

AMENDED AND RESTATED GROUND LEASE

THIS AMENDED AND RESTATED LEASE AGREEMENT (this "Lease"), made and entered into effective as of the ____ day of _____, 2013 (the "Effective Date") by and between the INCORPORATED COUNTY OF LOS ALAMOS, NEW MEXICO, an incorporated county and political subdivision of the State of New Mexico ("Lessor"), and LOS ALAMOS RETIREMENT COMMUNITY, INC., a nonprofit New Mexico corporation ("Lessee").

WITNESSETH:

- A. Lessor owns certain real property consisting of the Property (as hereinafter defined);
- B. Lessor and Lessee have heretofore entered into that certain Ground Lease Agreement dated as of January 1, 1983 and that certain Ground Lease dated December 1, 2001 (the "Original Leases");
- C. Lessor and Lessee desire to enter into this Lease, amending and restating the Original Leases, as hereinafter provided; and
- D. Reference is made to that certain Lease Addendum dated of even date herewith, which is attached hereto and incorporated herein by reference. By execution of this Lease, Lessor and Lessee agree to the terms contained in the Lease Addendum, without further action.

ARTICLE I PREMISES

1.01 Granting of Leasehold. Lessor, by these presents, hereby rents, leases and lets unto Lessee, and Lessee hereby rents, leases and hires from Lessor, for the rentals and upon and subject to the terms and conditions hereinafter set forth, the real property described in Exhibit A attached hereto and by reference made a part hereof (the "Property"¹), subject to covenants, encumbrances, exceptions, easements, restrictions, reservations and declarations of record, if any, and excepting the

¹ Note to draft: Please see the requirements in the Lease Addendum regarding definition of "Property" and the following additions in this Section regarding the ownership of the Improvements.

buildings, fixtures, personal property and improvements now or hereafter located thereon, which the parties acknowledge are owned in fee simple by Lessee and deemed "real estate" under applicable New Mexico law. The buildings, fixtures, personal property and improvements upon the Property previously purchased, constructed, built and maintained by Lessee are hereinafter sometimes referred to as the "Improvements". The land contained in the Site and underneath the Improvements is hereinafter sometimes referred to as the "Facilities".

ARTICLE II TERM AND EXTENSIONS

2.01 Term. The basic term (the "Basic Term") of this Lease shall commence as of the Effective Date and end on _____, 20____, or if these blanks are not completed by the parties, on the date which is fifty (50) years from the Effective Date². The term "Lease Year" as used herein means each period during the term of this Lease commencing on January 1 of a year and ending on the following December 31 of said year.

2.02 Option to Extend. The Lessee is hereby granted two (2) separate options to extend the Basic Term of this Lease, each option period to be for ten (10) years. Except as otherwise provided herein, Lessee's occupancy of the Property during such extension periods shall be on the same terms and conditions as the Basic Term hereof. If one or more of such options are exercised, each extended term shall commence immediately on the expiration of the prior term. Lessee may exercise such option(s) by giving written notice thereof to Lessor at least one hundred and eighty (180) days prior to the termination of the then current term of this Lease, provided that (i) Lessee is not in default hereunder at the time any such notice of extension is given, and (ii) Lessor consents to the exercise of the option, which consent shall not be unreasonably withheld, delayed or conditioned; provided, however, that if Lessee has not received consent or a notice denying consent prior to the expiration of the Basic Term or any renewal term, then the requirement of consent shall be deemed waived. The

² Note to draft: We have now been informed that the Term must be at least 50 years pursuant to HUD requirements.

options, if exercised, shall be exercised successively, but nothing contained in this Section 2.02 shall be deemed to prevent Lessee from exercising any one or more of the options to extend the term of this Lease at one time.

ARTICLE III RENT

3.01 The total rent for the initial term shall be as described in this Section, which Lessee shall pay to Lessor, without deduction or offset, at such place or places as may be designated from time to time by Lessor, in installments as follows:

