# EXHIBIT [\_\_\_]

**MODIFICATIONS TO SECURITY INSTRUMENT**

**(Seniors Housing)**

The foregoing Security Instrument is hereby modified as follows:

1. Capitalized terms used and not specifically defined herein have the meanings given to such terms in the Security Instrument.
2. Section 1 of the Security Instrument (Defined Terms) is hereby amended by adding the following new definitions in the appropriate alphabetical order:

“**Contract**” means any contract or other agreement for the provision of goods or services at or otherwise in connection with the operation, use or maintenance of the Mortgaged Property, excluding the Management Agreement and including cash deposited to secure performance by parties of their obligations.

“**License**” means any operating licenses, certificates of occupancy, health department licenses, food service licenses, certificates of need, business licenses, permits, registrations, certificates, authorizations, approvals, legal authority, and similar documents required by applicable laws and regulations for the lawful operation of the Mortgaged Property as a Seniors Housing Facility in the Property Jurisdiction as of the Effective Date or during the Loan Term, including renewals, replacements and additions to any of the foregoing.

“**Operating Lease**” means (a) that certain **[DRAFTING NOTE: MODIFY AS NECESSARY]** [Operating Lease] [Master Lease] [identify applicable document] by and between Borrower and **[DRAFTING NOTE: INSERT MASTER LESSEE]** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ dated as of \_\_\_\_\_\_\_\_\_\_\_\_\_ (as may be amended, restated, replaced, supplemented or otherwise modified from time to time) and (b) any other operating lease, master lease, or similar document as amended, restated, replaced, supplemented, or otherwise modified from time to time, preapproved in writing by Lender, under which control of the occupancy, use, operation, management, maintenance or administration of the Mortgaged Property as a Seniors Housing Facility has been granted by Borrower as lessor to any Person (other than Borrower) as lessee.

“**Seniors Housing Facility Lease**” means, individually and collectively, the Operating Lease and any Sublease.

“**Sublease**” means \_\_\_\_\_\_\_\_\_\_. **[DRAFTING NOTE: ADD DESCRIPTION AND PARTIES, IF APPLICABLE]**

1. Section 1 of the Security Instrument (Defined Terms) is hereby amended by deleting and restating in their entirety the definitions of “**Goods**,” “**Indebtedness,**” “**Leases**,” “**Mortgaged Property**,” “**Personalty,**” and “**Rents**” to read as follows:

“**Goods**” means all goods which are used now or in the future in connection with the ownership, management, or operation of the Land or the Improvements or are located on the Land or in the Improvements, including inventory; furniture; furnishings; machinery, equipment, engines, boilers, incinerators and installed building materials; systems and equipment for the purpose of supplying or distributing heating, cooling, electricity, gas, water, air or light; antennas, cable, wiring and conduits used in connection with radio, television, security, fire prevention or fire detection, or otherwise used to carry electronic signals; telephone systems and equipment; elevators and related machinery and equipment; fire detection, prevention and extinguishing systems and apparatus; security and access control systems and apparatus; plumbing systems; water heaters, ranges, stoves, microwave ovens, refrigerators, dishwashers, garbage disposers, washers, dryers and other appliances; light fixtures, awnings, storm windows and storm doors; pictures, screens, blinds, shades, curtains and curtain rods; mirrors, cabinets, paneling, rugs and floor and wall coverings; fences, trees and plants; swimming pools; exercise equipment; supplies; tools; books and records (whether in written or electronic form); websites, URLs, blogs and social network pages; computer equipment (hardware and software); all kitchen or restaurant supplies and facilities; dining room supplies and facilities; medical supplies and facilities; leasehold improvements, or related furniture and equipment, any other equipment, supplies or furniture owned by Borrower and leased to any third party service provider or any lessee, operator or manager of the Land or the Improvements; and other tangible personal property which is used now or in the future in connection with the ownership, management, or operation of the Land or the Improvements or are located on the Land or in the Improvements; together with all present and future parts, additions, accessories, replacements, attachments, accessions, replacement parts and substitutions of the foregoing, and the proceeds thereof (cash and non-cash including insurance proceeds).

