**[DRAFTING NOTE: MODIFY DOCUMENT AS NECESSARY FOR TRANSACTION STRUCTURE AND APPLICABLE PARTIES]**

**ASSIGNMENT OF**

**MANAGEMENT AGREEMENT**

**(Seniors Housing – Unaffiliated Property Manager)**

This ASSIGNMENT OF MANAGEMENT AGREEMENT (this “**Assignment**”) is made and entered into as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_, by and among (i) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_ (“**Borrower**”), (ii) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_ (“**Lender**”), **[and]** (iii) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_ (“**Property Manager**”) **[DRAFTING NOTE - ADD MASTER LESSEE IF IT IS A PARTY TO THE MANAGEMENT AGREEMENT: [**, and (iv) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_ (“**Master Lessee**”)**]]**.

**Recitals:**

A. Pursuant to that certain Multifamily Loan and Security Agreement dated as of the date hereof, executed by and between Borrowerand Lender (as amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Loan Agreement**”), Lender has agreed to make a loan to Borrower in the original principal amount of $\_\_\_\_\_\_\_\_\_ (the “**Mortgage Loan**”), as evidenced by, among other things, that certain Multifamily Note dated as of the date hereof, executed by Borrower and made payable to Lender in the amount of the MortgageLoan (as amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Note**”).

B. In addition to the Loan Agreement, the MortgageLoan and the Note are also secured by, among other things, a certain Multifamily Mortgage, Deed of Trust or Deed to Secure Debt dated as of the date hereof, which encumbers the Mortgaged Property (as amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Security Instrument**”; the Loan Agreement, the Note, the Security Instrument, and all other documents evidencing or security the Mortgage Loan, the “**Loan Documents**”).

C. Borrower is the owner of a Seniors Housing Facility known as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “**Mortgaged Property**”), located in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **[INSERT COUNTY, STATE]** (the “**State**”).

D. **[DRAFTING NOTE – INSERT THE FOLLOWING IF THERE IS A MASTER LESSEE:** Borrower and Master Lessee have entered into that certain **[Operating Lease] [Master Lease] [Identify applicable document for any interest in the land held by Master Lessee]** dated as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_ (as may be hereinafter amended and modified from time to time, the “**Operating Lease**”).**]**

**[DRAFTING NOTE: MODIFY RECITALS TO REFLECT ANY SUBLEASE STRUCTURES]**

E. **[DRAFTING NOTE – INSERT THE FOLLOWING IF MASTER LESSEE IS AN UNAFFILIATED MASTER LESSEE:** Borrower, Master Lessee and Lender have entered into a Subordination, Non-Disturbance and Attornment Agreement and Assignment of Leases and Rents with respect to the **[Operating Lease] [Sublease]**.**]**

F. Property Manager is the manager of the Mortgaged Property pursuant to that certain Management Agreement dated as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **[Borrower] [Master Lessee]** (the “**Assignor**”) and Property Manager (as may be hereinafter amended or modified from time to time, the “**Management Agreement**”). A copy of the Management Agreement is attached hereto as Exhibit A.

G. **[DRAFTING NOTE – INSERT THE FOLLOWING IF PROPERTY MANAGER HOLDS THE LICENSES OR CONTRACTS AND MODIFY AS APPROPRIATE:** As additional security for the Mortgage Loan, Property Manager has simultaneously herewith entered into that certain **[Collateral Assignment of Licenses]** and that certain **[Collateral Assignment of Contracts]** for the benefit of Lender.**]**

H. Lender requires and Assignor is willing to assign its rights under the Management Agreement to Lender as additional security for the Mortgage Loan.

I. Property Manager is willing to consent to this Assignment and to attorn to Lender upon receipt of notice of a Default under the Loan Documents, and perform its obligations under the Management Agreement and this Assignment for Lender, or its successors and assigns in interest, and to permit Lender to terminate the Management Agreement without liability.

**AGREEMENTS:**

NOW, THEREFORE, for good and valuable consideration, including the material financial benefit to be derived by **[Borrower,]** Property Managerand Assignor as a result of Lender’s making of the Mortgage Loan and approval of the Management Agreement, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, Borrower, **[Assignor,]** Lender and Property Manager agree as follows:

# Recitals.

## The recitals set forth above are incorporated herein by reference as if fully set forth in the body of this Assignment.

