OPERATING LEASE Estoppel Certificate

**(Seniors Housing)**

[DATE]

PROPERTY NAME: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

PROPERTY ADDRESS: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(include county) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(the “**Mortgaged** **Property**”)

SENIORS HOUSING FACILITY LEASE DATE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

LESSOR: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(include address) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(“**Lessor**”)

MASTER LESSEE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(include address) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(“**Master Lessee**”)

Master Lessee acknowledges that (a) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Lender**”) has agreed, subject to the satisfaction of certain terms and conditions, to **[make a loan][modify that certain loan]** (the “**Mortgage Loan**”) to Lessor, which loan is or will be secured by a lien on the Mortgaged Property which is leased in its entirety by Master Lessee, and (b) Lender is requiring this Operating Lease Estoppel Certificate as a condition to its **[making the Mortgage Loan][agreeing to any modification of the Mortgage Loan]**. Accordingly, Master Lessee hereby certifies and confirms (except as set forth on Schedule I) to Lender and its transferees, successors and assigns, as follows:

1. A true, complete and correct copy of the Seniors Housing Facility Lease between Lessor and Master Lessee with respect to the Mortgaged Property, together with any other amendment, supplement, or agreement related thereto, is attached hereto as Exhibit A (collectively, the “**Lease**”). Other than as attached on Exhibit A, the Lease has not been modified, changed, altered, assigned, supplemented or amended in any respect. No party is in default under any of the terms, conditions, provisions or agreements of the Lease and the Lease is valid and in full force and effect on the date hereof. The Lease represents the entire agreement between Lessor and Master Lessee with respect to the Mortgaged Property.
2. The Lease provides for an original term of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (\_\_\_) years, commencing on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and expiring on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
3. The Lease makes the following provision for extension of its term beyond the original term: (initial one)

(\_\_\_) the Lease does not contain an option(s) or other right to extend for any additional term or terms.

(\_\_\_) the Lease contains an option for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (\_\_\_) additional term(s) of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (\_\_\_) years each; Master Lessee has exercised \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (\_\_\_) such option(s).

1. Master Lessee is in full and complete possession of the Mortgaged Property and has commenced full occupancy and use thereof. Master Lessee is operating at the Mortgaged Property under the name of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
2. The rent commencement date under the Lease is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
3. The rent and other charges payable in connection with the Lease are as follows:
	1. all required payments of the fixed monthly rent of $\_\_\_\_\_\_\_\_ have been made prior to the date hereof;
	2. no rent or other payment has been made in connection with the Lease for more than thirty (30) days in advance, and the Lease does not allow for the advance payment of rent;
	3. there is no “free rent”, partial rent, or other rent concession or adjustments of any kind to which Master Lessee is entitled under the remaining term of the Lease;
	4. the Lease does not provide for abatement or offsetting of rent;
	5. if applicable, all additional charges payable under the terms of the Lease have been paid prior to the date hereof; and
	6. if applicable, the **[Base Year]** (as defined in the Lease) for the purposes of computing tax escalations or any additional charges is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Other than as set forth in this Section 6, there are no amounts due and owing from Master Lessee to Lessor under the Lease.

1. A security deposit in the amount of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_ has been delivered by Master Lessee to Lessor, which amount is not subject to any set-off or reduction or any increase for interest or other credit payable to Master Lessee. In addition, if applicable, tenant improvement or similar funds have been delivered by Master Lessee to Lessor in the amount of $\_\_\_\_\_\_\_\_\_\_\_\_ and no additional funds are owed by Master Lessee.

## Master Lessee has fully inspected the Mortgaged Property and found the same to be as required by the Lease in good order and repair.

## Master Lessee has not assigned or sublet and is now the sole owner of the interest or leasehold estate created by the Lease.

1. All obligations, commitments, deliveries, payments, repairs, build out allowances, inducements, other sums and conditions under the Lease to be performed or paid to date by Lessor have been satisfied, free of defenses and set-offs including all construction work on the Mortgaged Property.
2. There is no existing default or unfulfilled obligations on the part of Master Lessee or Lessor in paying the amounts due, or in performing or observing any of the covenants or agreements contained in the Lease, and no event has occurred or condition exists that, with the passing of time or giving of notice or both, would constitute an event of default under the Lease.
3. Master Lessee claims no offsets, set-offs, rebates, adjustments, concessions, abatements, claims, or defenses against or with respect to rent, additional rent, security deposits or other sums payable by Master Lessee under the terms of the Lease or the enforcement of any right or remedy of Lender or Lessor under the Lease, nor is Master Lessee aware of any such claims or defenses on the part of Lender or Lessor. Master Lessee agrees not to invoke any of its remedies under the Lease during the period in which Lender or Lessor is proceeding to cure any default on the part of Lessor under the Lease, as long as Lender or Lessor is acting with due diligence to cure the default.
4. Master Lessee has no option or right of first refusal or first offer to lease additional space or obligations to lease additional space.
5. Master Lessee has no right to terminate the Lease **[other than as follows: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_]**. Neither Borrower nor Master Lessee has commenced any action or given or received any notice for the purpose of terminating the Lease.
6. Master Lessee has no options to purchase, right of first refusal to purchase or right of first offer to purchase under the Lease or with respect to the Mortgaged Property or any part thereof, except as set forth on Schedule I.
7. No violation of any environmental law or regulation has occurred or currently exists with respect to the Mortgaged Property.
8. There are no unpaid or outstanding claims, bills or invoices for any labor performed upon or materials furnished to either Master Lessee or the Mortgaged Property for which any lien or encumbrance including, without limitation, materialmen’s, suppliers’ or mechanics’ liens, have been asserted or may be asserted against either Master Lessee or the Mortgaged Property.
9. There are no actions, voluntary or involuntary, pending against Master Lessee under the bankruptcy laws of the United States or equivalent laws for debtor relief of any state thereof.
10. There are no existing, pending or threatened lawsuits affecting the Mortgaged Property, Master Lessee, or the Lease, or between Master Lessee and Lessor.
11. Master Lessee has all applicable permits, licenses, certificates of occupancy and other documentation required by the applicable governmental authorities in order to operate the Mortgaged Property and its business in full accordance with the law.
12. Lender will rely on the representations and agreements made by Master Lessee herein in connection with Lender’s agreement to **[make the Mortgage Loan][modify the Mortgage Loan]** and Master Lessee agrees that Lendermay so rely on such representations and agreements.
13. Notices to Master Lessee should be sent to the address for Master Lessee listed on the first page of this Operating Lease Estoppel Certificate.

**[Remainder of Page Intentionally Blank]**

**IN WITNESS WHEREOF**, the undersigned has signed and delivered this Operating Lease Estoppel Certificate under seal (where applicable) or has caused this Operating Lease Estoppel Certificate to be signed and delivered under seal (where applicable) by its duly authorized representative. Where applicable law so provides, the undersigned intend(s) that this Operating Lease Estoppel Certificate shall be deemed to be signed and delivered as a sealed instrument.

**MASTER LESSEE**:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By: (SEAL)

Name:

Title:

**Schedule** **I**

**to OPERATING LEASE Estoppel Certificate**

**Exceptions to Operating Lease Estoppel Certificate**

**[IF NONE, SO STATE]**

**EXHIBIT** **A**

**to OPERATING LEASE Estoppel Certificate**

**Copy of Lease**