“**Indebtedness**” means the principal of, interest on, and all other amounts due at any time under the Note, the Loan Agreement, this Security Instrument, or any other Loan Document (other than the Environmental Indemnity Agreement and Guaranty), including Prepayment Premiums, late charges, interest charged at the Default Rate, and accrued interest as provided in the Loan Agreement and this Security Instrument, advances, costs and expenses to perform the obligations of Borrower or Property Operator or to protect the Mortgaged Property or the security of this Security Instrument, all other monetary obligations of Borrower or Property Operator under the Loan Documents (other than the Environmental Indemnity Agreement), including amounts due as a result of any indemnification obligations, and any Enforcement Costs.

“**Leases**” means all present and future leases, subleases, licenses, concessions or grants or other possessory interests now or hereafter in force, whether oral or written, covering or affecting the Mortgaged Property, or any portion of the Mortgaged Property (including proprietary leases or occupancy agreements if Borrower is a cooperative housing corporation), any residency, occupancy, admission and care agreements pertaining to residents of the Mortgaged Property and any Seniors Housing Facility Lease, and all modifications, extensions or renewals thereof.

“**Mortgaged Property**” means **[DRAFTING NOTE: INSERT IF MORTGAGED PROPERTY IS IN TEXAS –** the Land, the Improvements, and**]** all of Borrower’s present and hereafter acquired right, title and interest, if any, in and to all of the following:

(a) **[DRAFTING NOTE: FOR ALL STATES OTHER THAN TEXAS –** the Land;**]** **[DRAFTING NOTE: FOR TEXAS –** [intentionally deleted;]**]**

(b) **[DRAFTING NOTE: FOR ALL STATES OTHER THAN TEXAS –** the Improvements;**]** **[DRAFTING NOTE: FOR TEXAS –** [intentionally deleted;]**]**

(c) the Personalty;

(d) current and future rights, including air rights, development rights, zoning rights and other similar rights or interests, easements, tenements, rights‑of‑way, strips and gores of land, streets, alleys, roads, sewer rights, waters, watercourses, and appurtenances related to or benefitting the Land or the Improvements, or both, and all rights-of-way, streets, alleys and roads which may have been or may in the future be vacated;

(e) insurance policies relating to the Mortgaged Property (and any unearned premiums) and all proceeds paid or to be paid by any insurer of the Land, the Improvements, the Personalty, or any other part of the Mortgaged Property, whether or not Borrower obtained the insurance pursuant to Lender’s requirements;

(f) awards, payments and other compensation made or to be made by any municipal, state or federal authority with respect to the Land, the Improvements, the Personalty, or any other part of the Mortgaged Property, including any awards or settlements resulting from (1) Condemnation Actions, (2) any damage to the Mortgaged Property caused by governmental action that does not result in a Condemnation Action, or (3) the total or partial taking of the Land, the Improvements, the Personalty, or any other part of the Mortgaged Property under the power of eminent domain or otherwise and including any conveyance in lieu thereof;

(g) contracts, options and other agreements for the sale of the Land, the Improvements, the Personalty, or any other part of the Mortgaged Property entered into by Borrower now or in the future, including cash or securities deposited to secure performance by parties of their obligations;

(h) Leases and Lease guaranties, letters of credit and any other supporting obligation for any of the Leases given in connection with any of the Leases, and all Rents;

(i) earnings, royalties, accounts receivable, issues and profits from the Land, the Improvements or any other part of the Mortgaged Property, and all undisbursed proceeds of the Mortgage Loan and, if Borrower is a cooperative housing corporation, maintenance charges or assessments payable by shareholders or residents;

(j) Imposition Deposits;

(k) refunds or rebates of Impositions by any municipal, state or federal authority or insurance company (other than refunds applicable to periods before the real property tax year in which this Security Instrument is dated);

