts.**

This Trust Indenture and any supplemental indentures may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

#### **Section 12.09 Bondholder Representative Deemed Owner.**

For all purposes herein, so long as the Bondholders have designated a Bondholder Representative within the meaning of this Trust Indenture, such entity shall be deemed to be the owner of such Series 2022 Bonds and entitled to provide all consents and control all remedies with respect thereto to the exclusion of such Bondholders so long as such Bondholder Representative is duly authorized and designated.

Any provision of this Trust Indenture requiring the consent or written direction of or any action to be taken by the Bondholder Representative shall be deemed to require the consent or direction of or action by (i) the Bondholder Representative for the Senior Bonds, so long as any Senior Bonds remain Outstanding and (ii) if no Senior Bonds remain Outstanding, then the Bondholder Representative for the Subordinate Bonds, unless otherwise provided in Section 13.01 of this Trust Indenture. If at any time there is no Bondholder Representative for the Senior Bonds or the Subordinate Bonds (as the case may be), any reference to the Bondholder Representative shall be of no further force and effect.

### **ARTICLE XIII SUBORDINATE BONDS**

#### **Section 13.01 Subordination and Intercreditor Provisions.**

(a) Subordinate Bonds shall be subject and subordinate in all respects to the Senior Bonds (including payments, if any, under the Loan Agreement and the Continuing Covenants Agreements and to all terms, covenants, conditions and liens of the Security Instruments affecting the Senior Bonds, the Continuing Covenants Agreements and the Loan Agreement). Payment of the indebtedness evidenced by the Subordinate Bonds is and shall be subject and subordinate in all respects, including in respect of the right to payment, to the prior payment in full of all amounts due and payable in respect of the Senior Bonds. The owners of Subordinate Bonds expressly subject and subordinate all of their right, title and interest in and

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to the Subordinate Bonds in all respects to (i) the payment in full of the Senior Bonds and (ii) the liens of the Senior Mortgage and of the Trust Estate. The Second Mortgage and the rights of the Holders of the Subordinate Bonds under the Subordinate Continuing Covenants Agreement, the Pledge Agreement, the Guaranty Agreement, the Assignment, the Loan Agreement and this Trust Indenture (collectively, the "Subordinate Bond Documents") are and shall continue to be completely subject and subordinate (i) to the lien, terms, covenants, agreements and conditions of the Senior Mortgage, the rights of the Holders of the Senior Bonds under the Senior Continuing Covenants Agreement, the Pledge Agreement, the Guaranty Agreement, the Assignment, the Loan Agreement, the Senior Mortgage and this Trust Indenture (collectively, the "Senior Bond Documents"), all advances made or which may hereafter be made pursuant to the provisions of the Senior Bond Documents as the same may be amended from time to time, including, but not limited to, all sums advanced for the purpose of preserving and protecting the Trust Estate and the Mortgaged Property, including, but not limited to, mortgage recording taxes, any other taxes in connection with the Mortgaged Property, title examination fees, commitment fees and survey costs, and all such advances may be made without prior notice to or the consent of the Bondholder Representative for the Subordinate Bonds or the Holders of the Subordinate Bonds (collectively, the "Subordinate Lender"), and (ii) unless otherwise expressly provided in this Trust Indenture, to any consolidations, extensions, increases, renewals and/or modifications of the Senior Bond Documents or any other mortgages of the Borrower held by the Trustee on behalf of the Holders of the Senior Bonds, the Bondholder Representative for the Senior Bonds and the Holders of the Senior Bonds (collectively, the "Senior Lender") on the Mortgaged Property which have been made or may hereafter be made.

The Subordinate Bond Documents are subject and subordinate to the prior and complete payment in full and performance by the Borrower of all its obligations with respect to the Senior Bond Documents.

As used in this Trust Indenture, the phrase "subject and subordinate" means:

(i) The Subordinate Lender shall not have any claim to the assets of the Borrower equal to or prior to the claim of the Senior Lender; provided, however, that the foregoing does not include funds held specifically for the Subordinate Lender, including without limitation funds held in the Subordinate Debt Service Reserve Fund, the Subordinate Bond Fund and the Subordinate Capitalized Interest Account of the Capitalized Interest Fund. Until the Senior Lender has been indefeasibly paid in full, the Subordinate Lender shall not take, demand or receive, and the Borrower will not make, give or permit, directly or indirectly, in any manner, any payment, prepayment or additional security, unless simultaneously paid to the Senior Lender, or for or all or any part of the indebtedness of the Subordinate Lender; provided, however, so long as the Senior Lender has not notified the Subordinate Lender of a default under the Senior Bond Documents, the Subordinate Lender shall be permitted to accept regular periodic payments of principal and interest as and when due and payable under the Subordinate Bond Documents.

(ii) Upon any liquidation or reorganization of the Borrower in a bankruptcy, insolvency or receivership proceeding or upon any involuntary liquidation or dissolution of the Borrower ("Insolvency Event"), then, in any such case, any payment or distribution, whether in cash, property or securities to which the Subordinate Lender would be entitled but for this

Section 13.01 shall instead be paid over to the Trustee for application on account of the Borrower's indebtedness to the Senior Lender if otherwise unpaid.

The Subordinate Lender irrevocably authorizes the Senior Lender (but the Senior Lender has no obligation), upon any Insolvency Event, to demand, sue for, collect and receive every such payment or distribution described in this Section 13.01, to file claims and proofs of claims in any statutory or nonstatutory proceeding, to vote the full amount of indebtedness of the Subordinate Lender in the discretion of the Senior Lender in connection with any resolution, arrangement, plan of reorganization, compromise, settlement or extension and to take all such other action (including, without limitation, the right to participate in any composition of creditors and the right to vote the amount of indebtedness of the Subordinate Lender at the creditors' meetings for the election of trustees, acceptances of plans and otherwise), in the name of any party, as the Senior Lender may deem necessary or advisable for the enforcement of the subordination provisions of this Section 13.01 (collectively, an "Enforcement Action"). The Subordinate Lender agrees, upon any Insolvency Event, promptly to take such action as may be reasonably requested at any time by the Senior Lender to direct the Trustee to collect the amount of the indebtedness owing under the Second Mortgage and to file appropriate proofs of claim in respect thereof, to deliver any instruments evidencing such indebtedness to the Senior Lender, on demand therefor, and to execute and deliver such powers of attorney, assignments or other instruments as may be requested by the Senior Lender in order to enable the Senior Lender to enforce any and all claims upon or in respect of the indebtedness owing under the Senior Bond Documents and to collect and receive any and all payments or distributions which may be payable or deliverable at any time upon or in respect of the indebtedness owing under the Subordinate Bond Documents.

All rents, issues and/or profits from the Mortgaged Property, or any part thereof, collected by the Subordinate Lender or by any receiver pursuant to the Subordinate Bond Documents, to the extent permitted by law, shall be applied first to the payment of taxes, assessments and obligations incurred in connection with the ownership, operation and/or maintenance of the Mortgaged Property and then to the obligations secured by the Senior Mortgage, including, without limitation, principal and interest due and payable with respect to the Senior Loan under the Loan Agreement and all other sums secured by the Senior Mortgage before any portion of such rents, issues and profits shall be applied to the Second Mortgage.

If any payment, prepayment or distribution or security, or the proceeds of any thereof, is collected or received by the Subordinate Lender prior to the payment in full to the Senior Lender of all sums outstanding under the Senior Bond Documents, the Subordinate Lender immediately will deliver the same to the Trustee, in precisely the form received (except for the endorsement or the assignment by the Subordinate Lender where necessary), and, until so delivered, the same shall be held in trust by the Subordinate Lender as the property of the Senior Lender. Upon delivery thereof, the Trustee shall apply same in accordance with the terms of the Senior Bond Documents.

No right of the Senior Lender or any holder of the Senior Mortgage or any instrument evidencing its lien to enforce the subordination provisions contained in this Section 13.01 shall be impaired by any act or failure to act by the Borrower or the Subordinate Lender.

The Subordinate Lender shall, upon the Senior Lender's written request, direct the Trustee to execute and deliver to the Senior Lender a release of the Second Mortgage in

connection with remedial action hereunder, inclusive of a deed in lieu of foreclosure to the Trustee, its designee, or a third party purchaser, where the Senior Lender is also releasing or satisfying the Senior Mortgage. The Subordinate Lender hereby empowers and authorizes the Trustee to record such release and/or subordination at the time or at any time after it has received the Subordinate Lender's direction to release its Second Mortgage interest.

The Subordinate Lender has not and will not assign, pledge, hypothecate, convey or sell its interest in the Subordinate Bond Documents or any interest thereon without the prior written consent of the Bondholder Representative for the Senior Bonds, provided, however, that Holders of the Subordinate Bonds, and owners of any beneficial interests in the Subordinate Bonds, shall have the right to sell their Subordinate Bonds at their sole discretion.

The Subordinate Lender shall have the right, but not the obligation, to cure monetary defaults by the Borrower within the period and upon the other terms applicable to cure by the Borrower.

In addition, notwithstanding anything contained in this Trust Indenture, the Loan Agreement, the Continuing Covenants Agreements or the Mortgages to the contrary, the Authority, the Bondholder Representative for the Subordinate Bonds and the Holders of the Subordinate Bonds agree, and the Trustee acknowledges, that:

(i) The sole source of funds available to the Authority for the payment of the principal of, premium, if any, and interest on, the Subordinate Bonds shall be the payments, if any, made by the Borrower under the Loan Agreement and the Subordinate Continuing Covenants Agreement in respect of the Subordinate Bonds, which payments, if any, may be made only out of, and to the extent of, excess cash flow;

(ii) Payments, if any, of the principal of, and interest on, the Subordinate Bonds may be made only after all current and past due obligations in respect of the Senior Bonds have been paid in full;

(iii) The obligation of the Borrower to make payments, if any, on the Subordinate Bonds is and shall be subject and subordinate in all respects to the obligations of the Borrower to pay all amounts due in respect of the Senior Bonds, whether under the Security Instruments or otherwise;

(iv) So long as any amounts remain currently due and owing in respect of the Senior Bonds, whether under the Security Instruments or otherwise, the Trustee shall not be entitled to make any payment in respect of Subordinate Bonds, notwithstanding a default or any arrearage in the payment of any amounts owing under or with respect to any Subordinate Bonds; and

(v) All payments on the Subordinate Bonds are subject to the terms and conditions of this Trust Indenture;

provided, however, that the foregoing does not preclude any payment from funds held specifically for the Subordinate Lender, including without limitation funds held in the

Subordinate Debt Service Reserve Fund, the Subordinate Bond Fund and the Subordinate Capitalized Interest Account of the Capitalized Interest Fund.

(b) The Trustee shall not, after the Trustee receives a Default Notice (as defined in Section 13.01(c)) or otherwise acquires knowledge of a default or an Event of Default by the Borrower with respect to the Senior Bonds or under the Loan Agreement or the Continuing Covenants Agreement for the Senior Bonds, make any payments in respect of Subordinate Bonds unless and until such default or Event of Default has been cured or waived by the Bondholder Representative for the Senior Bonds.

(c) For purposes of this Section 13.01, the following term shall have the meaning set forth below:

**"Default Notice"** means a written notice from the Trustee to the Borrower stating that a Default or Event of Default by the Borrower has occurred with respect to the Senior Bonds or under the Loan Agreement or the Continuing Covenants Agreement for the Senior Bonds.

(d) So long as the Senior Bonds are Outstanding, and whether or not any Insolvency or Liquidation Proceeding has been commenced by or against the Borrower:

(i) The Trustee on behalf of the Holders of the Subordinate Bonds agrees that it will not take any General Enforcement Actions; provided, however, that the Trustee on behalf of the Holders of the Subordinate Bonds may take any or all General Enforcement Actions after the earliest to occur of: (x) the acceleration by the Trustee on behalf of the Holders of the Senior Bonds of the due date for payment of all principal of the Senior Bonds, or (y) the date on which any Insolvency or Liquidation Proceeding is commenced by the Borrower or is commenced against the Borrower by persons other than the Trustee on behalf of the Holders of the Subordinate Bonds; provided, further, that any payments or proceeds of any General Enforcement Action taken by the Trustee on behalf of the Holders of the Subordinate Bonds pursuant to the immediately preceding proviso shall be subject to the provisions of Section 13.01(a) of this Trust Indenture;

(ii) the Trustee on behalf of the Holders of the Subordinate Bonds agrees that it will not take any Lien Enforcement Actions; provided, however, that the Trustee on behalf of the Holders of the Subordinate Bonds may take any or all Lien Enforcement Actions after a period of at least 180 days has elapsed following the date on which the Trustee declared by written notice to the Borrower (with a copy to the Bondholder Representative for the Senior Bonds) the existence of any Subordinate Bond Event of Default and its intention to take Lien Enforcement Action on behalf of the Holders of the Subordinate Bonds; provided, further, that notwithstanding anything herein to the contrary, in no event shall the Trustee on behalf of the Holders of the Subordinate Bonds take any Lien Enforcement Action if a Senior Bond Event of Default or a Subordinate Bond Event of Default has occurred and is continuing and the Trustee, for the benefit of the Holders of the Senior Bonds, shall have commenced and be diligently pursuing any Lien Enforcement Actions with respect to all or any material portion of the Senior Bond Collateral or Subordinate Bond Collateral;

(iii) the Trustee on behalf of the Holders of the Subordinate Bonds agrees that it will not contest, protest, or object to any foreclosure proceeding or action brought by the Trustee on behalf of the Holders of the Senior Bonds or to any other exercise by the Trustee on behalf of the Holders of the Senior Bonds of any rights and remedies relating to any of the Senior Bond Collateral under the Senior Bond Documents or otherwise; and

(iv) the Trustee on behalf of the Holders of the Subordinate Bonds agrees that it will not object to the forbearance by the Trustee on behalf of the Holders of the Senior Bonds from bringing or pursuing any foreclosure proceeding or action or any other exercise of any rights or remedies relating to any of the Senior Bond Collateral and, subject to Section 13.01(d)(ii), from bringing or pursuing any foreclosure proceeding or action or any other exercise of any rights or remedies relating to any of the Subordinate Bond Collateral.

(e) So long as any Senior Bonds are Outstanding, and whether or not any Insolvency or Liquidation Proceeding has been commenced by or against the Borrower, subject to Section 13.01(d)(ii), the Trustee for the benefit of the Holders of the Senior Bonds shall have the exclusive right to take any Lien Enforcement Actions with respect to any of the Collateral without any consultation with or the consent of the Subordinate Lender. The Trustee for the benefit of the Holders of the Senior Bonds shall provide at least five (5) Business Days' prior written notice to the Subordinate Lender of the Senior Lender's intent to take any Lien Enforcement Actions with respect to the Collateral; provided that no such prior notice shall be required if the Trustee determines, in its good faith judgment, that any Exigent Circumstances then exist. The failure of the Trustee to give such notice or of the Subordinate Lender to receive such notice shall not affect the validity of any proceedings taken by the Trustee in connection with any such Lien Enforcement Action. In exercising rights and remedies with respect to the Collateral, the Trustee for the benefit of the Holders of the Senior Bonds may enforce the provisions of the Senior Bond Documents and exercise remedies thereunder, all in such order and in such manner as it may determine in the consultation with the Bondholder Representative for the Senior Bonds, in their sole discretion. Such exercise and enforcement shall include the rights to dispose of Collateral upon foreclosure, to incur expenses in connection with such disposition, and to exercise all the rights and remedies of a secured creditor under the UCC and of a secured creditor under bankruptcy laws of any applicable jurisdiction.

(f) Subject to Section 13.01(d)(ii):

(i) the Trustee for the benefit of the Holders of the Subordinate Bonds agrees that it will not take any action that would hinder any exercise of any remedies or Lien Enforcement Action under the Senior Bond Documents or that is otherwise prohibited hereunder, including any disposition of the Collateral, whether by foreclosure or otherwise;

(ii) the Trustee for the benefit of the Holders of the Subordinate Bonds hereby waives any and all rights it may have as a junior lien creditor or otherwise to object to the manner in which the Trustee for the benefit of the Holders of the Senior Bonds seeks to enforce or collect the Senior Bonds or the Liens securing the Senior

Bonds granted in any of the Senior Bond Collateral undertaken in accordance with this Trust Indenture, regardless of whether any action or failure to act by or on behalf of the Trustee for the benefit of the Holders of the Senior Bonds is adverse to the interests of the Trustee for the benefit of the Holders of the Subordinate Bonds; and

(iii) the Trustee for the benefit of the Holders of the Subordinate Bonds hereby acknowledges and agrees that no covenant, agreement, or restriction contained in the Subordinate Bond Documents (other than this Trust Indenture) shall be effective to restrict or deemed to restrict in any way the rights and remedies of the Trustee for the benefit of the Holders of the Senior Bonds with respect to the Senior Bond Collateral as set forth in this Trust Indenture and the Senior Bond Documents; the Trustee for the benefit of the Holders of the Subordinate Bonds agrees that it will not take any action that would hinder any exercise of any remedies or Lien Enforcement Action under the Senior Bond Documents or that is otherwise prohibited hereunder, including any disposition of the Collateral, whether by foreclosure or otherwise.

(g) Except as specifically set forth in this Section 13.01, the Trustee for the benefit of the Holders of the Subordinate Bonds may exercise rights and remedies as an unsecured creditor against the Borrower in accordance with the terms of the Subordinate Bond Documents and applicable law; provided that in the event that the Trustee for the benefit of the Holders of the Subordinate Bonds becomes a judgment lien creditor in respect of any Collateral as a result of its enforcement of its rights as an unsecured creditor with respect to any Subordinate Bond, such judgment lien shall be subject to the terms of this Trust Indenture for all purposes, as the other Liens securing the Subordinate Bonds are subject to this Trust Indenture.

(h) In the event that any party to this Trust Indenture or the Senior Lender or the Subordinate Lender shall, as a result of the enforcement of its rights under its documents or its Liens on the Collateral, receive possession or control of any books or records of the Borrower that contain information identifying or pertaining to any Collateral, such party or the Senior Lender or the Subordinate Lender, as applicable, shall, as promptly as practicable after its receipt of a request therefrom from any other party or the Senior Lender or the Subordinate Lender, make available to such other party or the Senior Lender or the Subordinate Lender, as applicable, such books and records for inspection and duplication.

(i) Notwithstanding anything contained in this Trust Indenture to the contrary, none of the Trustee for the benefit of the Holders of the Subordinate Bonds, the Bondholder Representative for the Subordinate Bonds or the Holders of the Subordinate Bonds shall have any rights to receive payment or to take any action or to direct any action under the Guaranty Agreement for the benefit of the Holders of the Subordinate Bonds so long as the Senior Bonds are outstanding under this Trust Indenture. For the avoidance of doubt, any right to payment or to take or direct action for the benefit of the Holders of the Subordinate Bonds under the Guaranty Agreement shall only take effect after payment in full of the principal and premium, if any, of and interest on the Senior Bonds (and any fees due to the Trustee, the Bondholder Representative for the Senior Bonds and their attorneys and agents) and amounts remain available under the Guaranteed Amount provided for therein.

(j) Until the Senior Bonds are no longer outstanding under this Trust Indenture and subject to Section 13.01(d)(ii) hereof, the Senior Lender shall have the exclusive right to manage, perform and enforce the terms of the Senior Bond Documents with respect to the Collateral, to exercise and enforce all privileges and rights thereunder according to its discretion and the exercise of its sole business judgment, including the exclusive right to take or retake control or possession of the Collateral and to hold, prepare for sale, process, sell, lease, dispose of, or liquidate the Collateral and to incur expenses in connection with such sale or disposition and to exercise all the rights and remedies of a secured party under the Uniform Commercial Code of any applicable jurisdiction.

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IN WITNESS WHEREOF, the Authority and the Trustee have caused this Trust Indenture to be executed as an instrument under seal in their respective corporate names as of the date first above written.

BUSINESS FINANCE AUTHORITY  
OF THE STATE OF NEW  
HAMPSHIRE

By: \_\_\_\_\_  
Name: James Key-Wallace  
Title: Executive Director

[Authority Signature Page to Trust Indenture]

[Signature Pages Continue]

UMB BANK, NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_  
Name: Brian P. Krippner  
Title: Senior Vice President

EXHIBIT A-1

FORM OF SERIES 2022A BONDS AND SERIES 2022B BONDS

BENEFICIAL OWNERSHIP INTERESTS IN THIS BOND MAY NOT BE HELD OR TRANSFERRED TO ANY PERSON EXCEPT IN AUTHORIZED DENOMINATIONS AS PROVIDED IN THE HEREIN-DEFINED TRUST INDENTURE AND OTHERWISE IN COMPLIANCE WITH THE PROVISIONS OF THE TRUST INDENTURE.

NUMBER [AR-\_\_][BR-\_\_] DOLLARS \$ \_\_\_\_\_

UNITED STATES OF AMERICA  
BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE  
Senior Revenue Bonds  
(The Baldwin at Woodmont Commons Project),  
Series 2022[A][B]

<u>MATURITY DATE</u>	<u>DATED DATE</u>	<u>CUSIP</u>
April 1, 2029	April 21, 2022	

INTEREST RATE: \_\_\_\_ %

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS

BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE, a body corporate and politic of the State of New Hampshire (the "Authority"), for value received, hereby promises to pay, upon presentation and surrender hereof at the designated corporate trust office of UMB Bank, National Association, as bond trustee, or its successor in trust (the "Trustee"), solely from the sources and as hereinafter provided, to the Registered Owner hereof, or registered assigns or legal representative, the Principal Amount set forth above on the Maturity Date set forth above upon presentation and surrender of this Bond as it becomes due at the designated corporate trust office of the Trustee, subject to prior payment or redemption as described below, and to pay, solely from such sources, on each April 1 and October 1, commencing on October 1, 2022, interest hereon at the Interest Rate set forth above from the Dated Date set forth above. Upon maturity, the Series 2022[A][B] Bonds shall be payable at 100% of the stated principal amount thereof, and upon maturity an amount, equal to 1.00% of the outstanding principal amount of the Series 2022A Bonds, shall also be payable with respect to the Series 2022A Bonds (such additional amount being referred to as the "Additional Premium"). The Additional Premium shall not constitute principal or interest on the Series 2022A Bonds.

*[Trustee Signature Page to Trust Indenture]*

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This Bond and the issue of which it is a part and the premium, if any, and the interest hereon are limited obligations of the Authority and are payable solely from the Trust Estate, which has been pledged and assigned to the Trustee to secure payment hereof.

THIS BOND DOES NOT CONSTITUTE AN INDEBTEDNESS OF THE STATE OF NEW HAMPSHIRE OR OF THE AUTHORITY EXCEPT TO THE EXTENT PERMITTED BY NEW HAMPSHIRE RSA 162-L. ALL AMOUNTS OWED HEREUNDER ARE PAYABLE ONLY FROM THE SOURCES PROVIDED IN THE TRUST INDENTURE, AND NO PUBLIC FUNDS MAY BE USED FOR THAT PURPOSE.

This Bond is one of an issue of the Authority's [not to exceed] \$[87,800,000][15,000,000] Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022[A][B] (the "Series 2022[A][B] Bonds") authorized and issued pursuant to New Hampshire RSA 162-L, as supplemented and amended. The Series 2022[A][B] Bonds are issued under a Trust Indenture dated as of April 1, 2022 (the "Trust Indenture") between the Authority and the Trustee. Pursuant to a Loan Agreement dated as of April 1, 2022 (the "Loan Agreement") between the Authority and The Baldwin Senior Living, a New Hampshire nonprofit corporation (the "Borrower"), the Authority will loan the proceeds of the Series 2022[A][B] Bonds to the Borrower for the purpose of financing a portion of the 2022 Project. [Advances of the proceeds of the Series 2022A Bonds will be made as provided in the Trust Indenture.] Capitalized terms not otherwise defined herein shall have the meanings set forth in the Trust Indenture.

The Series 2022[A][B] Bonds are issued under the Trust Indenture, which assigns to the Trustee, as security for the Series 2022[A][B] Bonds, the Loan Agreement (exclusive of certain retained rights) pursuant to which the Borrower agrees to pay amounts sufficient to pay the principal of, premium, if any, and interest on the Series 2022[A][B] Bonds as the same become due. The Series 2022[A][B] Bonds are further secured by (i) a Continuing Covenants Agreement dated as of April 1, 2022, between the Borrower and the Trustee, (ii) a Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing Statement dated as of April 1, 2022 and effective April 21, 2022 from the Borrower to the Trustee, and (iii) certain other instruments as described in the Trust Indenture (collectively, the "Security Instruments").

Simultaneous with the issuance of the Series 2022[A][B] Bonds, the Authority is issuing pursuant to the Trust Indenture (i) its [not to exceed] \$[15,000,000]\$[87,800,000] Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022[B][A], which are issued on a parity with the Series 2022[A][B] Bonds, (ii) its not to exceed \$38,500,000 Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022C, which are issued on a parity with the Series 2022[A][B] Bonds, (iii) its not to exceed \$30,000,000 Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022D, which are issued on a parity with the Series 2022[A][B] Bonds and (iv) its not to exceed \$17,400,000 Subordinate Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022E, which are secured on a subordinated basis to the Series 2022[A][B] Bonds.

Reference is hereby made to the Trust Indenture for a description of the provisions, among others, of the Series 2022[A][B] Bonds issued, the nature and extent of the security for

the Series 2022[A][B] Bonds, the rights, duties and obligations of the Authority and the Trustee, the rights of the Holders of the Series 2022[A][B] Bonds and the provisions for defeasance of such rights, along with a description of the powers granted to the Bondholder Representative for the Senior Bonds.

This Bond is subject to redemption as provided in the Trust Indenture. The Borrower shall have the option to cause the Series 2022[A][B] Bonds to be purchased in lieu of redemption pursuant to the Trust Indenture. Upon the occurrence of a Determination of Taxability, unless redeemed as permitted by the Trust Indenture, the Series 2022[A][B] Bonds shall bear interest during a Taxable Period at the Taxable Rate.

The owner of this Bond shall have no right to enforce the provisions of the Trust Indenture or to institute action to enforce the covenants therein or to take any action with respect to any Event of Default under and as defined in the Trust Indenture or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Trust Indenture. In certain events or conditions in the manner and with the effect set forth in the Trust Indenture, the principal of all the Series 2022[A][B] Bonds issued under the Trust Indenture and then outstanding may become or may be declared due and payable before their stated maturities, together with accrued interest thereon. Modifications or alterations of the Trust Indenture, the Loan Agreement or the Security Instruments may be made only to the extent and in the circumstances permitted by the Trust Indenture.

The transfer of this Bond may be registered by the Registered Owner hereof in person or by his duly authorized attorney or legal representative at the designated corporate trust office of the Trustee, but only in the manner and subject the limitations and conditions provided in the Trust Indenture and upon surrender and cancellation of this Bond. The Trustee, the Authority and the Borrower shall, prior to due presentation for registration of transfer, treat the Registered Owner as the person exclusively entitled to payment of principal, premium, if any, and interest and the exercise of all other rights and powers of the owner, except that all payments of interest shall be made to the Registered Owner as of the fifteenth (15th) day of the month preceding each Interest Payment Date.

Any exchange or registration of transfer shall be without charge except that the Trustee shall make a charge to any Registered Owner requesting such exchange or registration in the amount of any tax or other governmental charge required to be paid with respect thereto.

All acts, conditions and things required to happen, exist or be performed precedent to and in the issuance of this Bond have happened, exist and have been performed.

This Bond shall not become obligatory for any purpose or be entitled to any security or benefit under the Trust Indenture or be valid until the Trustee shall have executed the Certificate of Authentication appearing hereon.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Business Finance Authority of the State of New Hampshire has caused this Bond to be executed by the manual or facsimile signature of its Authorized Signatories and its corporate seal to be affixed or printed hereon, all as of the date set forth above.

(Form of Trustee's Certificate of Authentication)

BUSINESS FINANCE AUTHORITY OF THE  
STATE OF NEW HAMPSHIRE

(SEAL)

By: \_\_\_\_\_  
Chairman  
  
By: \_\_\_\_\_  
Executive Director

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This Bond is one of the Series 2022[A][B] Bonds described in the within-mentioned Trust Indenture.

UMB BANK, NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_  
Authorized Officer

Date of Authentication:

\_\_\_\_\_, 2022

Series 2022[A][B] Bond Signature Page

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(Form of Assignment)

FOR VALUE RECEIVED the undersigned hereby sell(s), assign(s) and transfer(s) unto

PLEASE INSERT SOCIAL SECURITY OR OTHER  
IDENTIFYING NUMBER OF TRANSFeree

the within Bond and all rights thereunder, hereby irrevocably constituting and appointing \_\_\_\_\_, Attorney to transfer said Bond on the books kept for the registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

(Signature of Registered Owner)

NOTICE: The signature above must correspond with the name of the Registered Owner as it appears on the front of this Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed: \_\_\_\_\_

NOTICE: Signature(s) must be guaranteed by an Eligible Guarantor Institution such as a Commercial Bank, Trust Company, Securities Broker/Dealer, Credit Union or Savings Association, who is a member of a medallion program approved by the Securities Transfer Association, Inc.

EXHIBIT A-2

FORM OF 2022C BONDS

BENEFICIAL OWNERSHIP INTERESTS IN THIS BOND MAY NOT BE HELD OR TRANSFERRED TO ANY PERSON EXCEPT IN AUTHORIZED DENOMINATIONS AS PROVIDED IN THE HEREIN-DEFINED TRUST INDENTURE AND OTHERWISE IN COMPLIANCE WITH THE PROVISIONS OF THE TRUST INDENTURE.

NUMBER \_\_\_\_\_ DOLLARS \$ \_\_\_\_\_  
[CR-\_\_]

UNITED STATES OF AMERICA  
BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE  
Senior Revenue Bonds  
(The Baldwin at Woodmont Commons Project),  
Series 2022C

MATURITY DATE April 1, 2027 DATED DATE April 21, 2022 CUSIP

INTEREST RATE: \_\_\_\_ %

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS

BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE, a body corporate and politic of the State of New Hampshire (the "Authority"), for value received, hereby promises to pay, upon presentation and surrender hereof at the designated corporate trust office of UMB Bank, National Association, as bond trustee, or its successor in trust (the "Trustee"), solely from the sources and as hereinafter provided, to the Registered Owner hereof, or registered assigns or legal representative, the Principal Amount set forth above on the Maturity Date set forth above upon presentation and surrender of this Bond as it becomes due at the designated corporate trust office of the Trustee, subject to prior payment or redemption as described below, and to pay, solely from such sources, on each April 1 and October 1, commencing on October 1, 2022, interest hereon at the Interest Rate set forth above from the Dated Date set forth above.

This Bond and the issue of which it is a part and the premium, if any, and the interest hereon are limited obligations of the Authority and are payable solely from the Trust Estate, which has been pledged and assigned to the Trustee to secure payment hereof.

THIS BOND DOES NOT CONSTITUTE AN INDEBTEDNESS OF THE STATE OF NEW HAMPSHIRE OR OF THE AUTHORITY EXCEPT TO THE EXTENT PERMITTED BY NEW HAMPSHIRE RSA 162-I. ALL AMOUNTS OWED HEREUNDER ARE

PAYABLE ONLY FROM THE SOURCES PROVIDED IN THE TRUST INDENTURE,  
AND NO PUBLIC FUNDS MAY BE USED FOR THAT PURPOSE.

This Bond is one of an issue of the Authority's not to exceed \$38,500,000 Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022C (the "Series 2022C Bonds") authorized and issued pursuant to New Hampshire RSA 162-I, as supplemented and amended. The Series 2022C Bonds are issued under a Trust Indenture dated as of April 1, 2022 (the "Trust Indenture") between the Authority and the Trustee. Pursuant to a Loan Agreement dated as of April 1, 2022 (the "Loan Agreement") between the Authority and The Baldwin Senior Living, a New Hampshire nonprofit corporation (the "Borrower"), the Authority will loan the proceeds of the Series 2022C Bonds to the Borrower for the purpose of financing a portion of the 2022 Project. Advances of the proceeds of the Series 2022C Bonds will be made as provided in the Trust Indenture. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Trust Indenture.

The Series 2022C Bonds are issued under the Trust Indenture, which assigns to the Trustee, as security for the Series 2022C Bonds, the Loan Agreement (exclusive of certain retained rights) pursuant to which the Borrower agrees to pay amounts sufficient to pay the principal of, premium, if any, and interest on the Series 2022C Bonds as the same become due. The Series 2022C Bonds are further secured by (i) a Continuing Covenants Agreement dated as of April 1, 2022, between the Borrower and the Trustee, (ii) a Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing Statement dated as of April 1, 2022 and effective April 21, 2022 from the Borrower to the Trustee, and (iii) certain other instruments as described in the Trust Indenture (collectively, the "Security Instruments").

Simultaneous with the issuance of the Series 2022C Bonds, the Authority is issuing pursuant to the Trust Indenture (i) its not to exceed \$87,800,000 Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022A, which are issued on a parity with the Series 2022C Bonds, (ii) its \$15,000,000 Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022B, which are issued on a parity with the Series 2022C Bonds, (iii) its not to exceed \$30,000,000 Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022D, which are issued on a parity with the Series 2022C Bonds and (iv) its not to exceed \$17,400,000 Subordinate Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022E, which are secured on a subordinated basis to the Series 2022C Bonds.

Reference is hereby made to the Trust Indenture for a description of the provisions, among others, of the Series 2022C Bonds issued, the nature and extent of the security for the Series 2022C Bonds, the rights, duties and obligations of the Authority and the Trustee, the rights of the Holders of the Series 2022C Bonds and the provisions for defeasance of such rights, along with a description of the powers granted to the Bondholder Representative for the Senior Bonds.

This Bond is subject to redemption as provided in the Trust Indenture. The Borrower shall have the option to cause the Series 2022C Bonds to be purchased in lieu of redemption pursuant to the Trust Indenture. Upon the occurrence of a Determination of Taxability, unless

redeemed as permitted by the Trust Indenture, the Series 2022C Bonds shall bear interest during a Taxable Period at the Taxable Rate.

The owner of this Bond shall have no right to enforce the provisions of the Trust Indenture or to institute action to enforce the covenants therein or to take any action with respect to any Event of Default under and as defined in the Trust Indenture or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Trust Indenture. In certain events or conditions in the manner and with the effect set forth in the Trust Indenture, the principal of all the Series 2022C Bonds issued under the Trust Indenture and then outstanding may become or may be declared due and payable before their stated maturities, together with accrued interest thereon. Modifications or alterations of the Trust Indenture, the Loan Agreement or the Security Instruments may be made only to the extent and in the circumstances permitted by the Trust Indenture.

The transfer of this Bond may be registered by the Registered Owner hereof in person or by his duly authorized attorney or legal representative at the designated corporate trust office of the Trustee, but only in the manner and subject the limitations and conditions provided in the Trust Indenture and upon surrender and cancellation of this Bond. The Trustee, the Authority and the Borrower shall, prior to due presentation for registration of transfer, treat the Registered Owner as the person exclusively entitled to payment of principal, premium, if any, and interest and the exercise of all other rights and powers of the owner, except that all payments of interest shall be made to the Registered Owner as of the fifteenth (15th) day of the month preceding each Interest Payment Date.

Any exchange or registration of transfer shall be without charge except that the Trustee shall make a charge to any Registered Owner requesting such exchange or registration in the amount of any tax or other governmental charge required to be paid with respect thereto.

All acts, conditions and things required to happen, exist or be performed precedent to and in the issuance of this Bond have happened, exist and have been performed.

This Bond shall not become obligatory for any purpose or be entitled to any security or benefit under the Trust Indenture or be valid until the Trustee shall have executed the Certificate of Authentication appearing hereon.

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IN WITNESS WHEREOF, the Business Finance Authority of the State of New Hampshire has caused this Bond to be executed by the manual or facsimile signature of its Authorized Signatory and its corporate seal to be affixed or printed hereon, all as of the date set forth above.

(Form of Trustee's Certificate of Authentication)

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This Bond is one of the Series 2022C Bonds described in the within-mentioned Trust Indenture.

UMB BANK, NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_  
Authorized Officer

Date of Authentication:  
\_\_\_\_\_, 2022

BUSINESS FINANCE AUTHORITY OF THE  
STATE OF NEW HAMPSHIRE

(SEAL)

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

By: \_\_\_\_\_  
Executive Director

## (Form of Assignment)

FOR VALUE RECEIVED the undersigned hereby sell(s), assign(s) and transfer(s) unto

**PLEASE INSERT SOCIAL SECURITY OR OTHER  
IDENTIFYING NUMBER OF TRANSFeree**

the within Bond and all rights thereunder, hereby irrevocably constituting and appointing \_\_\_\_\_, Attorney to transfer said Bond on the books kept for the registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

(Signature of Registered Owner)

NOTICE: The signature above must correspond with the name of the Registered Owner as it appears on the front of this Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed: \_\_\_\_\_

NOTICE: Signature(s) must be guaranteed by an Eligible Guarantor Institution such as a Commercial Bank, Trust Company, Securities Broker/Dealer, Credit Union or Savings Association, who is a member of a medallion program approved by the Securities Transfer Association, Inc.

**EXHIBIT A-3****FORM OF 2022D BONDS**

BENEFICIAL OWNERSHIP INTERESTS IN THIS BOND MAY NOT BE HELD OR TRANSFERRED TO ANY PERSON EXCEPT IN AUTHORIZED DENOMINATIONS AS PROVIDED IN THE HEREIN-DEFINED TRUST INDENTURE AND OTHERWISE IN COMPLIANCE WITH THE PROVISIONS OF THE TRUST INDENTURE.

NUMBER [DR-__]	DOLLARS \$ _____
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**UNITED STATES OF AMERICA  
BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE  
Senior Revenue Bonds  
(The Baldwin at Woodmont Commons Project),  
Series 2022D**

<u>MATURITY DATE</u> April 1, 2027	<u>DATED DATE</u> April 21, 2022	<u>CUSIP</u>
---------------------------------------	-------------------------------------	--------------

INTEREST RATE: \_\_\_\_%

REGISTERED OWNER: CEDE &amp; CO.

PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS

BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE, a body corporate and politic of the State of New Hampshire (the "Authority"), for value received, hereby promises to pay, upon presentation and surrender hereof at the designated corporate trust office of UMB Bank, National Association, a bond trustee, or its successor in trust (the "Trustee"), solely from the sources and as hereinafter provided, to the Registered Owner hereof, or registered assigns or legal representative, the Principal Amount set forth above on the Maturity Date set forth above upon presentation and surrender of this Bond as it becomes due at the designated corporate trust office of the Trustee, subject to prior payment or redemption as described below, and to pay, solely from such sources, on each April 1 and October 1, commencing on October 1, 2022, interest hereon at the Interest Rate set forth above from the Dated Date set forth above.

This Bond and the issue of which it is a part and the premium, if any, and the interest hereon are limited obligations of the Authority and are payable solely from the Trust Estate, which has been pledged and assigned to the Trustee to secure payment hereof.

THIS BOND DOES NOT CONSTITUTE AN INDEBTEDNESS OF THE STATE OF NEW HAMPSHIRE OR OF THE AUTHORITY EXCEPT TO THE EXTENT PERMITTED BY NEW HAMPSHIRE RSA 162-I. ALL AMOUNTS OWED HEREUNDER ARE

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PAYABLE ONLY FROM THE SOURCES PROVIDED IN THE TRUST INDENTURE,  
AND NO PUBLIC FUNDS MAY BE USED FOR THAT PURPOSE.

This Bond is one of an issue of the Authority's not to exceed \$30,000,000 Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022D (the "Series 2022D Bonds") authorized and issued pursuant to New Hampshire RSA 162-I, as supplemented and amended. The Series 2022D Bonds are issued under a Trust Indenture dated as of April 1, 2022 (the "Trust Indenture") between the Authority and the Trustee. Pursuant to a Loan Agreement dated as of April 1, 2022 (the "Loan Agreement") between the Authority and The Baldwin Senior Living, a New Hampshire nonprofit corporation (the "Borrower"), the Authority will loan the proceeds of the Series 2022D Bonds to the Borrower for the purpose of financing a portion of the 2022 Project. Advances of the proceeds of the Series 2022D Bonds will be made as provided in the Trust Indenture. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Trust Indenture.

The Series 2022D Bonds are issued under the Trust Indenture, which assigns to the Trustee, as security for the Series 2022D Bonds, the Loan Agreement (exclusive of certain retained rights) pursuant to which the Borrower agrees to pay amounts sufficient to pay the principal of, premium, if any, and interest on the Series 2022D Bonds as the same become due. The Series 2022D Bonds are further secured by (i) a Continuing Covenants Agreement dated as of April 1, 2022, between the Borrower and the Trustee, (ii) a Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing Statement dated as of April 1, 2022 and effective April 21, 2022 from the Borrower to the Trustee, and (iii) certain other instruments as described in the Trust Indenture (collectively, the "Security Instruments").

Simultaneous with the issuance of the Series 2022D Bonds, the Authority is issuing pursuant to the Trust Indenture (i) its not to exceed \$87,800,000 Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022A, which are issued on a parity with the Series 2022D Bonds, (ii) its \$15,000,000 Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022B, which are issued on a parity with the Series 2022D Bonds, (iii) its not to exceed \$38,500,000 Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022C, which are issued on a parity with the Series 2022D Bonds and (iv) its not to exceed \$17,400,000 Subordinate Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022E, which are secured on a subordinated basis to the Series 2022D Bonds.

Reference is hereby made to the Trust Indenture for a description of the provisions, among others, of the Series 2022D Bonds issued, the nature and extent of the security for the Series 2022D Bonds, the rights, duties and obligations of the Authority and the Trustee, the rights of the Holders of the Series 2022D Bonds and the provisions for defeasance of such rights, along with a description of the powers granted to the Bondholder Representative for the Senior Bonds.

This Bond is subject to redemption as provided in the Trust Indenture. The Borrower shall have the option to cause the Series 2022D Bonds to be purchased in lieu of redemption pursuant to the Trust Indenture. Upon the occurrence of a Determination of Taxability, unless

redeemed as permitted by the Trust Indenture, the Series 2022D Bonds shall bear interest during a Taxable Period at the Taxable Rate.

The owner of this Bond shall have no right to enforce the provisions of the Trust Indenture or to institute action to enforce the covenants therein or to take any action with respect to any Event of Default under and as defined in the Trust Indenture or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Trust Indenture. In certain events or conditions in the manner and with the effect set forth in the Trust Indenture, the principal of all the Series 2022D Bonds issued under the Trust Indenture and then outstanding may become or may be declared due and payable before their stated maturities, together with accrued interest thereon. Modifications or alterations of the Trust Indenture, the Loan Agreement or the Security Instruments may be made only to the extent and in the circumstances permitted by the Trust Indenture.

The transfer of this Bond may be registered by the Registered Owner hereof in person or by his duly authorized attorney or legal representative at the designated corporate trust office of the Trustee, but only in the manner and subject the limitations and conditions provided in the Trust Indenture and upon surrender and cancellation of this Bond. The Trustee, the Authority and the Borrower shall, prior to due presentment for registration of transfer, treat the Registered Owner as the person exclusively entitled to payment of principal, premium, if any, and interest and the exercise of all other rights and powers of the owner, except that all payments of interest shall be made to the Registered Owner as of the fifteenth (15<sup>th</sup>) day of the month preceding each Interest Payment Date.

Any exchange or registration of transfer shall be without charge except that the Trustee shall make a charge to any Registered Owner requesting such exchange or registration in the amount of any tax or other governmental charge required to be paid with respect thereto.

All acts, conditions and things required to happen, exist or be performed precedent to and in the issuance of this Bond have happened, exist and have been performed.

This Bond shall not become obligatory for any purpose or be entitled to any security or benefit under the Trust Indenture or be valid until the Trustee shall have executed the Certificate of Authentication appearing hereon.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Business Finance Authority of the State of New Hampshire has caused this Bond to be executed by the manual or facsimile signature of its Authorized Signatory and its corporate seal to be affixed or printed hereon, all as of the date set forth above.

(Form of Trustee's Certificate of Authentication)

BUSINESS FINANCE AUTHORITY OF THE  
STATE OF NEW HAMPSHIRE  
(SEAL)

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This Bond is one of the Series 2022D Bonds described in the within-mentioned Trust Indenture.

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

UMB BANK, NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_  
Executive Director

By: \_\_\_\_\_  
Authorized Officer

Date of Authentication:  
\_\_\_\_\_, 2022

Signature Page to Series 2022D Bonds

(Form of Assignment)

FOR VALUE RECEIVED the undersigned hereby sell(s), assign(s) and transfer(s) unto

PLEASE INSERT SOCIAL SECURITY OR OTHER  
IDENTIFYING NUMBER OF TRANSFeree

the within Bond and all rights thereunder, hereby irrevocably constituting and appointing \_\_\_\_\_, Attorney to transfer said Bond on the books kept for the registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

(Signature of Registered Owner)

NOTICE: The signature above must correspond with the name of the Registered Owner as it appears on the front of this Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed: \_\_\_\_\_

NOTICE: Signature(s) must be guaranteed by an Eligible Guarantor Institution such as a Commercial Bank, Trust Company, Securities Broker/Dealer, Credit Union or Savings Association, who is a member of a medallion program approved by the Securities Transfer Association, Inc.

EXHIBIT A-4

FORM OF SUBORDINATE BONDS

BENEFICIAL OWNERSHIP INTERESTS IN THIS SUBORDINATE BOND MAY NOT BE HELD OR TRANSFERRED TO ANY PERSON EXCEPT IN AUTHORIZED DENOMINATIONS AS PROVIDED IN THE HEREIN-DEFINED TRUST INDENTURE AND OTHERWISE IN COMPLIANCE WITH THE PROVISIONS OF THE TRUST INDENTURE.

NUMBER \_\_\_\_\_ DOLLARS  
[ER-\_\_] \$ \_\_\_\_\_

UNITED STATES OF AMERICA  
BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE  
Subordinate Revenue Bonds  
(The Baldwin at Woodmont Commons Project),  
Series 2022E

MATURITY DATE April 1, 2029 DATED DATE April 21, 2022 CUSIP

INTEREST RATE: 10%

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS

BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE, a body corporate and politic of the State of New Hampshire (the "Authority"), for value received, hereby promises to pay, upon presentation and surrender hereof at the designated corporate trust office of UMB Bank, National Association, as bond trustee, or its successor in trust (the "Trustee"), solely from the sources and as hereinafter provided, to the Registered Owner hereof, or registered assigns or legal representative, the Principal Amount set forth above on the Maturity Date set forth above upon presentation and surrender of this Subordinate Bond as it becomes due at the designated corporate trust office of the Trustee, subject to prior payment or redemption as described below, and to pay, solely from such sources, on each April 1 and October 1, commencing on October 1, 2022, interest hereon at the Interest Rate set forth above from the Dated Date set forth above.

This Subordinate Bond and the issue of which it is a part and the premium, if any, and the interest hereon are limited obligations of the Authority and are payable solely from the Trust Estate, which has been pledged and assigned to the Trustee to secure payment hereof.

THIS SUBORDINATE BOND DOES NOT CONSTITUTE AN INDEBTEDNESS OF THE STATE OF NEW HAMPSHIRE OR OF THE AUTHORITY EXCEPT TO THE

EXTENT PERMITTED BY NEW HAMPSHIRE RSA 162-I. ALL AMOUNTS OWED HEREUNDER ARE PAYABLE ONLY FROM THE SOURCES PROVIDED IN THE TRUST INDENTURE, AND NO PUBLIC FUNDS MAY BE USED FOR THAT PURPOSE.

This Subordinate Bond is one of an issue of the Authority's \$17,400,000 Subordinate Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022E (the "Subordinate Bonds") authorized and issued pursuant to New Hampshire RSA 162-I, as supplemented and amended. The Subordinate Bonds are issued under a Trust Indenture dated as of April 1, 2022 (the "Trust Indenture") between the Authority and the Trustee. Pursuant to a Loan Agreement dated as of April 1, 2022 (the "Loan Agreement") between the Authority and The Baldwin Senior Living, a New Hampshire nonprofit corporation (the "Borrower"), the Authority will loan the proceeds of the Subordinate Bonds to the Borrower for the purpose of financing a portion of the 2022 Project. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Trust Indenture.

The Subordinate Bonds are issued under the Trust Indenture, which assigns to the Trustee, as security for the Subordinate Bonds, the Loan Agreement (exclusive of certain retained rights) pursuant to which the Borrower agrees to pay amounts sufficient to pay the principal of, premium, if any, and interest on the Subordinate Bonds as the same become due. The Subordinate Bonds are further secured by (i) a Continuing Covenants Agreement dated as of April 1, 2022, between the Borrower and the Trustee, (ii) a Second Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing Statement dated as of April 1, 2022 and effective April 21, 2022 from the Borrower to the Trustee, and (iii) certain other instruments as described in the Trust Indenture (collectively, the "Security Instruments").

Simultaneous with the issuance of the Subordinate Bonds, the Authority is issuing pursuant to the Trust Indenture (i) its not to exceed \$87,800,000 Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022A (the "Series 2022A Bonds"), (ii) its \$15,000,000 Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022B (the "Series 2022B Bonds"), (iii) its not to exceed \$38,500,000 Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022C (the "Series 2022C Bonds") and (iv) its not to exceed \$30,000,000 Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022D (the "Series 2022D Bonds," and together with the Series 2022A Bonds, Series 2022B Bonds and Series 2022C Bonds, the "Senior Bonds"). The Senior Bonds are secured on a priority lien basis to the Subordinate Bonds.

*The indebtedness evidenced by this Subordinate Bond is and shall be subordinate in right of payment to the prior payment in full of all then current amounts due and payable on the Senior Bonds, to the extent, and in the manner provided in, the Trust Indenture. The liens, terms, covenants and conditions securing this Subordinate Bond are and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Senior Bonds, except as provided in the Trust Indenture. The rights and remedies of the holder and each subsequent holder of this Subordinate Bond under the Trust Indenture are subject to the terms thereof.*

Reference is hereby made to the Trust Indenture for a description of the provisions, among others, of the Subordinate Bonds issued, the nature and extent of the security for the

Subordinate Bonds, the rights, duties and obligations of the Authority and the Trustee, the rights of the Holders of the Subordinate Bonds and the provisions for defeasance of such rights, along with a description of the powers granted to the Bondholder Representative for the Subordinate Bonds.

This Subordinate Bond is subject to redemption as provided in the Trust Indenture. The Borrower shall have the option to cause the Subordinate Bonds to be purchased in lieu of redemption pursuant to the Trust Indenture. In the event that a Default Notice has been delivered in accordance with Section 13.01 of the Trust Indenture, interest shall accrue and shall compound semiannually, with interest calculated based on the outstanding par amount of the Subordinate Bonds, and shall be payable on any subsequent Interest Payment Date, subject to the terms and conditions of the Trust Indenture. Upon the occurrence of a Determination of Taxability, unless redeemed as permitted by the Trust Indenture, the Subordinate Bonds shall bear interest during a Taxable Period at the Taxable Rate.

The owner of this Subordinate Bond shall have no right to enforce the provisions of the Trust Indenture or to institute action to enforce the covenants therein or to take any action with respect to any Event of Default under and as defined in the Trust Indenture or to institute, appear in or defend any suit or other proceeding with respect thereto, except as provided in the Trust Indenture. In certain events or conditions in the manner and with the effect set forth in the Trust Indenture, the principal of all the Subordinate Bonds issued under the Trust Indenture and then outstanding may become or may be declared due and payable before their stated maturities, together with accrued interest thereon. Modifications or alterations of the Trust Indenture, the Loan Agreement or the Security Instruments may be made only to the extent and in the circumstances permitted by the Trust Indenture.

The transfer of this Subordinate Bond may be registered by the Registered Owner hereof in person or by his duly authorized attorney or legal representative at the designated corporate trust office of the Trustee, but only in the manner and subject the limitations and conditions provided in the Trust Indenture and upon surrender and cancellation of this Subordinate Bond. The Trustee, the Authority and the Borrower shall, prior to due presentment for registration of transfer, treat the Registered Owner as the person exclusively entitled to payment of principal, premium, if any, and interest and the exercise of all other rights and powers of the owner, except that all payments of interest shall be made to the Registered Owner as of the fifteenth (15th) day of the month preceding each Interest Payment Date.

Any exchange or registration of transfer shall be without charge except that the Trustee shall make a charge to any Registered Owner requesting such exchange or registration in the amount of any tax or other governmental charge required to be paid with respect thereto.

All acts, conditions and things required to happen, exist or be performed precedent to and in the issuance of this Subordinate Bond have happened, exist and have been performed.

This Subordinate Bond shall not become obligatory for any purpose or be entitled to any security or benefit under the Trust Indenture or be valid until the Trustee shall have executed the Certificate of Authentication appearing hereon.

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IN WITNESS WHEREOF, the Business Finance Authority of the State of New Hampshire has caused this Subordinate Bond to be executed with the manual or facsimile signature of its Authorized Signatory and its corporate seal to be affixed or printed hereon, all as of the date set forth above.

BUSINESS FINANCE AUTHORITY OF THE  
STATE OF NEW HAMPSHIRE

(SEAL)

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

By: \_\_\_\_\_  
Executive Director

## TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This Subordinate Bond is one of the Subordinate Bonds described in the within-mentioned Trust Indenture.

UMB BANK, NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_  
Authorized Officer

Date of Authentication:

\_\_\_\_\_, 2022

PLEASE INSERT SOCIAL SECURITY OR OTHER  
IDENTIFYING NUMBER OF TRANSFEREE

the within Bond and all rights thereunder, hereby irrevocably constituting and appointing \_\_\_\_\_, Attorney to transfer said Bond on the books kept for the registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

(Signature of Registered Owner)

NOTICE: The signature above must correspond with the name of the Registered Owner as it appears on the front of this Subordinate Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed: \_\_\_\_\_

NOTICE: Signature(s) must be guaranteed by an Eligible Guarantor Institution such as a Commercial Bank, Trust Company, Securities Broker/Dealer, Credit Union or Savings Association, who is a member of a medallion program approved by the Securities Transfer Association, Inc.

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## EXHIBIT B

## FORM OF REQUISITION CERTIFICATE

Business Finance Authority of the State of New Hampshire  
Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022A  
Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022B  
Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022C  
Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022D  
(the "Bonds")

\_\_\_\_\_, 20\_\_\_\_

Business Finance Authority of the State of Hamlin Capital Management, LLC  
New Hampshire New York, New York  
Concord, New Hampshire

UMB Bank, National Association,  
as Trustee  
St. Louis, Missouri

To the addressees:

This requisition is being delivered to you in connection with the above-captioned bonds (the "Bonds") of the Business Finance Authority of the State of New Hampshire (the "Authority"). The Bonds were issued pursuant to the provisions of a Trust Indenture dated as of April 1, 2022 (the "Trust Indenture"), between the Authority and UMB Bank, National Association, as trustee (the "Trustee"). Unless otherwise defined herein, all capitalized terms used in this requisition have the same meaning as set forth in the Trust Indenture.

[In accordance with Section 5.04 of the Trust Indenture, the undersigned, as an Authorized Representative of the Borrower, hereby requests \$\_\_\_\_\_ from the Tax-Exempt Senior Construction Account.] [In accordance with Section 6.11 of the Trust Indenture, the undersigned, as an Authorized Representative of the Borrower, hereby requests \$\_\_\_\_\_ from the Repair and Replacement Fund.] This requisition is to fund the Costs of the Project described on Schedule I attached hereto; the invoice or other appropriate evidence of each such Cost of the Project is attached to Schedule I.

[The undersigned Authorized Representative of the Borrower hereby certifies that:

(i) there has been received no notice (A) of any lien, right to lien or attachment

upon, or claim affecting the right of the payee to receive payment of, any of the money payable under this requisition to any of the persons, firms or corporations named herein, and (B) that any materials, supplies or equipment covered by this requisition are not subject to any lien or security interest, or if any notice of any such lien, attachment, claim or security interest has been received, such lien, attachment, claim or security interest has been released or discharged or will be released or discharged upon payment of this requisition;

(ii) this requisition contains no items representing payment on account of any percentage entitled to be retained at the date hereof;

(iii) not less than 95% of the sum of: (a) the amounts requisitioned by this requisition to be funded with the proceeds of the Tax-Exempt Bonds plus (ii) all amounts allocated to the Bonds previously disbursed from the Tax-Exempt Senior Construction Account of the Project Fund, have been or will be applied by the Borrower to pay Qualified Project Costs;

(iv) each obligation stated on this requisition has been incurred in or about the construction or equipping of the 2022 Project, each item is a proper charge against the Tax-Exempt Senior Construction Account, and the obligation has not been the basis for a prior requisition that has been paid;

(v) this requisition contains no items representing any Costs of Issuance or any other amount constituting an issuance cost under Section 147(g) of the Code; provided, however, that such costs may be included if this requisition is accompanied by an Opinion of Bond Counsel that the payment of the amount in the requisition will not adversely affect the exemption of interest on the Tax-Exempt Bonds from federal income tax;

(vi) as of the date hereof no event or condition has happened or existed or is happening or exists that constitutes, or that with notice or lapse of time or both would constitute, an Event of Default under the Trust Indenture, the Loan Agreement or the Continuing Covenants Agreements or, if such an event or condition has happened or existed, or is happening or exists, the specific nature and date of the occurrence of such event or condition and describing the action the Borrower has taken, is taking or proposes to take with respect thereto;

(vii) with respect to this requisition, the Borrower (i) certifies it has reviewed the wire instructions set forth herein to confirm such wire instructions are accurate, (ii) agrees to indemnify and hold harmless the Trustee from and against any and all claim, demand, loss, liability, or expense sustained, including but not limited to attorney fees, and expenses resulting directly or indirectly as a result of making the disbursement requested, and (iii) agrees it will not seek recourse from the Trustee as a result of losses incurred by it for making the disbursement in accordance with the disbursement direction;

(viii) as to Costs of the Project, attached hereto is an itemized "Cost Statement" executed by the Borrower, together with invoices for all items of Costs of the Project covered thereby; and

(ix) as to amounts to be paid to any contractors, builders and materialmen in

connection with the construction and equipping of the 2022 Project, attached hereto are the following: (i) an itemized Application and Certificate for Payment (AIA Document G702 or similar form approved by the Bondholder Representative for the Senior Bonds or the Construction Monitor) containing the certifications of such contractors, builders and materialmen; (ii) certificates of such contractors, builders and materialmen; (iii) an affidavit of the Borrower, in accordance with New Hampshire Revised Statutes Annotated Chapter 447, Section 12-a, in form required by the Bondholder Representative for the Senior Bonds or the Construction Monitor, that the work for which such advance is to be made has been completed and that the subcontractors and suppliers of materials or labor have been paid for their share of such work, or will be paid out of such disbursement; (iv) a copy of the notice required under New Hampshire Revised Statutes Annotated Chapter 447, Section 12-b, along with a certification by the Borrower or its agent that such notice was posted within 10 business days of the execution of the Senior Mortgage; (v) a FA 61.1 endorsement to the title policy needed to maintain the first priority of the Senior Mortgage and/or such other endorsements as may reasonably be required by Trustee; and (vi) copies of requisitions and invoices from subcontractors and/or material men supporting all items of cost covered by such application; and partial lien waivers for all contractors, subcontractors, and or materialmen for the previous requisitions paid by the Trustee.]

[The undersigned Authorized Representative of the Borrower hereby certifies that as of the date hereof no event or condition has happened or existed or is happening or exists that constitutes, or that with notice or lapse of time or both would constitute, an Event of Default under the Trust Indenture or under any of the Related Documents (as defined in the Continuing Covenants Agreements), if such an event or condition has happened or existed, or is happening or exists, the specific nature and date of the occurrence of such event or condition and describing the action the Borrower has taken, is taking or proposes to take with respect thereto.]

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THE BALDWIN SENIOR LIVING

By: \_\_\_\_\_  
Authorized Representative of the Borrower

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SCHEDULE I

[Set forth the following:

- (i) the name of the person, firm, corporation or other entity to whom the payment is due or, if paid as reimbursement to the Borrower, a description thereof;
- (ii) the amount to be paid;
- (iii) the purpose in reasonable detail for which the obligation to be paid was incurred.  
Also attach invoices or other appropriate evidence of the obligations described above.]

Approved by:  
Hamlin Capital Management, LLC, as  
Bondholder Representative for the Senior Bonds

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

or

Valstin, LLP, as  
Construction Monitor

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

EXHIBIT C-1

FORM OF BONDHOLDER REPRESENTATIVE LETTER

Business Finance Authority of the State of New Hampshire  
Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022A  
Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022B  
Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022C  
Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022D

April 21, 2022

Business Finance Authority of the State of New Hampshire  
Concord, New Hampshire

UMB Bank, National Association, as Trustee  
St. Louis, Missouri

Odeon Capital Group LLC  
New York, New York

Ladies and Gentlemen:

The undersigned, an officer of Hamlin Capital Management, LLC ("Hamlin" or the "Bondholder Representative"), does hereby represent and agree, as follows:

1. The Bondholder Representative is registered with the Securities and Exchange Commission as an investment adviser under the Investment Advisers Act of 1940 and is the duly appointed representative of the beneficial owners of 100% in outstanding aggregate principal amount of the Bonds which have been delivered on this date (the "Bonds"). Each such owner has executed an Investment Advisory Agreement with the Bondholder Representative or is a limited partner in a limited partnership managed by the Bondholder Representative.

2. The principal place of business of the Bondholder Representative, and the office location for those representatives of the Bondholder Representative making the decision for the investors to purchase the Bonds, is in the State of New York.

3. The Bonds are currently outstanding in the aggregate principal amount of \$ \_\_\_\_\_ and have been issued pursuant to a Trust Indenture dated as of April 1, 2022 (the "Indenture"), by and between Business Finance Authority of the State of New Hampshire (the "Authority") and UMB Bank, National Association (the "Trustee"). Capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Indenture. The Bondholder Representative is delivering this letter on behalf of such initial beneficial

owners and all other beneficial owners of the Bonds from time to time represented by the Bondholder Representative (the "Hamlin Investors").

4. The Bondholder Representative has exercised its delegated authority for each Hamlin Investor to purchase the Bonds. The decision to purchase the Bonds has been made by the Bondholder Representative and not by any Hamlin Investor. Each Hamlin Investor Bond is held in a managed account of such investor or a comingled investment vehicle managed by Hamlin.

5. The Bondholder Representative acknowledges that the Bonds are not general obligations of the Authority, but are special, limited obligations payable and secured solely as provided for in the legal documents relating to the Bonds, including the Indenture.

6. Each Hamlin Investor is or will be (i) a "Qualified Institutional Buyer" (as defined in Rule 144A under the Securities Act of 1933, as amended); or (ii) an "accredited investor" (as defined in Rule 501 of Regulation D under the Securities Act of 1933, as amended).

7. Each Hamlin Investor has retained or will retain the Bondholder Representative to advise and represent the Hamlin Investor regarding the purchase of securities, such as the Bonds. Each Hamlin Investor has or will have the ability to bear the economic risks of an investment in the Bonds.

8. The Bondholder Representative has been informed that the Authority has not undertaken and will not undertake steps to ascertain the accuracy or completeness of the information furnished to the Bondholder Representative or any Hamlin Investor with respect to the Borrower, the Bonds or the project financed by the Bonds (the "2022 Project"). Neither the Bondholder Representative nor any Hamlin Investor has relied or will rely upon the Authority or its officers, directors, employees or agents or the Trustee in any way with regard to the accuracy or completeness of the information furnished to any Hamlin Investor in connection with its purchase of the Bonds, nor have any such parties made any representation to the Bondholder Representative or any Hamlin Investor with respect to that information.

9. The Bondholder Representative is sufficiently knowledgeable and experienced in financial and business matters, including the purchase and ownership of municipal and other tax-exempt obligations, to be able to evaluate the risks and merits of the investment represented by the purchase of the Bonds, and it is capable of and has made its own investigation of the Borrower and the 2022 Project in connection with its decision for the Hamlin Investors to purchase the Bonds.

10. The Bonds are being purchased by every Hamlin Investor for the purpose of investment and each Hamlin Investor intends or will intend to hold the Bonds for its own account as a long-term investment, without a current view to any distribution or sale of the Bonds. Each Hamlin Investor has been or will be informed that it may need to bear the risks of this investment for an indefinite time, since any sale prior to maturity may not be possible.

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C-1-2

11. Each Hamlin Investor has been or will be informed that the Bonds will not be listed on any stock or other securities exchange and were issued without registration under the provisions of the Securities Act, or any state securities laws, and the Bonds may not be resold, transferred, pledged or hypothecated, in whole or in part, unless they are registered under the Securities Act and applicable state securities laws or unless an exemption from registration is available. Each Hamlin Investor has been or will be informed that the Bonds may only be transferred in Authorized Denominations and in accordance with the requirements set forth in the Indenture.

12. The Bondholder Representative has received an Offering Memorandum prepared by the Borrower in connection with the limited public offering of the Bonds and hereby represents that the information contained therein, along with all other additional information supplied by the Borrower directly to the Bondholder Representative, is sufficient for the Bondholder Representative to decide for the Hamlin Investors to purchase the Bonds.

13. The Bondholder Representative has reviewed to its satisfaction and is familiar with the Offering Memorandum, including the documents included therein or incorporated therein by reference, and the terms of the transactions contemplated thereby. The Bondholder Representative has made, either alone or together with its advisors (if any), such independent investigation of the 2022 Project, the Borrower and related matters as the Bondholder Representative deems, or such advisors (if any) have advised, to be necessary or advisable in connection with advising and representing the Hamlin Investors as to an investment in the Bonds; and the Bondholder Representative and its advisors (if any) have conducted such due diligence, made such inquiries and received all information and data that the Bondholder Representative and such advisors (if any) believe to be necessary in order to reach an informed decision as to the advisability of an investment by the Hamlin Investors in the Bonds. The Bondholder Representative has based its decision to recommend an investment in the Bonds on the Offering Memorandum and its own investigation, including (without limitation) its review of the aforementioned documents, records, reports, financial statements and other information concerning the 2022 Project and the Borrower, discussions with representatives of the Borrower and the Underwriter based upon information about the 2022 Project and the Borrower provided by the Borrower to the Underwriter and/or the Bondholder Representative. The Bondholder Representative has been afforded the opportunity to ask such questions as it has deemed necessary in making its investment decisions, and such questions have been answered to the satisfaction of the Bondholder Representative. The Bondholder Representative acknowledges and agrees that none of the Trustee, the Authority or the Underwriter or their respective representatives have any liability for the failure by the Borrower and its representatives to provide any information or for the accuracy or completeness of any such information provided by or on behalf of the Borrower and its representatives. The Bondholder Representative acknowledges that all information and documents about the 2022 Project and the Borrower which the Underwriter forwarded to or discussed with the Bondholder Representative were received from the Borrower and its representatives, and that the Underwriter has made no representation or guarantee to the Bondholder Representative with respect to the accuracy or completeness of such information or documents. The Underwriter has represented to the Bondholder Representative that nothing has come to the attention of the Underwriter that would lead the Underwriter to believe that the information or documents provided by the Borrower about the 2022 Project or the Borrower was incorrect or incomplete

in any material respect. The Bondholder Representative acknowledges that the Underwriter is acting as underwriter in connection with the sale of the Bonds and the transactions contemplated by the Offering Memorandum and that the Underwriter is not acting as an advisor to or fiduciary of the Bondholder Representative. In its evaluation of the investment by the Hamlin Investors in the Bonds, the Bondholder Representative has relied on its own expertise and investigation and that of its representatives, attorneys and advisors.

14. (a) Hamlin is not recommending any action to the Authority, the Borrower, the Sole Member or the Guarantor; (b) Hamlin is not acting as an advisor to the Authority, the Borrower, the Sole Member or the Guarantor and does not owe a fiduciary duty pursuant to Section 15B of the Exchange Act to such entities with respect to the information and material contained in this letter or the documents relating to the Bonds; (c) the Bondholder Representative has not and will not provide financial, legal, tax, accounting or other advice to the Authority, the Borrower, the Sole Member or the Guarantor or to any financial advisor or underwriter engaged by the Authority, the Borrower, the Sole Member or the Guarantor in connection with the Bonds or the documents relating to the Bonds; (d) the Authority, the Borrower, the Sole Member, the Guarantor, their financial advisors and underwriters should each seek and obtain any financial, legal, tax, accounting and other advice with regards to the Bonds and the documents relating to the Bonds from its own advisors (including as it relates to structure, timing, terms and similar matters); (e) the transaction contemplated in the Bonds and the documents relating to the Bonds are arm's length, commercial transactions in which the Authority, the Borrower, the Sole Member and the Guarantor are acting and have acted solely as principals and for their own interests and the Bondholder Representative has not make any recommendations to the Authority, the Borrower, the Sole Member or the Guarantor in regards to the transactions related to the Bonds or the documents related to the Bonds; (f) Hamlin is acting for its own interests and for those of the investors for which it serves as the Bondholder Representative; and (g) the Authority, the Borrower, the Sole Member and the Guarantor should discuss any information and material contained in this letter or the documents relating to the Bonds with any and all internal or external advisors and experts that such entities deem appropriate before acting on this information or material.

15. In the event that the Bondholder Representative no longer represents a Hamlin Investor by virtue of the termination of the Investment Advisory Agreement or withdrawal from the limited partnership between the Bondholder Representative and such Hamlin Investor, whether such termination is effected by the Hamlin Investor or the Bondholder Representative, the Bondholder Representative (i) shall exercise its rights under the Investment Advisory Agreement to liquidate any Bonds held in such Hamlin Investor's portfolio which are in an aggregate principal amount less than \$100,000 and (ii) may exercise its rights under the Investment Advisory Agreement to liquidate any Bonds held in such Hamlin Investor's portfolio which are in an aggregate principal amount equal to or greater than \$100,000, in each case for sale or transfer to or placement with such other clients of the Bondholder Representative as the Bondholder Representative may determine, which clients shall constitute Hamlin Investors as described in this letter. Notwithstanding any provision to the contrary in this letter, such Bonds may also be sold or transferred to or placed with any person other than a Hamlin Investor but only in Authorized Denominations and otherwise in accordance with the provisions as set forth in the Indenture.

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HAMLIN CAPITAL MANAGEMENT, LLC,  
as Bondholder Representative

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

## FORM OF BONDHOLDER REPRESENTATIVE LETTER

Business Finance Authority of the State of New Hampshire  
Subordinate Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022E

April 21, 2022

Business Finance Authority of the State of New Hampshire  
Concord, New Hampshire

UMB Bank, National Association, as Trustee  
St. Louis, Missouri

Odeon Capital Group LLC  
New York, New York

Ladies and Gentlemen:

The undersigned, an officer of Ecofin Advisors, LLC ("Ecofin" or the "Bondholder Representative"), does hereby represent and agree, as follows:

1. The Bondholder Representative is registered with the Securities and Exchange Commission as an investment adviser under the Investment Advisers Act of 1940 and is the duly appointed representative of the beneficial owners of 100% in outstanding aggregate principal amount of the Bonds which have been delivered on this date (the "Bonds"). Each such owner has executed an investment advisory agreement with the Bondholder Representative.

2. The principal place of business of the Bondholder Representative, and the office location for those representatives of the Bondholder Representative making the decision for the investors to purchase the Bonds, is in the State of Kansas.

3. The Bonds are currently outstanding in the aggregate principal amount of \$ \_\_\_\_\_ and have been issued pursuant to a Trust Indenture dated as of April 1, 2022 (the "Indenture"), by and between Business Finance Authority of the State of New Hampshire (the "Authority") and UMB Bank, National Association (the "Trustee"). Capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Indenture. The Bondholder Representative is delivering this letter on behalf of such initial beneficial owners and all other beneficial owners of the Bonds from time to time represented by the Bondholder Representative (the "Ecofin Investors").

4. The Bondholder Representative has exercised its delegated authority for each Ecofin Investor to purchase the Bonds. The decision to purchase the Bonds has been made by the Bondholder Representative and not by any Ecofin Investor. Each Ecofin Investor Bond is

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held in a managed account of such investor or a comingled investment vehicle managed by Ecofin.

5. The Bondholder Representative acknowledges that the Bonds are not general obligations of the Authority, but are special, limited obligations payable and secured solely as provided for in the legal documents relating to the Bonds, including the Indenture.

6. Each Ecofin Investor is or will be (i) a "Qualified Institutional Buyer" (as defined in Rule 144A under the Securities Act of 1933, as amended); or (ii) an "accredited investor" (as defined in Rule 501 of Regulation D under the Securities Act of 1933, as amended).

7. Each Ecofin Investor has retained or will retain the Bondholder Representative to advise and represent the Ecofin Investor regarding the purchase of securities, such as the Bonds. Each Ecofin Investor has or will have the ability to bear the economic risks of an investment in the Bonds.

8. The Bondholder Representative has been informed that the Authority has not undertaken and will not undertake steps to ascertain the accuracy or completeness of the information furnished to the Bondholder Representative or any Ecofin Investor with respect to the Borrower, the Bonds or the project financed by the Bonds (the "2022 Project"). Neither the Bondholder Representative nor any Ecofin Investor has relied or will rely upon the Authority or its officers, directors, employees or agents or the Trustee in any way with regard to the accuracy or completeness of the information furnished to any Ecofin Investor in connection with its purchase of the Bonds, nor have any such parties made any representation to the Bondholder Representative or any Ecofin Investor with respect to that information.

9. The Bondholder Representative is sufficiently knowledgeable and experienced in financial and business matters, including the purchase and ownership of municipal and other tax-exempt obligations, to be able to evaluate the risks and merits of the investment represented by the purchase of the Bonds, and it is capable of and has made its own investigation of the Borrower and the 2022 Project in connection with its decision for the Ecofin Investors to purchase the Bonds.

10. The Bonds are being purchased by every Ecofin Investor for the purpose of investment and each Ecofin Investor intends or will intend to hold the Bonds for its own account as a long-term investment, without a current view to any distribution or sale of the Bonds. Each Ecofin Investor has been or will be informed that it may need to bear the risks of this investment for an indefinite time, since any sale prior to maturity may not be possible.

11. Each Ecofin Investor has been or will be informed that the Bonds will not be listed on any stock or other securities exchange and were issued without registration under the provisions of the Securities Act, or any state securities laws, and the Bonds may not be resold, transferred, pledged or hypothecated, in whole or in part, unless they are registered under the Securities Act and applicable state securities laws or unless an exemption from registration is available. Each Ecofin Investor has been or will be informed that the Bonds may only be

transferred in Authorized Denominations and in accordance with the requirements set forth in the Indenture.

12. The Bondholder Representative has received an Offering Memorandum prepared by the Borrower in connection with the limited public offering of the Bonds and hereby represents that the information contained therein, along with all other additional information supplied by the Borrower directly to the Bondholder Representative, is sufficient for the Bondholder Representative to decide for the Ecofin Investors to purchase the Bonds.

13. The Bondholder Representative has reviewed to its satisfaction and is familiar with the Offering Memorandum, including the documents included therein or incorporated therein by reference, and the terms of the transactions contemplated thereby. The Bondholder Representative has made, either alone or together with its advisors (if any), such independent investigation of the 2022 Project, the Borrower and related matters as the Bondholder Representative deems, or such advisors (if any) have advised, to be necessary or advisable in connection with advising and representing the Ecofin Investors as to an investment in the Bonds; and the Bondholder Representative and its advisors (if any) have conducted such due diligence, made such inquiries and received all information and data that the Bondholder Representative and such advisors (if any) believe to be necessary in order to reach an informed decision as to the advisability of an investment by the Ecofin Investors in the Bonds. The Bondholder Representative has based its decision to recommend an investment in the Bonds on the Offering Memorandum and its own investigation, including (without limitation) its review of the aforementioned documents, records, reports, financial statements and other information concerning the 2022 Project and the Borrower, discussions with representatives of the Borrower and discussions with the Underwriter based upon information about the 2022 Project and the Borrower provided by the Borrower to the Underwriter and/or the Bondholder Representative. The Bondholder Representative has been afforded the opportunity to ask such questions as it has deemed necessary in making its investment decisions, and such questions have been answered to the satisfaction of the Bondholder Representative. The Bondholder Representative acknowledges and agrees that none of the Trustee, the Authority or the Underwriter or their respective representatives have any liability for the failure by the Borrower and its representatives to provide any information or for the accuracy or completeness of any such information provided by or on behalf of the Borrower and its representatives. The Bondholder Representative acknowledges that all information and documents about the 2022 Project and the Borrower which the Underwriter forwarded to or discussed with the Bondholder Representative were received from the Borrower and its representatives, and that the Underwriter has made no representation or guarantee to the Bondholder Representative with respect to the accuracy or completeness of such information or documents. The Underwriter has represented to the Bondholder Representative that nothing has come to the attention of the Underwriter that would lead the Underwriter to believe that the information or documents provided by the Borrower about the 2022 Project or the Borrower was incorrect or incomplete in any material respect. The Bondholder Representative acknowledges that the Underwriter is acting as underwriter in connection with the sale of the Bonds and the transactions contemplated by the Offering Memorandum and that the Underwriter is not acting as an advisor to or fiduciary of the Bondholder Representative. In its evaluation of the investment by the Ecofin Investors in the Bonds, the Bondholder Representative has relied on its own expertise and investigation and that of its representatives, attorneys and advisors.

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14. (a) Ecofin is not recommending any action to the Authority, the Borrower, the Sole Member or the Guarantor; (b) Ecofin is not acting as an advisor to the Authority, the Borrower, the Sole Member or the Guarantor and does not owe a fiduciary duty pursuant to Section 15B of the Exchange Act to such entities with respect to the information and material contained in this letter or the documents relating to the Bonds; (c) Ecofin is acting for its own interests and for those of the investors for which it serves as the Bondholder Representative; and (d) the Authority, the Borrower, the Sole Member and the Guarantor should discuss any information and material contained in this letter or the documents relating to the Bonds with any and all internal or external advisors and experts that such entities deem appropriate before acting on this information or material.

ECOFIN ADVISORS, LLC,  
as Bondholder Representative

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

#### EXHIBIT D

#### FORM OF ADVANCE CERTIFICATE

Business Finance Authority of the State of New Hampshire  
[Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022A]  
[Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022C]  
[Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022D]

\_\_\_\_\_, 20\_\_\_\_

Business Finance Authority of  
the State of New Hampshire  
Concord, New Hampshire

Hamlin Capital Management, LLC  
New York, New York

UMB Bank, National Association  
St. Louis, Missouri

Hamlin Capital Advisors, LLC  
Tampa, Florida

Odeon Capital Group LLC  
New York, New York

Ladies and Gentlemen:

This request is being delivered to you in connection with the above-referenced bonds (the "Bonds") issued by the Business Finance Authority of the State of New Hampshire (the "Authority"). The Bonds were issued pursuant to the provisions of a Trust Indenture, dated as of April 1, 2022 (the "Trust Indenture") between the Authority and UMB Bank, National Association, as trustee (the "Bond Trustee"). Unless otherwise defined herein, all capitalized terms used in this request have the same meaning as set forth in the Trust Indenture.

In accordance with Section 2.02(d) of the Trust Indenture the undersigned, as an Authorized Representative of the Borrower, hereby requests an Advance from the Bonds in the aggregate principal amount of \$\_\_\_\_\_ (the "Advance Amount") to be made on \_\_\_\_\_, 20\_\_\_\_ (the "Advance Date"). This request for Advance also constitutes a request to Odeon Capital Group LLC (the "Underwriter") to apply for CUSIP numbers, if necessary, for such Advance and purchase and offer for sale an additional amount of Bonds in the amount of the Advance Amount pursuant to the terms of the Bond Purchase Agreement dated April 19, 2022, among the Authority, The Baldwin Senior Living (the "Borrower"), and the Underwriter, and such Advance shall be applied, as follows:

\$\_\_\_\_\_ shall be deposited into the Tax-Exempt Senior Construction Account;  
\$\_\_\_\_\_ shall be deposited into the Tax-Exempt Senior Costs of Issuance Account;  
\$\_\_\_\_\_ shall be deposited into the Tax-Exempt Senior Capitalized Interest Account of the Capitalized Interest Fund; and

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\$\_\_\_\_\_ shall be deposited into the Tax-Exempt Senior Debt Service Reserve Fund.

The undersigned Authorized Representative of the Borrower hereby certifies that as of the Advance Date:

1. the Borrower has taken no action, or omitted to take any action, to cause an Event of Default;
2. no change in federal tax law has occurred which would adversely affect the exclusion from gross income of interest on the Bonds of such Series;
3. no Event of Default has occurred and is continuing;
4. taking into account the information that the Borrower has filed with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system pursuant to the Continuing Disclosure Agreement (as defined in the Loan Agreement), the statements and information contained in any offering document for the Bonds are true, correct, and complete in all material respects, and such statements and information do not contain any untrue statement of a material fact and do not omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading in any material respect;
5. all conditions to this request contained in the Trust Indenture, the Loan Agreement and the Bond Purchase Agreement have occurred or will occur prior to the Advance Date;
6. the total amount of Bonds issued under the Bond Indenture does not exceed \$\_\_\_\_\_;
7. the total amount of Advances of the Bonds, including this Advance, as of the date hereof equals \$\_\_\_\_\_;
8. [if any proceeds of an Advance are being deposited into the Capitalized Interest Fund, the Borrower hereby certifies that such amounts shall be used only to pay interest on such Tax-Exempt Senior Bonds during the construction period];
9. the Borrower has caused a mortgagee title insurance policy [bring-down endorsement] on the Mortgaged Property to be issued in an amount equal to the Advance Amount;
10. either (x) the projects financed with the proceeds from this Advance have been approved pursuant to the provisions of Section 147(f) of the Code and such approval occurred no earlier than three years prior to the Advance Date or (y) Bond Counsel has provided an opinion that such approval is not necessary with respect to the projects.

The Bond Trustee is ordered and directed to authenticate additional Bonds as applicable in the amount of the Advance Amount described above representing this Advance of the Bonds under the Trust Indenture. The Bond Trustee is also directed to (i) assign such CUSIP numbers to such Bonds, as provided by the Underwriter; (ii) arrange to have such Bonds registered with

The Depository Trust Company's nominee as the securities depository; and (iii) deliver such additional Bonds to the Underwriter, upon payment to the Trustee for the account of the Authority of the purchase price of such additional Bonds of \$\_\_\_\_\_, representing the additional proceeds from the sale of the Bonds.

THE BALDWIN SENIOR LIVING

By: \_\_\_\_\_  
Authorized Representative  
of the Borrower

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BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE		
and		
THE BALDWIN SENIOR LIVING		
Dated as of April 1, 2022		
<i>Relating to:</i>		
Business Finance Authority of the State of New Hampshire		
Not to Exceed \$87,800,000 Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022A	\$15,000,000 Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022B	
Not to Exceed \$38,500,000 Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022C	Not to Exceed \$30,000,000 Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022D	
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THIS LOAN AGREEMENT (this "Loan Agreement"), dated as of April 1, 2022, between the BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE (the "Authority"), a body corporate and politic of the State of New Hampshire (the "State"), and THE BALDWIN SENIOR LIVING, a New Hampshire nonprofit corporation (the "Borrower"),

**WITNESSETH:**

WHEREAS, the Authority is authorized pursuant to the provisions of the "Act" as more particularly defined herein, to, among other things, issue bonds, notes or other evidence of indebtedness in connection with, and to make loans to assist in the financing of certain projects located inside the State; and

WHEREAS, the Borrower has applied for the financial assistance of the Authority in the financing of the "Project" as more particularly defined herein; and

WHEREAS, the Borrower has requested that the Authority issue not to exceed \$87,800,000 aggregate principal amount of its Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022A (the "Series 2022A Bonds"), \$15,000,000 aggregate principal amount of its Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022B (the "Series 2022B Bonds"), not to exceed \$38,500,000 aggregate principal amount of its Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022C (the "Series 2022C Bonds"), not to exceed \$30,000,000 aggregate principal amount of its Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022D (the "Series 2022D Bonds") and together with the Series 2022A Bonds, the Series 2022B Bonds and the Series 2022C Bonds, the "Tax-Exempt Senior Bonds" or "Senior Bonds") and \$17,400,000 aggregate principal amount of its Subordinate Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022E (the "Subordinate Bonds") and, together with the Senior Bonds (the "Bonds") pursuant to the Trust Indenture in order to loan the proceeds of the Senior Bonds (the "Senior Loan") and the proceeds of the Subordinate Bonds (the "Subordinate Loan" and, together with the Senior Loan, the "Loan") to the Borrower to finance a portion of a project consisting of: (i) the refinancing of the Authority's Revenue Bonds (The Baldwin at Woodmont Commons Project) Series 2020 (the "Series 2020 Bonds"), which (A) financed the acquisition of a land parcel consisting of approximately 15.1 acres with frontage on First Avenue between First Avenue's intersections with Main Street and Pillsbury Road in Londonderry, New Hampshire (the "Project Site"), (B) funded certain predevelopment costs, (C) funded a debt service reserve fund for the Series 2020 Bonds and (D) paid certain costs of issuance for the Series 2020 Bonds; (ii) the financing of the construction, equipping and furnishing on the Project Site of a 230-unit life plan continuing care retirement community, consisting of one or more buildings with approximately 190 independent living units and approximately 40 enhanced assisted living-memory care units, including related amenities and common facilities; (iii) funding capitalized interest on all or a portion of the Bonds during the construction period; (iv) funding capitalized interest on all or a portion of the Bonds for a certain duration after the construction period; (v) funding working capital expenditures related to the 2022 Project (as defined below); (vi) funding one or more reasonably required reserve funds, if

necessary; and (vii) paying certain costs associated with the authorization and issuance of the Bonds (collectively, the "2022 Project"); and

WHEREAS, the Guarantor will also cause to be made an equity contribution to the costs of the 2022 Project; and

WHEREAS, the obligations of the Borrower under this Loan Agreement with respect to the Senior Loan will be secured by, among other things, a first priority lien on and security interest in the Mortgaged Property (as such term is defined in the hereinafter defined Senior Mortgage) pursuant to a Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing Statement dated as of April 1, 2022 and effective April 21, 2022, from the Borrower to the Trustee (the "Senior Mortgage"); and

WHEREAS, the obligations of the Borrower under this Loan Agreement with respect to the Subordinate Loan will be secured by, among other things, a second priority lien on and security interest in the Mortgaged Property pursuant to a Second Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing Statement dated as of April 1, 2022 and effective April 21, 2022, from the Borrower to the Trustee (the "Second Mortgage," and together with the Senior Mortgage, the "Mortgages"); and

WHEREAS, the Authority has authorized the issuance of the Bonds pursuant to the Trust Indenture to provide funds to finance the 2022 Project; and

WHEREAS, the Authority proposes to loan the proceeds of the sale of the Bonds to the Borrower, and the Borrower agrees to repay such loan on the terms and conditions hereinafter set forth.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto covenant and agree as follows:

## ARTICLE I DEFINITIONS AND RULES OF CONSTRUCTION

### Section 1.1 Definitions.

Except as set forth in the Recitals, below or unless the context otherwise requires, all undefined capitalized terms shall have the meanings assigned to them in the Trust Indenture. The following words and terms shall have the following meanings unless the context otherwise requires:

"Act" shall mean New Hampshire RSA 162-A and 162-I, each as amended and supplemented from time to time.

"Additional Payments" shall have the meaning specified in Section 4.1(b).

"Additional Premium" shall have the meaning specified in Section 7.5 hereof.

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"Assignment" shall mean the Collateral Assignment of Contract Rights dated as of April 1, 2022 by the Borrower for the benefit of the Trustee substantially in the form of Exhibit A.

"Authority" shall mean the Business Finance Authority of the State of New Hampshire or its successors and assigns.

"Authorized Representative of the Borrower" shall mean the Executive Director or Director of Finance of the Borrower or such other person as shall be designated in a certificate executed by the Executive Director or Director of Finance of the Borrower and delivered to the Trustee and the Authority.

"Bond Purchase Agreement" shall mean the Bond Purchase Agreement dated April 19, 2022 among the Underwriter, the Authority and the Borrower with respect to the Bonds.

"Bondholder Representative" shall mean (i) with respect to the Senior Bonds, (a) Hamlin Capital Management, so long as a majority in aggregate principal amount of the Outstanding Senior Bonds are beneficially owned by persons for whom Hamlin Capital Management serves as investment advisor or a manager of a limited partnership; and (b) at any other time, the designee, if any, of the Holders of a majority in aggregate principal amount of the Outstanding Senior Bonds, and (ii) with respect to the Subordinate Bonds, (a) Ecofin, so long as a majority in aggregate principal amount of the Outstanding Subordinate Bonds are beneficially owned by persons for whom Ecofin serves as investment advisor or subadvisor; and (b) at any other time, the designee, if any, of the Holders of a majority in aggregate principal amount of the Outstanding Subordinate Bonds. In either case, if there shall be no designee, the term Bondholder Representative shall be disregarded and all notices and consents shall be given to and by, respectively, the other parties referenced in this Loan Agreement and the Trust Indenture. Hamlin Capital Management will provide immediate written notice to the Trustee, the Borrower, Ecofin and the Authority when clause (i)(a) is no longer applicable. Ecofin will provide immediate written notice to the Trustee, the Borrower, Hamlin Capital Management and the Authority when clause (ii)(a) is no longer applicable.

"Bond," "Bonds" or "2022 Bonds" shall mean, collectively, the Senior Bonds and Subordinate Bonds issued by the Authority pursuant to the Trust Indenture.

"Borrower" shall mean The Baldwin Senior Living, a New Hampshire nonprofit corporation, and its successors and assigns.

"Borrower Documents" shall mean this Loan Agreement, the Continuing Covenants Agreements, the Tax Certificate, the Mortgages, the Assignment, the Bond Purchase Agreement, the Continuing Disclosure Agreement, the Control Agreement and any other document to which the Borrower is a party in connection with the issuance of the Bonds and the loan of the proceeds thereof to the Borrower.

"Code" shall have the meaning assigned in Section 2.2(c) herein.

"Continuing Covenants Agreements" shall mean, collectively, the Senior Continuing Covenants Agreement and the Subordinate Continuing Covenants Agreement.

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"Continuing Disclosure Agreement" shall mean the Continuing Disclosure Agreement dated as of April 1, 2022 between the Borrower and the Trustee, as dissemination agent.

"Control Agreement" shall mean the Deposit Account Control Agreement dated April 21, 2022 among the Borrower, the Trustee and TD Bank, National Association, and any other deposit account control agreement executed and delivered by the Borrower in favor of the Trustee.

"Costs of the Project" shall have the meaning assigned in Section 5.03 of the Trust Indenture.

"Delivery Date" shall mean, with respect to a Series of Bonds or Subseries of Bonds, the date such Bonds are delivered to the initial purchasers thereof against payment therefor.

"Ecofin" shall mean Ecofin Advisors, LLC, a Delaware limited liability company, and its successors and assigns, which has been designated as the initial Bondholder Representative for the Subordinate Bonds.

"Entrance Fees" shall have the meaning assigned in Section 3.3 herein.

"Event of Default" shall have the meaning assigned in Section 6.1 herein.

"Facility" shall mean the assisted living and senior care community that will have frontage on First Avenue between First Avenue's intersections with Main Street and Pillsbury Road in the Town of Londonderry, New Hampshire, and owned and operated by the Borrower.

"Financing Instruments" shall mean the Borrower Documents, the Guarantor Documents and the Trust Indenture.

"GAAP" shall mean generally accepted accounting principles in effect from time to time in the United States.

"Gross Revenues" shall have the meaning set forth for such term in the Continuing Covenants Agreements.

"Guarantor" shall mean Edgewood Retirement Community, Inc., a Massachusetts nonprofit corporation.

"Guarantor Documents" shall mean the Guaranty Agreement and any other document to which the Guarantor is a party in connection with the issuance of the Bonds and the loan of the proceeds thereof to the Borrower.

"Guaranty Agreement" shall mean the Support Agreement dated as of April 1, 2022 between the Guarantor and the Trustee for the sole benefit of the Holders of the Senior Bonds.

"Hamlin Capital Management" shall mean Hamlin Capital Management, LLC, a Delaware limited liability company, and its successors and assigns, which has been designated as the initial Bondholder Representative for the Senior Bonds.

"Highest Lawful Rate" shall mean the lesser of (i) 12% or (ii) the maximum interest rate allowed by applicable law related to usury as in effect on the issue date of the Bonds or, to the extent allowed by applicable law, such higher interest rate as may thereafter be allowed.

"Loan" shall mean, collectively, the Senior Loan and the Subordinate Loan.

"Loan Agreement" shall mean this Loan Agreement, including any amendments or supplements thereto.

"Material Adverse Effect" shall mean a material adverse effect on the (i) business assets, properties, liabilities, operations or condition (financial or otherwise) of the Borrower, (ii) the ability of the Borrower to perform its obligations under any of the Borrower Documents to which it is a party, or (iii) the validity or enforceability of any Borrower Document or the rights and remedies of the Authority or the Trustee.

"Mortgaged Property" shall have the meaning given to such term in the Mortgages.

"Mortgages" shall mean, collectively, the Senior Mortgage and the Second Mortgage.

"Person" shall mean any individual, trust, foundation, incorporation, incorporated or unincorporated entity, partnership, limited liability company, joint venture, governmental unit or association.

"Pledge Agreement" shall mean the Pledge Agreement (Membership Interest) dated as of April 1, 2022, from the Sole Member to the Trustee, as amended and supplemented from time to time.

"Prime Rate" shall mean the rate per year announced from time to time by the banking institution affiliated with the Trustee, as its prime rate, with any change in the Prime Rate being effective as of the date such announced prime rate is changed.

"Rule" shall have the meaning assigned in Section 8.1 hereof.

"Second Mortgage" shall mean the Second Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing Statement dated as of April 1, 2022 and effective April 21, 2022, from the Borrower, as Mortgagor, to the Trustee, as Mortgagor, for the benefit of the Holders of the Subordinate Bonds, and which grants a second lien on the Mortgaged Property, including any amendments and supplements thereto.

"Senior Bonds" shall mean the Tax-Exempt Senior Bonds.

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**"Senior Continuing Covenants Agreement"** shall mean the Continuing Covenants Agreement, dated as of April 1, 2022, between the Borrower and the Trustee, relating to the Senior Bonds.

**"Senior Loan"** shall mean the loan of the proceeds of the Senior Bonds from the Authority to the Borrower as described in Section 3.1 hereof.

**"Senior Mortgage"** shall mean the Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing Statement dated as of April 1, 2022 and effective April 21, 2022, from the Borrower, as Mortgagor, to the Trustee, as Mortgagee, for the benefit of the Holders of the Senior Bonds, and which grants a first lien on the Mortgaged Property, including any amendments and supplements thereto.

**"Series 2020 Bonds"** means the Authority's Revenue Bonds (The Baldwin at Woodmont Commons Project) Series 2020, outstanding in the principal amount of \$19,100,000.00.

**"Sole Member"** shall mean Edgewood Senior Solutions Group, Inc., the sole member of the Borrower.

**"Subordinate Bonds"** shall mean the \$17,400,000 Business Finance Authority of the State of New Hampshire Subordinate Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022E.

**"Subordinate Continuing Covenants Agreement"** shall mean the Continuing Covenants Agreement, dated as of April 1, 2022, between the Borrower and the Trustee, relating to the Subordinate Bonds.

**"Subordinate Loan"** shall mean the loan of the proceeds of the Subordinate Bonds from the Authority to the Borrower as described in Section 3.1 hereof.

**"Tax Certificate"** shall mean the Tax Certificate and Agreement dated April 21, 2022, executed by the Authority and acknowledged by the Borrower.

**"Tax-Exempt Bonds"** shall mean the Tax-Exempt Senior Bonds and the Subordinate Bonds.

**"Tax-Exempt Senior Bonds"** shall mean (i) the not to exceed \$87,800,000 Business Finance Authority of the State of New Hampshire Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022A, (ii) the \$15,000,000 Business Finance Authority of the State of New Hampshire Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022B, (iii) the not to exceed \$38,500,000 Business Finance Authority of the State of New Hampshire Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022C and (iv) the not to exceed \$30,000,000 Business Finance Authority of the State of New Hampshire Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022D.

**"Trustee"** shall mean the Trustee at the time serving as such under the Trust Indenture, whether the original or a successor trustee.

**"Underwriter"** shall mean Odeon Capital Group LLC.

#### Section 1.2 Rules of Construction.

The following rules shall apply to the construction of this Loan Agreement unless the context otherwise requires:

(a) Singular words shall connote the plural number as well as the singular and vice versa.

(b) Words importing the redemption or calling for redemption of a Bond shall not be deemed to refer to or connote the payment of such Bond at its stated maturity.

(c) All references herein to particular articles or sections are references to articles or sections of this Loan Agreement unless otherwise indicated.

(d) The headings and table of contents herein are solely for convenience of reference and shall not constitute a part of this Loan Agreement nor shall they affect its meaning, construction or effect.

(e) Any reference herein to a fund or account shall be to the fund and account so designated in and created by the Trust Indenture.

### ARTICLE II REPRESENTATIONS

#### Section 2.1 Representations by the Authority.

As of the date hereof, the Authority makes the following representations:

(a) The Authority is a body corporate and politic created under the Act.

(b) Under the provisions of the Act, the Authority has the power and lawful authority to execute and deliver this Loan Agreement, the Trust Indenture, and the other documents and agreements with respect to the Bonds to which it is a party (collectively, the **"Authority Documents"**).

(c) The Authority has duly authorized the execution and delivery of the Authority Documents and the consummation by the Authority of the transactions contemplated thereby.

The Authority has not made any independent investigation as to the feasibility or creditworthiness of the Borrower and shall have no liability whatsoever in connection with the same. Any bond purchaser, assignee of this Loan Agreement or any other party with any interest in this transaction shall make its own independent investigation and determination as to the creditworthiness and feasibility of the Borrower and the 2022 Project, independent of any representations of the Authority.

#### Section 2.2 Representations by the Borrower.

The Borrower makes the following representations:

(a) The Borrower is a nonprofit corporation duly organized, validly existing under the laws of the State of New Hampshire; and the sole member of the Borrower is the Sole Member; and the Borrower is an affiliate of the Guarantor.

(b) The Borrower has full power and authority to execute, deliver and perform the Borrower Documents and to enter into and carry out the transactions contemplated by those documents. The execution, delivery and performance do not, and will not, violate any provision of any law applicable to the Borrower and do not, and will not, conflict with or result in a material default under any material agreement or instrument to which the Borrower is a party or by which it is bound. The Borrower Documents have, by proper action, been duly authorized, executed and delivered by the Borrower and all necessary steps have been taken to constitute the Borrower Documents as the valid and binding obligations of the Borrower.

(c) The Borrower has received a determination letter from the Internal Revenue Service classifying it as an organization (i) described in Section 501(c)(3) of the Internal Revenue Code (the **"Code"**) which is exempt from federal income taxation under Section 501(a) of the Code (except with respect to "unrelated business taxable income" within the meaning of Section 512(a) of the Code) and (ii) which is not a "private foundation" as defined in Section 509(a) of the Code. Such determination letter has not been modified, limited, revoked or suspended. The Borrower has not received any indication or notice, written or oral, from representatives of the Internal Revenue Service to the effect that its exemption under Section 501(c)(3) of the Code has been modified, limited, revoked, or superseded, or that the Internal Revenue Service is considering modifying, limiting, revoking or superseding such exemption. The Borrower is in compliance with all of the terms, conditions and limitations, if any, contained in the determination letter. There has been no change in the facts and circumstances represented to the Internal Revenue Service as a basis for receiving, and which formed the basis on which the Internal Revenue Service issued, the determination letter relating to the status of the Borrower as an organization described in Section 501(c)(3) of the Code and as an organization which is not a "private foundation" as defined in Section 509 of the Code of a nature or to a degree as would warrant any action by the Internal Revenue Service to modify, limit, revoke or supersede such determination letter as it applies to the Borrower. No administrative or judicial proceedings are pending or threatened which may, in any way, adversely affect the classification of the Borrower as an organization (1) described in Section 501(c)(3) of the Code which is exempt from federal income taxation under Section 501(a) of the Code and (2) which is not a "private foundation" as defined in Section 509 of the Code. The Borrower has received no notice or communication of any kind from the Internal Revenue Service directly or indirectly questioning its status described in the first sentence of this subsection, or indicating that the Borrower specifically is being or will be audited with respect to such status. The Borrower is an organization organized and operated exclusively for charitable purposes and not for pecuniary profit, within the meaning of the Securities Act of 1933, as amended, and no part of the net earnings of the Borrower inures to the benefit of any person, private stockholder or individual, within the meaning of Section 3(a)(4) of the Securities Act of 1933, as amended.

(d) The Borrower presently intends to use and operate the 2022 Project in a manner consistent with the Act and in accordance with the Tax Certificate and the Continuing Covenants Agreement and knows of no reason why the 2022 Project will not be so operated. If, in the future, there is a cessation of that operation, the Borrower will use commercially reasonable efforts to resume that operation or accomplish an alternate use by it or others approved by the Authority and the Bondholder Representative for the Senior Bonds, which will be consistent with the Act, the Tax Certificate, and the Continuing Covenants Agreement. The Borrower is not in default in the payment of the principal or of interest on any of its material indebtedness for borrowed money and is not in default under any material instrument under and subject to which any indebtedness has been incurred, and no event has occurred and is continuing under the provisions of any such agreement that with the lapse of time or the giving of notice, or both, would constitute an event of default thereunder.

(e) The Borrower (i) has made or filed, and will make or file in a timely fashion, all federal and state income and all other tax returns, reports and declarations required by any jurisdiction to which it is subject, (ii) has paid, and will pay when due, all taxes and other governmental assessments and charges shown or finally determined to be due on such returns, reports and declarations, except those being contested in good faith and by appropriate proceedings, (iii) has and will maintain partnership tax classification under the Code, and (iv) has set aside, and will at all times set aside, on its books provisions reasonably adequate for the payment of all taxes for periods subsequent to the period to which such returns, reports or declarations apply. There are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction, and the officers, members or trustees of the Borrower know of no basis for any such claim. The Borrower has filed, and will continue to file, all of such tax returns, reports, and declarations either (x) separately from any affiliate or (y) if part of a consolidated filing, as a separate member of any such consolidated group.

(f) There is no litigation at law or in equity or any proceeding before any governmental agency involving the Borrower pending or, to the knowledge of the Borrower, threatened in which any liability of the Borrower is not adequately covered by insurance or for which adequate reserves are not provided or for which any judgment or order would reasonably be expected to have a Material Adverse Effect upon the Borrower.

(g) The execution and delivery of the Borrower Documents, the performance by the Borrower of its obligations thereunder and the consummation of the transactions therein contemplated do not and will not conflict with, or constitute a breach or result in a violation of, the articles of incorporation or bylaws of the Borrower, any agreement or other instrument to which the Borrower is a party by which it is bound or any constitutional or statutory provision or order, rule, regulation, decree or ordinance of any court, government or governmental authority having jurisdiction over the Borrower or its property, except to the extent such breach or violation could not reasonably be expected to result in a Material Adverse Effect.

(h) The Borrower has obtained all material consents, approvals, authorizations and orders of any governmental or regulatory authority ("Consents") that are required to be obtained by the Borrower as a condition precedent to the issuance of the Bonds and the execution and delivery of the Borrower Documents. The Borrower has obtained, or will obtain in due course, all Consents required for the construction and equipping of the 2022 Project. The Borrower has

no reason to believe that all such Consents obtained or to be obtained by the Borrower have not been or will not be validly issued and in full force and effect subsequent to the issue date thereof. The Borrower has no reason to believe that any of the Consents required for construction and equipping of the 2022 Project in accordance with the plans and specifications for the 2022 Project and not heretofore obtained by the Borrower will not be obtained by the Borrower in the ordinary course in order to permit completion of the 2022 Project in accordance with the plans and specifications on or before the completion date. The Borrower will timely obtain all Consents not heretofore obtained by the Borrower (including those required for use and occupancy of the 2022 Project for its intended purpose upon completion and any other Consents which may hereafter become required, necessary or desirable) and will furnish the Authority, the Trustee and each Bondholder Representative with evidence that the Borrower has obtained such Consents promptly upon receipt of written request. The Borrower will duly perform and comply in all material respects with all of the terms and conditions of all Consents obtained at any time. Except in accordance with applicable laws, rules and regulations, no Consents will terminate, or become void or voidable or terminable, upon any sale, transfer or other disposition of the 2022 Project, including any transfer pursuant to foreclosure, deed in lieu of foreclosure or exercise of power of sale.

(i) Each of the Borrower Documents is, assuming due authorization, execution and delivery by the other parties to those Borrower Documents, a legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, subject to (i) applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws or enactments in effect now or in the future affecting the enforceability of creditors' rights, (ii) the application of general principles of equity and (iii) considerations of public policy with respect to indemnity provisions. This Loan Agreement and the other Borrower Documents, when assigned to the Trustee pursuant to the Trust Indenture, will constitute the legal, valid and binding agreements of the Borrower enforceable against the Borrower in accordance with their terms, including by the Trustee for the benefit of the Holders of the Bonds. The Unassigned Rights constitute the legal, valid, and binding agreements of the Borrower enforceable against the Borrower by the Authority in its own right in accordance with their respective terms.

(j) To the Borrower's knowledge, no event has occurred and no condition exists with respect to the Borrower which would constitute an Event of Default or an event of default under any of the other Borrower Documents or which, with the lapse of time or with the giving of notice or both, would become such an "event of default." The Borrower is not in default under its bylaws or other agreement or instrument to which it is a party or by which it is bound which default would adversely affect the enforceability of the Bonds or the taxability of interest on the Tax-Exempt Bonds.

(k) The Borrower's representations and warranties contained herein are made as of the date of this Loan Agreement and as of the Date of Delivery of the Bonds and shall survive the issuance of the Bonds.

(l) The Borrower's representations and warranties contained herein shall remain operative and in full force and effect regardless of the issuance of the Bonds and regardless of any investigations by or on behalf of the Authority or a Bondholder Representative or the results thereof.

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(m) No written information, exhibit or report furnished to the Authority or a Bondholder Representative by the Borrower in its application for financing or by the Borrower or its representatives in connection with the negotiation of this Loan Agreement or the Borrower Documents regardless of whether the Authority or a Bondholder Representative is a party thereto (including any financial statements, whether audited or unaudited, and any other financial information provided in connection therewith) contains any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein in light of the circumstances under which they were made, not misleading, provided that with respect to projected financial information the Borrower only represents that such information reflects the Borrower's good faith estimates as of the date of preparation thereof, based on methods and data it believes to be reasonable and accurate but actual results may differ materially from such projections. All such financial information provided by the Borrower to the Authority or a Bondholder Representative fairly presents the financial condition and results of operations of the Borrower for the periods to which such financial information relates, and discloses all liabilities and contingent liabilities of the Borrower.