# Definitions; Parties.

## Capitalized terms used and not specifically defined herein have the meanings given to such terms in the Loan Agreement or the Security Instrument, as applicable. The following terms, when used in this Assignment, have the following meanings:

“**Affiliated Property Manager**” means any Property Manager that:

(a) is Controlled by, under common Control with, or which Controls, Borrower, Guarantor, or Key Principal;

(b) is a Person in which Guarantor or Key Principal directly or indirectly owns twenty five percent (25%) or more of the ownership interests in such Person; or

(c) is a Person which directly or indirectly owns twenty five percent (25%) or more of the ownership interests in Borrower, Guarantor, or Key Principal,

as identified in the Summary of Loan Terms.

“**Default**”means any (a) a default, a breach of a covenant or a failure to perform any obligation under this Assignment after the expiration of any applicable notice or cure period, (b) the failure of any representation or warranty in this Assignment to be true and correct in any material respect when made, (c) any “Event of Default” defined in the Loan Agreement, or (d)  a default under the Management Agreement after the expiration of any applicable notice or cure period thereunder.

# Assignment of Management Agreement.

## Assignor hereby transfers, assigns and sets over to Lender, its successors and assigns, all right, title and interest of Assignor in and to the Management Agreement. Property Manager hereby consents to the foregoing assignment. The foregoing assignment is being made by Assignor to Lender as collateral security for the full payment and performance by Borrower of all of its obligations under the Loan Documents. Although it is the intention of the parties that the assignment hereunder is a present assignment, until the occurrence of a Default (as defined herein) Borrower and/or Assignor, as applicable may exercise all rights as owner of the Mortgaged Property under the Management Agreement, except as otherwise provided in this Assignment. The foregoing assignment shall remain in effect as long as the Mortgage Loan, or any part thereof, remains unpaid, but shall automatically terminate upon the release of the Security Instrument as a lien on the Mortgaged Property. If this present, absolute and unconditional assignment of the Management Agreement is not enforceable by its terms under the laws of the Property Jurisdiction, then it is the intention of Assignor that in this circumstance this Assignment create and perfect a lien on the Management Agreement in favor of Lender to secure the obligations of Assignor under this Assignment and Borrower’s obligations under the Loan Documents, which lien shall be effective as of the date of this Assignment. The acceptance by Lender of this Assignment shall not at any time or in any event obligate Lender to take any action under this Assignment or to expend any money or to incur any expenses.

## Upon Lender’s delivery of notice to Assignor of a Default,Lender shall immediately have all rights, powers and authority granted to Assignor under the Management Agreement, including the right, power and authority to modify the terms of, extend or terminate the Management Agreement.

# Representations and Warranties.

## Assignor and Property Manager represent and warrant to Lender as follows as of the date of this Assignment:

## Property Manager is not an Affiliated Property Manager;

## the Management Agreement is unmodified and is in full force and effect;

## the Management Agreement is a valid and binding agreement enforceable against the parties in accordance with its terms; and

## neither party is in default in performing any of its obligations under the Management Agreement.

## Property Manager represents and warrants to Lender as follows as of the date of this Assignment:

## Property Manager is managing the Mortgaged Property as a Seniors Housing Facility pursuant to the terms of the Management Agreement;

## Property Manager has been paid all amounts due under the Management Agreement;

## Property Manager has not assigned, sub-contracted or delegated any of its rights and obligations created by the Management Agreement, and has no notice of any prior assignment, hypothecation or pledge of Assignor’s interest under the Management Agreement;

## Property Manager has no counterclaim, right of set-off, defense or like right against Assignor;

## there are no claims, actions, suits, or proceedings at law or in equity by or before any Governmental Authority now pending against, affecting or, to Property Manager’s knowledge, threatened against Property Manager, any entity that Controls Property Manager, or the Mortgaged Property that would adversely affect the Licenses or the operations at the Mortgaged Property. Property Manager is not currently operating under a consent order or decree, or any other agreement or decree mandated by any Governmental Authority that restricts or otherwise affects the operation of the Mortgaged Property;