(l) resident and tenant security deposits, entrance fees, application fees, processing fees, community fees and any other amounts or fees paid by any resident or tenant upon execution of a Lease;

(m) names under or by which any of the above Mortgaged Property may be operated or known, and all trademarks, trade names, and goodwill relating to any of the Mortgaged Property; provided, however, that the name “**[BORROWER TRADE NAME(S)]**” and associated trademark rights (collectively, the “**Brand Rights**”) are not assigned to Lender, subject to the following: Borrower agrees that if any signage or other materials bearing the Brand Rights exist on the Mortgaged Property on the date Lender acquires the Mortgaged Property through a Foreclosure Event, then Lender shall have an irrevocable license, coupled with an interest and for which consideration has been paid and received, to use the signage and materials bearing the Brand Rights then existing on the Mortgaged Property in connection with operating the Mortgaged Property for a period not to exceed one hundred eighty (180) days after the date Lender acquires the Mortgaged Property through a Foreclosure Event;

(n) Collateral Accounts and all Collateral Account Funds;

(o) products, and all cash and non-cash proceeds from the conversion, voluntary or involuntary, of any of the above into cash or liquidated claims, and the right to collect such proceeds;

(p) all oil, gas, minerals, mineral interests, royalties, overriding royalties, production payments, net profit interests and other interests and estates in, under and on the Mortgaged Property and other oil, gas, minerals and mineral interests with which any of the foregoing interests or estates are pooled or unitized;

(q) all payments due, or received, from residents, second party charges added to base rental income, base or additional meal sales, commercial operations located on the Mortgaged Property or provided as a service to the residents of the Mortgaged Property, rental from guest suites, seasonal lease charges, furniture leases, and laundry services, and any and all other services provided to residents in connection with the Mortgaged Property, and any and all other personal property on the Mortgaged Property, excluding personal property owned by residents of the Mortgaged Property (other than Personalty owned by Borrower);

(r) subject to applicable law and regulations, all Licenses and Contracts relating to the operation and authority to operate the Mortgaged Property as a Seniors Housing Facility;

(s) all Third Party Payments arising from the operation of the Mortgaged Property as a Seniors Housing Facility;

(t) all Accounts; and

(u) all Facility Operating Agreements.

“**Personalty**” means all Goods, Accounts, choses in action, chattel paper, documents, general intangibles (including Software), payment intangibles, instruments, investment property, letter of credit rights, supporting obligations, computer information, source codes, object codes, records and data, all telephone numbers or listings, claims (including claims for indemnity or breach of warranty), deposit accounts and other property or assets of any kind or nature related to the Land or the Improvements now or in the future, including operating agreements, surveys, plans and specifications and contracts for architectural, engineering and construction services relating to the Land or the Improvements; all other intangible property and rights relating to the ownership, operation or management of, or used in connection with, the Land or the Improvements including all governmental permits relating to any activities on the Land; all personal property used in connection with the ownership, operation or management of the Mortgaged Property as a Seniors Housing Facility including all kitchen or restaurant supplies and facilities; dining room supplies and facilities; medical supplies and facilities; leasehold improvements, or related furniture and equipment, and any other equipment, supplies or furniture owned by Borrower and leased to any third party service provider or any lessee, operator or manager of the Land or the Improvements; together with all present and future parts, additions, accessories, replacements, attachments, accessions, replacement parts and substitutions to any of the foregoing, and the proceeds thereof (cash and non-cash including insurance proceeds).

“**Rents**” means all rents (whether from residential or non-residential space), revenues and other income from the Land or the Improvements, including rent paid under any Seniors Housing Facility Lease, subsidy payments received from any sources, including payments under any “Housing Assistance Payments Contract” or other rental subsidy agreement (if any), parking fees, laundry and vending machine income, furniture rental income, and fees and charges for food, health care and other services provided at the Mortgaged Property, whether now due, past due, or to become due, and tenant security deposits, entrance fees (if any), application fees, processing fees, community fees, late fees and any other amounts or fees paid by any resident or tenant, together with and including all proceeds from any private insurance for residents to cover rental charges and charges for services at or in connection with the Mortgaged Property, and the right to Third Party Payments (other than payments by a Governmental Authority or a Managed Care Organization under a Medicaid Provider Agreement) due for the rents or services of residents at the Mortgaged Property.