(n) All property to be purchased with the proceeds of the Tax-Exempt Bonds deposited into the Tax-Exempt Senior Construction Account of the Project Fund under the Trust Indenture for the 2022 Project will be owned, for federal tax purposes, by the Borrower.

(o) The Borrower shall not take or omit to take any action if such action or omission would (i) cause the Tax-Exempt Bonds to be "arbitrage bonds" under Section 148 of the Code, including, without limitation, as a result of computing the yield on any investment acquired with Tax-Exempt Bond proceeds other than on the basis of the "fair market value" (within the meaning of Treas. Reg. §1.148-5(d)(6)) of such investment at the time of acquisition, (ii) cause the Tax-Exempt Bonds to not meet any of the requirements of Section 149 of the Code, or (iii) cause the Tax-Exempt Bonds to cease to be "qualified 501(c)(3) bonds" under Section 145 of the Code. Without limiting the foregoing, the Borrower shall not permit the \$150,000,000 nonhospital bond limitation of IRC §145(b) to be exceeded.

(p) The statements prepared and submitted by the Borrower and used by the Authority in preparing the Tax Certificate and information statement pursuant to Section 149(e) of the Code are true and complete in all material respects as of the date of issuance of the Tax-Exempt Bonds with respect to the Borrower. In the event that circumstances render such statements materially inaccurate, the Borrower shall notify Authority and Bond Counsel, and the Borrower shall prepare and submit or cause to be submitted, materially true and complete amendments of, or supplements to, those statements if in the Opinion of Bond Counsel, such amendments or supplements are deemed necessary or advisable.

(q) The Borrower acknowledges that (i) it understands the nature and structure of the transactions relating to the financing of the 2022 Project, (ii) it is familiar with the provisions of all of the documents and instruments relating to the financing, (iii) it understands the risks inherent in such transactions, including without limitation the risk of loss of the 2022 Project, and (iv) it has not relied on the Authority, a Bondholder Representative, the Underwriter or the Trustee for any guidance or expertise in analyzing the financial or other consequences of the transactions contemplated by the Bond Documents or otherwise relied on the Authority, a Bondholder Representative, the Underwriter or the Trustee in any manner except to the limited

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extent of such parties' respective representations, warranties and covenants set forth in the Bond Documents.

(r) The Borrower is not an "employee benefit plan," as defined in Section 3(3) of ERISA, subject to Title I of ERISA, and none of the assets of the Borrower constitutes or will constitute "plan assets" of one or more such plans within the meaning of 29 C.F.R. Section 2520.3-101.

(s) The Borrower is not (i) an "investment company" or a company "controlled" by an "investment company," within the meaning of the Investment Company Act of 1940, as amended; (ii) a "holding company" or a "subsidiary company" of a "holding company" or an "affiliate" of either a "holding company" or a "subsidiary company" within the meaning of the Public Utility Holding Company Act of 1935, as amended; or (iii) subject to any other federal or state law or regulation which purports to restrict or regulate its ability to borrow money.

(t) The Borrower is not a "foreign person" within the meaning of Section 1445 or 7701 of the Code.

(u) The Borrower is not a person with whom the Authority is restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury of the United States of America (including, those Persons named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order (including the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and shall not engage in any dealings or transactions or otherwise associated with such persons. In addition, the Borrower hereby agrees to provide the Authority or the Trustee with any additional information that the Authority or the Trustee deems necessary from time to time in order to ensure compliance with all applicable laws concerning money laundering and similar activities.

(v) The Borrower agrees to cooperate with the Underwriter in complying with the Rule pursuant to the terms of the Continuing Disclosure Agreement, unless the Bonds shall have a valid exemption therefrom.

### ARTICLE III THE 2022 PROJECT

#### Section 3.1 Loan by the Authority.

Simultaneously with the delivery of this Loan Agreement, the Authority shall issue the Bonds to provide the Borrower with a loan of the proceeds thereof. The Tax-Exempt Senior Bonds and the Subordinate Bonds shall be issued as Tax-Exempt Bonds as defined in the Trust Indenture. The approval of the terms of the Bonds and the Trust Indenture by the Borrower shall be conclusively established by its execution and delivery of this Loan Agreement.

Upon the terms and conditions of this Loan Agreement, the Authority hereby makes the Loan to the Borrower in the initial aggregate principal amount of \$41,400,000, of which (i) \$5,055,000 being the principal amount of the Initial Subseries of the Series 2022A Bonds

advanced on April 21, 2022, (ii) \$15,000,000 being the principal amount of the Series 2022B Bonds delivered on April 21, 2022; (iii) \$2,220,000 being the principal amount of the Initial Subseries of the Series 2022C Bonds advanced on April 21, 2022; (iv) \$1,725,000 being the principal amount of the Initial Subseries of the Series 2022D Bonds advanced on April 21, 2022; and (v) \$17,400,000 being the principal amount of the Subordinate Bonds delivered on April 21, 2022. The Loan shall be subsequently increased in connection with any future Advances related to Subsequent Subseries of the Senior Bonds authorized pursuant to Section 2.02 of the Trust Indenture, and decreased in connection with any payment, prepayment or redemption of the principal amount of the Bonds; provided, however that the total aggregate principal amount of all Advances related to the Series 2022A Bonds shall not exceed \$87,800,000, the total aggregate principal amount of all Advances related to the Series 2022C Bonds shall not exceed \$38,500,000, and the total aggregate principal amount of all Advances related to the Series 2022D Bonds shall not exceed \$30,000,000. The Series 2022B Bonds shall be issued in the principal amount of \$15,000,000 and the Subordinate Bonds shall be issued in the principal amount of \$17,400,000. The Loan shall be deemed to have been originally made on the first date when proceeds of the sale of the Initial Subseries of the Series 2022A Bonds, the Initial Subseries of the Series 2022C Bonds, the Initial Subseries of the Series 2022D Bonds, the Series 2022B Bonds or the Subordinate Bonds are delivered to the Trustee. Interest will accrue on the Loan commencing on the date of issuance of the Bonds, and interest will accrue on subsequent Advances on the applicable dates when Subsequent Subseries of the Senior Bonds funding such Advances are sold and the proceeds of such Advances are deposited with the Trustee. The proceeds of the Loan shall be used, together with other available funds, as set forth in Section 3.2 below. For the purposes of this Loan Agreement, the amount of any underwriter's discount or fee on the Bonds and any costs of issuance paid from proceeds of the Bonds shall be deemed to have been loaned to the Borrower. The proceeds of the Series 2022B Bonds, the Subordinate Bonds and the proceeds of each Advance related to the Series 2022A Bonds, the Series 2022C Bonds, and the Series 2022D Bonds will be deposited in the funds and accounts relating to the Bonds in accordance with the Trust Indenture (and in accordance with the related Advance Certificate described under the Trust Indenture) and shall be held and applied in accordance with Article V of the Trust Indenture.

In connection with any Advance relating to a Subsequent Subseries of the Senior Bonds, the Borrower agrees to transfer to the Trustee, at least one business day prior to the delivery date of a Subsequent Subseries, funds for deposit into the Capitalized Interest Fund held under the Trust Indenture in such amount as acceptable to the Bondholder Representative for the Senior Bonds.

As described in Section 7.5 hereof, the Series 2022A Bonds are subject to an Additional Premium upon the maturity thereof. The Additional Premium does not constitute principal or interest on the Series 2022A Bonds and does not comprise a part of the Loan by the Authority.

#### Section 3.2 Agreement to Undertake 2022 Project.

The Borrower shall use the portion of the Loan that is comprised of the proceeds from the Tax-Exempt Senior Bonds to finance a portion of the Costs of the Project, fund the Tax-Exempt Senior Debt Service Reserve Fund, pay capitalized interest on the Tax-Exempt Senior Bonds during the construction period and pay a portion of the costs of issuance of the Tax-

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Exempt Senior Bonds permitted to be financed with tax-exempt proceeds under the Code. The Borrower shall use the portion of the Loan that is comprised of the proceeds of the Subordinate Bonds to refinance a portion of the Series 2020 Bonds, fund a portion of the Tax-Exempt Subordinate Debt Service Reserve Fund, pay capitalized interest on the Subordinate Bonds during the construction period and pay a portion of the costs of issuance of the Subordinate Bonds permitted to be financed with tax-exempt proceeds under the Code.

### Section 3.3 Repayment of Loan; Security for Borrower's Obligations.

In addition to the security interest granted pursuant to the Senior Mortgage and in order to secure the repayment of the Senior Loan and the repayment of all sums advanced under this Loan Agreement with respect to the Senior Bonds, including Advances which may be made in the future, the Borrower hereby pledges to and grants to the Authority a present, *first-lien* security interest, within the meaning of any applicable Uniform Commercial Code and to the extent permitted by law, in the Gross Revenues, and all of its right, title and interest, if any, in the Funds and Accounts referred to in this Loan Agreement or the Trust Indenture. In addition to the security interest granted pursuant to the Second Mortgage and in order to secure the repayment of the Subordinate Loan and the repayment of all sums advanced under this Loan Agreement with respect to the Subordinate Bonds, the Borrower hereby pledges to and grants to the Authority a present, *second-lien* security interest, within the meaning of any applicable Uniform Commercial Code and to the extent permitted by law, in the Gross Revenues, and all of its right, title and interest, if any, in the Funds and Accounts referred to in this Loan Agreement or the Trust Indenture. This pledge shall be valid and binding from and after the date of delivery of the Initial Advance of the Series 2022A Bonds, the Series 2022C Bonds, the Series 2022D Bonds or the delivery of the Series 2022B Bonds or the Subordinate Bonds. To the extent any property covered by this Loan Agreement consists of rights of action or personal property, this Loan Agreement constitutes a security agreement and financing statement and is intended to create a perfected security interest in such property in favor of the Authority.

In order further to secure the punctual payment of amounts due hereunder and the performance of the obligations of the Borrower hereunder and without in any way limiting any other provision hereof, the Borrower agrees that upon (i) the occurrence and continuance of any Event of Default or (ii) failure by the Borrower to make in full any payments required by Section 4.1 hereof, the Borrower shall provide written notice to the Trustee of the occurrence of a lock-box event (a "Lock-Box Event") and shall immediately transfer or shall cause the transfer of any Gross Revenues that are then on hand, and, thereafter, shall transfer or shall cause the transfer of any Gross Revenues thereafter received or to be received, to the Trustee for deposit in accordance with Section 6.02 and Section 9.05 of the Trust Indenture. Nothing contained in this Section shall be construed to preclude the Borrower from indefeasibly applying its Gross Revenues to its own uses so long as the Borrower shall not be required to deposit the Gross Revenues with the Trustee in accordance with this Section. Upon the Borrower's cure of the Event of Default, together with the payment of all amounts then due and owing hereunder, such deposits will no longer be necessary and, until the occurrence of a subsequent Lock-Box Event, the Borrower shall not be required to deposit the Gross Revenues with the Trustee in accordance with this Section.

certificates or permits necessary for the use of the 2022 Project as contemplated by the Borrower Documents have been issued or obtained.

### Section 3.5 Assignment.

The Borrower shall execute and deliver the Assignment substantially in the form attached as Exhibit A upon the incurrence of the Loan hereunder.

### Section 3.6 Non-Liability of Authority.

The Bonds are special limited obligations of the Authority payable solely from funds pledged for their payment in accordance with the Trust Indenture and, except from such sources, none of the Authority, the State or any political subdivision or agency thereof or any political subdivision approving the issuance of the Bonds shall be obligated to pay the principal of, premium, if any, or interest thereon or any costs incidental thereto. The Bonds do not, directly, indirectly or contingently, obligate, in any manner, the State, the Authority or any political subdivision thereof or any political subdivision approving the issuance of the Bonds to levy any tax or to make any appropriation for payment of the Bonds. Neither the faith and credit nor the taxing power of the State or any political subdivision thereof or any political subdivision approving the issuance of the Bonds, nor the faith and credit of the Authority shall be pledged to the payment of the principal of, premium, if any, or interest on, the Bonds or any costs incidental thereto. No owner of the Bonds shall have the right to compel the exercise of the taxing power of any political subdivision to pay any principal of, or premium, if any, or interest on the Bonds. The Authority has no taxing power.

The Borrower hereby acknowledges that the Authority's sole source of money to repay the Bonds is the Trust Estate, including the revenues and receipts derived by the Authority from and in connection with this Loan Agreement, and hereby agrees that if the payments to be made under this Loan Agreement shall ever prove insufficient to pay all principal, premium, if any, and interest on the Bonds as the same shall become due (whether by maturity, redemption, acceleration or otherwise) or any costs incidental thereto, then upon notice or demand from the Trustee, the Borrower shall pay such amounts as are required from time to time to prevent any deficiency or default in the payment of such principal, premium, if any, or interest when due, including, but not limited to, any deficiency caused by acts, omissions, nonfeasance or malfeasance on the part of the Trustee, the Authority or any third party, subject to any right of reimbursement or indemnification and other rights of recovery from the Trustee, the Authority or any such third party, as the case may be, therefor.

### Section 3.7 Recordation and Filing.

While any of the Bonds are Outstanding, the Borrower shall maintain the Mortgages and all amendments thereto and related financing statements and any continuations thereof with respect to the security interests granted under the Mortgages and shall maintain the financing statements related to this Loan Agreement and any continuations thereof with respect to the security interests granted under this Loan Agreement.

In order further to secure the payment of amounts due hereunder and the performance of the obligations of the Borrower hereunder and without in any way limiting any other provision hereof, the Borrower agrees that all entrance fees or entrance deposits related to the 2022 Project, whether new or from turnover ("Entrance Fees"), if any, shall be deposited with the Trustee for deposit into the Entrance Fee and Deposit Fund established under Section 6.01 of the Trust Indenture on a monthly basis to the extent permitted by law. Entrance Fees shall be applied on the fifth business day of each month in the following order of priority:

- (a) To repay refunds due and owing at the written direction of the Borrower;
- (b) Up to \$10 million shall be transferred to the Working Capital Fund established under Section 6.01 of the Trust Indenture as follows:
  - (i) The first \$5 million shall be deposited in the Working Capital Fund upon the opening of the Facility; and
  - (ii) In the event that the amount on deposit in the Working Capital Fund on the first business day of each month is less than \$1.5 million, \$1 million shall be transferred to the Working Capital Fund, until the balance in the Working Capital Fund reaches \$1.5 million;
- (c) To fund the Tax-Exempt Senior Debt Service Reserve Fund in an amount equal to the Debt Service Reserve Fund Requirement;
- (d) To redeem the Series 2022C Bonds in accordance with Section 3.01(e) of the Trust Indenture;
- (e) To redeem the Series 2022D Bonds in accordance with Section 3.01(e) of the Trust Indenture; and
- (f) Any excess shall be transferred to the Borrower in accordance with and subject to the conditions set forth in Section 3.01(e) of the Trust Indenture and otherwise in accordance with Section 6.02 of the Trust Indenture.

### Section 3.4 Borrower to Provide Additional Funds to Complete 2022 Project.

If the proceeds derived from the Loan and the initial equity contribution are not sufficient to pay all Costs of the Project, the Borrower shall pay such amounts as are necessary to provide for payment in full of such costs; provided that, if all proceeds of the Bonds available therefor have been spent on such costs, with the consent of the Bondholder Representative (such consent not to be unreasonably withheld or delayed), the Borrower shall not be obligated hereunder to undertake additional Costs of the Project. The Borrower shall not be entitled to any reimbursement therefor from the Authority, the Trustee, a Bondholder Representative or the Holders of the Bonds nor shall it be entitled to any abatement, diminution or postponement of its payments hereunder. When the 2022 Project has been completed, the Borrower shall promptly deliver to the Trustee a certificate signed by the Authorized Representative of the Borrower stating that the 2022 Project has been completed substantially in accordance in all material respects with all laws, ordinances, rules, regulations or agreements applicable thereto and that all

### Section 3.8 Mortgage Title Policy.

Upon the incurrence of the Loan hereunder, the Borrower shall deliver to the Trustee two mortgage title insurance policies as required by the Bond Purchase Agreement.

### Section 3.9 Release of Portion of Mortgaged Property.

With the prior written consent of the Bondholder Representative for the Senior Bonds (with respect to the Senior Mortgage) and the Bondholder Representative for the Subordinate Bonds (with respect to the Second Mortgage), each of which may be withheld in the sole discretion of the applicable Bondholder Representative, all or any portion of the Mortgaged Property may be released from the lien of the Mortgages. In the event the required consents are obtained, at the request of the Borrower, the Authority agrees to, and shall direct the Trustee to cooperate with, the release of all or any portion of the Mortgaged Property under the Mortgages.

### Section 3.10 Disclaimer of Warranties.

THE BORROWER ACKNOWLEDGES THAT NEITHER THE AUTHORITY NOR THE TRUSTEE IS MAKING ANY REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION OR WORKMANSHIP OF ANY PART OF THE 2022 PROJECT OR ITS SUITABILITY FOR THE PURPOSES OF THE BORROWER. THE BORROWER FURTHER ACKNOWLEDGES THAT NEITHER THE AUTHORITY NOR THE TRUSTEE IS MAKING ANY REPRESENTATION OR WARRANTY WHATSOEVER AS TO THE FEASIBILITY OR COMMERCIAL SUCCESS OF THE 2022 PROJECT.

## ARTICLE IV LOAN REPAYMENTS

### Section 4.1 Amounts Payable.

(a) The Borrower shall make all payments required by this Loan Agreement, the Trust Indenture and the Continuing Covenants Agreements as and when they become due (including payments of principal and of interest on the Bonds) and shall promptly pay all other amounts necessary to enable the Trustee to make the transfers required by Article VI of the Trust Indenture and all other payments required of the Authority pursuant to the Trust Indenture. To provide for the repayment of the Loan hereunder (until the principal of, premium (if any) on and interest on the Bonds shall have been fully paid or provision for payment thereof shall have been made in accordance with the Trust Indenture), the Borrower agrees to pay for the account of the Authority in immediately available funds all amounts payable under Section 3.1(a) of the Continuing Covenants Agreements.

(b) The Borrower shall also pay the amounts required by Section 3.1(b), 3.1(c) and 3.1(d) of the Continuing Covenants Agreements and the following (collectively, the "Additional Payments") as and when they become due:

(i) All taxes and assessments of any type or character charged to the Authority or to the Trustee affecting the amount available to the Authority or the Trustee from

payments to be received hereunder or in any way arising due to the transactions contemplated hereby (including taxes and assessments assessed or levied by any public agency or governmental authority of whatsoever character having power to levy taxes or assessments) but excluding franchise taxes based upon the capital and/or income of the Trustee and taxes based upon or measured by the net income of the Trustee; provided, however, that the Borrower shall have the right to protest any such taxes or assessments and to require the Trustee, at the Borrower's expense, to protest and contest any such taxes or assessments levied upon them and that the Borrower shall have the right to withhold payment of any such taxes or assessments pending disposition of any such protest or contest unless such withholding, protest or contest would adversely affect the rights or interests of the Authority or the Trustee;

(ii) The reasonable fees and expenses of such accountants, consultants, attorneys and other experts as may be engaged by the Authority, a Bondholder Representative or the Trustee in connection with the performance of its duties hereunder or under the Trust Indenture and to prepare audits, financial statements, reports or opinions or provide such other services required under this Loan Agreement, the Trust Indenture or the other Financing Instruments, including, but not limited to, any audit or inquiry by the Internal Revenue Service or any other governmental body;

(iii) The reasonable fees and expenses of the Authority or any agent or attorney selected by the Authority to act on its behalf in connection with the Financing Instruments, including, without limitation, any and all reasonable expenses incurred in connection with the authorization, issuance, sale and delivery of the Bonds or in connection with any litigation, investigation, inquiry or other proceeding which may at any time be instituted involving the Financing Instruments or any of the other documents contemplated thereby, or in connection with the reasonable supervision or inspection of the Borrower, its properties, assets or operations or otherwise in connection with the administration of the Financing Instruments, including any advances made by the Authority (if any) plus interest on those advances as provided by any one of the Borrower Documents;

(iv) Amounts described in Section 4.7 hereof (pertaining to rebate); and

(v) All other amounts that the Borrower agrees to pay under the terms of this Loan Agreement, the Continuing Covenants Agreements, the other Borrower Documents and the Trust Indenture.

As appropriate, such Additional Payments due to the Authority and the Trustee shall be billed to the Borrower by the Authority or the Trustee from time to time, together with a statement certifying that the amount billed has been incurred or paid by the Authority or the Trustee for one or more of the above items. After such a demand, amounts so billed by the Authority or the Trustee shall be paid by the Borrower within thirty (30) days after receipt of the bill by the Borrower. So long as no Event of Default shall have occurred and be continuing, the supervision or inspections referred to in (iii) above shall be limited to once per fiscal year.

make such payment or perform such act. All amounts so paid by the Trustee or the Bondholder Representative and all costs, fees and expenses so incurred shall be payable by the Borrower on demand as an additional obligation hereunder, together with interest thereon until paid at the rate equal to the highest rate on any applicable Series of Bonds then Outstanding plus 3% per year with respect to the Tax-Exempt Senior Bonds or 3% per year with respect to the Subordinate Bonds; but in each such case, the rate shall not exceed the Highest Lawful Rate.

#### Section 4.6 Agreement of Authority.

At the direction of the Borrower, the Authority shall (a) at any time funds held pursuant to the Trust Indenture are sufficient to effect redemption of any Bonds and if the same are then redeemable under the Trust Indenture, take all steps that may be necessary to effect redemption thereunder as set forth in the Trust Indenture and (b) subject to Section 9.10 hereof, take any other action required of the Authority by the Trust Indenture or as directed by the Borrower pursuant to the provisions of the Trust Indenture or this Loan Agreement.

#### Section 4.7 Rebate Requirement.

Except with respect to earnings on funds covered by the exceptions provided by Section 148(f)(4)(B) of the Code, at the Borrower's sole expense on behalf of the Authority, the Borrower shall calculate, or cause to be calculated, the Rebate Amount, as defined in the Trust Indenture. The Borrower agrees to pay the amount so calculated, as evidenced in the supporting documentation, to the Trustee so as to permit the Trustee to pay such rebate to the United States of America as directed by the Borrower at the times required by the Code. The amount paid by the Borrower to the Trustee shall be deposited into the Rebate Fund. The Borrower shall maintain or cause to be maintained records of the determinations of the rebate, if any, pursuant to this Section 4.7 until six (6) years after the retirement of the Tax-Exempt Bonds. This Section 4.7 shall be construed in accordance with Section 148(f) of the Code, including, without limitation, any applicable tax regulations promulgated under the Code. Nothing contained in this Loan Agreement or in the Trust Indenture shall be interpreted or construed to require the Authority to pay any applicable rebate, such obligation being the sole responsibility of the Borrower.

The Authority shall not be liable to the Borrower by way of contribution, indemnification, counterclaim, set-off or otherwise for any payment made or expense incurred by the Borrower pursuant to this Section or the Trust Indenture.

Because the Authority is issuing the Tax-Exempt Bonds on behalf of the Borrower and is serving solely as a conduit issuer of the Tax-Exempt Bonds, the Borrower agrees to assume exclusive responsibility for complying with the rebate requirement (including the retention of a qualified rebate analyst, if necessary), and the Borrower acknowledges that its obligations in this regard are absolute and unconditional.

#### Section 4.2 Payments Assigned.

The Borrower consents to the assignment made by the Authority in the Trust Indenture of the rights of the Authority under this Loan Agreement (except for the Unassigned Rights) to the Trustee. The Borrower shall pay to the Trustee all amounts payable by the Borrower pursuant to this Loan Agreement, except for payments to the Authority pursuant to Sections 4.1(b)(iii) or 4.5 and any indemnification payments in favor of the Authority under Section 5.1 hereof.

#### Section 4.3 Default in Payments.

If the Borrower fails to make any payments required by this Loan Agreement when due, the Borrower shall pay to the Trustee or the Authority, as the case may be, interest thereon until paid at the rate equal to the highest rate on any applicable Series of Bonds then Outstanding plus 3% per year with respect to the Tax-Exempt Senior Bonds and 3% per year with respect to the Subordinate Bonds; but in each such case, the rate shall not exceed the Highest Lawful Rate.

#### Section 4.4 Obligations of Borrower Unconditional.

The obligation of the Borrower to observe and perform all covenants, conditions and agreements hereunder or under the other Borrower Documents shall be absolute and unconditional, irrespective of any rights of setoff, recoupment or counterclaim it might otherwise have against the Authority or the Trustee. The Borrower shall not suspend or discontinue any payment hereunder or fail to observe and perform any of its other covenants, conditions or agreements hereunder or under the other Borrower Documents for any cause, including without limitation any act or circumstances that may constitute an eviction or constructive eviction, failure of consideration, failure of title to any part or all of the 2022 Project or commercial frustration of purpose, or any damage to or destruction or condemnation of all or any part of the 2022 Project, or any change in the tax or other laws of the United States of America, the State or any political subdivision of either, or any failure of the Authority or the Trustee to observe and perform any covenant, condition or agreement, whether express or implied, or any duty, liability or obligation arising out of or in connection with the Trust Indenture or this Loan Agreement. The Borrower may, after giving to the Authority, the Trustee and each Bondholder Representative ten (10) days' notice of its intention to do so, at its own expense and in its own name, or in the name of the Authority (and with the Authority's prior consent) if procedurally required, prosecute or defend any action or proceeding or take any other action involving third persons that the Borrower reasonably deems necessary to secure or protect any of its rights hereunder. In the event the Borrower takes any such action, the Authority shall, solely at the Borrower's expense (including payment of the Authority's reasonable attorney's fees), reasonably cooperate with the Borrower and take necessary action to substitute the Borrower for the Authority in such action or proceeding if the Borrower shall reasonably request.

#### Section 4.5 Advances by Trustee or Bondholder Representative.

If the Borrower fails to make any payment or perform any act required of it hereunder, the Trustee or the Bondholder Representative, after prior notice or demand on the Borrower and without waiving or releasing any obligation or default, may (but shall be under no obligation to)

### ARTICLE V INDEMNIFICATION

#### Section 5.1 Indemnification.

To the fullest extent permitted by law, the Borrower hereby fully and forever and irrevocably releases from and agrees to indemnify, hold harmless and defend the Authority, the Trustee and each Bondholder Representative and their respective officers, directors, members, employees and agents (collectively, the "Indemnified Parties") against any and all fees, costs and charges, losses, damages, claims, actions, liabilities and expenses of any conceivable nature, kind or character (including, without limitation, reasonable fees and expenses of attorneys, accountants, consultants and other experts, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which the Indemnified Parties, or any of them, may become subject under any statutory law (including federal or state securities laws) or at common law or otherwise (collectively, "Liabilities"), arising out of or based upon or in any way relating to:

(a) the Bonds, the Trust Indenture or the Borrower Documents, or the execution or amendment hereof or thereof or in connection with transactions contemplated hereby or thereby, including the issuance, sale or resale of the Bonds;

(b) the performance and observance by or on behalf of the Authority of those things on the part of the Authority agreed to be performed or observed hereunder and under the Trust Indenture and the Tax Certificate;

(c) any act or omission of the Borrower or any of its agents, contractors, servants, employees, tenants or licensees in connection with the 2022 Project, the operation of the 2022 Project, or the condition, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, installation or construction of, the 2022 Project or any part thereof;

(d) any lien or charge upon payments by the Borrower to the Authority, a Bondholder Representative and the Trustee hereunder, or any taxes (including, without limitation, all ad valorem taxes and sales taxes), assessments, impositions and other charges imposed on the Authority, a Bondholder Representative or the Trustee in respect of any portion of the 2022 Project;

(e) any violation of any environmental regulations with respect to, or the release of any hazardous substances from, the 2022 Project or any part thereof;

(f) the defeasance and/or redemption, in whole or in part, of the Bonds;

(g) any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact contained in any offering or disclosure document or disclosure or continuing disclosure document for the Bonds or any of the documents relating to the Bonds, or any omission or alleged omission from any offering or disclosure document or disclosure or continuing disclosure document for the Bonds of any material fact necessary to be

stated therein in order to make the statements made therein, in light of the circumstances under which they were made, not misleading, in each case, other than untrue statements or misleading statements or alleged untrue or misleading statements, or omissions or alleged omissions, relating solely to information with respect to the Authority and provided by, or required to be provided by, the Authority;

(h) any declaration of taxability of interest on the Tax-Exempt Bonds, or allegations that interest on the Tax-Exempt Bonds is taxable or any regulatory audit or inquiry regarding whether interest in the Tax-Exempt Bonds is taxable, in each case arising due to the action or inaction of the Borrower;

(i) the Trustee's acceptance or administration of the trust of the Trust Indenture, or the exercise or performance of any of its powers or duties thereunder or under any of the documents relating to the Bonds to which it is a party;

(j) any injury to or death of any Person or damage to property in or upon the Facility or growing out of or connected with the use, nonuse, condition or occupancy of the Facility;

(k) the breach by the Borrower or its affiliates of any contract or agreement relating to the construction or operation of the 2022 Project; or

(l) the violation of any law, ordinance, regulation arising out of the ownership, occupancy or use of the Facility or any part thereof;

except in the case of the foregoing indemnification of the Indemnified Persons, to the extent such damages are caused by the gross negligence or willful misconduct of such Indemnified Person.

In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from the Indemnified Party, shall assume the investigation and defense thereof, including the employment of counsel reasonably satisfactory to the Indemnified Party, and shall assume the payment of all reasonable expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; provided that the Indemnified Party shall have the right to review and approve or disapprove any such compromise or settlement. Each Indemnified Party shall have the right to employ separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and the Borrower shall pay the reasonable fees and expenses of such separate counsel; provided, however, that such Indemnified Party may only employ separate counsel at the expense of the Borrower if in the judgment of such Indemnified Party a conflict of interest exists by reason of common representation or if all parties commonly represented do not agree as to the action (or inaction) of counsel.

The indemnity provided to a Bondholder Representative shall cover any actions taken by such Bondholder Representative in its fiduciary capacity under the Financing Instruments, including without limitation providing any consents or waivers, enforcing any remedies, including without limitation, foreclosure, and directing any actions of the Trustee, including without limitation, acceleration.

The rights of any persons to indemnify hereunder and rights to payment of fees and reimbursement of expenses shall survive the final payment or defeasance of the Bonds and in the case of the Trustee any resignation or removal. The provisions of this Section shall remain valid and in effect notwithstanding repayment of the Loan hereunder, or payment, redemption or defeasance of the Bonds or termination of this Loan Agreement or the Trust Indenture.

Insofar as any other document or instrument issued or delivered in connection with the Bonds (including without limitation the documents referred to in subsection (a), above) purports to constitute an undertaking by or impose an obligation upon the Borrower to provide indemnification to the Indemnified Persons, the indemnification provision or provisions of such document shall not be deemed, interpreted or construed in any way as a modification of or limitation upon the Borrower's obligations or the rights of Indemnified Persons under this Section 5.1, and the provisions of this Section 5.1 shall in every respect supersede the indemnification provisions of any such other document and shall apply thereto as if fully set forth therein.

## ARTICLE VI EVENTS OF DEFAULT AND REMEDIES

### Section 6.1 Event of Default Defined.

Each of the following events shall be an Event of Default:

(a) Failure of the Borrower to make any payment hereunder when the same becomes due and payable, whether at maturity, redemption, acceleration or otherwise pursuant to the terms of this Loan Agreement.

(b) Failure of the Borrower to observe or perform any of its other covenants, conditions or agreements hereunder or under the Tax Certificate for a period of 30 days after notice in writing (unless the Borrower and the Trustee shall agree in writing, with the consent of the Bondholder Representative, to an extension of such time prior to its expiration), specifying such failure and requesting that it be remedied, given by the Authority, the Trustee or the Bondholder Representative to the Borrower, or in the case of any default which cannot with due diligence be cured within such 30-day period, failure by the Borrower to proceed promptly to pursue the curing of the same with due diligence and to cure such within 90 days. Any invoice furnished to the Borrower by the Trustee, the Bondholder Representative or the Authority pursuant to Section 4.5 shall be deemed to constitute a written notice under this Section 6.1(b) sufficient to cause the 30-day period specified herein to commence.

(c) An event of default shall occur and be continuing (after expiration of any applicable grace and cure periods) under the Mortgages, the Continuing Covenants Agreements, the Control Agreement, the Pledge Agreement, the Assignment or the Trust Indenture.

### Section 6.2 Remedies on Default.

Whenever an Event of Default shall have happened and be continuing, the Trustee as the assignee of the Authority may, with the consent of the Bondholder Representative, and shall, at the direction of the Bondholder Representative:

(a) Declare all amounts due under this Loan Agreement to be immediately due and payable in accordance with the Trust Indenture, whereupon all such payments shall become and shall be immediately due and payable;

(b) Take any action at law or in equity necessary or desirable to collect the amounts then due and thereafter to become due or to enforce observance or performance of any covenant, condition or agreement of the Borrower under this Loan Agreement, the Continuing Covenants Agreements, the Guaranty Agreement, the Pledge Agreement, the Assignment or any other Borrower Document;

(c) Upon application to a court of competent jurisdiction, be entitled to the appointment of a receiver to take possession of and to operate all or any portion of the Mortgaged Property and to collect rents, profits, revenues, income and other money received from such operation. Upon demand, the Borrower shall pay to the Trustee all expenses, including receiver's and attorneys' fees, costs and agent's compensation, incurred pursuant to the provisions of this subsection (c); and

Notwithstanding the foregoing, the Trustee agrees to obtain the prior written consent of the Bondholder Representative for the Senior Bonds so long as Senior Bonds are outstanding prior to taking any action under this Section 6.2. In the event no Senior Bonds are outstanding, the Trustee agrees to obtain the prior written consent of the Bondholder Representative for the Subordinate Bonds prior to taking any action under this Section 6.2.

Notwithstanding the foregoing provisions of this Section 6.2, the Trustee shall not exercise any remedies, including without limitation, acceleration of the payments due under the portion of the Loan associated with the Subordinate Bonds or foreclosure of the Second Mortgage, unless and until the Bondholder Representative for the Senior Bonds or the Trustee has exercised remedies on behalf of the Bondholders of the Senior Bonds, in which case the Trustee shall only exercise the same remedies on behalf of the Bondholders of the Subordinate Bonds as it has exercised on behalf of the Bondholders of the Senior Bonds.

### Section 6.3 Application of Amounts Realized in Enforcement of Remedies.

Any amounts collected pursuant to action taken under Section 6.2 hereof shall be applied in accordance with the provisions of Section 9.05 of the Trust Indenture; provided that, notwithstanding the foregoing, any amounts received by the Authority as Additional Payments due to the Authority under Section 4.1(b) or by the Authority realized from its enforcement of the Unassigned Rights may be retained by the Authority.

### Section 6.4 No Remedy Exclusive.

No remedy herein conferred on or reserved to the Authority, the Trustee or the Bondholder Representative is intended to be exclusive of any other remedy, and every remedy shall be cumulative and in addition to every other remedy herein or now or hereafter existing at law, in equity or by statute. No delay or failure to exercise any right or power accruing upon an Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, and any such right or power may be exercised from time to time and as often as may be deemed expedient.

### Section 6.5 Attorneys' Fees and Other Expenses.

Upon an Event of Default, the Borrower shall on demand pay to the Authority, the Trustee and each Bondholder Representative the reasonable fees and expenses of their respective attorneys and other reasonable expenses incurred by them in the collection of payments due hereunder or the enforcement of performance of any other obligations of the Borrower.

### Section 6.6 No Additional Waiver Implied by One Waiver.

If either party or its assignee waives a default by the other party under any covenant, condition or agreement herein, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other default hereunder. In addition, any default or Event of Default in respect of the Unassigned Rights may only be waived with the Authority's written consent.

### Section 6.7 No Waiver of Event of Default Without Consent of Bondholder Representative.

Neither the Authority nor the Trustee may waive any Event of Default under this Loan Agreement without the prior written consent of the Bondholder Representative for the Senior Bonds so long as Senior Bonds are outstanding. In the event no Senior Bonds are outstanding, the Authority and the Trustee agree to obtain the prior written consent of the Bondholder Representative for the Subordinate Bonds prior to waiving any Event of Default under this Loan Agreement.

### Section 6.8 No Impairment of Unassigned Rights.

No provision of this Loan Agreement or the Trust Indenture shall be deemed or construed as limiting, impairing or affecting in any way the Authority's right to enforce the Unassigned Rights, regardless of whether there is then existing an Event of Default (including, without limitation, a payment default), or any action based thereon or occasioned by an Event of Default or alleged Event of Default, and regardless of any waiver or forbearance granted by the Trustee or the Bondholder Representative in respect thereof. Any Event of Default in respect of the Unassigned Rights may only be waived with the Authority's written consent.

#### **Section 6.9 Confession of Judgment.**

To the extent permitted by law, in the event that the Borrower fails to pay when due any amount required to be paid under Section 4.1 or any other amounts due under this Loan Agreement, the Trust Indenture or the other Related Documents (as defined in the Continuing Covenants Agreement), **THE BORROWER, WITHOUT FURTHER CONSENT OF OR NOTICE THERETO, HEREBY IRREVOCABLY AND UNCONDITIONALLY AUTHORIZES THE PROTHONOTARY, CLERK OF COURT, OR ANY ATTORNEY OF ANY COURT OF RECORD IN THE STATE OF NEW HAMPSHIRE, OR ANY OTHER JURISDICTION, AS ATTORNEY FOR THE BORROWER TO APPEAR FOR THE BORROWER IN SUCH COURT AND, WITH OR WITHOUT ONE OR MORE COMPLAINTS FILED, CONFESS JUDGMENT OR JUDGMENTS AGAINST THE BORROWER IN FAVOR OF THE TRUSTEE, THE BONDHOLDER REPRESENTATIVES AND THEIR SUCCESSORS AND ASSIGNS, AT ANY TIME FOLLOWING THE OCCURRENCE OF AN EVENT OF DEFAULT FOR ALL OR ANY PORTION OF SUMS DUE UNDER THIS LOAN AGREEMENT, THE TRUST INDENTURE OR THE OTHER RELATED DOCUMENTS, TOGETHER WITH COSTS OF SUIT AND ATTORNEY'S COMMISSION OF THE GREATER OF FIFTEEN PERCENT (15%) OF SUCH SUMS FOR COLLECTION OR \$1,000, AS A REASONABLE ATTORNEYS' FEE, WITH RELEASE OF ALL PROCEDURAL ERRORS AND WAIVER OF ANY RIGHT TO A STAY OF EXECUTION, FOR WHICH THIS LOAN AGREEMENT AND THE BONDS OR A VERIFIED COPY HEREOF AND THEREOF SHALL BE SUFFICIENT WARRANT. THE AUTHORITY TO ENTER JUDGMENT SHALL NOT BE EXHAUSTED BY ONE EXERCISE HEREOF, BUT, TO THE EXTENT PERMITTED BY LAW, SHALL CONTINUE FROM TIME TO TIME UNTIL FULL PAYMENT OF ALL AMOUNTS HEREUNDER. THE FOREGOING RIGHT AND REMEDY IS IN ADDITION TO AND NOT IN LIEU OF ANY OTHER RIGHT OR REMEDY AVAILABLE TO THE TRUSTEE AND/OR THE BONDHOLDER REPRESENTATIVES UNDER THIS LOAN AGREEMENT OR OTHERWISE.**

**THE BORROWER, BEING FULLY AWARE OF THE RIGHT TO PRIOR NOTICE AND A HEARING CONCERNING THE VALIDITY OF ANY AND ALL CLAIMS THAT MAY BE ASSERTED AGAINST THE BORROWER BY THE TRUSTEE AND/OR THE BONDHOLDER REPRESENTATIVES BEFORE A JUDGMENT CAN BE RENDERED HEREUNDER OR BEFORE EXECUTION MAY BE LEVIED ON SUCH JUDGMENT AGAINST ANY AND ALL PROPERTY OF THE BORROWER, HEREBY WAIVES THESE RIGHTS AND AGREES AND CONSENTS TO JUDGMENT BEING ENTERED BY CONFESSION IN ACCORDANCE WITH THE TERMS HEREOF WITHOUT FIRST GIVING NOTICE AND THE OPPORTUNITY TO BE HEARD ON THE VALIDITY OF THE CLAIM OR CLAIMS UPON WHICH SUCH JUDGMENT IS ENTERED.**

**THE TRUSTEE AND/OR THE BONDHOLDER REPRESENTATIVES MAY CONFESS ONE OR MORE JUDGMENTS IN THE SAME OR DIFFERENT JURISDICTIONS FOR ALL OR ANY PART OF THE AMOUNT OWING HEREUNDER, WITHOUT REGARD TO WHETHER JUDGMENT HAS THERETOFORE BEEN CONFESSED ON MORE THAN ONE OCCASION FOR THE**

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SAME AMOUNT. IN THE EVENT ANY JUDGMENT CONFESSED AGAINST THE BORROWER IS STRICKEN OR OPENED UPON APPLICATION BY OR ON THE BORROWER'S BEHALF FOR ANY REASON, THE TRUSTEE AND/OR THE BONDHOLDER REPRESENTATIVES ARE HEREBY AUTHORIZED AND EMPOWERED TO AGAIN APPEAR FOR AND CONFESS JUDGMENT AGAINST THE BORROWER FOR ANY PART OR ALL OF THE AMOUNTS OWING HEREUNDER OR UNDER THE TRUST INDENTURE OR ANY OTHER RELATED DOCUMENT, AS PROVIDED FOR HEREIN, IF DOING SO WILL CURE ANY PROCEDURAL ERRORS OR DEFECTS IN SUCH PRIOR PROCEEDINGS.

**THE BORROWER ACKNOWLEDGES AND AGREES THAT THE TRUSTEE AND/OR THE BONDHOLDER REPRESENTATIVES MAY, AFTER ENTRY OF JUDGMENT, FORECLOSE UPON, ATTACH, LEVY, TAKE POSSESSION OF OR OTHERWISE SEIZE PROPERTY OF THE BORROWER IN FULL OR PARTIAL PAYMENT OF THE JUDGMENT. BEING FULLY AWARE OF ITS RIGHTS AFTER JUDGMENT IS ENTERED (INCLUDING THE RIGHT TO MOVE OR OPEN OR STRIKE THE JUDGMENT), THE BORROWER HEREBY FREELY, KNOWINGLY AND INTELLIGENTLY WAIVES THESE RIGHTS AND EXPRESSLY AGREES AND CONSENTS TO THE TRUSTEE AND/OR THE BONDHOLDER REPRESENTATIVES TAKING SUCH ACTIONS AS MAY BE PERMITTED UNDER APPLICABLE STATE AND FEDERAL LAW WITHOUT PRIOR NOTICE TO THE BORROWER.**

#### **ARTICLE VII PREPAYMENT OF LOAN**

##### **Section 7.1 Option to Prepay Loan in Whole.**

(a) The Borrower shall have the option to prepay the Senior Loan (and, for the avoidance of doubt, its obligations relating to the Senior Bonds) in whole, including any applicable premium due on the Senior Bonds in connection with the early redemption of such Bonds, and, so long as the Subordinate Bonds are no longer Outstanding and no obligations of the Borrower with respect to the Subordinate Loan remain unpaid, terminate this Loan Agreement on and after May 1, 2027 by providing notice of such option to prepay as provided in Section 3.01(a) of the Trust Indenture; provided, however, that the covenants in Sections 4.1(b), 4.7 and 5.1 shall continue until the final maturity date of all Bonds or the earlier date on which provision for payment for all Bonds has been made and the covenant in Section 4.7 hereof shall continue for six (6) years thereafter. In such case, the Authority shall cause the Trustee to redeem the Senior Bonds as provided in Section 3.01 of the Trust Indenture.

(b) After the Senior Bonds are no longer Outstanding and, so long as all payments then due hereunder with respect to the Senior Loan have been made, the Borrower shall have the option to prepay the Subordinate Loan (and, for the avoidance of doubt, its obligations relating to the Subordinate Bonds) in whole, at any time, and terminate this Loan Agreement by providing notice of such option to prepay as provided in Section 3.01(a)(ii) of the Trust Indenture. In such case, the Authority shall cause the Trustee to redeem the Subordinate Bonds as provided in Section 3.01 of the Trust Indenture.

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#### **Section 7.2 Option to Prepay Loan in Part.**

(a) The Borrower shall have the option to prepay the Senior Loan (and, for the avoidance of doubt, its obligations with respect to the Senior Bonds) in part, from time to time, as set forth in Sections 3.01(a)(i) and 3.01(e) of the Trust Indenture, with any such prepayment to include the applicable premium due on the Senior Bonds in connection with the early redemption of such Bonds. The amount so prepaid shall, so long as all payments then due hereunder have been made, (a) if Senior Bonds are then redeemable as provided in Section 3.01 of the Trust Indenture, be used to redeem Senior Bonds to the extent possible under such Section, and (b) if the Senior Bonds are not then redeemable, be transferred to the Redemption Account within the applicable Bond Fund as directed by the Borrower. Prepayments on the Senior Loan shall be credited against payments with respect to the Senior Bonds as set forth in the Trust Indenture.

(b) After the Senior Bonds are no longer Outstanding or to the extent permitted in Section 3.01(e) of the Trust Indenture, the Borrower shall have the option to prepay the Subordinate Loan (and, for the avoidance of doubt, its obligations with respect to the Subordinate Bonds) in part, at any time, and from time to time, as set forth in Sections 3.01(a)(ii) and 3.01(e) of the Trust Indenture, upon thirty (30) days' notice from the Borrower to the Trustee, the Authority and the Bondholder Representative for the Subordinate Bonds (or such shorter time period as agreed to by the Bondholder Representative for the Subordinate Bonds, the Authority and the Trustee), at a redemption price equal to 100% of the principal amount to be redeemed, plus accrued interest to, but not including, the redemption date, without premium.

#### **Section 7.3 Mandatory Prepayment upon Determination of Taxability.**

The Borrower shall prepay the Senior Loan in whole or in part to the extent required by Section 3.3(a) of the Senior Continuing Covenants Agreement. The Borrower shall prepay the Subordinate Loan in whole or in part to the extent required by Section 3.3(a) of the Subordinate Continuing Covenants Agreement.

#### **Section 7.4 Amount Required for Prepayment.**

To prepay the Loan in whole or in part under Sections 7.1, 7.2 or 7.3, the Borrower shall pay to the Trustee, for deposit in the Bond Fund created under the Trust Indenture, an amount of cash and Defeasance Obligations that will be sufficient (a) in the case of prepayment in whole, to discharge the lien of the Trust Indenture pursuant to Section 8.01 thereof, and (b) in the case of prepayment in part, to cause any Bonds that will be paid with the prepayment to be no longer Outstanding under the Trust Indenture. The Borrower shall further pay all Additional Payments and any payments then due to the Authority in respect of the Unassigned Rights. If the Borrower has prepaid the Loan, as provided above, the Borrower shall not direct the expenditure of any funds from such prepayment in the Bond Fund for any purpose other than the payment of principal or premium, if any, or interest on the Bonds to be paid. The Borrower shall instruct the Trustee to give the notice of redemption required by Section 3.02 of the Trust Indenture if any of the Bonds are to be paid other than at maturity.

#### **Section 7.5 Final Maturity; Additional Premium.**

Upon maturity, the Bonds shall be payable at 100% of the stated principal amount thereof, and upon maturity an amount, equal to 1.00% of the stated principal amount of the Series 2022A Bonds, shall also be payable with respect to the Series 2022A Bonds (such additional amount being referred to as the "Additional Premium"). The Additional Premium shall not constitute principal of or interest on the Series 2022A Bonds.

#### **ARTICLE VIII CONTINUING DISCLOSURE**

##### **Section 8.1 Continuing Disclosure.**

The Borrower covenants and agrees to assist the Underwriter in complying with the continuing disclosure requirements under Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (the "Rule"), as set forth in the Continuing Disclosure Agreement; however, neither the failure to comply with the terms of the Continuing Disclosure Agreement nor the occurrence of a "default" thereunder shall constitute an Event of Default hereunder.

#### **ARTICLE IX MISCELLANEOUS**

##### **Section 9.1 Term of this Loan Agreement.**

Subject to Section 9.6, this Loan Agreement shall be effective upon its execution and delivery and, subject to earlier termination upon prepayment in full of the Loan and other amounts described in Articles IV, VI and VII, shall expire on the first date upon which the Bonds are no longer Outstanding and the Borrower certifies in writing to the Authority, the Trustee and the Bondholder Representative for the Senior Bonds that no additional Advances will be requested; provided, however, that the covenant in Section 4.1(b) shall continue until the final maturity date of all Bonds or the earlier redemption date on which provision for payment for all Bonds has been made, the covenant in Section 4.7 shall continue for six (6) years thereafter, and the covenants in Section 5.1 shall continue as set forth in such Section.

##### **Section 9.2 Notices.**

Unless otherwise provided herein, all demands, notices, approvals, consents, requests, opinions and other communications hereunder shall be in writing and shall be deemed to have been given when delivered in person or mailed by first class registered or certified mail, postage prepaid, addressed as described in Section 12.04 of the Trust Indenture.

A duplicate copy of each demand, notice, approval, consent, request, opinion or other communication given hereunder by either the Authority or the Borrower to the other shall also be given to the Trustee, each Bondholder Representative and the Underwriter. The Borrower, the Trustee, the Authority, a Bondholder Representative or the Underwriter may, by notice given hereunder, designate any further or different addresses to which subsequent demands, notices,

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approvals, consents, requests, opinions or other communications shall be sent or persons to whose attention they shall be directed.

No written notices shall be sent to Holders of the Senior Bonds without the consent of the Bondholder Representative for the Senior Bonds, including without limitation notices of failure to comply with covenants and Events of Default, provided, that, for the avoidance of doubt, such restriction shall not apply to, nor affect the Authority's right to, make information relating to the Senior Bonds available via the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system.

No written notices shall be sent to Holders of the Subordinate Bonds without the consent of the Bondholder Representative for the Subordinate Bonds, including without limitation notices of failure to comply with covenants and Events of Default, provided, that, for the avoidance of doubt, such restriction shall not apply to, nor affect the Authority's right to, make information relating to the Subordinate Bonds available via the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system.

Any such communication also may be transmitted to the appropriate party by telephone, facsimile or other electronic transmission and shall be deemed given or made at the time of such transmission if, and only if, such transmission of notice shall be confirmed in writing sent as specified above.

#### **Section 9.3 Amendments to this Loan Agreement.**

This Loan Agreement shall not be amended or supplemented without the consent of the Borrower, the Trustee, the Authority and the Bondholder Representative for the Senior Bonds (and if the Senior Bonds shall no longer be outstanding, then the Bondholder Representative for the Subordinate Bonds), given in accordance with and subject to Article XI of the Trust Indenture; provided that no provision of this Loan Agreement relating to any rights of the Bondholder Representative for the Subordinate Bonds or the Holders of the Subordinate Bonds shall be changed or modified without the consent of the Bondholder Representative for the Subordinate Bonds (or if there is no Bondholder Representative for the Subordinate Bonds, the Holders of a majority in aggregate principal amount of the Outstanding Subordinate Bonds) in accordance with and subject to Article XI and Article XIII of the Trust Indenture.

#### **Section 9.4 Successors and Assigns.**

This Loan Agreement shall be binding on, inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

#### **Section 9.5 Severability.**

If any provision of this Loan Agreement shall be held invalid by any court of competent jurisdiction, such holding shall not invalidate any other provision hereof.

Furthermore, notwithstanding anything herein contained to the contrary, any obligation which the Authority may incur under this Loan Agreement or under any instrument executed in connection herewith which shall entail the expenditure of money shall not be a general obligation of the Authority but shall be a limited obligation payable solely from the Trust Estate, including revenues and receipts under this Loan Agreement and the Trust Indenture.

#### **Section 9.9 Waiver or Personal Liability.**

No officer, director, employee, member or agent of the Authority shall be individually or personally liable for the payment of any principal, premium, if any, or interest on the Bonds or any costs incidental thereto or any sum hereunder or under the Trust Indenture or be subject to any personal liability or accountability by reason of the execution and delivery of this Loan Agreement or the Trust Indenture.

#### **Section 9.10 No Obligation to Enforce Assigned Rights.**

Notwithstanding anything to the contrary in this Loan Agreement, the Authority shall have no obligation, and instead the Trustee and/or the Bondholder Representative for the Senior Bonds (and if the Senior Bonds shall no longer be outstanding, then the Bondholder Representative for the Subordinate Bonds), as the case may be, shall have the right, without further direction from or action by the Authority, to take any and all steps, actions and proceedings, or to enforce any or all rights of the Authority (other than the Unassigned Rights and any other rights specifically retained by the Authority pursuant to the Trust Indenture) under the Trust Indenture or this Loan Agreement, including, without limitation, the rights to enforce the remedies upon the occurrence and continuation of an Event of Default and the obligations of the Borrower hereunder.

#### **Section 9.11 Authority's Performance.**

The Authority covenants that it will faithfully perform at all times any and all of its covenants, undertakings, stipulations and provisions expressly contained in this Loan Agreement, the Trust Indenture, and any and every Bond executed, authenticated and delivered under the Trust Indenture; provided, however, that the Authority shall not be obligated to take any action or execute any instrument pursuant to any provision hereof unless and until it shall have (a) been requested to do so by the Borrower, either or both of the Bondholder Representatives, or the Trustee having authority to so direct; (b) received from the party requesting such action or execution assurance satisfactory to the Authority that the Authority's reasonable expenses incurred or to be incurred in connection with taking such action or executing such instrument have been paid or will be paid or reimbursed to the Authority; and (c) if applicable, received in a timely manner the instrument or document to be executed, in form and substance satisfactory to the Authority. In complying with any provision herein or in the Trust Indenture requiring the Authority to "cause" another Person to take or omit any action, the Authority shall be entitled to rely conclusively (and without independent investigation or verification) on the faithful performance by the Trustee or the Borrower, as the case may be, of their respective obligations hereunder and under the Trust Indenture. The Authority may rely conclusively on the truth and accuracy of any certificate, opinion, notice or other instrument furnished to the Authority by the Trustee or the Borrower as to the existence of any fact or state

#### **Section 9.6 Survival of Provisions.**

The provisions of this Loan Agreement and the Trust Indenture and any other document in connection with the issuance of the Bonds to which the Authority is a party concerning (a) the tax-exempt status of the Tax-Exempt Bonds (including but not limited to provisions concerning rebate); (b) the interpretation of this Loan Agreement; (c) governing law, jurisdiction and venue; (d) the Authority's right to rely on written representations of others contained herein or in any other document, regardless of whether the Authority is a party thereto; (e) the indemnification rights and exculpation from liability of the Authority; and (f) any other provision of this Loan Agreement not described or enumerated above that expressly provides for its survival shall survive and remain in full force and effect notwithstanding the payment or redemption in full, or defeasance of the Bonds, the discharge of the Trust Indenture, and the termination or expiration of this Loan Agreement.

#### **Section 9.7 Applicable Law; Entire Understanding.**

This Loan Agreement shall be governed by the applicable laws of the State. This Loan Agreement (including the applicable provisions of the Trust Indenture, the Continuing Covenants Agreements and the Tax Certificate) express the entire understanding and all agreements between the parties and may not be modified except in writing signed by the parties and consented to by the Bondholder Representative for the Senior Bonds (and if the Senior Bonds shall no longer be outstanding, then the Bondholder Representative for the Subordinate Bonds) provided that no provision in such agreements relating to any rights of the Bondholder Representative for the Subordinate Bonds or the Holders of the Subordinate Bonds shall be changed or modified without the consent of without the consent of the Bondholder Representative for the Subordinate Bonds (or if there is no Bondholder Representative for the Subordinate Bonds, the Holders of a majority in aggregate principal amount of the Outstanding Subordinate Bonds) in accordance with and subject to Article XI and Article XIII of the Trust Indenture.

#### **Section 9.8 Authority's Obligations Limited.**

Notwithstanding anything in this Loan Agreement to the contrary, it is expressly understood and agreed by the parties hereto that (a) the Authority shall not be under any obligation hereunder to perform any record-keeping or to provide any legal services, it being understood that such services shall be performed either by the Trustee or the Borrower, (b) the Authority shall not be responsible to any party for the collection or dissemination of information received from the Borrower or its representatives in its application for financing or the negotiation of this Loan Agreement or the Borrower Documents, and (c) none of the provisions of this Loan Agreement shall require the Authority to expend or risk its own funds or to otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers hereunder, unless payable from the Trust Estate, including revenues and receipts derived by the Authority from and in connection with this Loan Agreement, or unless the Authority shall first have been adequately indemnified to its satisfaction against the costs, expenses and liabilities which may be incurred thereby.

of affairs required hereunder to be noticed by the Authority. In acting, or in refraining from acting, under this Loan Agreement, the Authority may conclusively rely on the advice of its counsel. The Authority shall not be required to take any action hereunder that it reasonably believes to be unlawful.

#### **Section 9.12 Counterparts.**

This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument, except that to the extent, if any, that this Loan Agreement shall constitute personal property under the Uniform Commercial Code of any state, no security interest in this Loan Agreement may be created or perfected through the transfer or possession of any counterpart of this Loan Agreement other than the original counterpart, which shall be the counterpart containing the receipt therefor executed by the Trustee following the signatures to this Loan Agreement.

#### **Section 9.13 Third Party Beneficiary.**

It is specifically acknowledged and agreed that, to the extent of its rights hereunder (including, without limitation, its rights to immunity, indemnification and lack of pecuniary liability), each of the Bondholder Representatives is a third party beneficiary of this Loan Agreement entitled to enforce such rights in its own name.

#### **Section 9.14 Notice of Internal Revenue Service Audits.**

The Borrower and the Authority each agree to provide prompt written notice to the other and to the Trustee and each of the Bondholder Representatives upon receipt of a notice from the Internal Revenue Service that any of the Tax-Exempt Bonds are being audited or otherwise investigated or that the Internal Revenue Service or another agency on its behalf has requested documents or other information relating to the Tax-Exempt Bonds.

#### **Section 9.15 Compliance Officer.**

The Borrower agrees to designate a person or persons (the "Compliance Officer") who will be responsible for ensuring compliance by the Borrower with the applicable provisions of the Code with respect to the Tax-Exempt Bonds as set forth in this Loan Agreement and the Tax Certificate, including without limitation (a) the use of the proceeds of the Tax-Exempt Bonds, (b) the use and ownership of the 2022 Project, including without limitation any remediation required by the Code as a result of the ownership or use of the 2022 Project, and (c) the maintenance of all records on expenditures of proceeds of the Tax-Exempt Bonds, investments of the proceeds of the Tax-Exempt Bonds, rebate and management and research contracts pertaining to and leases and other private use of any portion of the 2022 Project. The Compliance Officer shall also be responsible for monitoring ongoing compliance with the requirements contained in the other Borrower Documents. The Borrower hereby designates the following person or persons as its initial Compliance Officer.

Jane Sullivan, Chief Financial Officer  
The Baldwin Senior Living  
575 Osgood Street  
Andover, MA 01845  
Telephone: (978) 725-4106

The Borrower agrees to promptly inform the Authority of any change in the designation by the Borrower of its Compliance Officer. The obligations of the Borrower under this Section shall survive a defeasance of the Tax-Exempt Bonds and continue until all of the Tax-Exempt Bonds have been paid in full.

**Section 9.16 Compliance with Trust Indenture.**

The Borrower agrees to comply with the requirements and provisions of the Trust Indenture relating to the Bonds.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Authority and the Borrower have caused this Loan Agreement to be executed as an instrument under seal in their respective corporate names as of the date first written above.

BUSINESS FINANCE AUTHORITY  
OF THE STATE OF NEW  
HAMPSHIRE

By: \_\_\_\_\_  
Name: James Key-Wallace  
Title: Executive Director

*[Authority Signature Page to Loan Agreement]*

*[Signature Pages Continue]*

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THE BALDWIN SENIOR LIVING

By: \_\_\_\_\_  
Name: Marlene Rotering  
Title: Executive Director

**EXHIBIT A**

**FORM OF ASSIGNMENT**

**COLLATERAL ASSIGNMENT OF CONTRACT RIGHTS**

THIS COLLATERAL ASSIGNMENT OF CONTRACT RIGHTS (this "Assignment") is made as of April 1, 2022 by THE BALDWIN SENIOR LIVING, a New Hampshire nonprofit corporation (the "Borrower"), in favor of UMB BANK, NATIONAL ASSOCIATION, as bond trustee (the "Trustee") under the Trust Indenture dated as of April 1, 2022 (the "Trust Indenture"), between the Trustee and the Business Finance Authority of the State of New Hampshire (the "Authority"),

**WITNESSETH:**

WHEREAS, the Borrower has requested that the Authority issue not to exceed \$87,800,000 aggregate principal amount of its Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022A (the "Series 2022A Bonds"), \$15,000,000 aggregate principal amount of its Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022B (the "Series 2022B Bonds"), not to exceed \$38,500,000 aggregate principal amount of its Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022C (the "Series 2022C Bonds"), not to exceed \$30,000,000 aggregate principal amount of its Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022D (the "Series 2022D Bonds") and together with the Series 2022A Bonds, Series 2022B Bonds and Series 2022C Bonds, the "Tax-Exempt Senior Bonds" or "Senior Bonds") and \$17,400,000 aggregate principal amount of its Subordinate Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022E (the "Subordinate Bonds" and, together with the Senior Bonds, the "Bonds") pursuant to the Trust Indenture in order to loan the proceeds of the Senior Bonds (the "Senior Loan") and the proceeds of the Subordinate Bonds (the "Subordinate Loan" and, together with the Senior Loan, the "Loan") to the Borrower to finance a portion of a project consisting of: (i) the refinancing of the Authority's Revenue Bonds (The Baldwin at Woodmont Commons Project) Series 2020 (the "Series 2020 Bonds"), which (A) financed the acquisition of a land parcel consisting of approximately 15.1 acres with frontage on First Avenue between First Avenue's intersections with Main Street and Pillsbury Road in Londonderry, New Hampshire (the "Project Site"), (B) funded certain predevelopment costs, (C) funded a debt service reserve fund for the Series 2020 Bonds and (D) paid certain costs of issuance for the Series 2020 Bonds; (ii) the financing of the construction, equipping and furnishing on the Project Site of a 230-unit life plan continuing care retirement community, consisting of one or more buildings with approximately 190 independent living units and approximately 40 enhanced assisted living-memory care units, including related amenities and common facilities; (iii) funding capitalized interest on all or a portion of the Bonds during the construction period; (iv) funding capitalized interest on all or a portion of the Bonds for a certain duration after the construction period; (v) funding working capital expenditures related to the 2022 Project (as defined below); (vi) funding one or more reasonably required reserve funds, if necessary; and (vii) paying certain costs associated with the authorization and issuance of the Bonds (collectively, the "2022 Project"); and

*[Borrower Signature Page to Loan Agreement  
BFA – The Baldwin at Woodmont Commons Project]*

WHEREAS, to provide for its performance and repayment of obligations with respect to the Bonds (collectively the "Secured Obligations"), the Borrower has entered into the Loan Agreement, the Continuing Covenants Agreement dated as of April 1, 2022 (the "Senior Continuing Covenants Agreement") with the Trustee, relating to the Senior Bonds and the Continuing Covenants Agreement dated as of April 1, 2022 (together with the "Senior Continuing Covenants Agreement, the "Continuing Covenants Agreements") with the Trustee, relating to the Subordinate Bonds; and

WHEREAS, the Secured Obligations of the Borrower are secured by, among other things, (i) a first priority lien on and security interest in the 2022 Project with respect to the Senior Bonds pursuant to an Open-End Mortgage and Security Agreement dated as of April 1, 2022 and effective April 21, 2022, from the Borrower to the Trustee, as it may be amended from time to time (the "Senior Mortgage"), with respect to the real property described in Exhibit A of the Senior Mortgage (the "Mortgaged Property"), (ii) a second priority lien on and security interest in the 2022 Project with respect to the Subordinate Bonds pursuant to a Second Open-End Mortgage and Security Agreement dated as of April 1, 2022 and effective April 21, 2022, from the Borrower to the Trustee (the "Second Mortgage," and together with the Senior Mortgage, the "Mortgages"), with respect to the Mortgaged Property, (iii) a Pledge Agreement (Membership Interest) dated as of April 1, 2022 from Edgewood Senior Solutions Group, Inc., a Massachusetts nonprofit corporation, the sole member of the Borrower, to the Trustee (the "Pledge Agreement"), (iv) a Support Agreement dated as of April 1, 2022 between Edgewood Retirement Community, Inc. (the "Guarantor") and the Trustee (the "Guaranty Agreement"), and (v) a Deposit Account Control Agreement dated as of April 21, 2022 among the Borrower, the Trustee and TD Bank, National Association (the "Control Agreement"); and

WHEREAS, the Borrower has entered into certain contracts, agreements and licenses for the 2022 Project and the management thereof as set forth in Schedule I attached hereto and intends to enter into additional contracts and agreements with respect to the 2022 Project (collectively, the "Contract Documents"); and

WHEREAS, as additional security for the Secured Obligations, the Borrower has agreed to enter into this Assignment in favor of the Trustee.

NOW, THEREFORE, in consideration of the foregoing, the Borrower and the Trustee do hereby agree as follows:

1. **Defined Terms.** Any capitalized terms not defined herein shall have the meanings accorded such terms in the Trust Indenture or the Loan Agreement.

2. **Collateral Assignment.** For value received, the sufficiency of which is hereby acknowledged, and in consideration of the financial accommodations granted or to be made to the Borrower by the Holders of the Bonds, to the fullest extent the same may be granted, transferred or assigned, the Borrower hereby unconditionally and irrevocably grants, transfers and assigns to the Trustee, its successors and assigns, for the benefit of the Holders of the Bonds, all of the right, title, and interest, but none of the liabilities or obligations, of the Borrower in and to the Contract Documents, and grants to the Trustee, its successors and assigns, a security interest in such Contract Documents, and all rights and privileges of any nature thereunder

accruing, together with any changes, extensions, revisions, modifications or guarantees of performance of obligations to the Borrower under the Contract Documents, for the purpose of providing additional security for the Secured Obligations.

3. **Termination of Assignment.** By accepting this Assignment, the Trustee agrees that, upon the payment in full of all indebtedness secured hereby, as evidenced by the recording or filing of an instrument of satisfaction or full release of the Mortgages, without the simultaneous recording of one or more other mortgages or deeds of trust in favor of the Trustee affecting the Mortgaged Property, this Assignment shall become null and void and of no further effect.

4. **Warranties by the Borrower.** The Borrower warrants and represents that:

(a) There is not currently, and shall not in the future be, any other assignment of any of its rights, whether now in existence or hereafter acquired, under the Contract Documents to any other person or entity other than the Trustee.

(b) The Borrower has committed no act, and has not omitted to do any act, which might prevent the Trustee from, or limit the Trustee in, acting under and enforcing any of the provisions herein.

(c) There is no default existing or threatened under the terms of the existing Contract Documents to the knowledge of the Borrower, and all Contract Documents currently in existence remain in full force and effect.

(d) The Borrower is not prohibited under any agreement with any other person or entity or any judgment or decree from the execution and delivery of this Assignment, the performance of each and every covenant of the Borrower hereunder and in the Contract Documents, and the performance and meeting of each and every condition contained herein and therein.

(e) No action has been brought or threatened which would in any way interfere with the right of the Borrower to execute this Assignment or adversely affect the ability of the Borrower to perform all of the Borrower's obligations, covenants and duties herein.

#### 5. **Covenants.**

(a) The Borrower agrees, so long as any of its payment or performance obligations with respect to the Secured Obligations are outstanding, that the Borrower will (i) promptly notify the Trustee and the Bondholder Representative of any Contract Document heretofore or hereafter entered into by the Borrower and provide notice of the existence of this Assignment to the other party or parties to such Contract Documents; (ii) fulfill, perform and observe in all material respects each and every obligation, condition and covenant of the Borrower contained in the Contract Documents; (iii) give prompt notice to the Trustee and the Bondholder Representative of any claim of a breach, default or nonperformance under a Contract Document, together with a complete copy of any such claim; (iv) at the sole cost and expense of the Borrower, enforce the performance and observance in all material respects of each and every obligation, covenant and condition of the Contract Documents to be performed or observed; (v)

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appear in and defend any action arising out of, relating to or in any manner connected with the Contract Documents or the obligations or liabilities of the Borrower; (vi) not commit any act prohibited by either of the Mortgages, the Trust Indenture or any related document; and (vii) at the sole cost and expense of the Borrower, provide the Trustee and the Bondholder Representative with such documentation to evidence this Assignment with respect to Contract Documents executed in the future.

(b) The rights assigned by the Borrower hereunder include, without limitation, all of the Borrower's right and title to modify the Contract Documents, to terminate the Contract Documents and to waive, suspend or release the performance or observance in all material respects of any obligation, covenant or condition of the Contract Documents; provided, however, that the Trustee is not hereby granted the right to unilaterally amend or modify the terms of the Contract Documents until such time as a breach, default or non-performance under Section 6 hereof shall have occurred. The Borrower covenants that, without written consent of the Trustee and the Bondholder Representative, the Borrower will neither modify the terms, conditions or provisions of the Contract Documents (unless required so to do by the terms of the Contract Documents) nor waive or release any person from the performance in all material respects of any obligation to be performed under the terms of the Contract Documents or from liability on account of any warranty given by them.

6. **Events of Default.** The occurrence of any one of the following events shall constitute an event of default hereunder (an "Event of Default"):

(a) The occurrence of an event of default (or a default, to the extent such document does not differentiate between defaults and events of default), after applicable grace periods, if any, under the Trust Indenture, the Continuing Covenants Agreements, the Mortgages, the Pledge Agreement, the Loan Agreement, the Guaranty Agreement, the Control Agreement or any other document or instrument executed by the Borrower in connection with the debt secured by this Assignment; or

(b) The failure by the Borrower to perform or observe any covenant contained in this Assignment for a period of thirty (30) days following receipt of written notice of default (unless the Borrower and the Trustee shall agree in writing, with the consent of the Bondholder Representative for the Senior Bonds so long as Senior Bonds are outstanding, and if no Senior Bonds are outstanding, the Bondholder Representative for the Subordinate Bonds, to an extension of such time prior to its expiration), specifying such failure and requesting that it be remedied, given by the Authority, the Trustee or the Bondholder Representative to the Borrower, or in the case of any default which cannot with due diligence be cured within such 30-day period, failure by the Borrower to proceed promptly to pursue the curing of the same with due diligence and to cure such within 90 days; or

(c) Any representation or warranty of the Borrower contained herein proves untrue or misleading in any material aspect.

7. **Remedies Upon Event of Default.** Upon the occurrence and continuation of an Event of Default, the Trustee may, with consent of the Bondholder Representative for the Senior Bonds so long as Senior Bonds are outstanding, and if no Senior Bonds are outstanding, the

Bondholder Representative for the Subordinate Bonds, or shall, at the direction of the Bondholder Representative, exercise any and/or all of its remedies under the Trust Indenture, the Loan Agreement, the Mortgages, the Continuing Covenants Agreements, the Pledge Agreement, the Guaranty Agreement, the Control Agreement or under Section 8 hereof.

#### 8. **Additional Remedies.**

(a) The Borrower hereby specifically authorizes the Trustee upon the occurrence and during the continuance of an Event of Default, in the Borrower's name or in the name of the Trustee as lawful attorney-in-fact for the Borrower, to sue for or otherwise collect and receive issues and profits from the Contract Documents, including those past due and unpaid, and apply the same against all costs and expenses of construction, equipping or operation of the 2022 Project, and the performance of the Borrower's obligations under the Contract Documents, including reasonable attorneys' fees. Any amounts remaining after such application shall be applied as provided in the Trust Indenture. Neither entry upon and taking possession of the 2022 Project or the Mortgaged Property nor the collection of the issues and rights from the Contract Documents shall in any way operate to cure (except to the extent such funds are applied to pay the indebtedness) or waive any default under any other instrument given by the Borrower to the Trustee, or prohibit the taking of any other action by the Trustee under any such instrument, or at law or in equity, to enforce payment of the indebtedness secured by the Contract Documents or to realize on any other security.

(b) The Borrower further agrees that:

(i) Should the Borrower fail to perform or observe any obligation or covenant or comply with any condition contained in the Contract Documents, then the Trustee may, with the consent of the Bondholder Representative for the Senior Bonds (and if the Senior Bonds shall no longer be outstanding, then the Bondholder Representative for the Subordinate Bonds), or shall, at the direction of the Bondholder Representative, and without notice to or demand on the Borrower or releasing the Borrower from its obligation so to do, perform such obligation, covenant or condition and may appear in and defend any action affecting the Contract Documents. To the extent that the Trustee or the Bondholder Representative for the Senior Bonds (and if the Senior Bonds shall no longer be outstanding, then the Bondholder Representative for the Subordinate Bonds) shall incur reasonable costs or pay any sums in connection therewith, including reasonable attorneys' fees, then such charges shall be included in the indebtedness and obligations secured by this Assignment, the Trust Indenture, the Mortgages, the Continuing Covenants Agreements, the Pledge Agreement, the Guaranty Agreement, the Control Agreement, the Loan Agreement and any other document or instrument executed by the Borrower in connection with the debt secured by this Assignment and shall bear interest from the incurring of payment thereof at the maximum rate of interest permitted by applicable law.

(ii) The Trustee shall not be obligated to perform or discharge any obligation or covenant or comply with any condition of the Borrower under the Trust Indenture, the Mortgages, the Loan Agreement, the Continuing Covenants Agreements, the Pledge Agreement, the Guaranty Agreement, the Control Agreement or this Assignment and the Borrower agrees to indemnify and hold the Trustee and the Bondholder Representatives harmless from and against any and all liability, loss or damage which they may incur under the Trust

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Indenture, the Mortgages, the Loan Agreement, the Guaranty Agreement, the Continuing Covenants Agreements, the Control Agreement, the Pledge Agreement or under or by reason of this Assignment and of and from all claims and demands whatsoever which may be asserted against any of them by reason of an act of the Trustee or the Bondholder Representatives under the Trust Indenture, the Mortgages, the Loan Agreement, the Continuing Covenants Agreements, the Pledge Agreement, this Assignment, the Guaranty Agreement, the Control Agreement or under the Contract Documents. Should the Trustee or either Bondholder Representative incur any such liability, loss or damage under any of the Trust Indenture, the Mortgages, the Loan Agreement, the Continuing Covenants Agreements, the Pledge Agreement, the Guaranty Agreement, the Control Agreement or any Contract Document or under or by reason of this Assignment, or in defense against any such claims or demands, the amount thereof, including costs, expenses, and reasonable attorneys' fees, together with interest thereon at the rate applicable to such charges in accordance with the terms of the Trust Indenture, shall be included in the obligations secured by the Mortgages and the Pledge Agreement, and the Borrower shall reimburse the Trustee and the Bondholder Representatives therefor immediately upon demand.

(c) In the event of a foreclosure under either or both of the Mortgages, or a deed in lieu of foreclosure, or other acquisition of title to the Mortgaged Property or the 2022 Project by the Trustee, all right, title and interest of the Borrower in, to and under the Contract Documents shall pass to the purchaser or to the Trustee, as the case may be, and the Trustee is hereby irrevocably appointed, effective as of the date of issuance of a certificate of title or other acquisition of title to the Mortgaged Property and/or the 2022 Project, by the Borrower as attorney-in-fact for the Borrower, to assign any such Contract Documents to any such purchaser.

9. **Control.** Unless otherwise provided herein, the Trustee shall, with the consent of the Bondholder Representative for the Senior Bonds, while Senior Bonds are outstanding and the Bondholder Representative for the Subordinate Bonds thereafter, have the sole right to render or provide any consents or approvals hereunder or to provide any directions hereunder, and the Trustee shall control all remedies hereunder, and the Trustee may exercise or accept the benefits of any of the rights or remedies hereunder; provided, however, that the Trustee shall be subject to (a) the rights of the Holders and the Bondholder Representative for the Senior Bonds to direct remedies under the Trust Indenture, the Continuing Covenants Agreements, the Pledge Agreement, the Mortgages, the Guaranty Agreement, the Control Agreement and the Loan Agreement and (b) the rights of each Bondholder Representative under the Trust Indenture. The Borrower shall have the right to rely upon directions, approvals, requests, instructions, consents, waivers and other written communications received from the Trustee. Notwithstanding the foregoing, the Trustee shall be under no obligation to exercise any of the rights, privileges or benefits afforded the Trustee under this Assignment unless directed by the Bondholder Representative for the Senior Bonds or the Bondholder Representative for the Subordinate Bonds once the Senior Bonds are no longer outstanding.

10. **Applicable Law.** This Assignment is deemed to have been executed and delivered in the State of New Hampshire. The rights of all parties hereunder shall be governed and decided exclusively by the laws of the State of New Hampshire, with reference to which the parties have made the Loan Agreement, the Continuing Covenants Agreements, the Mortgages, the Pledge Agreement, the Control Agreement and other instruments securing or executed with respect to the indebtedness evidenced thereby.

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**IN WITNESS WHEREOF,** the Borrower has caused this Assignment to be executed and delivered on the date first set forth above.

THE BALDWIN SENIOR LIVING,  
a New Hampshire nonprofit corporation

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

UMB BANK, NATIONAL ASSOCIATION, as  
Trustee

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

**SCHEDULE I**  
**CONTRACT DOCUMENTS**

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**PROPOSED FORM**

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**CONTINUING COVENANTS AGREEMENT**

dated as of April 1, 2022

by and between

**THE BALDWIN SENIOR LIVING**

and

**UMB BANK, NATIONAL ASSOCIATION**  
as Trustee

relating to

**not to exceed \$87,800,000**

**Business Finance Authority of the State of New Hampshire  
Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022A**

**\$15,000,000**

**Business Finance Authority of the State of New Hampshire  
Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022B**

**not to exceed \$38,500,000**

**Business Finance Authority of the State of New Hampshire  
Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022C**

and

**not to exceed \$30,000,000**

**Business Finance Authority of the State of New Hampshire  
Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022D**

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## CONTINUING COVENANTS AGREEMENT

This Continuing Covenants Agreement, dated as of April 1, 2022 (this “*Agreement*,” as defined herein), is between The Baldwin Senior Living, a nonprofit corporation organized and existing under the laws of the State of New Hampshire (the “*Borrower*”), and UMB Bank, National Association, as trustee (the “*Trustee*”) under the Trust Indenture of even date herewith between Business Finance Authority of the State of New Hampshire (the “*Issuer*”) and the Trustee (the “*Indenture*”).

### RECITALS

Concurrently with the execution and delivery of this Agreement, the Issuer has authorized the issuance from time to time of its revenue bonds in the maximum aggregate principal amount of \$171,300,000 (the “*Bonds*,” as defined herein). The proceeds of the Bonds will be loaned to the Borrower pursuant to the Loan Agreement of even date herewith between the Issuer and the Borrower (the “*Loan Agreement*,” as defined herein). The obligations of the Borrower under the Loan Agreement are secured by a Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Financing Statement with respect to certain property of the Borrower (as defined therein, the “*Mortgaged Property*”).

The Borrower is entering into this Agreement in order to induce the Issuer to issue the Bonds and the owners from time to time of the Bonds to purchase the Bonds.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Borrower and the Trustee hereby agree as follows:

### ARTICLE I

#### DEFINITIONS

*Section 1.1. Certain Defined Terms.* Terms used herein that are not defined herein shall have the meanings ascribed to such terms in the Indenture. In addition to the terms defined in the recitals and elsewhere in this Agreement and the Indenture, the following terms shall have the following meanings:

“*Additional Payment*” means a payment required to be made under Section 3.1(b).

“*Affiliate*” means, with respect to any Person, a Person, which directly or indirectly controls, is controlled by or under the control of another Person. For purposes of this definition, “*control*” means the power to direct the management and policies of a Person through the ownership of a majority of its voting securities or membership interests or the right to designate or elect and remove, with or without cause, a majority of the members of its Governing Body, by contract or otherwise.

“*Architect*” means DiMella Shaffer Associates, Inc., and its successors and assigns.

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“*Architect Agreement*” means the Agreement dated September 27, 2017, between the Sponsor and the Architect with respect to the Project.

“*Agreement*” means this Continuing Covenants Agreement, as supplemented and amended from time to time with the prior written consent of the Bondholder Representative.

“*Assignment*” means the Collateral Assignment of Contract Rights dated as of April 1, 2022 between the Borrower and the Trustee for the benefit of the holders of the Bonds, as amended and supplemented from time to time with the prior written consent of the Bondholder Representative.

“*Assisted Living Unit*” means each assisted living unit constituting a part of the Facilities.

“*Authorized Representative*” means the Executive Director or Director of Finance of the Borrower or such other person as shall be designated in a certificate executed by the Executive Director or Director of Finance of the Borrower and delivered to the Trustee and the Bondholder Representative.

“*Bond Counsel*” means Hinckley, Allen & Snyder LLP or any other firm of attorneys nationally recognized on the subject of tax-exempt municipal finance selected by the Borrower with the approval of the Trustee and the Bondholder Representative.

“*Bond Purchase Agreement*” means the Bond Purchase Agreement dated April 19, 2022 among the Issuer, the Underwriter and the Borrower.

“*Bondholder*” means the registered owner of any Series 2022A Bond, Series 2022B Bond, Series 2022C Bond or Series 2022D Bond.

“*Bondholder Representative*” means (a) Hamlin Capital Management, LLC, so long as a majority in aggregate principal amount of the Outstanding Bonds are beneficially owned by persons for whom Hamlin Capital Management, LLC serves as investment advisor; and (b) at any other time, the designee, if any, of the holders of a majority in aggregate principal amount of the Outstanding Bonds. If there shall be no designee, the term “*Bondholder Representative*” shall be deemed instead to be a reference to the holders of a majority in aggregate principal amount of Outstanding Bonds; *provided*, that all notices required to be given to the Bondholder Representative shall be given to the holders of the Outstanding Bonds.

“*Bonds*” means, collectively, the Series 2022A Bonds, the Series 2022B Bonds, the Series 2022C Bonds and the Series 2022D Bonds. For clarity, as used in this Agreement, the word “*Bonds*” excludes any Subordinate Bonds.

“*Borrower*” means The Baldwin Senior Living, a New Hampshire nonprofit corporation, and its successors and permitted assigns.

“*Business Day*” has the meaning set forth in the Indenture.

“*CERCLA*” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

“*Change of Control*” means one or more transactions resulting in: (a) the Parent or any Affiliate of the Parent at any time for any reason ceasing to be the record and beneficial member or owner of all of the membership interests or stock, respectively, in the Borrower, free and clear of all Liens (except for the Lien created by the Pledge Agreement), rights, options, warrants or other similar agreements or understandings; or (b) the sale of all or substantially all of the assets of the Borrower.

“*Closing Date*” means April 21, 2022.

“*Code*” means the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder.

“*Collateral*” means, collectively, the Mortgaged Property and all of the tangible and intangible Property (excluding real property) owned by the Borrower, including (without limitation) all of the following: money; accounts; chattel paper; equipment; deposit accounts; instruments; inventory; general intangibles; documents; investment property; securities accounts; cash and noncash proceeds therefrom; books and records, including those relating to any of the foregoing; additions or accretions to any of the foregoing; substitutions for any of the foregoing; rights relating to the storage, withdrawal and retrieval of the foregoing and access to the foregoing; and replacements, products, and proceeds of the foregoing. For the avoidance of doubt, Collateral does not include (a) donor-restricted funds, (b) statutorily required entrance fee reserves (for the avoidance of doubt, the Entrance Fee and Deposit Fund is not a statutorily required entrance fee reserve), (c) funds of residents held by the Borrower for the payment of residency, medical care or personal needs, and (d) any funds pledged or otherwise subject to any Permitted Encumbrance.

“*Completion Certificate*” means a certificate executed by an Authorized Representative and the Construction Monitor certifying that the Project has been completed and all necessary certificates of occupancy have been obtained, delivered to the Trustee and the Bondholder Representative.

“*Completion Date*” means the date of receipt by the Trustee of a duly executed Completion Certificate.

“*Construction Agreement*” means the AIA Document A133™ – 2019 Standard Form of Agreement Between Owner and Construction Manager as Constructor dated December 17, 2021 by and between the Borrower and Harvey Construction Corporation with respect to the Project, as amended.

“*Construction Monitor*” means Valstain, LLP or any other independent construction expert retained by the Bondholder Representative or the Borrower, with the written consent of the Bondholder Representative, who will monitor on behalf of the Bondholders, the construction of the Project and the disbursement of money under the Indenture. If there shall be no such entity, the term “*Construction Monitor*” shall be disregarded.

“*Construction Monitor Agreement*” means the Services Agreement dated March 9, 2022 between the Bondholder Representative and the Construction Monitor, and any other agreement between the Bondholder Representative or the Borrower and a Construction Monitor with respect to the Project.

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**"Consultant"** means any independent professional consulting, accounting, auditing, investment banking or commercial banking firm or individual selected by the Borrower or, to the extent required by this Agreement, the Bondholder Representative, having the skill and experience necessary to render the particular report required, which firm or individual does not control and is not controlled by the Borrower, the Parent, the Sponsor or any Affiliate, and is acceptable to the Bondholder Representative.

**"Continuing Disclosure Agreement"** means the Continuing Disclosure Agreement dated as of April 1, 2022 by and between the Borrower and UMB Bank, National Association, as dissemination agent.

**"Control Agreement"** means, collectively, (i) the Deposit Account Control Agreement dated April 21, 2022 by and among the Borrower, the Trustee and TD Bank, N.A. and (ii) any other deposit account control agreement executed and delivered by the Borrower in favor of the Trustee.

**"Days' Cash on Hand"** means, as of the date of determination, the amount determined by dividing (a) the amount of Unrestricted Cash and Marketable Securities of the Borrower on such date, by (b) the quotient obtained by dividing (i) total operating expenses of the Borrower for the 12 month period ending on such date, including (without limitation) accrued interest on Indebtedness, other than any interest which is payable from the proceeds of such Indebtedness, but excluding amortization, depreciation and any other non-cash expenses, in each case as shown on the most recent annual audited Financial Statements delivered to the Bondholder Representative pursuant to Section 4.3(a) or, in the case of any determination with respect to any date other than the last day of the Fiscal Year, the most recent unaudited Financial Statements delivered to the Bondholder Representative pursuant to Section 4.3(a), by (ii) 365 or 366, as the case may be.

**"Debt Service Coverage Ratio"** means, as of any date, the Net Revenues Available for Debt Service for the 12-month period ending on such date, divided by Maximum Annual Debt Service on all outstanding Long-Term Debt as of such date (pro-rated in the event that Net Revenues Available for Debt Service are calculated for a period of less than 12-months).

**"Debt Service Reserve Fund"** means the Tax-Exempt Senior Debt Service Reserve Fund established under the Indenture.

**"Debt Service Reserve Fund Funding Date"** means the date that is one year after the Borrower's receipt of a certificate of occupancy for the Project.

**"Debt Service Reserve Fund Requirement"** means (i) prior to the date of the final advance of the Bonds, \$1,079,586.58 (which shall be funded on the Closing Date), (ii) on the date of the final advance of the Bonds until the Debt Service Reserve Fund Funding Date, an amount equal to 50% of Maximum Annual Debt Service on all Outstanding Bonds (which such additional amount shall be funded from the final advance of the Bonds), (iii) on the Debt Service Reserve Fund Funding Date and thereafter, an amount equal to Maximum Annual Debt Service on all Outstanding Bonds (which such additional amount shall be funded from Entrance Fees of the Borrower deposited with the Trustee); *provided, however*, upon the occurrence of an Event of Default, the Debt Service Reserve Fund Requirement shall equal Maximum Annual Debt Service

on all Outstanding Bonds; *provided, further*, the Debt Service Reserve Fund Requirement shall in no event exceed the least of (a) 10% of the proceeds of Bonds secured thereby, (b) Maximum Annual Debt Service on all Outstanding Bonds secured thereby and (c) 125% of the average annual debt service requirements of all Outstanding Bonds secured thereby.

**"Default"** means any event that, with notice or lapse of time or both, would become an Event of Default.

**"Default Rate"** means, for any day, a rate of interest per annum equal to the lesser of (i) the highest rate of interest borne by any of the Bonds as of such date plus three percent (3.00%) and (ii) the Maximum Interest Rate, in each case with any change in such rate being effective as of the date such change is announced.

**"Derivative Agreement"** means an interest rate swap, exchange, hedge, cap or similar agreement entered into in order to hedge the interest payable on all or a portion of any Indebtedness, any asset or any other derivative arrangement, including (without limitation) an interest rate swap, a forward or futures contract or an option (e.g., a call, put, cap, floor or collar), which agreement does not constitute an obligation to repay money borrowed, credit extended or the equivalent thereof.

**"Determination of Taxability"** means and shall be deemed to have occurred on the first to occur of the following:

(a) the filing by the Borrower of any statement, supplemental statement or other tax schedule, return or document which discloses that the interest on any Bond is includable in the gross income of the owner of such Bond for federal income tax purposes;

(b) receipt by the Borrower of notice that the Trustee, the Bondholder Representative or any Bondholder or former Bondholder has received a written opinion of Bond Counsel to the effect that the interest on any Bond is includable in the gross income of the owner of such Bond for federal income tax purposes unless, within 100 days after receipt by the Borrower of such notice, the Borrower shall deliver to the Trustee and the Bondholder Representative a ruling or determination letter issued to or on behalf of the Issuer or the Borrower by the Commissioner or any District Director of the Internal Revenue Service (or any other governmental official exercising the same or a substantially similar function from time to time) to the effect that after taking into consideration such facts as form the basis for such opinion the interest on such Bonds is not includable in the gross income of the owners of such Bonds for federal income tax purposes;

(c) receipt by the Issuer, the Trustee, the Bondholder Representative or any Bondholder or former Bondholder of written notice from the Commissioner or any District Director of the Internal Revenue Service (or any other government official or agent exercising the same or a substantially similar function from time to time) that the interest on any Bond is includable in the gross income of the owner of such Bond for federal income tax purposes;

(d) receipt by the Issuer, the Trustee, the Bondholder Representative or any Bondholder or former Bondholder of written notice that the Internal Revenue Service (or

any other government official or agency exercising the same or a substantially similar function from time to time) has assessed as includable in the gross income of such Bondholder or such former Bondholder the interest on any Bonds.

Notwithstanding the foregoing, no event described in clause (c) or (d) above shall constitute a Determination of Taxability unless the Borrower has been afforded the opportunity, at its sole expense, to contest any such assessment for a period of no more than 100 days so long as the Sponsor, the Parent or the Borrower is contesting the same during such 100-day period in good faith by appropriate proceedings diligently pursued until the earliest of (i) the date on which the Sponsor or the Borrower, respectively, abandons the contest, (ii) the date on which such contest has been concluded adversely to the Sponsor, the Parent and the Borrower and no further appeals are possible, and (iii) the date that is six months after the initial receipt by the Issuer, the Trustee, the Bondholder Representative or any Bondholder or former Bondholder of such notice or assessment; *provided, however*, that upon demand from the Trustee or the Bondholder Representative, the Borrower shall promptly reimburse the Trustee, the Bondholder Representative, such Bondholder or such former Bondholder for any payments, including any taxes, interest, penalties, charges or expenses incurred by the Trustee, the Bondholder Representative, such Bondholder or such former Bondholder as a result of such Determination of Taxability.

**"Entrance Fee"** means the fee paid by a resident of the Facilities pursuant to a lease or residency agreement in order to take possession of a Unit and any deposit in respect thereof.

**"Environmental Claim"** means any action, suit, demand, demand letter, claim, notice of non-compliance or violation, notice of liability or potential liability, investigation, proceeding, consent order or consent agreement relating in any way to any Environmental Law, any Environmental Permit or Regulated Chemical or arising from alleged injury or threat to health, safety or the environment, for enforcement, cleanup, removal, response, remedial or other actions or damages, contribution, indemnification, cost recovery, compensation or injunctive relief, in each case by, from or with any Person.

**"Environmental Laws"** means all applicable federal, state, regional or local laws, statutes, rules, regulations or ordinances concerning public health, safety or the environment, including (without limitation) CERCLA; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Solid and Hazardous Waste Amendments of 1984, 42 U.S.C. §6901, *et seq.* ("RCRA"); the federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 U.S.C. §1251, *et seq.*; the Toxic Substances Control Act of 1976, 15 U.S.C. §2601, *et seq.*; the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. §11001, *et seq.*; the Clean Air Act of 1966, as amended, 42 U.S.C. §7401, *et seq.*; the National Environmental Policy Act of 1975, 42 U.S.C. §4321, *et seq.*; the Rivers and Harbors Act of 1899, 33 U.S.C. §401 *et seq.*; the Endangered Species Act of 1970, as amended, 29 U.S.C. §651, *et seq.*; the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. §300(f), *et seq.*; and all rules, regulations, policies and guidance documents promulgated or published thereunder, and any state, regional, parish or local statute, law, rule, regulation or ordinance relating to public health, safety or the environment, including (without limitation) those relating to:

(a) releases, discharges, emissions or disposals to air, water, land or groundwater;  
(b) the withdrawal or use of groundwater;

(c) the use, handling, or disposal of polychlorinated biphenyls ("PCBs"), asbestos or urea formaldehyde;

(d) the transportation, treatment, storage, disposal, release or management of hazardous substances or materials (including, without limitation, petroleum, its derivatives, by-products or other hydrocarbons) and any other solid, liquid or gaseous substance exposure to which is prohibited, limited or regulated, or may or could pose a hazard to the health and safety of the occupants of the Mortgaged Property or any property adjacent to or surrounding the Mortgaged Property;

(e) the exposure of persons to toxic, hazardous or other controlled, prohibited or regulated substances; and

(f) any Regulated Chemical.

**"Environmental Permit"** means any permit, approval, identification number, license, registration, certification or other authorization required under any Environmental Law to operate the Facilities.

**"Environmental Report"** means any environmental assessment, test, investigation, or other environmental report or audit conducted at the Mortgaged Property for any reason.

**"ERISA"** means the Employee Retirement Income Security Act of 1974, as amended from time to time.

**"ERISA Affiliate"** means any trade or business the employees of which, together with the employees of the Borrower, are treated as employed by a single employer under Section 4.14(b), (c), (m) or (o) of the Code.

**"ERISA Event"** means any of the following with respect to a Plan or Multiemployer Plan, as applicable: (a) a Reportable Event with respect to a Plan or a Multiemployer Plan; (b) a complete or partial withdrawal by the Borrower from a Multiemployer Plan that results in liability under Section 4201 or 4204 of ERISA, or the receipt by the Borrower or any member of the ERISA Group of notice from a Multiemployer Plan that it is in reorganization or insolvency pursuant to Section 4241 or 4245 of ERISA or that it intends to terminate or has terminated under Section 4041A of ERISA; (c) the distribution by the Borrower or any member of the ERISA Group under Section 4041 or 4041A of ERISA of a notice of intent to terminate any Plan, receipt of notice of termination of a Multiemployer Plan pursuant to Section 4041A of ERISA or the taking of any action to terminate any Plan; (d) the commencement of proceedings by the PBGC under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan, or the receipt by the Borrower or any member of the ERISA Group of a notice from any Multiemployer Plan that such action has been taken by the PBGC with respect to such Multiemployer Plan; (e) the institution of a proceeding by any fiduciary of any Multiemployer Plan against the Borrower or any member of the ERISA Group to enforce Section 515 of ERISA

which is not dismissed within 30 days; (f) the imposition upon the Borrower or any member of the ERISA Group of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, or the imposition or threatened imposition of any Lien upon any assets of the Borrower or any member of the ERISA Group as a result of any alleged failure to comply with the Code or ERISA in respect of any Plan; (g) the engaging in or otherwise becoming liable for a nonexempt Prohibited Transaction by the Borrower or any member of the ERISA Group; (h) a violation of the applicable requirements of Section 404 or 405 of ERISA or the exclusive benefit rule under Section 401(a) of the Code by any fiduciary of any Plan for which the Borrower or any member of the ERISA Group may be directly or indirectly liable; or (i) the adoption of an amendment to any Plan that, pursuant to Section 401(a)(29) of the Code or Section 307 of ERISA, would result in the loss of tax-exempt status of the trust of which such Plan is a part if the Borrower or any member of the ERISA Group fails to timely provide security to such Plan in accordance with the provisions of such sections.

**"ERISA Group"** means any trade or business (whether or not incorporated) which is a member of a group of which the Borrower is a member and which is under common control within the meaning of Section 414 of the Code.

**"Event of Default,"** when used in or with respect to this Agreement has the meaning set forth in Section 6.1 and, when used with respect to any other Related Document, has the meaning assigned therein.

**"Excess Interest Amount"** has the meaning specified in Section 3.1(c)(i).

**"Facilities"** means the real property and all buildings, structures and improvements thereon and interests therein owned or operated by the Borrower and all fixtures, machinery, equipment, furniture, furnishings and other personal property attached thereto, located therein or used in connection therewith.

**"Fiscal Quarter"** means the three month periods ending on March 31, June 30, September 30 and December 31 in each Fiscal Year or, in the event that the Fiscal Year is changed, the three month period beginning on the first day of a Fiscal Year and on the first day of each third month thereafter.

**"Fiscal Year"** means the period of 12 consecutive months beginning on January 1 in any calendar year and ending on December 31 of the same calendar year, or such other fiscal year as the Borrower with the prior written approval of the Bondholder Representative (which approval shall not be unreasonably withheld), shall establish as the fiscal year of the Borrower.

**"Fitch"** means Fitch, Inc., or any successor thereto.

**"GAAP"** means accounting principles generally accepted in the United States of America, except as otherwise herein expressly provided, consistently applied.

**"Governing Body"** means, when used with respect to any Person, the Board of Directors, Board of Trustees, Board of Managers or other governing body of a Person.

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

**"Governmental Authority"** means the United States of America, any state, county, township or other municipality and any court, agency, department, bureau, board, commission or instrumentality of any of the foregoing now existing or hereafter created.

**"Gross Revenues"** means all receipts, revenues, rentals, income, insurance proceeds and other money received by or on behalf of the Borrower, including (without limitation) revenues derived from (i) the ownership, operation or leasing of any property of the Borrower (including, without limitation, Entrance Fees, monthly service fees and any other fees payable by or on behalf of residents or other clients of the Facilities), (ii) contributions from the Sponsor or the Parent, (iii) gifts, grants, bequests, donations and contributions heretofore or hereafter made that are legally available to meet any of the obligations of the Borrower incurred in the financing, operation, maintenance or repair of any portion of the Facilities, (iv) other operating revenues, (v) unrestricted investment income and (vi) net proceeds from business interruption insurance, and all rights to receive the same, whether in the form of accounts, accounts receivable, contract rights, general intangibles, chattel paper, instruments, investment property or other rights, and the proceeds of such rights, whether now existing or hereafter coming into existence or whether now owned or held or hereafter acquired.

**"Hamlin Investor Bond"** means Bonds for which each of the following conditions are met: (a) the holders of such Bonds are advised by Hamlin Capital Management, LLC under the Investment Advisors Act of 1940, as amended, pursuant to a written investment advisory agreement or a limited partnership agreement with respect to a limited partnership for which Hamlin Capital Management, LLC acts as the manager; and (b) such Bonds are held in managed accounts or commingled investment vehicles of accredited investors or qualified institutional buyers as such terms are defined in the Securities Act of 1933, as amended, and Regulation D thereunder.

**"HCA"** means Hamlin Capital Advisors, LLC and its successors and assigns.

**"Indebtedness"** means, with respect to any Person (a) any obligation for borrowed money incurred or assumed by such Person, (b) any obligation under any lease that is capitalized under GAAP incurred or assumed by such Person, (c) any installment or conditional sale or other title retention agreement incurred or assumed by such Person, (d) any obligation to pay the deferred purchase price of property or services incurred or assumed by such Person, (e) any obligation secured by (or having an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the obligations secured thereby have been assumed, (f) any obligation as an account party in respect of letters of credit or similar facilities and bankers' acceptances incurred or assumed by such Person, and (g) any guaranty, loan commitment or other obligation of such Person guaranteeing in any manner, whether directly or indirectly, any obligation of any Person that would be described above if incurred or assumed directly by such Person.

**"Indemnitee"** has the meaning specified in Section 7.1.

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**"Indenture"** means the Trust Indenture of even date herewith between the Issuer and the Trustee, as the same may be amended and supplemented from time to time with the prior written consent of the Bondholder Representative.

**"Independent Living Unit"** means an independent living unit constituting a part of the Facilities.

**"Insurance Consultant"** means an independent Consultant having skill and experience in the insurance requirements of or relating to the Borrower's business and reasonably acceptable to the Bondholder Representative.

**"Land"** means the land and interests in land constituting the site of the Mortgaged Property, as set forth in Exhibit A to the Mortgage and all now owned or hereafter acquired appurtenant easements.

**"Law"** means any treaty or any federal, regional, state and local law, statute, rule, ordinance, regulation, code, license, authorization, decision, injunction, interpretation, order or decree of any court or other Governmental Authority.

**"Liabilities"** has the meaning specified in Section 7.1.

**"Lien,"** as applied to any Property or the income or profits therefrom, whether the same is consensual or non-consensual or arises by contract, operation of law, legal process or otherwise, means: (i) any mortgage, lien, pledge, attachment, charge, lease, conditional sale or other title retention agreement, or other security interest or encumbrance of any kind in respect of such Property or upon the income or profits therefrom; or (ii) any arrangement, expressed or implied, under which such Property is transferred, sequestered or otherwise identified for the purpose of subjecting or making such Property available for the payment of debt or performance of any other obligation in priority to the payment of the general, unsecured creditors of the Borrower.

**"Loan Agreement"** means the Loan Agreement of even date herewith between the Issuer and the Borrower, as amended and supplemented from time to time with the prior written consent of the Bondholder Representative.

**"Long-Term Debt"** means Indebtedness of the Borrower having a final maturity of more than one year from the date of its creation or which is renewable or extendible at the option of the Borrower for a period of more than one year from the date of its creation.

**"Management Agreement"** means the Amended and Restated Management Agreement dated as of the date hereof between the Borrower and the Parent and any other management agreement with respect to the Facilities entered into by the Borrower in accordance with Section 4.16, as the same may be supplemented and amended with the prior written consent of the Bondholder Representative.

**"Management Fees"** means the fees payable to the Manager by the Borrower under the Management Agreement, including, without limitation, any termination or other fees owed under the Management Agreement.

**"Manager"** means the Parent, and any other manager of the Facilities retained by the Borrower in accordance with Section 4.16, and their respective successors.

**"Material Adverse Effect"** means a material adverse effect on (i) the validity or enforceability of this Agreement or any other Related Document, (ii) the ability of the Trustee to enforce its legal remedies pursuant to this Agreement or any other Related Document, (iii) the status of the Borrower or the Parent as organizations described in Section 501(c)(3) of the Code, (iv) the business, condition (financial or other), operations or prospects of the Borrower, (v) the ability of the Borrower to perform its obligations hereunder or under any other Related Document or (vi) the rights and remedies of or benefits available to the Trustee or the Bondholder Representative under this Agreement or any other Related Document.

**"Maximum Annual Debt Service"** means, when used with respect to any Indebtedness as of any date of calculation, the greatest amount required in the then-current or any future Fiscal Year to pay the principal of, the amount required to effect the mandatory sinking fund redemption of and the interest on all such outstanding Indebtedness (exclusive of the principal amount due on the maturity date of any series of the Bonds).

**"Maximum Interest Rate"** means the maximum rate of interest permitted by applicable Law.

**"Memory Care Unit"** means each memory care unit constituting a part of the Facilities.

**"Monthly Service Fee"** means any monthly fee payable by a resident of a Unit under the lease or residency agreement between the Borrower and such resident.

**"Moody's"** means Moody's Investors Service, Inc., and its successors and assigns.

**"Mortgage"** means the Mortgage, Assignment of Leases and Rents, Security Agreement, and Fixture Filing Statement dated as of April 1, 2022 between the Borrower and the Trustee which grants a lien on and security interest in the Mortgaged Property as security for the Bonds, as amended and supplemented from time to time with the prior written consent of the Bondholder Representative.

**"Mortgaged Property"** has the meaning set forth in the Mortgage.

**"Multiemployer Plan"** means an employee benefit plan subject to Title IV of ERISA to which the Borrower or any member of the ERISA Group, and one or more employers other than the Borrower or any member of the ERISA Group, is making or accruing an obligation to make contributions or, in the event that any such plan has terminated, to which the Borrower or any member of the ERISA Group made or accrued an obligation to make contributions, during any of the five plan years preceding the date of termination of such plan.

**"Net Proceeds"** means the gross proceeds from any insurance recovery or condemnation award or payment in lieu thereof remaining after payment of reasonable attorneys' fees, reasonable fees and expenses of the Trustee and the Bondholder Representative and all other reasonable expenses incurred in the collection of such gross proceeds.

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**"Net Revenues Available for Debt Service"** means, for any period, the amount determined in accordance with GAAP by calculating (a) the operating revenues derived from or attributable to the Mortgaged Property or the Facilities, plus any Entrance Fees received, if any (less any refunds and excluding any earned Entrance Fees or any initial Entrance Fees with respect to newly constructed Units), exclusive of any gifts, grants, bequests, donations and contributions that are donor-restricted or not otherwise available for operating expenses; deducting (b) the total expenses of the Borrower and any Management Fees paid by the Borrower for such period, exclusive of depreciation, interest, amortization, unrealized gains or losses on investments and Derivative Agreements and any losses on the sale or disposition of any asset (other than net losses on investments) or on the extinguishment of debt and any other non-cash expenses.

**"Obligations"** means all amounts payable by the Borrower and all other obligations to be performed by the Borrower pursuant to this Agreement and the other Related Documents.

**"Occupied Unit"** means a Unit with respect to which a lease or residency agreement or other contract that is then in effect has been executed and delivered by or on behalf of one or more residents of such Unit, the full amount of the Entrance Fee for such Unit has been paid without any discount or concession granted below the market rate and the full amount of Monthly Service Fees with respect to such Unit are payable, and have not been waived, and the Borrower expects payment thereof and will pursue appropriate collection steps to collect the same, if necessary.

**"Officer's Certificate"** means a certificate signed by an Authorized Representative.

**"Organizational Documents"** means the instruments pursuant to which a Person was created and which govern its powers and the authority of its representatives to act on its behalf, including (a) with respect to any corporation, the articles of incorporation, certificate of incorporation, corporate charter or other documents pursuant to which such corporation was organized, and its by-laws or code of regulations, and (b) with respect to any limited liability company or other type of entity, the articles or certificate of formation or organization and any operating agreement, each as amended from time to time.