3.02 Basic Rent. Lessee covenants and agrees to pay to Lessor for each Lease Year from the commencement of the Basic Term of this Lease through December 31, 2036, basic rent ("Basic Rent"), without deduction or offset, in the amount of Forty Two Thousand One Hundred Fifty dollars (\$42,150) per Lease Year, which shall be payable in equal monthly installments of Three Thousand Five Hundred Twelve Dollars and 50/100 (\$3,512.50). To the extent that Lessee has prepaid rent for part or all of 2013, monthly rent shall not be due until the 1st day of the 1st month for which rent has not been paid. If this Lease commences on a day other than the first day of January or terminates (for any reason other than Lessee's default hereunder) on a day other than the 31st day of December, the rent payable under this Section 3.01 shall be prorated accordingly. Portions of the Basic Rent shall be subject to increase every twelve (12) months as follows: beginning on January 1, 2037, that portion of the Basic Rent equal to Thirty Four Thousand Five Hundred Dollars (\$34,500.00)³ shall be subject to increase; on January 1, 2043, that portion of the Basic Rent equal to Seven Thousand Six Hundred Fifty Dollars (\$7,650.00) shall be subject to increase, in each case through the expiration of the Term of this Lease, including any renewal term, each such twelve month period being referred to as a "Rental Period" as follows: the Base Rent shall be increased to an amount which is equal to the percentage increase in the CPI (as hereinafter defined) as published on the date closest to the first day

³ Note to draft: The reason for this split is that the 2001 Lease expires on 12/31/36 (fixed rent payment of \$34,500 per year), while the 1983 Ground Lease Agreement does not expire until 12/31/42 (fixed rent payment of \$7,650 per year).

of the immediately preceding lease year, as compared to the CPI as published on the date closest to the then current lease year. As used in this Lease, the term "CPI" shall mean the Consumer Price Index, in the column for "All Items (1982-84=100)" for the group labeled "Urban Wage Earners and Clerical Workers" in the table entitled "Consumer Price Index: United States City Average" published monthly by the United States Department of Labor, Bureau of Labor Statistics. If the United States Department of Labor, Bureau of Labor Statistics ceases to publish the CPI, the index that will most nearly accomplish the purpose thereof and the use thereof by the parties hereby with respect to the adjustment of rent shall be used in lieu of said CPI.

3.03 Payments. All payments of rent shall be made to Lessor as the same shall become due in lawful money of the United States of America at the address specified in Section 17.01 of this Lease, or to such other party or at such other address as hereinafter may be designated by Lessor by written notice delivered to Lessee at least thirty (30) days prior to the next ensuing rental payment date.

3.04 Additional Rent. Lessee shall pay as Additional Rent all payments of whatever nature which Lessee has agreed to pay or assume under the provisions of this Lease, including without limitation all Impositions. The obligation of the Lessee to pay Additional Rent shall be subject to the same requirements in this Lease Agreement applicable to the payment of Basic Rent.

3.05 Total Rent. The term "Total Rent," as used herein, means the total amount of all Basic Rent and Additional Rent payable by Lessee pursuant to the terms of this Lease.

ARTICLE IV USE AND OCCUPANCY

4.01 Use of Facilities. Subject to the provisions of this Article, Lessee shall have the right to use the Facilities as an assisted living facility and nursing home or, with the prior approval of the Lessor, such approval to be given or withheld within Lessor's sole discretion, for any other use permitted by law.

4.02 Compliance with Laws. During the term of this lease, Lessee shall comply with all applicable laws affecting the demised premises, the breach of which might result in any penalty on Lessor or forfeiture of Lessor's title to the demised premises. Lessee shall not commit, or suffer to be committed, any waste on the demised premises, or any nuisance.

ARTICLE V IMPOSITIONS

5.01 Impositions. Lessee shall bear, pay and discharge, before the delinquency thereof, all taxes and assessments, liens, general and special and user charges, if any, which may be lawfully taxed, charged, levied, assessed or imposed upon or against or be payable for or in respect to the Facilities or any part thereof, or Lessee's interest in the Facilities, including any new lawful taxes, assessments or user charges not of the kind enumerated above to the extent that the same are made, levied or assessed in lieu of or in addition to taxes, assessments or user charges now customarily levied against real or personal property, and further including all water and sewer charges, electricity, natural gas, assessments and other governmental charges and impositions whatsoever, foreseen or unforeseen, which if not paid when due would encumber title to the Property or the Improvements (all of the foregoing being herein referred to as "Impositions"). In the event any special assessment taxes are lawfully levied and assessed which may be paid in installments, Lessee shall be required to pay only such installments thereof as become due and payable during the life of this Lease as and when the same become due and payable. Lessor shall, promptly upon receipt of any and all government statements, charges and bills relating to the Impositions referred to in this Section 5.01, deliver such statements, charges and bills to Lessee.

5.02 Receipted Statements. Within thirty (30) days after the last day for payment, without penalty or interest, of an Imposition which Lessee is required to bear, pay and discharge pursuant to the terms hereof, Lessee shall, upon written request of Lessor, deliver to Lessor a photostatic copy of

the statement issued therefore duly receipted to show the payment thereof, or a copy of the payment by Lessee therefore certified as authentic by an authorized officer of Lessee.