## **[DRAFTING NOTE - ADD IF APPLICABLE:** if Property Manager is a HIPAA Covered Entity or HIPAA Business Associate, Property Manager has developed and implemented appropriate administrative, technical and physical safeguards to protect the privacy and security of Protected Health Information (as that term is defined in HIPAA), and otherwise achieved substantial compliance with applicable HIPAA requirements, including those concerning privacy, breach notification, security and electronic transaction standards;**]**

## Property Manager is duly organized, validly existing and qualified to transact business in the Property Jurisdiction;

## Property Manager has the requisite power and authority to carry on its business as now conducted and as contemplated to be conducted in connection with the performance of its obligations under this Assignment;

## the execution, delivery and performance of this Assignment have been duly authorized by all necessary action and proceedings by or on behalf of Property Manager, and no further approvals or filings of any kind, including any approval of or filing with any Governmental Authority, are required by or on behalf of Property Manager as a condition to the valid execution, delivery and performance by Property Manager of the Management Agreement and this Assignment; and

## **[DRAFTING NOTE - ADD IF PROPERTY MANAGER HOLDS LICENSES AND/OR CONTRACTS; MODIFY AS APPROPRIATE:** as further security for the Mortgage Loan, Property Manager has executed a Collateral Assignment of Licenses and a Collateral Assignment of Contracts.**]**

# Covenants.

## Property Manager covenants with Lender that during the term of this Assignment:

## Property Manager shall not be an Affiliated Property Manager;

## except as otherwise permitted under the Loan Documents, Property Manager shall not transfer the responsibility for the operation and management of the Mortgaged Property;

* + 1. during the term of this Assignment, Property Manager will not commence or join with any other creditor in commencing any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings with respect to Borrower, without Lender’s prior written consent;

## Property Manager shall deliver to Lender at the address indicated below and at the same time as such notice is given to Assignor or received by Property Manager, any notice of default under the Management Agreement;

## Property Manager shall not seek to terminate the Management Agreement by reason of any default of Assignor without prior written notice to Lender and the lapse of thirty (30) days after the expiration of such time as Assignor was permitted to cure such default; provided, however, that with respect to any default of Assignor under the Management Agreement which cannot be remedied within such time, if Lender commences to cure such default within such time and thereafter diligently proceeds with such efforts and pursues the same to completion, Lender shall have such time as is reasonably necessary to complete curing such default. Notwithstanding the foregoing, in the event either Lender or Assignor does not cure or commence curing such default within the time provided to Assignor under the Management Agreement and the nature of the default threatens Property Manager’s ability to conduct its daily business or threatens to materially or adversely damage its property located on the Mortgaged Property, Property Manager shall be permitted to exercise its rights under the Management Agreement, provided however, that any such exercise of rights by Property Manager shall not in any way impair or otherwise modify Lender’s right to require that Property Manager continue to provide services pursuant to the Collateral Assignment of Licenses, if any;

## Property Manager shall certify promptly in writing to Lender in connection with any proposed assignment of the Mortgage Loan, whether or not any default on the part of Assignor or Property Manager then exists under the Management Agreement and shall execute such estoppel certificates as Lender shall reasonably require;

## Property Manager shall not create, incur, or assume any lien on the Mortgaged Property or any part of the Mortgaged Property or pledge any interest in the Mortgaged Property or any part of the Mortgaged Property, except as provided herein;

## Property Manager shall not without the prior written consent of Lender extend, modify or terminate (except as set forth in Section 5(a)(5) of this Assignment) any of the terms or provisions of the Management Agreement, assign its rights under the Management Agreement, or transfer the Management Agreement. Within five (5) days of Property Manager’s receipt, Property Manager shall give Lender written notice of any notice or information that Property Manager receives which indicates that any party is in default under the terms of the Management Agreement, is attempting to extend, modify or terminate the Management Agreement or is otherwise discontinuing its ownership, operation or management of the Mortgaged Property;