**"Parent"** means Edgewood Senior Solutions Group, Inc. and its successors and permitted assigns.

**"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).

**"PBGC"** means the Pension Benefit Guaranty Corporation or any successor thereto.

**"Permitted Encumbrances"** means:

- (i) liens for *ad valorem* taxes, special assessments, levies, fees, water and sewer rents or charges not then delinquent;
- (ii) liens arising by reason of any good faith deposit made to secure any public or statutory obligation or the payment of taxes or assessments or other similar charges, and any deposit given as a condition to the transaction of any business or the exercise of any privilege or

license or in connection with workers' compensation, unemployment insurance, any pension or profit sharing plan or other social security;

(iii) any lien of any mechanic, materialman, laborer, supplier or vendor for work or services performed or materials furnished in connection with such property that is not due and payable or the amount or validity of which is being contested and execution thereon stayed;

(iv) any lien arising under Law or by contract with respect to initial deposits made under life care or continuing care contracts;

(v) such minor defects, irregularities, encumbrances, easements, rights of way and clouds on title as normally exist with respect to properties similar in character to the Facilities that do not in the aggregate, in the opinion of a Consultant, materially impair the use of property affected thereby for the purposes for which it was acquired or is held by the Borrower, or the value of such property;

(vi) the Mortgage;

(vii) liens securing Indebtedness permitted by this Agreement;

(viii) encumbrances identified in the mortgagee's title insurance policy delivered in connection with the issuance of the Bonds; and

(ix) such other Liens as shall be approved by the Bondholder Representative.

**"Permitted Investments"** means:

(a) direct obligations of, or obligations the timely payment of the principal of and the interest on which is unconditionally guaranteed by, the United States of America ("Government Obligations");

(b) direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the Federal National Mortgage Corporation, the Federal Home Loan Bank System, the Federal Home Loan Mortgage Corporation, or a Federal Farm Credit Bank ("Agency Obligations");

(c) United States dollar denominated deposit accounts, certificates of deposit and bankers' acceptances with domestic commercial banks (i) that are issued by banks, the short-term certificates of deposit of which are rated F-1 by Fitch, P-1 by Moody's or A-1 by S&P, or (ii) that are fully insured by the Federal Deposit Insurance Corporation;

(d) repurchase agreements for Government Obligations or Agency Obligations or investment agreements which are, or are issued or guaranteed by an entity, rated by Moody's or S&P in one of its two highest rating categories (without regard to any refinement or gradation by numerical modifier or otherwise or fully collateralized by Government Obligations or Agency Obligations (any such collateralized investment agreement being referred to herein as a "Collateralized Investment Agreement"); provided, that (i) such Government Obligations or

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Agency Obligations shall be delivered to or supported by a safekeeping receipt or other confirmatory documentation issued by a third-party; (ii) the Trustee shall have a perfected security interest in such Government Obligations or Agency Obligations; (iii) such Government Obligations or Agency Obligations shall be free and clear of any other Liens; and (iv) such repurchase agreements or Collateralized Investment Agreements shall provide that the value of the underlying Government Obligations or Agency Obligations shall be continuously maintained at a current market value of not less than 102% of the repurchase price or the amount deposited thereunder, as the case may be (the value of such Government Obligations or Agency Obligations to be determined in accordance with such Collateralized Investment Agreement at least once in each seven day period);

(e) obligations issued by or on behalf of any state of the United States of America or any political subdivision thereof which are rated in one of the two highest rating categories of Moody's or S&P;

(f) commercial paper which is rated in the highest rating category of Moody's or S&P that matures in 270 days or less;

(g) shares in investment companies that are rated AAAm or AAAm-G by Moody's or S&P, at least ninety percent (90%) of the assets of which consist of Government Obligations or Agency Obligations and repurchase agreements backed by Government Obligations or Agency Obligations; and

(h) such other investments as are approved in writing by the Bondholder Representative.

**"Person"** means an individual, association, unincorporated organization, corporation, limited liability company, partnership, limited partnership, joint venture, business trust, trust, government or agency or political subdivision thereof or other entity.

**"Phase I Report"** means the Phase I Environmental Site Assessment dated February 14, 2022, prepared by Miller Engineering & Testing Inc.

**"Plan"** means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA in respect of which the Borrower or any member of the ERISA Group is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

**"Pledge Agreement"** means the Pledge Agreement dated as of April 1, 2022 made by the Parent in favor of the Trustee.

**"Prohibited Transaction"** means a prohibited transaction as defined in Section 406 of ERISA or Section 4975 of the Code.

**"Project"** means the refinancing of the Business Finance Authority of the State of New Hampshire Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2020 and the construction and equipping of an approximately 230-unit life plan continuing care retirement

community on a land parcel owned by the Borrower consisting of approximately 15.1 acres with frontage on First Avenue between First Avenue's intersections with Main Street and Pillsbury Road in the Town of Londonderry, New Hampshire.

**"Property"** means any interest in any kind of property or asset, whether real, personal or mixed, tangible or intangible, whether now owned or hereafter acquired.

**"Regulated Chemicals"** means any substance, the presence of which requires investigation, permitting, control or remediation under any federal, state or local statute, regulation, ordinance or order, including (without limitation):

- (a) any substance defined as "hazardous waste" under RCRA;
- (b) any substance defined as a "hazardous substance" under CERCLA;
- (c) any substance defined as a "hazardous material" under the federal Regulated Chemicals Transportation Law (49 U.S.C. § 5101 *et seq.*);
- (d) any substance defined under any analogous state statute;
- (e) asbestos;
- (f) urea formaldehyde;
- (g) PCBs;
- (h) petroleum, or any distillate or fraction thereof; and
- (i) any hazardous or toxic substance designated pursuant to the Laws of a state.

**"Related Documents"** means the Bonds, the Bond Purchase Agreement, the Indenture, the Loan Agreement, the Mortgage, the Assignment, the Support Agreement, the Pledge Agreement, the Control Agreement, the Continuing Disclosure Agreement, this Agreement and all other documents and instruments executed and delivered in connection with the transactions contemplated thereby.

**"Repair and Replacement Fund"** has the meaning set forth in the Indenture.

**"Repair and Replacement Fund Requirement"** has the meaning set forth in the Indenture.

**"Reportable Event"** means: (a) any "reportable event" within the meaning of Section 4043(c) of ERISA for which the 30-day notice under Section 4043(a) of ERISA has not been waived by the PBGC (including any failure to meet the minimum funding standard of, or timely make any required installment under, Section 412 of the Code or Section 302 of ERISA, regardless of the issuance of any waivers in accordance with Section 412(d) of the Code); (b) any such "reportable event" subject to advance notice to the PBGC under Section 4043(b)(3) of ERISA; (c) any application for a funding waiver or an extension of any amortization period pursuant to Section 412 of the Code; and (d) a cessation of operations described in Section 4062(e) of ERISA.

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*"Repository"* has the meaning set forth in the Continuing Disclosure Agreement.

*"Reserved Unit"* means an independent living unit with respect to which a potential resident has paid a deposit equal to at least 10% of the total Entrance Fees. For the avoidance of doubt, a Unit shall not longer be considered a Reserved Unit if (i) the deposit has been fully or partially refunded to the potential resident, (ii) the deposit is equal to less than 10% of the Entrance Fees associated with the applicable Unit or (iii) the potential resident has given notice to the Borrower of its intent to cancel the deposit.

*"Response Action"* has the meaning specified in Section 2.12(e).

*"S&P"* means S&P Global Ratings, and any successor rating agency.

*"Series 2022A Bonds"* means the Authority's Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022A in the maximum aggregate principal amount of \$87,800,000.

*"Series 2022B Bonds"* means the Authority's Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022B in the aggregate principal amount of \$15,000,000.

*"Series 2022C Bonds"* means the Authority's Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022C in the maximum aggregate principal amount of \$38,500,000.

*"Series 2022D Bonds"* means the Authority's Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022D in the maximum aggregate principal amount of \$30,000,000.

*"Social Security Act"* means the Social Security Act of 1965, as amended.

*"Sponsor"* means Edgewood Retirement Community, Inc. and its successors and permitted assigns.

*"Sponsor Subordinate Recoverable Grant"* means, collectively, (i) the \$5,000,000 subordinate recoverable grant made by the Sponsor to the Borrower on or about October 19, 2020; (ii) the \$1,000,000 subordinate recoverable grant made by the Sponsor to the Borrower on or about October 2021; and (iii) the \$4,000,000 subordinate recoverable grant made by the Sponsor to the Borrower on or about the Closing Date.

*"Stabilization Date"* means the last day of the first Fiscal Quarter in which (a) the average number of Occupied Independent Living Units, expressed as a percentage of the total number of such Independent Living Units in the respective facilities, during such Fiscal Quarter was greater than 90% and (b) the Debt Service Coverage Ratio of the Borrower was at least 1.20 to 1.00 calculated on a trailing 12-month basis.

*"State"* means the State of New Hampshire.

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*"Subordinate Bonds"* means the Authority's Subordinate Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022E in the aggregate principal amount of \$17,400,000.

*"Subordinate Debt"* means, collectively, the Sponsor Subordinate Recoverable Grant and the Subordinate Bonds.

*"Support Agreement"* means the Support Agreement of even date herewith between the Sponsor and the Trustee, as amended and supplemented from time to time with the prior written consent of the Bondholder Representative.

*"Tax Escrow Fund"* means the Tax and Insurance Escrow Fund established under the Indenture.

*"Taxable Date"* means the date as of which interest on the Bonds is first includable in gross income of a Bondholder or former Bondholder, as such a date is established pursuant to a Determination of Taxability.

*"Taxable Period"* has the meaning set forth in Section 3.1(d).

*"Taxable Rate"* means, when used with respect to a Bond as of any particular date of calculation, the per annum interest rate equal to the interest rate then borne by such Bond times 1.4.

*"Taxes"* means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholdings), assessments, fees or other charges imposed by any Governmental Authority, including (without limitation) any interest, fines, additions to tax or penalties applicable thereto.

*"Trustee"* means the Trustee under and as defined in the Indenture.

*"UCC"* means the Uniform Commercial Code as enacted in the State.

*"Underwriter"* means Odeon Capital Group LLC and its successors and assigns.

*"Unit"* means an Independent Living Unit, Assisted Living Unit, Memory Care Unit, or any other unit constituting a part of the Facilities. *"Units"* means all Units constituting a part of the Facilities.

*"Unrestricted Cash and Marketable Securities"* means the sum of unrestricted cash, cash equivalents and marketable securities, including board-designated funds and any amounts on deposit in the Tax Escrow Fund, but excluding (a) all other Trustee-held funds, (b) donor-restricted funds, (c) funds of residents held by the Borrower for the payment of residency, medical care or personal needs and (d) any funds pledged or otherwise subject to any Lien other than the Liens created by this Agreement and the other Related Documents.

*Section 1.2. Computation of Time Periods.* In this Agreement, in the computation of a period of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding."

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*Section 1.3. Construction.* Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular, to the singular include the plural and to the part include the whole. Words of the masculine gender include correlative words of the feminine and neuter genders. The word "including" shall be deemed to mean "including but not limited to," or "without limitation" and "or" has the inclusive meaning represented by the phrase "and/or." The words "hereof," "herein," "hereunder" and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. The Section headings contained in this Agreement and the table of contents preceding this Agreement are for reference purposes only and shall not control or affect the construction of this Agreement or the interpretation thereof in any respect. Section, subsection and exhibit references are to this Agreement unless otherwise specified.

*Section 1.4. Incorporation of Certain Definitions by Reference.* Terms used herein and not otherwise defined herein shall have the meaning provided therefor in the Indenture.

*Section 1.5. Accounting Terms and Determinations.* Unless otherwise specified, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared, in accordance with GAAP.

*Section 1.6. Relation to Other Documents; Acknowledgment of Different Provisions of Related Documents; Incorporation by Reference.*

(a) Nothing in this Agreement shall be deemed to amend, or relieve the Borrower of its obligations under, any other Related Document to which it is a party. Conversely, to the extent that the provisions of any other Related Document allow the Borrower to take certain actions, or not to take certain actions, with regard for example to Permitted Encumbrances, transfers of assets, maintenance of financial ratios and similar matters, the Borrower nevertheless shall be fully bound by the provisions of this Agreement.

(b) Except as provided in subsection (c) of this Section, all references to other documents shall be deemed to include all amendments, modifications and supplements thereto to the extent such amendments, modifications and supplements are made in accordance with the provisions of such document and this Agreement.

(c) All provisions of this Agreement making reference to specific Sections of any other Related Document shall be deemed to incorporate such Sections into this Agreement by reference as though specifically set forth herein (with such changes and modifications as may be herein provided) and, except to the extent otherwise provided herein, shall continue in full force and effect with respect to this Agreement notwithstanding payment of all amounts due under or secured by such other Related Document, the termination or defeasance thereof or any amendment thereto or any waiver given in connection therewith, so long as this Agreement is in effect and until the Bonds and all Obligations hereunder are paid in full. Except to the extent otherwise provided herein, no amendment, modification, consent, waiver or termination with respect to any of such Sections shall be effective as to this Agreement until specifically agreed to in writing by the Bondholder Representative and the parties hereto with specific reference to this Agreement.

(d) Provisions of the Indenture and the Loan Agreement governing the rights, immunities and protections of the Trustee thereunder are hereby granted to the Trustee and incorporated by reference into this Agreement as though fully set forth herein. In the event of any conflict between this Agreement and the Indenture and/or Loan Agreement with respect to the rights, immunities and protections of the Trustee, the Indenture and/or Loan Agreement shall control, as applicable.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

In order to induce the owners from time to time of the Bonds to purchase the Bonds, the Borrower hereby represents and warrants to the Trustee and the Bondholder Representative, as of the date hereof and as of the Closing Date, as follows:

*Section 2.1. Organization; Powers.* The Borrower: (a) is a non-profit corporation, duly organized, validly existing and in good standing under the laws of the State, the sole member of which is the Parent; (b) has the power and authority to own its Property and to carry on its business as now conducted and as proposed to be conducted; (c) is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required, except where the failure so to qualify would not reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect; and (d) has the power and authority to execute, deliver and perform its obligations under each of the Related Documents to which it is a party.

*Section 2.2. Authorization.* The execution, delivery and performance by the Borrower of each of the Related Documents to which the Borrower is or is to become a party and the Borrower obligations thereunder, and the consummation of the transactions contemplated thereby (a) have been duly authorized by all necessary action on the part of the Borrower; and (b) will not (i) violate any Law, the Organizational Documents or any provision of any material indenture, agreement or other instrument to which the Borrower is a party or by which the Borrower or its Property is or may be bound, (ii) result in a breach of or constitute (alone or with notice or lapse of time or both) a default under or give rise to any right to accelerate or to require the prepayment, repurchase or redemption of any obligation under any such indenture, agreement or other instrument or (iii) result in the creation or imposition of any Lien (other than a Permitted Encumbrance) upon or with respect to any Property now owned or hereafter acquired by the Borrower.

*Section 2.3. Enforceability.* This Agreement has been duly executed and delivered by the Borrower and constitutes, and each other Related Document to which the Borrower is a party, when executed and delivered by the Borrower, will constitute, a legal, valid and binding obligation of the Borrower enforceable against the Borrower in accordance with its terms, subject to (i) applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer and other similar Laws or enactments in effect now or in the future relating to or affecting the enforceability of creditors' rights generally from time to time in effect; (ii) the application of general principles of equity (including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing), regardless of whether considered in a proceeding in equity or at law and the availability of the remedy of specific performance; and (iii) considerations of public policy with respect to indemnity provisions. The Related Documents, when assigned to the Trustee pursuant

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to the Indenture, will constitute the legal, valid and binding agreements of the Borrower enforceable against the Borrower in accordance with their terms.

**Section 2.4. Governmental Approvals.** The Borrower has (a) obtained all Governmental Approvals and (b) complied in all material respects with all Laws necessary to conduct its business as it is presently conducted and contemplated to be conducted and to own and operate the Facilities.

The Borrower has all Governmental Approvals that are (i) required to be obtained by the Borrower as a condition precedent to the issuance of the Bonds and the execution and delivery of the Related Documents, and (ii) obtainable to date for the performance by the Borrower of its obligations under the Related Documents and the completion of the Project. No action, Governmental Approval or registration or filing with or any other action by any Governmental Authority is required in connection with the transactions contemplated hereby.

**Section 2.5. No Default.** No event has occurred and no condition exists with respect to the Borrower which would constitute an Event of Default as defined in this Agreement or any of the other Related Documents or which, with the lapse of time or with the giving of notice or both, would become such an "event of default." The Borrower is not in default under its Organizational Documents or other agreement or instrument to which it is a party or by which it or its Property is bound. The Borrower is not in default or alleged to be in default in any material respect under any Indebtedness or any agreement under which any Indebtedness shall have been issued or incurred.

**Section 2.6. Title to Properties; Lien.**

(a) The Borrower has good and marketable title to all Property purported to be owned by it free and clear of any Liens, other than Permitted Encumbrances.

(b) The Borrower represents and warrants that it has not heretofore made a pledge of, granted a Lien on or security interest in or made an assignment or sale of the Gross Revenues or any of its other real or personal Property, or described or consented to the description of the Gross Revenues or such personal Property in any UCC financing statement.

**Section 2.7. Litigation; Compliance with Laws and Agreements.**

(a) There are no actions, suits or proceedings at law or in equity or by or before any Governmental Authority now pending or, to the knowledge of the Borrower, threatened against or affecting the Borrower or any business, Property or rights of the Borrower.

(b) Neither the Borrower nor any of its Property is in violation of, nor will the completion of the Project violate, any Law. The Borrower is not in default with respect to any judgment, writ, injunction, decree or order of any Governmental Authority.

**Section 2.8. Contracts, Etc.** The Borrower is not in default or, to the knowledge of the Borrower, alleged to be in default in any material respect with respect to any of its obligations under any of its material agreements (or would be in default or alleged to be in default with the giving of notice, passage of time or both), and, to the knowledge of the Borrower, no party other than the Borrower is in default with respect to such party's obligations under any of such agreements (or would be in default or alleged to be in default with the giving of notice, passage of

time or both). No claim has been asserted against the Borrower that is or would be materially adverse to its interests under any of such agreements. None of such agreements is subject to any material rights of set-off, recoupment or similar deduction or offset. The Borrower has not assigned or encumbered any of its rights, title or interest in or under any of such agreements, or agreed to any oral modifications of any of the material provisions of any of such agreements.

**Section 2.9. Tax Matters.**

(a) The Borrower has received a determination letter from the Internal Revenue Service classifying it as an organization (i) described in Section 501(c)(3) of the Code which is exempt from federal income taxation under Section 501(a) of the Code (except with respect to "unrelated business taxable income" within the meaning of Section 512(a) of the Code) and (ii) which is not a "private foundation" as defined in Section 509(a) of the Code. Such determination letter has not been modified, limited, revoked or suspended. The Borrower has not received any indication or notice, written or oral, from representatives of the Internal Revenue Service to the effect that its exemption under Section 501(c)(3) of the Code has been modified, limited, revoked or superseded, or that the Internal Revenue Service is considering modifying, limiting, revoking or superseding such exemption. The Borrower is in compliance with all of the terms, conditions and limitations, if any, contained in the determination letter. There has been no change in the facts and circumstances represented to the Internal Revenue Service as a basis for receiving, and which formed the basis on which the Internal Revenue Service issued, the determination letter relating to the status of the Borrower as an organization described in Section 501(c)(3) of the Code and as an organization which is not a "private foundation" as defined in Section 509 of the Code of a nature or to a degree as would warrant any action by the Internal Revenue Service to modify, limit, revoke or supersede such determination letter. The Borrower is an organization organized and operated exclusively for charitable purposes and not for pecuniary profit and no part of the net earnings of the Borrower inures to the benefit of any person, private stockholder or individual, within the meaning of Section 3(a)(4) of the Securities Act of 1933, as amended.

(b) The Borrower has filed or caused to be filed all federal, state, and local tax returns which are required to have been filed by it or has filed extensions therefor and has paid or caused to be paid all taxes as and when due and payable by it and all assessments received by it, except taxes that are being contested in good faith by appropriate proceedings and for which the Borrower shall have set aside on its books adequate reserves.

**Section 2.10. No Untrue Statements or Omissions of Material Facts.** None of the statements contained in any report, financial statement, offering document, exhibit or schedule furnished by or on behalf of the Borrower and its Affiliates to the Trustee or the Bondholder Representative in connection with the negotiation of any Related Document or included therein or delivered pursuant thereto, contained or contains any untrue statement of material fact or omits any material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they were made, not misleading as of the time when made or delivered.

**Section 2.11. Employee Benefit Matters.**

(a) The Borrower has no Multiemployer Plans. With respect to each Plan, (i) no "accumulated funding deficiency," as such term is defined in Section 302 of ERISA or Section 412 of the Code, exists or existed at any time, (ii) no waiver of the minimum funding standards of Section 302 of ERISA and Section 412 of the Code has been requested from or granted by the Internal Revenue Service, and (iii) no Lien in favor of any Plan has arisen under Section 302(f) of ERISA or Code Section 412(n).

(b) There have been no Reportable Events, and the execution and performance of the Related Documents will not constitute a Reportable Event. No employee benefit plan as defined in Section 3(3) of ERISA has been terminated since the effective date of ERISA which could result in any tax, penalty or liability being imposed upon the Borrower or any ERISA Affiliate.

(c) To the knowledge of the Borrower, neither the Borrower nor any ERISA Affiliate, or any predecessor-in-interest to any of them, has participated in, and the execution and performance of this Agreement will not involve any Prohibited Transaction that could subject the Borrower or any ERISA Affiliate to any liability under ERISA or tax or penalty imposed by Section 4975 of the Code.

(d) Each of the Borrower's Plans is now and always has been operated in all material respects in accordance with Law and its terms, and all obligations required to be performed under each such Plan have been performed such that there is no material default or violation by any party to any such Plan. Each such Plan that is intended to be qualified under Section 401(a) of the Code and each trust established in connection with any such Plan that is intended to be exempt from federal income taxation under Section 501(a) of the Code has received a favorable determination letter from the Internal Revenue Service that it is exempt and no fact or event has occurred since the date of such determination letter that could reasonably be expected to adversely affect the qualified status of such Plan or the exempt status of any such trust.

(e) The execution and performance of this Agreement will not (i) constitute a stated triggering event under any of the Borrower's Plans that will result in any payment becoming due to any employee, officer, director or independent contractor of the Borrower, or any ERISA Affiliate, or (ii) accelerate the time of payment or vesting for, or increase the amount of any compensation or benefits due to any such individual.

**Section 2.12. Environmental Matters.**

(a) To the knowledge of the Borrower, the Mortgaged Property does not contain any Regulated Chemical in an amount or concentration which (i) constitutes a violation of, (ii) requires remedial action under, or (iii) could give rise to liability under any Environmental Law.

(b) To the knowledge of the Borrower, the Mortgaged Property and all operations of the Borrower are in compliance in all material respects with every Environmental Law.

(c) To the knowledge of the Borrower, the Borrower has obtained every Environmental Permit required under any Environmental Law that is necessary for the ordinary operations of its

business; every such Environmental Permit is in full force and effect; and the Borrower is in compliance with every material term and condition of each such Environmental Permit.

(d) None of the Borrower, the Mortgaged Property or its operation is subject to any outstanding written order from or agreement with any Governmental Authority, or subject to any judicial or docketed administrative proceeding respecting any Environmental Law, Environmental Claim or Regulated Chemical.

(e) To the knowledge of the Borrower, there has been no Release or threatened Release in violation of any applicable Environmental Law at, from, under or proximate to the Mortgaged Property or at any other Property that would (i) require material removal and remedial action ("Response Action") under any Environmental Law, (ii) would give rise to material liability under any Environmental Law, or (iii) would otherwise reasonably be expected to have a Material Adverse Effect.

(f) The Borrower has not received any notice of an Environmental Claim in connection with the Mortgaged Property, its operations or with regard to any Person whose liability under any Environmental Law has been retained or assumed, in whole or in part, contractually, by operation of law or otherwise, by the Borrower and the Borrower has no reason to believe that any such notice will be received or is being threatened.

(g) To the knowledge of the Borrower, no Regulated Chemical has been (i) transported from the Mortgaged Property in violation of any Environmental Law, or (ii) generated, treated, stored or disposed of at, on or under any Mortgaged Property, in a manner that could reasonably be expected to give rise to liability under any Environmental Law. The Borrower has not retained or assumed any liability, contractually, by operation of law or otherwise, with respect to the generation, treatment, storage or disposal of any Regulated Chemical, other than in a standard heating oil or similar contract. The Borrower does not own or operate any underground storage tank that is not properly permitted and in compliance with applicable Environmental Laws, or that is experiencing or has ever experienced a material Release of Regulated Chemical.

**Section 2.13. Related Party Transactions.** Except as set forth on Exhibit B, none of the Borrower, the Parent or the Sponsor has entered into any agreement (whether written or oral) with a director, trustee, officer or member of the Borrower, the Parent, the Sponsor or any other Affiliate in excess of \$50,000 in the aggregate (each a "Related Party Agreement").

**Section 2.14. Survival.** The Borrower's representations and warranties contained herein (i) shall remain operative and in full force and effect regardless of the issuance of the Bonds, and (ii) are made as of the date of this Agreement and as of the date of each delivery of the Bonds and shall survive the issuance of the Bonds.

**ARTICLE III**  
**PAYMENT OBLIGATIONS; SECURITY**

*Section 3.1. Payment Obligations.*

(a) *General.* The Borrower shall make all payments required by the Loan Agreement and the Indenture as and when they become due and shall promptly pay all other amounts necessary to enable the Trustee to make the transfers required by Article VI of the Indenture. To provide for the repayment of the loan under the Loan Agreement and the deposits required to be made to the funds and accounts created by the Indenture, the Borrower agrees to pay to the Trustee in immediately available funds the following amounts on the following dates:

(i) on or before the 1<sup>st</sup> day of each month from May 1, 2022 to September 1, 2022, one-fifth (1/5) of the interest due on the Bonds on October 1, 2022, and on or before October 1, 2022 and the 1<sup>st</sup> day of each month thereafter, one-sixth (1/6) of the interest becoming due on the Bonds on the next succeeding Interest Payment Date or such lesser or greater amount as shall be required to make the amount on deposit in the Interest Account equal to the interest due on such Bonds on such Interest Payment Date, less any amount on deposit in the Tax-Exempt Senior Capitalized Interest Account available for transfer to the Interest Account and any earnings then on deposit in the Interest Account, *provided* however, that during the period from the Closing Date to the date of the final Advance for which there are available funds for each Advance during such period to fund a deposit to the Tax-Exempt Senior Capitalized Interest Account, the Borrower shall not be required to make any monthly interest payment required under this Section 3.1(a)(i) so long as each such Advance scheduled to be made immediately prior to an Interest Payment Date includes a deposit to the Tax-Exempt Senior Capitalized Interest Account in an amount sufficient to pay the interest due on the Bonds on such Interest Payment Date; and

(ii) with respect to clause (i), if at any time between Interest Payment Dates, an Advance shall occur pursuant to the provisions of Section 202(c) of the Indenture, the Trustee shall, after such Advance, re-calculate the amount due as of the first day of each calendar month from the date of the Advance to and including the immediately succeeding Interest Payment Date, taking into account the additional interest accruing on the then Outstanding Bonds from the date of the Advance to such Interest Payment Date and shall give notice to the Borrower and the Bondholder Representative of such revised amount by Electronic Means and the Borrower shall, until such Interest Payment Date, pay such revised amount; and

(iii) on or before the first day of each month, commencing March 1, 2026, an amount equal to 1/12<sup>th</sup> of the principal payable and any amount required to effect any mandatory sinking fund redemption of Outstanding Bonds on the next succeeding principal payment date or such lesser or greater amount as shall be required to make the amount on deposit in the Principal Account equal to the principal of and the amount required to redeem any Outstanding Bonds subject to mandatory sinking fund redemption on such date; and

(iv) within 30 days of the occurrence of an Event of Default, and on or before the Debt Service Reserve Fund Funding Date, for deposit to the Debt Service Reserve Fund an

amount necessary so that the amount in the Debt Service Reserve Fund is equal to the Debt Service Reserve Fund Requirement; and

(v) on or before the 1<sup>st</sup> day of each month during any period in which the amount on deposit in the Debt Service Reserve Fund is less than the Debt Service Reserve Fund Requirement, (A) if such deficiency results from a withdrawal from the Debt Service Reserve Fund, an amount equal to one-twelfth (1/12) of the amount of such deficiency until the amount on deposit in the Debt Service Reserve Fund is at least equal to the Debt Service Reserve Fund Requirement or (B) if such deficiency results from a decline in value of the assets on deposit in the Debt Service Reserve Fund, an amount equal to the amount of the deficiency so that the amount on deposit in such account in Debt Service Reserve Fund equals the Debt Service Reserve Fund Requirement within 30 days of the date of such valuation;

(vi) to the extent permitted by Law and until such time as the Entrance Fee and Deposit Fund is closed in accordance with the terms of the Indenture, on or before the 1<sup>st</sup> day of each month, 100% of Entrance Fees received from the residents of each Unit to the Trustee for deposit in the Entrance Fee and Deposit Fund to be applied in accordance with Section 6.10 of the Indenture;

(vii) on or before the 1<sup>st</sup> day of each month, an amount equal to the amount obtained by dividing the real estate taxes, special assessments or similar charges (collectively, "Taxes"), if any, and insurance premiums due on the next succeeding date on which any Taxes or insurance premiums become due by the number of whole months between the payment date and the due date for the payment of such Taxes or insurance premiums, less any earnings then on deposit in the Tax Escrow Fund; and

(viii) on the 15<sup>th</sup> day of each month during any period in which the amount on deposit in the Repair and Replacement Fund is less than the Repair and Replacement Fund Requirement, (A) if such deficiency results from a withdrawal from the Repair and Replacement Fund, one-twelfth (1/12) of the amount so withdrawn (*provided* that, if an additional withdrawal is made from the Repair and Replacement Fund prior to the restoration of the initial amount withdrawn, such additional withdrawal shall be restored by the Borrower in equal monthly installments over the remainder of the restoration period for the initial withdrawal), until the amount deposited therein equals the Repair and Replacement Fund Requirement, and (B) if such deficiency results from a decline in value of the assets on deposit in the Repair and Replacement Fund, an amount equal to the amount of the deficiency so that the amount on deposit in such account in Repair and Replacement Fund equals the Repair and Replacement Requirement within 30 days of the date of such valuation.

(b) *Additional Payments.* In addition, the Borrower shall pay the following amounts (collectively, the "Additional Payments") as and when the same become due:

(i) (A) to the Bondholder Representative on or before each date on which Bonds are delivered in accordance with Section 2.02(d) of the Indenture, a fee in the amount equal to 0.20% (20 basis points) times the aggregate principal amount of the Bonds delivered on such date (which amount shall be paid to the Bondholder Representative by the Trustee); (B) to HCA

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on or before each date on which Bonds are delivered in accordance with Section 2.02(d) of the Indenture, a fee in the amount equal to 0.60% (60 basis points) times the aggregate principal amount of the Bonds delivered on such date (which amount shall be withheld from the proceeds of such Bonds and paid to HCA by the Trustee); (C) to the Bondholder Representative, upon receipt of invoices therefor, the reasonable expenses of the Bondholder Representative for ongoing monitoring of the loan of the proceeds of the Bonds; (D) to HCA, upon receipt of invoices therefor, the reasonable expenses of HCA for ongoing services performed with respect to the Bonds; and (E) to or on the order of the Bondholder Representative, the reasonable fees and expenses of the Bondholder Representative's counsel in connection with the Bonds from time to time;

(ii) to the Trustee the fees and charges of the Trustee incurred in connection with the rendering of its ordinary and extraordinary services as Trustee under the Indenture, the Loan Agreement and this Agreement as and when the same become due, including the reasonable fees and expenses of its counsel;

(iii) any rebates or payment in lieu thereof required to be paid under Section 148 of the Code in accordance with Section 4.7 of the Loan Agreement;

(iv) if an Event of Default shall have occurred, all costs and expenses of the Bondholder Representative and the Trustee (including reasonable out-of-pocket expenses for counsel) in connection with the enforcement (whether by means of legal proceedings or otherwise) of any of its rights under this Agreement, the other Related Documents and such other documents as may be delivered in connection therewith;

(v) all costs and expenses of the Bondholder Representative, the Trustee and HCA (including reasonable out-of-pocket expenses for counsel) in connection with each amendment of this Agreement or any other Related Document and each consent by the Bondholder Representative or waiver by the Bondholder Representative under any Related Document;

(vi) to the Construction Monitor, the fees and charges of the Construction Monitor incurred in connection with rendering of its services under the Indenture and the Construction Monitor Agreement, as and when the same become due and in accordance with the Construction Monitor Agreement; and

(vii) any amounts advanced by or on behalf of the Trustee or the Bondholder Representative to the extent required to cure any Default, Event of Default or event of nonperformance hereunder or under any other Related Document, together with interest at the Default Rate.

(c) *Excess Interest.*

(i) If the amount of interest payable for any period in accordance with the terms hereof or the Loan Agreement or the Bonds exceeds the amount of interest that would be payable on any Bond for such period had interest for such period been calculated at the Maximum Interest

Rate, then interest for such period shall be payable in an amount calculated at the Maximum Interest Rate. The excess, if any, of the interest that would have been due and payable on any Bond for any period but for the operation of this paragraph shall constitute the "Excess Interest Amount" with respect to such Bond and shall accrue and be payable as provided in this subsection. If, as of any date, there exists any accrued and unpaid Excess Interest Amount, then the principal amount with respect to which interest is payable hereunder shall bear interest at the Maximum Interest Rate until payment to the holder of each Bond of the entire Excess Interest Amount with respect to such Bond.

(ii) Notwithstanding the foregoing and to the extent permitted by Law, on the date on which no principal amount with respect to the Bonds remains unpaid, the Borrower shall pay to the holder a fee equal to any accrued and unpaid Excess Interest Amount due with respect to the Bonds.

(d) *Determination of Taxability.* (i) If a Determination of Taxability occurs with respect to any Bond and the Bondholder Representative waives the mandatory prepayment of such Bonds in accordance with Section 3.3(a), then such Bonds shall remain outstanding and shall bear interest at the Taxable Rate and, in such event, the Borrower hereby agrees to pay to each Bondholder on demand therefor (A) an amount equal to the difference between (1) the amount of interest that would have been paid to such Bondholder on such Bond during the period for which interest on such Bond is included in the gross income of such Bondholder if the Bonds had borne interest at the Taxable Rate (the "Taxable Period"), and (2) the amount of interest actually paid to the Bondholder during the Taxable Period, and (B) an amount equal to any interest, penalties or charges owed by such Bondholder as a result of interest on the Bonds being included in the gross income of such Bondholder, together with any and all attorneys' fees, court costs, or other out-of-pocket costs incurred by such Bondholder in connection therewith. The obligations of the Borrower under this subsection shall survive the termination of this Agreement, the termination of any of the other Related Documents, and the redemption or other payment in full of the Bonds.

(e) *Working Capital Fund.* Amounts on deposit in the Working Capital Fund shall be disbursed from time to time to the Borrower to pay operating expenses of the Project upon the submission to the Trustee of requisitions signed by an Authorized Representative of the Borrower and approved by the Bondholder Representative. Each such requisition shall include a certification that as of the date thereof, no Default or Event of Default hereunder or under the other Related Documents has occurred and is continuing. Notwithstanding the foregoing, (i) without the prior written consent of the Bondholder Representative, no disbursements from the Working Capital Fund shall be made until a certificate of occupancy for the Project has been issued and (ii) amounts on deposit in the Working Capital Fund may be used to pay costs of the Project prior to the issuance of a certificate of occupancy with the prior written consent of the Bondholder Representative.

(f) *Repair and Replacement Fund.* Amounts on deposit in the Repair and Replacement Fund shall be disbursed from time to time to the Borrower to pay capital expenditures of the Borrower upon the submission to the Trustee of requisitions signed by an Authorized Representative of the Borrower and upon approval of the capital expenditures described in any such requisition by the Bondholder Representative. Each such requisition shall include a certification that as of the date thereof, no Default or Event of Default hereunder or under the other

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Related Documents has occurred and is continuing. Following any withdrawal from the Repair and Replacement Fund, the Repair and Replacement Fund shall be replenished in accordance with Section 3.1(a)(viii).

### Section 3.2. *Obligations Absolute.*

(a) The obligation of the Borrower to make the payments required under the Related Documents shall be absolute and unconditional. Until such time as the principal of, premium, if any, and interest on the Bonds shall have been fully paid or provision for the payment thereof shall have been made in accordance with the Indenture and all other amounts due hereunder and under the other Related Documents shall have been paid, the Borrower (i) shall perform and observe all of its agreements contained in this Agreement and the other Related Documents and (ii) shall pay without abatement, diminution or deduction (whether for taxes or otherwise) all amounts required to be paid hereunder and under the other Related Documents, regardless of any cause or circumstance whatsoever, including (without limitation): any defense, set off, recoupment or counterclaim which the Borrower may have or assert against the Issuer, the Bondholder Representative, the Trustee or any other Person; any failure of the Issuer to perform any covenant or agreement contained herein or in any other agreement between the Issuer and the Borrower; any indebtedness or liability at any time owing to the Borrower by the Issuer, the Bondholder Representative, the Trustee or any other Person; any acts or circumstances that may constitute failure of consideration; damage to or condemnation of the Mortgaged Property; failure or delay in completion of the Project; eviction by paramount title; commercial frustration of purpose; bankruptcy or insolvency of the Issuer or the Trustee; any change in the tax or other laws of the United States of America or of the State or any political subdivision of either; foreclosure of the Mortgage; or any failure of the Issuer, the Bondholder Representative or the Trustee to perform and observe any agreement, whether express or implied, or any duty, liability or obligation, arising out of or connected with this Agreement or the other Related Documents.

(b) The Borrower hereby waives, to the extent permitted by Law, any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate or cancel, or to limit its liability under, this Agreement or the other Related Documents except in accordance with the express terms hereof.

### Section 3.3. *Mandatory Redemption of Bonds.*

(a) In the event of a Determination of Taxability with respect to any Bonds, the Borrower shall forthwith, and in any event within 45 days after any such Determination of Taxability, pay to the Trustee an amount equal to the principal amount of the outstanding Bonds and accrued interest thereon to the date on which such Bonds are redeemed, plus a premium equal to five percent (5%) of the outstanding principal amount of the Bonds for deposit in the Redemption Account, *provided*, that if the Borrower delivers to the Trustee and the Bondholder Representative the opinion of Bond Counsel to the effect that interest on such Bonds will not be includable in the gross income of the owners thereof if less than all of such Bonds are redeemed, then the Borrower shall pay the amount necessary to redeem the amount of Bonds required to be redeemed in order to preserve the tax-exempt status of such Bonds remaining outstanding as set forth in such opinion. The Borrower agrees to take all action required to cause the requisite amount of such Bonds to be redeemed on the earliest practicable date. Notwithstanding the foregoing, the

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(b) The Borrower at all times will subject all of its Property to a first priority, perfected lien with respect to (subject in each case to Permitted Encumbrances) in favor of the Trustee pursuant to the terms and conditions of this Agreement, the Mortgage and the Assignment and shall execute, acknowledge and deliver such further conveyances, transfers, assurances, financing statements and other instruments, in form and substance satisfactory to the Bondholder Representative in its discretion, as the Bondholder Representative or the Trustee shall reasonably request for better assuring, conveying, granting, assigning and confirming any rights, liens on and security interests in the Collateral including Gross Revenues, the Mortgaged Property and other Property on which a lien or security interest is granted, or intended to be, or that the Borrower may hereafter become bound to mortgage, pledge or assign. The Borrower shall adhere to the covenants regarding the location or existence of the Borrower's personal and real Property as set forth herein and in the other Related Documents.

(c) If subsequent to the Closing Date, the Borrower shall (i) acquire any securities, instruments, chattel paper or other personal Property not theretofore pledged to the Trustee as Collateral under the Related Documents, or (ii) acquire or lease any real Property not theretofore subject to the Mortgage, the Borrower shall promptly notify the Bondholder Representative thereof. The Borrower shall promptly (but in no event later than 30 days following the acquisition of such Property, subject to the provisions of this Agreement or any other Related Document requiring prior or more immediate action or notice with respect thereto), take such action at its own expense as shall be determined by the Bondholder Representative to be necessary or advisable to ensure that the Trustee has a first priority perfected lien to secure the Obligations in all Property of the Borrower, subject in each case only to Permitted Encumbrances, and shall execute a landlord waiver for leased Real Property in form and substance acceptable to the Trustee and the Bondholder Representative. Such action shall include delivery by or on behalf of the Borrower of (A) such Related Documents or supplements thereto as are necessary for the Borrower to comply with this Section, and (B) such other documentation as the Trustee or the Bondholder Representative may reasonably request in connection with the foregoing, including certified resolutions and documents evidencing the authority of the Borrower to execute and deliver such documents and instruments and favorable opinions of counsel to the Borrower (which shall cover, among other things, the legality, validity, binding effect and enforceability of such documentation), all in form, content and scope reasonably satisfactory to the Bondholder Representative.

(d) The Borrower will, to the extent required by Law, cause this Agreement, the Mortgage and all supplements hereto and thereto, together with all related UCC financing statements or other instruments, to be kept, recorded and filed in such manner and in such places as may be required by Law in order to create, perfect, preserve and protect fully the security of the Bondholders in the Gross Revenues, the Mortgaged Property and any other Collateral provided by or on behalf of the Borrower and the rights granted the Trustee for the benefit of the Bondholders.

(e) The Borrower hereby authorizes the Trustee (provided the Trustee shall have no obligation) at any time and from time to time, at the Borrower's expense, to file or cause to be filed in any appropriate filing office any initial financing statements and amendments thereto and continuations thereof covering any Collateral provided by the Borrower under the Related Documents. For the avoidance of doubt, in no event shall the Trustee be required to file any initial financings statement. The Borrower shall not file any amendments, correction statements or termination statements concerning any Collateral without the prior written consent of the

Bondholder Representative may waive the requirement that the Bonds be redeemed upon a Determination of Taxability by written notice to the Borrower and the Trustee, in which event the Bonds shall bear interest at the Taxable Rate during the Taxable Period in accordance with Section 3.1(d).

(b) The Borrower shall take all action required to cause Bonds to be redeemed in an amount equal to the amount of the Net Proceeds and other amounts required to be paid to the Trustee in accordance with Section 4.18.

(c) In the event that any amounts remain in the Tax-Exempt Senior Construction Account of the Project Fund after the Completion Date, the balance of any money remaining in such account in excess of the amounts (i) to be reserved for payment of unpaid Costs of the Project (including, without limitation, eligible capitalized interest payable from the Bonds) or (ii) transferred to the Debt Service Reserve Fund in accordance with the Indenture shall be used to redeem the Bonds in an amount equal to such excess. In such event, the Bonds shall be redeemed at par plus accrued interest to, but not including, the redemption date and redemption shall be effected pursuant to the provisions of, in the manner, and with the effect provided in the Indenture. The Borrower agrees to take all action required to cause the requisite amount of such Bonds to be redeemed on the earliest practicable date in accordance with the Indenture.

(d) The Borrower shall, to the extent permitted by Law and until such time as the Entrance Fee and Deposit Fund is closed in accordance with the terms of the Indenture, pay 100% of Entrance Fees received from the residents of each Unit to the Trustee for deposit in the Entrance Fee and Deposit Fund created under the Indenture, a portion of which shall be used to redeem the Bonds, pursuant to Section 3.01(e) of the Indenture.

(e) The Borrower shall pay the amounts required by Section 3.01(f) of the Indenture to the Trustee for deposit in the Redemption Account of the Tax-Exempt Senior Bond Fund, which shall be used to redeem the Series 2022B Bonds pursuant to Section 3.01(f) of the Indenture.

### Section 3.4. *Security.*

(a) As security for the performance by the Borrower of its obligations hereunder, the Borrower hereby grants to the Trustee a lien on and security interest in, all of its now owned and hereafter acquired, created or arising Collateral, including (without limitation) the Gross Revenues, subject to no Liens or encumbrances, except Permitted Encumbrances, in each case regardless of where such Collateral may be located and whether such Collateral may be in possession of the Borrower, the Trustee or a third party or if any of such Collateral may be held or stored with any third party. Without limiting the generality of the foregoing, until such time as all amounts Outstanding under the Bonds have been indefeasibly paid in full, the lien and security interest granted hereunder shall continuously apply to the Collateral, including (without limitation) all rights to receive Gross Revenues, and the proceeds of the other Collateral. In addition to the rights and remedies granted to the Trustee herein and in the other Related Documents, the Trustee shall have all of the rights and remedies of a secured party under the UCC with respect to all of the Collateral.

Bondholder Representative. The Borrower authorizes the Trustee to request other secured parties of the Borrower to provide accountings, continuations of collateral and confirmations of statements of account concerning the Borrower. As long as any Bonds remain outstanding, and not thereafter, the Borrower hereby designates and appoints the Trustee and its designees as attorneys-in-fact of the Borrower, irrevocably and with power of substitution, with authority to endorse its name on requests to other secured parties of the Borrower for accountings, confirmations of collateral and confirmations of statements of account made pursuant to Section 7-210 of the UCC. The Borrower will pay or cause to be paid all filing fees incident to such filing and all expenses incident to the preparation, execution and acknowledgment of any instruments of further assurance, and all federal or state fees and other similar fees, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of such instruments of further assurance.

(f) The Borrower shall ensure that the Collateral in each deposit account, each brokerage account and each investment account of the Borrower at all times shall be subject to a Control Agreement in form satisfactory to the Bondholder Representative, to the extent permitted by Law. Under all such Control Agreements, the Borrower will maintain control of its account until such time as an Event of Default has occurred. The Trustee will not give any notices of exclusive control under the terms of such Control Agreements to the financial institutions where such Borrower accounts are held unless and until an Event of Default has occurred.

## ARTICLE IV

### AFFIRMATIVE COVENANTS

The Borrower hereby covenants and agrees that until all of the Bonds and all other amounts payable hereunder and under the Loan Agreement have been fully paid and performed (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted or amounts related to the Subordinate Bonds), unless the Bondholder Representative shall otherwise consent in writing, the Borrower shall comply with the provisions of this Article IV.

#### Section 4.1. *Preservation of Corporate Existence, Etc.*

(a) The Borrower will do or cause to be done all things necessary to preserve and maintain its legal existence, and all rights, privileges and franchises necessary and desirable in the conduct of its business (including its right to do business in each jurisdiction in which the Borrower conducts business), and in the performance of its obligations under the Related Documents and will not dissolve or otherwise discontinue its existence or operations.

(b) The Borrower will do or cause to be done all things necessary to: (i) obtain, preserve, renew, extend and keep in full force and effect the Governmental Approvals and intellectual property material to the conduct of the Borrower's business; and (ii) use its best efforts, in the ordinary course of business, to preserve the goodwill and business of the customers, suppliers and others having material business relations with it.

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*Section 4.2. Performance and Compliance with Other Covenants.* The Borrower shall perform and comply with the covenants binding on the Borrower set forth in the other Related Documents in accordance with the terms of this Agreement and the other Related Documents;

*Section 4.3. Books and Records; Reports; Communications.* The Borrower shall keep accurate records and books of account in accordance with GAAP, consistently applied.

(a) The Borrower will provide each of the following to the Trustee, the Bondholder Representative and, upon its request, the Underwriter, each in form and substance satisfactory to the Bondholder Representative:

(i) within 120 days after the last day of each Fiscal Year, beginning with the Fiscal Year ending December 31, 2022, (A) the annual stand-alone financial statements of the Borrower, prepared in accordance with GAAP, which shall be accompanied by an unqualified report of an independent certified public accountant reasonably acceptable to the Bondholder Representative and (B) any letter to management or the Governing Body from such independent certified public accountant;

(ii) within 45 days after the last day of each Fiscal Quarter beginning with the Fiscal Quarter ending June 30, 2022 (A) unaudited interim stand-alone financial statements of the Borrower for the Fiscal Quarter ending on such date and for the period from the beginning of the then-current Fiscal Year to the last day of such Fiscal Quarter, together with comparative information for the same periods in the immediately preceding Fiscal Year, (B) a certificate of the Executive Director of the Borrower in the form set forth in [Exhibit A](#) (1) setting forth (I) the Debt Service Coverage Ratio for the 12-month period ended on the last day of such Fiscal Quarter, (II) the Days' Cash on Hand as of the last day of such Fiscal Quarter (*provided*, however, that, to the extent that the last day of such Fiscal Quarter is not a Liquidity Testing Date, such calculation is delivered solely for informational purposes and not for determining compliance with the Liquidity Requirement), and (III) once a certificate of occupancy has been issued for the Project, the total number of Units that constituted Occupied Units (broken down by Independent Living Unit, Assisted Living Unit and Memory Care Unit) as of the last day of such Fiscal Quarter and (2) including a statement to the effect that, to the best of such officer's knowledge (I) such financial statements fairly present, in all material respects, the financial position and results of operations of the Borrower as of the date and for the period covered by such Financial Statements, subject to year-end adjustments and (II) no Event of Default or Default under any Related Document has occurred and is continuing or, if any such Event of Default or Default has occurred, stating the nature thereof and the steps the Borrower intends to take to cure such default;

(iii) within 30 days after the last day of each Fiscal Quarter, a summary of all monthly statements pertaining to the Borrower's and the Sponsor's bank and other investment accounts;

(iv) within 30 days after the last day of each month prior to the Borrower obtaining a certificate of occupancy for the Project, pre-sale statistics with respect to the Facilities and an update on marketing activities (which may be provided by electronic mail);

(v) within 30 days after the last day of each month, a written report of (A) refunds due but not yet paid with respect to the Facilities and (B) Unit upgrades paid for by residents at the Facilities;

(vi) until the Stabilization Date, at least once in each week, summary occupancy statistics with respect to the Facilities as described in Section 4.15(a) hereof (which may be provided by electronic mail);

(vii) after the Stabilization Date, within 30 days after the last day of each Fiscal Quarter, monthly summary occupancy statistics with respect to the Facilities (which may be provided by electronic mail);

(viii) within 15 days after the last day of each month during any period in which a Default or Event of Default under this Agreement or any of the other Related Documents will have occurred and be continuing or the Occupancy Requirement is not satisfied, (A) unaudited interim financial statements of the Borrower for such month and for the period from the beginning of the then-current Fiscal Year to the last day of such month, and (B) a certificate of the Debt Service Coverage of the Borrower setting forth the Debt Service Coverage Ratio and the Days' Cash on Hand as of the last day of such month and including a statement to the effect that, to the best of such officer's knowledge, such financial statements fairly set forth the financial position and results of operations of the Borrower as of the date and for the period covered by such financial statements, subject to year-end adjustments;

(ix) as soon as practicable, and in any event (A) not later than 30 days prior to commencement of each Fiscal Year and prior to adoption thereof by the Governing Body, a copy of the Borrower's annual operating and capital budgets (detailed on a month to month basis) for such Fiscal Year, and (B) a copy of any amendment of the capital or operating budget, at least ten days prior to the Governing Body's adoption thereof;

(x) annually a report on real estate market characteristics;

(xi) promptly, and in any event within 10 days after (i) any change in membership of the members of the Governing Body of the Borrower, the Parent, or the Sponsor, a list of the current make-up of such Governing Body or (ii) a change in the chief executive officer, president, executive director or chief financial officer of the Borrower, the Parent, or the Sponsor, a notice of such change;

(xii) within 10 days of receipt or completion, copies of any material healthcare survey and any state inspection results applicable to the Borrower;

(xiii) as soon as possible and in any event within five days after the Borrower knows or has reason to know of the occurrence of any Event of Default, Default or other noncompliance with any of the Related Documents, an Officer's Certificate setting forth details of such Event of Default, Default or noncompliance, describing in detail any and all clauses or provisions of this Agreement and the other Related Documents that have been breached or violated and the action that the Borrower proposes to take with respect thereto;

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(xiv) as soon as possible and in any event within five days after the Borrower knows or has reason to know of the occurrence of any event or the existence of any circumstance or series of events or circumstances that would reasonably be expected to have a Material Adverse Effect (including but not limited to the Borrower terminating any sales or marketing agreement or its sales office), an Officer's Certificate setting forth details of such event or circumstance, the possible results thereof and the action that the Borrower proposes to take with respect thereto;

(xv) promptly, and in any event within 10 days after the filing or commencement of, or any written threat or notice of intention of any Person to file or commence any action, suit or proceeding, whether at law or in equity or by or before any Governmental Authority, by or against the Borrower or otherwise affecting the Borrower, and any judgments entered against the Borrower, written notice thereof;

(xvi) promptly, and in any event within 10 days after receipt thereof, copies of any notices received by the Borrower that indicate that any Governmental Approval necessary for the operation of the Facilities may be suspended or withdrawn;

(xvii) promptly, and in any event by the time the next financial statements are delivered hereunder, written notice of any material change in the accounting policies or financial reporting practices by the Borrower (including a change in fiscal year);

(xviii) as soon as possible, and in any event within 10 days after the Borrower or any member of the ERISA Group knows or has reason to know thereof, written notice of any ERISA Event that alone or together with any other ERISA Event would reasonably be expected to result in liability of the Borrower or such ERISA Affiliate in respect of any employee benefit plan as defined in Section 3(3) of ERISA in an aggregate amount exceeding \$150,000, together with a statement of the Executive Director of the Borrower setting forth details as to such ERISA Event and the action, if any, that the Borrower proposes to take with respect thereto;

(xix) as soon as possible, and in any event within 10 days after the Borrower knows or has reason to know thereof, written notice of any of the following that would reasonably be expected to result in liability or loss to the Borrower, either individually or in the aggregate, in excess of \$150,000: (A) any enforcement, cleanup, removal or other regulatory action instituted, completed or threatened by any Governmental Authority against the Borrower, any of its Property or the Mortgaged Property pursuant to any applicable Environmental Law; (B) any other environmental claim; and (C) any environmental or similar condition on any real property adjoining any Mortgaged Property that would reasonably be anticipated to cause the Mortgaged Property or any part thereof to be subject to any material restrictions on the ownership, occupancy, transferability or use of such Mortgaged Property under any Environmental Laws;

(xx) promptly upon completion of the Project (including receipt of all necessary certificate(s) of occupancy for the Project), the Borrower shall deliver a Completion Certificate to the Trustee and the Bondholder Representative;

(xxi) within 10 days of receipt thereof, copies of all certificates(s) of occupancy for the Project;

(xxii) within 30 days after the Stabilization Date, notice that the Stabilization Date has occurred; and

(xxiii) such other information regarding the operations, business affairs and financial condition of the Borrower and compliance by the Borrower with the terms of the Related Documents as the Trustee or the Bondholder Representative may from time to time request.

(b) Upon their written request of the Bondholder Representative (such request being hereby acknowledged by the Borrower), the Borrower agrees to conduct an investor call twice each calendar month with the Bondholder Representative or its designee, on behalf of holders of Hamlin Investor Bonds, and any other current holders of the outstanding Bonds, the access to such call to be provided by the Borrower, regarding pre-sale statistics, marketing activity, construction, occupancy and such other matters as the Bondholder Representative shall request.

(c) The Borrower semi-annually shall conduct a conference call with the Bondholder Representative or host a site visit with the Bondholder Representative and otherwise will permit any representatives designated by the Bondholder Representative to inspect the financial records and Property of the Borrower upon reasonable advance notice during normal business hours and as often as reasonably requested and to make extracts from and copies of such financial records at the expense of the Borrower, and permit any representatives, accountants and advisors designated by the Bondholder Representative to discuss the affairs, finances and operations of the Borrower with the officers thereof and independent accountants therefor.

(d) The Borrower shall provide written notice to its Governing Body of the occurrence of any event or circumstance described in clauses (xiii)-(xix) of subsection (a) of this Section at or before the time such notice is required to be provided to the Trustee and the Bondholder Representative.

(e) The Borrower agrees to cause a copy of each item delivered to the Bondholder Representative pursuant to clauses (ii), (iv)-(viii), and (xiii)-(xix) of subsection (a) of this Section to be delivered to the Repository contemporaneously with the delivery thereof to the Bondholder Representative.

(f) During any period in which a Default or Event of Default under this Agreement or any of the other Related Documents shall have occurred and be continuing, the Borrower shall deliver the items required under clauses (ii)-(v) and (vii) of subsection (a) of this Section to be delivered to the Bondholder Representative on a monthly basis, within 15 days after the last day of each month.

(g) The Trustee shall not have a duty to review and shall not be responsible for the contents of any reports, consents, statements, or other documents delivered to it hereunder, and shall hold the same solely as repository for the benefit of the Bondholders.

#### *Section 4.4. Insurance.*

(a) The Borrower shall maintain, or cause to be maintained on its behalf, at its cost and expense, the following insurance:

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(i) insurance against loss or damage to the Mortgaged Property under a policy covering such risks as are ordinarily insured against by similar businesses, including (without limitation) builder's risk during construction, windstorm, fire and extended coverage in an amount not less than the full insurable replacement value of the Mortgaged Property, which shall mean the actual replacement cost of the Mortgaged Property (excluding foundation and excavation costs and costs of underground flues, pipes, drains and other uninsurable items) and equipment, such value to be determined, at the expense of the Borrower, every year by an Insurance Consultant or an insurer selected by the Borrower, with the approval of the Bondholder Representative;

(ii) comprehensive general public liability insurance, including personal injury liability, and automobile insurance, including owned, non-owned and hired automobiles, against liability for injuries to persons or property, in the minimum amount for each occurrence and for each year of \$2,000,000 and, to the extent the Borrower provides any health care services, medical and professional liability insurance in amounts estimated to fully indemnify the Borrower against the estimated loss or damage, in each case endorsed to show the Trustee as additional insured;

(iii) business interruption insurance covering actual losses in gross operating earnings of the Borrower resulting directly from necessary interruption of business caused by damage to or destruction (resulting from fire and lightning, accident to a fired pressure vessel or machinery or other perils, including, without limitation, windstorm and hail, explosion, civil commotion, aircraft and vehicles, sprinkler leakage, smoke, vandalism and malicious mischief and accident, to real or personal property constituting part of the Mortgaged Property, less charges and expenses which do not necessarily continue during the interruption of business, for such length of time as may be required with the exercise of due diligence and dispatch to rebuild, repair or replace such properties as have been damaged or destroyed and in any case for at least the sum of 12 months' operating expenses, plus the maximum amount of the principal of and interest on the outstanding Bonds becoming due in the current or any future Fiscal Year; and

(iv) such other insurance, including workers' compensation insurance respecting all employees of the Borrower, fidelity insurance respecting employees of the Borrower handling the Borrower's money and directors' and officers' liability insurance, in such amount as is customarily carried by like organizations engaged in like activities of comparable size and liability exposure.

All insurance required in this Section shall be provided by financially sound and reputable insurance companies selected by the Borrower that are authorized under the laws of the State of New Hampshire or assume the risks covered thereby. No policy of insurance shall be so written that the proceeds thereof will produce less than the minimum coverage required above, by reason of co-insurance provisions or otherwise, without the prior written consent of the Bondholder Representative. All policies evidencing insurance required by clause (a)(i) above with respect to the Mortgaged Property shall be carried in the names of the Borrower and the Trustee as their respective interests may appear, shall contain standard mortgagee clauses reasonably acceptable to the Bondholder Representative, specifically naming the Trustee as mortgagee, shall provide that the insurer shall give at least 30 days' notice in writing to the Borrower and the Trustee of cancellation, termination or modification of such policy and shall provide that the Trustee shall have sole right to receive the proceeds of such policy. The Borrower shall give at least 10 days' notice in writing to the Bondholder Representative and the Trustee of cancellation, termination or

modification of any policy. The Borrower will deposit annually with the Trustee and the Bondholder Representative policies evidencing all such insurance, or certificates or binders of the respective insurers stating that such insurance is in force and effect. Not less than 30 days prior to the expiration of any policy, the Borrower shall furnish the Trustee and the Bondholder Representative evidence satisfactory to the Bondholder Representative that the policy has been renewed or replaced by another policy conforming to the provisions of this Section, or that there is no necessity therefor under the terms hereof. In lieu of separate policies, the Borrower may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein, in which event the Borrower shall deposit with the Trustee and the Bondholder Representative certificates of the respective insurers as to the amount of coverage provided thereby.

(b) The Borrower shall retain at its own expense an Insurance Consultant each Fiscal Year to determine and recommend the type of insurance required for the Facilities and the required coverage. To the extent commercially available, the Borrower covenants to purchase such insurance recommended by such Insurance Consultant and make the necessary deposits so that the premiums are timely paid.

(c) With the Bondholder Representative's prior written consent, the Borrower may satisfy the requirements of clauses (a)(ii) and (a)(iv) of this Section by establishing and maintaining a self-insurance plan, including (without limitation) by utilizing an insurance company or association controlled by the Borrower (either singly or with other persons) or a risk retention group, protecting the Borrower against the risks required to be insured against by such paragraphs. Such plan shall provide for (i) establishment of a segregated fund of cash or marketable securities for the defense and payment of claims arising from such risks, (ii) funding of such fund in initial and subsequent amounts determined annually by an independent actuary employing accepted actuarial techniques customarily employed by the casualty insurance industry, such actuarial determination to be submitted to the Trustee and the Bondholder Representative within 60 days from the end of each plan year, (iii) annual reporting to the Bondholder Representative and the Trustee of the current fund balance of such fund as of the end of each plan year and an evaluation of the aggregate potential effect on the fund balance of claims asserted and pending that would ultimately be payable from such fund, such reports to be submitted within 60 days after the end of each plan year, (iv) establishment and operation of a claims processing and risk management program, and (v) adequate reserves for, or insurance coverage protecting the Borrower against, any potential retained liability with respect to the period during which such plan was in effect upon termination of such plan. In connection with any such plan, the Borrower shall furnish to the Bondholder Representative and the Trustee, annually within 60 days after the end of each plan year, a report from an independent actuary to the effect that the plan is maintaining adequate reserves and has been adequately funded.

*Section 4.5. Taxes.* The Borrower will pay and discharge when due all taxes, assessments and governmental charges or levies imposed upon it or upon its income or profits or in respect of its Property, before the same shall become delinquent or in default, as well as all lawful claims for labor, materials and supplies or otherwise that, if unpaid, would give rise to a Lien upon such Property or any part thereof (other than Permitted Encumbrances), *provided, however,* that such payment and discharge shall not be required with respect to any such tax, assessment, charge, levy or claim so long as the Borrower, at its expense, in good faith, shall contest the validity or amount

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thereof, no Lien has attached with respect thereto and the Borrower shall have set aside on its books adequate reserves with respect thereto in accordance with GAAP and such contest operates to suspend such Lien, unless the Trustee or the Bondholder Representative shall notify the Borrower that, by nonpayment thereof, the Mortgaged Property or any part thereof, or the revenue therefrom, will be subject to loss or forfeiture, in which event such taxes, assessments, charges, levies or claims shall be paid promptly.

#### *Section 4.6. Maintenance of 501(c)(3) Status, Accreditations, Etc.*

(a) The Borrower shall take or cause to be taken all action necessary to maintain its status as an organization described in Section 501(c)(3) of the Code. The Borrower shall give prompt written notice to the Trustee and the Bondholder Representative of any loss of such status or of any investigation, proceeding or ruling that might result in such loss of status.

(b) The Borrower shall maintain its licensing required by applicable Law in order to conduct its business as now being conducted, including its certification for participation in the Medicare and Medicaid programs.

*Section 4.7. ERISA.* The Borrower shall comply, and cause each member of the ERISA Group to comply, with the applicable provisions of ERISA; *provided* that no contested noncompliance with applicable provisions of ERISA shall constitute a breach of this Section if (a) such contest is being conducted in good faith and in appropriate proceedings which remain pending and are being diligently prosecuted by the Borrower or another ERISA Group member, and (b) any contested liability is covered by adequate reserves and the non-payment of such contested liability shall not materially and adversely affect the security for the Bonds.

*Section 4.8. Compliance with Laws.* The Borrower will comply in all material respects with all Laws applicable to it or its business, property or assets, failure to comply with which would be reasonably likely to have a Material Adverse Effect, whether now in effect or hereafter enacted, *provided* that the Borrower may, at its expense, in good faith contest any such Laws so long as notice of such contest is given to the Trustee and the Bondholder Representative and such contest would not reasonably be expected to have a Material Adverse Effect.

#### *Section 4.9. Environmental Matters.*

(a) The Borrower shall conduct its operations in compliance in all respects with all applicable Environmental Laws. The Borrower shall maintain the Facilities free from contamination by Regulated Chemicals and shall not intentionally or unintentionally allow a release, discharge or emission, or threat of release, discharge or emission, of any Regulated Chemical on, under, in or about the Facilities, and shall not intentionally or knowingly allow the migration or threatened migration of any of the foregoing from other properties upon, about or beneath the Facilities.

(b) The Borrower promptly and in no event later than 15 days from the date on which the Borrower or any tenant or sublessee of the Borrower has knowledge thereof, shall provide to the Bondholder Representative and the Trustee a copy of any notice, letter, citation, order, warning, complaint, inquiry, claim or demand that:

(i) the Borrower or any tenant or sublessee of the Borrower has violated, or is about to violate any Environmental Law;

(ii) there has been a release, or there is a threat of release, of any Regulated Chemical from the Facilities;

(iii) the Borrower or any tenant or sublessee of the Borrower may be or is liable, in whole or in part, for the costs of cleaning up, remediating, removing or responding to a release of any Regulated Chemical;

(iv) any portion of the Facilities is subject to a Lien in favor of any Governmental Authority for any liability, cost or damage under Environmental Laws arising from, or costs incurred by such Governmental Authority in response to, a release of any Regulated Chemical.

(c) The Borrower promptly and in no event later than 15 business days from the date on which the Borrower has knowledge thereof (or sooner if the Borrower is required by Environmental Laws to provide notice to any Governmental Authority), shall provide to the Bondholder Representative and the Trustee notice of any discovery of Regulated Chemicals or other conditions in the course of completing the Project that would reasonably be expected to be hazardous to the environment.

(d) The Borrower shall take all appropriate responsive action, including any Response Action, in the event of a release, emission, discharge or disposal of any Regulated Chemical in, on, under or about the Facilities, so as to remain in compliance with Environmental Laws, to keep the Facilities free from, and unaffected by, Regulated Chemicals and to prevent the imposition of any Liens against the Facilities for the costs of any response, removal or remedial action or cleanup of any Regulated Chemicals. The Borrower shall (i) provide the Bondholder Representative and the Trustee, within 60 days after providing the notice required under paragraph (b) above, with a bond, letter of credit or similar financial assurance for an amount not less than the cost of the Response Action that may be drawn upon by the Trustee for the purpose of completing the Response Action if an Event of Default or Default occurs or if the Response Action is not completed within six months of the issuance of the financial assurance and (ii) discharge any assessment or Lien which may be established on any portion of the Facilities as a result thereof.

(e) The Borrower shall provide the Trustee and the Bondholder Representative with a copy of any Environmental Report obtained by the Borrower with respect to the Facilities.

(f) The Borrower shall implement and comply with the Soil Management Plan dated March 20, 2020 prepared by Miller Engineering & Testing, Inc., as amended by that certain letter dated December 16, 2021 from Miller Engineering & Testing, Inc.

#### *Section 4.10. Operation and Maintenance of Facilities.*

(a) The Borrower agrees to keep or cause to be kept the Facilities in good repair, working order and condition (ordinary wear and tear excepted) and from time to time make, or

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cause to be made, all repairs, renewals, additions, improvements and replacements thereto necessary in order that the business carried on in connection therewith may be properly conducted.

(b) The Borrower will obtain when needed all Governmental Approvals required for the performance of its Obligations, the construction and operation of the Facilities and the completion of the Project and has no reason to believe that all such Governmental Approvals cannot be promptly obtained when needed.

**Section 4.11. Limitation on Construction and Alteration of Facilities.** The Borrower shall not make any change or alteration (including, without limitation, demolition, construction or removal) to any portion of the Mortgaged Property or replace any portion of the structure or equipment constituting a portion of the Facilities that costs in excess of \$500,000 or that materially and adversely affects the value or the operating efficiency of the Facilities without the prior written consent of the Bondholder Representative.

All construction and alterations of the Facilities shall be located within the boundary lines of the Land and shall become a part of the Mortgaged Property. No construction and alterations shall impair the structural soundness or utility of the Facilities, significantly alter the character or purpose of the Facilities or significantly impair the revenue producing capacity thereof.

All work in connection with any construction and alterations shall be done promptly and in good and workmanlike manner and in compliance with Law, including (without limitation) building and zoning laws of Governmental Authorities of the jurisdiction in which the Mortgaged Property is located, and the provisions of any policy of insurance covering the Mortgaged Property.

#### **Section 4.12. Debt Service Coverage Ratio**

(a) The Borrower will charge and collect such rents, fees and other charges with respect to the Facilities and will restrict expenses relating to the Facilities as shall be necessary to achieve as of the last day of each Fiscal Quarter ending after the earlier of the first Fiscal Year after the Stabilization Date or June 30, 2026 (each a "Testing Period"), a Debt Service Coverage Ratio of at least 1.20 to 1.00 calculated on a trailing 12-month basis; provided that for purposes of calculating the Debt Service Coverage Ratio (i) on or before June 30, 2026, the calculation shall be based on a trailing 6-month basis and (ii) on September 30, 2026, the calculation shall be based on a trailing 9-month basis. The Borrower shall provide certificates to the Bondholder Representative and the Trustee substantially in the form set forth in Exhibit A setting forth the calculation of the Debt Service Coverage Ratio at the times and in the manner provided in Section 4.3(a).

(b) If the Borrower fails to maintain the required Debt Service Coverage Ratio for any Testing Period, the Borrower shall deliver to the Trustee and the Bondholder Representative a written report, within 60 days after the Borrower has knowledge of such failure, and in any event within 60 days after the last day of such Fiscal Quarter, describing in detail its operations and other factors resulting in the failure to meet such Debt Service Coverage Ratio and its plan to increase such Debt Service Coverage Ratio so as to meet the requirement of Section 4.12(a), which report shall have been approved by action of the Governing Body. If the Borrower fails to achieve the required Debt Service Coverage Ratio for any two consecutive Testing Periods, then the Borrower,

at the Borrower's expense, shall employ, as soon as practicable thereafter, a Consultant selected by the Bondholder Representative to submit a written report and recommendations with respect to the rents, fees, rates and other charges relating to the Facilities and with respect to improvements or changes in the operation and management of the Facilities unless such requirement for a Consultant is waived in writing by the Bondholder Representative. Such report shall be submitted to the Trustee and the Bondholder Representative as soon as practicable but in no event later than 60 days after the last day of the second such Testing Period. The Borrower agrees to cause a copy of such report to be delivered to the Repository contemporaneously with the delivery thereof to the Bondholder Representative.

(c) The Borrower shall revise or cause to be revised such rents, fees (including Entrance Fees and other related healthcare obligations), rates, expenses and other charges in conformity with any recommendations of such Consultant and shall otherwise follow the recommendations of such Consultant, in each case as approved by the Bondholder Representative, unless the Governing Body of the Borrower determines by resolution, a copy of which shall be provided to the Trustee and the Bondholder Representative, that compliance with such recommendations would jeopardize the tax-exempt status of the Borrower. If the Borrower complies with the Consultant's recommendations, failure to generate the required Debt Service Coverage Ratio shall not constitute an Event of Default under this Agreement.

(d) Notwithstanding anything to the contrary contained herein if (i) the Borrower fails to achieve a Debt Service Coverage Ratio of 1.00 as of any Testing Period or (ii) the Borrower fails to achieve the required Debt Service Coverage Ratio for three consecutive Testing Periods, an Event of Default shall be deemed to have occurred under this Agreement unless waived in writing by the Bondholder Representative.

#### **Section 4.13. Days' Cash on Hand**

(a) The Borrower covenants and agrees to maintain, as of June 30 and December 31 of each Fiscal Year commencing with the earlier of the first June 30 or December 31 following the Stabilization Date or June 30, 2026 (each a "Liquidity Testing Date"), as shown on the Borrower's quarterly or annual financial statements delivered to the Trustee and the Bondholder Representative (i) prior to the termination of the Support Agreement, at least 90 Days' Cash on Hand, and (ii) after termination of the Support Agreement, at least 100 Days' Cash on Hand (the "Liquidity Requirement"). The Borrower shall provide certificates to the Bondholder Representative and the Trustee substantially in the form set forth in Exhibit A demonstrating compliance with the Liquidity Requirement at the times provided in Section 4.3(a).

(b) If the Borrower fails to comply with the Liquidity Requirement on any Liquidity Testing Date, the Borrower shall deliver to the Trustee and the Bondholder Representative a written report, within 60 days after the Borrower has knowledge of such failure, and in any event within 60 days after the last day of such Fiscal Quarter, describing in detail its operations and other factors resulting in the failure to meet the Liquidity Requirement and its plan to increase Days' Cash on Hand so as to meet the Liquidity Requirement, which report shall have been approved by action of the Governing Body. If the Borrower fails to comply with the Liquidity Requirement on any two consecutive Liquidity Testing Dates, then the Borrower, at the Borrower's expense, shall employ, as soon as practicable thereafter, a Consultant selected by the Bondholder Representative

to submit a written report and recommendations with respect to the rents, fees, rates and other charges relating to the Facilities and with respect to improvements or changes in the operation and management of the Facilities unless such requirement for a Consultant is waived in writing by the Bondholder Representative. Such report shall be submitted to the Trustee and the Bondholder Representative as soon as practicable but in no event later than 60 days after the second such Liquidity Testing Date. The Borrower agrees to cause a copy of such report to be delivered to the Repository contemporaneously with the delivery thereof to the Bondholder Representative.

(c) The Borrower shall revise or cause to be revised such rents, fees (including Entrance Fees and other related healthcare obligations), rates, expenses and other charges in conformity with any recommendations of such Consultant and shall otherwise follow the recommendations of such Consultant, in each case as approved by the Bondholder Representative, unless the Governing Body of the Borrower determines by resolution, a copy of which shall be provided to the Trustee and the Bondholder Representative, that compliance with such recommendations would jeopardize the tax-exempt status of the Borrower. If the Borrower complies with the Consultant's recommendations, failure to generate the required Days' Cash on Hand shall not constitute an Event of Default under this Agreement.

(d) Notwithstanding anything to the contrary contained herein if (i) the Borrower fails to achieve at least 70 Days' Cash on Hand as of any Liquidity Testing Date or (ii) the Borrower fails to achieve the Liquidity Requirement for three consecutive Liquidity Testing Dates, an Event of Default shall be deemed to have occurred under this Agreement unless waived in writing by the Bondholder Representative.

#### **Section 4.14. Marketing Covenant**

(a) The average number of Reserved Units for each month, commencing with the period ending April 30, 2022 (each, an "Marketing Testing Date"), each shall be not less than the following:

Marketing Testing Date	Required Number of Reserved Units	Required Percentage of Units
April 2022 - June 2022	140	73.7%
July 2022 - September 2022	143	75.3
October 2022 - December 2022	146	76.8
January 2023 - March 2023	149	78.4
April 2023 - June 2023	152	80.0
July 2023 - September 2023	155	81.6
October 2023 - December 2023	158	83.2
January 2024 - March 2024	161	84.7
April 2024 - June 2024	164	86.3

(b) The number of individuals on the waitlist as of each December 31 commencing with the first December 31 after the date that the average number of Occupied Independent Living Units, expressed as a percentage of the total number of such Independent Living Units in the

respective facilities, during a Fiscal Quarter was greater than 93% (each, a "Waitlist Testing Date") shall be at least 3% greater than the number of individuals on the waitlist as of the prior December 31 until the number of individuals on the waitlist is at least 20 after which such time the number of individuals on the waitlist shall remain at 20 or greater.

(c) The Borrower shall provide a certificate to the Bondholder Representative and the Trustee, in the form of Exhibit A hereto, demonstrating compliance with the requirements of this Section on a quarterly basis.

(d) If the Borrower fails to meet the requirement of this Section on any Marketing Testing Date or Waitlist Testing Date (as applicable), then the Borrower shall employ, at the Borrower's expense, as soon as practicable thereafter, a Consultant reasonably acceptable to the Bondholder Representative to submit a written report and recommendations with respect to the marketing of the Units unless such requirement for a Consultant is waived in writing by the Bondholder Representative. Such report shall be submitted to the Trustee and the Bondholder Representative as soon as practicable but in no event later than 60 days after the last day such Marketing Testing Date or Waitlist Testing Date (as applicable). Promptly following receipt of such report, the Borrower will adjust its marketing efforts in conformity with any recommendations of the Consultant and shall otherwise follow the recommendations of the Consultant, in each case to the extent that such recommendations are consistent with the Borrower's status as an organization described in Section 501(c)(3) of the Code, and are otherwise permitted by law.

(e) Failure by the Borrower to meet the requirement of subsection (a) of this Section on any Marketing Testing Date or subsection (b) of this Section on any Waitlist Testing Date shall not constitute an Event of Default hereunder unless the Borrower, in the sole discretion of the Bondholder Representative, has failed to adhere to the recommendations of the Consultant in all material respects, after all applicable notice and cure periods.

(f) Annually, the Borrower shall provide to the Bondholder Representative and the Trustee a report describing the marketing plan and budget for the next year (including a semi-annual analysis of existing and new competitors in the primary market area of the Facilities), which shall be in form and substance approved by the Bondholder Representative.

#### **Section 4.15. Occupancy**

(a) For each three-month period ending on the last day of each Fiscal Quarter beginning with the quarter ended December 31, 2023 (each, an "Occupancy Testing Date"), the average number of Independent Living Units, Assisted Living Units and Memory Care Units that are Occupied Units, each shall be not less than the following:

Fiscal Quarter Ending	Number of Independent Living Units that are Occupied Units	Percentage of Independent Living Units that are Occupied Units	Number of Assisted Living Units and Memory Care Units that are Occupied Units	Percentage of Assisted Living Units and Memory Care Units that are Occupied Units
December 31, 2023	18	9.3%	-	-
March 31, 2024	50	26.1	-	-
June 30, 2024	76	40.0	3	7.5%
September 30, 2024	94	49.7	7	17.5
December 31, 2024	108	56.8	12	30.0
March 31, 2025	122	64.0	17	42.5
June 30, 2025	133	70.3	20	50.0
September 30, 2025	153	80.8	23	58.0
December 31, 2025	163	85.5	26	66.0
March 31, 2026	163	85.5	31	76.5
June 30, 2026	163	85.5	34	83.7
September 30, 2026 and thereafter	163	85.5	34	85.0

The Borrower shall provide a certificate to the Bondholder Representative and the Trustee, in the form of Exhibit A hereto, demonstrating compliance with the requirements of this Section for each Fiscal Quarter of each Fiscal Year in accordance with Section 4.3(a).

(b) If the Borrower fails to meet any requirement of Section 4.15(a) as of two consecutive Occupancy Testing Dates, then the Borrower shall employ, at the Borrower's expense, as soon as practicable thereafter, a Consultant reasonably acceptable to the Bondholder Representative to submit a written report and recommendations with respect to the marketing of the Units unless such requirement for a Consultant is waived in writing by the Bondholder Representative. Such report shall be submitted to the Trustee and the Bondholder Representative as soon as practicable but in no event later than 60 days after the last day of the second such Occupancy Testing Date. Promptly following receipt of such report, the Borrower will adjust its marketing efforts in conformity with any recommendations of the Consultant and shall otherwise follow the recommendations of the Consultant (including, without limitation, implementing a sales commission structure), in each case as approved by the Bondholder Representative, unless the Governing Body of the Borrower determines by resolution, a copy of which shall be provided to the Trustee and the Bondholder Representative, that compliance with such recommendations would jeopardize the tax-exempt status of the Borrower. If the Bondholder Representative waives

in writing the requirement for a Consultant or the Borrower complies with the requirements of this paragraph then the failure of the Borrower to meet the required requirements of 4.15(a) as of two consecutive Occupancy Testing Dates shall not constitute an Event of Default.

(c) Failure by the Borrower to meet any requirement of Section 4.15(a) as of three consecutive Occupancy Testing Dates shall constitute an Event of Default hereunder unless waived in writing by the Bondholder Representative.

#### Section 4.16. Management; Development.

(a) The Borrower shall at all times engage a professional management company as a Manager, which may be an affiliate of the Borrower to conduct the operations of the Borrower pursuant to a management agreement in form and substance compliant with all requirements of the Code and satisfactory to the Bondholder Representative.

(b) Management Fees payable under any Management Agreement shall be no greater than market rate. Management Fees payable in any Fiscal Year shall be subordinate in right of payment to the payment of amounts payable hereunder and under the other Related Documents and shall be deferred in any month to the following month (and thereafter as provided below herein) unless: (i) all monthly payments with respect to the Bonds have been made; (ii) all required deposits shall have been made as provided in Section 3.1(a); (iii) the amount on deposit in the Debt Service Reserve Fund is not less than the Debt Service Reserve Fund Requirement; and (iv) following the payment of such Management Fees, the Borrower shall be in compliance with the Liquidity Requirement. If such conditions are not met in any succeeding month, then such deferred amounts and the Management Fees accruing in each following month shall continue to be deferred until all such conditions are met. If the Borrower is unable to pay the full amount of the Management Fees payable in any Fiscal Year, the Borrower shall provide in its next annual budget amounts necessary to pay any such Management Fees which have accrued but have not been paid by the Borrower in any prior Fiscal Year.

(c) If a Default or Event of Default shall have occurred and be continuing, then the Manager may be removed at the discretion of the Bondholder Representative and a new Manager or management personnel shall be appointed within 30 days of such removal with the written approval of the Bondholder Representative.

(d) The Borrower shall not amend, supplement, terminate or otherwise modify any Management Agreement without the written approval of the Bondholder Representative.

(e) If any Series 2022C Bonds or Series 2022D Bonds are Outstanding, the Borrower shall not appoint or employ a new chief executive officer, chief financial officer or senior sales personnel without the prior written approval of the Bondholder Representative.

(f) The Borrower shall not pay any development fees to any project developer or Consultant except as included in the Borrower's annual budget without the prior written consent of the Bondholder Representative.

#### Section 4.17. Construction Agreement and Architect Agreement Restrictions.

(a) *No Construction Agreement Change Orders without Bondholder Representative Consent.* The Borrower shall not permit any change order to the Construction Agreement in excess of \$100,000 individually or \$1,000,000 in the aggregate, without the prior written consent of the Bondholder Representative or the Construction Monitor.

(b) *Exercise of Construction Agreement Remedies.* The Borrower shall enforce the Construction Agreement, exercise all remedies thereunder, and shall take direction with respect to such enforcement and remedies from the Construction Monitor, the Trustee and the Bondholder Representative.

(c) *Construction Agreement Retainage.* The Borrower agrees that the retainage under the Construction Agreement shall remain at 5% until the Completion Date, unless the prior written consent of the Construction Monitor or the Bondholder Representative is obtained.

(d) *Construction Agreement Termination.* The Borrower shall not terminate the Construction Agreement without the prior written consent of the Bondholder Representative.

(e) *Architect Approval.* The Borrower shall cause the Architect to confer with the Construction Monitor prior to its consent to changes pursuant to the Architect Agreement.

(f) *Architect Agreement Approvals.* The Borrower shall not provide any approvals pursuant to the Architect Agreement, without the prior written consent of the Bondholder Representative or the Construction Monitor, which consent shall not be unreasonably withheld, conditioned or delayed. Failure of the Bondholder Representative or Construction Monitor to respond within 10 Business Days shall be a deemed approval.

(g) *Additional Responsibilities.* Within 10 Business Days of Closing, the Borrower shall post or cause to be posted in a conspicuous place on the jobsite for which the Project, the name, address and telephone number of the Bondholder Representative and the Trustee.

#### Section 4.18. Damage, Destruction or Condemnation.

(a) The Borrower agrees to give written notice to the Trustee and the Bondholder Representative immediately if the Facilities or any portion thereof is damaged, destroyed or taken in the exercise of the power of eminent domain, condemnation or through the exercise of any right or any obligation on the part of any public authority to purchase the same, or as a result of any agreement between the Borrower and any such public authority in lieu thereof. In the event that the value of the property damaged, destroyed or taken does not exceed \$1,000,000, the Net Proceeds shall be payable to the Borrower and the Borrower shall forthwith repair, reconstruct and restore the Facilities to substantially the same or an improved condition and value as existed prior to such damage, destruction or taking and, to the extent necessary to accomplish such repair,

reconstruction and restoration, the Borrower will apply the Net Proceeds received by the Borrower to the payment or reimbursement of the costs thereof.

(b) In the event that the value of the Facilities or portion thereof that is damaged, destroyed or taken equals or exceeds \$1,000,000, then the Net Proceeds shall be deposited with the Trustee and the Borrower shall, within 90 days after such damage, destruction or taking elect one of the options set forth below by written notice of such election to the Trustee and the Bondholder Representative.

(i) *Repair and Restoration.* The Borrower may elect to repair, reconstruct and restore the portion of the Facilities damaged, destroyed or taken. In such event, the Borrower shall proceed forthwith to repair, reconstruct and restore the damaged, destroyed or taken property to substantially the same condition and value as existed prior to the event causing such damage, destruction or taking and, to the extent necessary to accomplish such repair, reconstruction and restoration, the Borrower will apply the Net Proceeds thereof received by the Borrower from the Trustee to the payment or reimbursement of the costs thereof. So long as no Event of Default or Default exists, any Net Proceeds received by the Trustee shall be released from time to time by the Trustee to the Borrower in accordance with the written instructions of the Borrower; provided, that there is delivered to the Trustee and the Bondholder Representative within 60 days of receipt of such Net Proceeds:

(A) an Officer's Certificate specifying the expenditures made or to be made or the Indebtedness incurred in connection with such repair, reconstruction and restoration and stating that such Net Proceeds, together with any other money legally available for such purposes, will be sufficient to complete such repair, reconstruction and restoration;

(B) the written concurrence with such Officer's Certificate from an independent engineer;

(C) evidence reasonably satisfactory to the Bondholder Representative that such repair, reconstruction and restoration can be completed within 12 months; and

(D) evidence reasonably satisfactory to the Bondholder Representative that the proceeds of business interruption insurance and other available funds will be sufficient to pay the principal of and interest on all Indebtedness of the Borrower and to meet the other obligations of the Borrower during the period of repairs, reconstruction and restoration.

In the event the Borrower shall elect the option set forth in Section 4.18(b)(i), the Borrower shall complete the repair, reconstruction and restoration of the Facilities, whether or not the Net Proceeds received by the Borrower for such purposes are sufficient to pay for the same. Net Proceeds not required for the repair, reconstruction and restoration of the Mortgaged Property may be applied to the prepayment of the Bonds used for such other purpose as the Borrower determines with the prior written consent of the Bondholder Representative and, if required by the Bondholder Representative, an opinion of Bond Counsel to the effect that such other purpose will not adversely affect the tax-exempt status of interest on the Bonds.

(ii) *Redemption of the Bonds.* If the Borrower shall determine that it is not practicable or desirable to repair, reconstruct or restore the Facilities or the Borrower is unable to deliver or does not deliver the certificates or reports necessary under Section 4.18(b)(i), the Outstanding Bonds, which originally financed the damaged, destroyed or taken portion of the Facilities, shall be redeemed in whole on the earliest practicable date after the date of the notice given as to exercise of the option set forth in this Section 4.18(b)(ii), and the Net Proceeds shall be deposited in the applicable subaccount of the Redemption Account and shall be applied for that purpose. In such event, the Bonds shall be redeemed at par plus accrued interest and any other fees as may be payable by the Borrower to the Trustee and the Bondholder Representative hereunder, and redemption shall be effected pursuant to the provisions of, in the manner, and with the effect provided in the Indenture. If the Net Proceeds, together with all amounts then held by the Trustee under the Indenture available to redeem or retire the Bonds shall be insufficient to so redeem all of the Outstanding Bonds (including payment of principal, accrued interest and expenses of redemption), the Borrower shall pay the amount of the deficiency to the Trustee as an Additional Payment. If the Bonds have been fully paid and all other amounts payable under this Agreement, the Loan Agreement and the Indenture (with respect to the Senior Bonds) have been paid or provided for, all remaining Net Proceeds shall be paid to the Borrower (unless otherwise provided for in connection with the Subordinating Debt).

(iii) *Other Uses of Proceeds.* Notwithstanding the foregoing, the Borrower shall be entitled to apply any Net Proceeds to another lawful purpose, including the redemption of the Outstanding Bonds in part rather than in whole, if the Borrower receives the prior written consent of the Bondholder Representative and, if required by the Bondholder Representative, obtains an opinion of Bond Counsel that such application of such Net Proceeds will not adversely affect the tax-exempt status of interest on the Bonds which originally financed the damaged, destroyed or taken portion of the Facilities.

The Borrower hereby irrevocably assigns to the Trustee all of its right, title and interest in and to any Net Proceeds payable in connection with the taking of any of the Facilities in the exercise of the power of eminent domain, condemnation or through the exercise of any right or any obligation on the part of any public authority to purchase the same, or as a result of any agreement between the Borrower and any such public authority in lieu thereof. The Trustee shall cooperate fully with the Borrower in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Mortgaged Property.

#### *Section 4.19. Consultants.*

(a) The Borrower, at its sole expense, agrees to retain any Consultant requested by the Bondholder Representative; *provided*, that the fees of such Consultant shall not exceed \$25,000 per year plus reasonable out-of-pocket expenses. The Borrower shall promptly provide the Bondholder Representative with a copy of any report provided to the Borrower by such Consultant.

(b) Beginning with the second Fiscal Year after the Stabilization Date and every other Fiscal Year thereafter, the Borrower shall retain at its own expense a Consultant acceptable to the Bondholder Representative to perform a competitive analysis of the Facilities and its competitors.

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*Section 4.20. Availability of Board-Designated Funds.* The Borrower hereby acknowledges and agrees that any assets and revenues that currently or in the future may be classified as board-designated are and shall remain available for the payment of operating expenses and debt service on the Bonds.

*Section 4.21. Unit Configuration; New Resident Requirements.* The Borrower shall not (i) modify the composition of the Units as in effect as of the Closing Date or (ii) modify new resident health standards or financial requirements for new residents, without obtaining the prior written consent of the Bondholder Representative.

*Section 4.22. Investment Management.* The Borrower shall cause the Sponsor or the Parent to invest not less than \$3,000,000 with the Bondholder Representative in its High Dividend Equity Fund (the "HCM Investment") as follows: not less than \$2,000,000 to be invested on or before June 30, 2022 and not less than \$3,000,000 to be invested on or before December 31, 2022. For the avoidance of doubt, the HCM Investment shall not constitute security for the payment of the Bonds or the Subordinate Bonds and the Bondholder Representative shall have no right of set off with respect to the HCM Investment. The Sponsor or the Parent, as applicable, shall have the right to terminate the HCM Investment (i) if the HCM Investment does not comply with the Parent or the Sponsor's investment policy, as applicable, or (ii) with cause after giving the Bondholder Representative a reasonable opportunity to cure after notice of such cause.

## ARTICLE V

### NEGATIVE COVENANTS

The Borrower hereby covenants and agrees that until this Agreement has expired or been terminated and until all of the Obligations with respect to the Senior Bonds have been fully paid and performed to the satisfaction of the Trustee and the Bondholder Representative, unless the Bondholder Representative shall otherwise consent in writing:

*Section 5.1. Indebtedness.* The Borrower shall not, directly or indirectly incur, create, assume or permit to exist any Indebtedness other than the following:

- (a) Indebtedness created under this Agreement and the other Related Documents;
- (b) the Subordinate Debt;
- (c) purchase money Indebtedness for fixed assets acquired in the ordinary course of the Borrower's business, *provided* that the aggregate amount of such Indebtedness outstanding at any time shall not exceed \$500,000; and
- (d) any other Indebtedness approved in writing by the Bondholder Representative.

Notwithstanding the foregoing, (i) no Indebtedness under clauses (c) may be incurred during any period in which a Default or Event of Default shall have occurred and be continuing and (ii) no Indebtedness may be incurred without the prior written consent of the Bondholder

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Representative which would result in the Bonds being less than 51% of all outstanding Indebtedness of the Borrower.

*Section 5.2. Investments.* The Borrower shall not purchase, hold or acquire any common stock, evidence of indebtedness or other securities (including any option, warrant or other right to acquire any of the foregoing) of, make or permit to exist any loans or advances to, guaranty any obligations of, or make or permit to exist any investment or any other interest in, any other Person, or purchase or otherwise acquire (in one transaction or a series of transactions) any assets of any other Person that constitute a business unit, except for Permitted Investments.

#### *Section 5.3. Mergers and Consolidations; Transfers of Assets.*

(a) The Borrower shall not merge or consolidate or enter into any analogous reorganization or transaction with any Person.

(b) Except as otherwise expressly permitted by this Agreement, the Borrower shall not consummate any sale, lease (other than operating leases entered into in the ordinary course of business), transfer or other disposition (or series of related sales, leases, transfers or dispositions), including any disposition by means of a merger, consolidation or similar transaction (each referred to for the purposes of this definition as a "*disposition*") of its Property, including (without limitation) cash, other than:

(i) the sale of inventory in the ordinary course of business for fair market value and on an arms' length basis;

(ii) dispositions of obsolete, uneconomical, negligible, worn-out or surplus tangible personal property in the ordinary course of business if the Borrower receives consideration in an amount equal to the fair market value of such property and any proceeds applied to the replacement of any property, plant and equipment is made subject to the lien of the Mortgage;

(iii) sales, transfers and other disposition of assets (including cash transfers) to the Sponsor in an amount not to exceed \$3,000,000 in any Fiscal Year to repay any amounts paid pursuant to the Support Agreement; provided, that (A) the amount on deposit in the Debt Service Reserve Fund is not less than the Debt Service Reserve Fund Requirement, AND (B) the number of Units constituting Occupied Units is not less than 93%, AND (C) the Borrower has at least 10 Days' Cash on Hand in excess of the Liquidity Requirement after giving effect to the sale, transfer or other disposition for two consecutive Fiscal Quarters (exclusive of initial Entrance Fees and any contributions by the Sponsor or the Parent under the Support Agreement or otherwise or from any other external source other than operations of the Facilities) AND (D) no Event of Default or covenant violation has occurred and is continuing under this Agreement or any Related Document; and, in each case, prior to such sale, transfer or disposition, the Borrower shall have provided to the Bondholder Representative unaudited financial statements showing compliance with this clause (iii);

(iv) sales, transfers and other disposition of assets (including cash transfers) to the Sponsor or the Parent in an amount not to exceed \$2,000,000 in any Fiscal Year; provided, that (A) the amount on deposit in the Debt Service Reserve Fund is not less than the Debt Service

Reserve Fund Requirement, AND (B) the Debt Service Coverage Ratio was not less than 1.40 to 1.00 (exclusive of initial Entrance Fees and any contributions by the Sponsor or the Parent under the Support Agreement or otherwise or from any other external source other than operations of the Facilities) for such Fiscal Year and for the prior consecutive Fiscal Year, AND (C) the Borrower has at least 30 Days' Cash on Hand in excess of the Liquidity Requirement after giving effect to the sale, transfer or other disposition (exclusive of initial Entrance Fees and any contributions by the Sponsor or the Parent under the Support Agreement or otherwise or from any other external source other than operations of the Facilities) AND (D) no Event of Default or covenant violation has occurred and is continuing under this Agreement or any Related Document; and, in each case, prior to such sale, transfer or disposition, the Borrower shall have provided to the Bondholder Representative audited financial statements showing compliance with this clause (iv); and

(v) any other sale, lease, transfer or other disposition approved in writing by the Bondholder Representative.

*Section 5.4. Competition.* The Borrower shall not construct or acquire any additional facility or healthcare units/beds that will compete with the Facilities unless the Borrower shall have obtained the prior written consent of the Bondholder Representative.

*Section 5.5. Derivative Agreements; Guarantees.* The Borrower shall not enter into any interest rate swap agreements or other hedging or derivative transactions. The Borrower shall not, directly or indirectly, guaranty or otherwise secure the Indebtedness of any Person without the prior written consent of the Bondholder Representative.

*Section 5.6. Liens.* Except as otherwise specifically permitted by this Agreement, the Borrower shall neither create any Lien nor allow any Lien to remain against any of its Property, including (without limitation) the Gross Revenues and the Mortgaged Property, except Permitted Encumbrances.

*Section 5.7. Tax Exempt Nature of Bonds; Validity of Bonds.* The Borrower shall not take or permit to be taken on its behalf any action that would adversely affect (a) the exclusion from gross income for federal income tax purposes of interest paid on any Bonds or (b) the validity of any of the Bonds.

*Section 5.8. No Amendment or Alteration of Certain Documents or Facilities.* The Borrower shall not amend, supplement or otherwise modify the Organizational Documents of the Borrower, any Related Document, any Memorandum of Understanding between any of the Borrower, the Sponsor or the Parent, any Management Agreement or the form of residency agreement for the Facilities or any document pertaining to the Subordinate Debt without the prior written consent of the Bondholder Representative; *provided, however*, the Borrower may amend the form of residency agreement (i) if required to comply with applicable law or a Governmental Authority having jurisdiction over the Borrower, (ii) to increase fees or (iii) if such amendments are minor modifications that enable the Borrower to remain competitive and the Borrower has given the Bondholder Representative prior written notice of such proposed amendments. The Borrower shall not change the number or type of Units to be constructed as part of the Facilities without the prior written consent of the Bondholder Representative.

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*Section 5.9. Transactions with Affiliates.*

(a) Except as otherwise expressly provided in this Agreement, the Borrower shall not purchase or acquire any Property from, or otherwise engage in any other transactions with, any of its officers, directors, employees or Affiliates, except that: (i) the Borrower may pay reasonable compensation to employees for actual services rendered to the Borrower in the ordinary course of business; (ii) the Borrower may reimburse actual out-of-pocket expenses of officers, directors and employees incurred in the performance of their duties as such officers, directors and employees, respectively; and (iii) the Borrower may make payments to the Sponsor, the Parent or another Affiliate in the ordinary course of business for property or services in an amount not in excess of the fair market value of such property or services.

(b) The Borrower shall not make any payment under the Sponsor Subordinate Recoverable Grant or repay any amounts paid under the Support Agreement while the Bonds are outstanding except in accordance with Section 5.3(b)(iii) or (iv).

*Section 5.10. Business of the Borrower.*

(a) The Borrower shall not engage at any time in any business or business activity other than the ownership and operation of the Facilities as a senior living community.

(b) The Borrower shall not acquire or create any new subsidiary. For the avoidance of doubt, the Bondholder Representative's consent to be provided for purposes of the Borrower acquiring or creating a new subsidiary shall not be unreasonably withheld or delayed.

(c) The Borrower shall not without providing at least 30 days' prior written notice to the Trustee and the Bondholder Representative, change its name, its places of business, its chief executive office, the locations of its assets or its mailing address or organizational identification number.

*Section 5.11. Inconsistent Agreements.* The Borrower shall not enter into any agreement or arrangement which would restrict in any material respect the ability of the Borrower to fulfill its Obligations under the Related Documents.

*Section 5.12. Change of Control.* The Borrower shall not undertake, or agree or consent to undertake, any Change of Control.

*Section 5.13. Bankruptcy.* The Borrower shall not file a petition or other pleading seeking an "order for relief" within the meaning of the United States Bankruptcy Code or file any petition or other pleading seeking any reorganization, composition, readjustment, liquidation or similar relief for itself under any present or future Law or regulation, or seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of the Borrower, or of substantially all of its assets, or make a general assignment for the benefit of creditors. The Borrower shall amend its by-laws to the extent required to effect the provisions of this Section.

*Section 5.14. Material Adverse Changes.* The Borrower shall not take any action that would have a Material Adverse Effect.

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**ARTICLE VI**

**EVENTS OF DEFAULT**

*Section 6.1. Events of Default.* The occurrence of any of the following events or the existence of any of the following circumstances (whatever the reason for such event or circumstance and whether voluntary, involuntary or effected by operation of Law) shall be an "Event of Default" hereunder, unless waived in writing by the Trustee, which may waive any such event or circumstance with the consent of the Bondholder Representative and shall waive any such event or circumstance at the direction of the Bondholder Representative:

(a) any representation or warranty made herein or any statement or representation made in any certificate, report, financial statement or other instrument furnished by or on behalf of the Borrower in connection with this Agreement or any of the other Related Documents, proves to have been incorrect, false or misleading in any material respect when made; or

(b) the principal of or interest on any Bond shall not be paid when due, whether at maturity, upon proceedings for redemption, acceleration or otherwise; or

(c) any payment required to be made under Section 3.1(a) shall not be made when due; or

(d) the Borrower shall fail to pay any other amount payable hereunder within 15 days of the due date for the payment thereof; or

(e) the Borrower shall fail to duly and promptly perform, comply with or observe any of the terms, covenants, conditions or agreements contained in Section 3.3, 3.4, 4.1(a), 4.3, 4.4, 4.12(d), 4.13(d), 4.14(d), 4.15(e), 5.1, 5.3, 5.4, 5.6 or 5.12; or

(f) the Borrower shall fail to observe or perform any of its covenants, conditions or agreements hereunder or under the other Related Documents for a period of 30 days after written notice (unless the Borrower and the Trustee shall agree in writing, with the consent of the Bondholder Representative, to an extension of such time prior to its expiration), specifying such failure and requesting that it be remedied, is given to the Borrower and the Sponsor by the Trustee or the Bondholder Representative, or in the case of any default which cannot with due diligence be cured within such 30 day period, failure by the Borrower to proceed promptly to pursue the curing of such default with due diligence and to cure such failure within 90 days; or

(g) the Borrower shall default in the payment of principal or interest on any Indebtedness in an amount exceeding \$500,000, which default shall not have been cured within any applicable grace period provided in such Indebtedness or any agreement for the repayment of such Indebtedness; or

(h) the Borrower shall have become insolvent or shall be subject of any insolvency proceeding or shall file a petition or other pleading seeking an "order for relief" within the meaning of the United States Bankruptcy Code or shall file any petition or other pleading seeking any reorganization, composition, readjustment, liquidation or similar relief for itself under any present

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or future Law or regulation, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of the Borrower, or of substantially all of its assets, or shall make a general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due; or

(i) a petition or other pleading shall be filed against the Borrower seeking an "order for relief" within the meaning of the United States Bankruptcy Code or any reorganization, composition, readjustment, liquidation or similar relief under any present or future Law or regulation and shall remain undischarged or unstayed for an aggregate period of 90 days (whether or not consecutive); or if, by an order or decree of a court of competent jurisdiction, the Borrower shall become the subject of an "order for relief" within the meaning of the United States Bankruptcy Code or relief shall be granted under or pursuant to any such petition or other pleading; or if, by order or decree of such court, there shall be appointed, without the consent or acquiescence of the Borrower, a trustee in bankruptcy or reorganization or a receiver or liquidator of the Borrower or of all or any substantial part of the property of the Borrower and such order or decree continues unvacated or unstayed, on appeal or otherwise, and in effect for a period of 90 days; or

(j) the State or any other Governmental Authority having jurisdiction over the Issuer imposes a debt moratorium, debt restructuring, or comparable restriction on repayment when due and payable of the principal or interest on the Bonds; or

(k) any provision of this Agreement or the Bonds setting forth the payment obligations of the Borrower or the Issuer (as the case may be) shall at any time for any reason cease to be valid and binding on the Borrower, or shall be declared to be null and void, or (ii) the validity or enforceability thereof shall be contested by the Borrower, the Parent or the Sponsor, or any case, proceeding or action shall be commenced by any Governmental Authority seeking to establish the validity or unenforceability thereof, or the Borrower, the Parent or the Sponsor shall deny that it has any or further liability or obligation for such payment obligations; or

(l) any judgment, decree or order for the payment of money in an amount exceeding \$500,000, which is uninsured (or which the carrier of any insurance with respect to such judgment, decree or order has denied coverage) shall be rendered against the Borrower and either (i) enforcement proceedings shall have been commenced by any creditor upon any such judgment, decree or order, or (ii) there shall be any period of 20 consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect; or

(m) the Indenture or the Lien of this Agreement or the Mortgage shall cease to create a lien on the Collateral described therein with the priority purported to be created thereby securing the obligations of the Issuer under the Indenture or the Obligations of the Borrower under the Related Documents, respectively; or

(n) the Sponsor shall fail to duly and promptly perform, comply with or observe any of the terms, covenants, conditions or agreements contained in the Support Agreement; or

(o) the occurrence of an Event of Default under the Indenture or the Loan Agreement.

*Section 6.2. Remedies.* If an Event of Default shall occur and be continuing, the Trustee may, with the consent of the Bondholder Representative, and shall, at the direction of the Bondholder Representative, take one or more of the following actions at any time and from time to time (regardless of whether the actions are taken at the same or different times):

(a) declare the outstanding amount of the Bonds and accrued interest thereon and all other amounts payable hereunder and under the other Related Documents to be immediately due and payable by written notice to the Issuer and the Borrower or take such other remedial action as is provided for in the Indenture;

(b) by written notice to the Borrower, declare the outstanding amount of the Obligations under this Agreement and the other Related Documents to be immediately due and payable without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived, and an action therefor shall immediately accrue;

(c) either personally or by attorney or agent without bringing any action or proceeding, or by a receiver to be appointed by a court in any appropriate action or proceeding, take whatever action at law or in equity may appear necessary or desirable to collect the amounts due and payable under the Related Documents or to enforce performance or observance of any obligation, agreement or covenant of the Borrower under the Related Documents, whether for specific performance of any agreement or covenant of the Borrower or in aid of the execution of any power granted to the Trustee in the Related Documents;

(d) cure any Default, Event of Default or event of nonperformance hereunder or under any other Related Document; *provided, however,* that neither the Trustee nor the Bondholder Representative shall have any obligation to effect such a cure;

(e) exercise, or cause to be exercised, any and all remedies as it may have under the Related Documents and as otherwise available at law and at equity;

(f) upon the occurrence of an Event of Default hereunder, the Bondholder Representative may enter into any agreement it deems necessary with any Consultant selected by the Bondholder Representative for the benefit of the Borrower. Such Consultant may be paid by the Borrower or with moneys held by the Trustee under the Indenture, as directed in writing by the Bondholder Representative;

(g) upon the occurrence of an Event of Default described in Section 6.1(b), (c) or (d), the Bondholder Representative may change the owner of the Borrower as provided in the Pledge Agreement; and

(h) upon the occurrence of an Event of Default described in Section 6.1(b), (c) or (d), the Bondholder Representative may change the management of the Borrower.

Any amounts collected by the Trustee upon the pursuit of remedies hereunder or under the other Related Documents shall be applied to the Obligations in accordance with Section 9.05 of the Indenture.