1. Section 3(c) (Assignment of Leases and Rents; Appointment of Receiver; Lender in Possession) of the Security Instrument is hereby amended by adding the following to the end thereof:

If an Event of Default has occurred and is continuing, at Lender’s option, Lender is further authorized to give notice to all Third Party Payment payors (other than a Governmental Authority or a Managed Care Organization payor under a Medicaid Provider Agreement), instructing them to pay all Third Party Payments to Lender which would be otherwise paid to Borrower, to the extent permitted by law. In the case of Third Party Payments by a Governmental Authority or a Managed Care Organization under a Medicaid Provider Agreement, Lender and Borrower have executed a depositary agreement dated as of the Effective Date which establishes special procedures for the receipt and disposition of the Third Party Payments.

1. Section 3(e) (Assignment of Leases and Rents; Appointment of Receiver; Lender in Possession) of the Security Instrument is hereby deleted in its entirety and replaced with the following in lieu thereof:

(e) Notwithstanding any other right provided Lender under this Security Instrument or any other Loan Document, if an Event of Default has occurred and is continuing, and regardless of the adequacy of Lender’s security or Borrower’s solvency, and without the necessity of giving prior notice (oral or written) to Borrower, Lender may apply to any court having jurisdiction for the appointment of a receiver for the Mortgaged Property to take any or all of the actions set forth in Section 3. If Lender elects to seek the appointment of a receiver for the Mortgaged Property at any time after an Event of Default has occurred and is continuing, Borrower, by its execution of this Security Instrument, expressly consents to the appointment of such receiver, including the appointment of a receiver *ex parte*, if permitted by applicable law. Borrower consents to shortened time consideration of a motion to appoint a receiver. Lender or the receiver, as applicable, shall be entitled to receive a reasonable fee for managing or operating the Mortgaged Property and such fee shall become an additional part of the Indebtedness. Immediately upon appointment of a receiver or Lender’s entry upon and taking possession and control of the Mortgaged Property, possession of the Mortgaged Property and all documents, records (including records on electronic or magnetic media), accounts, surveys, plans, and specifications relating to the Mortgaged Property, and all security deposits and prepaid Rents, shall be surrendered to Lender or the receiver, as applicable. If Lender or receiver takes possession and control of the Mortgaged Property, Lender or receiver may exclude Borrower and its representatives from the Mortgaged Property.

1. A new subsection is hereby added to Section 4 (Protection of Lender’s Security) of the Security Instrument as follows:

[(\_\_)] paying for any required licensing fees, permits, or other expenses related to the operation of the Mortgaged Property as a Seniors Housing Facility by or on behalf of Lender, any fines or penalties that may be assessed against the Mortgaged Property, paying any costs incurred to bring the Mortgaged Property into full compliance with applicable codes and regulatory requirements, and paying any fees or costs related to Lender’s employment of any Property Operator or service provider for the Mortgaged Property.

1. A new Section [\_\_\_] is hereby added to the Security Instrument as follows:

**[\_\_]. Subordination of Seniors Housing Facility Lease.**

Any Seniors Housing Facility Lease is and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of this Security Instrument and the other Loan Documents, and to all renewals, modifications, consolidations, replacements and extensions thereof, and to all advances heretofore made or which may hereafter be made pursuant to this Security Instrument (including all sums advanced for the purposes of (a) protecting or further securing the lien of this Security Instrument, curing defaults by Borrower under the Loan Documents or for any other purposes expressly permitted by this Security Instrument or (b) constructing, renovating, repairing, furnishing, fixturing or equipping the Mortgaged Property).

**[Remainder of Page Intentionally Blank]**