## **[DRAFTING NOTE - ADD IF PROPERTY MANAGER DOES NOT HOLD THE LICENSES; DIRECT OBLIGATIONS REGARDING LICENSING ARE INCLUDED IN THE COLLATERAL ASSIGNMENT OF LICENSES:** Property Manager shall promptly inform Lender in writing (and shall deliver to Lender copies of any related written communications, complaints, orders, judgments and other documents) relating to the commencement of any rulemaking or disciplinary proceeding or the promulgation of any proposed or final rule which would have, or may reasonably be expected to have, a material adverse effect on Property Manager’s ability to operate and manage the Mortgaged Property or on the Mortgaged Property itself; the receipt of notice from any Governmental Authority having jurisdiction over Property Manager that Property Manager is being placed under regulatory supervision, any License, permit, charter, membership or registration material to the conduct of Property Manager’s business or the Mortgaged Property is to be suspended or revoked or Property Manager is to cease and desist any practice, procedure or policy employed by Property Manager in the conduct of its business, and such cessation would have, or may reasonably be expected to have, a material adverse effect on the Mortgaged Property;**]**

## **[DRAFTING NOTE - ADD IF PROPERTY MANAGER DOES NOT HOLD THE LICENSES; DIRECT OBLIGATIONS REGARDING LICENSING ARE INCLUDED IN THE COLLATERAL ASSIGNMENT OF LICENSES:** Property Manager shall provide immediate written notice to Lender of any claims, actions, suits, or proceedings at law or in equity (including any insolvency, bankruptcy, or receivership proceeding) by or before any Governmental Authority pending against, affecting or, to Property Manager’s knowledge, threatened against Property Manager, any entity that Controls Property Manager, or the Mortgaged Property, which claims, actions, suits, or proceedings, if adversely determined reasonably would be expected to materially adversely affect the Licenses, the financial condition or business of Property Manager, or the condition, operation, or ownership of the Mortgaged Property;**]**

## **[DRAFTING NOTE - ADD IF PROPERTY MANAGER DOES NOT HOLD THE LICENSES; DIRECT OBLIGATIONS REGARDING LICENSING ARE INCLUDED IN THE COLLATERAL ASSIGNMENT OF LICENSES:** Property Manager shall provide to Lender within ten (10) days after its receipt, copies of all inspection reports, surveys, reviews, and certifications prepared by, for, or on behalf of any licensing or regulatory authority relating to the Mortgaged Property and any legal actions, orders, notices, or reports relating to the Mortgaged Property issued by the applicable regulatory or licensing authorities;**]**

## Property Manager covenants and agrees that it shall not perform any acts and has not executed, and shall not execute any instrument which would prevent Lender from exercising its rights under this Assignment;

## Property Manager shall provide Borrower with complete access during the term of this Assignment to the organizational, financial, and operational information and documentation of Property Manager in every respect as it relates to the Mortgage Loan, the Mortgaged Property, and the Management Agreement (collectively, the “**Property Manager Business Information**”). Borrower shall continue to be fully informed regarding the Property Manager Business Information and shall have complete access to the Property Manager Business Information as if Borrower were the day-to-day operator of the Mortgaged Property and the business activities thereon**[**; and**]**

## **[DRAFTING NOTE - ADD IF APPLICABLE:** if Property Manager is a HIPAA Covered Entity or HIPAA Business Associate, Property Manager shall at all times remain in substantial compliance with applicable HIPAA requirements, including those concerning privacy, breach notification, security and electronic transaction standards.**]**

## Assignor covenants with Lender that, during the term of this Assignment:

## Assignor shall not assign Assignor’s interest in the Management Agreement or any portion thereof, or transfer the responsibility for management of the Mortgaged Property from Property Manager to any other person or entity without the prior written consent of Lender;

## Assignor shall not cancel, terminate, surrender, modify or amend any of the terms or provisions of the Management Agreement without the prior written consent of Lender;

## Assignor shall not forgive any material obligation of Property Manager or any other party under the Management Agreement, without the prior written consent of Lender;

## Assignor shall perform all obligations of Assignor under the Management Agreement in accordance with the provisions thereof, any failure of which would constitute a default under the Management Agreement; and

## Assignor shall give Lender written notice of any notice or information that Assignor receives which indicates that Property Manager is terminating the Management Agreement or that Property Manager is otherwise discontinuing its management of the Mortgaged Property.