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**Section 6.3. Attorneys' Fees and Other Expenses.** Upon the occurrence of an Event of Default, the Borrower shall on demand pay to the Trustee and the Bondholder Representative the reasonable fees and expenses of attorneys and other reasonable expenses incurred by them in the collection of payments due on the Bonds or the enforcement of performance of any other Obligations of the Borrower hereunder and under the Related Documents.

**Section 6.4. Remedies Cumulative; Solely for the Benefit of Bondholders and Bondholder Representative.** To the extent permitted by, and subject to, the mandatory requirements of, applicable Law, each and every right, power and remedy herein specifically given to the Trustee or the Bondholder Representative in the Related Documents shall be cumulative, concurrent and nonexclusive and shall be in addition to every other right, power and remedy specifically given or now or hereafter existing at law, in equity or by statute, and each and every right, power and remedy (whether specifically herein given or otherwise existing) may be exercised from time to time and as often and in such order as may be deemed expedient by the Trustee or the Bondholder Representative, as the case may be, and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy.

The rights and remedies of the Trustee and the Bondholder Representative specified herein are for the sole and exclusive benefit, use and protection of the Trustee, the Bondholder Representative and the Bondholders, and the Trustee and the Bondholder Representative are entitled, but shall have no duty or obligation to the Borrower or any other Person or otherwise, to exercise or to refrain from exercising any right or remedy reserved to the Trustee and the Bondholder Representative hereunder or under any of the other Related Documents.

**Section 6.5. Waivers or Omissions.** No delay or omission by the Trustee or the Bondholder Representative in the exercise of any right, remedy or power or in the pursuit of any remedy shall impair any such right, remedy or power or be construed to be a waiver of any default on the part of the Trustee or the Bondholder Representative or to be an acquiescence therein. No express or implied waiver by the Trustee or the Bondholder Representative of any Event of Default shall in any way be a waiver of any future or subsequent Event of Default.

**Section 6.6. Discontinuance of Proceedings.** In case the Trustee or the Bondholder Representative shall proceed to invoke any right, remedy or recourse permitted hereunder or under the other Related Documents and shall thereafter elect to discontinue or abandon the same for any reason, the Borrower, the Trustee and the Bondholder Representative shall be restored to their former positions with respect to the Obligations, the Related Documents and otherwise, and the rights, remedies, recourse and powers of the Trustee and the Bondholder Representative hereunder shall continue as if the same had never been invoked.

**Section 6.7. Injunctive Relief.** The Borrower recognizes that in the event that an Event of Default occurs, any remedy of Law may prove to be inadequate relief to the Trustee; therefore, the Borrower agrees that the Trustee at the written request of the Bondholder Representative may or upon the written direction of the Bondholder Representative shall seek and be entitled to temporary and permanent injunctive relief or specific performance in any such case.

**Section 6.8. Confession of Judgment.** In the event that the Borrower fails to pay when due any amount required to be paid under Section 3.1(a) or any other amounts due under this Agreement, the Loan Agreement and the Indenture, the Borrower authorizes any attorney at law licensed in the State to appear on behalf of the Borrower in any court having jurisdiction in one or more proceedings, or before any clerk thereof or prothonotary or other court official, and to CONFESS JUDGMENT AGAINST THE BORROWER, WITHOUT PRIOR NOTICE OR OPPORTUNITY OF THE BORROWER FOR PRIOR HEARING, in favor of the Trustee for the full amount due under this Agreement and the other Related Documents plus court costs and reasonable attorneys' fees incurred to confess judgment. The Borrower waives the benefit of any and every statute, ordinance or rule of court which may be lawfully waived conferring upon the Borrower any right or privilege of exemption, appeal, stay of execution or supplementary proceedings, inquisition, extension upon any levy on real estate or personal property and any other relief from the enforcement or immediate enforcement of a judgment or related proceedings on a judgment. The authority and power to appear for and enter judgment against the Borrower shall not be exhausted by one or more exercises thereof, or by any imperfect exercise thereof, and shall not be extinguished by any judgment entered pursuant thereto; such authority and power may be exercised on one or more occasions from time to time, in the same or different jurisdictions, as often as the Trustee or the Bondholder Representative shall deem necessary or advisable, for all of which this Agreement shall be sufficient authority.

Notwithstanding the foregoing, in enforcing any judgment by confession obtained against the Borrower in connection with this Agreement, the Trustee shall not retain, solely with respect to attorney's fees incurred by the Trustee in connection with this Agreement, any amounts in excess of the actual amount of attorneys' fees charged or billed to the Trustee.

The Trustee shall be entitled to recover its reasonable attorney's fees and expenses in connection with enforcing any judgment by confession obtained against the Borrower and each of the Trustee and the Bondholder Representative shall be entitled to recover its reasonable attorney's fees and expenses in connection with the enforcement of any other provision contained in this Agreement.

## ARTICLE VII

### INDEMNIFICATION

**Section 7.1. Indemnification.** In addition to any and all rights of reimbursement, indemnification, subrogation or any other rights hereunder and under the other Related Documents or at law or in equity, the Borrower hereby agrees (to the extent permitted by law) to indemnify, hold harmless and defend the Trustee and its officers, directors, employees and agents and the Bondholder Representative and its officers, directors, employees and agents (each, an "Indemnitee") from and against any and all claims, damages, losses, liabilities, costs or expenses of any conceivable nature, kind or character (including reasonable fees and expenses of attorneys, accountants, consultants and other experts, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which any Indemnitee may become subject under statutory law (including federal or state securities laws) or at common law or otherwise (collectively, "Liabilities"), arising out of or based upon or in any way relating to:

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(a) the Bonds, this Agreement, the Indenture, the Loan Agreement, the Mortgage or any other Related Document or the execution or amendment hereof or thereof or in connection with the transactions contemplated hereby or thereby, including (without limitation) the issuance, sale or resale of the Bonds;

(b) any act or omission of the Borrower, the Parent or the Sponsor or any of their respective agents, contractors, servants, employees, tenants or licensees in connection with the Project, the Facilities or the operations thereof, or the condition, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, installation or construction of, the Project or the Facilities or any part thereof;

(c) any lien or charge upon payments by the Borrower to the Trustee or the Bondholder Representative hereunder, or any taxes (including, without limitation, *ad valorem* taxes and sales taxes), assessments, impositions and other charges imposed on the Trustee or the Bondholder Representative in respect of any portion of the Project or the Facilities;

(d) any violation of any Environmental Laws with respect to, or the release of any hazardous substances from, the Project, the Facilities or any part thereof;

(e) the defeasance or redemption, in whole or in part, of the Bonds;

(f) any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact contained in any offering or disclosure document or disclosure or continuing disclosure document for the Bonds or any of the documents relating to the Bonds, any omission or alleged omission from any offering or disclosure document or disclosure or continuing disclosure document for the Bonds of any material fact necessary to be stated therein in order to make the statements made therein, in light of the circumstances under which they were made, not misleading;

(g) any declaration of taxability of interest on the Bonds, or allegations that interest on the Bonds is taxable or any regulatory audit or inquiry regarding whether interest on the Bonds is taxable;

(h) the Trustee's acceptance or administration of the trust created by the Indenture, or the exercise or performance of any of its powers or duties thereunder or under any of the documents relating to the Bonds to which it is a party; and

(i) any injury to or death of any Person or damage to property in or upon the Project or the Facilities or growing out of or connected with the use, nonuse, condition or occupancy of the Project or the Facilities; *provided*, however, that no Indemnitee shall be entitled to indemnification with respect to any Liabilities, to the extent that such Liabilities are caused by the negligence or willful misconduct of such Indemnitee.

In the event that any action or proceeding is brought against any Indemnitee with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from the Indemnitee to the Borrower, shall assume the investigation and defense thereof, including the employment of counsel selected by the Indemnitee, and shall assume the payment of all reasonable

expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; *provided* that the Indemnitee shall have the right to review and approve or disapprove any such compromise or settlement. Each Indemnitee shall have the right to employ separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and the Borrower shall pay the reasonable fees and expenses of such separate counsel; *provided*, however, that such Indemnitee may only employ separate counsel at the expense of the Borrower if in the judgment of such Indemnitee a conflict of interest exists by reason of common representation or if all Persons commonly represented do not agree as to the action (or inaction) of counsel.

The indemnity provided to the Bondholder Representative shall cover any actions taken by the Bondholder Representative under the Related Documents, including (without limitation) enforcing any remedies, foreclosure, providing consents, waivers and directing any actions of the Trustee, including (without limitation) acceleration and foreclosure.

The rights of any persons to indemnify hereunder and rights to payment of fees and reimbursement of expenses shall survive the final payment or defeasance of the Bonds and in the case of the Trustee any resignation or removal.

## ARTICLE VIII

### MISCELLANEOUS

**Section 8.1. Further Assurances.** From time to time upon the request of the Trustee or the Bondholder Representative, the Borrower shall promptly and duly execute, acknowledge and deliver any and all such further instruments and documents as the Trustee or the Bondholder Representative may in its reasonable discretion deem necessary or desirable to confirm this Agreement and the other Related Documents, to carry out the purpose and intent hereof and thereof or to enable the Trustee or the Bondholder Representative to enforce any of its rights hereunder or thereunder. At any time, and from time to time, upon request by the Trustee or the Bondholder Representative, the Borrower will, at the Borrower's expense, correct any defect, error or omission which may be discovered in the form or content of any of the Related Documents.

**Section 8.2. Amendments and Waivers.** The Trustee and the Borrower may, with the consent of the Bondholder Representative, from time to time enter into agreements amending, modifying or supplementing this Agreement or the other Related Documents or changing the rights of the Trustee, the Borrower or the Bondholder Representative hereunder or thereunder, and the Trustee may, with the consent of the Bondholder Representative and shall upon the direction of the Bondholder Representative from time to time grant waivers or consents to a departure from the due performance of the obligations of the Borrower hereunder or thereunder. Any such agreement, waiver or consent must be in writing and shall be effective only to the extent specifically set forth in such writing.

**Section 8.3. Notices.** All notices, requests, demands, directions and other communications (collectively, "notices") under the provisions of this Agreement shall be in writing (including facsimile communication), unless otherwise expressly permitted hereunder, and shall be sent by first-class mail or overnight delivery and shall be deemed received as follows: (a) if by first class

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mail, seven days after mailing; (b) if by overnight delivery, on the next Business Day; and (c) if by facsimile or electronic mail, when confirmation of receipt is obtained. All notices shall be sent to the applicable party at the address shown below or in accordance with the last unrevoked written direction from such party to the other parties hereto.

If to the Borrower:

The Baldwin Senior Living  
575 Osgood Street  
North Andover, MA 01845  
Attention: Executive Director  
Telephone: (978) 725-4106

with a copy to:

Edgewood Senior Solutions Group, Inc.  
575 Osgood Street  
North Andover, MA 01845  
Attention: Director of Finance  
Telephone: (978) 725-4106

If to the Bondholder Representative:

Hamlin Capital Management, LLC  
640 Fifth Avenue, 11<sup>th</sup> Floor  
New York, New York 10019  
Attention: Joe Bridy  
Telephone: (212) 752-8777

with a copy to:

McCarter & English, LLP  
100 Mulberry Street, Four Gateway Center  
Newark, New Jersey 07102  
Attention: Jacqueline Shanes  
Telephone: (973) 639-7955

If to HCA:

Hamlin Capital Advisors, LLC  
5550 West Executive Drive, Suite 235  
Tampa, Florida 33609  
Attention: Paul Towell  
Telephone: (813) 280-1001

If to the Trustee:

UMB Bank, National Association  
2 South Broadway, Suite 600  
St. Louis, Missouri 63102  
Attention: Brian Krippner  
Telephone: (314) 612-8480

If to the Underwriter:

Odeon Capital Group LLC  
Municipals Department  
750 Lexington Avenue, 27th Floor  
New York, NY 10022  
Attention: Scott Kayser  
Telephone: (704) 317-8535

with a copy to:

McKennon Shelton & Henn LLP  
401 East Pratt St., Suite 2600  
Baltimore, Maryland 21202  
Attention: David Gregory  
Telephone: (410) 843-3543

A duplicate copy of each demand, notice, approval, consent, request, opinion or other communication given hereunder by either the Trustee or the Borrower to the other under any Related Document shall also be given to the Bondholder Representative and, if requested by the Underwriter or HCA, the Underwriter and HCA, respectively. The Borrower, the Trustee, the Bondholder Representative, the Underwriter and HCA may, by notice given hereunder, designate any further or different addresses to which subsequent demands, notices, approvals, consents, requests, opinions or other communications shall be sent or persons to whose attention they shall be directed.

No notices shall be sent to the Holder of any Hamlin Investor Bond, including (without limitation) notices of failure to comply with covenants and Events of Default. Notwithstanding the foregoing, the Trustee may send routine payment processing and similar notices to DTC as long as DTC is the registered owner of the Bonds.

The Bondholder Representative may rely on any notice (including telephonic communication) purportedly made by or on behalf of the Borrower or the Trustee, and shall have no duty to verify the identity or authority of the Person giving such notice, unless such actions or omissions would amount to gross negligence or intentional misconduct.

**Section 8.4. No Third-Party Rights.** Nothing in this Agreement, whether express or implied, shall be construed to give to any Person other than the parties hereto, the Bondholder Representative and the Bondholders any legal or equitable right, remedy or claim under or in respect of this Agreement, which is intended for the sole and exclusive benefit of the parties hereto, the Bondholder Representative and the Bondholders.

**Section 8.5. Severability.** The provisions of this Agreement are intended to be severable. If any provision of this Agreement shall be held invalid or unenforceable in whole or in part in any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without in any manner affecting the validity or enforceability thereof in any other jurisdiction or the remaining provisions hereof in any jurisdiction.

**Section 8.6. Governing Law; Consent to Jurisdiction and Venue; Waiver of Jury Trial.**

(a) This Agreement shall be governed by, and construed in accordance with, the Laws of the State without giving effect to conflicts of law provisions.

(b) Each party hereto consents to and submits to *in personam* jurisdiction and venue exclusively in the State and in the federal district courts which are located in the State. Each party (i) asserts that it has purposefully availed itself of the benefits of the Laws of the State, (ii) waives any objection to *in personam* jurisdiction on the grounds of minimum contacts, (iii) waives any objection to venue and waives any plea of *forum non conveniens* and (iv) agrees not to seek removal of such proceedings to any court or forum other than as specified above. This consent and submission to jurisdiction is with regard to any action related to this Agreement.

(c) To the extent permitted by applicable Law, each of the parties hereto hereby waives its right to a jury trial of any claim or cause of action based upon or arising out of this Agreement, the other Related Documents or any of the transactions contemplated hereby or thereby, including contract claims, tort claims, breach of duty claims, and all other common law or statutory claims.

(d) The covenants and waivers made pursuant to this Section shall be applicable to any subsequent amendments, renewals, supplements or modifications of this Agreement. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

**Section 8.7. Prior Understandings.** This Agreement and the other Related Documents supersede all other prior understandings and agreements, whether written or oral, among the parties hereto relating to the transactions provided for herein and therein.

**Section 8.8. Duration.** All representations and warranties of the Borrower contained herein or made in connection herewith shall survive the making of and shall not be waived by the execution and delivery of this Agreement or the other Related Documents. All covenants and agreements of the Borrower contained herein shall continue in full force and effect from and after the date hereof until the Bonds and all Obligations hereunder have been fully discharged.

**Section 8.9. Counterparts.** This Agreement may be executed in any number of counterparts and by each of the parties hereto on separate counterparts each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute but one and the same instrument.

**Section 8.10. Successors and Assigns.** This Agreement is a continuing obligation and shall be binding upon the Borrower, its successors, transferees and assigns and shall inure to the benefit of the Bondholder Representative and the Bondholders and their respective permitted successors, transferees and assigns. The Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Bondholder Representative.

**Section 8.11. Bondholder Representative Acts.** In the event that there ceases to be a Bondholder Representative, then any reference herein to the Bondholder Representative shall be of no further force and effect and where there is a reference to an action being taken solely by the

Bondholder Representative, such reference shall be deemed instead to be a reference to the holders of a majority in aggregate principal amount of Outstanding Bonds.

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**FORM OF COMPLIANCE CERTIFICATE**

The undersigned duly authorized officer of The Baldwin Senior Living (the "Borrower") hereby certifies as follows to demonstrate compliance with certain provisions of the Continuing Covenants Agreement dated as of April 1, 2022, between UMB Bank, National Association and the Borrower (the "Continuing Covenants Agreement"):

THE BALDWIN SENIOR LIVING

By: \_\_\_\_\_  
Name: Marlene Rotering  
Title: Executive Director

UMB BANK, NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_  
Name: Brian P. Krippner  
Title: Senior Vice President

This Certificate is being delivered with respect to the following (each, a "Testing Period"):

Fiscal Year ended December 31, 20\_\_\_\_: \_\_\_\_ OR

Fiscal Quarter ended [March 31] [June 30] [September 30] [December 31], 20\_\_\_\_:

Month ended \_\_\_\_\_

Capitalized terms used but not defined in this Certificate shall have the meanings set forth in the Continuing Covenants Agreement.

(a) Debt Service Coverage Ratio

Net Revenues Available for Debt Service (A) ..... \_\_\_\_\_

Maximum Annual Debt Service (B)..... \_\_\_\_\_

Debt Service Coverage Ratio (A/B)..... \_\_\_\_\_

Is the Debt Service Coverage Ratio of the Borrower an amount at least equal to the Debt Service Coverage Ratio requirement for the applicable period?  
\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

In order to meet the Debt Service Coverage Ratio requirement, did the Borrower defer any Management Fees payable during the Testing Period?  
\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

If yes, please identify the amount of such deferral: \$ \_\_\_\_\_

In order to meet the Debt Service Coverage Ratio requirement, did the Sponsor or the Parent make any contributions to the Borrower during the Testing Period?  
\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

If yes, please identify the amount of such contribution: \$ \_\_\_\_\_

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(b) Days' Cash on Hand Requirement

Unrestricted Cash and Marketable Securities (A) .....	\$ _____
Operating expenses .....	\$ _____
(Deduct):	
Depreciation .....	_____
Amortization .....	_____
Deferred Management Fees .....	_____
Total Operating Expenses (B) .....	\$ _____

Days' Cash on Hand (Ratio of A to B/365) or 366 .....

Is the Days' Cash on Hand of the Borrower an amount at least equal to the Days' Cash on Hand requirement for the applicable period?  
\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

In order to achieve the Days' Cash on Hand requirement, did the Borrower defer any Management Fees?  
\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

If yes, please identify the amount of such deferral: \$ \_\_\_\_\_

In order to meet the Days' Cash on Hand requirement, did the Sponsor or the Parent make any contributions to the Borrower?  
\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

If yes, please identify the amount of such contribution: \$ \_\_\_\_\_

Percent of Occupied Assisted Living Units and Memory Care Units  
(B/A) ..... \_\_\_\_\_

Is the occupancy of the Borrower an amount at least equal to the occupancy requirement for the applicable period?  
\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

(d) Marketing Covenant

For each month during the Testing Period, the number of Reserved Units were as follows:

Month	Number of Reserved Units

Are the reserved units of the Borrower an amount at least equal to the marketing requirement for the applicable period?  
\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

What is the number of individuals on the waitlist?  
\_\_\_\_\_

For a Testing Period ending December 31, has the waitlist requirement been met?  
\_\_\_\_\_

\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

(e) Related Party Transactions

During the Testing Period, has the Borrower, the Parent or the Sponsor entered into any Related Party Agreement?  
\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

If yes, please attach Agreement (if written) or describe the Agreement (if oral).

During the Testing Period, has any director, trustee, officer or member of the Borrower, the Parent or the Sponsor filed a Conflict of Interest Questionnaire?  
\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

If yes, please attach

(f) Certification as to Financial Statements. To the best of the undersigned's knowledge, the financial statements provided to the Trustee with this Compliance Certificate fairly set forth the financial position and results of operations of the Borrower as of the date and for the period covered by such financial statements, subject to year-end adjustments.

(g) Entrance Fees.

EXHIBIT B

During the Testing Period what was the aggregate amount of Entrance Fees received?

\$ \_\_\_\_\_

During the Testing Period what was the aggregate amount of Entrance Fees deposited with the Trustee?

\$ \_\_\_\_\_

(h) Certification as to no Event of Default.

To the best of the undersigned's knowledge, has an Event of Default or Default under any Related Document occurred?

\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

If yes, please attach a statement describing the nature thereof and the steps the Borrower intends to take to cure such default.

IN WITNESS WHEREOF, I have hereunto set my hand, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

THE BALDWIN SENIOR LIVING

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

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**PROPOSED FORM**

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**CONTINUING COVENANTS AGREEMENT**

dated as of April 1, 2022

by and between

**THE BALDWIN SENIOR LIVING**

and

**UMB BANK, NATIONAL ASSOCIATION**  
as Trustee

relating to

\$17,400,000

Business Finance Authority of the State of New Hampshire  
Subordinate Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022E

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Exhibit A – Form of Compliance Certificate  
 Exhibit B – Related Party Transaction Disclosure

## CONTINUING COVENANTS AGREEMENT

This Continuing Covenants Agreement, dated as of April 1, 2022 (this “*Agreement*,” as defined herein), is between The Baldwin Senior Living, a nonprofit corporation organized and existing under the laws of the State of New Hampshire (the “*Borrower*”), and UMB Bank, National Association, as trustee (the “*Trustee*”) under the Trust Indenture of even date herewith between Business Finance Authority of the State of New Hampshire (the “*Issuer*”) and the Trustee (the “*Indenture*”).

### RECITALS

Concurrently with the execution and delivery of this Agreement, the Issuer has authorized the issuance of its revenue bonds in the aggregate principal amount of \$17,400,000 (the “*Bonds*,” as defined herein). The proceeds of the Bonds will be loaned to the Borrower pursuant to the Loan Agreement of even date herewith between the Issuer and the Borrower (the “*Loan Agreement*,” as defined herein). The obligations of the Borrower under the Loan Agreement are secured by a Second Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Financing Statement with respect to certain property of the Borrower (as defined therein, the “*Mortgaged Property*”).

The Borrower is entering into this Agreement in order to induce the Issuer to issue the Bonds and the owners from time to time of the Bonds to purchase the Bonds.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Borrower and the Trustee hereby agree as follows:

### ARTICLE I

#### DEFINITIONS

*Section 1.1. Certain Defined Terms.* Terms used herein that are not defined herein shall have the meanings ascribed to such terms in the Indenture. In addition to the terms defined in the recitals and elsewhere in this Agreement and the Indenture, the following terms shall have the following meanings:

“*Additional Payment*” means a payment required to be made under Section 3.1(b).

“*Affiliate*” means, with respect to any Person, a Person, which directly or indirectly controls, is controlled by or under the control of another Person. For purposes of this definition, “control” means the power to direct the management and policies of a Person through the ownership of a majority of its voting securities or membership interests or the right to designate or elect and remove, with or without cause, a majority of the members of its Governing Body, by contract or otherwise.

“*Architect*” means DiMella Shaffer Associates, Inc., and its successors and assigns.

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“*Architect Agreement*” means the Agreement dated September 27, 2017, between the Sponsor and the Architect with respect to the Project.

“*Agreement*” means this Continuing Covenants Agreement, as supplemented and amended from time to time in accordance with Section 8.2 of this Agreement.

“*Assignment*” means the Collateral Assignment of Contract Rights dated as of April 1, 2022 between the Borrower and the Trustee for the benefit of the holders of the Bonds, as amended and supplemented from time to time in accordance with Section 8.2 of this Agreement.

“*Assisted Living Unit*” means each assisted living unit constituting a part of the Facilities.

“*Authorized Representative*” means the Executive Director or Director of Finance of the Borrower or such other person as shall be designated in a certificate executed by the Executive Director or Director of Finance of the Borrower and delivered to the Trustee and the Bondholder Representative.

“*Bond Counsel*” means Hinckley, Allen & Snyder LLP or any other firm of attorneys nationally recognized on the subject of tax-exempt municipal finance selected by the Borrower with the approval of the Trustee and the Bondholder Representative.

“*Bond Purchase Agreement*” means the Bond Purchase Agreement dated April 19, 2022 among the Issuer, the Underwriter and the Borrower.

“*Bondholder*” means the registered owner of any Series 2022E Bond.

“*Bondholder Representative*” means (a) Ecofin Advisors, LLC, so long as a majority in aggregate principal amount of the Outstanding Bonds are beneficially owned by persons for whom Ecofin Advisors, LLC serves as investment advisor; and (b) at any other time, the designee, if any, of the holders of a majority in aggregate principal amount of the Outstanding Bonds. If there shall be no designee, the term “*Bondholder Representative*” shall be deemed instead to be a reference to the holders of a majority in aggregate principal amount of Outstanding Bonds; *provided*, that all notices required to be given to the Bondholder Representative shall be given to the holders of the Outstanding Bonds.

“*Bonds*” means the Authority’s Subordinate Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022E in the aggregate principal amount of \$17,400,000. For clarity, as used in this Agreement, the word “*Bonds*” excludes any Senior Bonds.

“*Borrower*” means The Baldwin Senior Living, a New Hampshire nonprofit corporation, and its successors and permitted assigns.

“*Business Day*” has the meaning set forth in the Indenture.

“*CERCLA*” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

“*Change of Control*” means one or more transactions resulting in: (a) the Parent or any Affiliate of the Parent at any time for any reason ceasing to be the record and beneficial member or owner of all of the membership interests or stock, respectively, in the Borrower, free and clear of all Liens (except for the Lien created by the Pledge Agreement), rights, options, warrants or other similar agreements or understandings; or (b) the sale of all or substantially all of the assets of the Borrower.

“*Closing Date*” means April 21, 2022.

“*Code*” means the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder.

“*Collateral*” means, collectively, the Mortgaged Property and all of the tangible and intangible Property (excluding real property) owned by the Borrower, including (without limitation) all of the following: money; accounts; chattel paper; equipment; deposit accounts; instruments; inventory; general intangibles; documents; investment property; securities accounts; cash and noncash proceeds therefrom; books and records, including those relating to any of the foregoing; additions or accretions to any of the foregoing; substitutions for any of the foregoing; rights relating to the storage, withdrawal and retrieval of the foregoing and access to the foregoing; and replacements, products, and proceeds of the foregoing. For the avoidance of doubt, Collateral does not include (a) donor-restricted funds, (b) statutorily required entrance fee reserves (for the avoidance of doubt, the Entrance Fee and Deposit Fund is not a statutorily required entrance fee reserve), (c) funds of residents held by the Borrower for the payment of residency, medical care or personal needs, and (d) any funds pledged or otherwise subject to any Permitted Encumbrance.

“*Completion Certificate*” means a certificate executed by an Authorized Representative and the Construction Monitor certifying that the Project has been completed and all necessary certificates of occupancy have been obtained, delivered to the Trustee and the Bondholder Representative.

“*Completion Date*” means the date of receipt by the Trustee of a duly executed Completion Certificate.

“*Construction Agreement*” means the AIA Document A133™ – 2019 Standard Form of Agreement Between Owner and Construction Manager as Constructor dated December 17, 2021 by and between the Borrower and Harvey Construction Corporation with respect to the Project, as amended.

“*Construction Monitor*” means Valstain, LLP or any other independent construction expert retained by the Bondholder Representative, the Senior Bondholder Representative or the Borrower, with the written consent of the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative), who will monitor, on behalf of the Bondholders, the construction of the Project and the disbursement of money under the Indenture. If there shall be no such entity, the term “*Construction Monitor*” shall be disregarded.

“*Construction Monitor Agreement*” means the Services Agreement dated March 9, 2022 between the Senior Bondholder Representative and the Construction Monitor, and any other

agreement between the Bondholder Representative, the Senior Bondholder Representative or the Borrower and a Construction Monitor with respect to the Project.

**"Consultant"** means any independent professional consulting, accounting, auditing, investment banking or commercial banking firm or individual selected by the Borrower or, to the extent required by this Agreement, the Bondholder Representative or the Senior Bondholder Representative, having the skill and experience necessary to render the particular report required, which firm or individual does not control and is not controlled by the Borrower, the Parent, the Sponsor or any Affiliate, and is acceptable to the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative).

**"Continuing Disclosure Agreement"** means the Continuing Disclosure Agreement dated as of April 1, 2022 by and between the Borrower and UMB Bank, National Association, as dissemination agent.

**"Control Agreement"** means, collectively, (i) the Deposit Account Control Agreement dated April 21, 2022 by and among the Borrower, the Trustee and TD Bank, N.A. and (ii) any other deposit account control agreement executed and delivered by the Borrower in favor of the Trustee.

**"Days' Cash on Hand"** means, as of the date of determination, the amount determined by dividing (a) the amount of Unrestricted Cash and Marketable Securities of the Borrower on such date, by (b) the quotient obtained by dividing (i) total operating expenses of the Borrower for the 12 month period ending on such date, including (without limitation) accrued interest on Indebtedness, other than any interest which is payable from the proceeds of such Indebtedness, but excluding amortization, depreciation and any other non-cash expenses, in each case as shown on the most recent annual audited Financial Statements delivered to the Bondholder Representative pursuant to Section 4.3(a) or, in the case of any determination with respect to any date other than the last day of the Fiscal Year, the most recent unaudited Financial Statements delivered to the Bondholder Representative pursuant to Section 4.3(a), by (ii) 365 or 366, as the case may be.

**"Debt Service Coverage Ratio"** means, as of any date, the Net Revenues Available for Debt Service for the 12-month period ending on such date, divided by Maximum Annual Debt Service on all outstanding Long-Term Debt as of such date (pro-rated in the event that Net Revenues Available for Debt Service are calculated for a period of less than 12-months).

**"Debt Service Reserve Fund"** means the Subordinate Debt Service Reserve Fund established under the Indenture.

**"Debt Service Reserve Fund Requirement"** means \$1,740,000; provided, however, the Debt Service Reserve Fund Requirement shall in no event exceed the least of (a) 10% of the proceeds of Bonds secured thereby (calculated on an aggregate basis with the Senior Bonds), (b) Maximum Annual Debt Service on all Outstanding Bonds secured thereby (calculated on an aggregate basis with the Senior Bonds) and (c) 125% of the average annual debt service requirements of all Outstanding Bonds secured thereby (calculated on an aggregate basis with the Senior Bonds).

Notwithstanding the foregoing, no event described in clause (c) or (d) above shall constitute a Determination of Taxability unless the Borrower has been afforded the opportunity, at its sole expense, to contest any such assessment for a period of no more than 100 days so long as the Sponsor, the Parent or the Borrower is contesting the same during such 100-day period in good faith by appropriate proceedings diligently pursued until the earliest of (i) the date on which the Sponsor or the Borrower, respectively, abandons the contest, (ii) the date on which such contest has been concluded adversely to the Sponsor, the Parent and the Borrower and no further appeals are possible, and (iii) the date that is six months after the initial receipt by the Issuer, the Trustee, the Bondholder Representative or any Bondholder or former Bondholder of such notice or assessment; provided, however, that upon demand from the Trustee or the Bondholder Representative, the Borrower shall promptly reimburse the Trustee, the Bondholder Representative, such Bondholder or such former Bondholder for any payments, including any taxes, interest, penalties, charges or expenses incurred by the Trustee, the Bondholder Representative, such Bondholder or such former Bondholder as a result of such Determination of Taxability.

**"Ecofin Investor Bonds"** means Bonds for which each of the following conditions are met: (a) the holders of such Bonds are advised by Ecofin Advisors, LLC under the Investment Advisors Act of 1940, as amended, pursuant to a written investment advisory agreement and (b) such Bonds are held in managed accounts or commingled investment vehicles of accredited investors or qualified institutional buyers as such terms are defined in the Securities Act of 1933, as amended, and Regulation D thereunder.

**"Entrance Fee"** means the fee paid by a resident of the Facilities pursuant to a lease or residency agreement in order to take possession of a Unit and any deposit in respect thereof.

**"Environmental Claim"** means any action, suit, demand, demand letter, claim, notice of non-compliance or violation, notice of liability or potential liability, investigation, proceeding, consent order or consent agreement relating in any way to any Environmental Law, any Environmental Permit or Regulated Chemical or arising from alleged injury or threat to health, safety or the environment, for enforcement, cleanup, removal, response, remedial or other actions or damages, contribution, indemnification, cost recovery, compensation or injunctive relief, in each case by, from or with any Person.

**"Environmental Laws"** means all applicable federal, state, regional or local laws, statutes, rules, regulations or ordinances concerning public health, safety or the environment, including (without limitation) CERCLA; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Solid and Hazardous Waste Amendments of 1984, 42 U.S.C. §6901, *et seq.* ("RCRA"); the federal Water Pollution Control Act, as amended by the Clean Water Act of 1972, 33 U.S.C. §1251, *et seq.*; the Toxic Substances Control Act of 1976, 15 U.S.C. §2601, *et seq.*; the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. §11001, *et seq.*; the Clean Air Act of 1966, as amended, 42 U.S.C. §7401, *et seq.*; the National Environmental Policy Act of 1975, 42 U.S.C. §4321, *et seq.*; the Rivers and Harbors Act of 1899, 33 U.S.C. §401 *et seq.*; the Endangered Species Act of 1970, as amended, 29 U.S.C. §651, *et seq.*; the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. §300(f), *et seq.*; and all rules, regulations, policies and guidance documents promulgated or published thereunder, and any state, regional, parish or local statute, law, rule, regulation or

**"Default"** means any event that, with notice or lapse of time or both, would become an Event of Default.

**"Default Rate"** means, for any day, a rate of interest per annum equal to the lesser of (i) the highest rate of interest borne by any of the Bonds as of such date plus three percent (3.00%) and (ii) the Maximum Interest Rate, in each case with any change in such rate being effective as of the date such change is announced.

**"Derivative Agreement"** means an interest rate swap, exchange, hedge, cap or similar agreement entered into in order to hedge the interest payable on all or a portion of any Indebtedness, any asset or any other derivative arrangement, including (without limitation) an interest rate swap, a forward or futures contract or an option (*e.g.*, a call, put, cap, floor or collar), which agreement does not constitute an obligation to repay money borrowed, credit extended or the equivalent thereof.

**"Determination of Taxability"** means and shall be deemed to have occurred on the first to occur of the following:

(a) the filing by the Borrower of any statement, supplemental statement or other tax schedule, return or document which discloses that the interest on any Bond is includable in the gross income of the owner of such Bond for federal income tax purposes;

(b) receipt by the Borrower of notice that the Trustee, the Bondholder Representative or any Bondholder or former Bondholder has received a written opinion of Bond Counsel to the effect that the interest on any Bond is includable in the gross income of the owner of such Bond for federal income tax purposes unless, within 100 days after receipt by the Borrower of such notice, the Borrower shall deliver to the Trustee and the Bondholder Representative a ruling or determination letter issued to or on behalf of the Issuer or the Borrower by the Commissioner or any District Director of the Internal Revenue Service (or any other governmental official exercising the same or a substantially similar function from time to time) to the effect that, after taking into consideration such facts as form the basis for such opinion the interest on such Bonds is not includable in the gross income of the owners of such Bonds for federal income tax purposes;

(c) receipt by the Issuer, the Trustee, the Bondholder Representative or any Bondholder or former Bondholder of written notice from the Commissioner or any District Director of the Internal Revenue Service (or any other government official or agent exercising the same or a substantially similar function from time to time) that the interest on any Bond is includable in the gross income of the owner of such Bond for federal income tax purposes;

(d) receipt by the Issuer, the Trustee, the Bondholder Representative or any Bondholder or former Bondholder of written notice that the Internal Revenue Service (or any other government official or agency exercising the same or a substantially similar function from time to time) has assessed as includable in the gross income of such Bondholder or such former Bondholder the interest on any Bonds.

ordinance relating to public health, safety or the environment, including (without limitation) those relating to:

(a) releases, discharges, emissions or disposals to air, water, land or groundwater;

(b) the withdrawal or use of groundwater;

(c) the use, handling, or disposal of polychlorinated biphenyls ("PCBs"), asbestos or urea formaldehyde;

(d) the transportation, treatment, storage, disposal, release or management of hazardous substances or materials (including, without limitation, petroleum, its derivatives, by-products or other hydrocarbons) and any other solid, liquid or gaseous substance exposure to which is prohibited, limited or regulated, or may or could pose a hazard to the health and safety of the occupants of the Mortgaged Property or any property adjacent to or surrounding the Mortgaged Property;

(e) the exposure of persons to toxic, hazardous or other controlled, prohibited or regulated substances; and

(f) any Regulated Chemical.

**"Environmental Permit"** means any permit, approval, identification number, license, registration, certification or other authorization required under any Environmental Law to operate the Facilities.

**"Environmental Report"** means any environmental assessment, test, investigation, or other environmental report or audit conducted at the Mortgaged Property for any reason.

**"ERISA"** means the Employee Retirement Income Security Act of 1974, as amended from time to time.

**"ERISA Affiliate"** means any trade or business the employees of which, together with the employees of the Borrower, are treated as employed by a single employer under Section 4.14(b), (c), (m) or (o) of the Code.

**"ERISA Event"** means any of the following with respect to a Plan or Multiemployer Plan, as applicable: (a) a Reportable Event with respect to a Plan or a Multiemployer Plan; (b) a complete or partial withdrawal by the Borrower from a Multiemployer Plan that results in liability under Section 4201 or 4204 of ERISA, or the receipt by the Borrower or any member of the ERISA Group of notice from a Multiemployer Plan that it is in reorganization or insolvency pursuant to Section 4241 or 4245 of ERISA or that it intends to terminate or has terminated under Section 4041A of ERISA; (c) the distribution by the Borrower or any member of the ERISA Group under Section 4041 or 4041A of ERISA of a notice of intent to terminate any Plan, receipt of notice of termination of a Multiemployer Plan pursuant to Section 4041A of ERISA or the taking of any action to terminate any Plan; (d) the commencement of proceedings by the PBGC under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan, or the receipt by the Borrower or any member of the ERISA Group of a notice from any

Multiemployer Plan that such action has been taken by the PBGC with respect to such Multiemployer Plan; (e) the institution of a proceeding by any fiduciary of any Multiemployer Plan against the Borrower or any member of the ERISA Group to enforce Section 515 of ERISA which is not dismissed within 30 days; (f) the imposition upon the Borrower or any member of the ERISA Group of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, or the imposition or threatened imposition of any Lien upon any assets of the Borrower or any member of the ERISA Group as a result of any alleged failure to comply with the Code or ERISA in respect of any Plan; (g) the engaging in or otherwise becoming liable for a nonexempt Prohibited Transaction by the Borrower or any member of the ERISA Group; (h) a violation of the applicable requirements of Section 404 or 405 of ERISA or the exclusive benefit rule under Section 401(a) of the Code by any fiduciary of any Plan for which the Borrower or any member of the ERISA Group may be directly or indirectly liable; or (i) the adoption of an amendment to any Plan that, pursuant to Section 401(a)(29) of the Code or Section 307 of ERISA, would result in the loss of tax-exempt status of the trust of which such Plan is a part if the Borrower or any member of the ERISA Group fails to timely provide security to such Plan in accordance with the provisions of such sections.

**"ERISA Group"** means any trade or business (whether or not incorporated) which is a member of a group of which the Borrower is a member and which is under common control within the meaning of Section 414 of the Code.

**"Event of Default,"** when used in or with respect to this Agreement has the meaning set forth in Section 6.1 and, when used with respect to any other Related Document, has the meaning assigned therein.

**"Excess Interest Amount"** has the meaning specified in Section 3.1(c)(i).

**"Facilities"** means the real property and all buildings, structures and improvements thereon and interests therein owned or operated by the Borrower and all fixtures, machinery, equipment, furniture, furnishings and other personal property attached thereto, located therein or used in connection therewith.

**"Fiscal Quarter"** means the three month periods ending on March 31, June 30, September 30 and December 31 in each Fiscal Year or, in the event that the Fiscal Year is changed, the three month period beginning on the first day of a Fiscal Year and on the first day of each third month thereafter.

**"Fiscal Year"** means the period of 12 consecutive months beginning on January 1 in any calendar year and ending on December 31 of the same calendar year, or such other fiscal year as the Borrower with the prior written approval of the Bondholder Representative (which approval shall not be unreasonably withheld), shall establish as the fiscal year of the Borrower.

**"Fitch"** means Fitch, Inc., or any successor thereto.

**"GAAP"** means accounting principles generally accepted in the United States of America, except as otherwise herein expressly provided, consistently applied.

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the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative).

**"Land"** means the land and interests in land constituting the site of the Mortgaged Property, as set forth in Exhibit A to the Mortgage and all now owned or hereafter acquired appurtenant easements.

**"Law"** means any treaty or any federal, regional, state and local law, statute, rule, ordinance, regulation, code, license, authorization, decision, injunction, interpretation, order or decree of any court or other Governmental Authority.

**"Liabilities"** has the meaning specified in Section 7.1.

**"Lien."** as applied to any Property or the income or profits therefrom, whether the same is consensual or non-consensual or arises by contract, operation of law, legal process or otherwise, means: (i) any mortgage, lien, pledge, attachment, charge, lease, conditional sale or other title retention agreement, or other security interest or encumbrance of any kind in respect of such Property or upon the income or profits therefrom; or (ii) any arrangement, expressed or implied, under which such Property is transferred, sequestered or otherwise identified for the purpose of subjecting or making such Property available for the payment of debt or performance of any other obligation in priority to the payment of the general, unsecured creditors of the Borrower.

**"Loan Agreement"** means the Loan Agreement of even date herewith between the Issuer and the Borrower, as amended and supplemented from time to time in accordance with Section 8.2 of this Agreement.

**"Long-Term Debt"** means Indebtedness of the Borrower having a final maturity of more than one year from the date of its creation or which is renewable or extendible at the option of the Borrower for a period of more than one year from the date of its creation.

**"Management Agreement"** means the Amended and Restated Management Agreement dated as of the date hereof between the Borrower and the Parent and any other management agreement with respect to the Facilities entered into by the Borrower in accordance with Section 4.16, as the same may be supplemented and amended from time to time in accordance with Section 8.2 of this Agreement.

**"Management Fees"** means the fees payable to the Manager by the Borrower under the Management Agreement, including, without limitation, any termination or other fees owed under the Management Agreement.

**"Manager"** means the Parent, and any other manager of the Facilities retained by the Borrower in accordance with Section 4.16, and their respective successors.

**"Material Adverse Effect"** means a material adverse effect on (i) the validity or enforceability of this Agreement or any other Related Document, (ii) the ability of the Trustee to enforce its legal remedies pursuant to this Agreement or any other Related Document, (iii) the status of the Borrower or the Parent as organizations described in Section 501(c)(3) of the Code, (iv) the business, condition (financial or other), operations or prospects of the Borrower, (v) the

**"Governing Body"** means, when used with respect to any Person, the Board of Directors, Board of Trustees, Board of Managers or other governing body of a Person.

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

**"Governmental Authority"** means the United States of America, any state, county, township or other municipality and any court, agency, department, bureau, board, commission or instrumental of any of the foregoing now existing or hereafter created.

**"Gross Revenues"** means all receipts, revenues, rentals, income, insurance proceeds and other money received by or on behalf of the Borrower, including (without limitation) revenues derived from (i) the ownership, operation or leasing of any property of the Borrower (including, without limitation, Entrance Fees, monthly service fees and any other fees payable by or on behalf of residents or other clients of the Facilities), (ii) contributions from the Sponsor or the Parent, (iii) gifts, grants, bequests, donations and contributions heretofore or hereafter made that are legally available to meet any of the obligations of the Borrower incurred in the financing, operation, maintenance or repair of any portion of the Facilities, (iv) other operating revenues, (v) unrestricted investment income and (vi) net proceeds from business interruption insurance, and all rights to receive the same, whether in the form of accounts, accounts receivable, contract rights, general intangibles, chattel paper, instruments, investment property or other rights, and the proceeds of such rights, whether now existing or hereafter coming into existence or whether now owned or held or hereafter acquired.

**"Indebtedness"** means, with respect to any Person (a) any obligation for borrowed money incurred or assumed by such Person, (b) any obligation under any lease that is capitalized under GAAP incurred or assumed by such Person, (c) any installment or conditional sale or other title retention agreement incurred or assumed by such Person, (d) any obligation to pay the deferred purchase price of property or services incurred or assumed by such Person, (e) any obligation secured by (or having an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the obligations secured thereby have been assumed, (f) any obligation as an account party in respect of letters of credit or similar facilities and bankers' acceptances incurred or assumed by such Person, and (g) any guaranty, loan commitment or other obligation of such Person guaranteeing in any manner, whether directly or indirectly, any obligation of any Person that would be described above if incurred or assumed directly by such Person.

**"Indemnitee"** has the meaning specified in Section 7.1.

**"Indenture"** means the Trust Indenture of even date herewith between the Issuer and the Trustee, as the same may be amended and supplemented from time to time in accordance with Section 8.2 of this Agreement.

**"Independent Living Unit"** means an independent living unit constituting a part of the Facilities.

**"Insurance Consultant"** means an independent Consultant having skill and experience in the insurance requirements of or relating to the Borrower's business and reasonably acceptable to

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ability of the Borrower to perform its obligations hereunder or under any other Related Document or (vi) the rights and remedies of or benefits available to the Trustee or the Bondholder Representative under this Agreement or any other Related Document.

**"Maximum Annual Debt Service"** means, when used with respect to any Indebtedness as of any date of calculation, the greatest amount required in the then-current or any future Fiscal Year to pay the principal of, the amount required to effect the mandatory sinking fund redemption of and the interest on all such outstanding Indebtedness (exclusive of the principal amount due on the maturity date of any series of the Bonds).

**"Maximum Interest Rate"** means the maximum rate of interest permitted by applicable Law.

**"Memory Care Unit"** means each memory care unit constituting a part of the Facilities.

**"Monthly Service Fee"** means any monthly fee payable by a resident of a Unit under the lease or residency agreement between the Borrower and such resident.

**"Moody's"** means Moody's Investors Service, Inc., and its successors and assigns.

**"Mortgage"** means the Second Mortgage, Assignment of Leases and Rents, Security Agreement, and Fixture Filing Statement dated as of April 1, 2022 between the Borrower and the Trustee which grants a lien on and security interest in the Mortgaged Property as security for the Bonds, as amended and supplemented from time to time with the prior written consent of the Bondholder Representative.

**"Mortgaged Property"** has the meaning set forth in the Mortgage.

**"Multiemployer Plan"** means an employee benefit plan subject to Title IV of ERISA to which the Borrower or any member of the ERISA Group, and one or more employers other than the Borrower or any member of the ERISA Group, is making or accruing an obligation to make contributions or, in the event that any such plan has terminated, to which the Borrower or any member of the ERISA Group made or accrued an obligation to make contributions, during any of the five plan years preceding the date of termination of such plan.

**"Net Proceeds"** means the gross proceeds from any insurance recovery or condemnation award or payment in lieu thereof remaining after payment of reasonable attorneys' fees, reasonable fees and expenses of the Trustee, the Bondholder Representative, the Senior Bondholder Representative and all other reasonable expenses incurred in the collection of such gross proceeds.

**"Net Revenues Available for Debt Service"** means, for any period, the amount determined in accordance with GAAP by calculating (a) the operating revenues derived from or attributable to the Mortgaged Property or the Facilities, plus any Entrance Fees received, if any (less any refunds and excluding any earned Entrance Fees or any initial Entrance Fees with respect to newly constructed Units), exclusive of any gifts, grants, bequests, donations and contributions that are donor-restricted or not otherwise available for operating expenses; deducting (b) the total expenses of the Borrower and any Management Fees paid by the Borrower for such period, exclusive of depreciation, interest, amortization, unrealized gains or losses on investments and Derivative

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Agreements and any losses on the sale or disposition of any asset (other than net losses on investments) or on the extinguishment of debt and any other non-cash expenses.

"Obligations" means all amounts payable by the Borrower and all other obligations to be performed by the Borrower pursuant to this Agreement and the other Related Documents.

"Occupied Unit" means a Unit with respect to which a lease or residency agreement or other contract that is then in effect has been executed and delivered by or on behalf of one or more residents of such Unit, the full amount of the Entrance Fee for such Unit has been paid without any discount or concession granted below the market rate and the full amount of Monthly Service Fees with respect to such Unit are payable, and have not been waived, and the Borrower expects payment thereof and will pursue appropriate collection steps to collect the same, if necessary.

"Officer's Certificate" means a certificate signed by an Authorized Representative.

"Organizational Documents" means the instruments pursuant to which a Person was created and which govern its powers and the authority of its representatives to act on its behalf, including (a) with respect to any corporation, the articles of incorporation, certificate of incorporation, corporate charter or other documents pursuant to which such corporation was organized, and its by-laws or code of regulations, and (b) with respect to any limited liability company or other type of entity, the articles or certificate of formation or organization and any operating agreement, each as amended from time to time.

"Parent" means Edgewood Senior Solutions Group, Inc. and its successors and permitted assigns.

"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).

"PBGC" means the Pension Benefit Guaranty Corporation or any successor thereto.

"Permitted Encumbrances" means:

(i) liens for *ad valorem* taxes, special assessments, levies, fees, water and sewer rents or charges not then delinquent;

(ii) liens arising by reason of any good faith deposit made to secure any public or statutory obligation or the payment of taxes or assessments or other similar charges, and any deposit given as a condition to the transaction of any business or the exercise of any privilege or license or in connection with workers' compensation, unemployment insurance, any pension or profit sharing plan or other social security;

(iii) any lien of any mechanic, materialman, laborer, supplier or vendor for work or services performed or materials furnished in connection with such property that is not due and payable or the amount or validity of which is being contested and execution thereon stayed;

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current market value of not less than 102% of the repurchase price or the amount deposited thereunder, as the case may be (the value of such Government Obligations or Agency Obligations to be determined in accordance with such Collateralized Investment Agreement at least once in each seven day period);

(e) obligations issued by or on behalf of any state of the United States of America or any political subdivision thereof which are rated in one of the two highest rating categories of Moody's or S&P;

(f) commercial paper which is rated in the highest rating category of Moody's or S&P that matures in 270 days or less;

(g) shares of investment companies that are rated AAAm or AAAm-G by Moody's or S&P, at least ninety percent (90%) of the assets of which consist of Government Obligations or Agency Obligations and repurchase agreements backed by Government Obligations or Agency Obligations; and

(h) such other investments as are approved in writing by the Senior Bondholder Representative and the Bondholder Representative.

"Person" means an individual, association, unincorporated organization, corporation, limited liability company, partnership, limited partnership, joint venture, business trust, trust, government or agency or political subdivision thereof or other entity.

"Phase I Report" means the Phase I Environmental Site Assessment dated February 14, 2022, prepared by Miller Engineering & Testing Inc.

"Plan" means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA in respect of which the Borrower or any member of the ERISA Group is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Pledge Agreement" means the Pledge Agreement dated as of April 1, 2022 made by the Parent in favor of the Trustee, as amended and supplemented from time to time in accordance with Section 8.2 of this Agreement.

"Prohibited Transaction" means a prohibited transaction as defined in Section 406 of ERISA or Section 4975 of the Code.

"Project" means the refinancing of the Business Finance Authority of the State of New Hampshire Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2020 and the construction and equipping of an approximately 230-unit life plan continuing care retirement community on a land parcel owned by the Borrower consisting of approximately 15.1 acres with frontage on First Avenue between First Avenue's intersections with Main Street and Pillsbury Road in the Town of Londonderry, New Hampshire.

(iv) any lien arising under Law or by contract with respect to initial deposits made under life care or continuing care contracts;

(v) such minor defects, irregularities, encumbrances, easements, rights of way and clouds on title as normally exist with respect to properties similar in character to the Facilities that do not in the aggregate, in the opinion of a Consultant, materially impair the use of property affected thereby for the purposes for which it was acquired or is held by the Borrower, or the value of such property;

(vi) the Mortgage;

(vii) liens securing Indebtedness permitted by this Agreement;

(viii) encumbrances identified in the mortgagee's title insurance policy delivered in connection with the issuance of the Bonds; and

(ix) such other Liens as shall be approved by the Senior Bondholder Representative and the Bondholder Representative.

"Permitted Investments" means:

(a) direct obligations of, or obligations the timely payment of the principal of and the interest on which is unconditionally guaranteed by, the United States of America ("Government Obligations");

(b) direct obligations of, or obligations the timely payment of the principal of and the interest on which is guaranteed by, the Federal National Mortgage Corporation, the Federal Home Loan Bank System, the Federal Home Loan Mortgage Corporation, or a Federal Farm Credit Bank ("Agency Obligations");

(c) United States dollar denominated deposit accounts, certificates of deposit and bankers' acceptances with domestic commercial banks (i) that are issued by banks, the short-term certificates of deposit of which are rated F-1 by Fitch, P-1 by Moody's or A-1 by S&P, or (ii) that are fully insured by the Federal Deposit Insurance Corporation;

(d) repurchase agreements for Government Obligations or Agency Obligations or investment agreements which are, or are issued or guaranteed by an entity, rated by Moody's or S&P in one of its two highest rating categories (without regard to any refinement or gradation by numerical modifier or otherwise or fully collateralized by Government Obligations or Agency Obligations (any such collateralized investment agreement being referred to herein as a "Collateralized Investment Agreement"); provided, that (i) such Government Obligations or Agency Obligations shall be delivered to or supported by a safekeeping receipt or other confirmatory documentation issued by a third-party; (ii) the Trustee shall have a perfected security interest in such Government Obligations or Agency Obligations; (iii) such Government Obligations or Agency Obligations shall be free and clear of any other Liens; and (iv) such repurchase agreements or Collateralized Investment Agreements shall provide that the value of the underlying Government Obligations or Agency Obligations shall be continuously maintained at a

"Property" means any interest in any kind of property or asset, whether real, personal or mixed, tangible or intangible, whether now owned or hereafter acquired.

"Regulated Chemicals" means any substance, the presence of which requires investigation, permitting, control or remediation under any federal, state or local statute, regulation, ordinance or order, including (without limitation):

(a) any substance defined as "hazardous waste" under RCRA;

(b) any substance defined as a "hazardous substance" under CERCLA;

(c) any substance defined as a "hazardous material" under the federal Regulated Chemicals Transportation Law (49 U.S.C. § 5101 *et seq.*);

(d) any substance defined under any analogous state statute;

(e) asbestos;

(f) urea formaldehyde;

(g) PCBs;

(h) petroleum, or any distillate or fraction thereof; and

(i) any hazardous or toxic substance designated pursuant to the Laws of a state.

"Related Documents" means the Bonds, the Bond Purchase Agreement, the Indenture, the Loan Agreement, the Mortgage, the Assignment, the Support Agreement, the Pledge Agreement, the Control Agreement, the Continuing Disclosure Agreement, this Agreement and all other documents and instruments executed and delivered in connection with the transactions contemplated thereby.

"Repair and Replacement Fund" has the meaning set forth in the Indenture.

"Repair and Replacement Fund Requirement" has the meaning set forth in the Indenture.

"Reportable Event" means: (a) any "reportable event" within the meaning of Section 4043(c) of ERISA for which the 30-day notice under Section 4043(a) of ERISA has not been waived by the PBGC (including any failure to meet the minimum funding standard of, or timely make any required installment under, Section 412 of the Code or Section 302 of ERISA, regardless of the issuance of any waivers in accordance with Section 412(d) of the Code); (b) any such "reportable event" subject to advance notice to the PBGC under Section 4043(b)(3) of ERISA; (c) any application for a funding waiver or an extension of any amortization period pursuant to Section 412 of the Code; and (d) a cessation of operations described in Section 4062(e) of ERISA.

"Repository" has the meaning set forth in the Continuing Disclosure Agreement.

"Reserved Unit" means an independent living unit with respect to which a potential resident has paid a deposit equal to at least 10% of the total Entrance Fees. For the avoidance of doubt, a

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Unit shall not longer be considered a Reserved Unit if (i) the deposit has been fully or partially refunded to the potential resident, (ii) the deposit is equal to less than 10% of the Entrance Fees associated with the applicable Unit or (iii) the potential resident has given notice to the Borrower of its intent to cancel the deposit.

"*Response Action*" has the meaning specified in Section 2.12(e).

"S&P" means S&P Global Ratings, and any successor rating agency.

"Senior Bondholder Representative" means (a) Hamlin Capital Management, LLC, so long as a majority in aggregate principal amount of the Outstanding Senior Bonds are beneficially owned by persons for whom Hamlin Capital Management, LLC serves as investment advisor; and (b) at any other time, the designee, if any, of the holders of a majority in aggregate principal amount of the Outstanding Senior Bonds. If there shall be no designee, the term "Senior Bondholder Representative" shall be deemed instead to be a reference to the holders of a majority in aggregate principal amount of Outstanding Senior Bonds; *provided*, that all notices required to be given to the Bondholder Representative shall be given to the holders of the Outstanding Senior Bonds.

"Senior Bonds" means, collectively, the Series 2022A Bonds, the Series 2022B Bonds, the Series 2022C Bonds and the Series 2022D Bonds.

"Series 2022A Bonds" means the Authority's Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022A in the maximum aggregate principal amount of \$87,800,000.

"Series 2022B Bonds" means the Authority's Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022B in the aggregate principal amount of \$15,000,000.

"Series 2022C Bonds" means the Authority's Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022C in the maximum aggregate principal amount of \$38,500,000.

"Series 2022D Bonds" means the Authority's Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022D in the maximum aggregate principal amount of \$30,000,000.

"Social Security Act" means the Social Security Act of 1965, as amended.

"Sponsor" means Edgewood Retirement Community, Inc. and its successors and permitted assigns.

"Sponsor Subordinate Recoverable Grant" means, collectively, (i) the \$5,000,000 subordinate recoverable grant made by the Sponsor to the Borrower on or about October 19, 2020; (ii) the \$1,000,000 subordinate recoverable grant made by the Sponsor to the Borrower on or about October 2021; and (iii) the \$4,000,000 subordinate recoverable grant made by the Sponsor to the Borrower on or about the Closing Date.

"Stabilization Date" means the last day of the first Fiscal Quarter in which (a) the average number of Occupied Independent Living Units, expressed as a percentage of the total number of such Independent Living Units in the respective facilities, during such Fiscal Quarter was greater than 90% and (b) the Debt Service Coverage Ratio of the Borrower was at least 1.20 to 1.00 calculated on a trailing 12-month basis.

"State" means the State of New Hampshire.

"Support Agreement" means the Support Agreement of even date herewith between the Sponsor and the Trustee, as amended and supplemented from time to time in accordance with Section 8.2 of this Agreement.

"Tax Escrow Fund" means the Tax and Insurance Escrow Fund established under the Indenture.

"Taxable Date" means the date as of which interest on the Bonds is first includable in gross income of a Bondholder or former Bondholder, as such a date is established pursuant to a Determination of Taxability.

"Taxable Period" has the meaning set forth in Section 3.1(d).

"Taxable Rate" means, when used with respect to a Bond as of any particular date of calculation, the per annum interest rate equal to the interest rate then borne by such Bond times 1.4.

"Taxes" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholdings), assessments, fees or other charges imposed by any Governmental Authority, including (without limitation) any interest, fines, additions to tax or penalties applicable thereto.

"Trustee" means the Trustee under and as defined in the Indenture.

"UCC" means the Uniform Commercial Code as enacted in the State.

"Underwriter" means Odeon Capital Group LLC and its successors and assigns.

"Unit" means an Independent Living Unit, Assisted Living Unit, Memory Care Unit, or any other unit constituting a part of the Facilities. "Units" means all Units constituting a part of the Facilities.

"Unrestricted Cash and Marketable Securities" means the sum of unrestricted cash, cash equivalents and marketable securities, including board-designated funds and any amounts on deposit in the Tax Escrow Fund, but excluding (a) all other Trustee-held funds, (b) donor-restricted funds, (c) funds of residents held by the Borrower for the payment of residency, medical care or personal needs and (d) any funds pledged or otherwise subject to any Lien other than the Liens created by this Agreement and the other Related Documents.

**Section 1.2. Computation of Time Periods.** In this Agreement, in the computation of a period of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding."

**Section 1.3. Construction.** Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular, to the singular include the plural and to the part include the whole. Words of the masculine gender include correlative words of the feminine and neuter genders. The word "including" shall be deemed to mean "including but not limited to," or "without limitation" and "or" has the inclusive meaning represented by the phrase "and/or." The words "hereof," "herein," "hereunder" and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. The Section headings contained in this Agreement and the table of contents preceding this Agreement are for reference purposes only and shall not control or affect the construction of this Agreement or the interpretation thereof in any respect. Section, subsection and exhibit references are to this Agreement unless otherwise specified.

**Section 1.4. Incorporation of Certain Definitions by Reference.** Terms used herein and not otherwise defined herein shall have the meaning provided therefor in the Indenture.

**Section 1.5. Accounting Terms and Determinations.** Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared, in accordance with GAAP.

**Section 1.6. Relation to Other Documents; Acknowledgment of Different Provisions of Related Documents; Incorporation by Reference.**

(a) Nothing in this Agreement shall be deemed to amend, or relieve the Borrower of its obligations under, any other Related Document to which it is a party. Conversely, to the extent that the provisions of any other Related Document allow the Borrower to take certain actions, or not to take certain actions, with regard for example to Permitted Encumbrances, transfers of assets, maintenance of financial ratios and similar matters, the Borrower nevertheless shall be fully bound by the provisions of this Agreement.

(b) Except as provided in subsection (c) of this Section, all references to other documents shall be deemed to include all amendments, modifications and supplements thereto to the extent such amendments, modifications and supplements are made in accordance with the provisions of such document and this Agreement.

(c) All provisions of this Agreement making reference to specific Sections of any other Related Document shall be deemed to incorporate such Sections into this Agreement by reference as though specifically set forth herein (with such changes and modifications as may be herein provided) and, except to the extent otherwise provided herein, shall continue in full force and effect with respect to this Agreement notwithstanding payment of all amounts due under or secured by such other Related Document, the termination or defeasance thereof or any amendment thereto or any waiver given in connection therewith, so long as this Agreement is in effect and until the Bonds and all Obligations hereunder are paid in full. Except to the extent otherwise provided

herein including without limitation as provided in Section 8.2 hereof, no amendment, modification, consent, waiver or termination with respect to any of such Sections shall be effective as to this Agreement until specifically agreed to in writing by the Bondholder Representative (and the Senior Bondholder Representative to the extent required by Section 8.2) and the parties hereto with specific reference to this Agreement.

(d) Provisions of the Indenture and the Loan Agreement governing the rights, immunities and protections of the Trustee thereunder are hereby granted to the Trustee and incorporated by reference into this Agreement as though fully set forth herein. In the event of any conflict between this Agreement and the Indenture and/or Loan Agreement with respect to the rights, immunities and protections of the Trustee, the Indenture and/or Loan Agreement shall control, as applicable.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

In order to induce the owners from time to time of the Bonds to purchase the Bonds, the Borrower hereby represents and warrants to the Trustee and the Bondholder Representative, as of the date hereof and as of the Closing Date, as follows:

**Section 2.1. Organization; Powers.** The Borrower: (a) is a non-profit corporation, duly organized, validly existing and in good standing under the laws of the State, the sole member of which is the Parent; (b) has the power and authority to own its Property and to carry on its business as now conducted and as proposed to be conducted; (c) is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required, except where the failure so to qualify would not reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect; and (d) has the power and authority to execute, deliver and perform its obligations under each of the Related Documents to which it is a party.

**Section 2.2. Authorization.** The execution, delivery and performance by the Borrower of each of the Related Documents to which the Borrower is or is to become a party and the Borrower obligations thereunder, and the consummation of the transactions contemplated thereby (a) have been duly authorized by all necessary action on the part of the Borrower; and (b) will not (i) violate any Law, the Organizational Documents or any provision of any material indenture, agreement or other instrument to which the Borrower is a party or by which the Borrower or its Property is or may be bound, (ii) result in a breach of or constitute (alone or with notice or lapse of time or both) a default under or give rise to any right to accelerate or to require the prepayment, repurchase or redemption of any obligation under any such indenture, agreement or other instrument or (iii) result in the creation or imposition of any Lien (other than a Permitted Encumbrance) upon or with respect to any Property now owned or hereafter acquired by the Borrower.

**Section 2.3. Enforceability.** This Agreement has been duly executed and delivered by the Borrower and constitutes, and each other Related Document to which the Borrower is a party, when executed and delivered by the Borrower, will constitute, a legal, valid and binding obligation of the Borrower enforceable against the Borrower in accordance with its terms, subject to (i) applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer and other

similar Laws or enactments in effect now or in the future relating to or affecting the enforceability of creditors' rights generally from time to time in effect; (ii) the application of general principles of equity (including, without limitation, concepts of materiality, reasonableness, good faith and fair dealing), regardless of whether considered in a proceeding in equity or at law and the availability of the remedy of specific performance; and (iii) considerations of public policy with respect to indemnity provisions. The Related Documents, when assigned to the Trustee pursuant to the Indenture, will constitute the legal, valid and binding agreements of the Borrower enforceable against the Borrower in accordance with their terms.

**Section 2.4. Governmental Approvals.** The Borrower has (a) obtained all Governmental Approvals and (b) complied in all material respects with all Laws necessary to conduct its business as it is presently conducted and contemplated to be conducted and to own and operate the Facilities.

The Borrower has all Governmental Approvals that are (i) required to be obtained by the Borrower as a condition precedent to the issuance of the Bonds and the execution and delivery of the Related Documents, and (ii) obtainable to date for the performance by the Borrower of its obligations under the Related Documents and the completion of the Project. No action, Governmental Approval or registration or filing with or any other action by any Governmental Authority is required in connection with the transactions contemplated hereby.

**Section 2.5. No Default.** No event has occurred and no condition exists with respect to the Borrower which would constitute an Event of Default as defined in this Agreement or any of the other Related Documents or which, with the lapse of time or with the giving of notice or both, would become such an "event of default." The Borrower is not in default under its Organizational Documents or other agreement or instrument to which it is a party or by which it or its Property is bound. The Borrower is not in default or alleged to be in default in any material respect under any Indebtedness or any agreement under which any Indebtedness shall have been issued or incurred.

**Section 2.6. Title to Properties; Lien.**

(a) The Borrower has good and marketable title to all Property purported to be owned by it free and clear of any Liens, other than Permitted Encumbrances.

(b) The Borrower represents and warrants that it has not heretofore made a pledge of, granted a Lien on or security interest in or made an assignment or sale of the Gross Revenues or any of its other real or personal Property, or described or consented to the description of the Gross Revenues or such personal Property in any UCC financing statement.

**Section 2.7. Litigation; Compliance with Laws and Agreements.**

(a) There are no actions, suits or proceedings at law or in equity or by or before any Governmental Authority now pending or, to the knowledge of the Borrower, threatened against or affecting the Borrower or any business, Property or rights of the Borrower.

(b) Neither the Borrower nor any of its Property is in violation of, nor will the completion of the Project violate, any Law. The Borrower is not in default with respect to any judgment, writ, injunction, decree or order of any Governmental Authority.

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**Section 2.8. Contracts, Etc.** The Borrower is not in default or, to the knowledge of the Borrower, alleged to be in default in any material respect with respect to any of its obligations under any of its material agreements (or would be in default or alleged to be in default with the giving of notice, passage of time or both), and, to the knowledge of the Borrower, no party other than the Borrower is in default with respect to such party's obligations under any of such agreements (or would be in default or alleged to be in default with the giving of notice, passage of time or both). No claim has been asserted against the Borrower that is or would be materially adverse to its interests under any of such agreements. None of such agreements is subject to any material rights of set-off, recoupment or similar deduction or offset. The Borrower has not assigned or encumbered any of its rights, title or interest in or under any of such agreements, or agreed to any oral modifications of any of the material provisions of any of such agreements.

**Section 2.9. Tax Matters.**

(a) The Borrower has received a determination letter from the Internal Revenue Service classifying it as an organization (i) described in Section 501(c)(3) of the Code which is exempt from federal income taxation under Section 501(a) of the Code (except with respect to "unrelated business taxable income" within the meaning of Section 512(a) of the Code) and (ii) which is not a "private foundation" as defined in Section 509(a) of the Code. Such determination letter has not been modified, limited, revoked or suspended. The Borrower has not received any indication or notice, written or oral, from representatives of the Internal Revenue Service to the effect that its exemption under Section 501(c)(3) of the Code has been modified, limited, revoked or superseded, or that the Internal Revenue Service is considering modifying, limiting, revoking or superseding such exemption. The Borrower is in compliance with all of the terms, conditions and limitations, if any, contained in the determination letter. There has been no change in the facts and circumstances represented to the Internal Revenue Service as a basis for receiving, and which formed the basis on which the Internal Revenue Service issued, the determination letter relating to the status of the Borrower as an organization described in Section 501(c)(3) of the Code and as an organization which is not a "private foundation" as defined in Section 509 of the Code of a nature or to a degree as would warrant any action by the Internal Revenue Service to modify, limit, revoke or supersede such determination letter. The Borrower is an organization organized and operated exclusively for charitable purposes and not for pecuniary profit and no part of the net earnings of the Borrower inures to the benefit of any person, private stockholder or individual, within the meaning of Section 3(a)(4) of the Securities Act of 1933, as amended.

(b) The Borrower has filed or caused to be filed all federal, state, and local tax returns which are required to have been filed by it or has filed extensions therefor and has paid or caused to be paid all taxes as and when due and payable by it and all assessments received by it, except taxes that are being contested in good faith by appropriate proceedings and for which the Borrower shall have set aside on its books adequate reserves.

**Section 2.10. No Untrue Statements or Omissions of Material Facts.** None of the statements contained in any report, financial statement, offering document, exhibit or schedule furnished by or on behalf of the Borrower and its Affiliates to the Trustee or the Bondholder Representative in connection with the negotiation of any Related Document or included therein or delivered pursuant thereto, contained or contains any untrue statement of material fact or omits any material fact required to be stated therein or necessary to make the statements made therein,

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in light of the circumstances under which they were made, not misleading as of the time when made or delivered.

**Section 2.11. Employee Benefit Matters.**

(a) The Borrower has no Multiemployer Plans. With respect to each Plan, (i) no "accumulated funding deficiency," as such term is defined in Section 302 of ERISA or Section 412 of the Code, exists or existed at any time, (ii) no waiver of the minimum funding standards of Section 302 of ERISA and Section 412 of the Code has been requested from or granted by the Internal Revenue Service, and (iii) no Lien in favor of any Plan has arisen under Section 302(f) of ERISA or Code Section 412(n).

(b) There have been no Reportable Events, and the execution and performance of the Related Documents will not constitute a Reportable Event. No employee benefit plan as defined in Section 3(3) of ERISA has been terminated since the effective date of ERISA which could result in any tax, penalty or liability being imposed upon the Borrower or any ERISA Affiliate.

(c) To the knowledge of the Borrower, neither the Borrower nor any ERISA Affiliate, or any predecessor-in-interest to any of them, has participated in, and the execution and performance of this Agreement will not involve any, Prohibited Transaction that could subject the Borrower or any ERISA Affiliate to any liability under ERISA or tax or penalty imposed by Section 4975 of the Code.

(d) Each of the Borrower's Plans is now and always has been operated in all material respects in accordance with Law and its terms, and all obligations required to be performed under each such Plan have been performed such that there is no material default or violation by any party to any such Plan. Each such Plan that is intended to be qualified under Section 401(a) of the Code and each trust established in connection with any such Plan that is intended to be exempt from federal income taxation under Section 501(a) of the Code has received a favorable determination letter from the Internal Revenue Service that it is exempt and no fact or event has occurred since the date of such determination letter that could reasonably be expected to adversely affect the qualified status of such Plan or the exempt status of any such trust.

(e) The execution and performance of this Agreement will not (i) constitute a stated triggering event under any of the Borrower's Plans that will result in any payment becoming due to any employee, officer, director or independent contractor of the Borrower, or any ERISA Affiliate, or (ii) accelerate the time of payment or vesting for, or increase the amount of any compensation or benefits due to any such individual.

**Section 2.12. Environmental Matters.**

(a) To the knowledge of the Borrower, the Mortgaged Property does not contain any Regulated Chemical in an amount or concentration which (i) constitutes a violation of, (ii) requires remedial action under, or (iii) could give rise to liability under any Environmental Law.

(b) To the knowledge of the Borrower, the Mortgaged Property and all operations of the Borrower are in compliance in all material respects with every Environmental Law.

(c) To the knowledge of the Borrower, the Borrower has obtained every Environmental Permit required under any Environmental Law that is necessary for the ordinary operations of its business; every such Environmental Permit is in full force and effect; and the Borrower is in compliance with every material term and condition of each such Environmental Permit.

(d) None of the Borrower, the Mortgaged Property or its operation is subject to any outstanding written order from or agreement with any Governmental Authority, or subject to any judicial or docketed administrative proceeding respecting any Environmental Law, Environmental Claim or Regulated Chemical.

(e) To the knowledge of the Borrower, there has been no Release or threatened Release in violation of any applicable Environmental Law at, from, under or proximate to the Mortgaged Property or at any other Property that would (i) require material removal and remedial action ("Response Action") under any Environmental Law, (ii) would give rise to material liability under any Environmental Law, or (iii) would otherwise reasonably be expected to have a Material Adverse Effect.

(f) The Borrower has not received any notice of an Environmental Claim in connection with the Mortgaged Property, its operations or with regard to any Person whose liability under any Environmental Law has been retained or assumed, in whole or in part, contractually, by operation of law or otherwise, by the Borrower and the Borrower has no reason to believe that any such notice will be received or is being threatened.

(g) To the knowledge of the Borrower, no Regulated Chemical has been (i) transported from the Mortgaged Property in violation of any Environmental Law, or (ii) generated, treated, stored or disposed of at, on or under any Mortgaged Property, in a manner that could reasonably be expected to give rise to liability under any Environmental Law. The Borrower has not retained or assumed any liability, contractually, by operation of law or otherwise, with respect to the generation, treatment, storage or disposal of any Regulated Chemical, other than in a standard heating oil or similar contract. The Borrower does not own or operate any underground storage tank that is not properly permitted and in compliance with applicable Environmental Laws, or that is experiencing or has ever experienced a material Release of Regulated Chemical.

**Section 2.13. Related Party Transactions.** Except as set forth on Exhibit B, none of the Borrower, the Parent or the Sponsor has entered into any agreement (whether written or oral) with a director, trustee, officer or member of the Borrower, the Parent, the Sponsor or any other Affiliate in excess of \$50,000 in the aggregate (each a "Related Party Agreement").

**Section 2.14. Survival.** The Borrower's representations and warranties contained herein (i) shall remain operative and in full force and effect regardless of the issuance of the Bonds, and (ii) are made as of the date of this Agreement and as of the date of each delivery of the Bonds and shall survive the issuance of the Bonds.

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**ARTICLE III**  
**PAYMENT OBLIGATIONS; SECURITY**

*Section 3.1. Payment Obligations.*

(a) *General.* The Borrower shall make all payments required by the Loan Agreement and the Indenture as and when they become due and shall promptly pay all other amounts necessary to enable the Trustee to make the transfers required by Article VI of the Indenture. To provide for the repayment of the loan under the Loan Agreement and the deposits required to be made to the funds and accounts created by the Indenture, the Borrower agrees to pay to the Trustee in immediately available funds the following amounts on the following dates:

(i) on or before the 1<sup>st</sup> day of each month from May 1, 2022 to September 1, 2022, one-fifth (1/5) of the interest due on the Bonds on October 1, 2022, and on or before October 1, 2022 and the 1<sup>st</sup> day of each month thereafter, one-sixth (1/6) of the interest becoming due on the Bonds on the next succeeding Interest Payment Date or such lesser or greater amount as shall be required to make the amount on deposit in the Interest Account equal to the interest due on such Bonds on such Interest Payment Date, less any amount on deposit in the Subordinate Capitalized Interest Account available for transfer to the Interest Account and any earnings then on deposit in the Interest Account; and

(ii) on April 1, 2029, an amount equal to the principal payable on the Outstanding Bonds on April 1, 2029 or such lesser or greater amount as shall be required to make the amount on deposit in the Principal Account equal to the principal of the Outstanding Bonds on such date; and

(iii) on or before the 1<sup>st</sup> day of each month during any period in which the amount on deposit in the Debt Service Reserve Fund is less than the Debt Service Reserve Fund Requirement, (A) if such deficiency results from a withdrawal from the Debt Service Reserve Fund, an amount equal to one-twelfth (1/12) of the amount of such deficiency until the amount on deposit in the Debt Service Reserve Fund is at least equal to the Debt Service Reserve Fund Requirement or (B) if such deficiency results from a decline in value of the assets on deposit in the Debt Service Reserve Fund, an amount equal to the amount of the deficiency so that the amount on deposit in such account in Debt Service Reserve Fund equals the Debt Service Reserve Fund Requirement within 30 days of the date of such valuation;

(iv) to the extent permitted by Law and until such time as the Entrance Fee and Deposit Fund is closed in accordance with the terms of the Indenture, on or before the 1<sup>st</sup> day of each month, 100% of Entrance Fees received from the residents of each Unit to the Trustee for deposit in the Entrance Fee and Deposit Fund to be applied in accordance with Section 6.10 of the Indenture;

(v) on or before the 1<sup>st</sup> day of each month, an amount equal to the amount obtained by dividing the real estate taxes, special assessments or similar charges (collectively, "Taxes"), if any, and insurance premiums due on the next succeeding date on which any Taxes or insurance premiums become due by the number of whole months between the payment date and

the due date for the payment of such Taxes or insurance premiums, less any earnings then on deposit in the Tax Escrow Fund; and

(vi) on the 15<sup>th</sup> day of each month during any period in which the amount on deposit in the Repair and Replacement Fund is less than the Repair and Replacement Fund Requirement, (A) if such deficiency results from a withdrawal (provided that, if an additional withdrawal is made from the Repair and Replacement Fund prior to the restoration of the initial amount withdrawn, such additional withdrawal shall be restored by the Borrower in equal monthly installments over the remainder of the restoration period for the initial withdrawal), until the amount deposited therein equals the Repair and Replacement Fund Requirement, and (B) if such deficiency results from a decline in value of the assets on deposit in the Repair and Replacement Fund, an amount equal to the amount of the deficiency so that the amount on deposit in such account in Repair and Replacement Fund equals the Repair and Replacement Requirement within 30 days of the date of such valuation.

(b) *Additional Payments.* In addition, the Borrower shall pay the following amounts (collectively, the "Additional Payments") as and when the same become due:

(i) (A) to the Bondholder Representative, upon receipt of invoices therefor, the reasonable expenses of the Bondholder Representative for ongoing monitoring of the loan of the proceeds of the Bonds; and (B) to or on the order of the Bondholder Representative, the reasonable fees and expenses of the Bondholder Representative's counsel in connection with the Bonds from time to time;

(ii) to the Trustee the fees and charges of the Trustee incurred in connection with the rendering of its ordinary and extraordinary services as Trustee under the Indenture, the Loan Agreement and this Agreement as and when the same become due, including the reasonable fees and expenses of its counsel;

(iii) any rebates or payment in lieu thereof required to be paid under Section 148 of the Code in accordance with Section 4.7 of the Loan Agreement;

(iv) if an Event of Default shall have occurred, all costs and expenses of the Bondholder Representative and the Trustee (including reasonable out-of-pocket expenses for counsel) in connection with the enforcement (whether by means of legal proceedings or otherwise) of any of its rights under this Agreement, the other Related Documents and such other documents as may be delivered in connection therewith;

(v) all costs and expenses of the Bondholder Representative and the Trustee (including reasonable out-of-pocket expenses for counsel) in connection with each amendment of this Agreement or any other Related Document and each consent by the Bondholder Representative or waiver by the Bondholder Representative under any Related Document;

(vi) to the Construction Monitor, the fees and charges of the Construction Monitor incurred in connection with rendering of its services under the Indenture and the Construction

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Monitor Agreement, as and when the same become due and in accordance with the Construction Monitor Agreement; and

(vii) any amounts advanced by or on behalf of the Trustee or the Bondholder Representative to the extent required to cure any Default, Event of Default or event of nonperformance hereunder or under any other Related Document, together with interest at the Default Rate.

(c) *Excess Interest.*

(i) If the amount of interest payable for any period in accordance with the terms hereof or the Loan Agreement or the Bonds exceeds the amount of interest that would be payable on any Bond for such period had interest for such period been calculated at the Maximum Interest Rate, then interest for such period shall be payable in an amount calculated at the Maximum Interest Rate. The excess, if any, of the interest that would have been due and payable on any Bond for any period but for the operation of this paragraph shall constitute the "Excess Interest Amount" with respect to such Bond and shall accrue and be payable as provided in this subsection. If, as of any date, there exists any accrued and unpaid Excess Interest Amount, then the principal amount with respect to which interest is payable hereunder shall bear interest at the Maximum Interest Rate until payment to the holder of each Bond of the entire Excess Interest Amount with respect to such Bond.

(ii) Notwithstanding the foregoing and to the extent permitted by Law, on the date on which no principal amount with respect to the Bonds remains unpaid, the Borrower shall pay to the holder a fee equal to any accrued and unpaid Excess Interest Amount due with respect to the Bonds.

(d) *Determination of Taxability.* (i) If a Determination of Taxability occurs with respect to any Bond and the Bondholder Representative waives the mandatory prepayment of such Bonds in accordance with Section 3.3(a), then such Bonds shall remain outstanding and shall bear interest at the Taxable Rate and, in such event, the Borrower hereby agrees to pay to each Bondholder on demand therefor (A) an amount equal to the difference between (1) the amount of interest that would have been paid to such Bondholder on such Bond during the period for which interest on such Bond is included in the gross income of such Bondholder if the Bonds had borne interest at the Taxable Rate (the "Taxable Period"), and (2) the amount of interest actually paid to the Bondholder during the Taxable Period, and (B) an amount equal to any interest, penalties or charges owed by such Bondholder as a result of interest on the Bonds being included in the gross income of such Bondholder, together with any and all attorneys' fees, court costs, or other out-of-pocket costs incurred by such Bondholder in connection therewith. The obligations of the Borrower under this subsection shall survive the termination of this Agreement, the termination of any of the other Related Documents, and the redemption or other payment in full of the Bonds.

(e) *Working Capital Fund.* Amounts on deposit in the Working Capital Fund shall be disbursed from time to time to the Borrower to pay operating expenses of the Project upon the submission to the Trustee of requisitions signed by an Authorized Representative of the Borrower and approved by the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding,

the Bondholder Representative). Each such requisition shall include a certification that as of the date thereof, no Default or Event of Default hereunder or under the other Related Documents has occurred and is continuing. Notwithstanding the foregoing, (i) without the prior written consent of the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative), no disbursements from the Working Capital Fund shall be made until a certificate of occupancy for the Project has been issued and (ii) amounts on deposit in the Working Capital Fund may be used to pay costs of the Project prior to the issuance of a certificate of occupancy with the prior written consent of the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative).

(f) *Repair and Replacement Fund.* Amounts on deposit in the Repair and Replacement Fund shall be disbursed from time to time to the Borrower to pay capital expenditures of the Borrower upon the submission to the Trustee of requisitions signed by an Authorized Representative of the Borrower and upon approval of the capital expenditures described in any such requisition by the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative). Each such requisition shall include a certification that as of the date thereof, no Default or Event of Default hereunder or under the other Related Documents has occurred and is continuing. Following any withdrawal from the Repair and Replacement Fund, the Repair and Replacement Fund shall be replenished in accordance with Section 3.1(a)(viii).

**Section 3.2. Obligations Absolute.**

(a) The obligation of the Borrower to make the payments required under the Related Documents shall be absolute and unconditional. Until such time as the principal of, premium, if any, and interest on the Bonds shall have been fully paid or provision for the payment thereof shall have been made in accordance with the Indenture and all other amounts due hereunder and under the other Related Documents shall have been paid, the Borrower (i) shall perform and observe all of its agreements contained in this Agreement and the other Related Documents and (ii) shall pay without abatement, diminution or deduction (whether for taxes or otherwise) all amounts required to be paid hereunder and under the other Related Documents, regardless of any cause or circumstance whatsoever, including (without limitation): any defense, set off, recoupment or counterclaim which the Borrower may have or assert against the Issuer, the Bondholder Representative, the Trustee or any other Person; any failure of the Issuer to perform any covenant or agreement contained herein or in any other agreement between the Issuer and the Borrower; any indebtedness or liability at any time owing to the Borrower by the Issuer, the Bondholder Representative, the Trustee or any other Person; any acts or circumstances that may constitute failure of consideration; damage to or condemnation of the Mortgaged Property; failure or delay in completion of the Project; eviction by paramount title; commercial frustration of purpose; bankruptcy or insolvency of the Issuer or the Trustee; any change in the tax or other laws of the United States of America or of the State or any political subdivision of either; foreclosure of the Mortgage; or any failure of the Issuer, the Bondholder Representative or the Trustee to perform and observe any agreement, whether express or implied, or any duty, liability or obligation, arising out of or connected with this Agreement or the other Related Documents.

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(b) The Borrower hereby waives, to the extent permitted by Law, any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate or cancel, or to limit its liability under, this Agreement or the other Related Documents except in accordance with the express terms hereof.

### *Section 3.3. Mandatory Redemption of Bonds.*

(a) In the event of a Determination of Taxability with respect to any Bonds, the Borrower shall forthwith, and in any event within 45 days after any such Determination of Taxability, pay to the Trustee an amount equal to the principal amount of the outstanding Bonds and accrued interest thereon to the date on which such Bonds are redeemed, plus a premium equal to five percent (5%) of the outstanding principal amount of the Bonds for deposit in the Redemption Account, *provided*, that if the Borrower delivers to the Trustee and the Bondholder Representative the opinion of Bond Counsel to the effect that interest on such Bonds will not be includable in the gross income of the owners thereof if less than all of such Bonds are redeemed, then the Borrower shall pay the amount necessary to redeem the amount of Bonds required to be redeemed in order to preserve the tax-exempt status of such Bonds remaining outstanding as set forth in such opinion. The Borrower agrees to take all action required to cause the requisite amount of such Bonds to be redeemed on the earliest practicable date. Notwithstanding the foregoing, the Bondholder Representative may waive the requirement that the Bonds be redeemed upon a Determination of Taxability by written notice to the Borrower and the Trustee, in which event the Bonds shall bear interest at the Taxable Rate during the Taxable Period in accordance with Section 3.1(d).

(b) The Borrower shall take all action required to cause Bonds to be redeemed in an amount equal to the amount of the Net Proceeds and other amounts required to be paid to the Trustee in accordance with Section 4.18.

(c) In the event that any amounts remain in the Tax-Exempt Senior Construction Account of the Project Fund after the Completion Date, the balance of any money remaining in such account in excess of the amounts (i) to be reserved for payment of unpaid Costs of the Project (including, without limitation, eligible capitalized interest payable from the Bonds) or (ii) transferred to the Debt Service Reserve Fund in accordance with the Indenture shall be used to redeem the Bonds in an amount equal to such excess. In such event, the Bonds shall be redeemed at par plus accrued interest to, but not including, the redemption date and redemption shall be effected pursuant to the provisions of, in the manner, and with the effect provided in the Indenture. The Borrower agrees to take all action required to cause the requisite amount of such Bonds to be redeemed on the earliest practicable date in accordance with the Indenture.

(d) The Borrower shall, to the extent permitted by Law and until such time as the Entrance Fee and Deposit Fund is closed in accordance with the terms of the Indenture, pay 100% of Entrance Fees received from the residents of each Unit to the Trustee for deposit in the Entrance Fee and Deposit Fund created under the Indenture.

### *Section 3.4. Security.*

(a) As security for the performance by the Borrower of its obligations hereunder, the Borrower hereby grants to the Trustee a lien on and security interest in, all of its now owned and hereafter acquired, created or arising Collateral, including (without limitation) the Gross Revenues, subject to no Liens or encumbrances, except Permitted Encumbrances, in each case regardless of where such Collateral may be located and whether such Collateral may be in possession of the Borrower, the Trustee or a third party or if any of such Collateral may be held or stored with any third party. Without limiting the generality of the foregoing, until such time as all amounts Outstanding under the Bonds have been indefeasibly paid in full, the lien and security interest granted hereunder shall continuously apply to the Collateral, including (without limitation) all rights to receive Gross Revenues, and the proceeds of the other Collateral. In addition to the rights and remedies granted to the Trustee herein and in the other Related Documents, the Trustee shall have all of the rights and remedies of a secured party under the UCC with respect to all of the Collateral.

(b) The Borrower at all times will subject all of its Property to a first priority (or, with respect to the Mortgage, second priority), perfected lien with respect to (subject in each case to Permitted Encumbrances) in favor of the Trustee pursuant to the terms and conditions of this Agreement, the Mortgage and the Assignment and shall execute, acknowledge and deliver such further conveyances, transfers, assurances, financing statements and other instruments, in form and substance satisfactory to the Bondholder Representative in its discretion, as the Bondholder Representative or the Trustee shall reasonably request for better assuring, conveying, granting, assigning and confirming any rights, liens on and security interests in the Collateral including Gross Revenues, the Mortgaged Property and other Property on which a lien or security interest is granted, or intended to be, or that the Borrower may hereafter become bound to mortgage, pledge or assign. The Borrower shall adhere to the covenants regarding the location or existence of the Borrower's personal and real Property as set forth herein and in the other Related Documents.

(c) If subsequent to the Closing Date, the Borrower shall (i) acquire any securities, instruments, chattel paper or other personal Property not theretofore pledged to the Trustee as Collateral under the Related Documents, or (ii) acquire or lease any real Property not theretofore subject to the Mortgage, the Borrower shall promptly notify the Bondholder Representative thereof. The Borrower shall promptly (but in no event later than 30 days following the acquisition of such Property, subject to the provisions of this Agreement or any other Related Document requiring prior or more immediate action or notice with respect thereto), take such action at its own expense as shall be determined by the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative) to be necessary or advisable to ensure that the Trustee has a first priority (or, with respect to the Mortgage, second priority) perfected lien to secure the Obligations in all Property of the Borrower, subject in each case only to Permitted Encumbrances, and shall execute a landlord waiver for leased real Property in form and substance acceptable to the Trustee and the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative). Such action shall include delivery by or on behalf of the Borrower of (A) such Related Documents or supplements thereto as are necessary for the Borrower to comply with this Section, and (B) such other documentation as the Trustee or the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative) may reasonably request in connection with the foregoing, including certified

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resolutions and documents evidencing the authority of the Borrower to execute and deliver such documents and instruments and favorable opinions of counsel to the Borrower (which shall cover, among other things, the legality, validity, binding effect and enforceability of such documentation), all in form, content and scope reasonably satisfactory to the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative).

(d) The Borrower will, to the extent required by Law, cause this Agreement, the Mortgage and all supplements hereto and thereto, together with all related UCC financing statements or other instruments, to be kept, recorded and filed in such manner and in such places as may be required by Law in order to create, perfect, preserve and protect fully the security of the Bondholders in the Gross Revenues, the Mortgaged Property and any other Collateral provided by or on behalf of the Borrower and the rights granted the Trustee for the benefit of the Bondholders.

(e) The Borrower hereby authorizes the Trustee (provided the Trustee shall have no obligation) at any time and from time to time, at the Borrower's expense, to file or cause to be filed in any appropriate filing office any initial financings statements and amendments thereto and continuations thereof covering any Collateral provided by the Borrower under the Related Documents. For the avoidance of doubt, in no event shall the Trustee be required to file any initial financings statement. The Borrower shall not file any amendments, correction statements or termination statements concerning any Collateral without the prior written consent of the Bondholder Representative. The Borrower authorizes the Trustee to request other secured parties of the Borrower to provide accountings, continuations of collateral and confirmations of statements of account concerning the Borrower. As long as any Bonds remain outstanding, and not thereafter, the Borrower hereby designates and appoints the Trustee and its designees as attorneys-in-fact of the Borrower, irrevocably and with power of substitution, with authority to endorse its name on requests to other secured parties of the Borrower for accountings, confirmations of collateral and confirmations of statements of account made pursuant to Section 7-210 of the UCC. The Borrower will pay or cause to be paid all filing fees incident to such filing and all expenses incident to the preparation, execution and acknowledgment of any instruments of further assurance, and all federal or state fees and other similar fees, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of such instruments of further assurance.

(f) The Borrower shall ensure that the Collateral in each deposit account, each brokerage account and each investment account of the Borrower at all times shall be subject to a Control Agreement in form satisfactory to the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative), to the extent permitted by Law. Under all such Control Agreements, the Borrower will maintain control of its account until such time as an Event of Default has occurred. The Trustee will not give any notices of exclusive control under the terms of such Control Agreements to the financial institutions where such Borrower accounts are held unless and until an Event of Default has occurred.

## **ARTICLE IV**

### **AFFIRMATIVE COVENANTS**

The Borrower hereby covenants and agrees that until all of the Bonds and all other amounts payable hereunder and under the Loan Agreement have been fully paid and performed (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted), unless the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative) shall otherwise consent in writing, the Borrower shall comply with the provisions of this Article IV.

#### *Section 4.1. Preservation of Corporate Existence, Etc.*

(a) The Borrower will do or cause to be done all things necessary to preserve and maintain its legal existence, and all rights, privileges and franchises necessary and desirable in the conduct of its business (including its right to do business in each jurisdiction in which the Borrower conducts business), and in the performance of its obligations under the Related Documents and will not dissolve or otherwise discontinue its existence or operations.

(b) The Borrower will do or cause to be done all things necessary to: (i) obtain, preserve, renew, extend and keep in full force and effect the Governmental Approvals and intellectual property material to the conduct of the Borrower's business; and (ii) use its best efforts, in the ordinary course of business, to preserve the goodwill and business of the customers, suppliers and others having material business relations with it.

*Section 4.2. Performance and Compliance with Other Covenants.* The Borrower shall perform and comply with the covenants binding on the Borrower set forth in the other Related Documents in accordance with the terms of this Agreement and the other Related Documents.

*Section 4.3. Books and Records; Reports; Communications.* The Borrower shall keep accurate records and books of account in accordance with GAAP, consistently applied.

(a) The Borrower will provide each of the following to the Trustee, the Bondholder Representative and, upon its request, the Underwriter, each in form and substance satisfactory to the Bondholder Representative:

(i) within 120 days after the last day of each Fiscal Year, beginning with the Fiscal Year ending December 31, 2022, (A) the annual stand-alone financial statements of the Borrower, prepared in accordance with GAAP, which shall be accompanied by an unqualified report of an independent certified public accountant reasonably acceptable to the Bondholder Representative and (B) any letter to management or the Governing Body from such independent certified public accountant;

(ii) within 45 days after the last day of each Fiscal Quarter beginning with the Fiscal Quarter ending June 30, 2022, (A) unaudited interim stand-alone financial statements of the Borrower for the Fiscal Quarter ending on such date and for the period from the beginning of the then-current Fiscal Year to the last day of such Fiscal Quarter, together with comparative

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information for the same periods in the immediately preceding Fiscal Year, (B) a certificate of the Executive Director of the Borrower in the form set forth in **Exhibit A** (1) setting forth (I) the Debt Service Coverage Ratio for the 12-month period ended on the last day of such Fiscal Quarter, (II) the Days' Cash on Hand as of the last day of such Fiscal Quarter (*provided*, however, that, to the extent that the last day of such Fiscal Quarter is not a Liquidity Testing Date, such calculation is delivered solely for informational purposes and not for determining compliance with the Liquidity Requirement), and (III) once a certificate of occupancy has been issued for the Project, the total number of Units that constituted Occupied Units (broken down by Independent Living Unit, Assisted Living Unit and Memory Care Unit) as of the last day of such Fiscal Quarter and (2) including a statement to the effect that, to the best of such officer's knowledge (I) such financial statements fairly present, in all material respects, the financial position and results of operations of the Borrower as of the date and for the period covered by such Financial Statements, subject to year-end adjustments and (II) no Event of Default or Default under any Related Document has occurred and is continuing or, if any such Event of Default or Default has occurred, stating the nature thereof and the steps the Borrower intends to take to cure such default;

(iii) within 30 days after the last day of each Fiscal Quarter, a summary of all monthly statements pertaining to the Borrower's and the Sponsor's bank and other investment accounts;

(iv) within 30 days after the last day of each month prior to the Borrower obtaining a certificate of occupancy for the Project, pre-sale statistics with respect to the Facilities and an update on marketing activities (which may be provided by electronic mail);

(v) within 30 days after the last day of each month, a written report of (A) refunds due but not yet paid with respect to the Facilities and (B) Unit upgrades paid for by residents at the Facilities;

(vi) until the Stabilization Date, at least once in each week, summary occupancy statistics with respect to the Facilities as described in Section 4.15(a) hereof (which may be provided by electronic mail);

(vii) after the Stabilization Date, within 30 days after the last day of each Fiscal Quarter, monthly summary occupancy statistics with respect to the Facilities (which may be provided by electronic mail);

(viii) within 15 days after the last day of each month during any period in which a Default or Event of Default under this Agreement or any of the other Related Documents will have occurred and be continuing or the Occupancy Requirement is not satisfied, (A) unaudited interim financial statements of the Borrower for such month and for the period from the beginning of the then-current Fiscal Year to the last day of such month, and (B) a certificate of the Debt Service Coverage of the Borrower setting forth the Debt Service Coverage Ratio and the Days' Cash on Hand as of the last day of such month and including a statement to the effect that, to the best of such officer's knowledge, such financial statements fairly set forth the financial position and results of operations of the Borrower as of the date and for the period covered by such financial statements, subject to year-end adjustments;

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(xviii) as soon as possible, and in any event within 10 days after the Borrower or any member of the ERISA Group knows or has reason to know thereof, written notice of any ERISA Event that alone or together with any other ERISA Event would reasonably be expected to result in liability of the Borrower or such ERISA Affiliate in respect of any employee benefit plan as defined in Section 3(3) of ERISA in an aggregate amount exceeding \$150,000, together with a statement of the Executive Director of the Borrower setting forth details as to such ERISA Event and the action, if any, that the Borrower proposes to take with respect thereto;

(xix) as soon as possible, and in any event within 10 days after the Borrower knows or has reason to know thereof, written notice of any of the following that would reasonably be expected to result in liability or loss to the Borrower, either individually or in the aggregate, in excess of \$150,000: (A) any enforcement, cleanup, removal or other regulatory action instituted, completed or threatened by any Governmental Authority against the Borrower, any of its Property or the Mortgaged Property pursuant to any applicable Environmental Law; (B) any other environmental claim; and (C) any environmental or similar condition on any real property adjoining any Mortgaged Property that would reasonably be anticipated to cause the Mortgaged Property or any part thereof to be subject to any material restrictions on the ownership, occupancy, transferability or use of such Mortgaged Property under any Environmental Laws;

(xx) promptly upon completion of the Project (including receipt of all necessary certificate(s) of occupancy for the Project), the Borrower shall deliver a Completion Certificate to the Trustee and the Bondholder Representative;

(xxi) within 10 days of receipt thereof, copies of all certificate(s) of occupancy for the Project;

(xxii) within 30 days after the Stabilization Date, notice that the Stabilization Date has occurred; and

(xxiii) such other information regarding the operations, business affairs and financial condition of the Borrower and compliance by the Borrower with the terms of the Related Documents as the Trustee or the Bondholder Representative may from time to time request.

(b) Upon their written request of the Bondholder Representative (such request being hereby acknowledged by the Borrower), the Borrower agrees to conduct an investor call twice each calendar month with the Bondholder Representative or its designee, on behalf of holders of ECOFIN Investor Bonds, and any other current holders of the outstanding Bonds, the access to such call to be provided by the Borrower, regarding pre-sale statistics, marketing activity, construction, occupancy and such other matters as the Bondholder Representative shall request.

(c) The Borrower semi-annually shall conduct a conference call with the Bondholder Representative or host a site visit with the Bondholder Representative and otherwise will permit any representatives designated by the Bondholder Representative to inspect the financial records and Property of the Borrower upon reasonable advance notice during normal business hours and as often as reasonably requested and to make extracts from and copies of such financial records at the expense of the Borrower, and permit any representatives, accountants and advisors designated

(ix) as soon as practicable, and in any event (A) not later than 30 days prior to commencement of each Fiscal Year and prior to adoption thereof by the Governing Body, a copy of the Borrower's annual operating and capital budgets (detailed on a month to month basis) for such Fiscal Year, and (B) a copy of any amendment of the capital or operating budget, at least ten days prior to the Governing Body's adoption thereof;

(x) annually a report on real estate market characteristics;

(xi) promptly, and in any event within 10 days after (i) any change in membership of the members of the Governing Body of the Borrower, the Parent, or the Sponsor, a list of the current make-up of such Governing Body or (ii) a change in the chief executive officer, president, executive director or chief financial officer of the Borrower, the Parent, or the Sponsor, a notice of such change;

(xii) within 10 days of receipt or completion, copies of any material healthcare survey and any state inspection results applicable to the Borrower;

(xiii) as soon as possible and in any event within five days after the Borrower knows or has reason to know of the occurrence of any Event of Default, Default or other noncompliance with any of the Related Documents, an Officer's Certificate setting forth details of such Event of Default, Default or noncompliance, describing in detail any and all clauses or provisions of this Agreement and the other Related Documents that have been breached or violated and the action that the Borrower proposes to take with respect thereto;

(xiv) as soon as possible and in any event within five days after the Borrower knows or has reason to know of the occurrence of any event or the existence of any circumstance or series of events or circumstances that would reasonably be expected to have a Material Adverse Effect (including but not limited to the Borrower terminating any sales or marketing agreement or its sales office), an Officer's Certificate setting forth details of such event or circumstance, the possible results thereof and the action that the Borrower proposes to take with respect thereto;

(xv) promptly, and in any event within 10 days after the filing or commencement of, or any written threat or notice of intention of any Person to file or commence any action, suit or proceeding, whether at law or in equity or by or before any Governmental Authority, by or against the Borrower or otherwise affecting the Borrower, and any judgments entered against the Borrower, written notice thereof;

(xvi) promptly, and in any event within 10 days after receipt thereof, copies of any notices received by the Borrower that indicate that any Governmental Approval necessary for the operation of the Facilities may be suspended or withdrawn;

(xvii) promptly, and in any event by the time the next financial statements are delivered hereunder, written notice of any material change in the accounting policies or financial reporting practices by the Borrower (including a change in fiscal year);

by the Bondholder Representative to discuss the affairs, finances and operations of the Borrower with the officers thereof and independent accountants therefor.

(d) The Borrower shall provide written notice to its Governing Body of the occurrence of any event or circumstance described in clauses (xiii)-(xix) of subsection (a) of this Section at or before the time such notice is required to be provided to the Trustee and the Bondholder Representative.

(e) The Borrower agrees to cause a copy of each item delivered to the Bondholder Representative pursuant to clauses (ii), (iv)-(viii), and (xiii)-(xix) of subsection (a) of this Section to be delivered to the Repository contemporaneously with the delivery thereof to the Bondholder Representative.

(f) During any period in which a Default or Event of Default under this Agreement or any of the other Related Documents shall have occurred and be continuing, the Borrower shall deliver the items required under clauses (iii)-(v) and (vii) of subsection (a) of this Section to be delivered to the Bondholder Representative on a monthly basis, within 15 days after the last day of each month.

(g) The Trustee shall not have a duty to review and shall not be responsible for the contents of any reports, consents, statements, or other documents delivered to it hereunder, and shall hold the same solely as repository for the benefit of the Bondholders.

#### Section 4.4. Insurance.

(a) The Borrower shall maintain, or cause to be maintained on its behalf, at its cost and expense, the following insurance:

(i) insurance against loss or damage to the Mortgaged Property under a policy covering such risks as are ordinarily insured against by similar businesses, including (without limitation) builder's risk during construction, windstorm, fire and extended coverage in an amount not less than the full insurable replacement value of the Mortgaged Property, which shall mean the actual replacement cost of the Mortgaged Property (excluding foundation and excavation costs and costs of underground flues, pipes, drains and other uninsurable items) and equipment, such value to be determined, at the expense of the Borrower, every year by an Insurance Consultant or an insurer selected by the Borrower, with the approval of the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative);

(ii) comprehensive general public liability insurance, including personal injury liability, and automobile insurance, including owned, non-owned and hired automobiles, against liability for injuries to persons or property, in the minimum amount for each occurrence and for each year of \$2,000,000 and, to the extent the Borrower provides any health care services, medical and professional liability insurance in amounts estimated to fully indemnify the Borrower against the estimated loss or damage, in each case endorsed to show the Trustee as additional insured;

(iii) business interruption insurance covering actual losses in gross operating earnings of the Borrower resulting directly from necessary interruption of business caused by

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damage to or destruction (resulting from fire and lightning, accident to a fired pressure vessel or machinery or other perils, including, without limitation, windstorm and hail, explosion, civil commotion, aircraft and vehicles, sprinkler leakage, smoke, vandalism and malicious mischief and accident, to real or personal property constituting part of the Mortgaged Property, less charges and expenses which do not necessarily continue during the interruption of business, for such length of time as may be required with the exercise of due diligence and dispatch to rebuild, repair or replace such properties as have been damaged or destroyed and in any case for at least the sum of 12 months' operating expenses, plus the maximum amount of the principal of and interest on the outstanding Bonds becoming due in the current or any future Fiscal Year; and

(iv) such other insurance, including workers' compensation insurance respecting all employees of the Borrower, fidelity insurance respecting employees of the Borrower handling the Borrower's money and directors' and officers' liability insurance, in such amount as is customarily carried by like organizations engaged in like activities of comparable size and liability exposure.

All insurance required in this Section shall be provided by financially sound and reputable insurance companies selected by the Borrower that are authorized under the laws of the State of New Hampshire or assume the risks covered thereby. No policy of insurance shall be so written that the proceeds thereof will produce less than the minimum coverage required above, by reason of co-insurance provisions or otherwise, without the prior written consent of the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative). All policies evidencing insurance required by clause (a)(i) above with respect to the Mortgaged Property shall be carried in the names of the Borrower and the Trustee as their respective interests may appear, shall contain standard mortgagee clauses reasonably acceptable to the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative), specifically naming the Trustee as mortgagee, shall provide that the insurer shall give at least 30 days' notice in writing to the Borrower and the Trustee of cancellation, termination or modification of such policy and shall provide that the Trustee shall have sole right to receive the proceeds of such policy. The Borrower shall give at least 10 days' notice in writing to the Bondholder Representative and the Trustee of cancellation, termination or modification of any policy. The Borrower will deposit annually with the Trustee and the Bondholder Representative policies evidencing all such insurance, or certificates or binders of the respective insurers stating that such insurance is in force and effect. Not less than 30 days prior to the expiration of any policy, the Borrower shall furnish the Trustee and the Bondholder Representative evidence satisfactory to the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative) that the policy has been renewed or replaced by another policy conforming to the provisions of this Section, or that there is no necessity therefor under the terms hereof. In lieu of separate policies, the Borrower may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein, in which event the Borrower shall deposit with the Trustee and the Bondholder Representative certificates of the respective insurers as to the amount of coverage provided thereby.

(b) The Borrower shall retain at its own expense an Insurance Consultant each Fiscal Year to determine and recommend the type of insurance required for the Facilities and the required coverage. To the extent commercially available, the Borrower covenants to purchase such

insurance recommended by such Insurance Consultant and make the necessary deposits so that the premiums are timely paid.

(c) With the prior written consent of the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative), the Borrower may satisfy the requirements of clauses (a)(ii) and (a)(iv) of this Section by establishing and maintaining a self-insurance plan including (without limitation) by utilizing an insurance company or association controlled by the Borrower (either singly or with other persons) or a risk retention group, protecting the Borrower against the risks required to be insured against by such paragraphs. Such plan shall provide for (i) establishment of a segregated fund of cash or marketable securities for the defense and payment of claims arising from such risks, (ii) funding of such fund in initial and subsequent amounts determined annually by an independent actuary employing accepted actuarial techniques customarily employed by the casualty insurance industry, such actuarial determination to be submitted to the Trustee and the Bondholder Representative within 60 days from the end of each plan year, (iii) annual reporting to the Bondholder Representative and the Trustee of the current fund balance of such fund as of the end of each plan year and an evaluation of the aggregate potential effect on the fund balance of claims asserted and pending that would ultimately be payable from such fund, such reports to be submitted within 60 days after the end of each plan year, (iv) establishment and operation of a claims processing and risk management program, and (v) adequate reserves for, or insurance coverage protecting the Borrower against, any potential retained liability with respect to the period during which such plan was in effect upon termination of such plan. In connection with any such plan, the Borrower shall furnish to the Bondholder Representative and the Trustee, annually within 60 days after the end of each plan year, a report from an independent actuary to the effect that the plan is maintaining adequate reserves and has been adequately funded.

*Section 4.5. Taxes.* The Borrower will pay and discharge when due all taxes, assessments and governmental charges or levies imposed upon it or upon its income or profits or in respect of its Property, before the same shall become delinquent or in default, as well as all lawful claims for labor, materials and supplies or otherwise that, if unpaid, would give rise to a Lien upon such Property or any part thereof (other than Permitted Encumbrances), *provided, however,* that such payment and discharge shall not be required with respect to any such tax, assessment, charge, levy or claim so long as the Borrower, at its expense, in good faith, shall contest the validity or amount thereof, no Lien has attached with respect thereto and the Borrower shall have set aside on its books adequate reserves with respect thereto in accordance with GAAP and such contest operates to suspend such Lien, unless the Trustee or the Bondholder Representative shall notify the Borrower that, by nonpayment thereof, the Mortgaged Property or any part thereof, or the revenue therefrom, will be subject to loss or forfeiture, in which event such taxes, assessments, charges, levies or claims shall be paid promptly.

#### *Section 4.6. Maintenance of 501(c)(3) Status, Accreditations, Etc.*

(a) The Borrower shall take or cause to be taken all action necessary to maintain its status as an organization described in Section 501(c)(3) of the Code. The Borrower shall give prompt written notice to the Trustee and the Bondholder Representative of any loss of such status or of any investigation, proceeding or ruling that might result in such loss of status.

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(b) The Borrower shall maintain its licensing required by applicable Law in order to conduct its business as now being conducted, including its certification for participation in the Medicare and Medicaid programs.

*Section 4.7. ERISA.* The Borrower shall comply, and cause each member of the ERISA Group to comply, with the applicable provisions of ERISA; *provided* that no contested noncompliance with applicable provisions of ERISA shall constitute a breach of this Section if (a) such contest is being conducted in good faith and in appropriate proceedings which remain pending and are being diligently prosecuted by the Borrower or another ERISA Group member, and (b) any contested liability is covered by adequate reserves and the non-payment of such contested liability shall not materially and adversely affect the security for the Bonds.

*Section 4.8. Compliance with Laws.* The Borrower will comply in all material respects with all Laws applicable to it or its business, property or assets, failure to comply with which would be reasonably likely to have a Material Adverse Effect, whether now in effect or hereafter enacted, *provided* that the Borrower may, at its expense, in good faith contest any such Laws so long as notice of such contest is given to the Trustee and the Bondholder Representative and such contest would not reasonably be expected to have a Material Adverse Effect.

#### *Section 4.9. Environmental Matters.*

(a) The Borrower shall conduct its operations in compliance in all respects with all applicable Environmental Laws. The Borrower shall maintain the Facilities free from contamination by Regulated Chemicals and shall not intentionally or unintentionally allow a release, discharge or emission, or threat of release, discharge or emission, of any Regulated Chemical on, under, in or about the Facilities, and shall not intentionally or knowingly allow the migration or threatened migration of any of the foregoing from other properties upon, about or beneath the Facilities.

(b) The Borrower promptly and in no event later than 15 days from the date on which the Borrower or any tenant or sublessee of the Borrower has knowledge thereof, shall provide to the Bondholder Representative and the Trustee a copy of any notice, letter, citation, order, warning, complaint, inquiry, claim or demand that:

(i) the Borrower or any tenant or sublessee of the Borrower has violated, or is about to violate any Environmental Law;

(ii) there has been a release, or there is a threat of release, of any Regulated Chemical from the Facilities;

(iii) the Borrower or any tenant or sublessee of the Borrower may be or is liable, in whole or in part, for the costs of cleaning up, remediating, removing or responding to a release of any Regulated Chemical; or

(iv) any portion of the Facilities is subject to a Lien in favor of any Governmental Authority for any liability, cost or damage under Environmental Laws arising from,

or costs incurred by such Governmental Authority in response to, a release of any Regulated Chemical.

(c) The Borrower promptly and in no event later than 15 business days from the date on which the Borrower has knowledge thereof (or sooner if the Borrower is required by Environmental Laws to provide notice to any Governmental Authority), shall provide to the Bondholder Representative and the Trustee notice of any discovery of Regulated Chemicals or other conditions in the course of completing the Project that would reasonably be expected to be hazardous to the environment.

(d) The Borrower shall take all appropriate responsive action, including any Response Action, in the event of a release, emission, discharge or disposal of any Regulated Chemical in, on, under or about the Facilities, so as to remain in compliance with Environmental Laws, to keep the Facilities free from, and unaffected by, Regulated Chemicals and to prevent the imposition of any Liens against the Facilities for the costs of any response, removal or remedial action or cleanup of any Regulated Chemicals. The Borrower shall (i) provide the Bondholder Representative and the Trustee, within 60 days after providing the notice required under paragraph (b) above, with a bond, letter of credit or similar financial assurance for an amount not less than the cost of the Response Action if an Event of Default or Default occurs or if the Response Action is not completed within six months of the issuance of the financial assurance and (ii) discharge any assessment or Lien which may be established on any portion of the Facilities as a result thereof.

(e) The Borrower shall provide the Trustee and the Bondholder Representative with a copy of any Environmental Report obtained by the Borrower with respect to the Facilities.

(f) The Borrower shall implement and comply with the Soil Management Plan dated March 20, 2020 prepared by Miller Engineering & Testing, Inc., as amended by that certain letter dated December 16, 2021 from Miller Engineering & Testing, Inc.

#### *Section 4.10. Operation and Maintenance of Facilities.*

(a) The Borrower agrees to keep or cause to be kept the Facilities in good repair, working order and condition (ordinary wear and tear excepted) and from time to time make, or cause to be made, all repairs, renewals, additions, improvements and replacements thereto necessary in order that the business carried on in connection therewith may be properly conducted.

(b) The Borrower will obtain when needed all Governmental Approvals required for the performance of its Obligations, the construction and operation of the Facilities and the completion of the Project and has no reason to believe that all such Governmental Approvals cannot be promptly obtained when needed.

*Section 4.11. Limitation on Construction and Alteration of Facilities.* The Borrower shall not make any change or alteration (including, without limitation, demolition, construction or removal) to any portion of the Mortgaged Property or replace any portion of the structure or equipment constituting a portion of the Facilities that costs in excess of \$500,000 or that materially and adversely affects the value or the operating efficiency of the Facilities without the prior written

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consent of the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative).

All construction and alterations of the Facilities shall be located within the boundary lines of the Land and shall become a part of the Mortgaged Property. No construction and alterations shall impair the structural soundness or utility of the Facilities, significantly alter the character or purpose of the Facilities or significantly impair the revenue producing capacity thereof.

All work in connection with any construction and alterations shall be done promptly and in good and workmanlike manner and in compliance with Law, including (without limitation) building and zoning laws of Governmental Authorities of the jurisdiction in which the Mortgaged Property is located, and the provisions of any policy of insurance covering the Mortgaged Property.

#### *Section 4.12. Debt Service Coverage Ratio*

(a) The Borrower will charge and collect such rents, fees and other charges with respect to the Facilities and will restrict expenses relating to the Facilities as shall be necessary to achieve as of the last day of each Fiscal Quarter ending after the earlier of the first Fiscal Year after the Stabilization Date or June 30, 2026 (each a "Testing Period"), a Debt Service Coverage Ratio of at least 1.20 to 1.00 calculated on a trailing 12-month basis; provided that for purposes of calculating the Debt Service Coverage Ratio (i) on or before June 30, 2026, the calculation shall be based on a trailing 6-month basis and (ii) on September 30, 2026, the calculation shall be based on a trailing 9-month basis. The Borrower shall provide certificates to the Bondholder Representative and the Trustee substantially in the form set forth in Exhibit A setting forth the calculation of the Debt Service Coverage Ratio at the times and in the manner provided in Section 4.3(a).

(b) If the Borrower fails to maintain the required Debt Service Coverage Ratio for any Testing Period, the Borrower shall deliver to the Trustee and the Bondholder Representative a written report, within 60 days after the Borrower has knowledge of such failure, and in any event within 60 days after the last day of such Fiscal Quarter, describing in detail its operations and other factors resulting in the failure to meet such Debt Service Coverage Ratio and its plan to increase such Debt Service Coverage Ratio so as to meet the requirement of Section 4.12(a), which report shall have been approved by action of the Governing Body. If the Borrower fails to achieve the required Debt Service Coverage Ratio for any two consecutive Testing Periods, then the Borrower, at the Borrower's expense, shall employ, as soon as practicable thereafter, a Consultant selected by the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative) to submit a written report and recommendations with respect to the rents, fees, rates and other charges relating to the Facilities and with respect to improvements or changes in the operation and management of the Facilities unless such requirement for a Consultant is waived in writing by the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative). Such report shall be submitted to the Trustee and the Bondholder Representative as soon as practicable but in no event later than 60 days after the last day of the second such Testing Period. The Borrower agrees to cause a copy of such report to be delivered to the Repository contemporaneously with the delivery thereof to the Bondholder Representative.

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(c) The Borrower shall revise or cause to be revised such rents, fees (including Entrance Fees and other related healthcare obligations), rates, expenses and other charges in conformity with any recommendations of such Consultant and shall otherwise follow the recommendations of such Consultant, in each case as approved by the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative), unless the Governing Body of the Borrower determines by resolution, a copy of which shall be provided to the Trustee and the Bondholder Representative, that compliance with such recommendations would jeopardize the tax-exempt status of the Borrower. If the Borrower complies with the Consultant's recommendations, failure to generate the required Debt Service Coverage Ratio shall not constitute an Event of Default under this Agreement.

(d) Notwithstanding anything to the contrary contained herein if (i) the Borrower fails to achieve a Debt Service Coverage Ratio of 1.00 as of any Testing Period or (ii) the Borrower fails to achieve the required Debt Service Coverage Ratio for three consecutive Testing Periods, an Event of Default shall be deemed to have occurred under this Agreement unless waived in writing by the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative).

#### *Section 4.13. Days' Cash on Hand*

(a) The Borrower covenants and agrees to maintain, as of June 30 and December 31 of each Fiscal Year commencing with the earlier of the first June 30 or December 31 following the Stabilization Date or June 30, 2026 (each a "Liquidity Testing Date"), as shown on the Borrower's quarterly or annual financial statements delivered to the Trustee and the Bondholder Representative (i) prior to the termination of the Support Agreement, at least 90 Days' Cash on Hand, and (ii) after termination of the Support Agreement, at least 100 Days' Cash on Hand (the "Liquidity Requirement"). The Borrower shall provide certificates to the Bondholder Representative and the Trustee substantially in the form set forth in Exhibit A demonstrating compliance with the Liquidity Requirement at the times provided in Section 4.3(a).

(b) If the Borrower fails to comply with the Liquidity Requirement on any Liquidity Testing Date, the Borrower shall deliver to the Trustee and the Bondholder Representative a written report, within 60 days after the Borrower has knowledge of such failure, and in any event within 60 days after the last day of such Fiscal Quarter, describing in detail its operations and other factors resulting in the failure to meet the Liquidity Requirement and its plan to increase Days' Cash on Hand so as to meet the Liquidity Requirement, which report shall have been approved by action of the Governing Body. If the Borrower fails to comply with the Liquidity Requirement on any two consecutive Liquidity Testing Dates, then the Borrower, at the Borrower's expense, shall employ, as soon as practicable thereafter, a Consultant selected by the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative) to submit a written report and recommendations with respect to the rents, fees, rates and other charges relating to the Facilities and with respect to improvements or changes in the operation and management of the Facilities unless such requirement for a Consultant is waived in writing by the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative). Such report shall be submitted to the Trustee and the Bondholder Representative as soon as practicable but in no event later than 60 days after the second such Liquidity Testing

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Date. The Borrower agrees to cause a copy of such report to be delivered to the Repository contemporaneously with the delivery thereof to the Bondholder Representative.

(c) The Borrower shall revise or cause to be revised such rents, fees (including Entrance Fees and other related healthcare obligations), rates, expenses and other charges in conformity with any recommendations of such Consultant and shall otherwise follow the recommendations of such Consultant, in each case as approved by the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative), unless the Governing Body of the Borrower determines by resolution, a copy of which shall be provided to the Trustee and the Bondholder Representative, that compliance with such recommendations would jeopardize the tax-exempt status of the Borrower. If the Borrower complies with the Consultant's recommendations, failure to generate the required Days' Cash on Hand shall not constitute an Event of Default under this Agreement.

(d) Notwithstanding anything to the contrary contained herein if (i) the Borrower fails to achieve at least 70 Days' Cash on Hand as of any Liquidity Testing Date or (ii) the Borrower fails to achieve the Liquidity Requirement for three consecutive Liquidity Testing Dates, an Event of Default shall be deemed to have occurred under this Agreement unless waived in writing by the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative).

#### *Section 4.14. Marketing Covenant*

(a) The average number of Reserved Units for each month, commencing with the period ending April 30, 2022 (each, an "Marketing Testing Date"), each shall be not less than the following:

Marketing Testing Date	Required Number of Reserved Units	Required Percentage of Units
April 2022 - June 2022	140	73.7%
July 2022 - September 2022	143	75.3
October 2022 - December 2022	146	76.8
January 2023 - March 2023	149	78.4
April 2023 - June 2023	152	80.0
July 2023 - September 2023	155	81.6
October 2023 - December 2023	158	83.2
January 2024 - March 2024	161	84.7
April 2024 - June 2024	164	86.3

(b) The number of individuals on the waitlist as of each December 31 commencing with the first December 31 after the date that the average number of Occupied Independent Living Units, expressed as a percentage of the total number of such Independent Living Units in the respective facilities, during a Fiscal Quarter was greater than 93% (each, a "Waitlist Testing Date") shall be at least 3% greater than the number of individuals on the waitlist as of the prior December

31 until the number of individuals on the waitlist is at least 20 after which such time the number of individuals on the waitlist shall remain at 20 or greater.

(c) The Borrower shall provide a certificate to the Bondholder Representative and the Trustee, in the form of Exhibit A hereto, demonstrating compliance with the requirements of this Section on a quarterly basis.

(d) If the Borrower fails to meet the requirement of this Section on any Marketing Testing Date or Waitlist Testing Date (as applicable), then the Borrower shall employ, at the Borrower's expense, as soon as practicable thereafter, a Consultant reasonably acceptable to the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative) to submit a written report and recommendations with respect to the marketing of the Units unless such requirement for a Consultant is waived in writing by the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative). Such report shall be submitted to the Trustee and the Bondholder Representative as soon as practicable but in no event later than 60 days after the last day such Marketing Testing Date or Waitlist Testing Date (as applicable). Promptly following receipt of such report, the Borrower will adjust its marketing efforts in conformity with any recommendations of the Consultant and shall otherwise follow the recommendations of the Consultant, in each case to the extent that such recommendations are consistent with the Borrower's status as an organization described in Section 501(c)(3) of the Code, and are otherwise permitted by law.

(e) Failure by the Borrower to meet the requirement of subsection (a) of this Section on any Marketing Testing Date or subsection (b) of this Section on any Waitlist Testing Date shall not constitute an Event of Default hereunder unless the Borrower, in the sole discretion of the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative), has failed to adhere to the recommendations of the Consultant in all material respects, after all applicable notice and cure periods.

(f) Annually, the Borrower shall provide to the Bondholder Representative and the Trustee a report describing the marketing plan and budget for the next year (including a semi-annual analysis of existing and new competitors in the primary market area of the Facilities), which shall be in form and substance approved by the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative).

#### *Section 4.15. Occupancy*

(a) For each three-month period ending on the last day of each Fiscal Quarter beginning with the quarter ended December 31, 2023 (each, an "Occupancy Testing Date"), the average number of Independent Living Units, Assisted Living Units and Memory Care Units that are Occupied Units, each shall be not less than the following:

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Fiscal Quarter Ending	Number of Independent Living Units that are Occupied Units	Percentage of Independent Living Units that are Occupied Units	Number of Assisted Living Units and Memory Care Units that are Occupied Units	Percentage of Assisted Living Units and Memory Care Units that are Occupied Units
December 31, 2023	18	9.3%	-	-
March 31, 2024	50	26.1	-	-
June 30, 2024	76	40.0	3	7.5%
September 30, 2024	94	49.7	7	17.5
December 31, 2024	108	56.8	12	30.0
March 31, 2025	122	64.0	17	42.5
June 30, 2025	133	70.3	20	50.0
September 30, 2025	153	80.8	23	58.0
December 31, 2025	163	85.5	26	66.0
March 31, 2026	163	85.5	31	76.5
June 30, 2026	163	85.5	34	83.7
September 30, 2026 and thereafter	163	85.5	34	85.0

The Borrower shall provide a certificate to the Bondholder Representative and the Trustee, in the form of Exhibit A hereto, demonstrating compliance with the requirements of this Section for each Fiscal Quarter of each Fiscal Year in accordance with Section 4.3(a).

(b) If the Borrower fails to meet any requirement of Section 4.15(a) as of two consecutive Occupancy Testing Dates, then the Borrower shall employ, at the Borrower's expense, as soon as practicable thereafter, a Consultant reasonably acceptable to the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative) to submit a written report and recommendations with respect to the marketing of the Units unless such requirement for a Consultant is waived in writing by the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative). Such report shall be submitted to the Trustee and the Bondholder Representative as soon as practicable but in no event later than 60 days after the last day of the second such Occupancy Testing Date. Promptly following receipt of such report, the Borrower will adjust its marketing efforts in conformity with any recommendations of the Consultant and shall otherwise follow the recommendations of the Consultant (including, without limitation, implementing a sales commission structure), in each case as approved by the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative), unless the Governing Body of the Borrower

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(c) The Borrower shall not pay any development fees to any project developer or Consultant except as included in the Borrower's annual budget without the prior written consent of the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative).

#### Section 4.17. Construction Agreement and Architect Agreement Restrictions.

(a) *No Construction Agreement Change Orders without Bondholder Representative Consent.* The Borrower shall not permit any change order to the Construction Agreement in excess of \$100,000 individually or \$1,000,000 in the aggregate, without the prior written consent of the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative) or the Construction Monitor.

(b) *Exercise of Construction Agreement Remedies.* The Borrower shall enforce the Construction Agreement, exercise all remedies thereunder, and shall take direction with respect to such enforcement and remedies from the Construction Monitor, the Trustee and the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative).

(c) *Construction Agreement Retainage.* The Borrower agrees that the retainage under the Construction Agreement shall remain at 5% until the Completion Date, unless the prior written consent of the Construction Monitor or the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative) is obtained.

(d) *Construction Agreement Termination.* The Borrower shall not terminate the Construction Agreement without the prior written consent of the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative).

(e) *Architect Approval.* The Borrower shall cause the Architect to confer with the Construction Monitor prior to its consent to changes pursuant to the Architect Agreement.

(f) *Architect Agreement Approvals.* The Borrower shall not provide any approvals pursuant to the Architect Agreement, without the prior written consent of the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative) or the Construction Monitor, which consent shall not be unreasonably withheld, conditioned or delayed. Failure of the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative) or Construction Monitor to respond within 10 Business Days shall be deemed an approval.

(g) *Additional Responsibilities.* Within 10 Business Days of Closing, the Borrower shall post or cause to be posted in a conspicuous place on the jobsite for which the Project, the name, address and telephone number of the Bondholder Representative and the Trustee.

#### Section 4.18. Damage, Destruction or Condemnation.

(a) The Borrower agrees to give written notice to the Trustee and the Bondholder Representative immediately if the Facilities or any portion thereof is damaged, destroyed or taken

determines by resolution, a copy of which shall be provided to the Trustee and the Bondholder Representative, that compliance with such recommendations would jeopardize the tax-exempt status of the Borrower. If the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative) waives in writing the requirement for a Consultant or the Borrower complies with the requirements of this paragraph then the failure of the Borrower to meet the required requirements of 4.15(a) as of two consecutive Occupancy Testing Dates shall not constitute an Event of Default.

(c) Failure by the Borrower to meet any requirement of Section 4.15(a) as of three consecutive Occupancy Testing Dates shall constitute an Event of Default hereunder unless waived in writing by the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative).

#### Section 4.16. Management; Development.

(a) The Borrower shall at all times engage a professional management company as a Manager, which may be an affiliate of the Borrower to conduct the operations of the Borrower pursuant to a management agreement in form and substance compliant with all requirements of the Code and satisfactory to the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative).

(b) Management Fees payable under any Management Agreement shall be no greater than market rate. Management Fees payable in any Fiscal Year shall be subordinate in right of payment to the payment of amounts payable hereunder and under the other Related Documents and shall be deferred in any month to the following month (and thereafter as provided below herein) unless: (i) all monthly payments with respect to the Bonds have been made; (ii) all required deposits shall have been made as provided in Section 3.1(a); (iii) the amount on deposit in the Debt Service Reserve Fund is not less than the Debt Service Reserve Fund Requirement; and (iv) following the payment of such Management Fees, the Borrower shall be in compliance with the Liquidity Requirement. If such conditions are not met in any succeeding month, then such deferred amounts and the Management Fees accruing in each following month shall continue to be deferred until all such conditions are met. If the Borrower is unable to pay the full amount of the Management Fees payable in any Fiscal Year, the Borrower shall provide in its next annual budget amounts necessary to pay any such Management Fees which have accrued but have not been paid by the Borrower in any prior Fiscal Year.

(c) If a Default or Event of Default shall have occurred and be continuing, then the Manager may be removed at the discretion of the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative) and a new Manager or management personnel shall be appointed within 30 days of such removal with the written approval of the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative).

(d) The Borrower shall not amend, supplement, terminate or otherwise modify any Management Agreement without the written approval of the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative).

in the exercise of the power of eminent domain, condemnation or through the exercise of any right or any obligation on the part of any public authority to purchase the same, or as a result of any agreement between the Borrower and any such public authority in lieu thereof. In the event that the value of the property damaged, destroyed or taken does not exceed \$1,000,000, the Net Proceeds shall be payable to the Borrower and the Borrower shall forthwith repair, reconstruct and restore the Facilities to substantially the same or an improved condition and value as existed prior to such damage, destruction or taking and, to the extent necessary to accomplish such repair, reconstruction and restoration, the Borrower will apply the Net Proceeds received by the Borrower to the payment or reimbursement of the costs thereof.

(b) In the event that the value of the Facilities or portion thereof that is damaged, destroyed or taken equals or exceeds \$1,000,000, then the Net Proceeds shall be deposited with the Trustee and the Borrower shall, within 90 days after such damage, destruction or taking elect one of the options set forth below by written notice of such election to the Trustee and the Bondholder Representative.

(i) *Repair and Restoration.* The Borrower may elect to repair, reconstruct and restore the portion of the Facilities damaged, destroyed or taken. In such event, the Borrower shall proceed forthwith to repair, reconstruct and restore the damaged, destroyed or taken property to substantially the same condition and value as existed prior to the event causing such damage, destruction or taking and, to the extent necessary to accomplish such repair, reconstruction and restoration, the Borrower will apply the Net Proceeds thereof received by the Borrower from the Trustee to the payment or reimbursement of the costs thereof. So long as no Event of Default or Default exists, any Net Proceeds received by the Trustee shall be released from time to time by the Trustee to the Borrower in accordance with the written instructions of the Borrower; provided, that there is delivered to the Trustee and the Bondholder Representative within 60 days of receipt of such Net Proceeds:

(A) an Officer's Certificate specifying the expenditures made or to be made or the Indebtedness incurred in connection with such repair, reconstruction and restoration and stating that such Net Proceeds, together with any other money legally available for such purposes, will be sufficient to complete such repair, reconstruction and restoration;

(B) the written concurrence with such Officer's Certificate from an independent engineer;

(C) evidence reasonably satisfactory to the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative) that such repair, reconstruction and restoration can be completed within 12 months; and

(D) evidence reasonably satisfactory to the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative) that the proceeds of business interruption insurance and other available funds will be sufficient to pay the principal of and interest on all Indebtedness of the Borrower and to meet the other obligations of the Borrower during the period of repairs, reconstruction and restoration.

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In the event the Borrower shall elect the option set forth in Section 4.18(b)(i), the Borrower shall complete the repair, reconstruction and restoration of the Facilities, whether or not the Net Proceeds received by the Borrower for such purposes are sufficient to pay for the same. Net Proceeds not required for the repair, reconstruction and restoration of the Mortgaged Property may be applied to the prepayment of the Bonds or used for such other purpose as the Borrower determines with the prior written consent of the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative) and, if required by the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative), an opinion of Bond Counsel to the effect that such other purpose will not adversely affect the tax-exempt status of interest on the Bonds.

(ii) *Redemption of the Bonds.* If the Borrower shall determine that it is not practicable or desirable to repair, reconstruct or restore the Facilities or the Borrower is unable to deliver or does not deliver the certificates or reports necessary under Section 4.18(b)(i), the Outstanding Bonds, which originally financed the damaged, destroyed or taken portion of the Facilities, shall be redeemed (after the redemption in full of the Senior Bonds) in whole on the earliest practicable date after the date of the notice given as to exercise of the option set forth in this Section 4.18(b)(ii), and the Net Proceeds shall be deposited in the applicable subaccount of the Redemption Account and shall be applied for that purpose. In such event, the Bonds shall be redeemed at par plus accrued interest and any other fees as may be payable by the Borrower to the Trustee and the Bondholder Representative hereunder, and redemption shall be effected pursuant to the provisions of, in the manner, and with the effect provided in the Indenture. If the Net Proceeds, together with all amounts then held by the Trustee under the Indenture available to redeem or retire the Bonds shall be insufficient to so redeem all of the Outstanding Bonds (including payment of principal, accrued interest and expenses of redemption), the Borrower shall pay the amount of the deficiency to the Trustee as an Additional Payment. If the Bonds have been fully paid and all other amounts payable under this Agreement, the Loan Agreement and the Indenture have been paid or provided for, all remaining Net Proceeds shall be paid to the Borrower.

(iii) *Other Uses of Proceeds.* Notwithstanding the foregoing, the Borrower shall be entitled to apply any Net Proceeds to another lawful purpose, including the redemption of the Outstanding Bonds in part rather than in whole, if the Borrower receives the prior written consent of the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative) and, if required by the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative), obtains an opinion of Bond Counsel that such application of such Net Proceeds will not adversely affect the tax-exempt status of interest on the Bonds which originally financed the damaged, destroyed or taken portion of the Facilities.

The Borrower hereby irrevocably assigns to the Trustee all of its right, title and interest in and to any Net Proceeds payable in connection with the taking of any of the Facilities in the exercise of the power of eminent domain, condemnation or through the exercise of any right or any obligation on the part of any public authority to purchase the same, or as a result of any agreement between the Borrower and any such public authority in lieu thereof. The Trustee shall

cooperate fully with the Borrower in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Mortgaged Property.

#### *Section 4.19. Consultants.*

(a) The Borrower, at its sole expense, agrees to retain any Consultant requested by the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative); *provided*, that the fees of such Consultant shall not exceed \$25,000 per year plus reasonable out-of-pocket expenses. The Borrower shall promptly provide the Bondholder Representative with a copy of any report provided to the Borrower by such Consultant.

(b) Beginning with the second Fiscal Year after the Stabilization Date and every other Fiscal Year thereafter, the Borrower shall retain at its own expense a Consultant acceptable to the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative) to perform a competitive analysis of the Facilities and its competitors.

*Section 4.20. Availability of Board-Designated Funds.* The Borrower hereby acknowledges and agrees that any assets and revenues that currently or in the future may be classified as board-designated are and shall remain available for the payment of operating expenses and debt service on the Bonds.

*Section 4.21. Unit Configuration; New Resident Requirements.* The Borrower shall not (i) modify the composition of the Units as in effect as of the Closing Date or (ii) modify new resident health standards or financial requirements for new residents, without obtaining the prior written consent of the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative).

## ARTICLE V

### NEGATIVE COVENANTS

The Borrower hereby covenants and agrees that until this Agreement has expired or been terminated and until all of the Obligations with respect to the Bonds have been fully paid and performed to the satisfaction of the Trustee and the Bondholder Representative:

*Section 5.1. Indebtedness.* The Borrower shall not, directly or indirectly incur, create, assume or permit to exist any Indebtedness other than the following:

- (a) Indebtedness created under this Agreement and the other Related Documents;
- (b) the Senior Bonds and up to \$6,000,000 of Indebtedness on parity with the Senior Bonds approved in writing by the Senior Bondholder Representative;
- (c) the Sponsor Subordinate Recoverable Grant;
- (d) purchase money Indebtedness for fixed assets acquired in the ordinary course of the Borrower's business, *provided* that the aggregate amount of such Indebtedness outstanding at any time shall not exceed \$500,000; and

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(e) any other unsecured Indebtedness approved in writing by the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative).

Notwithstanding the foregoing, (i) no Indebtedness under clauses (d) may be incurred during any period in which a Default or Event of Default shall have occurred and be continuing.

*Section 5.2. Investments.* The Borrower shall not purchase, hold or acquire any common stock, evidence of indebtedness or other securities (including any option, warrant or other right to acquire any of the foregoing) of, make or permit to exist any loans or advances to, guaranty any obligations of, or make or permit to exist any investment or any other interest in, any other Person, or purchase or otherwise acquire (in one transaction or a series of transactions) any assets of any other Person that constitute a business unit, except for Permitted Investments.

#### *Section 5.3. Mergers and Consolidations; Transfers of Assets.*

(a) The Borrower shall not merge or consolidate or enter into any analogous reorganization or transaction with any Person.

(b) Except as otherwise expressly permitted by this Agreement, the Borrower shall not consummate any sale, lease (other than operating leases entered into in the ordinary course of business), transfer or other disposition (or series of related sales, leases, transfers or dispositions), including any disposition by means of a merger, consolidation or similar transaction (each referred to for the purposes of this definition as a "disposition") of its Property, including (without limitation) cash, other than:

(i) the sale of inventory in the ordinary course of business for fair market value and on an arms' length basis;

(ii) dispositions of obsolete, uneconomical, negligible, worn-out or surplus tangible personal property in the ordinary course of business if the Borrower receives consideration in an amount equal to the fair market value of such property and any proceeds applied to the replacement of any property, plant and equipment is made subject to the lien of the Mortgage;

(iii) sales, transfers and other disposition of assets (including cash transfers) to the Sponsor in an amount not to exceed \$3,000,000 any Fiscal Year to repay any amounts paid pursuant to the Support Agreement; provided, that (A) the amount on deposit in the Debt Service Reserve Fund is not less than the Debt Service Reserve Fund Requirement, AND (B) the number of Units constituting Occupied Units is not less than 93%, AND (C) the Borrower has at least 10 Days' Cash on Hand in excess of the Liquidity Requirement after giving effect to the sale, transfer or other disposition for two consecutive Fiscal Quarters (exclusive of initial Entrance Fees and any contributions by the Sponsor or the Parent under the Support Agreement or otherwise or from any other external source other than operations of the Facilities) AND (D) no Event of Default or covenant violation has occurred and is continuing under this Agreement or any Related Document; and, in each case, prior to such sale, transfer or disposition, the Borrower shall have provided to the Bondholder Representative unaudited financial statements showing compliance with this clause (iii);

(iv) sales, transfers and other disposition of assets (including cash transfers) to the Sponsor or the Parent in an amount not to exceed \$2,000,000 in any Fiscal Year; provided, that (A) the amount on deposit in the Debt Service Reserve Fund is not less than the Debt Service Reserve Fund Requirement, AND (B) the Debt Service Coverage Ratio was not less than 1.40 to 1.00 (exclusive of initial Entrance Fees and any contributions by the Sponsor or the Parent under the Support Agreement or otherwise or from any other external source other than operations of the Facilities) for such Fiscal Year and for the prior consecutive Fiscal Year, AND (C) the Borrower has at least 30 Days' Cash on Hand in excess of the Liquidity Requirement after giving effect to the sale, transfer or other disposition (exclusive of initial Entrance Fees and any contributions by the Sponsor or the Parent under the Support Agreement or otherwise or from any other external source other than operations of the Facilities) AND (D) no Event of Default or covenant violation has occurred and is continuing under this Agreement or any Related Document; and, in each case, prior to such sale, transfer or disposition, the Borrower shall have provided to the Bondholder Representative audited financial statements showing compliance with this clause (iv); and

(v) any other sale, lease, transfer or other disposition approved in writing by the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative).

*Section 5.4. Competition.* The Borrower shall not construct or acquire any additional facility or healthcare units/beds that will compete with the Facilities unless the Borrower shall have obtained the prior written consent of the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative).

*Section 5.5. Derivative Agreements; Guarantees.* The Borrower shall not enter into any interest rate swap agreements or other hedging or derivative transactions. The Borrower shall not, directly or indirectly, guaranty or otherwise secure the Indebtedness of any Person without the prior written consent of the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative).

*Section 5.6. Liens.* Except as otherwise specifically permitted by this Agreement, the Borrower shall neither create any Lien nor allow any Lien to remain against any of its Property, including (without limitation) the Gross Revenues and the Mortgaged Property, except Permitted Encumbrances.

*Section 5.7. Tax Exempt Nature of Bonds; Validity of Bonds.* The Borrower shall not take or permit to be taken on its behalf any action that would adversely affect (a) the exclusion from gross income for federal income tax purposes of interest paid on any Bonds or (b) the validity of any of the Bonds.

*Section 5.8. No Amendment or Alteration of Certain Documents or Facilities.* The Borrower shall not amend, supplement or otherwise modify the Organizational Documents of the Borrower, any Related Document, any Memorandum of Understanding between any of the Borrower, the Sponsor or the Parent, any Management Agreement or the form of residency agreement for the Facilities or any document pertaining to the Sponsor Subordinate Recoverable Grant without the prior written consent of the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative); *provided*, however, the Borrower

may amend the form of residency agreement (i) if required to comply with applicable law or a Governmental Authority having jurisdiction over the Borrower, (ii) to increase fees or (iii) if such amendments are minor modifications that enable the Borrower to remain competitive and the Borrower has given the Bondholder Representative prior written notice of such proposed amendments. The Borrower shall not change the number or type of Units to be constructed as part of the Facilities without the prior written consent of the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative).

*Section 5.9. Transactions with Affiliates.*

(a) Except as otherwise expressly provided in this Agreement, the Borrower shall not purchase or acquire any Property from, or otherwise engage in any other transactions with, any of its officers, directors, employees or Affiliates, except that: (i) the Borrower may pay reasonable compensation to employees for actual services rendered to the Borrower in the ordinary course of business; (ii) the Borrower may reimburse actual out-of-pocket expenses of officers, directors and employees incurred in the performance of their duties as such officers, directors and employees, respectively; and (iii) the Borrower may make payments to the Sponsor, the Parent or another Affiliate in the ordinary course of business for property or services in an amount not in excess of the fair market value of such property or services.

(b) The Borrower shall not make any payment under the Sponsor Subordinate Recoverable Grant or repay any amounts paid under the Support Agreement while the Bonds are outstanding except in accordance with Section 5.3(b)(iii) or (iv).

*Section 5.10. Business of the Borrower.*

(a) The Borrower shall not engage at any time in any business or business activity other than the ownership and operation of the Facilities as a senior living community.

(b) The Borrower shall not acquire or create any new subsidiary without the prior written consent of the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative). For the avoidance of doubt, the applicable Bondholder Representative's consent to be provided for purposes of the Borrower acquiring or creating a new subsidiary shall not be unreasonably withheld or delayed.

(c) The Borrower shall not without providing at least 30 days' prior written notice to the Trustee and the Bondholder Representative, change its name, its places of business, its chief executive office, the locations of its assets or its mailing address or organizational identification number.

*Section 5.11. Inconsistent Agreements.* The Borrower shall not enter into any agreement or arrangement which would restrict in any material respect the ability of the Borrower to fulfill its Obligations under the Related Documents.

*Section 5.12. Change of Control.* The Borrower shall not undertake, or agree or consent to undertake, any Change of Control.

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*Section 5.13. Bankruptcy.* The Borrower shall not file a petition or other pleading seeking an "order for relief" within the meaning of the United States Bankruptcy Code or file any petition or other pleading seeking any reorganization, composition, readjustment, liquidation or similar relief for itself under any present or future Law or regulation, or seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of the Borrower, or of substantially all of its assets, or make a general assignment for the benefit of creditors. The Borrower shall amend its by-laws to the extent required to effect the provisions of this Section.

*Section 5.14. Material Adverse Changes.* The Borrower shall not take any action that would have a Material Adverse Effect.

## ARTICLE VI

### EVENTS OF DEFAULT

*Section 6.1. Events of Default.* The occurrence of any of the following events or the existence of any of the following circumstances (whatever the reason for such event or circumstance and whether voluntary, involuntary or effected by operation of Law) shall be an "Event of Default" hereunder, unless waived in writing by the Trustee, which, subject to the terms of Article XIII of the Indenture and Section 8.2 hereof, may waive any such event or circumstance with the consent of the Bondholder Representative and shall waive any such event or circumstance at the direction of the Bondholder Representative:

(a) any representation or warranty made herein or any statement or representation made in any certificate, report, financial statement or other instrument furnished by or on behalf of the Borrower in connection with this Agreement or any of the other Related Documents, proves to have been incorrect, false or misleading in any material respect when made; or

(b) the principal of or interest on any Bond shall not be paid when due, whether at maturity, upon proceedings for redemption, acceleration or otherwise; or

(c) any payment required to be made under Section 3.1(a) shall not be made when due; or

(d) the Borrower shall fail to pay any other amount payable hereunder within 15 days of the due date for the payment thereof; or

(e) the Borrower shall fail to duly and promptly perform, comply with or observe any of the terms, covenants, conditions or agreements contained in Section 3.3, 3.4, 4.1(a), 4.3, 4.4, 4.12(d), 4.13(d), 4.14(d), 4.15(c), 5.1, 5.3, 5.4, 5.6 or 5.12; or

(f) the Borrower shall fail to observe or perform any of its covenants, conditions or agreements hereunder or under the other Related Documents for a period of 30 days after written notice (unless the Borrower and the Trustee shall agree in writing, with the consent of the Bondholder Representative, to an extension of such time prior to its expiration), specifying such failure and requesting that it be remedied, is given to the Borrower and the Sponsor by the Trustee or the Bondholder Representative, or in the case of any default which cannot with due diligence

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be cured within such 30 day period, failure by the Borrower to proceed promptly to pursue the curing of such default with due diligence and to cure such failure within 90 days; or

(g) the Borrower shall default in the payment of principal of or interest on any Indebtedness in an amount exceeding \$500,000, which default shall not have been cured within any applicable grace period provided in such Indebtedness or any agreement for the repayment of such Indebtedness; or

(h) the Borrower shall have become insolvent or shall be subject of any insolvency proceeding or shall file a petition or other pleading seeking an "order for relief" within the meaning of the United States Bankruptcy Code or shall file any petition or other pleading seeking any reorganization, composition, readjustment, liquidation or similar relief for itself under any present or future Law or regulation, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of the Borrower, or of substantially all of its assets, or shall make a general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due; or

(i) a petition or other pleading shall be filed against the Borrower seeking an "order for relief" within the meaning of the United States Bankruptcy Code or any reorganization, composition, readjustment, liquidation or similar relief under any present or future Law or regulation and shall remain undismissed or unstayed for an aggregate period of 90 days (whether or not consecutive); or if, by an order or decree of a court of competent jurisdiction, the Borrower shall become the subject of an "order for relief" within the meaning of the United States Bankruptcy Code or relief shall be granted under or pursuant to any such petition or other pleading; or if, by order or decree of such court, there shall be appointed, without the consent or acquiescence of the Borrower, a trustee in bankruptcy or reorganization or a receiver or liquidator of the Borrower or of all or any substantial part of the property of the Borrower and such order or decree continues unvacated or unstayed, on appeal or otherwise, and in effect for a period of 90 days; or

(j) the State or any other Governmental Authority having jurisdiction over the Issuer imposes a debt moratorium, debt restructuring, or comparable restriction on repayment when due and payable of the principal or interest on the Bonds; or

(k) any provision of this Agreement or the Bonds setting forth the payment obligations of the Borrower or the Issuer (as the case may be) shall at any time for any reason cease to be valid and binding on the Borrower, or shall be declared to be null and void, or (ii) the validity or enforceability thereof shall be contested by the Borrower, the Parent or the Sponsor, or any case, proceeding or action shall be commenced by any Governmental Authority seeking to establish the invalidity or unenforceability thereof, or the Borrower, the Parent or the Sponsor shall deny that it has any or further liability or obligation for such payment obligations; or

(l) any judgment, decree or order for the payment of money in an amount exceeding \$500,000, which is uninsured (or which the carrier of any insurance with respect to such judgment, decree or order has denied coverage) shall be rendered against the Borrower and either (i) enforcement proceedings shall have been commenced by any creditor upon any such judgment, decree or order, or (ii) there shall be any period of 20 consecutive days during which a stay of

enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect; or

(m) the Indenture or the Lien of this Agreement or the Mortgage shall cease to create a lien on the Collateral described therein with the priority purported to be created thereby securing the obligations of the Issuer under the Indenture or the Obligations of the Borrower under the Related Documents, respectively; or

(n) the Sponsor shall fail to duly and promptly perform, comply with or observe any of the terms, covenants, conditions or agreements contained in the Support Agreement; or

(o) the occurrence of an Event of Default under the Indenture or the Loan Agreement.

*Section 6.2. Remedies.* If an Event of Default shall occur and be continuing, subject to Article XIII of the Indenture, the Trustee may, with the consent of the Bondholder Representative, and shall, at the direction of the Bondholder Representative, take one or more of the following actions at any time and from time to time (regardless of whether the actions are taken at the same or different times):

(a) declare the outstanding amount of the Bonds and accrued interest thereon and all other amounts payable hereunder and under the other Related Documents to be immediately due and payable by written notice to the Issuer, the Senior Bondholder Representative and the Borrower or take such other remedial action as is provided for in the Indenture;

(b) by written notice to the Borrower and the Senior Bondholder Representative, declare the outstanding amount of the Obligations under this Agreement and the other Related Documents to be immediately due and payable without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived, and an action therefor shall immediately accrue;

(c) either personally or by attorney or agent without bringing any action or proceeding, or by a receiver to be appointed by a court in any appropriate action or proceeding, take whatever action at law or in equity may appear necessary or desirable to collect the amounts due and payable under the Related Documents or to enforce performance or observance of any obligation, agreement or covenant of the Borrower under the Related Documents, whether for specific performance of any agreement or covenant of the Borrower or in aid of the execution of any power granted to the Trustee in the Related Documents;

(d) cure any Default, Event of Default or event of nonperformance hereunder or under any other Related Document; *provided, however, that neither the Trustee nor the Bondholder Representative shall have any obligation to effect such a cure;*

(e) exercise, or cause to be exercised, any and all remedies as it may have under the Related Documents and as otherwise available at law and at equity;

(f) upon the occurrence of an Event of Default hereunder, the Bondholder Representative may enter into any agreement it deems necessary with any Consultant selected by

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the Bondholder Representative for the benefit of the Borrower. Such Consultant may be paid by the Borrower or with moneys held by the Trustee under the Indenture for the benefit of the holders of the Subordinate Bonds, as directed in writing by the Senior Bondholder Representative (or if no Senior Bonds remain Outstanding, the Bondholder Representative);

(g) upon the occurrence of an Event of Default described in Section 6.1(b), (c) or (d), the Bondholder Representative may change the owner of the Borrower as provided in the Pledge Agreement; and

(h) upon the occurrence of an Event of Default described in Section 6.1(b), (c) or (d), the Bondholder Representative may change the management of the Borrower.

Any amounts collected by the Trustee upon the pursuit of remedies hereunder or under the other Related Documents shall be applied to the Obligations in accordance with Section 9.05 of the Indenture.

**Section 6.3. Attorneys' Fees and Other Expenses.** Upon the occurrence of an Event of Default, subject to Article XIII of the Indenture, the Borrower shall on demand pay to the Trustee and the Bondholder Representative the reasonable fees and expenses of attorneys and other reasonable expenses incurred by them in the collection of payments due on the Bonds or the enforcement of performance of any other Obligations of the Borrower hereunder and under the Related Documents.

**Section 6.4. Remedies Cumulative: Solely for the Benefit of Bondholders and Bondholder Representative.** To the extent permitted by, and subject to the mandatory requirements of, applicable Law and the Indenture, each and every right, power and remedy herein specifically given to the Trustee or the Bondholder Representative in the Related Documents shall be cumulative, concurrent and nonexclusive and shall be in addition to every other right, power and remedy specifically given or now or hereafter existing at law, in equity or by statute, and each and every right, power and remedy (whether specifically herein given or otherwise existing) may be exercised from time to time and as often and in such order as may be deemed expedient by the Trustee or the Bondholder Representative, as the case may be, and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy.

Except as set forth in the Indenture, the rights and remedies of the Trustee and the Bondholder Representative specified herein are for the sole and exclusive benefit, use and protection of the Trustee, the Bondholder Representative and the Bondholders, and the Trustee and the Bondholder Representative are entitled, but shall have no duty or obligation to the Borrower or any other Person or otherwise, to exercise or to refrain from exercising any right or remedy reserved to the Trustee and the Bondholder Representative hereunder or under any of the other Related Documents.

**Section 6.5. Waivers or Omissions.** No delay or omission by the Trustee or the Bondholder Representative in the exercise of any right, remedy or power or in the pursuit of any remedy shall impair any such right, remedy or power or be construed to be a waiver of any default on the part of the Trustee or the Bondholder Representative or to be an acquiescence therein. No express or

implied waiver by the Trustee or the Bondholder Representative of any Event of Default shall in any way be a waiver of any future or subsequent Event of Default.

**Section 6.6. Discontinuance of Proceedings.** In case the Trustee or the Bondholder Representative shall proceed to invoke any right, remedy or recourse permitted hereunder or under the other Related Documents and shall thereafter elect to discontinue or abandon the same for any reason, the Borrower, the Trustee and the Bondholder Representative shall be restored to their former positions with respect to the Obligations, the Related Documents and otherwise, and the rights, remedies, recourse and powers of the Trustee and the Bondholder Representative hereunder shall continue as if the same had never been invoked.

**Section 6.7. Injunctive Relief.** The Borrower recognizes that in the event that an Event of Default occurs, any remedy of Law may prove to be inadequate relief to the Trustee; therefore, subject to Article XIII of the Indenture, the Borrower agrees that the Trustee at the written request of the Bondholder Representative may or upon the written direction of the Bondholder Representative shall seek and be entitled to temporary and permanent injunctive relief or specific performance in any such case.

**Section 6.8. Confession of Judgment.** Subject to Article XIII of the Indenture, in the event that the Borrower fails to pay when due any amount required to be paid under Section 3.1(a) or any other amounts due under this Agreement, the Loan Agreement and the Indenture, the Borrower authorizes any attorney at law licensed in the State to appear on behalf of the Borrower in any court having jurisdiction in one or more proceedings, or before any clerk thereof or prothonotary or other court official, and to CONFESS JUDGMENT AGAINST THE BORROWER, WITHOUT PRIOR NOTICE OR OPPORTUNITY OF THE BORROWER FOR PRIOR HEARING, in favor of the Trustee for the full amount due under this Agreement and the other Related Documents plus court costs and reasonable attorneys' fees incurred to confess judgment. The Borrower waives the benefit of any and every statute, ordinance or rule of court which may be lawfully waived conferring upon the Borrower any right or privilege of exemption, appeal, stay of execution or supplementary proceedings, inquisition, extension upon any levy on real estate or personal property and any other relief from the enforcement or immediate enforcement of a judgment or related proceedings on a judgment. The authority and power to appear for and enter judgment against the Borrower shall not be exhausted by one or more exercises thereof, or by any imperfect exercise thereof, and shall not be extinguished by any judgment entered pursuant thereto; such authority and power may be exercised on one or more occasions from time to time, in the same or different jurisdictions, as often as the Trustee or the Bondholder Representative shall deem necessary or advisable, for all of which this Agreement shall be sufficient authority.

Notwithstanding the foregoing, in enforcing any judgment by confession obtained against the Borrower in connection with this Agreement, the Trustee shall not retain, solely with respect to attorney's fees incurred by the Trustee in connection with this Agreement, any amounts in excess of the actual amount of attorneys' fees charged or billed to the Trustee.

The Trustee shall be entitled to recover its reasonable attorney's fees and expenses in connection with enforcing any judgment by confession obtained against the Borrower and each of the Trustee and the Bondholder Representative shall be entitled to recover its reasonable attorney's

fees and expenses in connection with the enforcement of any other provision contained in this Agreement.

## ARTICLE VII INDEMNIFICATION

**Section 7.1. Indemnification.** In addition to any and all rights of reimbursement, indemnification, subrogation or any other rights hereunder and under the other Related Documents or at law or in equity, the Borrower hereby agrees (to the extent permitted by law) to indemnify, hold harmless and defend the Trustee and its officers, directors, employees and agents and the Bondholder Representative and its officers, directors, employees and agents (each, an "Indemnitee") from and against any and all claims, damages, losses, liabilities, costs or expenses of any conceivable nature, kind or character (including reasonable fees and expenses of attorneys, accountants, consultants and other experts, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which any Indemnitee may become subject under statutory law (including federal or state securities laws) or at common law or otherwise (collectively, "Liabilities"), arising out of or based upon or in any way relating to:

(a) the Bonds, this Agreement, the Indenture, the Loan Agreement, the Mortgage or any other Related Document or the execution or amendment hereof or thereof or in connection with the transactions contemplated hereby or thereby, including (without limitation) the issuance, sale or resale of the Bonds;

(b) any act or omission of the Borrower, the Parent or the Sponsor or any of their respective agents, contractors, servants, employees, tenants or licensees in connection with the Project, the Facilities or the operations thereof, or the condition, environmental or otherwise, occupancy, use, possession, conduct or management of work done in or about, or from the planning, design, acquisition, installation or construction of, the Project or the Facilities or any part thereof;

(c) any lien or charge upon payments by the Borrower to the Trustee or the Bondholder Representative hereunder, or any taxes (including, without limitation, *ad valorem* taxes and sales taxes), assessments, impositions and other charges imposed on the Trustee or the Bondholder Representative in respect of any portion of the Project or the Facilities;

(d) any violation of any Environmental Laws with respect to, or the release of any hazardous substances from, the Project, the Facilities or any part thereof;

(e) the defeasance or redemption, in whole or in part, of the Bonds;

(f) any untrue statement or misleading statement or alleged untrue statement or alleged misleading statement of a material fact contained in any offering or disclosure document or disclosure or continuing disclosure document for the Bonds or any of the documents relating to the Bonds, or any omission or alleged omission from any offering or disclosure document or disclosure or continuing disclosure document for the Bonds of any material fact necessary to be stated therein in order to make the statements made therein, in light of the circumstances under which they were made, not misleading;

(g) any declaration of taxability of interest on the Bonds, or allegations that interest on the Bonds is taxable or any regulatory audit or inquiry regarding whether interest on the Bonds is taxable;

(h) the Trustee's acceptance or administration of the trust created by the Indenture, or the exercise or performance of any of its powers or duties thereunder or under any of the documents relating to the Bonds to which it is a party; and

(i) any injury to or death of any Person or damage to property in or upon the Project or the Facilities or growing out of or connected with the use, nonuse, condition or occupancy of the Project or the Facilities; *provided*, however, that no Indemnitee shall be entitled to indemnification with respect to any Liabilities, to the extent that such Liabilities are caused by the negligence or willful misconduct of such Indemnitee.

In the event that any action or proceeding is brought against any Indemnitee with respect to which indemnity may be sought hereunder, the Borrower, upon written notice from the Indemnitee to the Borrower, shall assume the investigation and defense thereof, including the employment of counsel selected by the Indemnitee, and shall assume the payment of all reasonable expenses related thereto, with full power to litigate, compromise or settle the same in its sole discretion; *provided* that the Indemnitee shall have the right to review and approve or disapprove any such compromise or settlement. Each Indemnitee shall have the right to employ separate counsel in any such action or proceeding and participate in the investigation and defense thereof, and the Borrower shall pay the reasonable fees and expenses of such separate counsel; *provided*, however, that such Indemnitee may only employ separate counsel at the expense of the Borrower if in the judgment of such Indemnitee a conflict of interest exists by reason of common representation or if all Persons commonly represented do not agree as to the action (or inaction) of counsel.

The indemnity provided to the Bondholder Representative shall cover any actions taken by the Bondholder Representative under the Related Documents, including (without limitation) enforcing any remedies, foreclosure, providing consents, waivers and directing any actions of the Trustee, including (without limitation) acceleration and foreclosure.

The rights of any persons to indemnify hereunder and rights to payment of fees and reimbursement of expenses shall survive the final payment or defeasance of the Bonds and in the case of the Trustee any resignation or removal.

## ARTICLE VIII MISCELLANEOUS

**Section 8.1. Further Assurances.** From time to time upon the request of the Trustee or the Bondholder Representative, the Borrower shall promptly and duly execute, acknowledge and deliver any and all such further instruments and documents as the Trustee or the Bondholder Representative may in its reasonable discretion deem necessary or desirable to confirm this Agreement and the other Related Documents, to carry out the purpose and intent hereof and thereof or to enable the Trustee or the Bondholder Representative to enforce any of its rights hereunder or thereunder. At any time, and from time to time, upon request by the Trustee or the Bondholder

Representative, the Borrower will, at the Borrower's expense, correct any defect, error or omission which may be discovered in the form or content of any of the Related Documents.

**Section 8.2. Amendments and Waivers.** While any Senior Bonds remain Outstanding, the Trustee, the Borrower and the Bondholder Representative (i) shall not enter into any agreements, waivers or consents amending, modifying or supplementing the Related Documents without the prior written consent of the Senior Bondholder Representative and (ii) shall be deemed to have agreed, waived or consented to any changes to this Agreement if the Senior Bondholder Representative shall have agreed, waived or consented to the same provision in the Continuing Covenants Agreement securing the Senior Bonds; provided that no waiver, amendment, change or modification to the Related Documents that would have a material adverse effect on the rights of the Bondholder Representative shall be made without the prior written consent of the Bondholder Representative. Any agreement, waiver or consent provided pursuant to clause (i) above must be in writing and shall be effective only to the extent specifically set forth in such writing. Any deemed agreement, waiver or consent pursuant to clause (ii) above shall be evidenced by the written agreement of the Senior Bondholder Representative under Section 8.2 of the Continuing Covenants Agreement securing the Senior Bonds and no separate written agreement shall be required to be executed by the Trustee, the Borrower or the Bondholder Representative. Notwithstanding the foregoing, the Bondholder Representative shall have the sole right to waive any Event of Default under Section 6.1(b).

**Section 8.3. Notices.** All notices, requests, demands, directions and other communications (collectively "notices") under the provisions of this Agreement shall be in writing (including facsimile communication), unless otherwise expressly permitted hereunder, and shall be sent by first-class mail or overnight delivery and shall be deemed received as follows: (a) if by first class mail, seven days after mailing; (b) if by overnight delivery, on the next Business Day; and (c) if by facsimile or electronic mail, when confirmation of receipt is obtained. All notices shall be sent to the applicable party at the address shown below or in accordance with the last unrevoked written direction from such party to the other parties hereto.

If to the Borrower: The Baldwin Senior Living  
575 Osgood Street  
North Andover, MA 01845  
Attention: Executive Director  
Telephone: (978) 725-4106

with a copy to: Edgewood Senior Solutions Group, Inc.  
575 Osgood Street  
North Andover, MA 01845  
Attention: Director of Finance  
Telephone: (978) 725-4106

If to the Bondholder Representative: Ecolin Advisors, LLC  
6363 College Boulevard  
Overland Park, Kansas 66211  
Attention: Social Infrastructure Team  
Telephone: (913) 981-1020

with a copy to:

Polsinelli PC  
150 N. Riverside Plaza, Suite 3000  
Chicago, Illinois 60606-1599  
Attention: James Brooking  
Telephone: (312) 873-3638

If to the Trustee:

UMB Bank, National Association  
2 South Broadway, Suite 600  
St. Louis, Missouri 63102  
Attention: Brian Krippner  
Telephone: (314) 612-8480

If to the Underwriter:

Odeon Capital Group LLC  
Municipals Department  
750 Lexington Avenue, 27th Floor  
New York, NY 10022  
Attention: Scott Kaysen  
Telephone: (704) 317-8535

with a copy to:

McKenna Shelton & Henn LLP  
401 East Pratt St., Suite 2600  
Baltimore, Maryland 21202  
Attention: David Gregory  
Telephone: (410) 843-3543

A duplicate copy of each demand, notice, approval, consent, request, opinion or other communication given hereunder by the Trustee or the Borrower or the Senior Bondholder Representative to the others under any Related Document shall also be given to the Bondholder Representative and the Senior Bondholder Representative and, if requested by the Underwriter, the Underwriter. The Borrower, the Trustee, the Bondholder Representative, and the Underwriter may, by notice given hereunder, designate any further or different addresses to which subsequent demands, notices, approvals, consents, requests, opinions or other communications shall be sent or persons to whose attention they shall be directed.

No notices shall be sent to the Holder of any Ecolin Investor Bond, including (without limitation) notices of failure to comply with covenants and Events of Default. Notwithstanding the foregoing, the Trustee may send routine payment processing and similar notices to DTC as long as DTC is the registered owner of the Bonds.

The Bondholder Representative may rely on any notice (including telephonic communication) purportedly made by or on behalf of the Borrower or the Trustee, and shall have no duty to verify the identity or authority of the Person giving such notice, unless such actions or omissions would amount to gross negligence or intentional misconduct.

**Section 8.4. No Third-Party Rights.** Nothing in this Agreement, whether express or implied, shall be construed to give to any Person other than the parties hereto, the Bondholder Representative and the Bondholders any legal or equitable right, remedy or claim under or in

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respect of this Agreement, which is intended for the sole and exclusive benefit of the parties hereto, the Senior Bondholder Representative, the holders of the Senior Bonds, the Bondholder Representative and the Bondholders.

**Section 8.5. Severability.** The provisions of this Agreement are intended to be severable. If any provision of this Agreement shall be held invalid or unenforceable in whole or in part in any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without in any manner affecting the validity or enforceability thereof in any other jurisdiction or the remaining provisions hereof in any jurisdiction.

**Section 8.6. Governing Law; Consent to Jurisdiction and Venue; Waiver of Jury Trial.**

(a) This Agreement shall be governed by, and construed in accordance with, the Laws of the State without giving effect to conflicts of law provisions.

(b) Each party hereto consents to and submits to *in personam* jurisdiction and venue exclusively in the State and in the federal district courts which are located in the State. Each party (i) asserts that it has purposefully availed itself of the benefits of the Laws of the State, (ii) waives any objection to *in personam* jurisdiction on the grounds of minimum contacts, (iii) waives any objection to venue and waives any plea of *forum non conveniens* and (iv) agrees not to seek removal of such proceedings to any court or forum other than as specified above. This consent and submission to jurisdiction is with regard to any action related to this Agreement.

(c) To the extent permitted by applicable Law, each of the parties hereto hereby waives its right to a jury trial of any claim or cause of action based upon or arising out of this Agreement, the other Related Documents or any of the transactions contemplated hereby or thereby, including contract claims, tort claims, breach of duty claims, and all other common law or statutory claims.

(d) The covenants and waivers made pursuant to this Section shall be applicable to any subsequent amendments, renewals, supplements or modifications of this Agreement. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

**Section 8.7. Prior Understandings.** This Agreement and the other Related Documents supersede all other prior understandings and agreements, whether written or oral, among the parties hereto relating to the transactions provided for herein and therein.

**Section 8.8. Duration.** All representations and warranties of the Borrower contained herein or made in connection therewith shall survive the making of and shall not be waived by the execution and delivery of this Agreement or the other Related Documents. All covenants and agreements of the Borrower contained herein shall continue in full force and effect from and after the date hereof until the Bonds and all Obligations hereunder have been fully discharged.

**Section 8.9. Counterparts.** This Agreement may be executed in any number of counterparts and by each of the parties hereto on separate counterparts each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute but one and the same instrument.

**Section 8.10. Successors and Assigns.** This Agreement is a continuing obligation and shall be binding upon the Borrower, its successors, transferees and assigns and shall inure to the benefit of the Bondholder Representative, the Senior Bondholder Representative and the Bondholders and their respective permitted successors, transferees and assigns. The Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Bondholder Representative and the Senior Bondholder Representative.

**Section 8.11. Bondholder Representative Acts.** In the event that there ceases to be a Bondholder Representative, then any reference herein to the Bondholder Representative shall be of no further force and effect and where there is a reference to an action being taken solely by the Bondholder Representative, such reference shall be deemed instead to be a reference to the holders of a majority in aggregate principal amount of Outstanding Bonds.

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**FORM OF COMPLIANCE CERTIFICATE**

The undersigned duly authorized officer of The Baldwin Senior Living (the "Borrower") hereby certifies as follows to demonstrate compliance with certain provisions of the Continuing Covenants Agreement dated as of April 1, 2022, between UMB Bank, National Association and the Borrower (the "Continuing Covenants Agreement"):

THE BALDWIN SENIOR LIVING

By: \_\_\_\_\_  
Name: Marlene Rotering  
Title: Executive Director

UMB BANK, NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_  
Name: Brian P. Krippner  
Title: Senior Vice President

This Certificate is being delivered with respect to the following (each, a "Testing Period"):

Fiscal Year ended December 31, 20\_\_\_\_: \_\_\_\_ OR

Fiscal Quarter ended [March 31] [June 30] [September 30] [December 31], 20\_\_\_\_:

Month ended \_\_\_\_\_

Capitalized terms used but not defined in this Certificate shall have the meanings set forth in the Continuing Covenants Agreement.

(a) Debt Service Coverage Ratio

Net Revenues Available for Debt Service (A) ..... \_\_\_\_\_

Maximum Annual Debt Service (B)..... \_\_\_\_\_

Debt Service Coverage Ratio (A/B)..... \_\_\_\_\_

Is the Debt Service Coverage Ratio of the Borrower an amount at least equal to the Debt Service Coverage Ratio requirement for the applicable period?  
\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

In order to meet the Debt Service Coverage Ratio requirement, did the Borrower defer any Management Fees payable during the Testing Period?  
\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

If yes, please identify the amount of such deferral: \$ \_\_\_\_\_

In order to meet the Debt Service Coverage Ratio requirement, did the Sponsor or the Parent make any contributions to the Borrower during the Testing Period?  
\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

If yes, please identify the amount of such contribution: \$ \_\_\_\_\_

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(b) Days' Cash on Hand Requirement

Unrestricted Cash and Marketable Securities (A) .....	\$ _____
Operating expenses .....	\$ _____
(Deduct):	
Depreciation .....	_____
Amortization .....	_____
Deferred Management Fees .....	_____
Total Operating Expenses (B) .....	\$ _____

Days' Cash on Hand (Ratio of A to B/365) or 366 .....

Is the Days' Cash on Hand of the Borrower an amount at least equal to the Days' Cash on Hand requirement for the applicable period?  
\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

In order to achieve the Days' Cash on Hand requirement, did the Borrower defer any Management Fees?  
\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

If yes, please identify the amount of such deferral: \$ \_\_\_\_\_

In order to meet the Days' Cash on Hand requirement, did the Sponsor or the Parent make any contributions to the Borrower?  
\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

If yes, please identify the amount of such contribution: \$ \_\_\_\_\_

Percent of Occupied Assisted Living Units and Memory Care Units  
(B/A) ..... \_\_\_\_\_

Is the occupancy of the Borrower an amount at least equal to the occupancy requirement for the applicable period?  
\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

(d) Marketing Covenant

For each month during the Testing Period, the number of Reserved Units were as follows:

Month	Number of Reserved Units

Are the reserved units of the Borrower an amount at least equal to the marketing requirement for the applicable period?  
\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

What is the number of individuals on the waitlist?  
\_\_\_\_\_

For a Testing Period ending December 31, has the waitlist requirement been met?  
\_\_\_\_\_

\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

(e) Related Party Transactions

During the Testing Period, has the Borrower, the Parent or the Sponsor entered into any Related Party Agreement?  
\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

If yes, please attach Agreement (if written) or describe the Agreement (if oral).

During the Testing Period, has any director, trustee, officer or member of the Borrower, the Parent or the Sponsor filed a Conflict of Interest Questionnaire?  
\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

If yes, please attach

(f) Certification as to Financial Statements. To the best of the undersigned's knowledge, the financial statements provided to the Trustee with this Compliance Certificate fairly set forth the financial position and results of operations of the Borrower as of the date and for the period covered by such financial statements, subject to year-end adjustments.

(c) Occupancy.

**Independent Living Units.**

Total Number of Independent Living Units in the Facilities (A) .....

Average Number of Occupied Independent Living Units (B) .....

Percent of Occupied Independent Living Units (B/A).....

**Assisted Living Units and Memory Care Units.**

Total Number of Assisted Living Units and Memory Care Units in the Facilities (A) .....

Average Number of Occupied Assisted Living Units and Memory Care Units (B) .....

(g) Entrance Fees.

EXHIBIT B

During the Testing Period what was the aggregate amount of Entrance Fees received?

\$ \_\_\_\_\_

During the Testing Period what was the aggregate amount of Entrance Fees deposited with the Trustee?

\$ \_\_\_\_\_

(h) Certification as to no Event of Default.

To the best of the undersigned's knowledge, has an Event of Default or Default under any Related Document occurred?

\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

If yes, please attach a statement describing the nature thereof and the steps the Borrower intends to take to cure such default.

IN WITNESS WHEREOF, I have hereunto set my hand, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

THE BALDWIN SENIOR LIVING

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

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**PROPOSED FORM**

**PLEDGE AGREEMENT**

(Membership Interest in The Baldwin Senior Living)

**THIS PLEDGE AGREEMENT** (this "Pledge Agreement") dated as of April 1, 2022, is made by and between Edgewood Senior Solutions Group, Inc., a New Hampshire nonprofit corporation (the "Grantor"), as the sole member of The Baldwin Senior Living, a New Hampshire nonprofit corporation ("Baldwin"), and UMB Bank, National Association, as the Trustee (the "Trustee"), pursuant to the Trust Indenture dated as of April 1, 2022 (the "Indenture"), between the Business Finance Authority of the State of New Hampshire, a body corporate and politic of the State of New Hampshire (the "Authority"), and the Trustee, and is acknowledged and consented to by Baldwin;

**WITNESSETH:**

WHEREAS, the Authority is issuing its Business Finance Authority of the State of New Hampshire Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022A, Series 2022B, Series 2022C, Series 2022D and Series 2022E (the "Bonds") pursuant to the Indenture, the proceeds of which are being applied by Baldwin to refinance the Business Finance Authority of the State of New Hampshire Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2020, finance the construction and equipping of a 230-unit retirement community located in the Town of Londonderry, New Hampshire (collectively, the "Project"), fund a debt service reserve fund, and pay interest for up to 36 months and certain costs of issuance of the Bonds; and

WHEREAS, the Grantor is the sole member of Baldwin and the execution and delivery of this Pledge Agreement by the Grantor will substantially contribute to the ability of Baldwin to finance the Project; and

WHEREAS, in consideration of (i) the purchase of the Senior Bonds by investors for whom Hamlin Capital Management, LLC ("Hamlin") acts as investment advisor, and (ii) the purchase of the Subordinate Bonds by investors for whom Ecofin Advisors, LLC ("Ecofin") acts as investment advisor, Hamlin, in its capacity as Bondholder Representative for the Senior Bonds under and as defined in the Indenture and Ecofin in its capacity as Bondholder Representative for the Subordinate Bonds under and as defined in the Indenture, have required that Grantor grant, hypothecate and pledge to the Trustee all of its membership interest in Baldwin (the "Membership Interest"); and

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to secure the payment and performance of the Bonds from time to time outstanding under the Indenture, the Grantor hereby covenants and agrees as follows:

**ARTICLE I.**  
**SECURITY INTEREST**

**SECTION 1.1. CREATION OF SECURITY INTEREST.** The Grantor hereby grants to the Trustee a security interest in all of the Grantor's right, title and interest in and to the collateral described in Section 1.2 (the "Collateral") to secure the payment of the Bonds. The security interest

granted hereunder shall, except as otherwise provided herein, be governed by and interpreted in accordance with the provisions of the Uniform Commercial Code as adopted in the State of New Hampshire (the "UCC"). The Grantor shall file or record, or cause to be filed and recorded any financing statements necessary to protect and preserve the Trustee's security interests in the Collateral. The Trustee may, at the expense of Baldwin, retain counsel to assist it in making any filings required hereby and may rely on the opinion of any such counsel.

**SECTION 1.2. DESCRIPTION OF COLLATERAL.** The Collateral pledged under this Pledge Agreement includes all of the following:

- (a) all right, title and interest of the Grantor in the Membership Interest in Baldwin;
- (b) all certificates, documents and instruments representing or evidencing ownership of the property described in clause (a) of this Section and all proceeds thereof, including (without limitation) cash, property and other distributions, dividends, securities, investment property, rights and other property now or hereafter at any time or from time to time received, receivable or otherwise distributed or distributable in respect of or in exchange for any or all of the foregoing property;
- (c) all options and other rights to subscribe for or purchase voting or nonvoting interests in Baldwin, and all benefits to be derived therefrom, whether now existing or hereafter arising during the term of this Pledge Agreement with respect to any of the property described in clauses (a) and (b) of this Section;
- (d) all substituted or additional collateral required to be supplied under the terms of this Pledge Agreement; and
- (e) the proceeds of all of the foregoing property described in clauses (a) through (d) of this Section.

**SECTION 1.3. SECURITY FOR BONDS.** This Pledge Agreement secures the prompt payment of all of the Bonds, whether now existing or hereafter arising during the term of this Pledge Agreement.

**SECTION 1.4. PROTECTION OF SECURITY INTEREST.** During the term of this Pledge Agreement, the Trustee (acting at the direction of the Bondholder Representative) and the Bondholder Representative shall have the right upon the occurrence and during the continuance of an Event of Default under the Indenture, the Loan Agreement, the Mortgages, the Assignment, the Continuing Covenants Agreements, the Guaranty Agreement, the Control Agreement (each as defined in the Indenture) or any Bond (collectively, the "Financing Documents") to make any payments and to perform any other acts the Trustee or the Bondholder Representative shall deem necessary to protect the Trustee's security interest in the Collateral, including (without limitation) the rights to pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of the Trustee or the Bondholder Representative appears to be prior to or superior to the security interest granted hereunder and to appear in and defend any action or proceeding purporting to affect its security interest in or the value of the Collateral and, in exercising any such power or authority, the right to pay all expenses incurred in connection therewith, including (without limitation) reasonable attorneys' fees and expenses. The Grantor hereby agrees that the Grantor shall be bound by any such payment made or act taken by the Trustee or the Bondholder Representative hereunder and shall reimburse the Trustee and the

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Bondholder Representative for all payments made and expenses incurred, which amounts shall be secured under this Pledge Agreement during its term. The Trustee and the Bondholder Representative shall have no obligation to make any of the foregoing payments or perform any of the foregoing acts.

**SECTION 1.5. INDEMNIFICATION OF THE TRUSTEE; RIGHTS AND IMMUNITIES.** The provisions set forth in the Indenture and the Loan Agreement relating to the rights, immunities and indemnification of the Trustee are equally applicable to the Trustee's performance of its obligations under this Pledge Agreement as if such provisions were fully set forth herein. In the event of any conflict between this Agreement and the Indenture and/or Loan Agreement with respect to the rights, immunities and protections of the Trustee, the Indenture and/or Loan Agreement shall control, as applicable.

**ARTICLE II.**  
**WARRANTIES AND REPRESENTATIONS**

**SECTION 2.1. ORGANIZATION AND EXISTENCE OF BALDWIN.** Baldwin represents and warrants to the Trustee that it is a corporation duly formed, validly existing and in good standing under the laws of the State of New Hampshire, has all requisite power and authority to own, operate or hold under lease the properties and assets it owns, operates or holds under lease, including the Project (as defined in the Indenture), and is duly qualified and authorized to do business in and is in good standing in all of the jurisdictions in which the nature of its business makes such licensing, authorization and qualification necessary and where the failure to be so licensed and qualified and in good standing would have a material adverse effect upon the business or financial condition of Baldwin.

**SECTION 2.2. ORGANIZATION AND EXISTENCE OF THE GRANTOR.** The Grantor represents and warrants to the Trustee that the Grantor is a corporation duly organized, validly existing and in good standing under the laws of the State of New Hampshire and has all requisite power and authority to be a member of Baldwin, enter into this Pledge Agreement and grant the lien on the Collateral hereunder.

**SECTION 2.3. TITLE TO MEMBERSHIP INTEREST.** The Grantor represents and warrants to the Trustee that the Grantor has good and marketable title to the Membership Interest and other Collateral pledged hereunder, free and clear of any liens or encumbrances; that there are no outstanding restrictions, purchase agreements, subscriptions, options or other agreements or rights of any kind to purchase or otherwise receive or be issued, or securities or obligations of any kind convertible into, any interest in Baldwin; that the Membership Interest is uncertificated and constitutes 100% of all of the membership interests in Baldwin and the Grantor is the sole member of Baldwin; and that no prior consent or approval is required in order for the Grantor to pledge the Membership Interest and other Collateral as set forth herein and hereunder.

**ARTICLE III.**  
**AFFIRMATIVE COVENANTS**

The Grantor covenants that, so long as any of the Bonds remain Outstanding and this Pledge Agreement remains in effect:

**SECTION 3.1. DELIVERY OF COLLATERAL; ADDITIONAL COLLATERAL.** Grantor will deliver to the Trustee each item of Collateral capable of physical delivery, if possession of the same is necessary to perfect a security interest therein, immediately upon acquisition thereof and will defend the Collateral against all claims and demands of all Persons at any time claiming the same or any interest therein. If, while this Pledge Agreement is in effect, additional membership interests are created or otherwise issued by reason of any internal reorganization, consolidation or other similar change in organizational structure, including (without limitation) the creation of any subscription or other rights or other Collateral as defined herein, is declared or made, or proposed to be declared or made, by Baldwin or any entity having an ownership interest in Baldwin, all substituted and additional membership interests or other Collateral shall be deemed to be assigned, pledged and transferred to the Trustee to be held as additional Collateral under the terms of this Pledge Agreement in the same manner as and as a part of the existing Collateral. No supplemental or additional interests in Baldwin shall be created (whether by sale, transfer, reorganization, reclassification or otherwise) during the term of this Pledge Agreement, except as may be expressly contemplated in the Financing Documents, without the prior written consent of the Bondholder Representative. Notwithstanding the foregoing, nothing herein is intended to require delivery to the Trustee of any portion of the Collateral consisting of cash so long as no Event of Default exists under this Pledge Agreement.

**SECTION 3.2. PERFECTION OF SECURITY INTEREST.** The Grantor will, to the extent required by law, cause this Pledge Agreement, together with all related Uniform Commercial Code financing statements or other instruments, to be kept, recorded and filed in such manner and in such places as may be required by law in order to create, perfect, preserve and protect fully the first priority security interest of the Trustee in the Collateral and will, promptly upon request by the Trustee or the Bondholder Representative, procure or execute and deliver any documents, deliver to the Trustee any instruments, give any notices, execute any proxies, execute and file any financing statements or other documents, all in form reasonably satisfactory to the Bondholder Representative, and take any other actions which are reasonably necessary or, in the reasonable judgment of the Bondholder Representative, desirable to perfect or continue the perfection and first priority security interest of the Trustee in the Collateral, to protect the Collateral against the rights, claims or interests of third persons or to effect the purposes of this Pledge Agreement and will pay all costs incurred in connection therewith. The Grantor will pay or cause to be paid all filing fees incident to such filing and all expenses incident to the preparation, execution and acknowledgment of such instruments of further assurance, and all federal or state fees and other similar fees, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of such instruments of further assurance. The Grantor hereby authorizes the Trustee at any time and from time to time to file in any appropriate filing office any continuation statements to the financing statements covering any of the Collateral. The Trustee shall be entitled to conclusively rely upon any originally filed financing statements timely delivered to it in filing any continuation statements hereunder.

**SECTION 3.3. IMPOSITIONS ON COLLATERAL.** The Grantor will pay and discharge, or cause to be paid and discharged, all taxes, assessments and governmental charges or levies against the Collateral prior to delinquency thereof and will keep the Collateral free of all unpaid charges whatsoever. Notwithstanding the foregoing, the Grantor shall have the right to contest the amount and validity of any such tax or assessment by appropriate proceedings conducted in good faith and with due diligence so long as such proceedings operate to suspend or defer the payment thereof and so long as the Collateral is not exposed to being forfeited or lost by reason of such proceedings.

## ARTICLE IV. NEGATIVE COVENANTS

The Grantor covenants that, until the Bonds have been fully paid and discharged or this Pledge Agreement has been terminated:

### SECTION 4.1. FURTHER ENCUMBRANCE OR TRANSFER OF COLLATERAL.

The Grantor will not, in any way, hypothecate or create or permit to exist any lien, security interest or encumbrance on or other interest in the Collateral except that created by this Pledge Agreement or sell, transfer, assign, exchange or otherwise dispose of the Collateral or any interest therein without the prior written consent of the Bondholder Representative. If any Collateral, or any interest therein, is sold, transferred, assigned, exchanged or otherwise disposed of in violation of these provisions, the security interest of the Trustee shall continue in such Collateral or part thereof notwithstanding such sale, transfer, assignment, exchange or other disposition, and the Grantor will hold the proceeds thereof in a separate account for the Trustee's benefit and will, upon the request of the Trustee or the Bondholder Representative, transfer such proceeds to the Trustee's possession.

**SECTION 4.2. IMPAIRMENT OF SECURITY INTEREST.** The Grantor shall take no action that would impair the first priority security interest of the Trustee in the Collateral or the enforcement thereof. The Grantor will not take any action that would change the jurisdiction of its formation without 30 days' prior written notice to the Trustee and the Bondholder Representative.

## ARTICLE V. NO LIMITATION ON LIABILITY; WAIVERS

### SECTION 5.1. NO LIMITATION OF LIABILITY.

(a) Without incurring responsibility to the Grantor, impairing or releasing the obligations of the Grantor to the Trustee or reducing the amount due and secured under the terms of this Pledge Agreement (except to the extent of payments on the Bonds that are actually paid to and legally retained by the Trustee), the Trustee may, at the direction of the Bondholder Representative, at any time and from time to time, without the consent or notice to the Grantor, subject to the terms and conditions of the Financing Documents, and in whole or in part:

- (i) change the manner, place or terms of payment of (including, without limitation, the interest rate and payment amounts), and/or change or extend the time for payment of, or renew or modify, any of the Bonds, any security therefor, or any of the Financing Documents (with the prior written consent of Baldwin to the extent required by such Financing Documents), and the lien created under this Pledge Agreement shall secure the Bonds and the other Financing Documents as so changed, extended, renewed or modified;
- (ii) sell, exchange, release, surrender, realize upon or otherwise deal with in any manner and in any order, any property at any time pledged, mortgaged or in which a security interest is given to secure, or however securing, the Bonds;
- (iii) exercise or refrain from exercising any rights against Baldwin or others or against any security for the Bonds or otherwise act or refrain from acting;

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(iv) settle or compromise any Bonds, whether in a proceeding or not, and whether voluntarily or involuntarily, dispose of any security (other than the Collateral) therefor (with or without consideration) or settle or compromise any liability incurred directly or indirectly in respect thereof or hereof, and subordinate the payment of all or any part thereof to the payment of any Bonds, whether or not due, to creditors of Baldwin other than the Trustee;

(v) apply any sums it receives, by whomever paid or however realized, to any of the Bonds;

(vi) add, release, settle, modify or discharge the obligation of any maker, endorser, guarantor, surety, obligor or any other party who is in any way obligated for any of the Bonds;

(vii) accept any additional security for the Bonds; and

(viii) take any other action which might constitute a defense available to, or a discharge of, Baldwin or any other obligated party in respect of the Bonds.

(b) The invalidity, irregularity or unenforceability of all or any part of the Bonds or any other Financing Document, or the impairment, loss, failure to obtain or perform any security or guaranty therefor, whether caused by any action or inaction of the Trustee, or otherwise, shall not affect, impair or be a defense to the Trustee's rights under this Pledge Agreement.

### SECTION 5.2. WAIVERS.

(a) **Waiver of Subrogation.** The Grantor waives any present or future claim, right or remedy to which the Grantor may be entitled which arises on account of this Pledge Agreement or the performance by the Grantor of the Grantor's obligations hereunder to be subrogated to the Trustee's rights against Baldwin or any other obligated party or any present or future claim, remedy or right to seek contribution, reimbursement, indemnification, exoneration, payment or the like, or participation in any claim, right or remedy of the Trustee against Baldwin or any security which the Trustee now has or hereafter acquires, whether or not such claim, right or remedy arises under contract, in equity, by statute, under common law or otherwise. If, notwithstanding such waiver, any funds or property shall be paid or transferred to the Grantor on account of any such subrogation, contribution, reimbursement, exoneration or indemnification at any time when any of the Bonds have not been fully and finally paid in full, the Grantor shall hold such funds or property in trust for the Trustee and shall segregate such funds from other funds of the Grantor and shall forthwith pay over to the Trustee such funds and property to be applied by the Trustee to the Bonds, whether matured or unmatured, in accordance with the terms of the Financing Documents.

(b) **Waiver of Remedies.** The Grantor waives the right to marshalling of Baldwin's assets or any stay of execution and the benefit of all exemption laws, to the extent permitted by law, and any other protection granted by law to guarantors, now or hereafter in effect with respect to any action or proceeding brought by the Trustee against the Grantor.

(c) **Waiver of Defenses.** The Grantor irrevocably waives all claims of waiver, release, surrender, alteration or compromise and all defenses, set-offs, counterclaims, recoupment, reductions, limitations or impairments.

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(d) **Waiver of Notice.** The Grantor waives notice of acceptance of this Pledge Agreement and notice of the Bonds and waives notice of default, non-payment, partial payment, presentment, demand, protest, notice of protest or dishonor, and all other notices to which the Grantor might otherwise be entitled or which might be required by law to be given by the Trustee.

## ARTICLE VI. AUTHORITY; DISTRIBUTION

So long as no Event of Default (as defined below), and no condition or event which with notice or lapse of time, or both, would constitute an Event of Default, shall have occurred or exist under this Pledge Agreement, the Grantor shall have:

**SECTION 6.1. VOTING RIGHTS; POWERS.** All voting, consent and approval rights with respect to the Membership Interest and all other rights and powers of a member by law or under Baldwin's organizational documents and conferred upon the members under the authorizing corporate documents to act as a member, subject only to any limitations contained in the Financing Documents.

**SECTION 6.2. DISTRIBUTIONS.** The right to receive and retain all distributions made by Baldwin pertaining to the Collateral which are otherwise permitted under the Financing Documents.

If an Event of Default (as defined below) has occurred and remains uncured, the Trustee and the Bondholder Representative shall have the right, at the Bondholder Representative's option, to exercise all voting, consent and approval rights of the Grantor and the right to receive all such distributions of property to be held as substitute Collateral or to be applied to payment of the Bonds.

## ARTICLE VII. DEFAULTS AND REMEDIES

**SECTION 7.1. EVENTS OF DEFAULT.** The occurrence of an event of default by or on the part of the Grantor or Baldwin under any Financing Document which is not cured within any applicable cure period provided thereunder shall constitute an event of default (an "Event of Default") under this Pledge Agreement.

**SECTION 7.2. REMEDIES.** Upon the occurrence of an Event of Default, the Trustee may, with the consent of the Bondholder Representative, and shall, at the direction of the Bondholder Representative, without further notice to or demand upon the Grantor, do any one or more of the following:

(a) declare all Bonds to be immediately due and payable, whereupon all Outstanding Bonds shall become and be immediately due and payable;

(b) take possession of all items of Collateral hereunder not then in its possession and require the Grantor or the parties in possession thereof to deliver such Collateral to the Trustee at one or more locations as the Trustee shall designate;

(c) transfer the Collateral, or any portion thereof, upon the books and records of Baldwin to the Trustee or its designee, in accordance with Article VIII;

(d) exercise any or all of the rights and remedies provided for by the applicable provisions of the UCC and recover the reasonable costs and reasonable attorneys' fees incurred by the Trustee and the Bondholder Representative in the enforcement of this Pledge Agreement or in connection with the Grantor's redemption of the Collateral;

(e) designate a successor sole member of Baldwin, which may, at the Bondholder Representative's option, be a receiver appointed by a court of competent jurisdiction;

(f) sell the Collateral, or any portion thereof, at any public or private sale or on any securities exchange or other recognized market, for cash, upon credit or for future delivery, as the Bondholder Representative shall deem appropriate. The Trustee shall be entitled at any such sale, if it deems it advisable to do so, in consultation with the Bondholder Representative, to restrict the prospective bidders or purchasers to persons who will provide assurances satisfactory to the Trustee that the Collateral may be offered and sold without registration under any applicable state or federal securities law, including the Securities Act of 1933, as amended, and the Securities Exchange Act of 1934, as amended, and, upon the consummation of any such sale, the Trustee shall have the right to assign, transfer and deliver to the purchaser or purchasers thereof the Collateral so sold. The Trustee may solicit offers to buy the Collateral, or any part of it, from a limited number of investors deemed by the Trustee or the Bondholder Representative, in its reasonable judgment, to meet the requirements to purchase securities under any available exemption under state law and federal law or any regulation promulgated pursuant thereto. If the Trustee solicits such offers from such investors, then the acceptance by the Trustee of the highest offer obtained therefrom shall be deemed to be a commercially reasonable method of disposition of the Collateral. Each purchaser at any such sale shall hold the property sold free from any claim or right on the part of the Grantor and the Grantor hereby waives, to the fullest extent permitted by law, all rights of redemption, stay and appraisal which the Grantor now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted. The Trustee shall give the Grantor at least 10 days' written notice of any public sale or the date on or after which a private sale may be made. Such notice, in case of a public sale, shall state the time and place fixed for such sale. Any public sale shall be held at such time or times during ordinary business hours and at such place or places as the Trustee may fix in the notice of such sale. At any private or public sale, the Collateral, or portion thereof, to be sold may be sold in one lot as an entirety or in separate lots, as the Trustee shall determine in consultation with the Bondholder Representative. The Trustee may bid (which bid may be, in whole or in part, in the form of cancellation of indebtedness) and for purchase by its account the whole or any part of the Collateral at any public sale or sale in any recognized market. The Trustee shall not be obligated to sell any Collateral if, in consultation with the Bondholder Representative, it shall determine not to do so, notwithstanding that notice of sale of the Collateral shall have been given. The Trustee may, in consultation with the Bondholder Representative, without notice or publication, adjourn any sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for sale, and such sale may, without further notice, be made at the time and place to which the same was so adjourned. In case any sale of all or any part of the Collateral is made on credit or for future delivery, the Collateral so sold may be retained by the Trustee until the sale price is paid by the purchaser or purchasers thereof, and the Trustee shall not incur any liability in case any such purchaser or purchasers shall fail to take up and pay for the Collateral purchased. In case of any such failure, such Collateral may be sold again upon like notice. The parties hereto agree that the method, manner and terms of sale or disposition of the Collateral authorized by this Section are commercially reasonable;

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(g) proceed by an action or actions at law or in equity to recover the indebtedness secured hereunder or to foreclose this Pledge Agreement and sell the Collateral, or any portion thereof, pursuant to a judgment or decree of a court or courts of competent jurisdiction;

(h) retain and manage the Collateral to preserve the Collateral or its value or apply income therefrom to pay the indebtedness secured hereunder until all such indebtedness is paid to the Trustee; or

(i) enforce one or more remedies hereunder, successively or concurrently, and such action shall not operate to estop or prevent the Trustee or the Bondholder Representative from pursuing any other or further remedy it may have.

#### ARTICLE VIII. AUTHORITY OF THE TRUSTEE AND THE BONDHOLDER REPRESENTATIVE; REFERENCES TO BONDHOLDER REPRESENTATIVE

**SECTION 8.1. AUTHORITY.** The Trustee and the Bondholder Representative shall have and be entitled to exercise all powers hereunder which are specifically delegated to the Trustee by the terms hereof, together with such powers as are reasonably incident thereto. In addition, the Trustee and the Bondholder Representative shall be entitled to transfer into the name of a nominee or nominees any certificates or instruments representing or evidencing the Collateral and to have any such certificates or instruments exchanged for ones of smaller or larger denominations. The Trustee and the Bondholder Representative may perform any of their respective rights and duties hereunder or in connection with the Collateral by or through agents or employees and shall be entitled to retain counsel and to act in reliance upon the advice of counsel concerning all such matters. None of the Trustee, the Bondholder Representative or any director, officer, employee, attorney or agent thereof shall be liable to the Grantor for any action taken or omitted to be taken by it or them hereunder, except for its or their own gross negligence or willful misconduct, nor shall the Trustee or the Bondholder Representative be responsible for the validity, effectiveness or sufficiency hereof or of any document or security furnished pursuant hereto. The Trustee, the Bondholder Representative and any director, officer, employee, attorney or agent thereof shall be entitled to rely on any communication, instrument or document believed by it or them to be genuine and correct and to have been signed or sent by the proper person or persons.

**SECTION 8.2. REFERENCES TO BONDHOLDER REPRESENTATIVE.** In the event there is no longer a Bondholder Representative with respect to any of the Bonds, the term "Bondholder Representative" shall be disregarded herein and all notices and consents shall be given to and by, respectively, the other parties referenced in this Pledge Agreement.

#### ARTICLE IX. MISCELLANEOUS PROVISIONS

**SECTION 9.1. NOTICES.** All notices, requests, demands, directions and other communications (collectively "notices") under the provisions of this Agreement shall be in writing (including facsimile communication), unless otherwise expressly permitted hereunder, and shall be sent by first-class mail or overnight delivery and shall be deemed received as follows: (a) if by first class mail, seven days after mailing; (b) if by overnight delivery, on the next Business Day; and (c) if by

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with a copy to:

Polsinelli PC  
150 N. Riverside Plaza, Suite 3000  
Chicago, Illinois 60606-1599  
Attention: James Brooking  
Telephone: (312) 873-3638  
Email: [jbrooking@polisinelli.com](mailto:jbrooking@polisinelli.com)

Notice or demand, if required to be given hereunder, shall be given by hand delivery or by recognized overnight delivery service or by deposit in the United States mail, registered or certified, postage prepaid, addressed to the Grantor, Baldwin, the Trustee or the Bondholder Representative, as the case may be, at the address stated above, with return-receipt requested, and shall be deemed to have been delivered upon (a) receipt, if hand delivered, (b) the next business day, if delivered by express overnight delivery service or (c) the third calendar day following the day of deposit of such notice with the United States mail, certified mail, return-receipt requested. Any notice given hereunder to one party shall be given to the other and the Bondholder Representative.

**SECTION 9.2. HEADINGS.** The various headings in this Pledge Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Pledge Agreement or any provision hereof.

**SECTION 9.3. CHOICE OF LAW.** This Agreement is delivered and made in, and shall be construed in accordance with and governed by, the laws of the State of New Hampshire. Each party hereto consents to and submits to *in personam* jurisdiction and venue exclusively in the State of New Hampshire and in the federal district courts which are located in the State of New Hampshire.

**SECTION 9.4. AMENDMENTS.** This Pledge Agreement or any provision hereof may be changed, waived or terminated only by a statement in writing signed by the party against which such change, waiver or termination is sought to be enforced. Notwithstanding the foregoing, the Trustee shall not enter into any amendment of this Pledge Agreement without receiving the prior written consent of the Bondholder Representative; provided that any amendment of this Pledge Agreement that would have a material adverse effect on the rights of the Bondholder Representative for the Subordinate Bonds shall not be made without the prior written consent of the Bondholder Representative for the Subordinate Bonds.

**SECTION 9.5. NO WAIVER.** No delay in enforcing or failure to enforce any right under this Pledge Agreement by the Trustee or the Bondholder Representative shall constitute a waiver by the Trustee or the Bondholder Representative of such right. No waiver by the Trustee or the Bondholder Representative of any default hereunder shall be effective unless in writing nor shall any waiver operate as a waiver of any other default or of the same default on a future occasion. Notwithstanding the foregoing, the Trustee shall not deliver any such waiver without receiving the prior written consent of the Bondholder Representative.

**SECTION 9.6. TIME IS OF THE ESSENCE.** Time is of the essence of each provision of this Pledge Agreement of which time is an element.

facsimile or electronic mail, when confirmation of receipt is obtained. All notices shall be sent to the applicable party at the address shown below or in accordance with the last unrevoked written direction from such party to the other parties hereto.

To Grantor:

Edgewood Senior Solutions Group, Inc.  
575 Osgood Street  
North Andover, MA 01845  
Attention: Director of Finance  
Telephone: (978) 725-4106  
Email: [sullivanjane@edgewoodrc.com](mailto:sullivanjane@edgewoodrc.com)

To Baldwin:

The Baldwin Senior Living  
575 Osgood Street  
North Andover, MA 01845  
Attention: Director of Finance  
Telephone: (978) 725-4106  
Email: [sullivanjane@edgewoodrc.com](mailto:sullivanjane@edgewoodrc.com)

To Trustee:

UMB Bank, National Association  
2 South Broadway, Suite 600  
St. Louis, Missouri 63102  
Attention: Brian Krippner  
Telephone: (314) 612-8480  
Email: [brian.krippner@umb.com](mailto:brian.krippner@umb.com)

To the Bondholder  
Representative for the  
Senior Bonds:

Hamlin Capital Management LLC  
640 Fifth Avenue, 11<sup>th</sup> Floor  
New York, NY 10019  
Telephone: (212) 752-8777  
Attention: Joseph Bridy  
Email: [jbridy@hamlincm.com](mailto:jbridy@hamlincm.com)

with a copy to:

McCarter & English, LLP  
100 Mulberry Street, Four Gateway Center  
Newark, NJ 07102  
Attention: Jacqueline Shanes  
Telephone: (973) 639-7955  
Email: [jshanes@mccarter.com](mailto:jshanes@mccarter.com)

To the Bondholder  
Representative for the  
Subordinate Bonds:

Ecofin Advisors, LLC  
6363 College Boulevard  
Overland Park, Kansas 66211  
Attention: Social Infrastructure Team  
Telephone: (913) 981-1020  
Email: [mjhunjhunwala@ecofininvest.com](mailto:mjhunjhunwala@ecofininvest.com)

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**SECTION 9.7. BINDING AGREEMENT.** All rights of the Trustee and the Bondholder Representative hereunder shall inure to the benefit of their respective successors and assigns. The Grantor shall not assign its interest under this Pledge Agreement without the prior written consent of the Trustee and the Bondholder Representative. Any purported assignment inconsistent with this provision shall, at the option of the Trustee and the Bondholder Representative, be null and void.

**SECTION 9.8. DEFINITIONS.** All capitalized terms not defined herein shall have the meanings set forth in the Indenture unless otherwise defined herein.

**SECTION 9.9. SEVERABILITY.** If any provision of this Pledge Agreement should be found to be invalid or unenforceable, all of the other provisions shall nonetheless remain in full force and effect to the maximum extent permitted by law.

**SECTION 9.10. SURVIVAL OF PROVISIONS.** All representations, warranties and covenants of the Grantor and Baldwin contained herein shall survive the execution and delivery of this Pledge Agreement and shall terminate only upon the full payment and performance by Baldwin of the Bonds secured hereby.

**SECTION 9.11. COUNTERPARTS.** This Pledge Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same agreement. A signed copy of this Pledge Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Pledge Agreement.

**SECTION 9.12. DUTY OF CARE.** The Trustee and the Bondholder Representative shall have no duty or obligation to care for the Collateral hereunder or to take any actions to protect the value of the Collateral or any rights or privileges the Grantor might have with respect thereto, except that the Trustee and the Bondholder Representative shall exercise reasonable care in the physical care of the Collateral in the possession of the Trustee or the Bondholder Representative, respectively.

**SECTION 9.13. TERMINATION OF PLEDGE.** This Pledge Agreement and the security interest and pledge hereunder shall terminate at such time as all of the Bonds issued under the Indenture shall have been fully and finally paid or provision for the payment thereof shall have been made in accordance with Section 11.01 of the Indenture and all other obligations of Baldwin under the Loan Agreement and the Indenture shall be fully and finally paid.

**SECTION 9.14. POWER OF ATTORNEY.** The Grantor hereby appoints and constitutes the Trustee as its attorney-in-fact, upon the occurrence and during the continuation of an Event of Default, for purposes of (a) collecting any Collateral, (b) conveying any item of Collateral to any purchaser thereof and (c) making any payments or taking any acts under Section 6.2 and Article VII. The Trustee's authority hereunder shall include (without limitation) the authority to endorse and negotiate, for the Trustee's own account, any checks or instruments in the name of the Grantor, to execute or receipt for any document, to transfer title to any item of the Collateral and to take any other actions necessary or incident to the powers granted to the Trustee in this Pledge Agreement. This power of attorney is coupled with an interest and is irrevocable by the Grantor.

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**SECTION 9.15. WAIVER OF JURY TRIAL.** The Grantor, by the execution hereof, hereby knowingly, voluntarily and intentionally agrees, that:

(a) Neither the Grantor nor the Trustee, nor any assignee, successor, heir or legal representative of either, shall seek a jury trial in any lawsuit, proceeding, counterclaim or any other litigation procedure arising from or based upon this Pledge Agreement, any loan agreement or any Financing Document evidencing, securing or relating to the Bonds or to the dealings or relationship between the parties hereto.

(b) Neither the Grantor nor the Trustee will seek to consolidate any action in which a jury trial has been waived with any other action in which a jury trial has not been or cannot be waived.

(c) The provisions of this Section have been fully negotiated by the parties hereto, and these provisions shall be subject to no exceptions.

(d) Neither the Grantor nor the Trustee has in any way agreed with or represented to any other party that the provisions of this Section will not be fully enforced in all instances.

**SECTION 9.16. OPINION OF BOND COUNSEL.** The tax-exempt status of any Bonds under the Indenture, the interest on which is exempt from gross income for federal income tax purposes, relies on the federal income tax status of Baldwin as a charitable organization within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended from time to time (the "Code"). To the extent that the Trustee or the Bondholder Representative exercises any of the rights granted to the Trustee or the Bondholder Representative, respectively, under this Pledge Agreement, the Trustee or the Bondholder Representative, respectively, may, but is not obligated to, obtain an Opinion of Bond Counsel to the effect that the exercise of such rights shall have no adverse effect on the tax exempt nature of the interest on such Bonds under the Code. If no such opinion is sought, then there is no guarantee that the exercise of rights granted hereunder will not have an adverse effect on the tax exempt nature of the interest on such Bonds. Delivery of the foregoing opinion may be waived by the Bondholder Representative.

**SECTION 9.17. CONFESSION OF JUDGMENT.** Upon the occurrence of any Event of Default, the Trustee shall provide notice of such failure to the Grantor and the Bondholder Representative. In the event that such Event of Default is not cured within 20 calendar days of the date of the Grantor's receipt of such notice, the Grantor hereby authorizes, constitutes and appoints an attorney licensed to practice law in the State of New Hampshire approved by the Bondholder Representative, as the Guarantor's true and lawful attorney-in-fact in the Guarantor's name, place and stead to appear on its behalf in any court having jurisdiction in one or more proceedings, or before any clerk thereof or prothonotary or other court official, and to CONFESS JUDGMENT AGAINST THE GRANTOR, WITHOUT PRIOR NOTICE (EXCEPT THE 20 CALENDAR DAY NOTICE SET FORTH ABOVE) OR OPPORTUNITY OF THE GRANTOR FOR PRIOR HEARING, in favor of the Trustee for the full amount due under this Pledge Agreement plus actual court costs and actual attorneys' fees, which shall not exceed 15% of the total amount then due hereunder. The Grantor waives the benefit of any and every statute, ordinance or rule of court which may be lawfully waived conferring upon the Grantor any right or privilege of exemption, appeal, stay of execution or supplementary proceedings, inquisition, extension upon any levy on real estate or personal property and any other relief from the enforcement or immediate enforcement of a judgment or related

proceedings on a judgment. The authority and power to appear for and enter judgment against the Grantor shall not be exhausted by one or more exercises thereof, or by any imperfect exercise thereof, and shall not be extinguished by any judgment entered pursuant thereto; such authority and power may be exercised on one or more occasions from time to time, in the same or different jurisdictions, as often as the Trustee or the Bondholder Representative shall deem necessary or advisable, for all of which this Pledge Agreement shall be sufficient authority.

The Bondholder Representative shall be entitled to recover its reasonable fees and expenses, including the fees and expenses of counsel to the Bondholder Representative, in connection with enforcing any judgment by confession obtained against the Grantor and in connection with the enforcement of any other provision contained in this Pledge Agreement.

Notwithstanding the foregoing, in enforcing any judgment by confession obtained against the Grantor in connection with this Pledge Agreement, neither the Trustee nor the Bondholder Representative shall be entitled to retain any amounts in excess of the actual amount of attorneys' fees and expenses charged or billed to the Trustee or the Bondholder Representative, as applicable.

**SECTION 9.18. BONDHOLDER REPRESENTATIVE.** Notwithstanding anything to the contrary contained herein, for purposes of this Pledge Agreement, "Bondholder Representative" shall mean the Bondholder Representative for the Senior Bonds, or if no Senior Bonds remain Outstanding, the Bondholder Representative for the Subordinate Bonds; provided that all notices (as defined in Section 9.1 hereof) required to be given by a party under this Pledge Agreement shall be given to both the Bondholder Representative for the Senior Bonds and the Bondholder Representative for the Subordinate Bonds.

None of the Trustee for the benefit of the Holders of the Subordinate Bonds, the Bondholder Representative for the Subordinate Bonds nor the Holders of the Subordinate Bonds shall have any rights to take any action or to direct any action pursuant to the terms of this Pledge Agreement for the benefit of the Holders of the Subordinate Bonds so long as the Senior Bonds are outstanding under the Indenture. For the avoidance of doubt, any right to payment under this Pledge Agreement or to take or direct action under this Pledge Agreement for the benefit of the Subordinate Bonds shall only take effect after payment in full of the principal and premium, if any, of and interest on the Senior Bonds (and any fees due to the Trustee, the Bondholder Representative and their attorneys and agents).

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IN WITNESS WHEREOF, the parties hereto have caused this Pledge Agreement to be duly executed the day and year first above written.

**GRANTOR:**

EDGEWOOD SENIOR SOLUTIONS GROUP, INC.

By: \_\_\_\_\_  
Marlene Rotering, Chief Executive Officer

**TRUSTEE:**

UMB BANK,  
NATIONAL ASSOCIATION, as Trustee

By: \_\_\_\_\_  
Brian P. Krippner, Senior Vice President

**ACKNOWLEDGED, AGREED AND CONSENTED  
TO:**

THE BALDWIN SENIOR LIVING

By: \_\_\_\_\_  
Marlene Rotering, Executive Director

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[Signature Page of Pledge Agreement]

## **PROPOSED FORM**

### **SUPPORT AGREEMENT**

**THIS SUPPORT AGREEMENT** (this "Agreement"), dated as of April 1, 2022, is by and between Edgewood Retirement Community, Inc., a Massachusetts nonprofit corporation (the "Guarantor"), and UMB Bank, National Association, as trustee (the "Trustee") under the Trust Indenture dated as of April 1, 2022, as amended and supplemented, between the Business Finance Authority of the State of New Hampshire (the "Issuer") and the Trustee (the "Indenture"), solely for the benefit of the Holders from time to time of the Senior Bonds (as hereinafter defined) and to the limited extent, but solely after the Senior Bonds are no longer Outstanding under the Indenture, for the benefit of the Holders from time to time of the Subordinate Bonds (as hereinafter defined).

### **RECITALS**

Concurrently with the execution and delivery of this Agreement, the Issuer has authorized the issuance of its (i) revenue bonds in the maximum aggregate principal amount of \$171,300,000 consisting of its Business Finance Authority of the State of New Hampshire Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022A, Business Finance Authority of the State of New Hampshire Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022B, Business Finance Authority of the State of New Hampshire Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022C, and Business Finance Authority of the State of New Hampshire Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022D (collectively, the "Senior Bonds") pursuant to the Indenture and (ii) revenue bonds in the aggregate principal amount of \$17,400,000 consisting of Business Finance Authority of the State of New Hampshire Subordinate Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022E (the "Subordinate Bonds" and collectively with the Senior Bonds, the "Bonds") pursuant to the Indenture. The proceeds of the Bonds will be loaned to The Baldwin Senior Living, a New Hampshire nonprofit corporation (the "Borrower"), pursuant to the Loan Agreement dated as of April 1, 2022 (the "Loan Agreement") between the Issuer and the Borrower.