# Events of Default; Remedies.

## **[Borrower,]** Assignor and Property Manager hereby acknowledge that any Default shall also constitute an Event of Default under the Loan Agreement. Upon receipt by Property Manager of written notice that a Default has occurred and is continuing, Lender shall have the right to exercise all rights as owner of the Mortgaged Property under the Management Agreement.

## If  Property Manager fails to perform any of its obligations under this Assignment or causes a default under the Management Agreement after any applicable notice or cure periods, or  any action or proceeding is commenced which purports to affect the Mortgaged Property, Lender’s security, rights or interests under the Loan Agreement or any Loan Document, including eminent domain, insolvency, code enforcement, civil or criminal forfeiture, enforcement of Environmental Laws, fraudulent conveyance or reorganizations or proceedings involving a bankrupt or decedent, then Lender may, at its option, make such appearances, disburse such sums and take such actions as Lender reasonably deems necessary to perform such obligations of Property Manager and to protect the Mortgaged Property, Lender’s security, rights or interest, including  payment of fees and out-of-pocket expenses of attorneys, accountants, inspectors and consultants,  entry upon the Mortgaged Property to make repairs or secure the Mortgaged Property,  procurement of the insurance required by the Loan Agreement, and  payment of any amounts required under this Assignment, the Loan Agreement, or the Management Agreement which Property Manager has failed to pay. Any amounts disbursed by Lender under this Section 6, or under any other provision of this Assignment that treats such disbursement as being made under this Section 6, due to Property Manager’s failure to perform its obligations under this Assignment or the Management Agreement, shall be immediately due and payable to Lender and Borrower acknowledges that any such payment shall become an additional part of the Indebtedness. The foregoing provisions shall not require Lender to incur any expense or take any action.

## After the occurrence and during the continuance of a Default, Lender (or its nominee) shall have the right any time thereafter to terminate the Management Agreement, without cause and without payment of any cancellation or termination fee, penalty or other liability, by giving written notice to Property Manager of its election to do so. Lender’s notice shall specify the date of termination, which shall not be less than thirty (30) days after the date of such notice, except such lesser notice as Lender deems to be appropriate in the event of an emergency or impairment of Lender’s collateral. Such termination right shall  supersede any limitation on termination rights contained in the Management Agreement,  serve as consideration for the material benefit derived by Property Manager from Lender’s approval of the Management Agreement and the making of the Mortgage Loan, and  become effective pursuant to Lender’s right after a Default occurs and continuesto exercise all rights of Borrower under the Management Agreement.

## On the effective date of termination of the Management Agreement, Property Manager shall turn over to Lender all books and records relating to the Mortgaged Property and the residents and tenants (copies of which may be retained by Property Manager, at Property Manager’s expense), together with such authorizations and letters of direction addressed to residents, tenants, suppliers, employees, banks and other parties as Lender may reasonably require. A final accounting of unpaid fees (if any) due to Property Manager under the Management Agreement shall be made within sixty (60) days after the effective date of termination, but Lender shall not have any liability or obligation to Property Manager for unpaid fees or other amounts payable under the Management Agreement which accrue before Lender (or its nominee) acquires title to the Mortgaged Property, or before Lender becomes a mortgagee in possession (other than as set forth in this Section 6).

## If a Default has occurred and is continuing, Property Manager shall furnish promptly to Lender evidence of deposits and withdrawals from any account held or controlled by Property Manager relating to the Mortgaged Property.

# No Assumption of Obligations.

Assignor and Property Manager agree that Lender does not assume any obligations or duties of Assignor and Property Managerconcerning the Management Agreement until and unless Lender shall exercise its rights hereunder after a Foreclosure Event occurs.