The obligations of the Borrower under the Loan Agreement related to the Senior Bonds are secured by, among other things, a Continuing Covenants Agreement dated as of April 1, 2022 (the "Senior Continuing Covenants Agreement") between the Borrower and the Trustee and the Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing Statement dated as of April 1, 2022, from the Borrower to the Trustee with respect to certain real and tangible personal property of the Borrower (the "Senior Mortgage").

The obligations of the Borrower under the Loan Agreement related to the Subordinate Bonds are secured by, among other things, the Continuing Covenants Agreement dated as of April 1, 2022 (the "Subordinate Continuing Covenants Agreement" and together with the Senior Continuing Covenants Agreement, the "Continuing Covenants Agreements") between the Borrower and the Trustee and the Second Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing Statement dated as of April 1, 2022, from the Borrower to the

Trustee with respect to certain real and tangible personal property of the Borrower (the "Second Mortgage").

**THIS AGREEMENT CONTAINS A CONFESSION OF JUDGMENT PROVISION WHICH CONSTITUTES A WAIVER OF IMPORTANT RIGHTS THAT THE GUARANTOR MAY HAVE AND ALLOWS THE TRUSTEE, FOR THE BENEFIT OF THE HOLDERS OF THE SENIOR BONDS AND, TO THE EXTENT APPLICABLE, THE HOLDERS OF THE SUBORDINATE BONDS, FROM TIME TO TIME, TO OBTAIN A JUDGMENT AGAINST THE GUARANTOR WITHOUT ANY FURTHER NOTICE.**

In order to induce the Issuer to issue the Bonds and loan the proceeds thereof to the Borrower, to induce the holders from time to time of the Bonds (each, a "Holder" and collectively, the "Holders") to purchase such Bonds and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Guarantor does hereby agree as follows:

### **1. DEFINITIONS.**

Terms used but not otherwise defined herein shall have the meanings given such terms in the Continuing Covenants Agreements or the Indenture, as applicable. In addition, the following terms shall have the following meaning:

"*Bondholder Representative*" shall mean, unless otherwise expressly provided in this Agreement, the Bondholder Representative for the Senior Bonds, or if no Senior Bonds remain Outstanding, the Bondholder Representative for the Subordinate Bonds; provided that all notices (as defined in Section 13 hereof) and other deliveries required to be given by a party under this Agreement shall be given to both the Bondholder Representative for the Senior Bonds and the Bondholder Representative for the Subordinate Bonds.

"*Change of Control*" means one or more transactions resulting in: (a) the Guarantor at any time for any reason ceasing to be the record and beneficial member or owner of all of the membership interests or stock, respectively, in the Borrower, free and clear of all liens, rights, options, warrants or other similar agreements or understandings; or (b) the sale of all or substantially all of the assets of the Guarantor.

"*Guaranteed Amount*" means: (i) \$10,000,000, or (ii) \$8,000,000 if (A) no Default or Event of Default hereunder or under the Continuing Covenants Agreements or any of the other Related Documents has occurred and is continuing, **AND** (B) average occupancy of the total number of Units in the Project has been at least 80% for four consecutive Fiscal Quarters (for the avoidance of doubt, for 12 consecutive full months), **AND** (C) the Series 2022C Bonds and the Series 2022D Bonds have been paid in full, **AND** (D) all monthly payments due with respect to the Bonds as of such date have been made, **AND** (E) the amount on deposit in the Debt Service Reserve Fund for the Senior Bonds is not less than the Debt Service Reserve Fund Requirement for the Senior Bonds, **AND** (F) the amount on deposit in the Debt Service Reserve Fund for the Subordinate Bonds is not less than the Debt Service Reserve Fund Requirement for the Subordinate Bonds, in each case based on the annual audit or external review prepared by RSM US LLP or other audit firm approved by the Bondholder Representative.

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"*Guarantor Subordinate Recoverable Grant*" means, collectively, (i) the \$5,000,000 subordinate recoverable grant made by the Sponsor to the Borrower on or about October 19, 2020, (ii) the \$1,000,000 subordinate recoverable grant made by the Sponsor to the Borrower in October 2021 and (iii) the \$4,000,000 subordinate recoverable grant made by the Sponsor to the Borrower on or about the Closing Date.

"*Unrestricted Cash and Marketable Securities*" means the sum of unrestricted cash, cash equivalents, marketable securities and other liquid investments, including board-designated funds, excluding (a) all Trustee-held funds, (b) donor-restricted funds unless such funds are available to pay operating expenses or debt service on Obligations or to provide charitable care, and (c) any funds pledged or otherwise subject to a Lien. For the avoidance of doubt, "*Unrestricted Cash and Marketable Securities*" shall **not** include any note or other obligation evidencing the Guarantor Subordinate Recoverable Grant.

### **2. OBLIGATION OF GUARANTOR.**

(a) The Guarantor hereby guarantees to the Trustee, for the benefit of the Holders from time to time of the Senior Bonds, the following:

- (i) the full and prompt payment of the principal of and premium, if any, and interest on the Senior Bonds as the same shall become due and payable;
- (ii) that the Guarantor shall contribute to the Borrower in each Fiscal Quarter ending after the earlier of the first Fiscal Year after the Stabilization Date or June 30, 2026, any money required to cause the Borrower to achieve a Debt Service Coverage Ratio as of the last day of such Fiscal Quarter of not less than 1.20 to 1.00; and
- (iii) that the Guarantor shall contribute to the Borrower on or before each June 30 and December 31 of each Fiscal Year commencing with the earlier of the first June 30 or December 31 following the Stabilization Date or June 30, 2026, any money required to cause the Borrower to achieve Days' Cash on Hand of at least 90 on such date;

provided, however, that the Guarantor's total obligation to the Trustee and the Holders pursuant to this Section 2(a) and otherwise shall be limited to the Guaranteed Amount.

(b) After payment in full of the principal of and premium, if any, and interest on the Senior Bonds and to the extent that the Guarantor's total contributions under Section 2(a) were less than the Guaranteed Amount, the Guarantor hereby guarantees to the Trustee, for the benefit of the Holders from time to time of the Subordinate Bonds, the full and prompt payment of the principal of and premium, if any, and interest on the Subordinate Bonds as the same shall become due and payable; provided, however, that the Guarantor's total obligations to the Trustee and the Holders pursuant to this Section 2(b) shall be limited to the amount remaining in the Guaranteed Amount, if any, after the payments made under Section 2(a) hereof. For the avoidance of doubt, no moneys shall be paid under this Agreement to the Trustee for the benefit of the Holders of the Subordinate Bonds so long as any Senior Bonds are outstanding under the Indenture.

(c) All amounts payable hereunder shall be paid in lawful money of the United States of America. Each and every default in performance of any of the obligations of the Guarantor hereunder shall give rise to a separate cause of action hereunder, and separate suits may be brought hereunder as each cause of action arises.

### **3. TERM OF AGREEMENT.**

Subject to the provisions of Section 4 of this Agreement, so long as no Default or Event of Default hereunder, under the Continuing Covenants Agreements, or any of the other Related Documents has occurred and is continuing, this Agreement and the obligations hereunder shall terminate on the date (the "Termination Date") that is the earliest of:

(a) the last day of the first Fiscal Quarter in which (i) average occupancy of the total number of Units in the Project has been at least 90% for eight consecutive Fiscal Quarters (for the avoidance of doubt, for 24 full consecutive months); **AND** (ii) the Debt Service Coverage Ratio of the Borrower is not less than 1.40 to 1.00, exclusive of all initial Entrance Fees and all contributions from the Guarantor or any source other than the revenues derived from the operation of the Mortgaged Property; **AND** (iii) the Days' Cash on Hand of the Borrower is not less than 100, exclusive of all contributions from the Guarantor or any source other than revenues derived from operation of the Mortgaged Property; **AND** (iv) the Series 2022C Bonds and the Series 2022D Bonds have been paid in full; **AND** (v) all monthly payments due with respect to the Bonds as of such date have been made; **AND** (vi) the amount on deposit in the Debt Service Reserve Fund for the Senior Bonds is not less than the Debt Service Reserve Fund Requirement for the Senior Bonds; *provided* that the Borrower shall deliver to the Trustee and the Bondholder Representative written certificates of the executive director and the director of finance of the Borrower and the chief executive officer and the chief financial officer of the Guarantor and a report prepared by RSM US LLP or other independent public accountant approved by the Bondholder Representative to the effect that, based upon the audited or interim financial statements of the Borrower for such 24-month period specified in clause (a)(i) and as of the date at the end of such 24 month period for the tests in clauses (a)(ii)-(vi), a copy of which shall be delivered to the Trustee and the Bondholder Representative, the Borrower has met each of the requirements of the foregoing clauses (i), (ii) and (iii);

(b) the date on which the Bonds shall be fully and finally paid or provision for the payment thereof shall have been made in accordance with the Indenture; or

(c) the date upon which the total of amounts tendered by the Guarantor pursuant to this Agreement is equal to at least the Guaranteed Amount.

### **4. DISALLOWED PAYMENTS; BANKRUPTCY OF BORROWER.**

Notwithstanding the provisions of Section 3, this Agreement shall be reinstated if, during the one year period following the Termination Date, for any reason, (a) the Trustee or any Holder or former Holder of the Bonds is not permitted to retain any payment of the principal of or premium, if any, or interest on any Bond made by the Borrower or the Guarantor (the "Disallowed Payments") or (b) a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Borrower under the United States Bankruptcy Code or any similar federal or state

law, or appointing a receiver, liquidator, custodian, assignee, or sequestrator (or other similar official) of the Borrower or of any substantial part of its Property or ordering the winding up or liquidation of its affairs shall be filed or the Borrower shall institute proceedings for an order for relief, or consent to an order for relief against it, or file a petition or answer or consent seeking reorganization, arrangement, adjustment, composition or relief under the United States Bankruptcy Code or any similar federal or state law, or consent to the appointment of a receiver, liquidator, custodian, assignee, trustee or sequestrator (or other similar official) of the Borrower or of any substantial part of its Property, or make an assignment for the benefit of creditors, or admit in writing its inability to pay its debts generally as they become due pursuant to which there may be Disallowed Payments. In such event, this reinstated Agreement shall continue until the earlier of (i) a non-appealable decision by a court of competent jurisdiction shall be rendered pursuant to which the Trustee or such Holder or former Holder, respectively, shall be entitled to retain all Disallowed Payments and any such petition shall be dismissed, or (ii) the Guarantor has paid to the Trustee, the Holders or the former Holders, or the court the lesser of (a) the total amount of the Disallowed Payments or (b) the Guaranteed Amount.

The Guarantor shall be liable under this Agreement for the amounts payable under Section 2, including (without limitation) the amount of any Disallowed Payments to the Trustee or any of such Holders or former Holders as if the requirements of Section 3 had not been satisfied; *provided*, however, that in no event shall the Guarantor be required to pay more than the Guaranteed Amount.

##### 5. OBLIGATIONS ABSOLUTE AND UNCONDITIONAL.

The obligations of the Guarantor hereunder shall be absolute, irrevocable, complete and unconditional and shall not be decreased, abated, rebated, setoff, reduced, abrogated, waived, diminished or otherwise modified in any manner or to any extent whatsoever regardless of any right of setoff, recoupment or counterclaim that the Guarantor might otherwise have against the Issuer, the Trustee, the Bondholder Representative or any of them or any other person and shall remain in full force and effect and shall inure to the benefit of the Trustee until this Agreement shall terminate and such obligations shall not be affected, modified or impaired upon the happening from time to time of any event, including (without limitation) any of the following, whether or without notice to, or the consent of, the Guarantor: (a) any extension, in whole or in part, by renewal or otherwise, from time to time of the period or the time for performance or payment of any indebtedness or other obligation of the Borrower to the Issuer or the Trustee or by any other person, firm or corporation whose obligation is held by the Issuer or the Trustee as security for any obligation of the Borrower to the Issuer or the Trustee; (b) any release, surrender, exchange, modification or impairment of any collateral securing any obligation of the Borrower to the Issuer or the Trustee; (c) any settlement or compromise of any claim of the Issuer or the Trustee against the Borrower or against any other person, firm or corporation whose obligation is held by the Issuer or the Trustee as collateral security for any obligation of the Borrower to the Issuer or the Trustee; (d) any release in whole or in part of any person liable for the payment of any obligation of the Borrower to the Issuer or the Trustee, including (without limitation) any person liable as an endorser, guarantor or judgment debtor; and (e) any failure by the Trustee or any other person to obtain or perfect or to maintain the perfection of any security interest or other lien on property to secure indebtedness of the Borrower to the Issuer or the Trustee. The Guarantor hereby ratifies and confirms any such extension, renewal, release, surrender, exchange, modification, impairment, settlement, compromise or failure, and all such actions shall be binding upon the Guarantor.

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##### 6. SUBROGATION; SUBORDINATION.

To the extent of any payments made under this Agreement, the Guarantor shall be subrogated to the rights of the Trustee to receive payments, but the Guarantor covenants and agrees that such right of subrogation shall be subordinate in right of payment to the rights of the Trustee for full and final payment of the principal of and premium, if any, and interest on the Bonds and, to that end, the Guarantor agrees not to claim or enforce any such right of subrogation or any right of setoff or any other right that may arise on account of any payment made by the Guarantor in accordance with the provisions of this Agreement unless and until all principal of and premium, if any, and interest on the Bonds shall have been fully and finally paid and discharged or deemed to have been paid in accordance with the Indenture.

##### 7. REPRESENTATIONS AND WARRANTIES OF GUARANTOR.

The Guarantor warrants and represents that:

(a) It is a nonprofit corporation duly organized and existing in good standing under the laws of the State of Massachusetts having all necessary corporate power under such laws and under its corporate charter and by-laws to enter into and perform all agreements on its part herein contained.

(b) (i) It is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), or corresponding provisions of prior law; (ii) such status is determined by means of a letter from the Internal Revenue Service, which letter has not been modified, limited or revoked; (iii) it is in compliance with all material terms, conditions and limitations, if any, contained in such letter; (iv) the facts and circumstances which form the basis of such letter as represented to the Internal Revenue Service continue to exist; and (v) it is exempt from federal income taxes under Section 501(a) of the Code.

(c) This Agreement is made in furtherance of the purposes for which it has been organized and its obligations hereunder will substantially contribute to the ability of the Borrower to finance the Project.

(d) It has duly authorized, executed and delivered this Agreement. This Agreement constitutes the legal, valid and binding obligation of the Guarantor enforceable in accordance with its terms (except as enforceability may be limited by bankruptcy, insolvency, moratorium, reorganization and other state and federal laws affecting the enforcement of creditors' rights generally and such principles of equity as the court having jurisdiction may impose).

(e) Compliance by the Guarantor with all of the provisions of this Agreement is within its corporate powers and will not conflict with or result in any breach of any of the provisions of, or constitute a default under, or result in the creation of any lien upon any of its property under the provisions of, any agreement, charter instrument, by-law or other instrument to which it or any of its subsidiaries or affiliates is a party or by which any of them or their respective properties may be bound.

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(f) The execution and delivery of this Agreement does not require the consent, approval or authorization of any third party, or filing, registration or qualification with, any governmental authority as a condition to the execution, delivery or performance by the Guarantor of this Agreement.

(g) At the time of the execution and delivery of this Agreement, no circumstances exist or, to the knowledge of the Guarantor, are expected to exist that would impair the effectiveness of its obligations hereunder or the effectiveness of this Agreement.

(h) At the time of execution and delivery of this Agreement, the Guarantor has Unrestricted Cash and Marketable Securities (excluding the Guarantor Subordinate Recoverable Grant) in the amount required by Section 8(a) hereof available.

##### 8. COVENANTS OF GUARANTOR.

During the term hereof the Guarantor agrees as follows:

(a) The Guarantor covenants that as of March 31 and September 30 in each year, it shall maintain Unrestricted Cash and Marketable Securities (excluding the Guarantor Subordinate Recoverable Grant) in an aggregate amount not less than the sum of (i) 1.25 times the Guaranteed Amount, plus (ii) the greatest then applicable amount of Unrestricted Cash and Marketable Securities required to be maintained by the Guarantor under any other agreement or instrument to which the Guarantor is a party or otherwise. The amounts required to be maintained under clause (i) of this subsection 8(a) may not be pledged or assigned, and no security interest may be granted in such amounts, as security for any Indebtedness and such amounts may not be applied to the payment of any Indebtedness other than the Senior Bonds and to the limited extent provided herein once the Senior Bonds are no longer Outstanding under the Indenture, the Subordinate Bonds.

(b) Following an Event of Default of the Borrower, the Guarantor shall within 10 business days after the occurrence of such Event of Default and continuously thereafter during the continuation of such Event of Default deposit with the Trustee the amount set forth in subsection (a) above.

(c) The Guarantor shall not, and shall not permit any of its subsidiaries to, change its articles of incorporation, charter, bylaws or other organizational documents without the prior written consent of the Bondholder Representative, except for changes in the ordinary course, upon which Guarantor shall provide written notice of such change to the Bondholder Representative.

(d) The Guarantor shall not, and shall not permit any of its subsidiaries to, merge or consolidate or enter into any analogous reorganization or transaction with any Person, without the prior written consent of the Bondholder Representative.

(e) In consideration of any consent given by the Bondholder Representative under paragraph (c) or (d) above, the Bondholder Representative may require one or more additional guarantees or other security for the obligations of the Guarantor hereunder such that the Trustee and the Holders of the Bonds are not materially adversely affected thereby.

(f) The Guarantor shall not, and shall not permit any of its affiliates to, construct or acquire any additional facility or healthcare units/beds that will compete with the Facilities without the prior written consent of the Bondholder Representative.

(g) Within 45 calendar days following the end of each Fiscal Quarter of each Fiscal Year, the Guarantor shall deliver to the Trustee and the Bondholder Representative (i) the unaudited quarterly financial statements for the Guarantor, (ii) a certificate of the Guarantor certifying as to compliance by the Guarantor with its covenants hereunder in the form attached hereto as Exhibit A, (iii) a summary of all of the Guarantor's outstanding guarantees, support or similar obligations, in form and substance satisfactory to the Bondholder Representative, and (iv) a summary of all quarterly statements pertaining to the Guarantor's bank and other investment accounts.

(h) Within 120 calendar days following the end of each Fiscal Year, the Guarantor shall deliver to the Trustee and the Bondholder Representative its consolidated and consolidating financial statements, prepared in accordance with accounting principles generally accepted in the United States of America, which consolidated financial statements shall be audited by an independent certified public accountant reasonably acceptable to the Bondholder Representative, together with (i) a statement from such independent certified public accountant as to whether the Guarantor has met the requirements of Section 8(a) and (ii) any management letters provided by such independent certified public accountant in connection with such audit.

(i) Promptly, and in any event within 10 days after any change in membership of the members of the Governing Body of the Guarantor, the Guarantor shall provide the Bondholder Representative with a list of the current make-up of such Governing Body.

(j) Promptly, and in any event by the time the next financial statements are delivered hereunder, the Guarantor shall provide the Bondholder Representative with written notice of any material change in the accounting policies or financial reporting practices by the Guarantor, including (without limitation) a change in the fiscal year of the Guarantor.

(k) Upon the request of the Bondholder Representative, the Guarantor shall deliver to the Trustee and the Bondholder Representative a copy of the minutes of meetings or actions taken by written consent of its Board of Directors, together with any other information as shall be reasonably requested by the Bondholder Representative.

(l) If an Event of Default hereunder shall have occurred and be continuing, the items required to be provided under subsection (g) above shall be provided within 15 days after the last day of each month.

(m) The Guarantor shall not file a petition or other pleading seeking an "order for relief" within the meaning of the United States Bankruptcy Code or file any petition or other pleading seeking any reorganization, composition, readjustment, liquidation or similar relief for itself under any present or future law or regulation, or seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of the Guarantor, or of substantially all of its assets, or make a general assignment for the benefit of creditors. The Guarantor shall amend its by-laws to the extent required to effect the provisions of this Section.

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(n) The Guarantor shall (to the extent permitted by law) indemnify, hold harmless and defend the Trustee and its officers, directors, employees and agents and the Bondholder Representative for the Senior Bonds and the Bondholder Representative for the Subordinate Bonds and their respective officers, directors, employees and agents (each, an "Indemnitee") from and against any and all claims, damages, losses, liabilities, costs or expenses of any conceivable nature, kind or character (including reasonable fees and expenses of attorneys, accountants, consultants and other experts, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which any Indemnitee may become subject under statutory law (including federal or state securities laws) or at common law or otherwise arising out of or based upon or in any way relating to this Agreement other than to the extent resulting from an Indemnitee's gross negligence or willful misconduct.

(o) The Guarantor shall not undertake, or agree or consent to undertake, any Change of Control.

(p) The Guarantor shall not accept or demand any payments from the Borrower, except as provided in Section 5.3(b)(iii) and (b)(iv) of the Continuing Covenants Agreements. To the extent that the Guarantor receives any payments from the Borrower, other than as permitted under Section 5.3 of the Continuing Covenants Agreements, the Guarantor shall promptly, and in no event later than five (5) business days after receipt thereof, deliver such amounts to the Trustee with the written instruction to apply such funds toward the payment of interest or principal on the Senior Bonds and to the extent the Senior Bonds are no longer Outstanding under the Indenture, on the Subordinate Bonds.

(q) The Guarantor shall not amend, supplement or otherwise modify any Memorandum of Understanding between any of the Borrower, the Guarantor and Edgewood Senior Solutions Group, Inc. without the prior written consent of the Bondholder Representative.

#### 9. EVENTS OF DEFAULT.

The term "Event of Default," whenever used in this Agreement, shall mean any one or more of the following events or conditions which is not corrected, cured or waived within the applicable cure period, if any:

(a) failure by the Guarantor to make any payment required to be made under this Agreement when the same becomes due and payable;

(b) failure by the Guarantor to satisfy the requirements of Section 8(a) of this Agreement;

(c) failure by the Guarantor to perform or observe any other term, covenant or agreement contained in this Agreement or any other agreement entered into in connection with any other debt incurred by the Guarantor and such performance or observation is not corrected, cured or waived within thirty (30) days;

(d) failure by the Guarantor to pay its debts generally as they come due; or

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same or different jurisdictions, as often as the Trustee or the Bondholder Representative shall deem necessary or advisable, for all of which this Agreement shall be sufficient authority.

Each Bondholder Representative shall be entitled to recover their reasonable fees and expenses, including the fees and expenses of their counsel, in connection with enforcing any judgment by confession obtained against the Guarantor and in connection with the enforcement of any other provision contained in this Agreement.

Notwithstanding the foregoing, in enforcing any judgment by confession obtained against the Guarantor in connection with this Agreement, neither the Trustee nor the Bondholder Representative shall be entitled to retain any amounts in excess of the actual amount of attorneys' fees and expenses charged or billed to the Trustee or the Bondholder Representative, as applicable.

#### 12. NO REMEDY EXCLUSIVE.

No remedy herein conferred upon or reserved to the Trustee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Trustee to exercise any remedy reserved to it in this Agreement, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

#### 13. NOTICES.

All notices, requests, demands, directions and other communications (collectively "notices") under the provisions of this Agreement shall be in writing (including facsimile communication), unless otherwise expressly permitted hereunder, and shall be sent by first-class mail or overnight delivery and shall be deemed received as follows: (a) if by first class mail, seven days after mailing; (b) if by overnight delivery, on the next Business Day; and (c) by facsimile or electronic mail, when confirmation of receipt is obtained. All notices shall be sent to the applicable party at the address shown below in accordance with the last unrevoked written direction from such party to the other parties hereto.

##### If to the Guarantor

Edgewood Retirement Community, Inc.  
575 Osgood Street  
North Andover, MA 01845  
Attention: Chief Financial Officer  
Telephone: (978) 725-4106  
Email: [sullivanjane@edgewoodrc.com](mailto:sullivanjane@edgewoodrc.com)

##### If to the Bondholder Representative for the Senior Bonds:

Hamlin Capital Management, LLC  
640 Fifth Avenue, 11<sup>th</sup> Floor  
New York, NY 10019  
Attention: Joe Brady  
Telephone: (212) 752-8777  
Email: [jbridy@hamlincm.com](mailto:jbridy@hamlincm.com)

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(e) the filing by the Guarantor of any petition or other proceeding for relief under any bankruptcy, reorganization, insolvency or moratorium law, or any other law or laws for the relief of, or relating to, debtors or the filing against the Guarantor or its property or assets of an involuntary petition under any bankruptcy statute or the appointment of a custodian, receiver, trustee, assignee for the benefit of creditors (or other similar official) to take possession, custody or control of the Guarantor or its properties, unless such petition or appointment is set aside or withdrawn or ceases to be in effect within 60 calendar days from the date of such filing or appointment.

#### 10. REMEDIES.

If an Event of Default shall have occurred, the Trustee, with the written consent of the Bondholder Representative, may, and upon the written direction of the Bondholder Representative shall, take one or more of the following remedial steps:

(a) require the Guarantor to deposit with the Trustee within ten (10) business days of the occurrence of the Event of Default cash, cash equivalents and marketable securities having a market value not less than the Guaranteed Amount less the amount of any payments previously made by the Guarantor pursuant to this Agreement; and

(b) exercise, or cause to be exercised, any and all such remedies as it may have under this Agreement, under any other document or at law or in equity.

#### 11. CONFESSION OF JUDGMENT.

Upon the occurrence of any Event of Default under Section 9(a) hereof related to a failure of the Guarantor to satisfy its payment obligations under Section 2(a) or Section 2(b) hereof, the Trustee shall provide notice of such failure to the Guarantor and, if applicable, the Bondholder Representative. In the event that such Event of Default is not cured by payment of the amounts required by this Agreement within 20 calendar days of the date of the Guarantor's receipt of such notice, the Guarantor hereby authorizes, constitutes and appoints an attorney licensed to practice law in the State of New Hampshire approved by the Bondholder Representative, as the Guarantor's true and lawful attorney-in-fact in the Guarantor's name, place and stead to appear on its behalf in any court having jurisdiction in one or more proceedings, or before any clerk thereof or prothonotary or other court official, and to CONFESS JUDGMENT AGAINST THE GUARANTOR, WITHOUT PRIOR NOTICE (EXCEPT THE 20 CALENDAR DAY NOTICE SET FORTH ABOVE) OR OPPORTUNITY OF THE GUARANTOR FOR PRIOR HEARING, in favor of the Trustee for the full amount due under this Agreement plus actual court costs and actual attorneys' fees, which shall not exceed 15% of the total amount then due hereunder. The Guarantor waives the benefit of any and every statute, ordinance or rule of court which may be lawfully waived conferring upon the Guarantor any right or privilege of exemption, appeal, stay of execution or supplementary proceedings, inquisition, extension upon any levy on real estate or personal property and any other relief from the enforcement or immediate enforcement of a judgment or related proceedings on a judgment. The authority and power to appear for and enter judgment against the Guarantor shall not be exhausted by one or more exercises thereof, or by any imperfect exercise thereof, and shall not be extinguished by any judgment entered pursuant thereto; such authority and power may be exercised on one or more occasions from time to time, in the

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with a copy to:

McCarter & English, LLP  
100 Mulberry Street, Four Gateway Center  
Newark, NJ 07102  
Attention: Jacqueline Shanes  
Telephone: (973) 639-7955  
Email: [jshanes@mccarter.com](mailto:jshanes@mccarter.com)

If to the Bondholder Representative for the Subordinate Bonds:

Ecofin Advisors, LLC  
6363 College Boulevard  
Overland Park, Kansas 66211  
Attention: Social Infrastructure Team  
Telephone: (913) 981-1020  
Email: [mijunjhunwala@ecofininvest.com](mailto:mijunjhunwala@ecofininvest.com)

with a copy to:

Polsinelli PC  
150 N. Riverside Plaza, Suite 3000  
Chicago, Illinois 60606-1599  
Attention: James Brooking  
Telephone: (312) 873-3638  
Email: [jbrooking@polsinelli.com](mailto:jbrooking@polsinelli.com)

If to the Trustee:

UMB Bank, National Association  
2 South Broadway, Suite 600  
St. Louis, Missouri 63102  
Attention: Brian Krippner  
Telephone: (314) 612-8480  
Email: [brian.krippner@umb.com](mailto:brian.krippner@umb.com)

The Guarantor, the Trustee and each Bondholder Representative may, by notice given hereunder, designate any further or different addresses to which subsequent demands, notices, approvals, consents, requests, opinions or other communications shall be sent or persons to whose attention they shall be directed.

No notices shall be sent to the Holder of any Hamlin Investor Bond, including (without limitation) notices of failure to comply with covenants and Events of Default. Notwithstanding the foregoing, the Trustee may send routine payment processing and similar notices to DTC as long as DTC is the registered owner of the Bonds.

#### 14. SEVERABILITY.

The provisions of this Agreement are intended to be severable. If any provision of this Agreement shall be held invalid or unenforceable in whole or in part in any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without in any manner affecting the validity or enforceability thereof in any other jurisdiction or the remaining provisions hereof in any jurisdiction.

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## **15. SUCCESSORS AND ASSIGNS.**

This Agreement is a continuing obligation and shall be binding upon the Guarantor, its successors, transferees and assigns and shall inure to the benefit of the Trustee, the Bondholder Representative for the Senior Bonds and the Bondholder Representative for the Subordinate Bonds and the Holders and their respective successors, transferees and assigns. The Guarantor may not assign or otherwise transfer any of its obligations hereunder without the prior written consent of the Bondholder Representative.

## **16. CONSTRUCTION; VENUE.**

This Agreement is delivered and made in, and shall be construed in accordance with and governed by, the laws of the State of New Hampshire. Each party hereto consents to and submits to *in personam* jurisdiction and venue exclusively in the State of New Hampshire and in the federal district courts which are located in the State of New Hampshire.

## **17. MISCELLANEOUS.**

(a) In the event that it becomes necessary for the Trustee to exercise its rights under this Agreement, whether suit be brought or not, the Guarantor shall be liable for all costs and attorneys' fees incurred by the Issuer, the Trustee and the Bondholder Representative, including (without limitation) costs and attorneys' fees and expenses incurred by the Issuer, the Trustee and the Bondholder Representative on appeal. In the event that the Trustee obtains a final judgment against the Guarantor upon this Agreement, post-judgment interest shall be payable at a rate per annum equal to the highest interest rate on the Bonds plus 400 basis points, but not to exceed the maximum rate permitted by applicable law. This provision shall not apply to the extent that costs and fees are recovered pursuant to Section 11 hereof.

(b) In the event that there ceases to be a Bondholder Representative for the Senior Bonds and the Senior Bonds remain Outstanding under the Indenture, then any reference herein to the Bondholder Representative shall be of no further force and effect and where there is a reference to an action being taken solely by the Bondholder Representative, such reference shall be deemed instead to be a reference to the Holders of a majority in aggregate principal amount of Outstanding Senior Bonds.

(c) In the event that the Senior Bonds no longer remain Outstanding under the Indenture and there ceases to be a Bondholder Representative for the Subordinate Bonds, then any reference herein to the Bondholder Representative shall be of no further force and effect and where there is a reference to an action being taken solely by the Bondholder Representative, such reference shall be deemed instead to be a reference to the Holders of a majority in aggregate principal amount of Outstanding Subordinate Bonds.

(d) The provisions of Article X of the Indenture shall apply to the Trustee in the performance of its obligations hereunder as set forth herein and are incorporated herein by this reference thereto and, for the avoidance of doubt, all of the provisions of the Indenture and the Loan Agreement governing the rights, immunities and protections of the Trustee thereunder are hereby granted to the Trustee and incorporated by reference into this Agreement as though fully

set forth herein. In the event of any conflict between this Agreement and the Indenture and/or Loan Agreement with respect to the rights, immunities and protections of the Trustee, the Indenture and/or Loan Agreement shall control, as applicable.

(e) This Agreement may be executed in any number of counterparts and by each of the parties hereto on separate counterparts each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute but one and the same instrument. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

## **18. WAIVER OF JURY TRIAL.**

EACH OF THE GUARANTOR AND THE TRUSTEE KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION, WHETHER IN CONTRACT OR TORT, AT LAW OR IN EQUITY, BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER DOCUMENT OR INSTRUMENT EXECUTED IN CONNECTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT TO THE ISSUANCE OF THE BONDS, THE LOAN OF THE PROCEEDS THEREOF TO THE BORROWER AND THE PURCHASE OF THE BONDS BY THE PURCHASERS FROM TIME TO TIME THEREOF. THE GUARANTOR HEREBY CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF THE ISSUER, THE TRUSTEE OR ANY OTHER PERSON OR ENTITY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE TRUSTEE WOULD NOT, IN THE EVENT OF SUCH LITIGATION, SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION.

## **19. WAIVERS; AMENDMENTS.**

No waiver, amendment, change or modification of this Agreement shall be established by conduct, custom or course of dealing, but shall be made solely by a written instrument executed by the party against whom enforcement thereof shall be sought with the written consent of the Bondholder Representative; provided that no waiver, amendment, change or modification of this Agreement that would have a material adverse effect on the rights of the Bondholder Representative for the Subordinate Bonds shall be made without the prior written consent of the Bondholder Representative for the Subordinate Bonds.

## **20. MOST FAVORED NATIONS**

In the event that the Guarantor has entered or shall enter into any guaranty, loan, reimbursement, credit or other financing agreement, or any amendment, supplement or modification thereof, which provides the other party or parties thereto with additional or more restrictive covenants, additional or different events of default and/or greater rights or remedies related thereto than are provided for in this Agreement (any such agreement, or amendment, supplement or modification thereto, a "Favored Covenant Agreement"), the Guarantor shall provide notice to the Trustee and each Bondholder Representative with a copy of each such

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Favored Covenant Agreement within five (5) Business Days of the effective date hereof with respect to any such document already in place and within five (5) Business Days of the effective date of any document hereafter entered into.

## **21. COMPLETE AGREEMENT.**

The whole of this Agreement is hereby set forth and there is no other oral or written agreement, understanding or custom affecting the terms hereof.

[*Remainder of Page Left Intentionally Blank*]

EDGEWOOD RETIREMENT  
COMMUNITY, INC.

By: \_\_\_\_\_  
Name: Marlene Rotering  
Title: Chief Executive Officer

UMB BANK, NATIONAL  
ASSOCIATION, as Trustee

By: \_\_\_\_\_  
Name: Brian P. Krippner  
Title: Senior Vice President

[Signature page to Support Agreement]

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**EXHIBIT A**

**FORM OF COMPLIANCE CERTIFICATE**

The undersigned duly authorized officer of Edgewood Retirement Community, Inc., a Massachusetts nonprofit corporation (the "Guarantor"), hereby certifies as follows to demonstrate compliance with certain provisions of the Support Agreement dated as of April 1, 2022, between UMB Bank, National Association and the Guarantor (the "Support Agreement"):

This Certificate is being delivered with respect to the following (each, a "Testing Period"):

Fiscal Quarter ended [March 31] [June 30] [September 30] [December 31], 20\_\_\_\_:

Capitalized terms used but not defined in this Certificate shall have the meanings set forth in the Support Agreement.

*(Unless otherwise indicated, all calculations shall be made in accordance with accounting principles generally accepted in the United States of America.)*

(a) Liquidity Requirement<sup>1</sup>

Unrestricted Cash and Marketable Securities.....	\$ _____
1.25 times Guaranteed Amount (A) .....	\$ _____
Other Guarantee Requirement (B) .....	\$ _____
Liquidity Requirement (A+B).....	\$ _____

Is the Unrestricted Cash and Marketable Securities of the Guarantor at least equal to the Liquidity Requirement for the applicable period?

\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

(b) Certification as to Financial Statements. To the best of the undersigned's knowledge, the financial statements provided to the Trustee with this Compliance Certificate fairly set forth the financial position and results of operations of the Guarantor as of the date and for the period covered by such financial statements, subject to year-end adjustments.

(c) Certification as to no Event of Default. To the best of the undersigned's knowledge, has an Event of Default under the Support Agreement occurred?

\_\_\_\_\_ (Y) \_\_\_\_\_ (N)

If yes, please attach a statement describing the nature thereof and the steps the Guarantor intends to take to cure such default.

<sup>1</sup> Applicable only on March 31 and September 30; provided for information purposes only on other dates.

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IN WITNESS WHEREOF, I have hereunto set my hand, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

EDGEWOOD RETIREMENT  
COMMUNITY, INC.

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

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## PROPOSED FORM

### **MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT, AND FIXTURE FILING STATEMENT**

**THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT, AND FIXTURE FILING STATEMENT** (this "Mortgage") dated as of the first day of April, 2022, and effective the 21<sup>st</sup> day of April, 2022, is made by **THE BALDWIN SENIOR LIVING**, a nonprofit corporation of the State of New Hampshire, with an address of 1E Commons Drive, Unit 24, Londonderry, NH 03053 ("Mortgagor"), in favor of **UMB BANK, NATIONAL ASSOCIATION**, as Trustee, with an address of 2 South Broadway, Suite 600, St. Louis, MO 63102 ("Mortgagee").

#### **ARTICLE I OBLIGATIONS; SECURITY**

1.1 **Obligations; Bond Documents.** This Mortgage is executed, acknowledged and delivered by Mortgagor to secure and enforce the following obligations and liabilities (collectively, the "Obligations"):

(a) The payment of (i) the maximum principal sum of ONE HUNDRED SEVENTY-ONE MILLION THREE HUNDRED THOUSAND AND 00/100 DOLLARS (\$171,300,000), with interest and premium, if any, thereon, pursuant to the provisions of the Trust Indenture dated as of April 1, 2022 (the "Trust Indenture"; capitalized terms used but not defined in this Mortgage are used in this Mortgage as defined in the Trust Indenture), by and between the Business Finance Authority of the State of New Hampshire (the "Authority"), and the Mortgagor, and the Loan Agreement dated as of April 1, 2022 (the "Loan Agreement") by and between the Mortgagor and the Authority, which Loan Agreement evidences, among other things, Mortgagor's obligations in connection with the issuance of the not to exceed \$87,800,000 aggregate principal amount of the Authority's Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022A (the "Series 2022A Bonds"), \$15,000,000 aggregate principal amount of the Authority's Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022B (the "Series 2022B Bonds"), not to exceed \$38,500,000 aggregate principal amount of the Authority's Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022C (the "Series 2022C Bonds"), and not to exceed \$30,000,000 aggregate principal amount of the Authority's Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022D (together with the Series 2022A Bonds, Series 2022B Bonds and Series 2022C Bonds, the "Bonds"); (ii) all sums now or in the future advanced or coming due or required to be paid with respect to the Bonds under the Loan Agreement and the Trust Indenture pursuant to which the Bonds have been issued, whether for principal, interest, fees, costs, charges, expenses, or other amounts owing under indemnification or other obligations under the Security Instruments; whether such advances are voluntary or obligatory; whether such obligations presently exist or come into existence at some future time; and whether such advances, costs and expenses were made or incurred at the request of Mortgagor, Mortgagee or any other obligor or guarantor under the Loan Agreement, Trust Indenture, or Security Instruments; and (iii) all sums that may hereafter be loaned to Mortgagor by Mortgagee or the Authority on a parity basis whether evidenced by the Loan Agreement, Trust Indenture, or

any Security Instrument or a loan agreement, promissory note, or other obligation reciting that said agreement, note, or obligation is intended to be secured by this Mortgage. For the avoidance of doubt, the Subordinate Bonds are not secured by this Mortgage; and

(b) The performance of all of the terms, covenants, conditions, agreements, obligations and liabilities of Mortgagor or any other obligor or guarantor under (i) the Loan Agreement, the Trust Indenture, the Security Instruments and any other document now or hereafter given to evidence, secure or facilitate the payment and performance of any of the Obligations; (ii) all extensions, renewals, replacements or modifications of, or amendments or additions to any of the foregoing; (iii) any note, loan agreement, document or instrument now or hereafter evidencing an obligation of Mortgagor to Mortgagee or Authority that recites that it is intended to be secured by this Mortgage (all of the foregoing in clauses (i), (ii), and (iii) being collectively referred to in this Mortgage as the "Bond Documents"). Mortgagor shall pay and perform the Obligations required in accordance with the provisions of the Bond Documents.

1.2 **Grant of Mortgage; Mortgaged Property.** For the purpose of securing payment and performance of all Obligations, Mortgagor has granted, conveyed, bargained, sold, alienated, enfeoffed, released, confirmed, assigned to, granted a security interest in and mortgaged, and by these presents does hereby grant, convey, bargain, sell, alienate, enfeoff, release, confirm, assign to, grant with MORTGAGE COVENANTS and upon the STATUTORY CONDITIONS, a security interest in and mortgage unto Mortgagee all of Mortgagor's right, title and interest in and to the following whether presently in existence or to come into existence at some future time (collectively, the "Mortgaged Property"):

(a) Certain parcels of land located in the Town of Londonderry, Rockingham County, New Hampshire, and more fully described in Exhibit "A" attached hereto and made a part hereof (the "Land");

(b) All buildings, structures and improvements of every kind erected on, under or over the Land (the "Improvements") (the Land, the Improvements and the Fixtures being hereinafter referred to as, collectively, the "Real Estate");

(c) All estates, rights, tenements, hereditaments, privileges, easements, and appurtenances of any kind benefitting the Real Estate; all means of access to and from the Real Estate, whether public or private; all water, oil, gas and mineral rights; all rights of Mortgagor as declarant or unit owner under any declaration of condominium or association applicable to the Real Estate; and all other claims or demands of Mortgagor, either at law or in equity, in possession or expectancy, of, in, or to the Real Estate;

(d) All leases, licenses, occupancy agreements, use agreements, or agreements to lease all or any part of the Real Estate and all extensions, renewals, amendments, and modifications thereof, and any options, rights of first refusal, or guarantees relating thereto (collectively, "Leases"); and all rents, income, receipts, revenues, security deposits, escrow accounts, reserves, issues, profits, awards, and payments of any kind payable under the Leases or otherwise arising from the Real Estate (collectively, the "Rents");

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(e) All awards and other compensation heretofore and hereafter to be made to Mortgagor for any taking by eminent domain, either permanent or temporary, of all or any part of the Real Estate or any easement or appurtenance thereof, including severance and consequential damage and change in grade of streets, or any of the personal property described in this Section below;

(f) All payments, proceeds, settlements or other compensation heretofore or hereafter made, including any interest thereon, and the right to receive the same, from any and all insurance policies covering the Real Estate or any portion thereof or any of the personal property described in this Section below;

(g) All Goods, purchased by Mortgagor with proceeds of the Bonds, including without limitation, Fixtures, Equipment and Accessions;

(h) All Goods, other than those purchased by Mortgagor with proceeds of the Bonds, having a useful life of five (5) years or more, including without limitation, Fixtures, Equipment and Accessions, attached to, situate or installed in or upon, or used in the operation or maintenance of the Real Estate;

(i) All Accounts and General Intangibles relating to the use, construction upon, occupancy, leasing, sale or operation of the Real Estate, with the exception of any donor restricted gifts made to Mortgagor;

(j) All As-Extracted Collateral arising from the Land;

(k) All books and records evidencing or relating to the foregoing, including, without limitation, billing records of every kind and description, tenant lists, data storage and processing media, Software and related material, including computer programs, computer tapes, cards, disks and printouts, and including any of the foregoing which are in the possession of any affiliate or property manager;

(l) All right, title, and interest of Mortgagor in and to the name and style by which the Land and/or the Improvements is known, including trademarks and trade names relating thereto;

(m) All right, title, and interest of Mortgagor in, to and under all plans, specifications, maps, surveys, studies, reports, permits, licenses, architectural, engineering and construction contracts, books of account, insurance policies, and other documents, of whatever kind or character, and all proceeds and other amounts paid or owing to Mortgagor under or pursuant to any and all contracts and bonds, relating to the use, construction upon, renovation, occupancy, leasing, sale, or operation of the Land and/or the Improvements;

(n) All right, title, and interest of Mortgagor in and to all contracts, permits, certificates, licenses, approvals, utility deposits, utility capacity, and utility rights issued, granted, agreed upon, or otherwise provided by any governmental or private authority, person or entity relating to the ownership, development, construction, operation, maintenance, marketing, sale or use of the Land and/or the Improvements, including all of Mortgagor's rights and privileges hereto or hereafter otherwise arising in connection with or pertaining to the Land and/or the

Improvements, including, without limiting the generality of the foregoing, all water and/or sewer capacity, all water, sewer and/or other utility deposits or prepaid fees, and/or all water and/or sewer and/or other utility tag rights or other utility rights, any right or privilege of Mortgagor under any loan commitment, lease, contract, Declaration of Covenants, Restrictions and Easements, or like instrument, Developer's Agreement, or other agreement with any third party pertaining to the ownership, development, construction, operation, maintenance, marketing, sale, or use of the Land and/or the Improvements;

(o) All Proceeds of any of the above-described property.

Capitalized terms contained in this Section without definition shall have the meanings ascribed to them in revised Article 9 of the Uniform Commercial Code as enacted by the State of New Hampshire (the "State") and as amended from time to time (the "UCC").

TO HAVE AND TO HOLD the Mortgaged Property unto Mortgagee to and for the use of Mortgagee forever.

PROVIDED ALWAYS THAT, if Mortgagor fully and indefeasibly pays, performs and discharges all Obligations now or hereafter secured or to be secured by this Mortgage at the times and in the manner specified without deduction, fraud or delay, and Mortgagor delivers written notice to Mortgagee requesting termination of this Mortgage of record, then Mortgagee shall release this Mortgage of record and the estate hereby granted shall cease and become void.

1.3 **Security Agreement.** This Mortgage is also a security agreement under the UCC. Mortgagor grants, and Mortgagee shall have and may enforce, a security interest in all those property interests included in the Mortgaged Property that may be "personal property" to secure payment and performance of all Obligations. The recordation of this Mortgage shall also constitute a fixture filing in accordance with the provisions of the UCC. Mortgagor agrees to cooperate and join, at its expense, with Mortgagee in taking such steps as are necessary, in Mortgagee's judgment, to perfect or continue the perfected status of the security interest granted hereunder, including, without limitation, the execution and delivery of financing statements, amendments thereto, and continuation statements. Mortgagee may, at any time and from time to time, file financing statements, continuation statements and amendments thereto that describe the Mortgaged Property and that contain any other information required by the UCC for the sufficiency or filing office acceptance of any financing statement, continuation statement or amendment, including whether Mortgagor is an organization, the type of organization and any organization identification number issued to Mortgagor. Any such financing statements, continuation statements or amendments may be signed by Mortgagee on behalf of Mortgagor. Mortgagor irrevocably appoints Mortgagee attorney-in-fact for Mortgagor to execute, deliver and file such financing statements, continuation statements and amendments. Inasmuch as the parties intend that this Mortgage shall, among other things, constitute a fixture filing, Mortgagor sets forth the following:

(a) The debtor for purposes of the security interest (and its related financing statement) is Mortgagor;

(b) The secured party for purposes of the security interest (and its related financing statement) is Mortgagor;

(c) The collateral includes Fixtures which are or shall be affixed to the Real Estate; and

(d) The record owner of the Real Estate is Mortgagor.

#### 1.4 Assignment of Leases and Rents.

(a) This Mortgage is also an absolute and unconditional assignment to Mortgagee of all Leases and Rents, whether now in existence or hereafter arising, for the purpose of vesting in Mortgagee a first priority, perfected security interest in the Leases and the Rents. Mortgagor hereby assigns, transfers and sets over to Mortgagee all Leases, all Rents and all rights of Mortgagor to enforce the Leases and collect the Rents. This assignment includes any award received or receivable by Mortgagor in any legal proceeding involving any tenant under a Lease whether under the Bankruptcy Code or otherwise.

(b) Mortgagor irrevocably appoints Mortgagee the attorney-in-fact of Mortgagor to enforce the Leases and demand, receive and collect the Rents and the sole and exclusive agent of Mortgagor to agree to any modifications of the Leases. This power is coupled with an interest and is therefore irrevocable. Mortgagor shall notify any person Mortgagee may from time to time specify that the Rents should be paid directly to Mortgagee and that any modification of the Leases must be approved by Mortgagee and the Bondholder Representative for the Bonds (the "Bondholder Representative").

(c) So long as there has not occurred an Event of Default (as hereinafter defined) that is continuing, Mortgagor shall have a license to enforce the Leases and collect the Rents subject to any applicable provisions contained in the Bond Documents. Following the occurrence of, and during the continuance of, an Event of Default, such license shall be revocable at the will of Mortgagee or the Bondholder Representative. Upon request of Mortgagee or the Bondholder Representative, Mortgagor shall execute and deliver to Mortgagee (i) a specific assignment, in recordable form, of any Lease now or hereafter affecting the Mortgaged Property or any portion thereof to further evidence the assignment hereby made and (ii) such other instruments as Mortgagee or the Bondholder Representative may deem necessary, convenient or appropriate in connection with the payment and delivery directly to Mortgagee of all of the Rents pursuant to the terms of the assignment hereby made.

(d) All security deposits, prepaid rent permitted to be collected by Mortgagor, if any (other than prepaid rent for the next succeeding calendar month), and similar payments under any Lease shall be deposited in an account with a financial institution reasonably acceptable to Mortgagee and the Bondholder Representative. Mortgagor shall notify Mortgagee and the Bondholder Representative of the identification of the escrow account. Such sums shall be disbursed only upon the prior written consent of Mortgagee and the Bondholder Representative, not to be unreasonably withheld, conditioned or delayed, except such consent shall not be required when by law or by the terms of the Lease Mortgagor is required to, and does, return such sums to the party entitled to same under the Lease.

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document or instrument to which Mortgagor is a party or by which Mortgagor or the Mortgaged Property is bound;

(d) Mortgagor shall make, execute, acknowledge and deliver all such further or other deeds, documents, instruments or assurances and cause to be done all such further acts and things as may at any time be required by Mortgagee or the Bondholder Representative to confirm and fully protect the lien and priority of this Mortgage; and

(e) Mortgagor shall make such payments, all before the same shall become delinquent, and perform all obligations as are required under any Permitted Encumbrances affecting the Mortgaged Property.

2.2 No Transfer. Without the prior written consent of Mortgagee and the Bondholder Representative in each instance, which consent may be given or withheld in the Bondholder Representative's sole discretion (either of which shall not be unreasonably delayed), Mortgagor will abstain from, and will not cause or permit, any transfer of the Mortgaged Property or any portion thereof, whether voluntary, involuntary, by operation of law, or otherwise, nor shall Mortgagor enter into any agreement or transaction to transfer, or accomplish in form or substance a transfer, of the Mortgaged Property.

(a) A "transfer" of the Mortgaged Property includes (i) the direct or indirect sale, agreement to sell, transfer or conveyance of the Mortgaged Property or any portion thereof or interest therein; (ii) the execution of any installment land sale contract or similar instrument affecting all or a portion of the Mortgaged Property; and, unless and only to the extent Mortgagee and the Bondholder Representative have expressly consented to the following transfers in this Mortgage or the other Bond Documents; and (iii) the transfer of any stock, partnership or other ownership interests in Mortgagor (if Mortgagor is a partnership, joint venture or corporation) except in each case as may be permitted in or contemplated by the Bond Documents.

(b) Consent to any such transfer shall not be deemed to be a waiver of the right to require consent to future or successive transfers. If consent should be given to a transfer and if this Mortgage is not released to the extent of the transferred portion of the Mortgaged Property by a writing signed by Mortgagee and recorded in the appropriate office of public record, then any such transfer shall be subject to this Mortgage and any such transferee shall be deemed, by acceptance of the deed or other instrument of transfer, to have assumed all Obligations under this Mortgage and to have agreed to be bound by all provisions contained herein. Any such assumption shall not, however, release Mortgagor or any other obligor or guarantor of the Obligations from any liability under the Bond Documents.

2.3 No Other Financing or Liens. Without the prior written consent of Mortgagee and the Bondholder Representative in each instance, which consent may be given or withheld in the Bondholder Representative's sole discretion, Mortgagor shall not create or cause or permit to exist any lien on the Mortgaged Property whether superior to or subject to the lien of this Mortgage except the Permitted Encumbrances.

(e) Mortgagor shall not accept or permit the payment of rent in any medium other than lawful money of the United States of America, or anticipate, discount, compromise, forgive or collect any rent more than one month in advance, encumber or further assign the Leases or the Rents or any part thereof or any interest therein without the prior written consent of Mortgagee and the Bondholder Representative.

(f) Upon the occurrence and during the continuance of an Event of Default, Mortgagor hereby authorizes and directs that all other parties now or hereafter owing or paying Rents under any Lease or now or hereafter having in their possession or control any Rents from or allocated to the Mortgaged Property, or any part thereof, or the Proceeds therefrom, shall, upon the request of Mortgagee or the Bondholder Representative and until Mortgagee or the Bondholder Representative directs otherwise, pay and deliver such Rents directly to Mortgagee at Mortgagee's address set forth in the introduction to this Mortgage, or in such other manner as Mortgagee may direct such parties in writing and this authorization shall continue until this Mortgage is released of record. No payoff making payments to Mortgagee at its request under the assignment contained in this Mortgage shall have any responsibility to see to the application of any such funds, and any party paying or delivering Rents to Mortgagee under such assignment shall be released thereby from any and all liability to Mortgagor to the full extent and amount of all such Rents so delivered.

(g) Notwithstanding any legal presumption to the contrary, Mortgagee shall not be obligated by reason of its acceptance of this assignment to perform any obligation of Mortgagor as lessor under any Lease. Neither the acceptance of this assignment nor the collection of Rents under the Leases shall constitute a waiver of any rights of Mortgagee under the Bond Documents or constitute a cure of any default by Mortgagor thereunder or constitute Mortgagee a mortgagee in possession.

1.5 Purchase Money Mortgage. This Mortgage is intended to be a "purchase money mortgage" and shall be entitled to all benefits of such law, and otherwise, relating thereto.

## ARTICLE II TITLE MATTERS

2.1 Warranty of Title. Until the Obligations are fully satisfied, Mortgagor represents, warrants and covenants that:

(a) Mortgagor has good and marketable fee simple absolute title to the Mortgaged Property subject only to the encumbrances set forth in the loan policy of title insurance issued to Mortgagee in connection herewith (the "Permitted Encumbrances") and Mortgagor shall defend the validity, priority and enforceability of the lien of this Mortgage against the claims of all persons excepting only those claiming under Permitted Encumbrances;

(b) Mortgagor has full power and lawful authority to subject the Mortgaged Property to the lien of this Mortgage;

(c) The execution, delivery and performance of this Mortgage and the other Bond Documents will not contravene any Legal Requirements (hereinafter defined) or any agreement,

2.4 Leases. Mortgagor represents and warrants that there are no Leases affecting the Mortgaged Property. Mortgagor shall not enter into any Leases without the prior written consent of Mortgagee and the Bondholder Representative being obtained in each instance, such consent not to be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Mortgagee and Bondholder Representative's consent shall not be required for any leases or other occupancy agreements to residents of any improvements to be constructed on the Property in the form approved by the Bondholder Representative.

## ARTICLE III OBLIGATIONS REGARDING MORTGAGED PROPERTY

3.1 Legal Requirements Generally. Mortgagor represents and warrants to Mortgagee that the Mortgaged Property is in compliance with Legal Requirements (hereinafter defined). Mortgagor shall promptly comply with, and cause the Mortgaged Property to be kept in compliance with, in all present and future laws, statutes, codes, ordinances, orders, judgments, decrees, injunctions, rules, regulations, restrictions and requirements (collectively "Legal Requirements") of the United States of America, the state in which the Real Estate is located and any political subdivision thereof or any town, city, county or municipality in which the Real Estate is located or any agency, department, bureau, board, commission or instrumentality of any of the foregoing now existing or hereafter created (individually, a "Governmental Authority" and, collectively, "Governmental Authorities") having jurisdiction over Mortgagor or the Mortgaged Property or the construction, use, occupancy, operation, maintenance, or improvement of the Mortgaged Property, whether foreseen or unforeseen, ordinary or extraordinary.

3.2 Land Use Approvals. Mortgagor represents and warrants to Mortgagee that the Land is and shall remain one or more zoning lots separate and apart from all other premises. Mortgagor shall not, by any act or omission, impair the integrity of the Land as such separate zoning lot or lots. Mortgagor shall not, without the prior written consent of Mortgagee and the Bondholder Representative, not to be unreasonably withheld, conditioned or delayed, submit or cause to be submitted to any Governmental Authority an application for zoning, subdivision or development approval affecting the Real Estate if any of the following would result from such proposed zoning change, subdivision or development: (a) the separate transfer, use and ownership of the Real Estate is not permitted as a matter of right under applicable Legal Requirements or pursuant to previously issued permits or approvals affecting the Real Estate; (b) the use of the Real Estate as of the date of this Mortgage is no longer permitted as a matter of right under applicable Legal Requirements or pursuant to previously issued permits or approvals affecting the Real Estate; or (c) any portion of the Real Estate is used to fulfill a Legal Requirement of other property not subject to the lien of this Mortgage except to the extent contemplated under previously issued permits or approvals affecting the Real Estate.

### 3.3 Environmental Matters.

(a) Mortgagor represents and warrants that neither Mortgagor nor, to the best of its knowledge, any other person has (i) used, installed or disposed of any Hazardous Materials (hereinafter defined) on, from, or affecting the Real Estate except in full compliance with Applicable Environmental Laws (hereinafter defined); or (ii) received any notice from any

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Governmental Authority with regard to Hazardous Materials on, from or affecting the Real Estate.

(b) Mortgagor shall not use the Real Estate, nor allow it to be used, to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials except in full compliance with Applicable Environmental Laws. Mortgagor shall not knowingly cause or permit a release of Hazardous Materials onto, from or affecting the Real Estate or any other use, installation, or disposition of Hazardous Materials in violation of Applicable Environmental Laws. Mortgagor shall comply, and enforce compliance by all tenants and subtenants, with all Applicable Environmental Laws and shall keep the Real Estate free and clear of any liens imposed pursuant to any Applicable Environmental Laws.

(c) If Mortgagor receives any notice from any Governmental Authority with regard to Hazardous Materials on, from or affecting the Real Estate, or any notice of violation of Applicable Environmental Laws, Mortgagor shall promptly notify Mortgagee and the Bondholder Representative. Mortgagor shall conduct and complete, or shall cause to be conducted and completed, all investigations, studies, sampling, and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials on, from or affecting the Real Estate in accordance with all Applicable Environmental Laws and to the satisfaction of Mortgagee and the Bondholder Representative.

(d) The term "Applicable Environmental Laws" shall mean, without limitation, all Legal Requirements of any Governmental Authority pertaining to the preservation or enhancement of the quality of the environment or regulating or restricting the use, transfer, storage or remediation of Hazardous Materials, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), and the rules, regulations adopted and publications promulgated pursuant thereto at any time. The term "Hazardous Materials" shall mean, without limitation, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials, asbestos or any material containing asbestos, or any other substance or material regulated under any Applicable Environmental Laws.

#### 3.4 General Obligations. Until the Obligations are fully satisfied, Mortgagor shall:

(a) Perform, or cause its tenants to perform, all maintenance, repair, restoration and rebuilding required to keep the Real Estate in good repair, order and condition in full compliance with the requirements of the Bond Documents, any Leases affecting the Real Estate and all Legal Requirements;

(b) Pay, or cause its tenants to pay, all charges for water, sewer, gas, electric and other utility services provided to the Real Estate promptly as and when due;

(c) Complete, or cause its tenants to complete, any improvements to the Real Estate required under the Bond Documents, any Leases affecting the Real Estate, or required by any

Governmental Authority or insurer insuring the Real Estate, in a good and workmanlike manner and free of mechanics' liens;

(d) Permit, and cause any lessee or occupant of the Real Estate to permit, Mortgagee, the Bondholder Representative and their agents and representatives, to enter upon the Real Estate at any reasonable time and after reasonable notice to appraise and photograph the Real Estate and to inspect for compliance with Legal Requirements (including subsurface investigations to determine compliance with Applicable Environmental Laws), insurance requirements, and the Obligations of Mortgagor under this Mortgage and the other Bond Documents; and

(e) Without expense to Mortgagee or the Bondholder Representative, will maintain full and complete books of account and records reflecting the results of the operations of the Real Estate in accordance with generally accepted accounting principles consistently applied, and will furnish or cause to be furnished to Mortgagee and the Bondholder Representative such financial information concerning the condition of Mortgagor and the Real Estate as Mortgagee or the Bondholder Representative shall reasonably request and make the books and accounts relating to the Real Estate available for inspection by Mortgagee, the Bondholder Representative, and their representatives, upon request at any reasonable time.

3.5 General Restrictions. Until the Obligations are fully satisfied, Mortgagor shall not, without the prior written consent of Mortgagee and the Bondholder Representative being obtained in each instance:

(a) Abandon the Real Estate or any portion thereof or allow the same to become vacant;

(b) Commit or suffer waste with respect to the Real Estate;

(c) Impair or diminish the value or integrity of the Mortgaged Property or the priority or security of the lien of this Mortgage;

(d) Except in accordance with the Bond Documents or otherwise in accordance with permits and approvals previously issued to Mortgagor for the development of the Real Estate, remove, demolish or materially alter any of the Real Estate, except that Mortgagor shall have the right to remove and dispose of, or allow its tenants to remove and dispose of, free of the lien of this Mortgage, such Fixtures as may, from time to time, become worn out or obsolete, provided that, simultaneously with or prior to such removal, any such Fixtures shall be replaced with other Fixtures having a value and utility at least equal to that of the replaced Fixtures and, by such removal and replacement, Mortgagor shall be deemed to have subjected such replacement Fixtures to the lien and priority of this Mortgage;

(e) Make, install or permit to be made or installed, any additions or improvements to the Real Estate except in a good and workmanlike manner, free of mechanic's liens, in compliance with Legal Requirements, and in accordance with plans and specifications approved by Mortgagee and the Bondholder Representative, such approval not to be unreasonably withheld, conditioned or delayed; or

(f) Make, suffer or permit any nuisance to exist on the Real Estate or any portion thereof.

#### 3.6 Required Notices. Mortgagor shall notify Mortgagee and the Bondholder Representative promptly of the occurrence of any of the following:

(a) a fire or other casualty causing material damage to the Real Estate,

(b) a pending or threatened condemnation of the Real Estate,

(c) a violation of a Legal Requirement or other notice from or to a Governmental Authority relating to the Mortgaged Property,

(d) the giving or receipt of any notice of default or cancellation under any Lease of all or a material portion of the Real Estate, but specifically excluding default notices delivered under any leases or occupancy agreements for residents of the improvements to be constructed on the Real Estate,

(e) the commencement of any litigation affecting the Mortgaged Property,

(f) the discovery, discharge or release of any Hazardous Material for which Mortgagor is or may be responsible under any Applicable Environmental Laws,

(g) the existence of any event or condition presenting a risk of creating material liability in Mortgagor under ERISA (Public Law 93-406, as amended), or

(h) the giving or receipt of any notice of default under any Permitted Encumbrance.

3.7 Further Assurances. Mortgagor, at any time upon the reasonable request of Mortgagee or the Bondholder Representative, will at Mortgagor's expense, execute, acknowledge and deliver all such additional papers and instruments (including, without limitation, a declaration of no setoff) and perform all such further acts as may be reasonably necessary to perform the Obligations and, as Mortgagee or the Bondholder Representative deems reasonably necessary, to preserve the priority of the lien of this Mortgage and to carry out the purposes of the Bond Documents.

### ARTICLE IV TAXES AND INSURANCE

#### 4.1 Real Estate Taxes and Assessments.

(a) Mortgagor shall pay, or cause to be paid, when due and before interest or penalties commence to accrue thereon, all taxes, assessments, water and sewer rents, levies, encumbrances and all other charges or claims of any nature and kind, whether public or private, that may be assessed, levied, imposed, suffered, placed or filed at any time against the Real Estate or any part thereof or that by any present or future law may have priority (either in lien or in distribution out of the proceeds of any sale) over the lien of this Mortgage (individually, an "Imposition" and, collectively, "Impositions").

(b) Mortgagor shall produce to Mortgagee and the Bondholder Representative, not later than the last date any such Imposition is due and payable without interest or penalty, official receipts evidencing payment of such Imposition. If Mortgagor is not in default under this Mortgage or any of the other Bond Documents and in good faith and by appropriate legal action shall contest the validity or amount of any Imposition and shall have established, or cause to be established, a reserve for the payment thereof in such form and amount as the Bondholder Representative may require (including any interest and penalties that may be payable in connection therewith), then Mortgagor shall not be required to pay the Imposition or to produce the receipts while the reserve is maintained and so long as the contest operates to prevent collection, is maintained and prosecuted with diligence, and shall not have been terminated or discontinued adversely to Mortgagor.

4.2 Taxes on Mortgage. If any Governmental Authority shall levy, assess or charge any tax, assessment or imposition upon this Mortgage or any of the other Bond Documents (including any requirement to have affixed to this Mortgage any revenue, documentary or similar stamps) or upon the interest of Mortgagor in the Real Estate by reason of this Mortgage or any other Bond Document, Mortgagor shall pay the same directly to such Governmental Authority as an Imposition. If Mortgagor is not legally permitted to pay such Imposition or to reimburse Mortgagee for amounts advanced on account of such payment, then Mortgagee may, with the consent of the Bondholder Representative, declare the entire amount of the Obligations due and payable within ninety (90) days of demand.

4.3 Corporate or Partnership Mortgagor. If Mortgagor (or any successor or transferee of Mortgagor) is a corporation, limited liability company or partnership, Mortgagor shall at all times until the Obligations are satisfied in full:

(a) Keep in effect and in good standing its existence and rights as a corporation, limited liability company or partnership, as the case may be, under the laws of the state of its incorporation or constitution and its right to own property and transact business in the state in which the Real Estate is situated; and

(b) File returns for all federal, state and local taxes with the proper Governmental Authorities, and pay, when due and payable and before interest or penalties are due thereon, all taxes owing by Mortgagor to any Governmental Authorities.

4.4 Provisions Regarding Casualty and Property Damage Insurance. Until the Obligations are fully satisfied, Mortgagor shall keep, or cause the lessees under the Leases to keep, the Real Estate continuously insured against the following risks, paying (or causing the same to be paid) as the same become due and payable all premiums with respect thereto:

(a) insurance against loss or damage to the Fixtures and Improvements and all improvements therein (including, during any period of time when Mortgagor is making alterations, repairs or improvements to the Fixtures and Improvements, improvements and betterment's coverage), all subject to standard form exclusions, with uniform standard extended coverage endorsement limited only as may be provided in the standard form of extended coverage endorsement at the time in use in the State, in an amount equal to the greater of (i) the full replacement value of the Fixtures and Improvements once constructed and (ii) the aggregate

principal amount of the Bonds then Outstanding (as defined in the Trust Indenture), unless the insurable value is less than the aggregate principal amount of the Bonds then Outstanding, in which event in an amount equal to the full replacement value of the Fixtures and Improvements;

(b) commercial general liability and automobile liability insurance against claims arising in, on or about the Real Estate, including in, on or about the sidewalks or premises adjacent to the Real Estate, providing coverage limits not less than the coverage limits customarily carried by owners or operators of facilities of similar size and character within the State;

(c) to the extent available, rental value insurance covering all risks as to which insurance is required pursuant to subsection (a) above, in an amount equal to not less than the amounts required to be paid hereunder for a period of not less than 12 months. If any such loss or damage has occurred, Mortgagor shall continue to be obligated to pay the amounts required to be paid pursuant hereunder, and any proceeds of such insurance shall be applied against all or part of such payment obligations of Mortgagor. The amount of insurance required by this subsection (d) shall be in an amount equal to the lesser of (i) the aggregate principal amount of the Bonds then Outstanding plus any other amounts specified to be due hereunder or (ii) the insurable value of the Real Estate in a form acceptable to Mortgagee and the Bondholder Representative; and

(d) such other forms of insurance as Mortgagor is required by law to provide with respect to the Real Estate, including, without limitation, any legally required worker's compensation insurance and disability benefits insurance.

All insurance coverages required by this Section may be subject to deductible clauses in such amounts as are customary for facilities of similar size and character within the State.

All policies maintained (or caused to be maintained) by Mortgagor pursuant to this Section shall be taken out and maintained in generally recognized, responsible insurance companies, which may include "captive" insurance companies or governmental insurance pools, selected by Mortgagor. The insurance policies required by subsections (a) and (d) of this Section shall name Mortgagee as insured as its interests may appear and shall name Mortgagee as a mortgagee and loss payee under the terms of a standard mortgagee loss payable endorsement. Mortgagee shall also be named as additional insured on the policy required by subsection (b) of this Section. All insurance proceeds for losses (except for worker's compensation, fidelity insurance and liability insurance), shall be paid directly to Mortgagee. Such policies or certificates of insurance shall (i) provide that (except as to insurance required pursuant to subsections (c) and (d) of this Section) the insurer will endeavor to mail 30 days' written notice to Mortgagee and the Bondholder Representative of any cancellation prior to expiration of such policy, and (ii) be satisfactory in all other respects to Mortgagee and the Bondholder Representative.

**4.5 Blanket Insurance Policies.** Notwithstanding the foregoing, Mortgagor may, in its discretion, provide any of the insurance required by this Section under blanket insurance policies that insure not only the risks required to be insured hereunder but also other similar risks.

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(f) Mortgagor shall have deposited, or caused to be deposited, with Mortgagee for disbursement in connection with the restoration the greater of (i) the applicable deductible under the insurance policies covering the loss; or (ii) the amount by which the cost of restoration is estimated by Mortgagee or the Bondholder Representative to exceed the insurance proceeds available for restoration;

(g) The insurance proceeds are held by Mortgagee for disbursement periodically as the work progresses in amounts not exceeding 90% of the value of labor and materials incorporated into the restoration. The remaining 10% will be released upon final completion of the work in accordance with the aforesaid plans and specifications, and upon a receipt of a release of liens from all contractors and subcontractors engaged in the restoration; and

(h) Mortgagor has paid as and when due all of Mortgagee's and the Bondholder Representative's actual, out-of-pocket costs and expenses incurred in connection with the collection of insurance proceeds, approval of plans, charges of Mortgagee's and the Bondholder Representative's inspection representative and such reasonable fees as may be charged by Mortgagee and the Bondholder Representative to monitor the restoration and disburse the insurance proceeds.

**5.2 Condemnation.** Subject to Section 4.15 of the Continuing Covenants Agreement:

(a) In the event of any condemnation or taking of any part of the Real Estate by eminent domain, alteration of the grade of any street, or other injury to or decrease in the value of the Real Estate by any public or quasi-public authority or corporation, all proceeds (including the award or agreed compensation for the damages sustained) allocable to Mortgagor, after deducting therefrom all actual, out-of-pocket costs and expenses (regardless of the particular nature thereof and whether incurred with or without suit) including reasonable attorney's fees incurred by Mortgagee and the Bondholder Representative in connection with the collection of such proceeds, shall (subject to the terms and conditions applicable to restoration in the case of casualty set forth in Section 5.1 above) be applied toward restoration of the Real Estate. No settlement for damages sustained shall be made by Mortgagor without Mortgagee's and the Bondholder Representative's prior written approval.

(b) If prior to the receipt of the proceeds by Mortgagee, the Real Estate shall have been sold on foreclosure of this Mortgage, Mortgagee shall have the right to receive the proceeds to the extent of:

(i) the full amount of all such proceeds if Mortgagee is the successful purchaser at the foreclosure sale, or

(ii) if anyone other than Mortgagee is the successful purchaser at the foreclosure sale, in addition to the net sale proceeds to be received by Mortgagee in connection with the sale, any deficiency (as hereinafter defined) due to Mortgagee in connection with the foreclosure sale, with legal interest thereon, and reasonable counsel fees, actual, out-of-pocket costs and disbursements incurred by Mortgagee and the Bondholder Representative in connection with collection of such proceeds of condemnation and the establishment of such deficiency. For purposes of this section, the

**4.6 Instalments for Insurance, Taxes and Other Charges.** Without limiting the effect of the other provisions of this Article, Mortgagor shall pay to Mortgagee monthly an amount equal to one-twelfth (1/12) of the annual amount of all Impositions and premiums for insurance policies required under this Article plus any additional sums necessary to pay, or establish adequate reserves for the payment of, such premiums and Impositions as and when due in accordance with the terms of the Trust Indenture, the Loan Agreement and the Security Instruments. The amounts so paid shall be security for the premiums and Impositions and shall be used in payment thereof if there is no then existing Event of Default, and Mortgagee agrees to pay such amounts directly to the parties to be paid. Upon the occurrence of an Event of Default, Mortgagee shall have the right, with the consent of the Bondholder Representative, to apply any amount so held against the Obligations.

#### ARTICLE V CASUALTY; CONDEMNATION

**5.1 Casualty.** Subject to Section 4.18 of the Continuing Covenants Agreement, if the Real Estate is damaged by fire or other casualty, Mortgagor shall promptly repair and restore, or cause to be repaired and restored, the same to its condition prior to the damage. If, and only for so long as, the following terms and conditions are fully satisfied by Mortgagor, Mortgagee shall release insurance proceeds for repair and restoration of the Real Estate; otherwise, and to the extent of any excess proceeds, Mortgagor shall, with the consent of the Bondholder Representative, have the right to apply the proceeds toward reduction of the Obligations:

(a) No default under this Mortgage or any of the other Bond Documents shall have occurred and be continuing uncured;

(b) Mortgagor shall have delivered evidence satisfactory to Mortgagee and the Bondholder Representative that the Real Estate can be fully repaired and restored within a period of time during which all payments coming due under the Obligations are fully covered by the proceeds of business interruption or rental loss insurance applicable to the loss or damage to the Real Estate;

(c) No holder of a Permitted Encumbrance has a right to apply insurance proceeds to the obligations secured by such Permitted Encumbrance or, if it does, the holder has waived in writing its right to do so;

(d) No Lease for all or a material portion of the Real Estate is cancelable by the lessee on account of the casualty or, if it is, the lessee has waived in writing its right to cancel;

(e) The work is performed by a reputable general contractor satisfactory to Mortgagee and the Bondholder Representative under a fixed price or guaranteed maximum price contract satisfactory to Mortgagee and the Bondholder Representative, in accordance with plans and specifications satisfactory to Mortgagee and the Bondholder Representative and in compliance with all Legal Requirements, and no work shall commence until waivers of mechanics' liens have been filed by the general contractor and all those claiming by, through, or under the general contractor;

word "deficiency" shall be deemed to mean the difference between (A) the aggregate amount of all sums which Mortgagee and the Bondholder Representative are entitled to collect under the Bond Documents, and (B) the net sale proceeds actually received by Mortgagee as a result of such foreclosure sale less any actual, out-of-pocket costs and expenses incurred by Mortgagee and the Bondholder Representative in connection with enforcement of its rights under the Bond Documents.

(c) Mortgagor shall have the right to prosecute to final determination, or settlement, an appeal or other appropriate proceedings related to any condemnation of the Real Estate in the name of Mortgagee or Mortgagor, for which Mortgagee will then be appointed as attorney-in-fact for Mortgagor, which appointment being for security, is irrevocable. In that event, the expenses of the proceedings, including reasonable counsel fees, shall be paid first out of the proceeds, and only the excess, if any, paid to Mortgagee shall be applied to the Obligations.

(d) Nothing herein shall limit the rights otherwise available to Mortgagee or the Bondholder Representative, at law or in equity, including the right to intervene as a party to any condemnation proceeding.

#### ARTICLE VI DEFAULTS; REMEDIES

**6.1 Right to Make Advances.** If Mortgagor should fail to pay or perform any of its Obligations with respect to the Mortgaged Property as required under Article III and Article IV of this Mortgage, or otherwise fails to pay or perform any of its other Obligations under this Mortgage or any of the other Bond Documents, then Mortgagee and the Bondholder Representative, at their election, shall have the right, but not the obligation, to make any payment or expenditure and to take any action Mortgagor should have made or taken or that Mortgagee or the Bondholder Representative otherwise deems advisable to protect the security of this Mortgage or the Mortgaged Property. Such action shall be without prejudice to any of Mortgagee's or the Bondholder Representative's rights or remedies available under this Mortgage or the other Bond Documents, or otherwise at law or in equity. All such sums, as well as actual, out-of-pocket costs and expenses, advanced by Mortgagee and the Bondholder Representative shall be due immediately from Mortgagor to Mortgagee or the Bondholder Representative, as applicable, shall become part of the Obligations secured by this Mortgage and the other Bond Documents, and shall bear interest (including any judgment obtained on account of any of the Obligations) at the applicable rate provided in the Bond Documents in effect after maturity or default (the "Default Rate") until repayment in full to Mortgagee or the Bondholder Representative, as applicable.

**6.2 Events of Default.** The occurrence of any one or more of the following events shall, at the election of Mortgagee, with the consent of the Bondholder Representative, constitute an "Event of Default" under this Mortgage:

(a) Any event of default as defined in any other Bond Document which continues beyond any applicable notice and cure periods, if any;

(b) Failure to pay any sum required to be paid under this Mortgage as and when due and the continuation thereof for a period of five (5) days;

(c) Any breach of warranty or other violation of any provision contained in Article II of this Mortgage; or

(d) Nonperformance of, or noncompliance with, any of the agreements, covenants, conditions, warranties, representations or other provisions contained in this Mortgage (if and only to the extent not included in any of the occurrences listed above), which nonperformance or noncompliance is not cured and remedied within thirty (30) days after notice thereof is given to Mortgagor. Provided, with respect to any such failure covered by this subsection (d), no Event of Default shall be deemed to be continuing so long as a course of action adequate in the judgment of Mortgagor and the Bondholder Representative to remedy such failure shall have been commenced within such 30-day period and shall thereafter be diligently prosecuted to completion and the failure shall be remedied thereby provided, however, that such course of action must be complete within ninety (90) days of the written notice that has been given to Mortgagor.

**6.3 Remedies: Execution.** Upon the occurrence of, and during the continuance of an Event of Default, Mortgagor shall, with the consent of the Bondholder Representative, have the right to accelerate all Obligations under the Bond Documents (including interest thereon at the Default Rate) pursuant to the terms of the Bond Documents and to enforce its rights under this Mortgage and the other Bond Documents by exercising such remedies as are available to Mortgagor under applicable law, either by suit in equity or action at law, or both, whether for specific performance of any provision contained in this Mortgage or any of the other Bond Documents or in aid of the exercise of any power granted in this Mortgage or the other Bond Documents.

(a) Mortgagor shall, with the consent of the Bondholder Representative, have the right to obtain judgment for the Obligations (including all amounts advanced or to be advanced by Mortgagor and the Bondholder Representative under Section 6.1 above, all actual, out-of-pocket costs and expenses of collection and suit, including any bankruptcy or insolvency proceeding affecting Mortgagor, and reasonable attorneys' fees incurred in connection with any of the foregoing) together with interest on such judgment at the Default Rate until payment in full is received by Mortgagor or the Bondholder Representative, as applicable, and Mortgagor shall, with the consent of the Bondholder Representative, have the right to obtain execution upon the Mortgaged Property on account of such judgment.

(b) Mortgagor shall, with the consent of the Bondholder Representative, have the right to institute an action of mortgage foreclosure against the Mortgaged Property or take such other action for realization on the security intended to be provided under Article I of this Mortgage as applicable law or the provisions of the Bond Documents may allow.

(c) Mortgagor shall, with the consent of the Bondholder Representative have the right to institute the STATUTORY POWER OF SALE. Subject to the terms of applicable laws, in exercising its power of sale under this Mortgage, Mortgagor may sell any portion of the Mortgaged Property, either separately from or together with the balance of the Mortgaged Property, or any part thereof, either as one parcel or unit or in such separate parcels or units, all

as Mortgagor may, with the consent of the Bondholder Representative, elect. In the event Mortgagor, in the exercise of the power of sale under this Mortgage, elects to sell in parts or parcels, said sales may be held from time to time, and need not occur on the same day, and said power of sale shall not be fully executed or exhausted until all of the Mortgaged Property or other security not previously sold shall have been sold. Any foreclosure auction held pursuant to the STATUTORY POWER OF SALE may be held at any location within the State.

**6.4 Remedies: Collection of Rents.** Upon the occurrence of, and during the continuance of, an Event of Default, Mortgagor may, with the consent of the Bondholder Representative, or shall, at the direction of the Bondholder Representative, at any time without notice, either in person, by agent or by a receiver appointed by a court, and without regard to the adequacy of any security for the Obligations, enter upon the Mortgaged Property and, with or without taking possession of the Mortgaged Property, and with or without legal action, collect all Rents (which term shall also include amounts determined by Mortgagor, in consultation with the Bondholder Representative, as fair rental value for use and occupation of the Mortgaged Property by any person, including Mortgagor) and, after deducting all actual, out-of-pocket costs of collection and administration expense including reasonable attorneys' fees and reasonable reserves, apply the net Rents to any of the Obligations in such order and amounts as Mortgagor, in consultation with the Bondholder Representative, may determine, or any of the following in such order and amounts as Mortgagor, in consultation with the Bondholder Representative, may elect: the payment of any sums due, or accumulation of necessary reserves for, payment of all actual, out-of-pocket costs and expenses arising from or incurred in connection with (a) the preservation and protection of the validity and priority of the lien of this Mortgage; (b) the preservation and protection of the Mortgaged Property; (c) compliance with Legal Requirements; and (d) fulfilling any obligations of Mortgagor or any other obligor or guarantor under the Permitted Encumbrances, the Leases, this Mortgage or the other Bond Documents. Mortgagor shall not be accountable for more monies than it actually receives from the Mortgaged Property nor shall it be liable for failure to collect the Rents. Mortgagor shall have the right, in consultation with the Bondholder Representative, to determine the method of collection and the extent to which enforcement of collection of Rents shall be prosecuted and such decision shall be deemed conclusive and reasonable.

**6.5 Remedies: Repossession.** Upon the occurrence of, and during the continuance of, an Event of Default, Mortgagor shall, with the consent of the Bondholder Representative, have the right to take possession of any portion of the Mortgaged Property constituting fixtures or other personal property subject to the UCC, and any records pertaining thereto. Mortgagor shall, with the consent of the Bondholder Representative, have the right to use, operate, manage, lease or otherwise control such Mortgaged Property in any lawful manner and, in consultation with the Bondholder Representative, but without any obligation to do so, insure, maintain, repair, renovate, alter or remove such Mortgaged Property and to use, in connection with any assembly, use or disposition of such Mortgaged Property any trade mark, trade name, trade style, copyright, brand, patent right or technical process used or utilized by Mortgagor. In addition, upon ten (10) calendar days' prior written notice to Mortgagor (which Mortgagor hereby acknowledges to be sufficient and commercially reasonable) Mortgagor shall, with the consent of the Bondholder Representative, have the right to sell, lease or otherwise dispose of all or any of such Mortgaged Property at any time and from time to time at public or private sale, with or without advertisement thereof, with the right of Mortgagor or its nominee to become purchaser at any

sale (unless prohibited by statute) free from any equity of redemption and from all other claims, and after deducting all legal and other expenses for maintaining or selling such Mortgaged Property, and all reasonable attorneys' fees, legal or other expenses for collection, sale and delivery, apply the remaining proceeds of any sale to pay (or hold as a reserve against) the Obligations and exercise all other rights and remedies of a secured party under the UCC or any other applicable law.

**6.6 Remedies: Appointment of Receiver.** Upon the occurrence of, and during the continuance of, an Event of Default, Mortgagor may, with the consent of the Bondholder Representative, or shall, at the direction of the Bondholder Representative, without notice, and to the extent permitted under applicable law, obtain appointment of a receiver for the Mortgaged Property without regard to the adequacy of any security for the Obligations.

**6.7 Remedies: Actions Prior to Acceleration.** Mortgagor shall, with the consent of the Bondholder Representative, have the right, from time to time, to bring an appropriate action or actions to recover any sums required to be paid by Mortgagor under the terms of this Mortgage, as they become due, without regard to whether or not the Obligations shall be due and payable in full, and without prejudice to the right of Mortgagor thereafter to bring an action of mortgage foreclosure, or any other action, for any default by Mortgagor existing at the time the earlier action was commenced.

**6.8 No Marshaling.** Any of the Mortgaged Property sold pursuant to any writ of execution issued on a judgment obtained on the Obligations or pursuant to any other judicial proceedings relating to this Mortgage or the other Bond Documents may be sold in one parcel, as an entirety, or in such parcels, and in such manner or order as Mortgagor, in consultation with the Bondholder Representative, may elect.

#### 6.9 Rights and Remedies Cumulative.

(a) All rights and remedies of Mortgagor as provided in this Mortgage and the other Bond Documents shall be cumulative and concurrent, may be pursued separately, successively or together against Mortgagor or the Mortgaged Property, or both, as consented to by the Bondholder Representative or as directed by the Bondholder Representative and may be exercised as often as occasion therefor shall arise. The failure to exercise any such right or remedy shall in no event be construed as a waiver or release thereof.

(b) Any failure by Mortgagor or the Bondholder Representative to insist upon strict performance by Mortgagor of any of the terms and provisions of this Mortgage or the other Bond Documents shall not be deemed to be a waiver of any of the terms or provisions of this Mortgage or the other Bond Documents, and Mortgagor and the Bondholder Representative shall have the right thereafter to insist upon strict performance by Mortgagor of any and all of them.

### ARTICLE VII MISCELLANEOUS

**7.1 Costs and Expenses.** If Mortgagor or the Bondholder Representative becomes a party to any suit or proceeding affecting the Mortgaged Property, title thereto, the lien created by this Mortgage or Mortgagor's interest therein, or in the event of the commencement of any

bankruptcy or insolvency proceedings involving Mortgagor, or if Mortgagor or the Bondholder Representative engages counsel to collect or to enforce performance of the Obligations, or if Mortgagor or the Bondholder Representative incurs any other actual, out-of-pocket costs and expenses in perfecting, protecting or enforcing its rights hereunder or in responding to any request of Mortgagor for any consent, waiver, approval, modification or release in connection with this Mortgage or the Mortgaged Property, Mortgagor's and the Bondholder Representative's reasonable counsel fees, and all other actual, out-of-pocket costs and expenses paid or incurred by Mortgagor and the Bondholder Representative, including reasonable fees of appraisers, accountants, consultants, and other professionals, title premiums, title report and work charges, filing fees and mortgage, mortgage registration, transfer, stamp and other excise taxes, whether or not an Event of Default shall have occurred, shall be paid to Mortgagor or the Bondholder Representative, as applicable, on demand, with interest at the Default Rate and until paid they shall be deemed to be part of the Obligations secured by this Mortgage.

**7.2 Indemnity.** Mortgagor shall indemnify, defend and hold Mortgagor and the Bondholder Representative harmless from and against any claims, expenses, demands, losses, actual, out-of-pocket costs, fines or liabilities of any kind (including those involving death, personal injury or property damage and including reasonable attorneys' fees and costs) arising from or in any way related to the failure of Mortgagor to comply with, or the failure of the Mortgaged Property to be kept in compliance with, the Legal Requirements, Applicable Environmental Laws, the Leases and the Permitted Encumbrances. The indemnification of Mortgagor under this section shall survive the release or termination of this Mortgage and shall remain effective notwithstanding any foreclosure of this Mortgage or other execution against the Mortgaged Property or acceptance of a deed in lieu of foreclosure. The indemnification agreement of Mortgagor under this section is specifically excepted from any limitation of liability provision contained in this or any other Bond Document.

**7.3 Declaration of No Set-Off.** Within ten (10) days after requested to do so by Mortgagor or the Bondholder Representative, Mortgagor shall certify to Mortgagor and the Bondholder Representative or to any proposed assignee of this Mortgage or participant in the Obligations in a writing duly acknowledged, the amount of principal, interest and other charges then owing on the Obligations secured by this Mortgage and whether there are set-offs or defenses against them.

**7.4 Communications.** All notices under this Mortgage shall be in writing and shall be given by either (a) hand-delivery; (b) certified or registered first class mail (postage prepaid); or (c) reliable overnight commercial courier (charges prepaid) to the parties at their respective addresses set forth at the beginning of this Mortgage. A party may change its address by giving written notice to the other party as specified herein. A copy of any notice under this Mortgage provided by any party shall also be given to the Bondholder Representative.

**7.5 Covenant Running With the Land.** Any act or agreement specified herein to be done or performed by Mortgagor shall be construed as a covenant running with the land and shall be binding upon Mortgagor and its successors and assigns as if each had personally made such agreement.

7.6 **Amendment.** Any amendment, modification, consent, or waiver that may be hereafter requested by Mortgagor or otherwise required must be in writing and signed by both Mortgagor and Mortgagee and approved by the Bondholder Representative.

7.7 **Applicable Law.** This Mortgage shall be construed and enforced in accordance with the laws of the State of New Hampshire.

7.8 **Construction.** Whenever used in this Mortgage, unless the context clearly indicates a contrary intent:

(a) The word "**Mortgagor**" shall mean the persons who execute this Mortgage and any subsequent fee owner of the Mortgaged Property and his respective heirs, executors, administrators, personal representatives, successors and assigns;

(b) The word "**Mortgagee**" shall mean, collectively, all of the entities listed as Mortgagee hereinabove or any subsequent holder of this Mortgage or participant in the loan secured hereby;

(c) The word "**person**" shall mean individual, corporation, partnership or unincorporated association;

(d) The use of any gender shall include all genders;

(e) The singular number shall include the plural and the plural the singular as the context may require;

(f) The word "**including**" shall mean "including but not limited to" or "including without limitation" as the context may require.

7.9 **Liability Hereunder.** If Mortgagor, or any successor or grantee of Mortgagor, shall be more than one person, all Obligations of Mortgagor under this Mortgage shall be joint and several and shall bind and affect all persons who are defined as "Mortgagor" as fully as though all of them were specifically named herein wherever the word "Mortgagor" is used.

7.10 **Headings.** The headings of sections have been included in this Mortgage for convenience of reference only and shall not be considered in interpreting this Mortgage.

7.11 **Severability.** If any provision of this Mortgage shall be held for any reason to be invalid, illegal or unenforceable, such impairment shall not affect any other provision of this Mortgage.

7.12 **Receipt of Copy.** Mortgagor acknowledges receipt of conformed copies of the Bond Documents and this Mortgage.

7.13 **Acknowledgment.** THIS MORTGAGE CONTAINS A POWER OF ATTORNEY COUPLED WITH AN INTEREST AND IS FOR MORTGAGEE. THIS MORTGAGE IS BEING EXECUTED IN CONNECTION WITH A LOAN OR OTHER FINANCIAL TRANSACTION FOR BUSINESS PURPOSES AND NOT PRIMARILY FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES. MORTGAGEE, AS AGENT FOR MORTGAGOR

UNDER THE POWER OF ATTORNEY, IS NOT A FIDUCIARY FOR MORTGAGOR, MORTGAGEE, IN EXERCISING ANY OF ITS RIGHTS OR POWERS PURSUANT TO THE POWER OF ATTORNEY, MAY DO SO FOR THE SOLE BENEFIT OF MORTGAGEE AND NOT FOR MORTGAGOR.

7.14 **No Waiver.** No failure by Mortgagee or the Bondholder Representative to insist upon strict, full and complete (i) payment when due of any portion of the Indebtedness or (ii) performance of any Obligation, nor failure to exercise any right or remedy hereunder, shall constitute a waiver of any such failure to pay or breach of any such Obligation, or of the later exercise of such right or remedy.

7.15 **Waiver of Statute of Limitations and Rights to Trial by Jury.** MORTGAGOR HEREBY WAIVES, TO THE FULL EXTENT ALLOWED BY LAW, THE RIGHT TO PLEAD ANY STATUTE OF LIMITATIONS AS A DEFENSE TO ANY OBLIGATION SECURED BY THIS MORTGAGE AND THE RIGHT TO A JURY TRIAL IN ANY ACTION UNDER OR RELATING TO THE BOND DOCUMENTS.

7.16 **Liability and Indemnification of Mortgagee and the Bondholder Representative.** MORTGAGEE AND THE BONDHOLDER REPRESENTATIVE SHALL NOT BE LIABLE FOR ANY ERROR OF JUDGMENT OR ACT DONE BY MORTGAGEE OR THE BONDHOLDER REPRESENTATIVE IN GOOD FAITH, OR BE OTHERWISE RESPONSIBLE OR ACCOUNTABLE UNDER ANY CIRCUMSTANCES WHATSOEVER (INCLUDING MORTGAGEE'S AND THE BONDHOLDER REPRESENTATIVE'S NEGLIGENCE OR ANY STRICT LIABILITY) EXCEPT FOR THEIR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. Mortgagee and the Bondholder Representative shall have the right to rely on any instrument, document, or signature authorizing or supporting any action taken or proposed to be taken by them hereunder, believed by them in good faith to be genuine. All monies received by Mortgagee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other monies (except to the extent required by law and the Bond Documents), and Mortgagee shall be under no liability for interest on any monies received by it hereunder except as provided in the Bond Documents. Mortgagor will reimburse Mortgagee and the Bondholder Representative for, and indemnify and save them harmless against, any and all liabilities and expenses (including reasonable attorneys' fees) which may be incurred by them in the performance of their duties hereunder. The foregoing indemnity shall not terminate upon release, foreclosure, or other termination of this Mortgage.

7.17 **Homestead.** Mortgagor hereby releases to Mortgagee any and all rights of homestead in the Mortgaged Property.

7.18 **Maximum Amount Secured.** NOTICE IS HEREBY GIVEN that for purposes of RSA 479:3 this Mortgage secures a maximum amount equal to \$171,300,000, plus accrued interest thereon, plus applicable late charges, plus any advances made to protect Mortgagee's security of this Mortgage and the other Bond Documents, plus foreclosure costs and expenses, including, without limitation, reasonable attorneys' fees plus any other actual, out-of-pocket costs and expenses authorized by this Mortgage, the Trust Indenture or the other Bond Documents.

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IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be duly executed and delivered as a sealed instrument as of the \_\_\_\_ day of April, 2022.

MORTGAGOR:

THE BALDWIN SENIOR LIVING

By: \_\_\_\_\_  
Name: Marlene Rotering  
Title: Chief Executive Officer

STATE OF \_\_\_\_\_, ss.  
\_\_\_\_\_, 2022

Then personally appeared before me the above-named Marlene Rotering, as the Chief Executive Officer of The Baldwin Senior Living, proved to me through satisfactory identification to be the person executing the foregoing document and acknowledged that he/she signed it voluntarily as his/her free act and deed and the free act and deed of The Baldwin Senior Living.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

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**EXHIBIT A**

**Legal Description**

A CERTAIN PARCEL OF LAND LOCATED IN THE TOWN OF LONDONDERRY, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE, SITUATED SOUTH OF PILLSBURY ROAD AND WEST OF INTERSTATE 93, BEING DEPICTED ON A PLAN "CONSOLIDATION / LOT LINE RELOCATION PLAN, (MAP 10 LOTS 41, 41-1, AND 41-2) WOODMONT COMMONS PLANNED UNIT DEVELOPMENT, PREPARED FOR RECORD OWNER: PILLSBURY REALTY DEVELOPMENT, LLC DATED: SEPTEMBER 19, 2018 LAST REVISED ON OCTOBER 13, 2020", AND RECORDED ON OCTOBER 14, 2020 WITH THE ROCKINGHAM COUNTY REGISTRY OF DEEDS AS PLAN NO. D-42418 ("PLAN D-42418"), BEING LOT 41-1 ON SAID PLAN AND DESCRIBED MORE PARTICULARLY AS FOLLOWS:

BEGINNING AT AN IRON PIPE IN A STONE WALL AT THE NORTHWEST CORNER OF LAND OF THE STATE OF NEW HAMPSHIRE; THENCE:

S 34° 05' 47" E BY SAID STATE LAND AND STONE WALL, A DISTANCE OF 205.00 FEET TO A POINT AT OTHER LAND OF THE GRANTOR; THENCE

THE NEXT 18 COURSES BEING BY LAND OF THE GRANTOR:

S 76° 57' 59" W A DISTANCE OF 585.90 FEET TO A POINT; THENCE

N 72° 03' 51" W A DISTANCE OF 152.17 FEET TO A POINT; THENCE

N 24° 46' 53" W A DISTANCE OF 32.33 FEET TO A POINT; THENCE

S 65° 42' 20" W A DISTANCE OF 96.12 FEET TO A POINT; THENCE

NORTHWESTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF 590.00 FEET, A DELTA ANGLE OF 06° 42' 05" AND AN ARC LENGTH OF 69.01 FEET TO A POINT; THENCE

N 65° 20' 20" E A DISTANCE OF 115.99 FEET TO A POINT; THENCE

N 24° 46' 53" W A DISTANCE OF 644.57 FEET TO A POINT; THENCE

EASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF 175.00 FEET, A DELTA ANGLE OF 32° 47' 10" AND AN ARC LENGTH OF 100.14 FEET TO A POINT; THENCE

S 89° 50' 51" E A DISTANCE OF 93.37 FEET TO A POINT; THENCE

EASTERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF 225.00 FEET, A DELTA ANGLE OF 27° 23' 15" AND AN ARC LENGTH OF 107.55 FEET TO A POINT; THENCE

N 62° 45' 54" E A DISTANCE OF 121.87 FEET TO A POINT; THENCE

EASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF 237.50 FEET, A DELTA ANGLE OF 16° 27' 35" AND AN ARC LENGTH OF 68.23 FEET TO A POINT; THENCE

N 79° 13' 28" E A DISTANCE OF 14.04 FEET TO A POINT; THENCE

EASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF 437.50 FEET, A DELTA ANGLE OF 12° 43' 55" AND AN ARC LENGTH OF 97.22 FEET TO A POINT; THENCE

S 88° 02' 37" E A DISTANCE OF 90.99 FEET TO A POINT; THENCE

EASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF 637.50 FEET, A DELTA ANGLE OF 12°

14' 36" AND AN ARC LENGTH OF 136.23 FEET TO A POINT; THENCE

S 75° 48' 01" E A DISTANCE OF 200.52 FEET TO A POINT; THENCE

S 15° 46' 28" E A DISTANCE OF 382.45 FEET TO A POINT AT LAND OF THE STATE OF NEW HAMPSHIRE; THENCE

S 57° 12' 50" W BY SAID STATE LAND, A DISTANCE OF 222.21 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH the non-exclusive easements described in Section III of the Declaration of Reciprocal Easements and Construction Agreement made by and between Pillsbury Realty Development, LLC and Demoulas Supermarkets, Inc., dated October 20, 2017 and recorded November 15, 2017 in Book 5871, Page 1917, Rockingham County Registry of Deeds.

TOGETHER WITH the non-exclusive easements described in Sections III. A. through III. I. of the Declaration of Access and Utility Easements made by and between Pillsbury Realty Development, LLC and The Baldwin Senior Living, dated as of October 19, 2020 and recorded herewith, and as more particularly shown on (i) Plan D-42418, (ii) "Easement Details (Map 10, Lots 41, 41-1 and 41-2), Woodmont Commons Planned Unit Development, 7 & 15 Pillsbury Rd., Londonderry, New Hampshire", dated Sept 19, 2018, last revised October 13, 2020, prepared by Hayner Swanson, Inc., recorded with the Rockingham County Registry of Deeds on October 14, 2020 as Plan No. D-42419, and (iii) "Easement Plan (Map 10, Lot 41), Woodmont Commons Planned Unit Development, Michels Way, Main Street, Woodmont Avenue and Pillsbury Road, Londonderry, New Hampshire", prepared for Pillsbury Realty Development, LLC, prepared by Hayner Swanson, Inc., dated October 5, 2020, recorded on October 14, 2020 in the Rockingham County Registry of Deeds as Plan No. D-42420.

TOGETHER WITH the right to enforce the restrictive covenant set forth in Section I. a) of the Declaration of Restrictive Covenant made by and between Pillsbury Realty Development, LLC and The Baldwin Senior Living dated as of October 19, 2020 and recorded herewith.

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## **PROPOSED FORM**

### **MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT, AND FIXTURE FILING STATEMENT**

**THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT, AND FIXTURE FILING STATEMENT** (this "Mortgage") dated as of the first day of April, 2022, and effective the 21<sup>st</sup> day of April, 2022, is made by **THE BALDWIN SENIOR LIVING**, a nonprofit corporation of the State of New Hampshire, with an address of 1E Commons Drive, Unit 24, Londonderry, NH 03053 ("Mortgagor"), in favor of **UMB BANK, NATIONAL ASSOCIATION**, as Trustee, with an address of 2 South Broadway, Suite 600, St. Louis, MO 63102 ("Mortgagee").

### **ARTICLE I OBLIGATIONS; SECURITY**

1.1 **Obligations; Bond Documents.** This Mortgage is executed, acknowledged and delivered by Mortgagor to secure and enforce the following obligations and liabilities (collectively, the "Obligations"):

(a) The payment of (i) the principal sum of SEVENTEEN MILLION FOUR HUNDRED THOUSAND AND 00/100 DOLLARS (\$17,400,000), with interest and premium, if any, thereon, pursuant to the provisions of the Trust Indenture dated as of April 1, 2022 (the "Trust Indenture"; capitalized terms used but not defined in this Mortgage are used in this Mortgage as defined in the Trust Indenture), by and between the Business Finance Authority of the State of New Hampshire (the "Authority"), and the Mortgagee, and the Loan Agreement dated as of April 1, 2022 (the "Loan Agreement") by and between the Mortgagor and the Authority, which Loan Agreement evidences, among other things, Mortgagor's obligations in connection with the issuance of the Authority's Subordinate Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022E (the "Bonds") in the aggregate principal amount of \$17,400,000; (ii) all sums now or in the future advanced or coming due or required to be paid with respect to the Bonds under the Loan Agreement and the Trust Indenture pursuant to which the Bonds have been issued, whether for principal, interest, fees, costs, charges, expenses, or other amounts owing under indemnification or other obligations under the Security Instruments; whether such advances are voluntary or obligatory; whether such obligations presently exist or come into existence at some future time; and whether such advances, costs and expenses were made or incurred at the request of Mortgagor, Mortgagee or any other obligor or guarantor under the Loan Agreement, Trust Indenture, or Security Instruments; and (iii) all sums that may hereafter be loaned to Mortgagor by Mortgagee or the Authority on a parity basis whether evidenced by the Loan Agreement, Trust Indenture, or any Security Instrument or a loan agreement, promissory note, or other obligation reciting that said agreement, note, or obligation is intended to be secured by this Mortgage; and

(b) The performance of all of the terms, covenants, conditions, agreements, obligations and liabilities of Mortgagor or any other obligor or guarantor under (i) the Loan Agreement, the Trust Indenture, the Security Instruments and any other document now or hereafter given to evidence, secure or facilitate the payment and performance of any of the

Obligations; (ii) all extensions, renewals, replacements or modifications of, or amendments or additions to any of the foregoing; (iii) any note, loan agreement, document or instrument now or hereafter evidencing an obligation of Mortgagor to Mortgagee or Authority that recites that it is intended to be secured by this Mortgage (all of the foregoing in clauses (i), (ii), and (iii) being collectively referred to in this Mortgage as the "Bond Documents"). Mortgagor shall pay and perform the Obligations required in accordance with the provisions of the Bond Documents.

1.2 **Grant of Mortgage; Mortgaged Property.** For the purpose of securing payment and performance of all Obligations, Mortgagor has granted, conveyed, bargained, sold, alienated, enfeoffed, released, confirmed, assigned to, granted a security interest in and mortgaged, and by these presents does hereby grant, convey, bargain, sell, alienate, enfeoff, release, confirm, assign to, grant with MORTGAGE COVENANTS and upon the STATUTORY CONDITIONS, a security interest in and mortgage unto Mortgagee all of Mortgagor's right, title and interest in and to the following whether presently in existence or to come into existence at some future time (collectively, the "Mortgaged Property"):

(a) Certain parcels of land located in the Town of Londonderry, Rockingham County, New Hampshire, and more fully described in Exhibit "A" attached hereto and made a part hereof (the "Land");

(b) All buildings, structures and improvements of every kind erected on, under or over the Land (the "Improvements") (the Land, the Improvements and the Fixtures being hereinafter referred to as, collectively, the "Real Estate");

(c) All estates, rights, tenements, hereditaments, privileges, easements, and appurtenances of any kind benefiting the Real Estate; all means of access to and from the Real Estate, whether public or private; all water, oil, gas and mineral rights; all rights of Mortgagor as declarant or unit owner under any declaration of condominium or association applicable to the Real Estate; and all other claims or demands of Mortgagor, either at law or in equity, in possession or expectancy, of, in, or to the Real Estate;

(d) All leases, licenses, occupancy agreements, use agreements, or agreements to lease all or any part of the Real Estate and all extensions, renewals, amendments, and modifications thereof, and any options, rights of first refusal, or guarantees relating thereto (collectively, "Leases"); and all rents, income, receipts, revenues, security deposits, escrow accounts, reserves, issues, profits, awards, and payments of any kind payable under the Leases or otherwise arising from the Real Estate (collectively, the "Rents");

(e) All awards and other compensation heretofore and hereafter to be made to Mortgagor for any taking by eminent domain, either permanent or temporary, of all or any part of the Real Estate or any easement or appurtenance thereof, including severance and consequential damage and change in grade of streets, or any of the personal property described in this Section below;

(f) All payments, proceeds, settlements or other compensation heretofore or hereafter made, including any interest thereon, and the right to receive the same, from any and all

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insurance policies covering the Real Estate or any portion thereof or any of the personal property described in this Section below;

(g) All Goods, purchased by Mortgagor with proceeds of the Bonds, including without limitation, Fixtures, Equipment and Accessions;

(h) All Goods, other than those purchased by Mortgagor with proceeds of the Bonds, having a useful life of five (5) years or more, including without limitation, Fixtures, Equipment and Accessions, attached to, situate or installed in or upon, or used in the operation or maintenance of the Real Estate;

(i) All Accounts and General Intangibles relating to the use, construction upon, occupancy, leasing, sale or operation of the Real Estate, with the exception of any donor restricted gifts made to Mortgagor;

(j) All As-Extracted Collateral arising from the Land;

(k) All books and records evidencing or relating to the foregoing, including, without limitation, billing records of every kind and description, tenant lists, data storage and processing media, Software and related material, including computer programs, computer tapes, cards, disks and printouts, and including any of the foregoing which are in the possession of any affiliate or property manager;

(l) All right, title, and interest of Mortgagor in and to the name and style by which the Land and/or the Improvements is known, including trademarks and trade names relating thereto;

(m) All right, title, and interest of Mortgagor in, to and under all plans, specifications, maps, surveys, studies, reports, permits, licenses, architectural, engineering and construction contracts, books of account, insurance policies, and other documents, of whatever kind or character, and all proceeds and other amounts paid or owing to Mortgagor under or pursuant to any and all contracts and bonds, relating to the use, construction upon, renovation, occupancy, leasing, sale, or operation of the Land and/or the Improvements;

(n) All right, title, and interest of Mortgagor in and to all contracts, permits, certificates, licenses, approvals, utility deposits, utility capacity, and utility rights issued, granted, agreed upon, or otherwise provided by any governmental or private authority, person or entity relating to the ownership, development, construction, operation, maintenance, marketing, sale or use of the Land and/or the Improvements, including all of Mortgagor's rights and privileges hereto or hereafter otherwise arising in connection with or pertaining to the Land and/or the Improvements, including, without limiting the generality of the foregoing, all water and/or sewer capacity, all water, sewer and/or other utility deposits or prepaid fees, and/or all water and/or sewer and/or other utility tap rights or other utility rights, any right or privilege of Mortgagor under any loan commitment, lease, contract, Declaration of Covenants, Restrictions and Easements, or like instrument, Developer's Agreement, or other agreement with any third party pertaining to the ownership, development, construction, operation, maintenance, marketing, sale, or use of the Land and/or the Improvements; and

(o) All Proceeds of any of the above-described property.

Capitalized terms contained in this Section without definition shall have the meanings ascribed to them in revised Article 9 of the Uniform Commercial Code as enacted by the State of New Hampshire (the "State") and as amended from time to time (the "UCC").

TO HAVE AND TO HOLD the Mortgaged Property unto Mortgagee to and for the use of Mortgagor forever.

PROVIDED ALWAYS THAT, if Mortgagor fully and indefeasibly pays, performs and discharges all Obligations now or hereafter secured or to be secured by this Mortgage at the times and in the manner specified without deduction, fraud or delay, and Mortgagor delivers written notice to Mortgagee requesting termination of this Mortgage of record, then Mortgagee shall release this Mortgage of record and the estate hereby granted shall cease and become void.

1.3 **Security Agreement.** This Mortgage is also a security agreement under the UCC. Mortgagor grants, and Mortgagee shall have and may enforce, a security interest in all those property interests included in the Mortgaged Property that may be "personal property" to secure payment and performance of all Obligations. The recordation of this Mortgage shall also constitute a fixture filing in accordance with the provisions of the UCC. Mortgagor agrees to cooperate and join, at its expense, with Mortgagee in taking such steps as are necessary, in Mortgagee's judgment, to perfect or continue the perfected status of the security interest granted hereunder, including, without limitation, the execution and delivery of financing statements, amendments thereto, and continuation statements. Mortgagee may, at any time and from time to time, file financing statements, continuation statements and amendments thereto that describe the Mortgaged Property and that contain any other information required by the UCC for the sufficiency or filing office acceptance of any financing statement, continuation statement or amendment, including whether Mortgagor is an organization, the type of organization and any organization identification number issued to Mortgagor. Any such financing statements, continuation statements or amendments may be signed by Mortgagee on behalf of Mortgagor. Mortgagor irrevocably appoints Mortgagee attorney-in-fact for Mortgagor to execute, deliver and file such financing statements, continuation statements and amendments. Inasmuch as the parties intend that this Mortgage shall, among other things, constitute a fixture filing, Mortgagor sets forth the following:

(a) The debtor for purposes of the security interest (and its related financing statement) is Mortgagor;

(b) The secured party for purposes of the security interest (and its related financing statement) is Mortgagee;

(c) The collateral includes Fixtures which are or shall be affixed to the Real Estate; and

(d) The record owner of the Real Estate is Mortgagor.

#### 1.4 Assignment of Leases and Rents.

(a) This Mortgage is also an absolute and unconditional assignment to Mortgagee of all Leases and Rents, whether now in existence or hereafter arising, for the purpose of vesting in Mortgagee a first priority, subject to Section 7.19 hereof, perfected security interest in the Leases and the Rents. Mortgagor hereby assigns, transfers and sets over to Mortgagee all Leases, all Rents and all rights of Mortgagor to enforce the Leases and collect the Rents. This assignment includes any award received or receivable by Mortgagor in any legal proceeding involving any tenant under a Lease whether under the Bankruptcy Code or otherwise.

(b) Mortgagor irrevocably appoints Mortgagee the attorney-in-fact of Mortgagor to enforce the Leases and demand, receive and collect the Rents and the sole and exclusive agent of Mortgagor to agree to any modifications of the Leases. This power is coupled with an interest and is therefore irrevocable. Mortgagor shall notify any person Mortgagee may from time to time specify that the Rents should be paid directly to Mortgagee and that any modification of the Leases must be approved by Mortgagee and the Bondholder Representative for the Bonds (the "Bondholder Representative").

(c) So long as there has not occurred an Event of Default (as hereinafter defined) that is continuing, Mortgagor shall have a license to enforce the Leases and collect the Rents subject to any applicable provisions contained in the Bond Documents. Following the occurrence of, and during the continuance of, an Event of Default, such license shall be revocable at the will of Mortgagee or the Bondholder Representative. Upon request of Mortgagee or the Bondholder Representative, Mortgagor shall execute and deliver to Mortgagee (i) a specific assignment, in recordable form, of any Lease now or hereafter affecting the Mortgaged Property or any portion thereof to further evidence the assignment hereby made and (ii) such other instruments as Mortgagee or the Bondholder Representative may deem necessary, convenient or appropriate in connection with the payment and delivery directly to Mortgagee of all of the Rents pursuant to the terms of the assignment hereby made.

(d) All security deposits, prepaid rent permitted to be collected by Mortgagor, if any (other than prepaid rent for the next succeeding calendar month), and similar payments under any Lease shall be deposited in an account with a financial institution reasonably acceptable to Mortgagee and the Bondholder Representative. Mortgagor shall notify Mortgagee and the Bondholder Representative of the identification of the escrow account. Such sums shall be disbursed only upon the prior written consent of Mortgagee and the Bondholder Representative, not to be unreasonably withheld, conditioned or delayed, except such consent shall not be required when by law or by the terms of the Lease Mortgagor is required to, and does, return such sums to the party entitled to same under the Lease.

(e) Mortgagor shall not accept or permit the payment of rent in any medium other than lawful money of the United States of America, or anticipate, discount, compromise, forgive or collect any rent more than one month in advance, encumber or further assign the Leases or the Rents or any part thereof or any interest therein without the prior written consent of Mortgagee and the Bondholder Representative.

(e) Mortgagor shall make such payments, all before the same shall become delinquent, and perform all obligations as are required under any Permitted Encumbrances affecting the Mortgaged Property.

2.2 No Transfer. Without the prior written consent of Mortgagee and the Bondholder Representative in each instance, which consent may be given or withheld in the Bondholder Representative's sole discretion (either of which shall not be unreasonably delayed), Mortgagor will abstain from, and will not cause or permit, any transfer of the Mortgaged Property or any portion thereof, whether voluntary, involuntary, by operation of law, or otherwise, nor shall Mortgagor enter into any agreement or transaction to transfer, or accomplish in form or substance a transfer, of the Mortgaged Property.

(a) A "transfer" of the Mortgaged Property includes (i) the direct or indirect sale, agreement to sell, transfer or conveyance of the Mortgaged Property or any portion thereof or interest therein; (ii) the execution of any installment land sale contract or similar instrument affecting all or a portion of the Mortgaged Property; and, unless and only to the extent Mortgagee and the Bondholder Representative have expressly consented to the following transfers in this Mortgage or the other Bond Documents; and (iii) the transfer of any stock, partnership or other ownership interests in Mortgagor (if Mortgagor is a partnership, joint venture or corporation) except in each case as may be permitted in or contemplated by the Bond Documents.

(b) Consent to any such transfer shall not be deemed to be a waiver of the right to require consent to future or successive transfers. If consent should be given to a transfer and if this Mortgage is not released to the extent of the transferred portion of the Mortgaged Property by a writing signed by Mortgagor and recorded in the appropriate office of public record, then any such transfer shall be subject to this Mortgage and any such transferee shall be deemed, by acceptance of the deed or other instrument of transfer, to have assumed all Obligations under this Mortgage and to have agreed to be bound by all provisions contained herein. Any such assumption shall not, however, release Mortgagor or any other obligor or guarantor of the Obligations from any liability under the Bond Documents.

2.3 No Other Financing or Liens. Without the prior written consent of Mortgagee and the Bondholder Representative in each instance, which consent may be given or withheld in the Bondholder Representative's sole discretion, Mortgagor shall not create or cause or permit to exist any lien on the Mortgaged Property whether superior to or subject to the lien of this Mortgage except the Permitted Encumbrances.

2.4 Leases. Mortgagor represents and warrants that there are no Leases affecting the Mortgaged Property. Mortgagor shall not enter into any Leases without the prior written consent of Mortgagee and the Bondholder Representative being obtained in each instance, such consent not to be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Mortgagee and Bondholder Representative's consent shall not be required for any leases or other occupancy agreements to residents of any improvements to be constructed on the Property in the form approved by the Bondholder Representative.

(f) Upon the occurrence and during the continuance of an Event of Default, Mortgagor hereby authorizes and directs that all other parties now or hereafter owing or paying Rents under any Lease or now or hereafter having their possession or control any Rents from or allocated to the Mortgaged Property, or any part thereof, or the Proceeds therefrom, shall, upon the request of Mortgagee or the Bondholder Representative and until Mortgagee or the Bondholder Representative directs otherwise, pay and deliver such Rents directly to Mortgagee at Mortgagee's address set forth in the introduction to this Mortgage, or in such other manner as Mortgagee may direct such parties in writing and this authorization shall continue until this Mortgage is released of record. No payor making payments to Mortgagee at its request under the assignment contained in this Mortgage shall have any responsibility to see to the application of any such funds, and any party paying or delivering Rents to Mortgagee under such assignment shall be released thereby from any and all liability to Mortgagor to the full extent and amount of all such Rents so delivered.

(g) Notwithstanding any legal presumption to the contrary, Mortgagee shall not be obligated by reason of its acceptance of this assignment to perform any obligation of Mortgagor as lessor under any Lease. Neither the acceptance of this assignment nor the collection of Rents under the Leases shall constitute a waiver of any rights of Mortgagee under the Bond Documents or constitute a cure of any default by Mortgagor thereunder or constitute Mortgagee a mortgagee in possession.

1.5 Purchase Money Mortgage. This Mortgage is intended to be a "purchase money mortgage" and shall be entitled to all benefits of such law, and otherwise, relating thereto.

## ARTICLE II TITLE MATTERS

2.1 Warranty of Title. Until the Obligations are fully satisfied, Mortgagor represents, warrants and covenants that:

(a) Mortgagor has good and marketable fee simple absolute title to the Mortgaged Property subject only to the encumbrances set forth in the loan policy of title insurance issued to Mortgagee in connection herewith (the "Permitted Encumbrances") and Mortgagor shall defend the validity, priority and enforceability of the lien of this Mortgage against the claims of all persons excepting only those claiming under Permitted Encumbrances;

(b) Mortgagor has full power and lawful authority to subject the Mortgaged Property to the lien of this Mortgage;

(c) The execution, delivery and performance of this Mortgage and the other Bond Documents will not contravene any Legal Requirements (hereinafter defined) or any agreement, document or instrument to which Mortgagor is a party or by which Mortgagor or the Mortgaged Property is bound;

(d) Mortgagor shall make, execute, acknowledge and deliver all such further or other deeds, documents, instruments or assurances and cause to be done all such further acts and things as may at any time be required by Mortgagee or the Bondholder Representative to confirm and fully protect the lien and priority of this Mortgage; and

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## ARTICLE III OBLIGATIONS REGARDING MORTGAGED PROPERTY

3.1 Legal Requirements Generally. Mortgagor represents and warrants to Mortgagee that the Mortgaged Property is in compliance with Legal Requirements (hereinafter defined). Mortgagor shall promptly comply with, and cause the Mortgaged Property to be kept in compliance with, in all present and future laws, statutes, codes, ordinances, orders, judgments, decrees, injunctions, rules, regulations, restrictions and requirements (collectively "Legal Requirements") of the United States of America, the state in which the Real Estate is located and any political subdivision thereof or any town, city, county or municipality in which the Real Estate is located or any agency, department, bureau, board, commission or instrumentality of any of the foregoing now existing or hereafter created (individually, a "Governmental Authority" and, collectively, "Governmental Authorities") having jurisdiction over Mortgagor or the Mortgaged Property or the construction, use, occupancy, operation, maintenance, or improvement of the Mortgaged Property, whether foreseen or unforeseen, ordinary or extraordinary.

3.2 Land Use Approvals. Mortgagor represents and warrants to Mortgagee that the Land is and shall remain one or more zoning lots separate and apart from all other premises. Mortgagor shall not, by any act or omission, impair the integrity of the Land as such separate zoning lot or lots. Mortgagor shall not, without the prior written consent of Mortgagee and the Bondholder Representative, not to be unreasonably withheld, conditioned or delayed, submit or cause to be submitted to any Governmental Authority an application for zoning, subdivision or development approval affecting the Real Estate if any of the following would result from such proposed zoning change, subdivision or development: (a) the separate transfer, use and ownership of the Real Estate is not permitted as a matter of right under applicable Legal Requirements pursuant to previously issued permits or approvals affecting the Real Estate; (b) the use of the Real Estate as of the date of this Mortgage is no longer permitted as a matter of right under applicable Legal Requirements or pursuant to previously issued permits or approvals affecting the Real Estate; or (c) any portion of the Real Estate is used to fulfill a Legal Requirement of other property not subject to the lien of this Mortgage except to the extent contemplated under previously issued permits or approvals affecting the Real Estate.

### 3.3 Environmental Matters.

(a) Mortgagor represents and warrants that neither Mortgagor nor, to the best of its knowledge, any other person has (i) used, installed or disposed of any Hazardous Materials (hereinafter defined) on, from, or affecting the Real Estate except in full compliance with Applicable Environmental Laws (hereinafter defined); or (ii) received any notice from any Governmental Authority with regard to Hazardous Materials on, from or affecting the Real Estate.

(b) Mortgagor shall not use the Real Estate, nor allow it to be used, to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials except in full compliance with Applicable Environmental Laws. Mortgagor shall not knowingly cause or permit a release of Hazardous Materials onto, from or affecting the Real Estate or any other use, installation, or disposition of Hazardous Materials in violation of Applicable Environmental Laws. Mortgagor shall comply, and enforce compliance by all

tenants and subtenants, with all Applicable Environmental Laws and shall keep the Real Estate free and clear of any liens imposed pursuant to any Applicable Environmental Laws.

(c) If Mortgagor receives any notice from any Governmental Authority with regard to Hazardous Materials on, from or affecting the Real Estate, or any notice of violation of Applicable Environmental Laws, Mortgagor shall promptly notify Mortgagee and the Bondholder Representative. Mortgagor shall conduct and complete, or shall cause to be conducted and completed, all investigations, studies, sampling, and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials on, from or affecting the Real Estate in accordance with all Applicable Environmental Laws and to the satisfaction of Mortgagee and the Bondholder Representative.

(d) The term "Applicable Environmental Laws" shall mean, without limitation, all Legal Requirements of any Governmental Authority pertaining to the preservation or enhancement of the quality of the environment or regulating or restricting the use, transfer, storage or remediation of Hazardous Materials, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), and the rules, regulations adopted and publications promulgated pursuant thereto at any time. The term "Hazardous Materials" shall mean, without limitation, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials, asbestos or any material containing asbestos, or any other substance or material regulated under any Applicable Environmental Laws.

**3.4 General Obligations.** Until the Obligations are fully satisfied, Mortgagor shall:

(a) Perform, or cause its tenants to perform, all maintenance, repair, restoration and rebuilding required to keep the Real Estate in good repair, order and condition in full compliance with the requirements of the Bond Documents, any Leases affecting the Real Estate and all Legal Requirements;

(b) Pay, or cause its tenants to pay, all charges for water, sewer, gas, electric and other utility services provided to the Real Estate promptly as and when due;

(c) Complete, or cause its tenants to complete, any improvements to the Real Estate required under the Bond Documents, any Leases affecting the Real Estate, or required by any Governmental Authority or insurer insuring the Real Estate, in a good and workmanlike manner and free of mechanics' liens;

(d) Permit, and cause any lessee or occupant of the Real Estate to permit, Mortgagee, the Bondholder Representative and their agents and representatives, to enter upon the Real Estate at any reasonable time and after reasonable notice to appraise and photograph the Real Estate and to inspect for compliance with Legal Requirements (including subsurface investigations to determine compliance with Applicable Environmental Laws), insurance requirements, and the Obligations of Mortgagor under this Mortgage and the other Bond Documents; and

(e) Without expense to Mortgagee or the Bondholder Representative, will maintain full and complete books of account and records reflecting the results of the operations of the Real Estate in accordance with generally accepted accounting principles consistently applied, and will furnish or cause to be furnished to Mortgagor and the Bondholder Representative such financial information concerning the condition of Mortgagor and the Real Estate as Mortgagee or the Bondholder Representative shall reasonably request and make the books and accounts relating to the Real Estate available for inspection by Mortgagee, the Bondholder Representative, and their representatives, upon request at any reasonable time.

**3.5 General Restrictions.** Until the Obligations are fully satisfied, Mortgagor shall not, without the prior written consent of Mortgagee and the Bondholder Representative being obtained in each instance:

(a) Abandon the Real Estate or any portion thereof or allow the same to become vacant;

(b) Commit or suffer waste with respect to the Real Estate;

(c) Impair or diminish the value or integrity of the Mortgaged Property or the priority or security of the lien of this Mortgage;

(d) Except in accordance with the Bond Documents or otherwise in accordance with permits and approvals previously issued to Mortgagor for the development of the Real Estate, remove, demolish or materially alter any of the Real Estate, except that Mortgagor shall have the right to remove and dispose of, or allow its tenants to remove and dispose of, free of the lien of this Mortgage, such Fixtures as may, from time to time, become worn out or obsolete, provided that, simultaneously with or prior to such removal, any such Fixtures shall be replaced with other Fixtures having a value and utility at least equal to that of the replaced Fixtures and, by such removal and replacement, Mortgagor shall be deemed to have subjected such replacement Fixtures to the lien and priority of this Mortgage;

(e) Make, install or permit to be made or installed, any additions or improvements to the Real Estate except in a good and workmanlike manner, free of mechanic's liens, in compliance with Legal Requirements, and in accordance with plans and specifications approved by Mortgagee and the Bondholder Representative, such approval not to be unreasonably withheld, conditioned or delayed; or

(f) Make, suffer or permit any nuisance to exist on the Real Estate or any portion thereof.

**3.6 Required Notices.** Mortgagor shall notify Mortgagee and the Bondholder Representative promptly of the occurrence of any of the following:

(a) a fire or other casualty causing material damage to the Real Estate,

(b) a pending or threatened condemnation of the Real Estate,

(c) a violation of a Legal Requirement or other notice from or to a Governmental Authority relating to the Mortgaged Property.

(d) the giving or receipt of any notice of default or cancellation under any Lease of all or a material portion of the Real Estate, but specifically excluding default notices delivered under any leases or occupancy agreements for residents of the improvements to be constructed on the Real Estate,

(e) the commencement of any litigation affecting the Mortgaged Property,

(f) the discovery, discharge or release of any Hazardous Material for which Mortgagor is or may be responsible under any Applicable Environmental Laws,

(g) the existence of any event or condition presenting a risk of creating material liability in Mortgagor under ERISA (Public Law 93-406, as amended), or

(h) the giving or receipt of any notice of default under any Permitted Encumbrance.

**3.7 Further Assurances.** Mortgagor, at any time upon the reasonable request of Mortgagee or the Bondholder Representative, will at Mortgagor's expense, execute, acknowledge and deliver all such additional papers and instruments (including, without limitation, a declaration of no setoff) and perform all such further acts as may be reasonably necessary to perform the Obligations and, as Mortgagee or the Bondholder Representative deem reasonably necessary, to preserve the priority of the lien of this Mortgage and to carry out the purposes of the Bond Documents.

#### ARTICLE IV TAXES AND INSURANCE

**4.1 Real Estate Taxes and Assessments.**

(a) Mortgagor shall pay, or cause to be paid, when due and before interest or penalties commence to accrue thereon, all taxes, assessments, water and sewer rents, levies, encumbrances and all other charges or claims of any nature and kind, whether public or private, that may be assessed, levied, imposed, suffered, placed or filed at any time against the Real Estate or any part thereof or that by any present or future law may have priority (either in lien or in distribution out of the proceeds of any sale) over the lien of this Mortgage (individually, an "Imposition" and, collectively, "Impositions").

(b) Mortgagor shall produce to Mortgagee and the Bondholder Representative, not later than the last date any such Imposition is due and payable without interest or penalty, official receipts evidencing payment of such Imposition. If Mortgagor is not in default under this Mortgage or any of the other Bond Documents and in good faith and by appropriate legal action shall contest the validity or amount of any Imposition and shall have established, or cause to be established, a reserve for the payment thereof in such form and amount as the Bondholder Representative may require (including any interest and penalties that may be payable in connection therewith), then Mortgagor shall not be required to pay the Imposition or to produce the receipts while the reserve is maintained and so long as the contest operates to prevent

collection, is maintained and prosecuted with diligence, and shall not have been terminated or discontinued adversely to Mortgagee.

**4.2 Taxes on Mortgage.** If any Governmental Authority shall levy, assess or charge any tax, assessment or imposition upon this Mortgage or any of the other Bond Documents (including any requirement to have affixed to this Mortgage any revenue, documentary or similar stamps) or upon the interest of Mortgagee in the Real Estate by reason of this Mortgage or any other Bond Document, Mortgagor shall pay the same directly to such Governmental Authority as an Imposition. If Mortgagor is not legally permitted to pay such Imposition or to reimburse Mortgagee for amounts advanced on account of such payment, then Mortgagee may, with the consent of the Bondholder Representative, declare the entire amount of the Obligations due and payable within ninety (90) days of demand.

**4.3 Corporate or Partnership Mortgagor.** If Mortgagor (or any successor or transferee of Mortgagor) is a corporation, limited liability company or partnership, Mortgagor shall at all times until the Obligations are satisfied in full:

(a) Keep in effect and in good standing its existence and rights as a corporation, limited liability company or partnership, as the case may be, under the laws of the state of its incorporation or constitution and its right to own property and transact business in the state in which the Real Estate is situated; and

(b) File returns for all federal, state and local taxes with the proper Governmental Authorities, and pay, when due and payable and before interest or penalties are due thereon, all taxes owing by Mortgagor to any Governmental Authorities.

**4.4 Provisions Regarding Casualty and Property Damage Insurance.** Until the Obligations are fully satisfied, Mortgagor shall keep, or cause the lessees under the Leases to keep, the Real Estate continuously insured against the following risks, paying (or causing the same to be paid) as the same become due and payable all premiums with respect thereto:

(a) insurance against loss or damage to the Fixtures and Improvements and all improvements therein (including, during any period of time when Mortgagor is making alterations, repairs or improvements to the Fixtures and Improvements, improvements and betterment's coverage), all subject to standard form exclusions, with uniform standard extended coverage endorsement limited only as may be provided in the standard form of extended coverage endorsement at the time in use in the State, in an amount equal to the greater of (i) the full replacement value of the Fixtures and Improvements once constructed and (ii) the aggregate principal amount of the Bonds then Outstanding (as defined in the Trust Indenture), unless the principal value is less than the aggregate principal amount of the Bonds then Outstanding, in which event in an amount equal to the full replacement value of the Fixtures and Improvements;

(b) commercial general liability and automobile liability insurance against claims arising in, on or about the Real Estate, including in, on or about the sidewalks or premises adjacent to the Real Estate, providing coverage limits not less than the coverage limits customarily carried by owners or operators of facilities of similar size and character within the State;

(c) to the extent available, rental value insurance covering all risks as to which insurance is required pursuant to subsection (a) above, in an amount equal to not less than the amounts required to be paid hereunder for a period of not less than 12 months. If any such loss or damage has occurred, Mortgagor shall continue to be obligated to pay the amounts required to be paid pursuant hereunder, and any proceeds of such insurance shall be applied against all or part of such payment obligations of Mortgagor. The amount of insurance required by this subsection (d) shall be in an amount equal to the lesser of (i) the aggregate principal amount of the Bonds then Outstanding plus any other amounts specified to be due hereunder or (ii) the insurable value of the Real Estate in a form acceptable to Mortgagee and the Bondholder Representative; and

(d) such other forms of insurance as Mortgagor is required by law to provide with respect to the Real Estate, including, without limitation, any legally required worker's compensation insurance and disability benefits insurance.

All insurance coverages required by this Section may be subject to deductible clauses in such amounts as are customary for facilities of similar size and character within the State.

All policies maintained (or caused to be maintained) by Mortgagor pursuant to this Section shall be taken out and maintained in generally recognized, responsible insurance companies, which may include "captive" insurance companies or governmental insurance pools, selected by Mortgagor. The insurance policies required by subsections (a) and (d) of this Section shall name Mortgagee as insured as its interests may appear and shall name Mortgagee as a mortgagee and loss payee under the terms of a standard mortgagee loss payable endorsement. Mortgagee shall also be named as additional insured on the policy required by subsection (b) of this Section. All insurance proceeds for losses (except for worker's compensation, fidelity insurance and liability insurance), shall be paid directly to Mortgagee. Such policies or certificates of insurance shall (i) provide that (except as to insurance required pursuant to subsections (c) and (d) of this Section) the insurer will endeavor to mail 30 days' written notice to Mortgagee and the Bondholder Representative of any cancellation prior to expiration of such policy, and (ii) be satisfactory in all other respects to Mortgagee and the Bondholder Representative.

**4.5 Blanket Insurance Policies.** Notwithstanding the foregoing, Mortgagor may, in its discretion, provide any of the insurance required by this Section under blanket insurance policies that insure not only the risks required to be insured hereunder but also other similar risks.

**4.6 Installments for Insurance, Taxes and Other Charges.** Without limiting the effect of the other provisions of this Article, Mortgagor shall pay to Mortgagee monthly an amount equal to one-twelfth (1/12) of the annual amount of all Impositions and premiums for insurance policies required under this Article plus any additional sums necessary to pay, or establish adequate reserves for the payment of, such premiums and Impositions as and when due in accordance with the terms of the Trust Indenture, the Loan Agreement and the Security Instruments. The amounts so paid shall be security for the premiums and Impositions and shall be used in payment thereof if there is no then existing Event of Default, and Mortgagee agrees to pay such amounts directly to the parties to be paid. Upon the occurrence of an Event of Default, Mortgagee shall

have the right, with the consent of the Bondholder Representative, to apply any amount so held against the Obligations.

## ARTICLE V CASUALTY; CONDEMNATION

**5.1 Casualty.** Subject to Section 4.18 of the Continuing Covenants Agreement, if the Real Estate is damaged by fire or other casualty, Mortgagor shall promptly repair and restore, or cause to be repaired and restored, the same to its condition prior to the damage. If, and only for so long as, the following terms and conditions are fully satisfied by Mortgagor, Mortgagee shall release insurance proceeds for repair and restoration of the Real Estate; otherwise, and to the extent of any excess proceeds, Mortgagor shall, with the consent of the Bondholder Representative, have the right to apply the proceeds toward reduction of the Obligations:

(a) No default under this Mortgage or any of the other Bond Documents shall have occurred and be continuing uncured;

(b) Mortgagor shall have delivered evidence satisfactory to Mortgagee and the Bondholder Representative that the Real Estate can be fully repaired and restored within a period of time during which all payments coming due under the Obligations are fully covered by the proceeds of business interruption or rental loss insurance applicable to the loss or damage to the Real Estate;

(c) No holder of a Permitted Encumbrance has a right to apply insurance proceeds to the obligations secured by such Permitted Encumbrance or, if it does, the holder has waived in writing its right to do so;

(d) No Lease for all or a material portion of the Real Estate is cancelable by the lessee on account of the casualty or, if it is, the lessee has waived in writing its right to cancel;

(e) The work is performed by a reputable general contractor satisfactory to Mortgagee and the Bondholder Representative under a fixed price or guaranteed maximum price contract satisfactory to Mortgagee and the Bondholder Representative, in accordance with plans and specifications satisfactory to Mortgagee and the Bondholder Representative and in compliance with all Legal Requirements, and no work shall commence until waivers of mechanics' liens have been filed by the general contractor and all those claiming by, through, or under the general contractor;

(f) Mortgagor shall have deposited, or caused to be deposited, with Mortgagee for disbursement in connection with the restoration the greater of (i) the applicable deductible under the insurance policies covering the loss; or (ii) the amount by which the cost of restoration is estimated by Mortgagee or the Bondholder Representative to exceed the insurance proceeds available for restoration;

(g) The insurance proceeds are held by Mortgagee for disbursement periodically as the work progresses in amounts not exceeding 90% of the value of labor and materials incorporated into the restoration. The remaining 10% will be released upon final completion of

the work in accordance with the aforesaid plans and specifications, and upon a receipt of a release of liens from all contractors and subcontractors engaged in the restoration; and

(h) Mortgagor has paid as and when due all of Mortgagee's and the Bondholder Representative's actual, out-of-pocket costs and expenses incurred in connection with the collection of insurance proceeds, approval of plans, charges of Mortgagee's and the Bondholder Representative's inspection representative and such reasonable fees as may be charged by Mortgagee and the Bondholder Representative to monitor the restoration and disburse the insurance proceeds.

**5.2 Condemnation.** Subject to Section 4.15 of the Continuing Covenants Agreement:

(a) In the event of any condemnation or taking of any part of the Real Estate by eminent domain, alteration of the grade of any street, or other injury to or decrease in the value of the Real Estate by any public or quasi-public authority or corporation, all proceeds (including the award or agreed compensation for the damages sustained) allocable to Mortgagor, after deducting therefrom all actual, out-of-pocket costs and expenses (regardless of the particular nature thereof and whether incurred with or without suit) including reasonable attorney's fees incurred by Mortgagee and the Bondholder Representative in connection with the collection of such proceeds, shall (subject to the terms and conditions applicable to restoration in the case of casualty set forth in Section 5.1 above) be applied toward restoration of the Real Estate. No settlement for damages sustained shall be made by Mortgagor without Mortgagee's and the Bondholder Representative's prior written approval.

(b) If prior to the receipt of the proceeds by Mortgagee, the Real Estate shall have been sold on foreclosure of this Mortgage, Mortgagee shall have the right to receive the proceeds to the extent of:

(i) the full amount of all such proceeds if Mortgagee is the successful purchaser at the foreclosure sale, or

(ii) if anyone other than Mortgagee is the successful purchaser at the foreclosure sale, in addition to the net sale proceeds to be received by Mortgagee in connection with the sale, any deficiency (as hereinafter defined) due to Mortgagee in connection with the foreclosure sale, with legal interest thereon, and reasonable counsel fees, actual, out-of-pocket costs and disbursements incurred by Mortgagee and the Bondholder Representative in connection with collection of such proceeds of condemnation and the establishment of such deficiency. For purposes of this section, the word "deficiency" shall be deemed to mean the difference between (A) the aggregate amount of all sums which Mortgagee and the Bondholder Representative are entitled to collect under the Bond Documents, and (B) the net sale proceeds actually received by Mortgagee as a result of such foreclosure sale less any actual, out-of-pocket costs and expenses incurred by Mortgagee and the Bondholder Representative in connection with enforcement of its rights under the Bond Documents.

(c) Mortgagee shall have the right to prosecute to final determination, or settlement, an appeal or other appropriate proceedings related to any condemnation of the Real Estate in the

name of Mortgagee or Mortgagor, for which Mortgagee will then be appointed as attorney-in-fact for Mortgagor, which appointment being for security, is irrevocable. In that event, the expenses of the proceedings, including reasonable counsel fees, shall be paid first out of the proceeds, and only the excess, if any, paid to Mortgagee shall be applied to the Obligations.

(d) Nothing herein shall limit the rights otherwise available to Mortgagee or the Bondholder Representative, at law or in equity, including the right to intervene as a party to any condemnation proceeding.

## ARTICLE VI DEFAULTS; REMEDIES

**6.1 Right to Make Advances.** If Mortgagor should fail to pay or perform any of its Obligations with respect to the Mortgaged Property as required under Article III and Article IV of this Mortgage, or otherwise fails to pay or perform any of its other Obligations under this Mortgage or any of the other Bond Documents, then Mortgagee and the Bondholder Representative, at their election, shall have the right, but not the obligation, to make any payment or expenditure and to take any action Mortgagor should have made or taken or that Mortgagee or the Bondholder Representative otherwise deems advisable to protect the security of this Mortgage or the Mortgaged Property. Such action shall be without prejudice to any of Mortgagee's or the Bondholder Representative's rights or remedies available under this Mortgage or the other Bond Documents, or otherwise at law or in equity. All such sums, as well as actual, out-of-pocket costs and expenses, advanced by Mortgagee and the Bondholder Representative, as applicable, shall become part of the Obligations secured by this Mortgage and the other Bond Documents, and shall bear interest (including any judgment obtained on account of any of the Obligations) at the applicable rate provided in the Bond Documents in effect after maturity or default (the "Default Rate") until repayment in full to Mortgagee or the Bondholder Representative, as applicable.

**6.2 Events of Default.** The occurrence of any one or more of the following events shall, at the election of Mortgagee, with the consent of the Bondholder Representative, constitute an "Event of Default" under this Mortgage:

(a) Any event of default as defined in any other Bond Document which continues beyond any applicable notice and cure periods, if any;

(b) Failure to pay any sum required to be paid under this Mortgage as and when due and the continuation thereof for a period of five (5) days;

(c) Any breach of warranty or other violation of any provision contained in Article II of this Mortgage; or

(d) Nonperformance of, or noncompliance with, any of the agreements, covenants, conditions, warranties, representations or other provisions contained in this Mortgage (if and only to the extent not included in any of the occurrences listed above), which nonperformance or noncompliance is not cured and remedied within thirty (30) days after notice thereof is given to Mortgagor. Provided, with respect to any such failure covered by this subsection (d), no Event

of Default shall be deemed to be continuing so long as a course of action adequate in the judgment of Mortgagee and the Bondholder Representative to remedy such failure shall have been commenced within such 30-day period and shall thereafter be diligently prosecuted to completion and the failure shall be remedied thereby provided, however, that such course of action must be complete within ninety (90) days of the written notice that has been given to Mortgagor.

**6.3 Remedies; Execution.** Upon the occurrence of, and during the continuance of an Event of Default, Mortgagee shall, with the consent of the Bondholder Representative, have the right to accelerate all Obligations under the Bond Documents (including interest thereon at the Default Rate) pursuant to the terms of the Bond Documents and to enforce its rights under this Mortgage and the other Bond Documents by exercising such remedies as are available to Mortgagee under applicable law, either by suit in equity or action at law, or both, whether for specific performance of any provision contained in this Mortgage or any of the other Bond Documents or in aid of the exercise of any power granted in this Mortgage or the other Bond Documents.

(a) Mortgagee shall, with the consent of the Bondholder Representative, have the right to obtain judgment for the Obligations (including all amounts advanced or to be advanced by Mortgagee and the Bondholder Representative under Section 6.1 above, all actual, out-of-pocket costs and expenses of collection and suit, including any bankruptcy or insolvency proceeding affecting Mortgagor, and reasonable attorneys' fees incurred in connection with any of the foregoing) together with interest on such judgment at the Default Rate until payment in full is received by Mortgagee or the Bondholder Representative, as applicable, and Mortgagee shall, with the consent of the Bondholder Representative, have the right to obtain execution upon the Mortgaged Property on account of such judgment.

(b) Mortgagee shall, with the consent of the Bondholder Representative, have the right to institute an action of mortgage foreclosure against the Mortgaged Property or take such other action for realization on the security intended to be provided under Article I of this Mortgage as applicable law or the provisions of the Bond Documents may allow.

(c) Mortgagee shall, with the consent of the Bondholder Representative have the right to institute the STATUTORY POWER OF SALE. Subject to the terms of applicable laws, in exercising its power of sale under this Mortgage, Mortgagee may sell any portion of the Mortgaged Property, either separately from or together with the balance of the Mortgaged Property, or any part thereof, either as one parcel or unit or in such separate parcels or units, all as Mortgagee may, with the consent of the Bondholder Representative, elect. In the event Mortgagee, in the exercise of the power of sale under this Mortgage, elects to sell in parts or parcels, said sales may be held from time to time, and need not occur on the same day, and said power of sale shall not be fully executed or exhausted until all of the Mortgaged Property or other security not previously sold shall have been sold. Any foreclosure auction held pursuant to the STATUTORY POWER OF SALE may be held at any location within the State.

**6.4 Remedies; Collection of Rents.** Upon the occurrence of, and during the continuance of, an Event of Default, Mortgagee may, with the consent of the Bondholder Representative, or shall, at the direction of the Bondholder Representative, at any time without notice, either in person, by agent or by a receiver appointed by a court, and without regard to the adequacy of any

security for the Obligations, enter upon the Mortgaged Property and, with or without taking possession of the Mortgaged Property, and with or without legal action, collect all Rents (which term shall also include amounts determined by Mortgagee, in consultation with the Bondholder Representative, as fair rental value for use and occupation of the Mortgaged Property by any person, including Mortgagor) and, after deducting all actual, out-of-pocket costs of collection and administration expense including reasonable attorneys' fees and reasonable reserves, apply the net Rents to any of the Obligations in such order and amounts as Mortgagee, in consultation with the Bondholder Representative, may determine, or any of the following such order and amounts as Mortgagee in consultation with the Bondholder Representative, may elect: the payment of any sums due, or accumulation of necessary reserves for, payment of all actual, out-of-pocket costs and expenses arising from or incurred in connection with (a) the preservation and protection of the validity and priority of the lien of this Mortgage; (b) the preservation and protection of the Mortgaged Property; (c) compliance with Legal Requirements; and (d) fulfilling any obligations of Mortgagor or any other obligor or guarantor under the Permitted Encumbrances, the Leases, this Mortgage or the other Bond Documents. Mortgagee shall not be accountable for more monies than it actually receives from the Mortgaged Property nor shall it be liable for failure to collect the Rents. Mortgagee shall have the right, in consultation with the Bondholder Representative, to determine the method of collection and the extent to which enforcement of collection of Rents shall be prosecuted and such decision shall be deemed conclusive and reasonable.

**6.5 Remedies; Repossession.** Upon the occurrence of, and during the continuance of, an Event of Default, Mortgagee shall, with the consent of the Bondholder Representative, have the right to take possession of any portion of the Mortgaged Property constituting fixtures or other personal property subject to the UCC, and any records pertaining thereto. Mortgagee shall, with the consent of the Bondholder Representative, have the right to use, operate, manage, lease or otherwise control such Mortgaged Property in any lawful manner and, in consultation with the Bondholder Representative, but without any obligation to do so, insure, maintain, repair, renovate, alter or remove such Mortgaged Property and to use, in connection with any assembly, use or disposition of such Mortgaged Property any trade mark, trade name, trade style, copyright, brand, patent right or technical process used or utilized by Mortgagor. In addition, upon ten (10) calendar days' prior written notice to Mortgagor (which Mortgagor hereby acknowledges to be sufficient and commercially reasonable) Mortgagee shall, with the consent of the Bondholder Representative, have the right to sell, lease or otherwise dispose of all or any of such Mortgaged Property at any time and from time to time at public or private sale, with or without advertisement thereof, with the right of Mortgagee or its nominee to become purchaser at any sale (unless prohibited by statute) free from any equity of redemption and from all other claims, and after deducting all legal and other expenses for maintaining or selling such Mortgaged Property, and all reasonable attorneys' fees, legal or other expenses for collection, sale and delivery, apply the remaining proceeds of any sale to pay (or hold as a reserve against) the Obligations and exercise all other rights and remedies of a secured party under the UCC or any other applicable law.

**6.6 Remedies; Appointment of Receiver.** Upon the occurrence of, and during the continuance of, an Event of Default, Mortgagee may, with the consent of the Bondholder Representative, or shall, at the direction of the Bondholder Representative, without notice, and to

the extent permitted under applicable law, obtain appointment of a receiver for the Mortgaged Property without regard to the adequacy of any security for the Obligations.

**6.7 Remedies; Actions Prior to Acceleration.** Mortgagee shall, with the consent of the Bondholder Representative, have the right, from time to time, to bring an appropriate action or actions to recover any sums required to be paid by Mortgagor under the terms of this Mortgage, as they become due, without regard to whether or not the Obligations shall be due and payable in full, and without prejudice to the right of Mortgagee thereafter to bring an action of mortgage foreclosure, or any other action, for any default by Mortgagor existing at the time the earlier action was commenced.

**6.8 No Marshaling.** Any of the Mortgaged Property sold pursuant to any writ of execution issued on a judgment obtained on the Obligations or pursuant to any other judicial proceedings relating to this Mortgage or the other Bond Documents may be sold in one parcel, as an entirety, or in such parcels, and in such manner or order as Mortgagee, in consultation with the Bondholder Representative, may elect.

#### **6.9 Rights and Remedies Cumulative.**

(a) All rights and remedies of Mortgagee as provided in this Mortgage and the other Bond Documents shall be cumulative and concurrent, may be pursued separately, successively or together against Mortgagor or the Mortgaged Property, or both, as consented to by the Bondholder Representative or as directed by the Bondholder Representative and may be exercised as often as occasion therefor shall arise. The failure to exercise any such right or remedy shall in no event be construed as a waiver or release thereof.

(b) Any failure by Mortgagee or the Bondholder Representative to insist upon strict performance by Mortgagor of any of the terms and provisions of this Mortgage or the other Bond Documents shall not be deemed to be a waiver of any of the terms or provisions of this Mortgage or the other Bond Documents, and Mortgagee and the Bondholder Representative shall have the right thereafter to insist upon strict performance by Mortgagor of any and all of them.

### **ARTICLE VII MISCELLANEOUS**

**7.1 Costs and Expenses.** If Mortgagee or the Bondholder Representative becomes a party to any suit or proceeding affecting the Mortgaged Property, title thereto, the lien created by this Mortgage or Mortgagee's interest therein, or in the event of the commencement of any bankruptcy or insolvency proceedings involving Mortgagor, or if Mortgagee or the Bondholder Representative engages counsel to collect or to enforce performance of the Obligations, or if Mortgagee or the Bondholder Representative incur any other actual, out-of-pocket costs and expenses in perfecting, protecting or enforcing its rights hereunder or in responding to any request of Mortgagor for any consent, waiver, approval, modification or release in connection with this Mortgage or the Mortgaged Property, Mortgagee's and the Bondholder Representative's reasonable counsel fees, and all other actual, out-of-pocket costs and expenses paid or incurred by Mortgagee and the Bondholder Representative, including reasonable fees of appraisers, accountants, consultants, and other professionals, title premiums, title report and

work charges, filing fees, and mortgage, mortgage registration, transfer, stamp and other excise taxes, whether or not an Event of Default shall have occurred, shall be paid to Mortgagee or the Bondholder Representative, as applicable, on demand, with interest at the Default Rate and until paid they shall be deemed to be part of the Obligations secured by this Mortgage.

**7.2 Indemnity.** Mortgagor shall indemnify, defend and hold Mortgagee and the Bondholder Representative harmless from and against any claims, expenses, demands, losses, actual, out-of-pocket costs, fines or liabilities of any kind (including those involving death, personal injury or property damage and including reasonable attorneys' fees and costs) arising from or in any way related to the failure of Mortgagor to comply with, or the failure of the Mortgaged Property to be kept in compliance with, the Legal Requirements, Applicable Environmental Laws, the Leases and the Permitted Encumbrances. The indemnification of Mortgagor under this section shall survive the release or termination of this Mortgage and shall remain effective notwithstanding any foreclosure of this Mortgage or other execution against the Mortgaged Property or acceptance of a deed in lieu of foreclosure. The indemnification agreement of Mortgagor under this section is specifically excepted from any limitation of liability provision contained in this or any other Bond Document.

**7.3 Declaration of No Set-Off.** Within ten (10) days after requested to do so by Mortgagee or the Bondholder Representative, Mortgagor shall certify to Mortgagee and the Bondholder Representative or to any proposed assignee of this Mortgage or participant in the Obligations in a writing duly acknowledged, the amount of principal, interest and other charges then owing on the Obligations secured by this Mortgage and whether there are set-offs or defenses against them.

**7.4 Communications.** All notices under this Mortgage shall be in writing and shall be given by either (a) hand-delivery; (b) certified or registered first class mail (postage prepaid); or (c) reliable overnight commercial courier (charges prepaid) to the parties at their respective addresses set forth at the beginning of this Mortgage. A party may change its address by giving written notice to the other party as specified herein. A copy of any notice under this Mortgage provided by any party shall also be given to the Bondholder Representative.

**7.5 Covenant Running With the Land.** Any act or agreement specified herein to be done or performed by Mortgagor shall be construed as a covenant running with the land and shall be binding upon Mortgagor and its successors and assigns as if each had personally made such agreement.

**7.6 Amendment.** Any amendment, modification, consent, or waiver that may be hereafter requested by Mortgagor or otherwise required must be in writing and signed by both Mortgagor and Mortgagee and approved by the Bondholder Representative.

**7.7 Applicable Law.** This Mortgage shall be construed and enforced in accordance with the laws of the State of New Hampshire.

**7.8 Construction.** Whenever used in this Mortgage, unless the context clearly indicates a contrary intent:

(a) The word "**Mortgagor**" shall mean the persons who execute this Mortgage and any subsequent fee owner of the Mortgaged Property and his respective heirs, executors, administrators, personal representatives, successors and assigns;

(b) The word "**Mortgagee**" shall mean, collectively, all of the entities listed as Mortgagee hereinabove or any subsequent holder of this Mortgage or participant in the loan secured hereby;

(c) The word "**person**" shall mean individual, corporation, partnership or unincorporated association;

(d) The use of any gender shall include all genders;

(e) The singular number shall include the plural and the plural the singular as the context may require;

(f) The word "**including**" shall mean "including but not limited to" or "including without limitation" as the context may require.

7.9 **Liability Hereunder.** If Mortgagor, or any successor or grantee of Mortgagor, shall be more than one person, all Obligations of Mortgagor under this Mortgage shall be joint and several and shall bind and affect all persons who are defined as "Mortgagor" as fully as though all of them were specifically named herein wherever the word "Mortgagor" is used.

7.10 **Headings.** The headings of sections have been included in this Mortgage for convenience of reference only and shall not be considered in interpreting this Mortgage.

7.11 **Severability.** If any provision of this Mortgage shall be held for any reason to be invalid, illegal or unenforceable, such impairment shall not affect any other provision of this Mortgage.

7.12 **Receipt of Copy.** Mortgagor acknowledges receipt of conformed copies of the Bond Documents and this Mortgage.

7.13 **Acknowledgment.** THIS MORTGAGE CONTAINS A POWER OF ATTORNEY COUPLED WITH AN INTEREST AND IS FOR MORTGAGEE. THIS MORTGAGE IS BEING EXECUTED IN CONNECTION WITH A LOAN OR OTHER FINANCIAL TRANSACTION FOR BUSINESS PURPOSES AND NOT PRIMARILY FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES. MORTGAGEE, AS AGENT FOR MORTGAGOR UNDER THE POWER OF ATTORNEY, IS NOT A FIDUCIARY FOR MORTGAGOR. MORTGAGEE, IN EXERCISING ANY OF ITS RIGHTS OR POWERS PURSUANT TO THE POWER OF ATTORNEY, MAY DO SO FOR THE SOLE BENEFIT OF MORTGAGEE AND NOT FOR MORTGAGOR.

7.14 **No Waiver.** No failure by Mortgagee or the Bondholder Representative to insist upon strict, full and complete (i) payment when due of any portion of the Indebtedness or (ii) performance of any Obligation, nor failure to exercise any right or remedy hereunder, shall constitute a waiver of any such failure to pay or breach of any such Obligation, or of the later exercise of such right or remedy.

7.15 **Waiver of Statute of Limitations and Rights to Trial by Jury.** MORTGAGOR HEREBY WAIVES, TO THE FULL EXTENT ALLOWED BY LAW, THE RIGHT TO PLEAD ANY STATUTE OF LIMITATIONS AS A DEFENSE TO ANY OBLIGATION SECURED BY THIS MORTGAGE AND THE RIGHT TO A JURY TRIAL IN ANY ACTION UNDER OR RELATING TO THE BOND DOCUMENTS.

7.16 **Liability and Indemnification of Mortgagee and the Bondholder Representative.** MORTGAGEE AND THE BONDHOLDER REPRESENTATIVE SHALL NOT BE LIABLE FOR ANY ERROR OF JUDGMENT OR ACT DONE BY MORTGAGEE OR THE BONDHOLDER REPRESENTATIVE IN GOOD FAITH, OR BE OTHERWISE RESPONSIBLE OR ACCOUNTABLE UNDER ANY CIRCUMSTANCES WHATSOEVER (INCLUDING MORTGAGEE'S AND THE BONDHOLDER REPRESENTATIVE'S NEGLIGENCE OR ANY STRICT LIABILITY) EXCEPT FOR THEIR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. Mortgagee and the Bondholder Representative shall have the right to rely on any instrument, document, or signature authorizing or supporting any action taken or proposed to be taken by them hereunder, believed by them in good faith to be genuine. All monies received by Mortgagee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other monies (except to the extent required by law and the Bond Documents), and Mortgagee shall be under no liability for interest on any monies received by it hereunder except as provided in the Bond Documents. Mortgagor will reimburse Mortgagee and the Bondholder Representative for, and indemnify and save them harmless against, any and all liabilities and expenses (including reasonable attorneys' fees) which may be incurred by them in the performance of their duties hereunder. The foregoing indemnity shall not terminate upon release, foreclosure, or other termination of this Mortgage.

7.17 **Homestead.** Mortgagor hereby releases to Mortgagee any and all rights of homestead in the Mortgaged Property.

7.18 **Maximum Amount Secured.** NOTICE IS HEREBY GIVEN that for purposes of RSA 479:3 this Mortgage secures a maximum amount equal to \$17,400,000, plus accrued interest thereon, plus applicable late charges, plus any advances made to protect Mortgagee's security of this Mortgage and the other Bond Documents, plus foreclosure costs and expenses, including, without limitation, reasonable attorneys' fees plus any other actual, out-of-pocket costs and expenses authorized by this Mortgage, the Trust Indenture or the other Bond Documents.

7.19 **Subordination.** This Mortgage, and the lien hereof and the rights and interests of Mortgagee hereunder, are subject and subordinate in all respects (i) pursuant to the terms and conditions set forth in Article XIII of the Trust Indenture relating to subordination and intercreditor provisions and (ii) to that certain Mortgage, Assignment of Leases and Rents, Security Agreement, and Fixture Filing Statement of even date and recorded prior hereto.

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IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be duly executed and delivered as a sealed instrument as of the \_\_\_\_ day of April, 2022.

MORTGAGOR:

THE BALDWIN SENIOR LIVING

By:

Name: Marlene Rotering

Title: Chief Executive Officer

STATE OF \_\_\_\_\_

, ss.

\_\_\_\_\_, 2022

Then personally appeared before me the above-named Marlene Rotering, as the Chief Executive Officer of The Baldwin Senior Living, proved to me through satisfactory identification to be the person executing the foregoing document and acknowledged that he/she signed it voluntarily as his/her free act and deed and the free act and deed of The Baldwin Senior Living.

Notary Public  
My Commission Expires:

#### EXHIBIT A

##### Legal Description

A CERTAIN PARCEL OF LAND LOCATED IN THE TOWN OF LONDONDERRY, COUNTY OF ROCKINGHAM, STATE OF NEW HAMPSHIRE, SITUATED SOUTH OF PILLSBURY ROAD AND WEST OF INTERSTATE 93, BEING DEPICTED ON A PLAN "CONSOLIDATION / LOT LINE RELOCATION PLAN, (MAP 10 LOTS 41, 41-1, AND 41-2) WOODMONT COMMONS PLANNED UNIT DEVELOPMENT, PREPARED FOR RECORD OWNER: PILLSBURY REALTY DEVELOPMENT, LLC DATED: SEPTEMBER 19, 2018 LAST REVISED ON OCTOBER 13, 2020", AND RECORDED ON OCTOBER 14, 2020 WITH THE ROCKINGHAM COUNTY REGISTRY OF DEEDS AS PLAN NO. D-42418 ("PLAN D-42418"), BEING LOT 41-1 ON SAID PLAN AND DESCRIBED MORE PARTICULARLY AS FOLLOWS:

BEGINNING AT AN IRON PIPE IN A STONE WALL AT THE NORTHWEST CORNER OF LAND OF THE STATE OF NEW HAMPSHIRE; THENCE:

S 34° 05' 47" E BY SAID STATE LAND AND STONE WALL, A DISTANCE OF 205.00 FEET TO A POINT AT OTHER END OF THE GRANTOR; THENCE

THE NEXT 18 COURSES BEING BY LAND OF THE GRANTOR:

S 76° 57' 59" W A DISTANCE OF 585.90 FEET TO A POINT; THENCE

N 72° 03' 51" W A DISTANCE OF 152.17 FEET TO A POINT; THENCE

N 24° 46' 53" W A DISTANCE OF 32.33 FEET TO A POINT; THENCE

S 65° 20' 20" W A DISTANCE OF 96.12 FEET TO A POINT; THENCE

NORTHWESTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF 590.00 FEET, A DELTA ANGLE OF 06° 42' 05" AND AN ARC LENGTH OF 69.01 FEET TO A POINT; THENCE

N 65° 20' 20" E A DISTANCE OF 115.99 FEET TO A POINT; THENCE

N 24° 46' 53" W A DISTANCE OF 644.57 FEET TO A POINT; THENCE

EASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF 175.00 FEET, A DELTA ANGLE OF 32° 47' 10" AND AN ARC LENGTH OF 100.14 FEET TO A POINT; THENCE

S 89° 50' 51" E A DISTANCE OF 93.37 FEET TO A POINT; THENCE

EASTERLY BY A CURVE TO THE LEFT HAVING A RADIUS OF 225.00 FEET, A DELTA ANGLE OF 27° 23' 15" AND AN ARC LENGTH OF 107.55 FEET TO A POINT; THENCE

N 62° 45' 54" E A DISTANCE OF 121.87 FEET TO A POINT; THENCE

EASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF 237.50 FEET, A DELTA ANGLE OF 16° 27' 35" AND AN ARC LENGTH OF 68.23 FEET TO A POINT; THENCE

N 79° 13' 28" E A DISTANCE OF 14.04 FEET TO A POINT; THENCE

EASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF 437.50 FEET, A DELTA ANGLE OF 12° 43' 55" AND AN ARC LENGTH OF 97.22 FEET TO A POINT; THENCE

S 88° 02' 37" E A DISTANCE OF 90.99 FEET TO A POINT; THENCE

EASTERLY BY A CURVE TO THE RIGHT HAVING A RADIUS OF 637.50 FEET, A DELTA ANGLE OF 12°

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14° 36" AND AN ARC LENGTH OF 136.23 FEET TO A POINT; THENCE

S 75° 48' 01" E A DISTANCE OF 200.52 FEET TO A POINT; THENCE  
S 15° 46' 28" E A DISTANCE OF 382.45 FEET TO A POINT AT LAND OF THE STATE OF NEW  
HAMPSHIRE; THENCE  
S 57° 12' 50" W BY SAID STATE LAND, A DISTANCE OF 222.21 FEET TO THE POINT OF  
BEGINNING.

TOGETHER WITH the non-exclusive easements described in Section III of the Declaration of Reciprocal Easements and Construction Agreement made by and between Pillsbury Realty Development, LLC and Demoulas Supermarkets, Inc., dated October 20, 2017 and recorded November 15, 2017 in Book 5871, Page 1917, Rockingham County Registry of Deeds.

TOGETHER WITH the non-exclusive easements described in Sections III. A. through III. I. of the Declaration of Access and Utility Easements made by and between Pillsbury Realty Development, LLC and The Baldwin Senior Living, dated as of October 19, 2020 and recorded herewith, and as more particularly shown on (i) Plan D-42418, (ii) "Easement Details (Map 10, Lots 41, 41-1 and 41-2), Woodmont Commons Planned Unit Development, 7 & 15 Pillsbury Rd, Londonderry, New Hampshire", dated Sept. 19, 2018, last revised October 13, 2020, prepared by Hayner/Swanson, Inc., recorded with the Rockingham County Registry of Deeds on October 14, 2020 as Plan No. D-42419, and (iii) "Easement Plan (Map 10, Lot 41), Woodmont Commons Planned Unit Development, Michels Way, Main Street, Woodmont Avenue and Pillsbury Road, Londonderry, New Hampshire", prepared for Pillsbury Realty Development, LLC, prepared by Hayner/Swanson, Inc., dated October 5, 2020, recorded on October 14, 2020 in the Rockingham County Registry of Deeds as Plan No. D-42420.

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TOGETHER WITH the right to enforce the restrictive covenant set forth in Section I. a) of the Declaration of Restrictive Covenant made by and between Pillsbury Realty Development, LLC and The Baldwin Senior Living dated as of October 19, 2020 and recorded herewith.

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## **APPENDIX D**

### **CONTINUING DISCLOSURE AGREEMENT**

This Continuing Disclosure Agreement (this “Disclosure Agreement”) dated as of April 1, 2022 is executed and delivered by The Baldwin Senior Living (the “Borrower”), and UMB Bank, National Association, as Dissemination Agent hereunder (in such capacity, the “Dissemination Agent”) in connection with the issuance by the Business Finance Authority of the State of New Hampshire (the “Issuer”) of its Revenue Bonds (The Baldwin at Woodmont Commons Project) Series 2022A, Series 2022B, Series 2022C, Series 2022D and Series 2022E (collectively, the “Bonds”). The Bonds are being issued pursuant to the Act (as defined herein) and a Trust Indenture dated as of April 1, 2022 (the “Indenture”), by and between the Issuer and UMB Bank, National Association, as trustee (the “Trustee”). The proceeds of the Bonds are being loaned by the Issuer to the Borrower pursuant to the Loan Agreement dated as of April 1, 2022 (the “Loan Agreement”), by and between the Issuer and the Borrower. Under the Loan Agreement, the Borrower will agree to make payments to the Trustee to provide for the full and prompt payment when due of the principal of, and premium, if any, and interest on the Bonds.

**SECTION 1. Purpose of the Disclosure Agreement.** This Disclosure Agreement is being executed and delivered by the Borrower and the Dissemination Agent for the benefit of the Holders and Beneficial Owners of the Bonds and to assist the Underwriter in complying with the Rule (each as defined below). The Borrower and the Dissemination Agent acknowledge that the Issuer has undertaken no responsibility with respect to any reports, notices or disclosures provided for or required under this Disclosure Agreement, and has no liability to any person, including any Holder or Beneficial Owner of the Bonds, with respect to the Rule.

**SECTION 2. Definitions.** In addition to the definitions set forth in the Indenture, the Continuing Covenants Agreements and the Loan Agreement, which apply to any capitalized term used in this Disclosure Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

“Act” shall mean New Hampshire RSA 162-I, as the same may be amended and supplemented from time to time.

“Annual Report(s)” shall mean any of the Annual Reports provided by the Borrower pursuant to, and as described in, and containing the information specified in Sections 3 and 4 of this Disclosure Agreement.

“Beneficial Owner” shall mean any person that (a) has or shares the power, directly or indirectly, to make investment decisions concerning ownership of any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries) or (b) is treated as the owner of any Bonds for federal income tax purposes.

“Continuing Covenants Agreements” shall mean (i) the Continuing Covenants Agreement, dated as of April 1, 2022, by and between the Borrower and Trustee relating to the Senior Bonds and (ii) the Continuing Covenants Agreement, dated as of April 1, 2022, by and between the Borrower and Trustee relating to the Subordinate Bonds.

“Disclosure Representative” shall mean the Authorized Representative of the Borrower or his, her or its designee, or such other person as the Borrower shall designate in writing to the Dissemination Agent from time to time.

“Dissemination Agent” shall mean UMB Bank, National Association, acting in its capacity as Dissemination Agent hereunder, or any successor Dissemination Agent designated in writing by the Borrower and that has filed with the Trustee a written acceptance of such designation.

“Financial Obligation” as used in this Disclosure Agreement has the meaning given such term in the Rule, as it may be amended. The current definition is (i) a debt obligation; (ii) a derivative instrument entered into in connection with, or pledged as a security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). The term “Financial Obligation” shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

“Fiscal Year” shall mean the period of 12 consecutive months beginning on January 1 in any calendar year and ending on December 31 of the same calendar year or such other fiscal year as the Borrower, upon at least 30 days’ prior notice to the Trustee, shall establish as its fiscal year.

“Listed Events” shall mean any of the events listed in Section 5(a) of this Disclosure Agreement.

“MSRB” shall mean the Municipal Securities Rulemaking Board, established pursuant to Section 15B(b)(1) of the Securities Exchange Act of 1934, as amended.

“National Repository” shall mean the Electronic Municipal Market Access system (“EMMA”) maintained by the MSRB.

“Offering Memorandum” shall mean the Offering Memorandum dated April 19, 2022 relating to the Bonds.

“Repository” shall mean the National Repository and the appropriate State Repository, if any is hereafter created and written notice of such is delivered to the Dissemination Agent.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the SEC under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“SEC” shall mean the United States Securities and Exchange Commission.

“State Repository” shall mean any public or private repository or entity designated by the State of New Hampshire as the state repository for the Borrower, for the purpose of the Rule and recognized as such by the SEC. As of the date of this Disclosure Agreement, a State Repository has not been so designated.

“Underwriter” shall mean Odeon Capital Group LLC.

### SECTION 3. Provision of Annual Reports.

(a) The Borrower shall, or shall cause the Dissemination Agent to, not later than 120 days after the end of the Fiscal Year, commencing with the report for the Fiscal Year ending December 31, 2022, provide to each Repository, the Bondholder Representative for the Senior Bonds, the Bondholder Representative for the Subordinate Bonds and the Underwriter an Annual Report in a format that meets the requirements of the Repository. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information included within the Annual Report. If the Fiscal Year changes for the Borrower, the Borrower shall give notice of such change in the same manner as for a Listed Event under Section 5(a) of this Disclosure Agreement. The

Borrower shall provide the Annual Reports to the Dissemination Agent and the Trustee (if the Dissemination Agent is not the Trustee) not later than fifteen (15) Business Days prior to the date that is 120 days following the end of its Fiscal Year together with written instructions to file such Annual Report with the Repository. Promptly upon receipt of such Annual Reports the Dissemination Agent shall provide a copy thereof to each Repository and shall send to the Trustee (if the Trustee is not the Dissemination Agent) a copy of its transmittal letter to each Repository.

(b) If by the date that is ten (10) Business Days prior to the date that is 120 days following the end of the Fiscal Year for the Borrower, the Dissemination Agent has not received the Annual Report and written instructions required by subsection (a), the Dissemination Agent shall so advise the Borrower in writing and the Borrower shall make such filings.

(c) If by the date that is 120 days following the end of the Fiscal Year for the Borrower, the Dissemination Agent has not received a copy of the Annual Report for the Borrower, the Dissemination Agent shall send a notice to each Repository in substantially the form attached hereto as Exhibit A.

(d) If so requested in writing by the Borrower, the Dissemination Agent shall confirm to the Trustee and the Borrower that the Annual Report has been provided pursuant to this Disclosure Agreement, the date on which it was provided and all the Repositories to which it was provided.

(e) In addition, the Borrower shall provide to any Holder or Beneficial Owner of Bonds who shall have filed a written request therefor with the Borrower, the Annual Report and the financial and occupancy information described in this section at the time such items are filed with each Repository.

(f) If a State Repository is hereafter created, the Borrower shall provide notice thereof to the Dissemination Agent and the Trustee.

#### SECTION 4. Content of Annual Reports.

(a) The Annual Report shall include the audited financial statements of the Borrower for the current and prior Fiscal Year, prepared in accordance with generally accepted accounting principles as promulgated from time to time by the Financial Accounting Standards Board.

The Annual Report shall also include (i) a statement that such accountants have no knowledge of any default under the Loan Agreement or the Continuing Covenants Agreements or, if such accountants shall have obtained knowledge of any such default or defaults, disclosing in such statement the default or defaults and the nature thereof, and (ii) a report setting forth the Borrower's compliance with the marketing requirement, the occupancy requirement, the Liquidity Requirement and the Debt Service Coverage Ratio (each as defined in the Continuing Covenants Agreements) at the end of such Fiscal Year to the extent that such covenants are required to be satisfied in any such Fiscal Year by the Borrower in accordance with the Continuing Covenants Agreements.

(b) If the Borrower's audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a) of this Disclosure Agreement, the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the Offering Memorandum and the audited financial statements shall be filed in the same manner as the Annual Report when and if they become available.

## **SECTION 5. Reporting of Significant Events.**

(a) Pursuant to the provisions of this Section 5, the Borrower shall give, or direct the Dissemination Agent in writing to give, written notice to each Repository, the Bondholder Representative for the Senior Bonds, the Bondholder Representative for the Subordinate Bonds and the Underwriter of the occurrence of any of the following events as applicable to the Bonds:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults, if material;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax-exempt status of the Bonds or material events affecting the tax-exempt status of the Bonds;
- (7) modifications to rights of Bondholders, if material;
- (8) bond calls, if material, and tender offers;
- (9) defeasances;
- (10) release, substitution or sale of property securing repayment of the Bonds, if material;
- (11) rating changes;
- (12) bankruptcy, insolvency, receivership or similar event of the Borrower;
- (13) the consummation of a merger, consolidation, or acquisition involving the Borrower or the sale of all or substantially all of the assets of the Borrower, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (14) appointment of a successor or additional trustee or the change of name of a trustee, if material;
- (15) incurrence of a Financial Obligation of the Borrower, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Borrower, any of which affect security holders, if material; and

(16) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Borrower, any of which reflects financial difficulties.

(b) The Borrower shall or shall cause the Dissemination Agent to file written notice describing the occurrence of a Listed Event with (i) the Repository within ten (10) Business Days of the occurrence of such Listed Event, (ii) the Bondholder Representative for the Senior Bonds and the Bondholder Representative for the Subordinate Bonds and (iii) the Underwriter and shall send a copy of the notice to the Issuer. The foregoing notwithstanding, notice of a Listed Event described in subsections (a)(8) and (a)(9) of this Section 5 need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to the Holders of affected Bonds pursuant to the Indenture. Notwithstanding the foregoing, in no event shall the Dissemination Agent be required to determine the occurrence of any Listed Event and in the absence of specific written direction from the Borrower to provide the notice to the Repository, the Bondholder Representative for the Senior Bonds, the Bondholder Representative for the Subordinate Bonds, and the Underwriter, the Dissemination Agent shall have no obligation to file notice of a Listed Event.

**SECTION 6. Termination of Reporting Obligation.** The obligations of the Borrower under this Disclosure Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. If the Borrower's obligations under the Loan Agreement are assumed in full by some other entity, such person shall be responsible for compliance with this Disclosure Agreement in the same manner as if it were the Borrower, and the original Borrower shall have no further responsibility hereunder. If such termination or substitution occurs prior to the final maturity of the Bonds, the Borrower shall give notice of such termination or substitution in the same manner as for a Listed Event under Section 5 of this Disclosure Agreement. In addition, if all or any part of the Rule ceases to be in effect for any reason, then the information required to be provided under this Disclosure Agreement, insofar as the provision of the Rule no longer in effect required the provision of such information, shall no longer be required to be provided. The Borrower shall deliver to the Trustee and the Dissemination Agent an opinion of a nationally recognized bond counsel to the effect that the information that will no longer be provided is no longer required under the Rule as then in effect.

**SECTION 7. Dissemination Agent.** UMB Bank, National Association is appointed as the Dissemination Agent and agrees to act in such capacity hereunder. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the Borrower pursuant to this Disclosure Agreement or for ensuring the compliance with any rule or regulation of the Borrower or the Underwriter in connection with the filings of information herein but is merely responsible for the filing of any such information provided to the Dissemination Agent by the Borrower. The Borrower shall pay the fees, charges and expenses of the Dissemination Agent in connection with its administration of this Disclosure Agreement. The Dissemination Agent may be removed by the Borrower at any time upon at least 30 days' written notice to the Issuer, the Dissemination Agent and the Trustee or may resign at any time upon at least 30 days' written notice to the Issuer, the Borrower and the Trustee. If at any time there is not any other designated Dissemination Agent, the Borrower will act as the Dissemination Agent on its own behalf.

**SECTION 8. Amendment; Waiver.** Notwithstanding any other provision of this Disclosure Agreement, the Borrower and the Dissemination Agent may amend this Disclosure Agreement and any provision of this Disclosure Agreement may be waived, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions of Sections 3(a), 4, or 5(a) of this Disclosure Agreement, it may only be made in connection with a change in circumstances that arises from

a change in legal requirements, change in law, or change in the identity, nature or status of an obligated person with respect to the Bonds, or the type of business conducted; and

(b) The amendment or waiver either (i) is approved by the Holders of the Bonds (or the applicable Bondholder Representative) in the same manner as provided in the Indenture for amendments to the Indenture with the consent of Holders or (ii) does not, in the opinion of a nationally recognized bond counsel addressed to the Issuer, the Trustee and the Dissemination Agent, materially impair the interests of the Holders or Beneficial Owners of the Bonds.

In the event of any amendment or waiver of a provision of this Disclosure Agreement, the Borrower shall describe such amendment in the next Annual Report and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver.

**SECTION 9. Additional Information.** Nothing in this Disclosure Agreement shall be deemed to prevent the Borrower from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If the Borrower chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Disclosure Agreement, the Borrower shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

**SECTION 10. Default.** In the event of a failure of the Borrower or the Dissemination Agent to comply with any provision of this Disclosure Agreement (other than any failure to provide information to the Underwriter), the Trustee may (and, at the written direction of the Underwriter or the Holders of at least 25% aggregate principal amount of Outstanding Bonds or the applicable Bondholder Representative, shall), or any Holder or Beneficial Owner of the Bonds or the applicable Bondholder Representative may, take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Borrower or the Dissemination Agent, as the case may be, to comply with its obligations under this Disclosure Agreement. Notwithstanding the foregoing, a default under this Disclosure Agreement shall not be deemed an Event of Default under the Indenture, the Loan Agreement or the Continuing Covenants Agreements, and the sole remedy under this Disclosure Agreement in the event of any failure of the Borrower or the Dissemination Agent to comply with this Disclosure Agreement shall be an action to compel performance.

**SECTION 11. Duties; Immunities and Liabilities of the Dissemination Agent.** The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement, and the Borrower agrees to indemnify and to hold the Dissemination Agent, its officers, directors, employees, attorneys and agents harmless against any loss, expense and liability it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys' fees and expenses) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's gross negligence or willful misconduct. Notwithstanding anything to the contrary herein, the Trustee, whether acting as Trustee or Dissemination Agent, shall have the same rights, indemnities, privileges and protections in the discharge of its obligations hereunder as it would have in discharging any of its obligations under the Indenture. Such rights, indemnities, privileges, and protections are incorporated herein by reference as if fully set forth herein. The obligations of the Borrower under this Section shall survive resignation or removal of the Dissemination Agent and the payment of the Bonds.

**SECTION 12. Notices.** Any notices or communications to or between the parties to this Disclosure Agreement may be given as follows:

To the Borrower:	The Baldwin Senior Living 575 Osgood Street North Andover, MA 01845 Attention: Jane Sullivan
To the Trustee or Dissemination Agent:	UMB Bank, National Association 2 South Broadway, Suite 600 St. Louis, Missouri 63102 Attention: Brian Krippner
To the Issuer:	Business Finance Authority of the State of New Hampshire Two Pillsbury Street, Suite 201 Concord, New Hampshire 03301-4954 Attention: Executive Director
To the Underwriter:	Odeon Capital Group LLC 750 Lexington Avenue, 27th Floor New York, NY 10022 Attention: Scott Kaysen
To the Bondholder Representative for the Senior Bonds:	Hamlin Capital Management, LLC 640 Fifth Avenue, 11th Floor New York, New York 10019 Attention: Joseph Bridy
To the Bondholder Representative for the Subordinate Overland Park, Kansas Bonds:	Ecofin Advisors, LLC 636 College Boulevard Attention: Social Infrastructure Team

Any person may, by written notice to the other persons listed above, designate a different address or telephone number(s) to which subsequent notices or communications should be sent.

**SECTION 13. Beneficiaries.** This Disclosure Agreement shall inure solely to the benefit of the Borrower, the Trustee, the Dissemination Agent, the Underwriter, the Bondholder Representative for the Senior Bonds, the Bondholder Representative for the Subordinate Bonds and Holders and Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

**SECTION 14. Counterparts.** This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 15. Applicable Law.** This Disclosure Agreement shall be governed by and construed in accordance with the laws of the State of New Hampshire, excluding conflicts of law principles.

IN WITNESS WHEREOF, the Borrower and the Dissemination Agent have executed this Disclosure Agreement on the date and year first written above.

THE BALDWIN SENIOR LIVING

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

Name: Marlene Rotering

Title: Executive Director

UMB BANK, NATIONAL ASSOCIATION, as  
Dissemination Agent

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

Name: Brian P. Krippner

Title: Senior Vice President

**EXHIBIT A**

**NOTICE TO REPOSITORIES OF FAILURE TO FILE ANNUAL REPORT**

Name of Borrower: The Baldwin Senior Living  
Name of Issuer: Business Finance Authority of the State of New Hampshire  
Name of Bond Issue: Business Finance Authority of the State of New Hampshire Revenue Bonds  
(The Baldwin at Woodmont Commons Project) Series 2022  
Date of Issuance: April 21, 2022

NOTICE IS HEREBY GIVEN that the Borrower has not provided an Annual Report with respect to the above-named Bonds as required by Section 3 of the Continuing Disclosure Agreement. The Borrower anticipates that the Annual Report will be filed by \_\_\_\_\_.

Dated: \_\_\_\_\_

[DISSEMINATION AGENT]

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

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## APPENDIX E-1

### FORM OF BONDHOLDER REPRESENTATIVE LETTER (SENIOR BONDS)

Business Finance Authority of the State of New Hampshire  
Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022A  
Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022B  
Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022C  
Senior Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022D

\_\_\_\_\_, 2022

Business Finance Authority of the State of New Hampshire  
Concord, New Hampshire

UMB Bank, National Association, as Trustee  
St. Louis, Missouri

Odeon Capital Group LLC  
New York, New York

Ladies and Gentlemen:

The undersigned, an officer of Hamlin Capital Management, LLC (“**Hamlin**” or the “**Bondholder Representative**”), does hereby represent and agree, as follows:

1. The Bondholder Representative is registered with the Securities and Exchange Commission as an investment adviser under the Investment Advisers Act of 1940 and is the duly appointed representative of the beneficial owners [of 100%] in outstanding aggregate principal amount of the Bonds which have been delivered on this date (the “**Bonds**”). Each such owner has executed an Investment Advisory Agreement with the Bondholder Representative or is a limited partner in a limited partnership managed by the Bondholder Representative.

2. The principal place of business of the Bondholder Representative, and the office location for those representatives of the Bondholder Representative making the decision for the investors to purchase the Bonds, is in the State of New York.

3. The Bonds are currently outstanding in the aggregate principal amount of \$ \_\_\_\_\_ and have been issued pursuant to a Trust Indenture dated as of April 1, 2022 (the “**Indenture**”), by and between Business Finance Authority of the State of New Hampshire (the “Authority”) and UMB Bank, National Association (the “**Trustee**”). Capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Indenture. The Bondholder Representative is delivering this letter on behalf of such initial beneficial owners and all other beneficial owners of the Bonds from time to time represented by the Bondholder Representative (the “**Hamlin Investors**”).

4. The Bondholder Representative has exercised its delegated authority for each Hamlin Investor to purchase the Bonds. The decision to purchase the Bonds has been made by the Bondholder

Representative and not by any Hamlin Investor. Each Hamlin Investor Bond is held in a managed account of such investor or a comingled investment vehicle managed by Hamlin.

5. The Bondholder Representative acknowledges that the Bonds are not general obligations of the Authority, but are special, limited obligations payable and secured solely as provided for in the legal documents relating to the Bonds, including the Indenture.

6. Each Hamlin Investor is or will be (i) a “Qualified Institutional Buyer” (as defined in Rule 144A under the Securities Act of 1933, as amended); or (ii) an “accredited investor” (as defined in Rule 501 of Regulation D under the Securities Act of 1933, as amended).

7. Each Hamlin Investor has retained or will retain the Bondholder Representative to advise and represent the Hamlin Investor regarding the purchase of securities, such as the Bonds. Each Hamlin Investor has or will have the ability to bear the economic risks of an investment in the Bonds.

8. The Bondholder Representative has been informed that the Authority has not undertaken and will not undertake steps to ascertain the accuracy or completeness of the information furnished to the Bondholder Representative or any Hamlin Investor with respect to the Borrower, the Bonds or the project financed by the Bonds (the “**2022 Project**”). Neither the Bondholder Representative nor any Hamlin Investor has relied or will rely upon the Authority or its officers, directors, employees or agents or the Trustee in any way with regard to the accuracy or completeness of the information furnished to any Hamlin Investor in connection with its purchase of the Bonds, nor have any such parties made any representation to the Bondholder Representative or any Hamlin Investor with respect to that information.

9. The Bondholder Representative is sufficiently knowledgeable and experienced in financial and business matters, including the purchase and ownership of municipal and other tax-exempt obligations, to be able to evaluate the risks and merits of the investment represented by the purchase of the Bonds, and it is capable of and has made its own investigation of the Borrower and the 2022 Project in connection with its decision for the Hamlin Investors to purchase the Bonds.

10. The Bonds are being purchased by every Hamlin Investor for the purpose of investment and each Hamlin Investor intends or will intend to hold the Bonds for its own account as a long-term investment, without a current view to any distribution or sale of the Bonds. Each Hamlin Investor has been or will be informed that it may need to bear the risks of this investment for an indefinite time, since any sale prior to maturity may not be possible.

11. Each Hamlin Investor has been or will be informed that the Bonds will not be listed on any stock or other securities exchange and were issued without registration under the provisions of the Securities Act, or any state securities laws, and the Bonds may not be resold, transferred, pledged or hypothecated, in whole or in part, unless they are registered under the Securities Act and applicable state securities laws or unless an exemption from registration is available. Each Hamlin Investor has been or will be informed that the Bonds may only be transferred in Authorized Denominations and in accordance with the requirements set forth in the Indenture.

12. The Bondholder Representative has received an Offering Memorandum prepared by the Borrower in connection with the limited public offering of the Bonds and hereby represents that the information contained therein, along with all other additional information supplied by the Borrower directly to the Bondholder Representative, is sufficient for the Bondholder Representative to decide for the Hamlin Investors to purchase the Bonds.

13. The Bondholder Representative has reviewed to its satisfaction and is familiar with the Offering Memorandum, including the documents included therein or incorporated therein by reference, and the terms of the transactions contemplated thereby. The Bondholder Representative has made, either alone or together with its advisors (if any), such independent investigation of the 2022 Project, the Borrower and related matters as the Bondholder Representative deems, or such advisors (if any) have advised, to be necessary or advisable in connection with advising and representing the Hamlin Investors as to an investment in the Bonds; and the Bondholder Representative and its advisors (if any) have conducted such due diligence, made such inquiries and received all information and data that the Bondholder Representative and such advisors (if any) believe to be necessary in order to reach an informed decision as to the advisability of an investment by the Hamlin Investors in the Bonds. The Bondholder Representative has based its decision to recommend an investment in the Bonds on the Offering Memorandum and its own investigation, including (without limitation) its review of the aforementioned documents, records, reports, financial statements and other information concerning the 2022 Project and the Borrower, discussions with representatives of the Borrower and discussions with the Underwriter based upon information about the 2022 Project and the Borrower provided by the Borrower to the Underwriter and/or the Bondholder Representative. The Bondholder Representative has been afforded the opportunity to ask such questions as it has deemed necessary in making its investment decisions, and such questions have been answered to the satisfaction of the Bondholder Representative. The Bondholder Representative acknowledges and agrees that none of the Trustee, the Authority or the Underwriter or their respective representatives have any liability for the failure by the Borrower and its representatives to provide any information or for the accuracy or completeness of any such information provided by or on behalf of the Borrower and its representatives. The Bondholder Representative acknowledges that all information and documents about the 2022 Project and the Borrower which the Underwriter forwarded to or discussed with the Bondholder Representative were received from the Borrower and its representatives, and that the Underwriter has made no representation or guarantee to the Bondholder Representative with respect to the accuracy or completeness of such information or documents. The Underwriter has represented to the Bondholder Representative that nothing has come to the attention of the Underwriter that would lead the Underwriter to believe that the information or documents provided by the Borrower about the 2022 Project or the Borrower was incorrect or incomplete in any material respect. The Bondholder Representative acknowledges that the Underwriter is acting as underwriter in connection with the sale of the Bonds and the transactions contemplated by the Offering Memorandum and that the Underwriter is not acting as an advisor to or fiduciary of the Bondholder Representative. In its evaluation of the investment by the Hamlin Investors in the Bonds, the Bondholder Representative has relied on its own expertise and investigation and that of its representatives, attorneys and advisors.

14. (a) Hamlin is not recommending any action to the Authority, the Borrower, the Sole Member or the Guarantor; (b) Hamlin is not acting as an advisor to the Authority, the Borrower, the Sole Member or the Guarantor and does not owe a fiduciary duty pursuant to Section 15B of the Exchange Act to such entities with respect to the information and material contained in this letter or the documents relating to the Bonds; (c) the Bondholder Representative has not and will not provide financial, legal, tax, accounting or other advice to the Authority, the Borrower, the Sole Member or the Guarantor or to any financial advisor or underwriter engaged by the Authority, the Borrower, the Sole Member or the Guarantor in connection with the Bonds or the documents relating to the Bonds; (d) the Authority, the Borrower, the Sole Member, the Guarantor, their financial advisors and underwriters should each seek and obtain any financial, legal, tax, accounting and other advice with regards to the Bonds and the documents relating to the Bonds from its own advisors (including as it relates to structure, timing, terms and similar matters); (e) the transaction contemplated in the Bonds and the documents relating to the Bonds are arm's length, commercial transactions in which the Authority, the Borrower, the Sole Member and the Guarantor are acting and have acted solely as principals and for their own interests and the Bondholder Representative has not make any recommendations to the Authority, the Borrower, the Sole Member or the Guarantor in regards to the transactions related to the Bonds or the documents related to the Bonds; (f) Hamlin is acting

for its own interests and for those of the investors for which it serves as the Bondholder Representative; and (g) the Authority, the Borrower, the Sole Member and the Guarantor should discuss any information and material contained in this letter or the documents relating to the Bonds with any and all internal or external advisors and experts that such entities deem appropriate before acting on this information or material.

15. In the event that the Bondholder Representative no longer represents a Hamlin Investor by virtue of the termination of the Investment Advisory Agreement or withdrawal from the limited partnership between the Bondholder Representative and such Hamlin Investor, whether such termination is effected by the Hamlin Investor or the Bondholder Representative, the Bondholder Representative (i) shall exercise its rights under the Investment Advisory Agreement to liquidate any Bonds held in such Hamlin Investor's portfolio which are in an aggregate principal amount less than \$100,000 and (ii) may exercise its rights under the Investment Advisory Agreement to liquidate any Bonds held in such Hamlin Investor's portfolio which are in an aggregate principal amount equal to or greater than \$100,000, in each case for sale or transfer to or placement with such other clients of the Bondholder Representative as the Bondholder Representative may determine, which clients shall constitute Hamlin Investors as described in this letter. Notwithstanding any provision to the contrary in this letter, such Bonds may also be sold or transferred to or placed with any person other than a Hamlin Investor but only in Authorized Denominations and otherwise in accordance with the provisions as set forth in the Indenture.

HAMLIN CAPITAL MANAGEMENT, LLC,  
as Bondholder Representative

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

## APPENDIX E-2

### FORM OF BONDHOLDER REPRESENTATIVE LETTER (SUBORDINATE BONDS)

Business Finance Authority of the State of New Hampshire  
Subordinate Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022E

\_\_\_\_\_, 2022

Business Finance Authority of the State of New Hampshire  
Concord, New Hampshire

UMB Bank, National Association, as Trustee  
St. Louis, Missouri

Odeon Capital Group LLC  
New York, New York

Ladies and Gentlemen:

The undersigned, an officer of Ecofin Advisors, LLC (“**Ecofin**” or the “**Bondholder Representative**”), does hereby represent and agree, as follows:

1. The Bondholder Representative is registered with the Securities and Exchange Commission as an investment adviser under the Investment Advisers Act of 1940 and is the duly appointed representative of the beneficial owners of 100% in outstanding aggregate principal amount of the Bonds which have been delivered on this date (the “**Bonds**”). Each such owner has executed an investment advisory agreement with the Bondholder Representative.

2. The principal place of business of the Bondholder Representative, and the office location for those representatives of the Bondholder Representative making the decision for the investors to purchase the Bonds, is in the State of Kansas.

3. The Bonds are currently outstanding in the aggregate principal amount of \$ \_\_\_\_\_ and have been issued pursuant to a Trust Indenture dated as of April 1, 2022 (the “**Indenture**”), by and between Business Finance Authority of the State of New Hampshire (the “**Authority**”) and UMB Bank, National Association (the “**Trustee**”). Capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Indenture. The Bondholder Representative is delivering this letter on behalf of such initial beneficial owners and all other beneficial owners of the Bonds from time to time represented by the Bondholder Representative (the “**Ecofin Investors**”).

4. The Bondholder Representative has exercised its delegated authority for each Ecofin Investor to purchase the Bonds. The decision to purchase the Bonds has been made by the Bondholder Representative and not by any Ecofin Investor. Each Ecofin Investor Bond is held in a managed account of such investor or a comingled investment vehicle managed by Ecofin.

5. The Bondholder Representative acknowledges that the Bonds are not general obligations of the Authority, but are special, limited obligations payable and secured solely as provided for in the legal documents relating to the Bonds, including the Indenture.

6. Each Ecofin Investor is or will be (i) a “Qualified Institutional Buyer” (as defined in Rule 144A under the Securities Act of 1933, as amended); or (ii) an “accredited investor” (as defined in Rule 501 of Regulation D under the Securities Act of 1933, as amended).

7. Each Ecofin Investor has retained or will retain the Bondholder Representative to advise and represent the Ecofin Investor regarding the purchase of securities, such as the Bonds. Each Ecofin Investor has or will have the ability to bear the economic risks of an investment in the Bonds.

8. The Bondholder Representative has been informed that the Authority has not undertaken and will not undertake steps to ascertain the accuracy or completeness of the information furnished to the Bondholder Representative or any Ecofin Investor with respect to the Borrower, the Bonds or the project financed by the Bonds (the “**2022 Project**”). Neither the Bondholder Representative nor any Ecofin Investor has relied or will rely upon the Authority or its officers, directors, employees or agents or the Trustee in any way with regard to the accuracy or completeness of the information furnished to any Ecofin Investor in connection with its purchase of the Bonds, nor have any such parties made any representation to the Bondholder Representative or any Ecofin Investor with respect to that information.

9. The Bondholder Representative is sufficiently knowledgeable and experienced in financial and business matters, including the purchase and ownership of municipal and other tax-exempt obligations, to be able to evaluate the risks and merits of the investment represented by the purchase of the Bonds, and it is capable of and has made its own investigation of the Borrower and the 2022 Project in connection with its decision for the Ecofin Investors to purchase the Bonds.

10. The Bonds are being purchased by every Ecofin Investor for the purpose of investment and each Ecofin Investor intends or will intend to hold the Bonds for its own account as a long-term investment, without a current view to any distribution or sale of the Bonds. Each Ecofin Investor has been or will be informed that it may need to bear the risks of this investment for an indefinite time, since any sale prior to maturity may not be possible.

11. Each Ecofin Investor has been or will be informed that the Bonds will not be listed on any stock or other securities exchange and were issued without registration under the provisions of the Securities Act, or any state securities laws, and the Bonds may not be resold, transferred, pledged or hypothecated, in whole or in part, unless they are registered under the Securities Act and applicable state securities laws or unless an exemption from registration is available. Each Ecofin Investor has been or will be informed that the Bonds may only be transferred in Authorized Denominations and in accordance with the requirements set forth in the Indenture.

12. The Bondholder Representative has received an Offering Memorandum prepared by the Borrower in connection with the limited public offering of the Bonds and hereby represents that the information contained therein, along with all other additional information supplied by the Borrower directly to the Bondholder Representative, is sufficient for the Bondholder Representative to decide for the Ecofin Investors to purchase the Bonds.

13. The Bondholder Representative has reviewed to its satisfaction and is familiar with the Offering Memorandum, including the documents included therein or incorporated therein by reference, and the terms of the transactions contemplated thereby. The Bondholder Representative has made, either alone or together with its advisors (if any), such independent investigation of the 2022 Project, the Borrower and related matters as the Bondholder Representative deems, or such advisors (if any) have advised, to be necessary or advisable in connection with advising and representing the Ecofin Investors as to an investment in the Bonds; and the Bondholder Representative and its advisors (if any) have conducted such due diligence, made such inquiries and received all information and data that the Bondholder Representative

and such advisors (if any) believe to be necessary in order to reach an informed decision as to the advisability of an investment by the Ecofin Investors in the Bonds. The Bondholder Representative has based its decision to recommend an investment in the Bonds on the Offering Memorandum and its own investigation, including (without limitation) its review of the aforementioned documents, records, reports, financial statements and other information concerning the 2022 Project and the Borrower, discussions with representatives of the Borrower and discussions with the Underwriter based upon information about the 2022 Project and the Borrower provided by the Borrower to the Underwriter and/or the Bondholder Representative. The Bondholder Representative has been afforded the opportunity to ask such questions as it has deemed necessary in making its investment decisions, and such questions have been answered to the satisfaction of the Bondholder Representative. The Bondholder Representative acknowledges and agrees that none of the Trustee, the Authority or the Underwriter or their respective representatives have any liability for the failure by the Borrower and its representatives to provide any information or for the accuracy or completeness of any such information provided by or on behalf of the Borrower and its representatives. The Bondholder Representative acknowledges that all information and documents about the 2022 Project and the Borrower which the Underwriter forwarded to or discussed with the Bondholder Representative were received from the Borrower and its representatives, and that the Underwriter has made no representation or guarantee to the Bondholder Representative with respect to the accuracy or completeness of such information or documents. The Underwriter has represented to the Bondholder Representative that nothing has come to the attention of the Underwriter that would lead the Underwriter to believe that the information or documents provided by the Borrower about the 2022 Project or the Borrower was incorrect or incomplete in any material respect. The Bondholder Representative acknowledges that the Underwriter is acting as underwriter in connection with the sale of the Bonds and the transactions contemplated by the Offering Memorandum and that the Underwriter is not acting as an advisor to or fiduciary of the Bondholder Representative. In its evaluation of the investment by the Ecofin Investors in the Bonds, the Bondholder Representative has relied on its own expertise and investigation and that of its representatives, attorneys and advisors.

14. (a) Ecofin is not recommending any action to the Authority, the Borrower, the Sole Member or the Guarantor; (b) Ecofin is not acting as an advisor to the Authority, the Borrower, the Sole Member or the Guarantor and does not owe a fiduciary duty pursuant to Section 15B of the Exchange Act to such entities with respect to the information and material contained in this letter or the documents relating to the Bonds; (c) Ecofin is acting for its own interests and for those of the investors for which it serves as the Bondholder Representative; and (d) the Authority, the Borrower, the Sole Member and the Guarantor should discuss any information and material contained in this letter or the documents relating to the Bonds with any and all internal or external advisors and experts that such entities deem appropriate before acting on this information or material.

ECOFIN ADVISORS, LLC,  
as Bondholder Representative

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

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## APPENDIX F

### FORM OF OPINION OF BOND COUNSEL

April 21, 2022

Business Finance Authority of the  
State of New Hampshire  
135 North State Street  
Concord, New Hampshire 03301

Not to Exceed \$188,700,000  
Business Finance Authority of the State of New Hampshire  
Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2022  
Dated Date of Delivery

We have acted as bond counsel to the Business Finance Authority of the State of New Hampshire (the (“Authority”) in connection with the issuance by the Authority of the above-referenced bonds (the “Bonds”). In such capacity, we have examined the law and such certified proceedings and other papers as we have deemed necessary to render this opinion, including the Loan Agreement dated as of April 1, 2022 (the “Agreement”), between the Authority and The Baldwin Senior Living (the “Institution”) and the Trust Indenture dated as of April 1, 2022 (the “Indenture”), between the Authority and UMB Bank, National Association, as trustee (the “Trustee”). Capitalized terms used herein but not defined herein shall have the same meanings as set forth in the Indenture.

As to questions of fact material to our opinion we have relied upon representations and covenants of the Authority and the Institution contained in the Agreement and the Indenture and in the certified proceedings and other certifications of public officials furnished to us, and certifications of officials of the Institution and others, without undertaking to verify the same by independent investigation.

The Bonds are issued pursuant to the Indenture. The Bonds are payable solely from funds to be provided therefor by the Institution pursuant to the Agreement. Under the Agreement, the Institution has agreed to make payments sufficient to pay when due the principal (including sinking fund installments) and redemption price of and interest on the Bonds. Such payments and other moneys payable to the Authority under the Agreement or to the Trustee under the Indenture, including proceeds derived from any security provided thereunder (collectively, the “Revenues”), and the rights of the Authority under the Agreement to receive the same (excluding, however, certain administrative fees, indemnification, and reimbursements), are pledged and assigned by the Authority to the Trustee as security for the Bonds. The Bonds are payable solely from the Revenues. The Bonds do not constitute a general obligation of the Authority nor are they a debt or pledge of the faith and credit of the State of New Hampshire. Reference is hereby made to the Indenture and the Agreement for detailed statements of the rights and obligations (and limitations on liability, as the case may be) of the Authority, the Institution, the Trustee and the owners of the Bonds.

We express no opinion with respect to compliance by the Institution with applicable legal requirements with respect to the Agreement or in connection with the acquisition, construction, equipping or operation of the Project (as defined in the Agreement) being financed by the Bonds.

Reference is made to an opinion of even date of Nixon Peabody LLP, counsel to the Institution, with respect to, among other matters, the corporate existence of the Institution, the power of the Institution to carry out the Project, the power of the Institution to enter into and perform its obligations under the Agreement, and the authorization, execution and delivery of the Agreement by the Institution. We have relied on such opinion with regard to such matters and to the other matters addressed therein, including, without limitation, the current qualification of the Institution as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"). We note that such opinion is subject to the limitations and conditions described therein. Failure of the Institution to maintain its status as an organization described in Section 501(c)(3) of the Code or to use the Project in activities of the Institution that do not constitute unrelated trades or businesses of the Institution within the meaning of Section 513 of the Code may result in interest on the Bonds being included in gross income for federal income tax purposes, possibly from the date of issuance of the Bonds.

Based on our examination, we are of the opinion, under existing law, as follows:

1. The Authority is a duly created and validly existing body corporate and politic and a public instrumentality of the State of New Hampshire with the power to enter into and perform the Agreement and Indenture and to issue the Bonds.

2. Each of the Agreement and Indenture have been duly authorized, executed and delivered by the Authority and are valid and binding obligations of the Authority enforceable against the Authority.

3. The Bonds have been duly authorized, executed and delivered by the Authority and are valid and binding special obligations of the Authority, payable solely from the Revenues and other funds provided therefor in the Agreement.

4. Interest on the Bonds is excluded from the gross income of the owners of the Bonds for federal income tax purposes. In addition, interest on the Bonds is not a specific preference item for purposes of the federal alternative minimum tax. In rendering the opinions set forth in this paragraph, we have assumed compliance by the Authority and the Institution with all requirements of the Code that must be satisfied subsequent to the issuance of the Bonds in order that interest thereon be, and continue to be, excluded from gross income for federal income tax purposes. The Institution and, to the extent necessary, the Authority have covenanted in the Agreement and the Indenture to comply with all such requirements. Failure by the Authority or the Institution to comply with certain of such requirements may cause interest on the Bonds to become included in gross income for federal income tax purposes retroactive to the date of issuance of the Bonds. We express no opinion regarding any other federal tax consequences arising with respect to the Bonds.

5. Interest on the Bonds, including the profit made from their transfer or sale, is exempt from taxation within the State of New Hampshire. We express no opinion regarding any other New Hampshire tax consequences arising with respect to the Bonds or any tax consequences arising with respect to the Bonds under the laws of any state other than New Hampshire.

This opinion is expressed as of the date hereof, and we neither assume nor undertake any obligation to update, revise, supplement or restate this opinion to reflect any action taken or omitted, or any facts or circumstances or changes in law or in the interpretation thereof, that may hereafter arise or occur, or for any other reason.

The rights of the holders of the Bonds and the enforceability of the Bonds, the Indenture and the Agreement may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable, and their enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

HINCKLEY, ALLEN & SNYDER LLP

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**Consultant's Report  
Market & Financial Feasibility Analysis**

**Of**

**The Baldwin Senior Living  
Londonderry, New Hampshire**

**April 19, 2022**

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Edgewood Retirement Community, Inc.  
575 Osgood Street  
North Andover, MA

OnePoint Partners LLC (“OnePoint”) was engaged by Edgewood Retirement Community, Inc. (“ERC” or the “Sponsor”) to prepare a financial feasibility and market positioning analysis for The Baldwin Senior Living (the “Borrower”) in conjunction with the planned financing for the development of a new senior living community in Londonderry, New Hampshire to be referred to as The Baldwin (“The Baldwin”, the “Project” or the “Community”). Work conducted by OnePoint included the following:

- (1) **Strategic Positioning Analysis:** OnePoint analyzed both the current and future market positioning of The Baldwin with a focus on findings related to the depth of the senior living market in the Londonderry area and its capacity to support The Baldwin. This study consists of research and analysis of the fundamental dynamics—demographics, competitive environment, demand, etc.—impacting the market and The Baldwin specifically as well as an evaluation of pre-sales received to date. OnePoint also considered background on trends and environments across the senior living and long-term care industry (with emphasis on continuing care retirement communities (“CCRCs”)) that may impact The Baldwin, and that should be taken into account.
- (2) **Financial Feasibility:** Based on the market positioning work, as well as input from management of ERC and the Borrower (collectively, “Management”), a set of detailed revenue projections was developed for The Baldwin. Similarly, OnePoint worked with Management to develop a set of expense assumptions for The Baldwin. The result is a detailed set of financial projections illustrating the ability of the Borrower to generate sufficient revenue to pay its operating expenses and the debt service requirements to support the proposed approximate \$212,117,000 total project costs related to development and construction of The Baldwin for a period of five years.

This report includes financial projections and a summary of the assumptions which OnePoint and Management believe are significant to the financial projections. Based on the assumptions developed by Management, it is OnePoint’s conclusion that The Baldwin can be a successful operation, and that the projected cash flows are sufficient to generate acceptable credit metrics going forward.

The projections included in this report constitute “forward-looking statements.” When used in this report, the words “estimate,” “expect,” “project,” “intend,” “anticipate,” “believe,” “may,” “will,” “continue” and similar expressions identify forward-looking statements. Any forward-looking statement is subject to uncertainty and risk that could cause actual results to differ, possibly materially, from those contemplated in such forward-looking statements. Although OnePoint and Management believe that the assumptions upon which these projections are based are reasonable, any of the assumptions could prove to be inaccurate and, as a result, the forward-looking statements based on those assumptions could also be incorrect. All phases of the operations of The Baldwin involve risks and uncertainties, many of which are outside of Management’s control and any one of which, or a combination of which, could materially affect The Baldwin’s results with respect to operations.

Factors that could cause actual results to differ from those expected include, but are not limited to, general economic conditions, reduced demand for units in the Community, changes in tax laws or governmental

regulations, unanticipated expenses or delays encountered during construction and other risks discussed in this Offering Memorandum. See “CERTAIN BONDHOLDERS’ RISKS.”

NO REPRESENTATION OR ASSURANCE CAN BE GIVEN THAT THE BORROWER WILL REALIZE REVENUES IN AMOUNTS SUFFICIENT TO MAKE ALL REQUIRED DEBT SERVICE PAYMENTS ON THE SERIES 2022 BONDS. THE REALIZATION OF FUTURE REVENUES DEPENDS ON, AMONG OTHER THINGS, THE MATTERS DESCRIBED IN “CERTAIN BONDHOLDERS’ RISKS” AND FUTURE CHANGES IN ECONOMIC AND OTHER CONDITIONS THAT ARE UNPREDICTABLE AND CANNOT BE DETERMINED AT THIS TIME.

Terms used but not defined in this report that are defined in the forepart of this Offering Memorandum shall have the meanings set forth therein unless otherwise required by the context in which such terms are used.

This report is not prepared in accordance with the American Institute of Certified Public Accounting’s generally accepted accounting principles or accounting or auditing standards.

## **PROJECTED FINANCIAL STATEMENTS**

### **The Baldwin**

Projected Statements of Activities and Changes in Net (Deficits)

For the Fiscal Years Ending December 31st

(in thousands of dollars)

	2022	2023	2024	2025	2026
<b>Revenues:</b>					
Independent living revenue	\$ -	\$ 49	\$ 5,976	\$ 12,692	\$ 14,111
Supported residential care revenue	-	218	2,410	4,219	4,651
Other revenue	-	24	230	391	452
Entrance fee amortization	-	221	1,666	3,496	4,221
Investment income	39	145	270	297	303
<b>Total revenues</b>	<b>39</b>	<b>657</b>	<b>10,552</b>	<b>21,094</b>	<b>23,737</b>
<b>Expenses:</b>					
General and administrative	1,154	3,158	3,927	3,108	3,296
Plant operations	-	675	2,649	2,748	2,891
Environmental services	-	132	548	614	690
Culinary services	-	349	1,797	2,296	2,564
Resident care services	-	60	249	264	290
Wellness	-	57	281	336	360
Supported residential care	-	153	954	1,160	2,062
Management fee - fixed fee prior to stabilization	684	684	684	570	-
Management fee - after stabilization	-	-	-	95	576
Depreciation	-	1,099	4,474	4,510	4,547
Amortization	-	261	1,061	1,061	1,061
Interest expense	-	-	8,169	8,196	7,715
<b>Total expenses</b>	<b>1,838</b>	<b>6,628</b>	<b>24,792</b>	<b>24,958</b>	<b>26,053</b>
<b>Increase (decrease) in net (deficits)</b>	<b>(1,799)</b>	<b>(5,971)</b>	<b>(14,240)</b>	<b>(3,864)</b>	<b>(2,315)</b>
<b>Net (deficits), beginning of year</b>	<b>(4,809)</b>	<b>(6,608)</b>	<b>(12,578)</b>	<b>(26,818)</b>	<b>(30,682)</b>
<b>Net (deficits), end of year</b>	<b>\$ (6,608)</b>	<b>\$ (12,578)</b>	<b>\$ (26,818)</b>	<b>\$ (30,682)</b>	<b>\$ (32,998)</b>

**The Baldwin**

Projected Statements of Cash Flows

For the Fiscal Years Ending December 31st

(in thousands of dollars)

	2022	2023	2024	2025	2026
<b>Cash flows from operating activities:</b>					
Change in net (deficits)	\$ (1,799)	\$ (5,971)	\$ (14,240)	\$ (3,864)	\$ (2,315)
Adjustments to reconcile change in net (deficits)					
to net cash provided by (used in) operating activities:					
Depreciation	-	1,099	4,474	4,510	4,547
Amortization expense	-	261	1,061	1,061	1,061
Amortization of earned entrance fees	-	(221)	(1,666)	(3,496)	(4,221)
Net change in current assets and liabilities	4	148	(166)	(681)	(12)
(Decrease) increase in accrued interest - senior debt	531	855	92	(0)	(110)
Entrance fees received from turnover	-	228	1,950	4,369	5,884
Entrance fees refunded	-	(130)	(1,055)	(2,160)	(2,733)
<b>Net cash provided by (used in) operating activities</b>	<b>(1,264)</b>	<b>(3,730)</b>	<b>(9,550)</b>	<b>(262)</b>	<b>2,101</b>
<b>Cash flows from investing activities:</b>					
Purchase of property and equipment	(49,786)	(91,506)	(2,818)	(549)	(566)
Interest cost capitalized during construction period	(2,969)	(7,742)	(1,673)	-	-
(Increase) decrease in assets limited as to use	(11,961)	(9,457)	7,034	8,077	-
(Increase) decrease in assets limited as to use, current	-	-	(676)	(544)	32
(Increase) decrease in investments	39	-	-	(7,660)	5,918
<b>Net cash provided by (used in) investing activities</b>	<b>(64,678)</b>	<b>(108,704)</b>	<b>1,867</b>	<b>(676)</b>	<b>5,385</b>
<b>Cash flows from financing activities:</b>					
Initial entrance fees received	-	10,457	56,273	23,938	-
Proceeds from Series 2022 Short-term Senior Bonds	20,177	45,063	3,260	-	-
Proceeds from Series 2022 Long-term Senior Bonds	40,862	57,760	4,178	-	-
Deferred financing costs	(4,791)	(1,028)	(117)	-	-
Original issue (discount)	(696)	-	-	-	-
Refinance Series 2020 Bonds	(19,100)	-	-	-	-
(Decrease) increase in Sponsor Subordinate Recoverable Grant	4,000	-	-	83	504
(Decrease) increase in Due to ESSG for management fee	684	684	684	570	-
Principal payments on Series 2022 Short-term Senior Bonds	-	-	(49,745)	(18,754)	-
Principal payments on Series 2022 Long-term Senior Bonds with distributions	-	-	-	(0)	(7,660)
(Decrease) increase in Series 2022E Subordinate Bonds	17,690	-	-	-	-
(Decrease) increase in resident deposits	7,116	(150)	(4,694)	(2,272)	-
<b>Net cash provided by (used in) financing activities</b>	<b>65,941</b>	<b>112,785</b>	<b>9,840</b>	<b>3,565</b>	<b>(7,156)</b>
<b>Net increase in cash and cash equivalents</b>	<b>\$ 0</b>	<b>\$ 351</b>	<b>\$ 2,156</b>	<b>\$ 2,626</b>	<b>\$ 330</b>
<b>Beginning balance of cash and cash equivalents</b>	<b>0</b>	<b>0</b>	<b>351</b>	<b>2,507</b>	<b>5,134</b>
<b>Ending balance of cash and cash equivalents</b>	<b>\$ 0</b>	<b>\$ 351</b>	<b>\$ 2,507</b>	<b>\$ 5,134</b>	<b>\$ 5,464</b>

**The Baldwin**

Projected Statements of Financial Position  
For the Fiscal Years Ending December 31st  
(in thousands of dollars)

	2022	2023	2024	2025	2026
<b>Assets</b>					
Current assets:					
Cash and cash equivalents	\$ -	\$ 351	\$ 2,507	\$ 5,133	\$ 5,463
Assets limited as to use - Bond Fund	-	-	676	1,220	1,188
Accounts receivable	-	24	708	1,422	1,579
Prepaid expenses	1	49	194	204	244
Supplies inventory	-	14	56	58	70
<b>Total current assets</b>	<b>1</b>	<b>438</b>	<b>4,141</b>	<b>8,037</b>	<b>8,544</b>
Investments	-	-	-	7,660	1,742
Assets limited as to use:					
Project Fund	621	294	-	-	-
Funded Interest Fund: Senior	736	3,518	-	-	-
Funded Interest Fund: Subordinate	3,142	1,402	-	-	-
Senior Debt Service Reserve Fund	1,079	4,599	7,040	7,040	7,040
Subordinate Debt Service Reserve Fund	1,740	1,740	1,740	1,740	1,740
Entrance Fee Fund	-	2,036	4,867	-	-
Working Capital Fund	-	3,336	938	-	-
Resident deposits	7,116	6,966	2,272	-	-
<b>Total assets limited as to use</b>	<b>14,434</b>	<b>23,890</b>	<b>16,857</b>	<b>8,780</b>	<b>8,780</b>
Property and equipment	69,576	168,823	173,315	173,864	174,430
less accumulated depreciation	-	(1,099)	(5,573)	(10,082)	(14,629)
<b>Net property and equipment</b>	<b>69,576</b>	<b>167,724</b>	<b>167,742</b>	<b>163,782</b>	<b>159,800</b>
Other assets					
Deferred bond costs, net	5,750	6,542	5,697	4,736	3,775
<b>Total assets</b>	<b>\$ 89,760</b>	<b>\$ 198,594</b>	<b>\$ 194,437</b>	<b>\$ 192,995</b>	<b>\$ 182,641</b>
<b>Liabilities and Net (Deficits)</b>					
Current liabilities:					
Accounts payable	\$ 2	\$ 77	\$ 305	\$ 320	\$ 384
Accrued expenses	3	162	639	669	802
Accrued Interest	531	1,386	1,478	1,478	1,368
Refundable deposits	7,116	6,966	2,272	-	-
<b>Total current liabilities</b>	<b>7,652</b>	<b>8,591</b>	<b>4,694</b>	<b>2,467</b>	<b>2,554</b>
Long-term liabilities:					
Refundable entrance fees	-	5,373	33,824	45,772	46,132
Deferred entrance fees	-	4,961	32,013	42,716	41,287
Total entrance fee liabilities	-	10,335	65,837	88,488	87,419
Sponsor Subordinate Recoverable Grant	10,000	10,000	10,000	10,083	10,587
Due to ESSG for management fee	684	1,368	2,052	2,622	2,622
Series 2022 Short-term Senior Bonds	20,177	65,239	18,754	0	0
Series 2022 Long-term Senior Bonds	40,862	98,621	102,800	102,799	95,140
Series 2022E Subordinate Bonds	17,690	17,690	17,690	17,690	17,690
Original issue discount, net	(696)	(671)	(572)	(472)	(373)
<b>Total liabilities</b>	<b>96,368</b>	<b>211,173</b>	<b>221,255</b>	<b>223,677</b>	<b>215,639</b>
Net (deficits):					
Undesignated	(6,608)	(12,578)	(26,818)	(30,682)	(32,998)
<b>Net (deficits)</b>	<b>(6,608)</b>	<b>(12,578)</b>	<b>(26,818)</b>	<b>(30,682)</b>	<b>(32,998)</b>
<b>Total liabilities and net (deficits)</b>	<b>\$ 89,761</b>	<b>\$ 198,595</b>	<b>\$ 194,437</b>	<b>\$ 192,995</b>	<b>\$ 182,641</b>

**The Baldwin**

Projected Schedule of Financial Ratios  
 For the Fiscal Years Ending December 31st  
 (in thousands of dollars)

<b>Long-Term Debt Service Coverage Ratio</b>	<b>2026</b>
Change in net deficits	\$ (2,315)
Deduct:	
Entrance fee amortization	(4,221)
Add:	
Depreciation	4,547
Amortization	1,061
Interest expense	7,715
Entrance fees received from turnover	5,884
Entrance fees refunded	(2,733)
Income Available for Debt Service	\$ 9,938
Annual debt service - senior debt	\$ 5,581
Annual DSCR - senior debt <sup>(a)</sup>	1.78x
Annual DSCR - senior debt - Management Fee deferral <sup>(a)</sup>	1.88x
Annual DSCR - senior debt - Fixed Charge <sup>(b)</sup>	1.68x
Annual debt service - total debt <sup>(a)</sup>	\$ 7,321
Annual DSCR - total debt	1.36x
Annual DSCR - total debt - Management Fee deferral <sup>(a)</sup>	1.44x
Annual DSCR - total debt - Fixed Charge <sup>(b)</sup>	1.28x
<b>Days Cash on Hand</b>	<b>2026</b>
Cash and cash equivalents	\$ 5,463
Investments	1,742
Cash on hand	\$ 7,205
Total expenses	\$ 26,053
Less:	
Deferred interest expense	(504)
Depreciation	(4,547)
Amortization	(1,061)
Total expenses less depreciation and amortization	\$ 19,941
Daily operating expenses <sup>(c)</sup>	\$ 55
Days cash on hand	132

- (a) Annual debt service is interest only thru fiscal year ending December 31, 2026 and excludes principal payments on the Series 2022B Bonds made with excess cash and investments over the Days Cash on Hand Threshold.
- (b) Assumes the annual management fee is subordinate to debt service and is added back to income available for debt service.
- (c) Measures the ability of the Community to pay for debt service and routine capital expenditures. Capital expenditures are deducted from income available for debt service.
- (d) Daily operating expenses are equal to total operating expenses less depreciation, amortization, and deferred interest expense on the Sponsor Recoverable Grant divided by 365 days.