# Power of Attorney.

Assignor and Property Managerhereby irrevocably constitute and appoint Lender as Assignor’s and Property Manager’sattorney-in-fact to demand, receive and enforce their rights with respect to the provisions set forth in this Assignment, to give appropriate receipts, releases and satisfactions for and on Assignor’s and Property Manager’s behalf and to do any and all acts in Assignor’s or Property Manager’s names or in the name of Lender with the same force and effect as Assignor or Property Managercould do if this Assignment had not been made. The foregoing appointment shall be deemed to be coupled with an interest and irrevocable.

# Consideration.

As consideration for the material financial benefit to be derived by **[Borrower,]** Property Managerand Assignor as a result of Lender’s making of the Mortgage Loan and approval of the Management Agreement, **[Borrower,]** Property Manager and Assignor acknowledge receipt of good and valuable consideration for **[Borrower’s,]** Property Manager’s and Assignor’s entry into this Assignment.

# Modifications to Loan Documents.

Any amendments heretofore or hereafter made to any of the Loan Documents, other than this Assignment, shall not require the consent of Property Manager. Borrower shall be responsible for notifying Property Manager of any amendments to the terms, conditions, provisions, requirements, representations, and affirmative and negative covenants of the Loan Documents relating to the use and operation of the Mortgaged Property which run directly to Property Manager and Property Manager shall be responsible for any such modified terms.

# Lender Requests.

Within ten (10) days of written request of Lender, Property Managershall promptly furnish to Lender copies of all Leases, books, records, monthly reports, statements of account, budgets, third party payment documentation, including reimbursement agreements, surveys, statements of deficiencies and plans of correction, and cost reports related to any payments or the right to receive payments from federal, state or local programs, boards, bureaus or agencies, and other items which Property Manageris required to maintain or otherwise maintains under the Management Agreement or which Property Managermaintains for its own purposes with respect to the Mortgaged Property.

# Indemnification.

By executing this Assignment, Borrower agrees to indemnify and hold harmless Lender and its successors and assigns from and against any and all losses, claims, damages, liabilities and expenses including attorneys’ fees and costs, which may be imposed or incurred in connection with this Assignment.

# Notice.

* 1. **Process of Serving Notice.**

All notices under this Assignment shall be:

* + 1. in writing and shall be:
       1. delivered, in person;
       2. mailed, postage prepaid, either by registered or certified delivery, return receipt requested;
       3. sent by overnight courier; or
       4. sent by electronic mail with originals to follow by overnight courier;
    2. addressed to the intended recipient at its respective address set forth at the end of this Assignment; and
    3. deemed given on the earlier to occur of:

(A) the date when the notice is received by the addressee; or

(B) if the recipient refuses or rejects delivery, the date on which the notice is so refused or rejected, as conclusively established by the records of the United States Postal Service or any express courier service.

* 1. **Change of Address.**

Any party to this Assignment may change the address to which notices intended for it are to be directed by means of notice given to the other parties to this Assignment in accordance with this Section 13.

* 1. **Default Method of Notice.**

Any required notice under this Assignment which does not specify how notices are to be given shall be given in accordance with this Section 13.

* 1. **Receipt of Notices.**

Assignor, Property Manager and Lender shall not refuse or reject delivery of any notice given in accordance with this Assignment. Each party is required to acknowledge, in writing, the receipt of any notice upon request by the other party.

# Counterparts.

This Assignment may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall constitute one and the same instrument.

# Governing Law; Venue and Consent to Jurisdiction.

* 1. **Governing Law.**

The validity, enforceability, interpretation, and performance of this Assignment shall be governed by the laws of the State without giving effect to any conflict of law or choice of law rules that would result in the application of the laws of another jurisdiction.

* 1. **Venue; Consent to Jurisdiction.**

In the administration or litigation of a controversy arising under or in relation to this Assignment or the security for the Indebtedness, **[Borrower,]** Property Manager and Assignor each consents to the exercise of personal jurisdiction by State court or federal court in such State. **[Borrower,]** Property Manager and Assignor each agrees that the State courts have subject matter jurisdiction over such controversies. If Lender elects to sue in State court, **[Borrower,]** Property Manager and Assignor each waives any right to remove to federal court or to contest the State court’s jurisdiction. **[Borrower,]** Property Manager and Assignor waive any objection to venue in any State court or federal court in such State, and covenants and agrees not to assert any objection to venue, whether based on inconvenience, domicile, habitual residence, or other ground.