## Summary of Significant Projection Assumptions

### Background & Description of the Sponsor

Edgewood Retirement Community (“Edgewood Community” or “ERC”) is an existing continuing care retirement community, or life plan community, located in North Andover, Massachusetts and owned by ERC. Edgewood Community was originally developed by Life Care Services and officially opened in 1997. Over the years, Edgewood Community has become a leader in senior care due to its excellent reputation, built in large part on its mission to create and nurture an environment where “the residents are architects of their own well-being.”

Edgewood Community’s current unit mix is as follows:

- 240 independent living units
  - 216 independent living apartments
  - 24 independent living cottages
- 40 assisted living/memory care apartments (The Woodlands Inn)
- 60 skilled nursing beds (The Meadows Health Center)

Edgewood Community also provides its residents with a resident service program, which is directed by a licensed nurse and staffed by certified nursing assistants and home health aides. The program is intentionally designed to provide “Assistance in Living”, affording residents the ability to receive care where and when they want and need it.

ERC is planning a new life plan community in Londonderry, New Hampshire to be known as The Baldwin Senior Living. The Baldwin will be located within a new planned mixed-use development, referred to as “Woodmont Commons.” Woodmont Commons encompasses over 600 acres of land and will consist of a variety of retail shops, parks and other green space, office space, and housing. Construction of Woodmont Commons began in 2017, and currently has portions of the “Main Street” development completed, including luxury apartments, a brewery, and an Orangetheory Fitness Studio. It is considered to be the largest economic development project in New Hampshire. Pillsbury Realty Development is the master developer for Woodmont Commons.

In 2017, ERC established a parent organization, Edgewood Senior Solutions Group, Inc. (“ESSG”), for the purpose of allowing for growth. The Borrower is also a subsidiary of ESSG.

### Background & Description of the Community

The Baldwin is a planned not-for-profit entrance fee community located in Londonderry, New Hampshire to consist of 190 independent living apartments (the “Independent Living Units”) and 40 supported residential care suites (the “Supported Residential Care Units”), all of which are adaptable for residents requiring memory support, along with supporting common and amenity spaces. The Baldwin will not include any skilled nursing beds. It is expected that residents’ healthcare needs will be provided in the Supported Residential Care Units, with ten of the 40 suites dedicated to serving residents with higher acuity.

The Baldwin is to be located at the core of the downtown section of the planned Woodmont Commons development surrounded by complimentary commercial and retail uses. Restaurants, entertainment, assorted retail, and green spaces will all be accessible by future residents and within walking distance. While the entirety of the Woodmont Commons development will take several years to complete, the downtown “Main Street” section is planned to be the first to be developed, with many of the retail options to be in place by the time The Baldwin opens.

In October 2020, the Business Finance Authority of the State of New Hampshire issued its Revenue Bonds (The Baldwin at Woodmont Commons Project), Series 2020 (the “Series 2020 Bonds”) in the maximum aggregate principal amount of \$19,765,000, the proceeds of which were lent to the Borrower and ERC provided an advance to the Borrower in the amount of \$5.0 million. These proceeds were used to purchase the land, fund various pre-construction costs, and fund a portion of early site work. Later in October 2021, ERC provided an additional \$1 million of funding to fund initial site work for The Baldwin. The Series 2020 Bonds will be refinanced with proceeds at construction financing and the \$6.0 million funding from ERC is assumed to remain in the Project at construction financing as a part of a \$10 million subordinate recoverable grant from ERC (the “Sponsor Subordinate Recoverable Grant”). Of the \$10 million, approximately \$9.44 million has already been advanced to continue to fund early site work activities, ongoing marketing, and other pre-development costs in addition to the \$6 million funded as part of the pre-construction financing.

### **Unit Mix, Contract Options, and Pricing**

Residents have the option of either a declining balance entrance fee plan (the “Declining Balance Plan”) or an 85 percent refundable entrance fee plan (the “85% Refund Plan”), either of which is available under a LifeCare contract (“Type A”) or a fee-for-service contract (“Type C”). Residents that select the Type A benefit pay an additional \$81,955 non-refundable Entrance Fee and an additional \$997 Monthly Fee, both in 2023 dollars.

Under the 85% Refund Plan, the amount of the Entrance Fee refund will decline one percent upon initial occupancy and then by another one percent for each subsequent month of occupancy until the Entrance Fee amount to be refunded is reduced to 85 percent. Under the Declining Balance Plan, the amount of the Entrance Fee refund will be reduced by two percent upon initial occupancy and then by another two percent for each subsequent month of occupancy until the Entrance Fee amount to be refunded is reduced to zero.

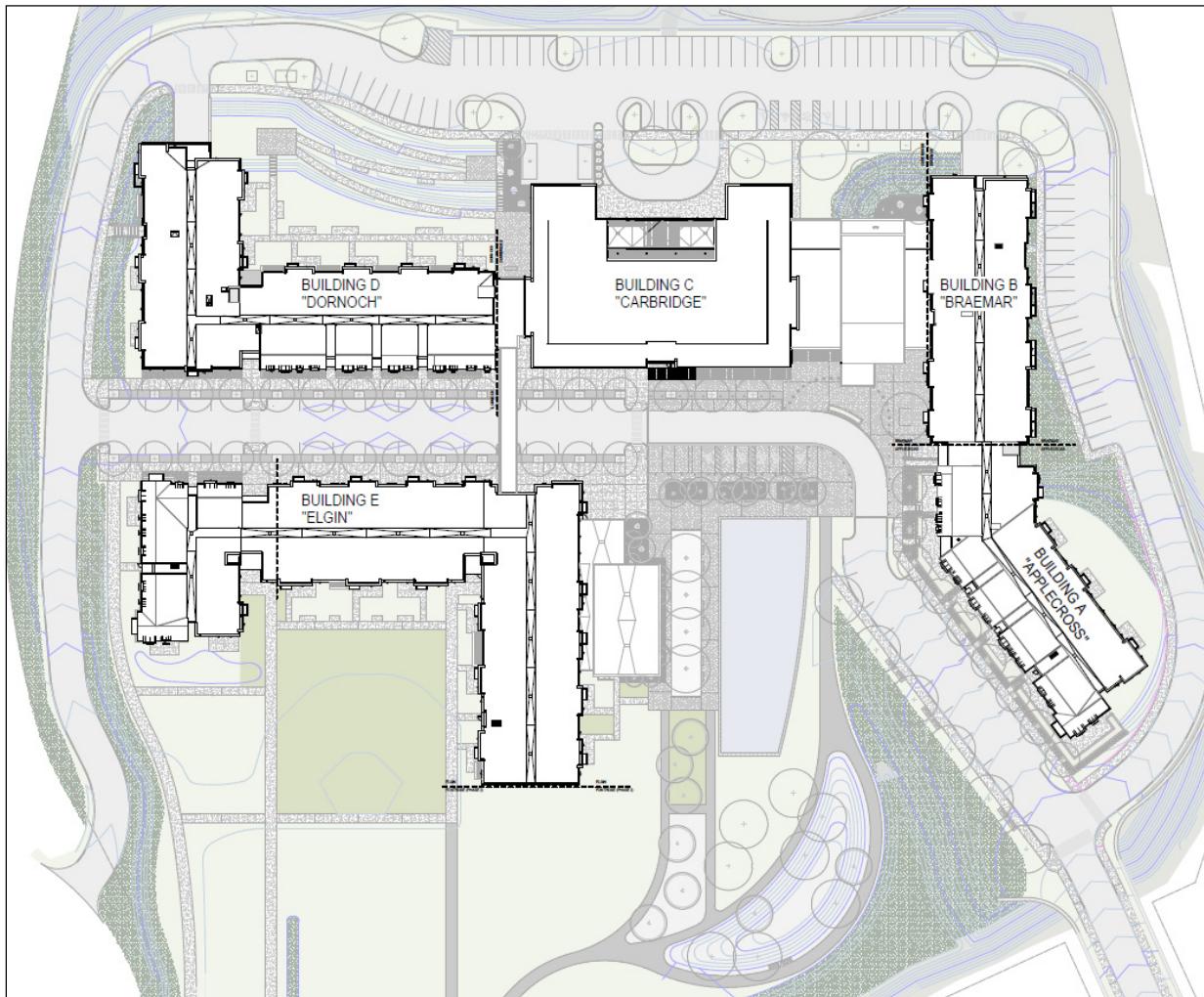
Residents on a Type A contract receive the benefit of continuing to pay the then current Monthly Fee of their respective Independent Living Unit, plus a charge for additional meals not covered by the resident’s meal plan for a total of three meals per day, even after transfer to a Supported Residential Care Unit. Residents on a Type C contract pay the then current Monthly Fee for the level of assisted living supportive care they require, which fee is higher than the Monthly Fee for Independent Living Units.

The proposed unit mix and pricing at The Baldwin is detailed in the table below:

The Baldwin - Unit Mix and Pricing							
in 2023\$	# of Units	Wtd avg sq ft	Entrance Fee - Type C <sup>(1)</sup> Fee-for-Service Contract		Monthly Fee <sup>(2)(3)</sup>		
			85% Refund Plan	Declining Balance Plan	Fee-for- Service		
<b>Independent Living Apartments</b>							
One-Bedroom Deluxe	22	880	\$ 372,470	\$ 206,963	\$ 3,506		
One-Bedroom w/ Den	36	1,021	\$ 443,602	\$ 246,420	\$ 4,176		
Two-Bedroom	39	1,142	\$ 525,160	\$ 291,701	\$ 4,602		
Two-Bedroom Deluxe	48	1,250	\$ 589,611	\$ 327,576	\$ 5,025		
Two-Bedroom w/ Den	30	1,353	\$ 655,836	\$ 364,367	\$ 5,454		
Two-Bedroom w/ Den Jumbo	15	1,496	\$ 730,349	\$ 405,792	\$ 5,941		
Total / weighted average	190	1,177	\$ 545,142	\$ 302,854	\$ 4,742		
Second Person			<i>Non-refundable entrance fee:</i>	\$ 30,007	\$ 1,376		
<b>Add-on for Type A LifeCare Contract (per person)</b>			<i>Non-refundable entrance fee:</i>	\$ 81,955	\$ 997		
<b>Supported Residential Care Suites<sup>(4)</sup></b>							
Core Services	30	350	n/a	n/a	\$ 10,202		
Core Plus Services	10	350	n/a	n/a	\$ 13,295		

- Pricing reflects current pricing inflated to 2023 dollars. Effective January 1, 2022, Management implemented an approximately 4.4 percent weighted average increase to Entrance Fees based on pre-sales by unit type. All future pre-sales and turnover Entrance Fee proceeds are assumed to be on current pricing.
- Independent living residents have the option of receiving a Monthly Fee credit of \$118/month for utilization of half the allotted meals or \$237/month for no meal plan, in 2023 dollars.
- Surface parking is to be available to residents at no additional charge; however, residents may purchase underground parking spots using one of three payment options each in 2023 dollars: (1) 50 percent refundable one-time purchase price of \$13,911, (2) \$113 monthly fee for a 12-month yearly rental, or (3) \$129/month for a six-month yearly rental.
- The Monthly Fee for supported residential care reflects the assumed average rate including utilization of level of care charges. Direct admissions to the Supported Residential Care Units are assumed to pay a one-time non-refundable community fee of \$5,150 in 2023 dollars. The Monthly Fee for direct admits and internal permanent transfer residents on the fee-for-service contract will be the same. Residents on a Type A contract are assumed to continue to pay the then current Monthly Fee of their respective Independent Living Unit, plus an additional charge for extra meals, when transfer to a Supported Residential Care Unit.

The Baldwin will be comprised of five interconnected buildings, referred to as Building A, Building B, Building C, Building D, and Building E as shown in the schematic below. Building A, Building B, Building D, and Building E will be four stories and Building C will be three stories. All buildings (except Building A) will sit on top of a parking garage level. The Supported Residential Care suites will be located on two floors in Building C, which will be connected to Building E and other common areas by a pedestrian bridge across the main entry drive. Building A, Building B, Building D and Building E will contain the Independent Living apartments.



## Project Timing

The anticipated timeline for The Baldwin is detailed below:

The Baldwin - Project Timing		
Land Closing - Series 2020 Bonds issued		October 2020
Commenced site work		October 2021
Commenced construction	(25 month total construction period)	February 2022
Construction financing		April 2022
Buildings A & B available for occupancy	(65 ILUs)	October 2023
Supportive Residential Care Units available for occupancy	(40 AL/MC units)	November 2023
Building E available for occupancy	(69 ILUs)	January 2024
Building D available for occupancy	(56 ILUs)	March 2024
Achieve stabilized occupancy - Independent Living Units	(24 month fill-up period)	October 2025
Achieve stabilized occupancy - Supported Residential Care Units	(24 month fill-up period)	November 2025
First full fiscal year of stabilized operations		2026
Refinance to permanent debt		April 2029

## Presales Velocity

The Borrower began officially allowing for 10 percent deposits from future Residents late in 2019 but treated this as a “soft” presale targeted to people immediately ready to convert and overall have remained focused on further building the priority deposit list and nurturing this base to position it to become the main wave of presales. In late 2020, the Borrower shifted to a more concerted focus of converting priority depositors to 10 percent depositors. As of December 31, 2021 there are 144 10 percent depositors on record for The Baldwin. The velocity of presales is detailed in the following table.

### The Baldwin - Pre-Sales Velocity

Fiscal Year/Month	10% Deposit Sales	Cancels	Cumulative Net Sales	Net % Sold
<b>2020</b>				
Prior	20	0	20	11%
October	3	0	23	12%
November	4	0	27	14%
December	10	0	37	19%
<b>2021</b>				
January	2	1	38	20%
February	9	2	45	24%
March	6	0	51	27%
April	8	0	59	31%
May	10	0	69	36%
June	17	2	84	44%
July	10	1	93	49%
August	9	1	101	53%
September	8	2	107	56%
October	14	1	120	63%
November	6	2	124	65%
December	22	2	144	76%
<b>Total</b>	<b>158</b>	<b>14</b>	<b>144</b>	<b>76%</b>

Of the existing 144 depositors, 84 (i.e., 58 percent) are from New Hampshire, 33 (i.e., 23 percent) are from Massachusetts, and the remaining 27 (i.e., 19 percent) are from different states thus demonstrating the wide geographic pull of The Baldwin. Of the 58 percent of depositors from New Hampshire, 35.4 percent originate from within the ten-mile radius primary market area ("PMA", as described in the following section), compared to 65 percent to 70 percent per industry standards. This is an indication of how strong sales have been outside of the primary market, beyond anticipated in-migration. This destination-like appeal has served well to accelerate deposits in late 2021. The following table outlines the origin of the existing depositors.

Depositor Origin Data The Baldwin				
Zip Code	Town	Total	Percent	Within PMA
03053	Londonderry	13	9.0%	X
03110	Bedford	11	7.6%	X
03101	Manchester	6	4.2%	X
03038	Derry	5	3.5%	X
03811	Hampstead/Atkinson	4	2.8%	X
03036	Chester	2	1.4%	X
03060	Nashua	2	1.4%	X
03079	Salem	2	1.4%	X
03087	Windham	2	1.4%	X
03106	Hooksett	2	1.4%	
03233	New London	2	1.4%	
03801	Portsmouth	2	1.4%	
03820	Dover	2	1.4%	
03830	E. Wakefield	2	1.4%	
03833	Brentwood	2	1.4%	
03833	Exeter	2	1.4%	
03842	Hampton	2	1.4%	
03031	Amherst	1	0.7%	
03032	Auburn	1	0.7%	X
03033	Brookline	1	0.7%	
03034	Candia	1	0.7%	
03049	Hollis	1	0.7%	
03051	Hudson	1	0.7%	X
03052	Litchfield	1	0.7%	X
03054	Merrimack	1	0.7%	X
03077	Raymond	1	0.7%	
03241	Hebron	1	0.7%	
03254	Moultonborough	1	0.7%	
03301	Concord	1	0.7%	
03440	Hancock	1	0.7%	
03458	Peterborough	1	0.7%	
03751	Sunapee	1	0.7%	
03753	Grantham	1	0.7%	
03857	Newmarket	1	0.7%	
03858	Newton	1	0.7%	
03862	North Hampton	1	0.7%	
03865	Plaistow	1	0.7%	
03885	Stratham	1	0.7%	
<b>NH Total</b>		<b>84</b>	<b>58.3%</b>	<b>35.4%</b>
<b>MA Total</b>		<b>33</b>	<b>22.9%</b>	
<b>FL Total</b>		<b>5</b>	<b>3.5%</b>	
<b>ME Total</b>		<b>3</b>	<b>2.1%</b>	
<b>CT Total</b>		<b>3</b>	<b>2.1%</b>	
<b>RI Total</b>		<b>3</b>	<b>2.1%</b>	
<b>Out of State Other</b>		<b>13</b>	<b>9.0%</b>	
<b>Grand Total</b>		<b>144</b>	<b>100.0%</b>	

Of the 144 units with depositors as of December 31, 2021, 50 are by single depositors (34 percent) and 94 are couples (65 percent). The average age of the 238 depositors (including 1<sup>st</sup> and 2<sup>nd</sup> persons) is 75 years. The following table outlines the depositor contract choices.

Depositor Contract Choices The Baldwin	
Contract	# of Depositors (Including 2nd Persons)
Type C Declining Balance	122
Type C 85% Refundable	50
Type A Declining Balance	23
Type A 85% Refundable	43

The depositor mix currently skews towards Declining Balance contracts as, at the start the pre-sales effort, depositors were opting for the cheapest alternative when making their 10 percent deposit. In October 2021, the marketing team asked all existing depositors to share intentions regarding contract selection and then, based on initial findings, stopped accepting further sales on the Declining Balance contract effective November 1, 2022. Given that The Baldwin opening is approximately two years out, the marketing team feels confident in their ability to achieve an even contract split across the four contracts by move-in.

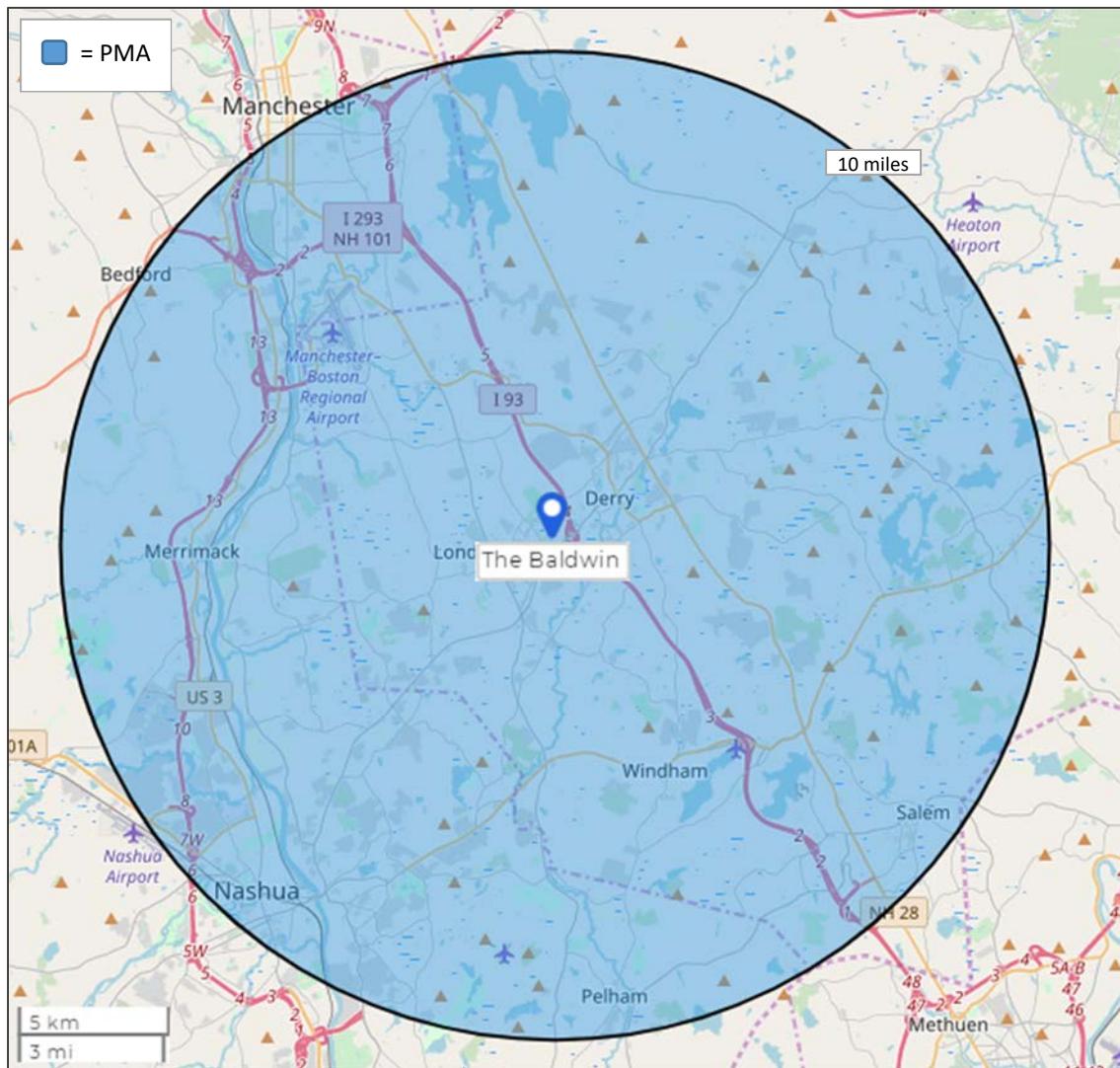
## Market Dynamics

The following provides a summary overview of the fundamental market dynamics impacting The Baldwin, including demographics, competitive environment, and demand.

### Demographics

For the purposes of this analysis, the PMA is defined as a ten-mile radius surrounding the site. Municipalities within the defined market area in New Hampshire include Londonderry, Derry, Windham, Merrimack, Hudson, Hampstead, Litchfield, and portions of Pelham, Salem, Nashua, Atkinson, Sandown, Chester, Auburn, Manchester and Bedford. As mentioned above, while the depositor draw has reached beyond this initial ten-mile radius, for purposes of this report, our analysis will confirm that The Baldwin is supportable within its local market should the destination-like appeal cease to continue after this initial wave of depositors. **Map 1** depicts the PMA graphically.

Map 1



Overall, the PMA is a well populated and above average income market with an above average concentration of older adults. **Table 1** below details the population by age and year for the PMA.

**Table 1**

Older Adult Population by Age and Year The Baldwin PMA						
Population	2021		2026		% Annual Change	
	#	% of Total	#	% of Total	(2000-2021)	(2021-2026)
<b>Total</b>	<b>285,185</b>	<b>100.0%</b>	<b>290,554</b>	<b>100.0%</b>	<b>0.4%</b>	<b>0.4%</b>
55 to 64	44,500	15.6%	46,177	15.9%	3.0%	0.8%
65 to 74	29,661	10.4%	36,214	12.5%	6.8%	4.4%
75 to 84	12,922	4.5%	14,758	5.1%	3.4%	2.8%
85+	4,911	1.7%	5,308	1.8%	2.5%	1.6%
<b>55+</b>	<b>91,994</b>	<b>32.3%</b>	<b>102,457</b>	<b>35.3%</b>	<b>4.0%</b>	<b>2.3%</b>
<b>65+</b>	<b>47,494</b>	<b>16.7%</b>	<b>56,280</b>	<b>19.4%</b>	<b>5.2%</b>	<b>3.7%</b>
<b>75+</b>	<b>17,833</b>	<b>6.3%</b>	<b>20,066</b>	<b>6.9%</b>	<b>3.1%</b>	<b>2.5%</b>

Source: Environics Analytics

The 75+ population in the PMA is just over 17,800 in the 2021; this represents 6.3 percent of the total population, which is on par with the national average 75+ population concentration (6.8 percent per 2019 US Census Population Projections). There is also steady growth in this cohort projected over the next five years, increasing to a total projected population of just over 20,000 (an average annual increase of 2.5 percent) in the PMA.

Older adults in the PMA of relatively moderate but above average income. **Table 2** below details the 75+ household cohort in the PMA by income. It shows that there are just over 10,750 households age 75+ in the PMA. Just over 4,300 75+ households have an income in excess of \$50,000, representing 40 percent of all 75+ households. The number of 75+ households with incomes in excess of \$50,000 is projected to increase by 4.3 percent, or approximately 187 households, per annum through 2026. There are approximately 2,592 75+ households with an income of \$75,000+, representing approximately 24 percent of all 75+ households.

**Table 2**

Households 75+ by Income The Baldwin PMA						
Income	2021		2026		% Annual Change	
	#	%	#	%	(2000-2021)	(2021-2026)
<b>Total</b>	<b>10,757</b>	<b>100.0%</b>	<b>11,868</b>	<b>100.0%</b>	<b>3.2%</b>	<b>2.1%</b>
\$35,000+	5,875	54.6%	6,975	58.8%	12.5%	3.7%
\$50,000+	4,317	40.1%	5,253	44.3%	18.6%	4.3%
\$75,000+	2,592	24.1%	3,349	28.2%	26.6%	5.8%
\$100,000+	1,631	15.2%	2,239	18.9%	34.3%	7.5%

Source: Environics Analytics

The overall median household income in the PMA was just under \$90,000 in 2021, as shown in **Table 3** which follows. The median household income for all older adult age cohorts is projected to increase by 2.1 percent to 2.2 percent per annum between 2021 and 2026.

**Table 3**

<b>Median Household Income of Older Adult Households by Age</b> <b>The Baldwin PMA</b>					
<b>Age</b>	<b>2000</b>	<b>2021</b>	<b>2026</b>	<b>% Annual Change (2000-2021) (2021-2026)</b>	
<b>All Households</b>	<b>\$56,587</b>	<b>\$87,447</b>	<b>\$94,830</b>	<b>2.6%</b>	<b>1.7%</b>
55 to 64	\$58,349	<b>\$108,238</b>	\$120,163	4.1%	2.2%
65 to 74	\$33,774	<b>\$64,867</b>	\$72,028	4.4%	2.2%
75 to 84	\$20,842	<b>\$43,155</b>	\$47,708	5.1%	2.1%
85+	\$17,256	<b>\$30,235</b>	\$33,396	3.6%	2.1%

Source: Environics Analytics

### Real Estate Analysis

**Table 4** shows that the median home value in the PMA, according to data based on the US Census, is approximately \$330,000.

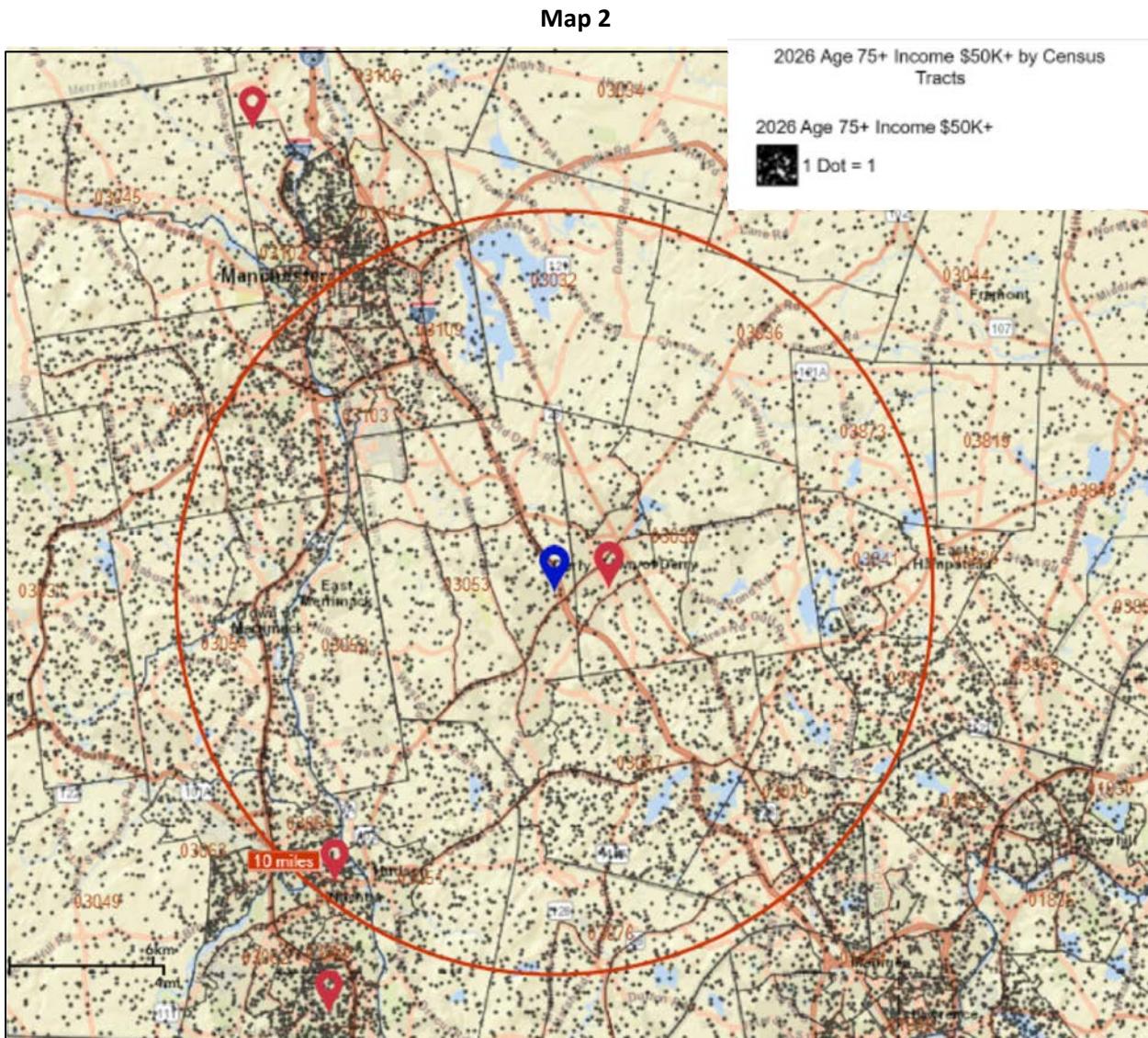
The weighted average entrance fee for the Type C Declining Balance Plan at The Baldwin is approximately 13 percent less than the median home value within the PMA. The weighted average entrance fee for the Type C 85% Refund Plan at The Baldwin is at an approximate 56 percent premium to the median home value within the PMA. This premium is in line with industry standard metrics for a supportable premium relative to home values for similar high refund plans.

**Table 4**

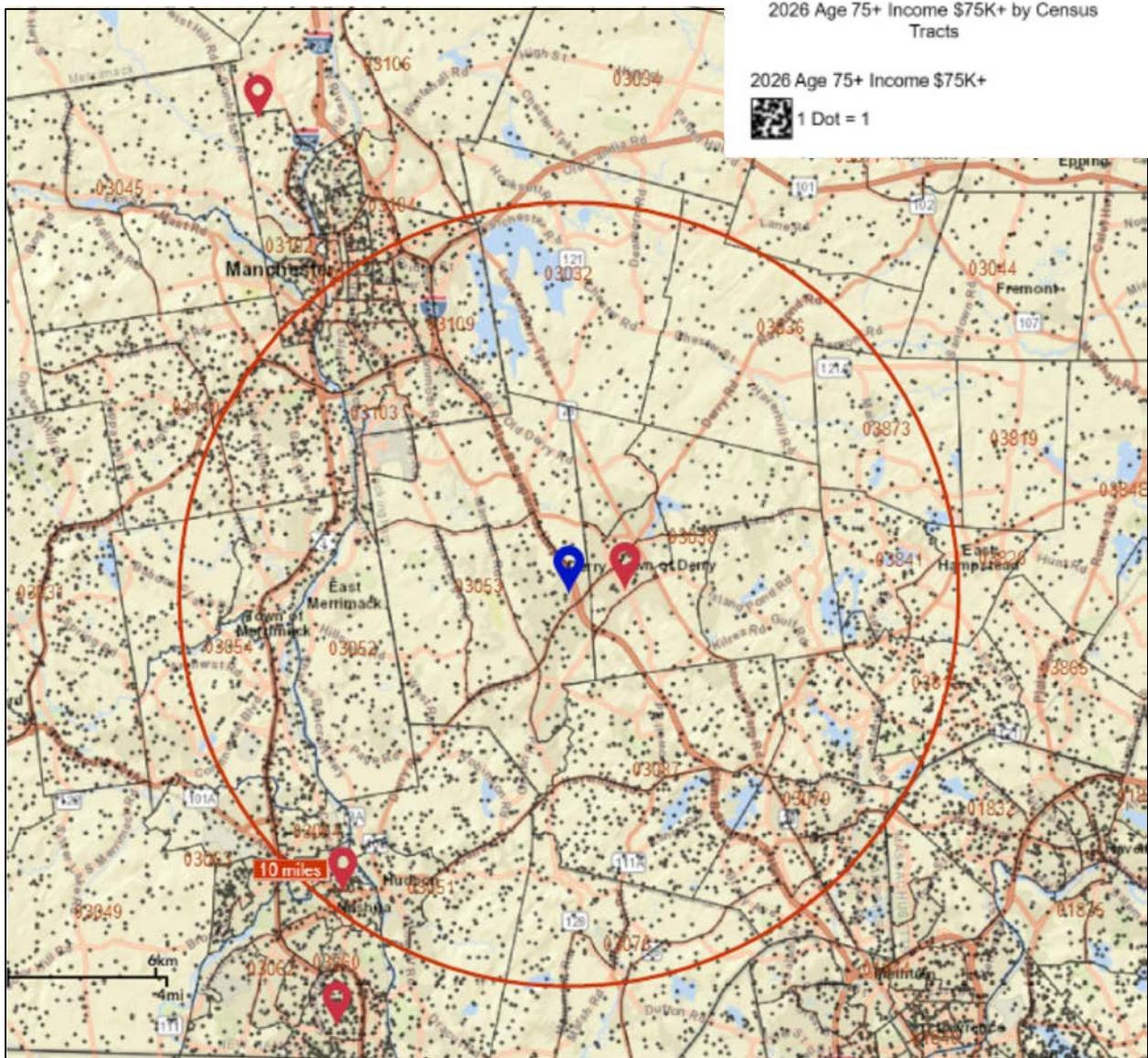
<b>Home Value Distribution (Census Data)</b> <b>The Baldwin PMA</b>					
<b>Home Values</b>	<b>2021</b>	<b>#</b>	<b>2026</b>	<b>#</b>	<b>2021-2026 Growth Period</b>
		<b>%</b>		<b>%</b>	<b>Per Annum</b>
<b>Total</b>	<b>77,325</b>	<b>100.0%</b>	<b>79,221</b>	<b>100.0%</b>	<b>2.5%</b>
<b>Median Home Value</b>	<b>\$329,950</b>		<b>\$360,927</b>		<b>9.4%</b>
\$150,000+	71,588	92.6%	74,265	93.7%	3.7%
\$250,000+	55,725	72.1%	61,063	77.1%	9.6%
\$300,000+	45,283	58.6%	52,210	65.9%	15.3%
\$400,000+	24,189	31.3%	31,951	40.3%	32.1%
\$500,000+	11,170	14.4%	16,944	21.4%	51.7%

Source: Environics Analytics

**Map 2** and **Map 3** depict the number of age- and income-qualified households at the \$50,000 income level and the \$75,000 income level (respectively) in 2026 within and near the PMA.



Map 3



## Competitive Environment

For a market with relatively strong demographics, the PMA is not particularly well-developed with comparable competitive product. There are additional communities outside the defined PMA that may be considered to offer a more comparable product and will be taken into consideration for purposes of market demand. The market can be said to be relatively diverse with a range of providers and property types represented including public/national for-profits as well as local/regional nonprofits, and CCRCs as well as freestanding senior care providers. This is true of all products/levels of care including independent living and dementia care. The following provides a synopsis of the competitive environment for each of the aforementioned levels of care.

### Independent Living

The PMA has one CCRC and one rental independent living community (Hunt Community and Birch Heights, respectively). In addition, there are four CCRCs outside of the PMA that are noted due to either proximity to the PMA and/or comparable product provided (i.e., RiverWoods Manchester, Huntington at Nashua, RiverWoods Exeter, and Kendal at Hanover).

**Hunt Community** is a CCRC located in downtown Nashua that is owned and operated by Silverstone Living and provides independent living, assisted living, and skilled nursing care. Historically, Hunt Community has experienced mild occupancy challenges in independent living (between 80 and 90 percent) which was generally attributed to aging physical plant issues. The community's roots date back more than 100 years and many of its structures are part of the original early 20<sup>th</sup> Century construction. The community has worked to combat this by recent renovations of common area spaces and adding a new great room/gathering space for residents, and currently reports occupancy at 87 percent.

**Birch Heights** is a rental independent living community located in Derry and operated by Holiday Retirement. Historically Birch Heights has reported strong occupancy and is currently 98 percent occupied.

**RiverWoods Manchester (Formerly Birch Hill)** is a CCRC located in Manchester that is owned and operated by Riverwoods Group and provides independent living, assisted living, dementia, and skilled nursing care. RiverWoods Manchester in the past has experienced occupancy and performance challenges, in part leading to its absorption within the Riverwoods Group. Since the affiliation, occupancy within independent living rose to a pre-pandemic high of 97 percent and is currently reported at 86 percent.

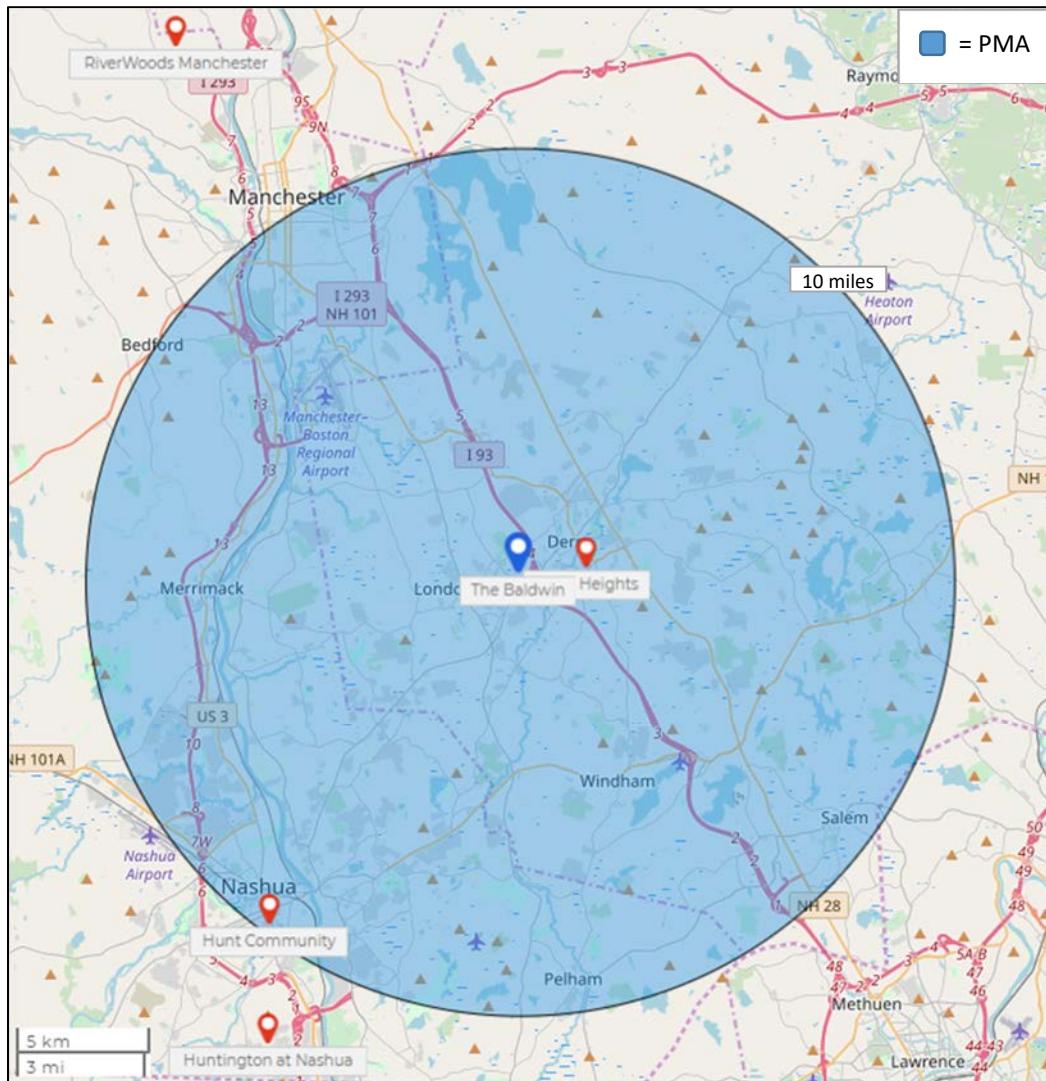
**Huntington at Nashua** is a CCRC located in Nashua that is owned and operated by Silverstone Living and provides independent living, assisted living and skilled nursing care. It is a sister property to Hunt Community but quite different, as it opened in 2004 and is much more contemporary than Hunt Community, is set in a suburban location, and has a Type A LifeCare model. Huntington at Nashua historically has experienced relatively sound occupancy in independent living, and currently reports occupancy at 96 percent.

**RiverWoods Exeter** is a two-campus CCRC located in Exeter owned and operated by RiverWoods Group and provides independent living, assisted living, dementia, and skilled nursing care. It is set in a suburban location and has a Type A LifeCare model. RiverWoods Exeter has potentially the most comparable product to The Baldwin, and although it is located over 20 miles away it is considered a primary competitor from a marketing standpoint. RiverWoods Exeter has historically experienced strong occupancy in independent living, and currently reports occupancy at 97 percent.

**Kendal at Hanover** is a CCRC located in Hanover owned and operated by Kendal Corporation and provides independent living, assisted living, dementia, and skilled nursing care. It has a Type A LifeCare model. Although being located over 75 miles away from The Baldwin, it is also considered a competitor from a marketing standpoint due to its comparable product. Kendal at Hanover also has experienced historically sound occupancy in independent living, and currently reports occupancy at 98 percent.

**Map 2** depicts the competitive environment within and near the PMA.

**Map 2**



**Table 5** summarizes the levels of care offered at the communities within and near to the PMA, as well as the contracts and plans offered. As noted, only one community near the PMA provides a complete continuum of care and is the only existing community offering dementia care. All contract types are represented within the market, with refund options ranging from 50 percent to 90 percent as well as declining balance plans.

Table 5

Comparable Independent Living Communities											
Levels of Care and Contracts											
The Baldwin											
Community	Levels of Care Provided*					Contract Types			Plans and Refund Options		
	CCRC	IL	AL	AD	SNF	A	B	C	Declining	Refund	Rental
<b>Communities Within the PMA</b>											
<b>Entrance Fee Communities</b>											
Hunt Community	Yes	116	24	–	24	–	✓	–	50 Mo	75%	No
<b>Rental Communities</b>											
Birch Heights	No	126	–	–	–	–	–	✓	No	No	Yes
<b>Other Comparable Communities Outside the PMA</b>											
RiverWoods Manchester	Yes	138	53	12	9	–	✓	–	No	70%	No
Huntington at Nashua	Yes	142	24	–	24	✓	–	–	50 Mo	90%	No
RiverWoods Exeter	Yes	342	71	YES	78	✓	–	–	No	90%	No
Kendal at Hanover	Yes	250	89	18	5	✓	–	–	50 Mo	50%	No
<b>The Baldwin</b>	<b>Yes</b>	<b>190</b>	<b>–</b>	<b>40</b>	<b>**</b>	<b>✓</b>	<b>–</b>	<b>✓</b>	<b>50 Mo</b>	<b>85%</b>	<b>No</b>

\* IL= Independent Living; AL= Assisted Living; AD= Alzheimer's Dementia Care; SNF= Skilled Nursing Care

\*\* While there are no dedicated SNF beds planned at The Baldwin, it is expected that care for the residents' healthcare needs will be provided within the Supported Residential Care Units, with ten of the 40 suites dedicated to residents with higher acuity needs.

**Table 6** provides a comparison of type of product/inventory and also apartment unit sizes between comparable communities and The Baldwin. As is the case with The Baldwin, the market is almost completely comprised of multifamily/apartment product. Units at The Baldwin will compare favorably with the largest offerings in the market.

Table 6

Comparable Independent Living Communities											
Independent Living Product and Unit Sizes											
The Baldwin											
Community	IL Product			Apartment Unit Types and Sizes (SF)							
	Multi/Apts	SF Attached	SF Detached	Studio	1BR	1BR/Den	2BR	2BR/Den			
<b>Communities Within the PMA</b>											
<b>Entrance Fee Communities</b>											
Hunt Community	116	X	X	440	548 - 715	920	828 - 1,023	1,227 - 1,307			
<b>Rental Communities</b>											
Birch Heights	126	X	X	374 - 563	542 - 657	X	937 - 1,150	X			
<b>Other Comparable Communities Outside the PMA</b>											
RiverWoods Manchester	134	4	X	X	624 - 872	800 - 864	872 - 1,092	X			
Huntington at Nashua	124	18	X	X	625 - 901	964	1,116 - 1,247	1,431			
RiverWoods Exeter	307	X	35	570 - 581	633 - 984	941 - 975	984 - 1,440	X			
Kendal at Hanover	212	38	X	556 - 620	752	1,025 - 1,112	1,107 - 1,214	1,107 - 1,324			
<b>The Baldwin</b>	<b>190</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>880</b>	<b>1,021</b>	<b>1,142 - 1,250</b>	<b>1,353 - 1,496</b>			

**Table 7** provides a pricing comparison between comparable communities and The Baldwin. When compared to pricing at Huntington at Nashua, The Baldwin's Type A pricing ranges from approximately in line to eight percent above on an absolute basis and from in line to six percent above for most units on a per square foot basis. When compared to pricing at RiverWoods Exeter (the community with the most comparable product), The Baldwin's Type A pricing ranges from three percent to 17 percent below on an absolute basis and from seven percent to 16 percent below on a per square foot basis. This range of premium compared to Huntington can be expected for new product, especially within a more desirable, neo-urban setting. The Baldwin's price discount relative to RiverWoods Exeter is due primarily to offering a lower monthly service fee which creates a compelling value and meaningful price advantage to consumers over this community. With this in mind, pricing for The Baldwin appears reasonable relative to the competitive market and should not serve as a hinderance to securing depositors.

**Table 7**

Competitive Independent Living Communities Pricing Comparison The Baldwin Market Area										
Community	Contract	Refund	Size	Entrance Fee	Fee Per SF	Monthly Fee	Fee Per SF	Equiv. Monthly Fee	Per SF	Baldwin Premium
										Total EMF EMF/SF
<b>One-Bedroom Apartments</b>										
Riverwoods Manchester	Type B	70%	872	\$333,000	\$382	\$4,177	\$4.79	\$5,958	\$6.83	-12.4% -13.2%
Huntington at Nashua	Type A	90%	829	\$398,000	\$480	\$4,224	\$5.10	\$4,933	\$5.95	5.7% -0.4%
Riverwoods Exeter	Type A	90%	820	\$388,475	\$474	\$4,832	\$5.89	\$5,649	\$6.89	-7.7% -14.0%
<b>The Baldwin</b>	<b>Type A</b>	<b>85%</b>	<b>880</b>	<b>\$428,339</b>	<b>\$487</b>	<b>\$4,245</b>	<b>\$4.82</b>	<b>\$5,217</b>	<b>\$5.93</b>	
<b>One-Bedroom Den Apartments</b>										
Huntington at Nashua	Type A	90%	964	\$476,000	\$494	\$4,701	\$4.88	\$5,865	\$6.08	7.6% 1.6%
Riverwoods Exeter	Type A	90%	975	\$430,500	\$442	\$5,355	\$5.49	\$6,481	\$6.65	-2.6% -7.0%
<b>The Baldwin</b>	<b>Type A</b>	<b>85%</b>	<b>1,021</b>	<b>\$495,387</b>	<b>\$485</b>	<b>\$4,876</b>	<b>\$4.78</b>	<b>\$6,312</b>	<b>\$6.18</b>	
<b>Two-Bedroom Apartments</b>										
Riverwoods Manchester	Type B	70%	1,092	\$390,000	\$357	\$5,058	\$4.63	\$7,153	\$6.55	0.2% -4.2%
Huntington at Nashua	Type A	90%	1,116	\$544,000	\$487	\$5,134	\$4.60	\$6,699	\$6.00	7.0% 4.6%
Riverwoods Exeter	Type A	90%	1,160	\$594,500	\$513	\$6,534	\$5.63	\$8,659	\$7.47	-17.2% -15.9%
<b>The Baldwin</b>	<b>Type A</b>	<b>85%</b>	<b>1,142</b>	<b>\$572,264</b>	<b>\$501</b>	<b>\$5,278</b>	<b>\$4.62</b>	<b>\$7,168</b>	<b>\$6.28</b>	
<b>Two-Bedroom Deluxe Apartments</b>										
Hunt Community	Type A	75%	1,227	\$668,000	\$544	\$5,689	\$4.64	\$8,515	\$6.94	-6.7% -8.4%
Huntington at Nashua	Type A	90%	1,247	\$600,000	\$481	\$5,564	\$4.46	\$7,476	\$6.00	6.3% 6.0%
<b>The Baldwin</b>	<b>Type A</b>	<b>85%</b>	<b>1,250</b>	<b>\$633,015</b>	<b>\$506</b>	<b>\$5,677</b>	<b>\$4.54</b>	<b>\$7,946</b>	<b>\$6.36</b>	
<b>Two-Bedroom /Den Apartments</b>										
Riverwoods Manchester	Type B	70%	1,424	\$428,000	\$301	\$5,552	\$3.90	\$7,856	\$5.52	11.2% 17.1%
Huntington at Nashua	Type A	90%	1,431	\$690,000	\$482	\$6,228	\$4.35	\$8,693	\$6.07	0.5% 6.3%
Riverwoods Exeter	Type A	90%	1,340	\$688,800	\$514	\$6,925	\$5.17	\$9,555	\$7.13	-8.6% -9.4%
<b>The Baldwin</b>	<b>Type A</b>	<b>85%</b>	<b>1,353</b>	<b>\$695,439</b>	<b>\$514</b>	<b>\$6,081</b>	<b>\$4.49</b>	<b>\$8,738</b>	<b>\$6.46</b>	

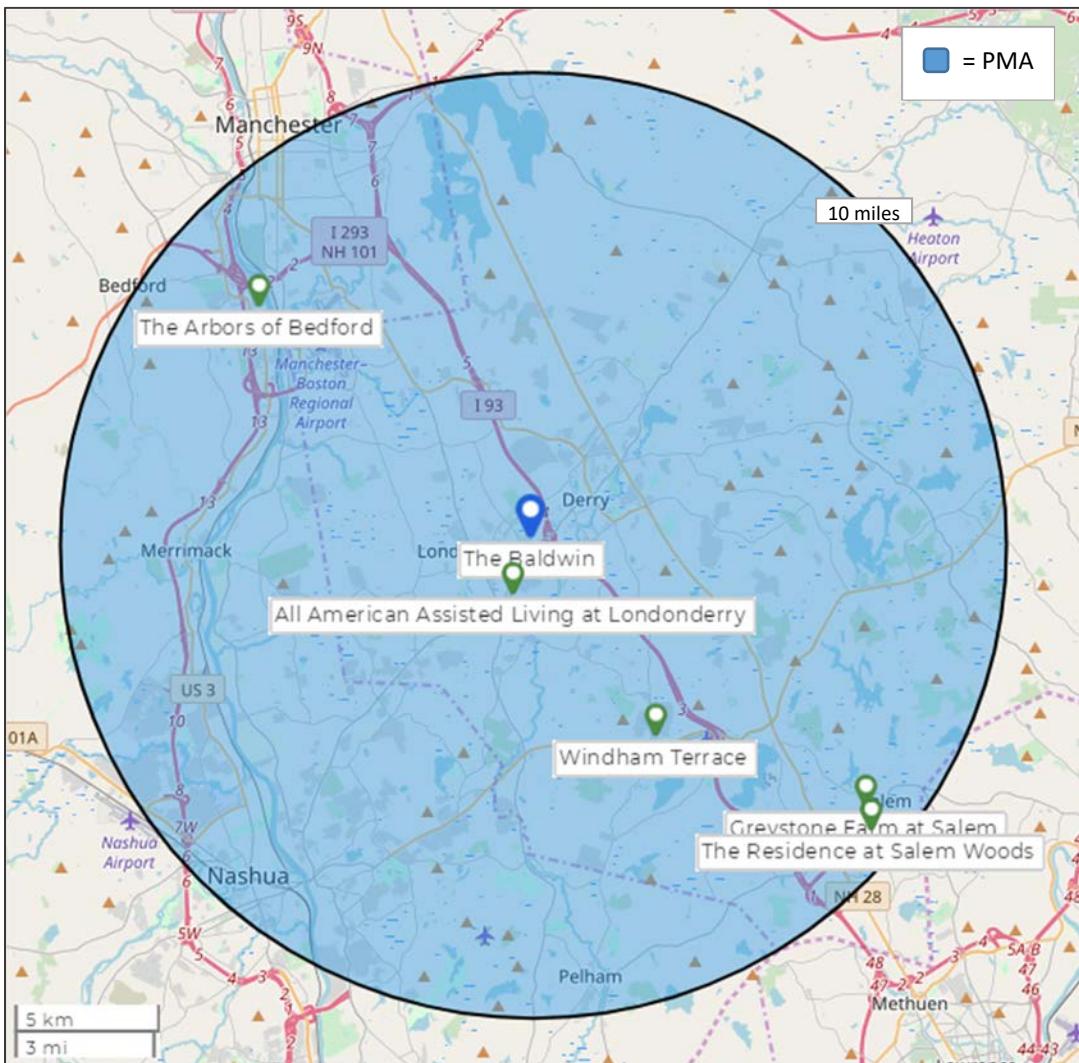
Dementia Care

The dementia care environment within the PMA is fairly well-developed. There are five competitive properties, which are all freestanding providers. The inventory consists of all for-profit providers, with both single-site operators and multi-property national providers. **Table 8** inventories the five competitive dementia care communities included within this analysis, and **Map 4** depicts these communities graphically.

**Table 8**

Competitive Alzheimer's Dementia Communities				
Inventory of Facilities				
The Baldwin PMA				
Facility	City	Distance	Ownership	Manager
All American Assisted Living at Londonderry	Londonderry	1.3	For Profit	Self Managed
The Arbors of Bedford	Bedford	7.5	For Profit	Benchmark Senior Living
Greystone Farm at Salem	Salem	9.2	For Profit	Benchmark Senior Living
The Residence at Salem Woods	Salem	9.6	For Profit	LCB Senior Living
Windham Terrace	Windham	4.9	For Profit	Self Managed
<b>The Baldwin</b>	<b>Londonderry</b>	<b>–</b>	<b>Nonprofit</b>	<b>ESSG</b>

Map 3



Overall occupancy performance across the competitive market is extremely strong (comfortably above the national average); the aggregate occupancy at the time of our analysis across the five communities and 133 operating beds was 95 percent. **Table 9** displays occupancy data across the competitive dementia care communities included within this analysis.

**Table 9**

Competitive Alzheimer's Dementia Communities				
Census & Occupancy				
The Baldwin PMA				
Facility	Operating AD Beds	Census	Occupancy	
All American Assisted Living at Londonderry	24	22	92.0%	
The Arbors of Bedford	89	83	93.3%	
Greystone Farm at Salem	17	16	94.1%	
The Residence at Salem Woods	26	26	100.0%	
Windham Terrace	18	18	100.0%	
<b>Total</b>	<b>174</b>	<b>165</b>	<b>94.8%</b>	

## Demand

We note that our approach to determining a likely PMA and demographic base for the target for The Baldwin was intentionally conservative and based on an “as-is” scenario for Woodmont Commons and the surrounding area. Should Woodmont Commons continue its build-out as planned by its developers in the years to come there is the potential for it—and by association for The Baldwin—to become somewhat more of a destination. That is not the case, however, at present. Accordingly, our analysis focuses on the current environment and developing a more conservative scenario for the target market and potential demand for The Baldwin.

### Independent Living Demand

Overall, the measures of demand in the market are favorable for independent living. The demand findings suggest that there is adequate depth in the market to support the existing inventory, including the planned inventory at The Baldwin. The following displays a summary of the demand analysis for independent living.

To reconcile supply and demand for independent living and quantify the size of the potential support for independent living in the market, we utilize standardized quantitative measures of demand, specifically a market penetration rate—which is a measure of all product in the market relative to the size of the qualified target market—and a project capture analysis – which is a measure of the specific market share that the subject must capture in order to fill its units. For the purpose of this analysis, we examine the potential of the market to support specifically the entire proposed 190 Independent Living Units at The Baldwin. The summary of these analyses follows.

The industry standard for age- and income-qualification for independent living in many moderate to above average income markets is a target market of households age 75 and older with income of \$50,000 or

greater. We believe that this is an appropriate barometer for The Baldwin. It is important to bear in mind that this minimum income threshold is for the purposes of the market feasibility and therefore is reflective of the “floor” in qualifying the market and quantifying the universe of prospects for both The Baldwin and the rest of the competitive product in the market. This provides for more validity in determination and comparison of market penetration rates and capture rates within the market. Importantly, it is not directly tied to income qualification criteria applied to the buyer qualification process for The Baldwin, which we would in fact expect to be more stringent (and utilize a higher income level). Furthermore, given the proposed Monthly Fees at The Baldwin, we believe that \$50,000 is an appropriate “floor” to apply to the potential pool of buyers as this takes into account the lowest price offerings at the Community.

The number of competitive units in the market is adjusted to reflect our interpretation of the direct competitive impact of each property based on factors such as geographic overlap, positioning/pricing, and target market.

Independent Living Units	Competitive Units	Total
<b>Entrance Fee/Continuing Care Comps</b>	<b>\$50,000+</b>	<b>Units</b>
RiverWoods Manchester	51	156
Hunt Community	118	118
Huntington of Nashua	62	124
<b>Total Continuing Care Comps</b>	<b>231</b>	<b>398</b>
<b>Freestanding/Rental Comps</b>		
Birch Heights	126	126
<b>Total Freestanding/Rental Comps</b>	<b>126</b>	<b>126</b>
<b>Grand Total</b>	<b>357</b>	<b>524</b>

The **market penetration rate** is extremely modest (see **Table 10**). In our experience, market penetration rates of 25 percent to 30 percent are achievable and sustainable in most markets. Including for a minimum income threshold of \$50,000 the market penetration rate in 2021 is just 12.7 percent, and projecting forward to 2026, the rate drops to 10.4 percent.

**Table 10**

Independent Living Demand Market Penetration Rate Analysis The Baldwin PMA		
	2021	2026
Household Age	75+	75+
Minimum Income Target	\$50,000+	\$50,000+
Maximum Income Target	All	All
Home Value	All	All
<b>Market Penetration Rate</b>		
Age and Income Qualified Households	4,317	5,253
Estimated Directly Competitive Continuum ILUs	231	231
Estimated Competitive Freestanding ILUs	126	126
Planned Competitive Units	0	0
Subject Property Existing Units	0	0
Subject Property Proposed Units	190	190
Total ILUs in Market	547	547
<b>Market Penetration Rate</b>	<b>12.7%</b>	<b>10.4%</b>

The **project capture rate**—which is a project specific measure of the market share that any one community must capture in order to fill its units—for The Baldwin’s 190 Independent Living Units demonstrates adequate demand in the market, both in the current year and projecting forward (demand in 2026) due to demographic growth. The Baldwin’s 190 Independent Living Units would need to capture 3.4 percent of the unserved target market in the current year, assuming an industry standard in-migration of 30 percent. Looking ahead to the future projection for 2026, the project capture rate drops to 2.7 percent. In our experience, a capture rate of 3 percent up to 5 percent is typically achievable for any given product, depending on factors such as consumer acceptance, competitive alternatives, etc. These calculations are displayed in **Table 11** which follows.

**Table 11**

Independent Living Demand Project Capture Rate Analysis The Baldwin PMA		
	2021	2026
<b>Household Age</b>	75+	75+
<b>Minimum Income Target</b>	\$50,000+	\$50,000+
<b>Maximum Income Target</b>	All	All
<b>Home Value</b>	All	All
 <b>Project Capture Rate</b>		
Qualified Target Market	4,317	5,253
(Less Existing Competitive Supply)	(357)	(357)
<b>Total Unserved Target Market</b>	<b>3,959</b>	<b>4,896</b>
 <b>Capture Rate: Existing Property</b>		
Subject Property Existing Units	190	190
In-Migration Adjustment	30.0%	30.0%
Total Project ILUs to be Filled	133	133
<b>Project Capture Rate</b>	<b>3.4%</b>	<b>2.7%</b>

#### Independent Living Demand – Post-tax Methodology and Analysis

Considering that available demographic data reflects pre-tax income, we conducted additional demand analysis to show demand with post-tax income. For the \$50,000+ income target, an average tax rate of 16.3 percent was applied (based on a June 2019 study by 24/7 Wall Street based on the IRS’s Statistics of Income Program, stating 16.3 percent to be the average tax rate for the state of New Hampshire). Therefore, to have a household income of \$50,000 or above post-tax, the reported income must be approximately \$59,800 pre-tax (rounded to \$60,000 for purposes of our analysis). For the \$75,000+ income target, a tax rate of 22 percent was applied to reflect higher-income households (based on 2019 tax bracket breakdown from the IRS). Therefore, to have a household income of \$75,000 or above post-tax, the reported income must be approximately \$96,000 pre-tax (rounded to \$100,000 for purposes of our analysis).

**Table 12** outlines the post-tax market penetration rates for the PMA. The minimum pre-tax income threshold of \$60,000 produces a market penetration rate in 2021 of 15.1 percent, and projecting forward to 2026, the rate drops to 12.2 percent. While not reflected in the table, the market penetration rates at the \$100,000 pre-tax income threshold in 2021 and 2026 are 28.1 percent and 20.5 percent, respectively.

**Table 12**

Independent Living Demand Market Penetration Rate Analysis (Post-Tax) The Baldwin PMA		
	2021	2026
Household Age	75+	75+
Minimum Income Target	\$60,000+	\$60,000+
Maximum Income Target	All	All
Home Value	All	All
<b>Market Penetration Rate</b>		
Age and Income Qualified Households	3,627	4,491
Estimated Directly Competitive Continuum ILUs	231	231
Estimated Competitive Freestanding ILUs	126	126
Planned Competitive Units	0	0
Subject Property Existing Units	0	0
Subject Property Proposed Units	190	190
Total ILUs in Market	547	547
<b>Market Penetration Rate</b>	<b>15.1%</b>	<b>12.2%</b>

Assuming the same industry standard 30 percent in-migration, the post-tax analysis project capture rate for The Baldwin's 190 Independent Living Units is 4.1 percent in the current year. When viewing the future projection for 2026, the project capture rate drops to 3.2 percent. These calculations are displayed in **Table 13** which follows.

**Table 13**

<b>Independent Living Demand</b>		
<b>Project Capture Rate Analysis (Post-Tax)</b>		
<b>The Baldwin PMA</b>		
	<b>2021</b>	<b>2026</b>
<b>Household Age</b>	75+	75+
<b>Minimum Income Target</b>	\$60,000+	\$60,000+
<b>Maximum Income Target</b>	All	All
<b>Home Value</b>	All	All
 <b>Project Capture Rate</b>		
Qualified Target Market	3,627	4,491
(Less Existing Competitive Supply)	(357)	(357)
<b>Total Unserved Target Market</b>	<b>3,269</b>	<b>4,134</b>
 <b>Capture Rate: Existing Property</b>		
Subject Property Existing Units	190	190
In-Migration Adjustment	30.0%	30.0%
Total Project ILUs to be Filled	133	133
<b>Project Capture Rate</b>	<b>4.1%</b>	<b>3.2%</b>

#### Dementia Care Demand

The market penetration rate for dementia care is based on an age-, income-, and need-qualified target market of persons age 65+ with income of \$75,000+ with a need qualifier based on estimated prevalence of Alzheimer's Disease and related disorders in the elderly population. As with independent living, the income qualification for the purposes of the feasibility analysis is intended to represent the floor for the universe of potential consumers. We note that our methodology does not take into account two very real factors that have a marked impact on consumers' ability to pay for such services: 1) spend down of assets; and 2) contributions from children and family members. Thus, the use of \$75,000 as a minimum income threshold is in fact highly conservative and likely cuts out from the pool a not insignificant number of potential and actual buyers. An additional screen for an assisted living-based level of care also is applied (eliminating mild acuity usually still cared for in at-home or informal settings and high acuity/severe typically served in nursing or hospice and beyond the capacity of assisted living). This adds a further level of conservatism to our analysis.

In the PMA there is an estimated total Alzheimer's assisted living (dementia care) bed need of 672 beds and existing competitive supply of 172 beds. Including The Baldwin's 40 dementia care targeted beds, there is a total inventory of 212 beds serving a target market of 672, equating to a market penetration rate of just over 31 percent (see **Table 14**). In our experience, market penetration rates of 35 percent or

below are generally achievable in most markets. In more developed markets such as The Baldwin's, rates often reach higher and still remain achievable. The penetration rate indicates a competitive market, but one that appears supportable and sustainable.

The project capture rate for The Baldwin's 40 Supported Residential Care Units (assuming a stabilized occupancy of 90 percent and in-migration of 25 percent) is 6.1 percent. In our experience, a capture rate of 7.5 percent—or sometimes higher—is typically achievable for a given dementia care community. This indicates that the market can support the proposed inventory at The Baldwin. See **Table 15** for the dementia care project capture rate.

**Table 14**

<b>2021 Alzheimer's Dementia Care Demand Net Demand &amp; Market Penetration Analysis The Baldwin PMA</b>						
<b>Household Income Qualification</b>						
Age	Households	Income \$75,000+	Age/Income Qualified HHs			
65-74	17,507	43.2%	7,568			
75-84	7,894	26.9%	2,125			
85+	2,862	16.3%	467			
<b>Total</b>	<b>65+</b>	<b>28,263</b>	<b>35.9%</b>	<b>10,160</b>		
<b>Conversion of Households to Persons</b>						
Age	Adj. Age/Income Qualified HHs	Persons Per Household	Qualified Persons			
65-74	7,568	1.69	12,823			
75-84	2,125	1.64	3,478			
85+	467	1.72	801			
<b>Total</b>	<b>65+</b>	<b>10,160</b>	<b>1.68</b>	<b>17,102</b>		
<b>Alzheimer's Dementia (AD) Prevalence Qualification</b>						
Age	Qualified Persons	AD Prevalence	AD Need			
65-74	12,823	3.1%	398			
75-84	3,478	16.7%	581			
85+	801	32.2%	258			
<b>Total</b>	<b>65+</b>	<b>17,102</b>	<b>7.2%</b>	<b>1,236</b>		
<b>AD Cognitive Impairment Adjustment</b>						
<b>AL Level AD</b>						
Age	Qualified Persons	Impairment	AL Level AD Need			
65-74	398	67.0%	266			
75-84	581	44.0%	256			
85+	258	58.0%	150			
<b>Total</b>	<b>65+</b>	<b>1,236</b>	<b>54.3%</b>	<b>672</b>		
<b>Total Alzheimer's Dementia Assisted Living Bed Need</b>						
<b>Competitive Supply</b>						
Existing Beds			172			
Planned Beds			0			
<b>Subject Beds (Existing + Planned)</b>			40			
<b>Total Alzheimer's Assisted Living Bed Supply</b>						
<b>Net Bed Demand (Surplus)</b>						
<b>Market Penetration Rate</b>						
			<b>31.6%</b>			

**Table 15**

2021 Alzheimer's Dementia Care Demand Project Capture Rate Analysis The Baldwin PMA	
<b>Capture Rate Calculation</b>	
Total Unserved Market	500
Project Beds to be Filled	
Subject Beds	40
Stabilized Occupancy	90.0%
Market Draw	85.0%
Adjusted Number of Project Beds to be Filled	<b>31</b>
<b>Project Capture Rate</b>	<b>6.1%</b>

### **Strategic Positioning Analysis**

As a new construction community, The Baldwin will benefit from state-of-the-art design, construction, and aesthetics. Based on the proposed design, once built it should be the most complete and dynamic product in the PMA and general area. Its most direct competitor within the PMA—Hunt Community in downtown Nashua—is an extremely old community components of which are quite dated. By contrast, The Baldwin should have substantially superior and more marketable exterior and interior appearance, common areas, and independent living inventory, with a more desirable mix, unit sizes, and interior fit and finish. It also will enjoy an attractive and desirable site location and setting within a brand-new master planned neo-urban “downtown”, which will make it unique in the marketplace. Furthermore, we anticipate that it will be at least on a par with—if not superior to—the other potentially competitive CCRCs in the general area and discussed in this analysis (Huntington, RiverWoods Manchester) in every key product attribute category including site/location, property (exterior/interior), common areas, independent living residences, programming, and sponsor/intangibles. And while The Baldwin will not have dedicated beds licensed for nursing, it will have a dedicated and built to purpose dementia care environment and program, with 10 of the 40 suites dedicated to and staffed for residents with higher acuity needs.

## Market Analysis Conclusions

Overall, our analysis leads us to conclude that there is a market opportunity and potential support for The Baldwin largely as envisioned by the Sponsor. Among the positives for The Baldwin:

- The market dynamics on the whole appear to be favorable. Demographics are solid, and direct competition is fairly limited (the most directly competitive communities fall outside of the PMA). As a result, our analysis shows that there is adequate depth within the market to support both the existing inventory and The Baldwin.
- Additionally, The Baldwin appears to have a favorable product and price position. As a new construction community, and given proposed design and architecture, we conclude that The Baldwin will be the most attractive product in the PMA and a highly marketable property.
- The Baldwin's Type A pricing is set at a modest premium over Huntington at Nashua—which again is the most directly relevant and comparable product—tracking between a five to 11 percent premium by unit type and from in line to an approximate 17 percent premium per square foot. This makes sense for a new property in a slightly more urban setting. Additionally, its Monthly Fee is at a discount to RiverWoods Exeter creating an important pricing advantage over this community and a strong value position. It certainly does not appear that the value equation, and product and price position is a limiting factor for The Baldwin.

## Summary of Financing

It is anticipated that total development costs will approximate \$211.1 million, including repayment of the Series 2020 Bonds. Development costs will be funded through a tax-exempt senior bond issuance of approximately \$171.3 million (the “Series 2022 Senior Bonds) of which \$68.5 million is short term and repaid with collection of first-generation Entrance Fees (the “2022 Short-term Senior Bonds”) and \$102.8 million is long term (the “2022 Long-term Senior Bonds”). In addition, the sources of funds will include a \$17.4 million tax-exempt subordinate bond with a four percent original issue discount (the “Series 2022E Subordinate Bonds”) and a \$10 million Sponsor Subordinate Recoverable Grant. Approximately \$9.6 million of first-generation Entrance Fees are slated to be used for working capital needs during lease-up and \$3.5 million of first-generation Entrance Fees are planned to be used to fund 50 percent of the required debt service reserve fund for the Series 2022 Senior Bonds.

The Sponsor Subordinate Recoverable Grant represents funds contributed to advance the mission of ERC by supporting the construction and development of the Baldwin. Payment on the Sponsor Subordinate Recoverable Grant is subordinate to the Series 2022 Senior Bonds and the Series 2022E Subordinate Bonds. No payments are assumed on the Sponsor Subordinate Recoverable Grant during the projection period.

The following table summarizes the proposed sources and uses of funds for the construction financing together with the seed capital financing.

<b>The Baldwin - Sources and Uses</b> (in \$000s)					
	<u>Pre-Construction</u>	<u>Construction</u>	<u>Total</u>		
<b>Sources of Funds</b>					
Senior Short-term Bonds	\$ -	\$ 68,500	\$ 68,500		
Senior Long-term Bonds	\$ 19,100	\$ 83,700	\$ 102,800		
Subordinate Bonds, net original issue discount <sup>(1)</sup>	-	\$ 16,704	\$ 16,704		
Entrance fees to fund working capital	-	\$ 9,593	\$ 9,593		
Entrance fees to fund Senior Debt Service Reserve Fund	-	\$ 3,520	\$ 3,520		
Sponsor Subordinate Recoverable Grant	\$ 6,000	\$ 4,000	\$ 10,000		
Adjustment for Series 2020 Funds on Hand	(40)	40	-		
<b>Total Sources of Funds</b>	<b>\$ 25,060</b>	<b>\$ 186,057</b>	<b>\$ 211,117</b>		
<b>Uses of Funds</b>					
Land costs	\$ 8,500	\$ -	\$ 8,500		
Construction and sitework costs	\$ 1,182	\$ 128,818	\$ 130,000		
Architecture & Engineering	\$ 4,185	\$ 1,379	\$ 5,564		
Furniture, fixtures, & equipment	-	\$ 3,150	\$ 3,150		
Marketing	\$ 5,015	\$ 3,437	\$ 8,452		
Project management, legal, misc.	\$ 1,150	\$ 1,323	\$ 2,473		
Permits, fees, IT allowance, etc.	\$ 900	\$ 2,599	\$ 3,499		
Salary allocation for development services	\$ 227	\$ 665	\$ 892		
Owner's contingency	\$ 386	\$ 4,614	\$ 5,000		
Sub-total	\$ 21,545	\$ 145,986	\$ 167,531		
Cost of issuance	\$ 999	\$ 5,936	\$ 6,935		
Adjustment for Series 2020 Funds on Hand	(40)	-	(40)		
Working Capital Fund	-	\$ 10,394	\$ 10,394		
Senior Debt Service Reserve Fund	\$ 1,079	\$ 5,961	\$ 7,040		
Subordinate Debt Service Reserve Fund	-	\$ 1,740	\$ 1,740		
Funded Interest: Senior	\$ 1,477	\$ 12,065	\$ 13,542		
Accrued interest on the Series 2020 Bonds	-	\$ 60	\$ 60		
Funded Interest: Subordinate	-	\$ 3,915	\$ 3,915		
<b>Total Uses of Funds</b>	<b>\$ 25,060</b>	<b>\$ 186,057</b>	<b>\$ 211,117</b>		

(1) The Series 2022E Subordinate Bonds are assumed at \$17,400,000 par with a 4% original issue discount.

- (1) The Series 2022 Senior Bonds are exempt from federal taxation and anticipated to total \$171,300,000. The 2022 Long-term Senior Bonds include two tranches of debt: (1) \$87,500,000 of long-term bonds with interest only payments through January 1, 2027, and annual principal payments thereafter based on a 30-year amortization period (the “Series 2022A Bonds”); and (2) \$15,000,000 of long-term bonds with no amortization (the “Series 2022B Bonds”). The 2022 Short-term Senior Bonds include two tranches of debt both repaid with a collection of first-generation entrance fees: (1) \$38,500,000 of short-term bonds at an interest rate of 3.75 percent (the “Series 2022C Bonds”); and (2) \$30,000,000 of short-term bonds at an interest rate of 5.50 percent (the “Series 2022D Bonds”). All series of the Series 2022 Senior Bonds are draw down bonds except for the Series 2022B Bonds, which are fully drawn at closing. The 2022 Short-term Senior Bonds are assumed to have an estimated blended interest rate of 4.52

percent and the 2022 Long-term Senior Bonds are assumed to have an interest rate of 5.75 percent. The 2022 Long-term Senior Bonds have a maturity of seven years and the 2022 Short-term Senior Bonds have a maturity of five years.

- (2) Construction financing is anticipated to include \$17,400,000 in Subordinate Bonds exempt from federal income taxation. The Subordinate Bonds are assumed to have a four percent original issue discount representing a net funding of \$16,704,000. The Subordinate Bonds are interest only at an interest rate of 10.0 percent. It is expected that the Subordinate Bond issuance will be fully repaid at recapitalization, currently assumed to occur in 2029 at maturity of the Series 2022 Senior Bonds.
- (3) The approximately \$19,100,000 Series 2020 Bonds used to fund pre-construction activities, along with approximately \$36,000 of accrued interest, will be repaid with the Series 2022 Senior Bonds and Subordinate Bond issuance.
- (4) As part of seed capital financing, ERC provided a \$6,000,000 advance to fund cost of issuance for the pre-construction financing in addition to a portion of the pre-construction marketing expenses and early site work activities. With issuance of the Series 2022 Senior Bonds, a \$10,000,000 Sponsor Subordinate Recoverable Grant is assumed to replace the \$6,000,000 advance from ERC and provide an additional \$4,000,000 of proceeds available to fund project-related costs. Approximately \$9.44 million of the total \$10,000,000 Sponsor Subordinate Recoverable Grant has already been advanced to fund ongoing development activities, with the remaining balance to be funded at construction financing. The Sponsor Subordinate Recoverable Grant is assumed to accrue interest at a rate of 5.00 percent annually beginning at stabilization. No principal or interest payments are assumed to be paid on the Sponsor Subordinate Recoverable Grant during the projection period. Additionally, ERC plans to enter into a Liquidity Support Agreement upon closing of the Series 2022 Bonds of \$10 million to provide additional funding available to support operating deficits and debt service.
- (5) Construction and sitework for the Community is assumed to approximate \$130,000,000 based on estimates from Trident Project Advisors and Development Group (“Trident”), the developer for The Baldwin. The Borrower entered into a GMP contract with Harvey Construction as of December 17, 2021.
- (6) Architecture, engineering and interior design fees and reimbursable are assumed to approximate \$5,564,000 based on contractual agreements with The Baldwin’s design firm, DiMella Shaffer.
- (7) The salary allocation for project management of approximately \$892,000 represents a partial salary allocation from ESSG for a project manager for The Baldwin during the pre-construction and construction period as well as bonus incentive payments for management.
- (8) The existing Debt Service Reserve Fund associated with the Series 2020 Bonds approximates \$1,079,000 and is assumed to carry over as the starting balance for the Debt Service Reserve Fund associated with the Series 2022 Senior Bonds. An additional approximately \$5,961,000 is

assumed to be funded for the Series 2022 Debt Service Reserve Fund, of which approximately \$3,520,000 (i.e., 50 percent of the total) is to be funded by initial Entrance Fees.

- (9) Prior to opening of the Community, \$800,000 of the Series 2022 Senior Bonds is assumed available to fund pre-opening operating expenses. Subsequently, after completion of the Community, \$9,593,000 of initial Entrance Fees and are assumed to fund the remaining total \$10,393,000 Working Capital Fund to be available for start-up losses and liquidity needs during fill-up.
- (10) Funded Interest is estimated to be approximately \$12,065,000 to fund interest on the Series 2022 Senior Bonds for approximately 27 months from the date of issuance and approximately \$3,915,000 to fund interest on the Subordinate Bonds for 27 months.
- (11) Cost of Issuance is estimated at approximately \$5,936,000 for construction financing, consisting of various legal fees, issuance fees, and advisor costs.

#### **Summary of Revenue and Entrance Fee Assumptions**

##### Occupancy and Fill-up

Management assumes 65 planned Independent Living Units located in Buildings A and B will be available for occupancy in October 2023 along with common spaces located on the first floor of Building C. All of the 40 Supported Residential Care Units, located on the upper floors of Building C, are assumed to be available for occupancy in November 2023. The 69 Independent Living Units in Building E are anticipated to be available for occupancy in January 2023 and the remaining 56 Independent Living Units in Building D are anticipated to be available for occupancy in March 2024.

Management assumes the 190 total Independent Living Units fill to a 95.0 percent occupancy level by October 1, 2025 and remain constant at that level for the remainder of the projection period. This represents an average of approximately 7.52 move-ins per month during the assumed 24-month fill-up period for independent living. Second person occupancy in the Independent Living Units is assumed to average 53 percent in 2023, declining to an average of 43 percent in 2026.

Management assumes the 40 Supported Residential Care Units fill to a 93.0 percent occupancy level by November 1, 2025 and remain constant at that level for the remainder of the projection period. This represents an average of approximately 1.55 move-ins per month during the assumed 24-month fill-up period for supported residential care. No second person occupancy is assumed in the Supported Residential Care Units.

See the following table for average occupancy assumptions by level of care over the projection period.

The Baldwin - Projected Average Occupancy				
	2023	2024	2025	2026
Independent living	1.7%	46.9%	86.7%	95.0%
Supportive residential care	3.5%	47.3%	83.7%	93.0%

The first fully stabilized year in which the Community achieves its maximum assumed occupancy levels is projected to be fiscal year 2026.

#### Independent Living Revenue

Resident service revenue for the Independent Living Units is based on the assumed occupancy and the Monthly Fees of the respective units. Management assumes the Monthly Fees for the Independent Living Units inflate three percent January 2024 and then annually thereafter throughout the projection period.

Management is currently offering residents of the Independent Living Units two contract options: (1) the Declining Balance Plan or (2) the 85% Refund Plan, either of which is available under a Type A or a Type C contract. For projection purposes, Management assumes 50 percent of the residents will utilize the Declining Balance Plan and 50 percent will utilize the 85% Refund Plan; in addition, Management assumes 50 percent of residents will utilize the Type A contract and 50 percent will utilize the Type C contract. Entrance Fee pricing is assumed to increase 3.0 percent annually throughout the projection period.

A marketing incentive program (the “Priority Program”) was offered to initial depositors for the Independent Living Units at the Community. Under the Priority Program, Tier 1 benefits were available to all depositors up through December 31, 2021, Tier 2 benefits were available to the first 75 depositors and Tier 3 benefits were available to the first 15 depositors; however, to receive the allotted benefits, residents must move in to their respective Independent Living Unit within 60 days of their unit being available for occupancy.

Once construction is complete, Tier 1 benefits include: (1) guaranteed occupancy at The Baldwin; (2) five percent discount on the Entrance Fee (excluding any second person or Lifecare add-on Entrance Fee); (3) waiver of the first Monthly Fee (first and second person); (4) two percent interest earning on the ten percent Entrance Fee while in escrow; and (5) an internet-enabled Smart Speaker for use in the Independent Living Unit. In addition, residents under the Tier 2 program are assumed to receive: (6) choice between either a finishes and fixtures upgrade package for the Independent Living Unit, waiver of the second Monthly Fee (first and second person), or professional services of a move manager (all valued at approximately \$5,000). Residents on the Tier 3 benefit program are provided a choice of one additional benefit offered to residents under the Tier 2 program (see benefit #6 listed above).

### Independent Living Turnover

Independent Living Units are assumed to turnover each year due to death, withdrawal or transfer to the Supported Residential Care Units. Management assumes turnover of the Independent Living Units gradually increases during the projection period from 4.3 percent of the occupied Independent Living Units in 2024 to 6.0 percent turnover in 2026. Turnover is assumed to continue to gradually increase and approximate 8.7 percent by 2029. Per the Community's Resident and Care Agreement, a refund is generated when the resident no longer resides in the Community and a subsequent resident pays the total Entrance Fee for the Independent Living Unit that was vacated.

The following table presents the assumed initial and attrition Entrance Fees received and the total Entrance Fee refunds.

The Baldwin - Entrance Fee Cash Flows (in \$000s)					
Fiscal year ending December 31st	2023	2024	2025	2026	
Number of initial entrance fee receipts	22.0	113.0	45.5	-	
Number of turnover entrance fee receipts	0.5	3.8	8.3	10.8	
Number of entrance fee refunds	0.4	3.0	6.4	8.4	
<b>Net Income from Entrance Fees</b>					
Initial entrance fee receipts	\$ 10,457	\$ 56,273	\$ 23,938	\$ -	
Turnover entrance fee receipts	228	1,950	4,369	5,884	
Entrance fee refunds	(130)	(1,055)	(2,160)	(2,733)	
<b>Net entrance fee receipts</b>	<b>\$ 10,555</b>	<b>\$ 57,169</b>	<b>\$ 26,147</b>	<b>\$ 3,151</b>	

### Supported Residential Care Revenue

Supported residential care fees are assumed to be generated from services provided to residents transferring from the Independent Living Units as well as direct admissions from the local surrounding area. Direct admit residents are assumed to pay a one-time non-refundable community fee (\$5,150 in 2023\$) in addition to a Monthly Fee. Residents permanently transferring from the Independent Living Units on a Type A contract are assumed to continue to pay the Monthly Fee for their respective Independent Living Unit plus the cost of additional meals, whereas residents transferring on the Type C contract are assumed to pay the current market rate for the Supported Residential Care Units.

All residents at The Baldwin are assumed to be private pay residents and so no revenue is assumed to be received from Medicare or Medicaid reimbursement. Management assumes the Monthly Fees for the Supported Residential Care Units inflate 3.0 percent January 2024 and then annually thereafter throughout the projection period.

#### Other Revenue

Other resident revenue is assumed to approximate 2.5 percent of resident service revenue at stabilization in 2026 and continue at that level throughout the remainder of the projection period. Other resident revenue is mainly comprised of revenue from fees for additional resident meals, guest meals, catering, guest room rental, underground parking, resident supporting services/home care, and other ancillary services that are over and above those included in the residency agreement. Fees for included services are assumed to increase 3.0 percent annually throughout the projection period.

#### Investment Income

Management assumes an average annual rate of return of 2.0 percent on the Community's unrestricted cash and cash equivalents, Debt Service Reserve Fund, Entrance Fee Fund, Working Capital Fund, and Bond Fund.

#### **Summary of Operating Expense Assumptions**

Projected operating expenses are based on the historical experience at the Edgewood Community. Staff salaries and benefits assumptions are based on local salary and wage rates, and are assumed to increase 3.0 percent annually throughout the projection period. The costs of employee fringe benefits are forecasted by Management to approximate 23 percent of salaries and wages. The following table summarizes the assumed full time equivalent ("FTE") staffing levels for all departments at stabilization.

Staffing Summary	
Projected FTEs by Department in FY 2026	
General and administrative	10.20
Plant operations	11.30
Environmental services	10.30
Culinary services	22.70
Resident care services	3.60
Wellness	3.17
Supported residential care	33.64
<b>Total FTEs</b>	<b>94.91</b>

Non-staffing expenses are assumed to include variable costs such as raw food and supplies projected to flex based on occupancy in addition to costs for marketing, maintenance, building and general liability insurance, legal and accounting fees, and other miscellaneous expenses. The Borrower is also assumed to pay ESSG a management fee. Effective January 1, 2022 through stabilization, the management fee is a fixed \$57,000 per month fee (the "Interim Management Fee") that, although allocated to the Borrower, is assumed funded by ESSG. After stabilization, the management fee is 3.0 percent of total operating revenue (i.e., total revenue less Entrance Fee amortization and investment income) annually and is assumed paid by the Borrower.

## Capital Expenditures

Management assumes the following routine additions to property, plant and equipment during the projection period:

(in \$000s)	2023	2024	2025	2026
Routine capital expenditures	\$122	\$533	\$549	\$566

## Other Financial Assumptions

*Senior Debt Service Reserve Fund:* The Senior Debt Service Reserve Fund is estimated to approximate \$7,040,000 after full funding. At closing of the Series 2022 Senior Bonds, approximately \$1,079,000 is assumed to be rolled over from the Series 2020 Bonds Debt Service Reserve Fund. Thereafter, 50 percent of the required Debt Service Reserve Fund is funded from initial Entrance Fee proceeds and the remainder funded by the final advance on the Series 2022 Senior Bonds. The Debt Service Reserve Fund is then assumed to remain outstanding until permanent financing in 2029.

*Subordinate Debt Service Reserve Fund:* The Subordinate Debt Service Reserve Fund is estimated to approximate \$1,740,000 and be funded fully at closing of the Series 2022 Subordinate Bonds. The Debt Service Reserve Fund is then assumed to remain outstanding until permanent financing in 2029.

*Bond Fund:* The Borrower is assumed to make monthly deposits into a trustee-held bond fund for principal and interest. These deposits are represented on the projected balance sheet under “Assets Limited as to Use – Bond Fund”.

*Entrance Fee Fund:* All initial and turnover Entrance Fees are to be deposited in a trustee-held account and applied to the following uses each month in order of priority:

- (1) Repay any outstanding Entrance Fee refunds;
- (2) Transfer a total of approximately \$9,593,000 first-generation Entrance Fees to the Working Capital Fund according to the following schedule: \$5 million from initial Entrance Fees received at opening and then an additional approximately \$1.5 million each month the balance of the Working Capital Fund drops below \$1 million;
- (3) Transfer approximately \$3,520,000 of first-generation Entrance Fees to fund the remaining 50 percent of the required Debt Service Reserve Fund on the Series 2022 Senior Bonds;
- (4) Sweep additional Entrance Fees to repay principal on the Series 2022 Short-term Senior Bonds; and
- (5) For purposes of Management’s financial projections, assume the remaining balance in the Entrance Fee Fund is released to the Borrower’s unrestricted cash and investments once the Series 2022 Short-term Senior Bonds are fully redeemed.

*Series 2022B Bonds:* The \$15,000,000 Series 2022B Bonds are interest only long-term bonds with no amortization. For purposes of Management’s financial projections, the Series 2022B bonds are assumed repaid after the Series 2022 Short-term Senior Bonds have been fully redeemed from sweeps of the Borrower’s unrestricted cash and investments over Days Cash on Hand of 100 days and increasing to 120

days beginning January 1, 2028 (collectively, the “Days Cash on Hand Threshold”). For purposes of Management’s financial projections, sweeps are assumed to occur annually beginning January 2026 based on the projected Days Cash on Hand as of December 31, 2025.

## Sensitivity Analyses

Sensitivity analyses were conducted to evaluate the impact on operations under certain scenarios.

### SENSITIVITY A: Break Even Occupancy

Reduce stabilized occupancy of the Independent Living Units and the Supportive Residential Care Units to a breakeven point such that annual total debt service coverage ratio would approximate 1.00x for the fiscal year ending December 31, 2026. For purposes of the sensitivity analysis, occupancy is assumed reduced without a corresponding adjustment to certain fixed or staffing expenses.

	Baseline	Sensitivity A (Break Even occupancy)
Stabilized independent living occupancy	95.0%	84.6%
Stabilized supportive residential care occupancy	93.0%	82.6%
<b>Debt Service Coverage Ratio – Senior Bonds (in 2026)</b>	<b>1.78x</b>	<b>1.30x</b>
<b>Debt Service Coverage Ratio – Total Debt (in 2026)</b>	<b>1.36x</b>	<b>1.00x</b>
<b>Total cash and investments (FYE 2026)</b>	<b>\$7,205,000</b>	<b>\$677,000</b>
<b>Days Cash on Hand (in 2026)</b>	<b>132</b>	<b>12</b>

The projected output above does not incorporate cash inflows from the \$10 million Liquidity Support Agreement with ERC.

### SENSITIVITY B: Extended Fill Schedule

Assume fill-up of the Independent Living Units to stabilized occupancy increases from 24 months in the baseline projections to 36 months.

	Baseline	Sensitivity B (Extended Fill)
Months of Fill-up of the Independent Living Units	24	36
1 <sup>st</sup> year of stabilization	2026	2027
<b>Debt Service Coverage Ratio – Senior Bonds (in 2026)</b>	<b>1.78x</b>	<b>1.69x</b>
<b>Debt Service Coverage Ratio – Total Debt (in 2026)</b>	<b>1.36x</b>	<b>1.30x</b>
<b>Total cash and investments (FYE 2026)</b>	<b>\$7,205,000</b>	<b>\$3,200,000</b>
<b>Days Cash on Hand (in 2026)</b>	<b>132</b>	<b>57</b>

The projected output above does not incorporate cash inflows from the \$10 million Liquidity Support Agreement with ERC.

#### SENSITIVITY C: Discounted Monthly Fee and Entrance Fee Pricing

In fiscal year 2026 at stabilization, assume Monthly Fees for the Independent Living Units and Supportive Residential Care Suites are decreased by 5.0 percent and assume proceeds from initial Entrance Fees are discounted by 5.0 percent, with no change to Entrance Fee refunds.

	Baseline	Sensitivity C (Break Even Turnover)
Reduction in Monthly Fees in Independent Living and Supportive Residential Care (in 2026)	0%	5%
Reduction in Entrance Fee proceeds from turnover (in 2026)	0%	5%
<b>Debt Service Coverage Ratio – Senior Bonds (in 2026)</b>	<b>1.78x</b>	<b>1.62x</b>
<b>Debt Service Coverage Ratio – Total Debt (in 2026)</b>	<b>1.36x</b>	<b>1.23x</b>
<b>Total cash and investments (FYE 2026)</b>	<b>\$7,205,000</b>	<b>\$6,371,000</b>
<b>Days Cash on Hand (in 2026)</b>	<b>132</b>	<b>117</b>

#### SENSITIVITY D: Reduced Entrance Fee Turnover

Reduce the number of Entrance Fee receipts from turnover each year by 20 percent for the first three years after opening, while assuming no change to the number of Entrance Fee refunds. For sensitivity purposes, assume no change to fill-up assumptions for the Independent Living Units and Supportive Residential Care Units as captured in the baseline financial projections.

	Baseline	Sensitivity D (Reduced Turnover)
Number of independent living turnovers in 2023	0.5	0.4
Number of independent living turnovers in 2024	3.8	3.0
Number of independent living turnovers in 2024	8.3	6.6
<b>Debt Service Coverage Ratio – Senior Bonds (in 2026)</b>	<b>1.78x</b>	<b>1.76x</b>
<b>Debt Service Coverage Ratio – Total Debt (in 2026)</b>	<b>1.36x</b>	<b>1.35x</b>
<b>Outstanding balance – Series 2022B Bonds (FYE 2026)</b>	<b>\$7,340,000</b>	<b>\$8,669,000</b>
<b>Total cash and investments (FYE 2026)</b>	<b>\$7,205,000</b>	<b>\$7,144,000</b>
<b>Days Cash on Hand (in 2026)</b>	<b>132</b>	<b>130</b>

Reducing turnover by 20 percent for the first three years after opening does not have a material impact on projected cash and investments but rather reduces available excess cash flow to redeem the Series 2022B Bonds.

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## **APPENDIX H**

### **Book-Entry Only System**

The information in this section has been obtained from sources that the Issuer, the Borrower and the Underwriter believe to be reliable, but none of the Issuer, the Borrower or the Underwriter takes any responsibility for the accuracy thereof.

#### ***The Depository Trust Company***

The Depository Trust Company (“DTC” or, together with any successor securities depository for the Series 2022 Bonds, the “Securities Depository”), will act as securities depository for the Series 2022 Bonds. The Series 2022 Bonds will be issued as fully-registered securities registered in the name of Cede & Co., DTC’s partnership nominee, or such other name as may be requested by an authorized representative of DTC. One fully-registered certificate relating to the Series 2022B Bonds and the Series 2022E Bonds, respectively, in a principal amount equal to the aggregate principal amount of such series of the Series 2022 Bonds will be deposited with DTC or its agent. One fully-registered certificate relating to each advance for each Subseries of the Series 2022A Bonds, the Series 2022C Bonds, and the Series 2022D Bonds, respectively, in a principal amount equal to the aggregate principal amount of such advance of such Subseries of the Series 2022 Bonds will be deposited with DTC or its agent.

DTC, the world’s largest securities depository, is a limited-purpose trust company organized under New York Banking Law, a “banking organization” within the meaning of New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, as amended. DTC holds and provides asset servicing for over 3.5 million issues of United States and non-United States equity issues, corporate and municipal debt issues, and money market instruments from over 100 countries that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both United States and non-United States securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations.

DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others, such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has a S&P Global Inc. rating of AA+. The DTC rules applicable to its Direct Participants and Indirect Participants are on file with the Securities and Exchange Commission (the “SEC”). More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org).

### ***Ownership of Series 2022 Bonds***

Purchases of the Series 2022 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2022 Bonds on DTC's records. The ownership interest of each actual purchaser of each Series 2022 Bond ("Beneficial Owner") is in turn to be recorded on the Direct Participants and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchases. Beneficial Owners are, however, expected to receive written confirmations providing details of their transactions, as well as periodic statements of their holdings, from the Direct Participants or Indirect Participants through which the Beneficial Owners entered into the transaction. Transfers of ownership interests in the Series 2022 Bonds are to be accomplished by entries made on the books of Direct Participants and Indirect Participants acting on behalf of the Beneficial Owners. *Beneficial Owners will not receive certificates representing their ownership interests in the Series 2022 Bonds except in the event that use of the book-entry only system for the Series 2022 Bonds is discontinued under the circumstances described below under "Discontinuance of Book-Entry Only System."*

To facilitate subsequent transfers, all Series 2022 Bonds deposited by Direct Participants and Indirect Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Series 2022 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2022 Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Series 2022 Bonds are credited, which may or may not be the Beneficial Owners. The Direct Participants and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Series 2022 Bonds may wish to take certain steps to augment transmission to them of notices of significant events with respect to the Series 2022 Bonds, such as redemptions, tenders, defaults and proposed amendments to the security documents. For example, Beneficial Owners of Series 2022 Bonds may wish to ascertain that the nominee holding the Series 2022 Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the Trustee and request that copies of the notices be provided directly to them.

*So long as a nominee of DTC is the registered owner of the Series 2022 Bonds, references herein to the Bondholders or the holders or owners of the Series 2022 Bonds shall mean DTC and shall not mean the Beneficial Owners of the Series 2022 Bonds. The Issuer and the Trustee will recognize DTC or its nominee as the holder of all of the Series 2022 Bonds for all purposes, including the payment of the principal or Redemption Price of and interest on, and the purchase price of, the Series 2022 Bonds, as well as the giving of notices and any consent or direction required or permitted to be given to or on behalf of the Bondholders under the Bond Indenture.*

*Neither the Issuer nor the Trustee will have any responsibility or obligation to Direct Participants or Indirect Participants or Beneficial Owners with respect to payments or notices to Direct Participants or Indirect Participants or Beneficial Owners.*

### ***Payments on and Redemption or Purchase of Series 2022 Bonds***

So long as the Series 2022 Bonds are held by DTC under a book-entry system, principal and interest payments on the Series 2022 Bonds will be made to DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding information from the Trustee on the applicable payment date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participants and not of DTC, the Trustee or the Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest to DTC is the responsibility of the Issuer or the Trustee, disbursement of such payments to Direct Participants shall be the responsibility of DTC and disbursement of such payments to the Beneficial Owners shall be the responsibility of Direct Participants and Indirect Participants.

So long as the Series 2022 Bonds are held by DTC under a book-entry only system, the Trustee will send any notice of redemption or purchase with respect to the Series 2022 Bonds only to Cede & Co. or such other nominee as may be requested by an authorized representative of DTC. Any failure of DTC to advise any Direct Participant, or of any Direct Participant to notify any Indirect Participant or of any Direct Participants or Indirect Participant to notify any Beneficial Owner, of any such notice and its content or effect will not affect the validity of the proceedings for the redemption or purchase of the Series 2022 Bonds or of any other action premised on such notice. If fewer than all of the Series 2022 Bonds of a Series or Subseries are selected for redemption or purchase, DTC's practice is to determine by lot the amount of the interest of each Direct Participant to be redeemed or purchased, except as otherwise directed by the Issuer.

*None of the Issuer, the Trustee, the Underwriter or the Borrower can give any assurances that DTC or the Direct Participants or Indirect Participants will distribute payments of the principal or Redemption Price of and interest on or the purchase price of, the Series 2022 Bonds paid to DTC or its nominee, as the registered owner of the Series 2022 Bonds, or any redemption, purchase or other notices, to the Beneficial Owners or that they will do so on a timely basis or that DTC will serve and act in the manner described in this Offering Memorandum.*

### ***Discontinuance of Book-Entry Only System***

DTC may discontinue its services as a securities depository for the Series 2022 Bonds at any time by giving reasonable notice to the Issuer, the Borrower and the Trustee, or the Issuer may discontinue use of the system of book-entry transfers through DTC. Under such circumstances, in the event that a successor Securities Depository is not obtained, Series 2022 Bonds are required to be printed and delivered in fully certificated form to the Direct Participants shown on the records of DTC provided to the Trustee or, to the extent requested by any Direct Participant, to the

Beneficial Owners of the Series 2022 Bonds shown on the records of such Direct Participant provided to the Trustee.

### **Registration and Exchange of Series 2022 Bonds**

So long as the Series 2022 Bonds are maintained under a book-entry system, transfers of ownership interests in the Series 2022 Bonds will be made as described above under “Book-Entry Only System.” If the book-entry only system is discontinued, any Series 2022 Bond may be exchanged for an equal aggregate principal amount of Series 2022 Bonds of the same Series and Subseries in other Authorized Denominations, and the transfer of any Series 2022 Bond may be registered, upon presentation and surrender of such Series 2022 Bond at the designated office of the Trustee, together with an assignment duly executed by the registered owner or his attorney or legal representative. The Issuer and the Trustee may require the person requesting any such exchange or transfer to reimburse them for any tax or other governmental charge payable in connection therewith. Neither the Issuer nor the Trustee shall be required to register the transfer of any Series 2022 Bond or make any such exchange of any Series 2022 Bond (1) during the 15 days preceding the date of mailing of any notice of redemption, or (2) after a notice of redemption of such Series 2022 Bond or any portion thereof has been mailed.





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