# Successors and Assigns.

This Assignment shall be binding upon **[Borrower,]** Assignor, Property Managerand Lender and their respective successors, transferees and assigns, and shall inure to the benefit of and may be enforced by Lender and its successors, transferees and assigns. **[Borrower,]** Assignor and Property Managershall not assign any of their respective rights and obligations under this Assignment without the prior written consent of Lender.

# Entire Agreement; Amendments and Waivers.

This Assignment contains the complete and entire understanding of the parties as to its subject matter. No amendment to this Assignment will be valid unless it is made in writing and executed by the parties to this Assignment. No specific waiver or forbearance for any breach of any of the terms of this Assignment shall be considered as a general waiver of that or any other term of this Assignment.

# Relationship of Parties.

Nothing contained in this Assignment shall constitute Lender as a joint venturer, partner or agent of **[Borrower,]** Assignor or Property Manager, or render Lender liable for any debts, obligations, acts, omissions or representations of **[Borrower,]** Assignor or Property Managerexcept as provided herein.

# Enforceability.

The determination of invalidity, illegality or unenforceability of any provision of this Assignment, pursuant to judicial decree, shall not affect the validity or enforceability of any other provision of this Assignment, each of which shall remain in full force and effect.

# Construction.

## The captions and headings of the sections of this Assignment are for convenience only and shall be disregarded in construing this Assignment.

## Any reference in this Assignment to an “Exhibit” or “Schedule” or a “Section” or an “Article” shall, unless otherwise explicitly provided, be construed as referring, respectively, to an Exhibit or Schedule attached to this Assignment or to a Section or Article of this Assignment. All Exhibits and Schedules attached to or referred to in this Assignment, if any, are incorporated by reference into this Assignment.

## Any reference in this Assignment to a statute or regulation shall be construed as referring to that statute or regulation as amended from time to time.

## Use of the singular in this Assignment includes the plural and use of the plural includes the singular.

## As used in this Assignment, the term “including” means “including, but not limited to” or “including, without limitation,” and is for example only and not a limitation.

## Whenever Assignor’s or Property Manager’s knowledge is implicated in this Assignment or the phrase “to Assignor’s knowledge,” “to Property Manager’s knowledge” or a similar phrase is used in this Assignment, Assignor’s or Property Manager’s knowledge or such phrase(s) shall be interpreted to mean to the best of Assignor’s or Property Manager’s knowledge after reasonable and diligent inquiry and investigation.

## Unless otherwise provided in this Assignment, if Lender’s approval, designation, determination, selection, estimate, action or decision is required, permitted or contemplated hereunder, such approval, designation, determination, selection, estimate, action or decision shall be made in Lender’s sole and absolute discretion.

## All references in this Assignment to a separate instrument or agreement shall include such instrument or agreement as the same may be amended or supplemented from time to time pursuant to the applicable provisions thereof.

## “Lender may” shall mean at Lender’s discretion, but shall not be an obligation.

**[Remainder of Page Intentionally Blank]**

IN WITNESS WHEREOF, Borrower, **[Master Lessee,]** Lender, and Property Manager have executed this Assignment as of the day and year first written above.

|  |
| --- |
| **BORROWER**: |
| By: (SEAL)  Name:  Title:  Address: |

|  |
| --- |
| **LENDER**: |
| By: (SEAL)  Name:  Title:  Address: |

|  |
| --- |
| **PROPERTY MANAGER**: |
| By: (SEAL)  Name:  Title:  Address: |

**[DRAFTING NOTE: DELETE SIGNATURE BLOCK IF MASTER LESSEE IS NOT PARTY TO MANAGEMENT AGREEMENT]**

|  |
| --- |
| **MASTER LESSEE**: |
| By: (SEAL)  Name:  Title:  Address: |

**EXHIBIT A**

**TO ASSIGNMENT OF MANAGEMENT AGREEMENT**

**Copy of Management Agreement**

[Attach complete copy of fully executed Management Agreement]