5.03 Contesting taxes. If Lessee shall in good faith desire to contest the validity or amount of any tax, assessment, levy, or other governmental charge herein agreed to be paid by Lessee, Lessee shall be permitted to do so in accordance with applicable law, and to defer payment of such tax or charge, the validity or amount of which Lessee is so contesting, until final determination of the contest, on giving to Lessor written notice thereof prior to the commencement of any such contest, which shall be at least ten (10) days prior to delinquency, provided the taxing authority allows such deferral without penalty to Lessor, and on protecting the Lessor on demand by a good and sufficient surety bond (or other security reasonably satisfactory to Lessor) against any such tax, levy, assessment, rate, or governmental charge, and from any costs, liability, or damage arising out of any such contest.

ARTICLE VI INSURANCE AND INDEMNIFICATION

6.01 Insurance. Lessor shall procure and maintain continuously in effect with respect to the demised premises and any improvements thereon policies of insurance against such risks and in such amounts as are prudent for an owner of properties comparable to the demised premises and any improvements thereon, but at a minimum the amounts of insurance shall cover the governmental maximums of liability under the New Mexico Tort Claims Act as it may be amended from time to time.

6.02 Indemnification of Lessor. Lessor shall not be liable for any loss, injury, death, or damage to persons or property which at any time may be suffered or sustained by Lessee or by any person whosoever may at any time be using or occupying or visiting the demised premises or be in, on, or about the same, whether such loss, injury, death, or damage shall be caused by or in any way result from or arise out of any act, omission, or negligence of Lessee or of any occupant, subtenant, visitor, or user of any portion of the premises, or shall result from or be caused by any

other matter or thing whether of the same kind as or of a different kind than the matters or things above set forth, and Lessee shall indemnify Lessor against all claims, liability, loss, or damage whatsoever on account of any such loss, injury, death, or damage. The foregoing shall not apply to loss, injury, death, or damage arising by reason of the negligence or misconduct of Lessor, its agents, or employees.

ARTICLE VII

SUBLETTING AND ASSIGNMENT; ENCUMBRANCE OF LESSEE'S LEASEHOLD INTEREST

7.01 Subletting and Assignment. Lessee may sublet the demised premises in whole or in part only with Lessor's written consent in the sole discretion of Lessor. The making of any such sublease shall not release Lessee from or otherwise affect in any manner any of Lessee's obligations hereunder unless specifically agreed to by Lessor. Lessee shall not assign or transfer this Lease or any interest herein, without the prior written consent of Lessor, which consent shall not be unreasonably withheld, delayed or conditioned. A consent to an assignment shall not be deemed to be consent to any subsequent assignment. Any such assignment without consent shall be void.

7.02 Encumbrance of Lessee's Leasehold Interest. Notwithstanding any other provision of this Lease, Lessee may encumber by mortgage, assignment, or deed of trust, or other proper instrument, its leasehold interest and estate in the Property, together with all buildings and improvements placed by Lessee thereon, as security for any indebtedness of Lessee. The execution of any such mortgage, assignment, or deed of trust, or other instrument, or the foreclosure thereof, or any sale thereunder, either by judicial proceedings or by virtue of any power reserved in such mortgage, assignment or deed of trust, or conveyance by Lessee to the holder of such indebtedness, or the exercising of any right, power or privilege reserved in any mortgage, assignment, or deed of trust, shall not be held as a violation of any of the terms or conditions hereof, or as an assumption by the holder of such indebtedness personally of the obligations hereof. The Lessor agrees that, in the event

any encumbrance of the Lessee's interest in the demised premises is foreclosed or given by Lessee in lieu of foreclosure, the Lessor will accept the beneficiary (or trustee) of such encumbrance or any purchaser therefrom or recipient thereof, or any purchaser at a foreclosure sale, as the Lessee hereunder and such Lessee may use the demised premises for any lawful purpose, with the prior approval of the Lessor, such approval to be given or withheld within the Lessor's sole discretion, and may transfer its interest to a subsequent Lessee, with the prior approval of the Lessor, such approval to be given or withheld within the Lessor's sole discretion, which subsequent tenant shall also be treated as the Lessee hereunder and may use the demised premises for any lawful purpose, with the prior approval of the Lessor, such approval to be given or withheld within the Lessor's sole discretion.

7.03 Notice to Holder of Encumbrance; Right to Cure If Lessee shall encumber its leasehold interest and estate in the demised premises and if Lessee or the holder (or trustee for any such holder) of the indebtedness secured by such encumbrance shall give notice to Lessor of the existence thereof and the address of such holder (or trustee), Lessor will mail or deliver to such holder (or trustee), at such address, a duplicate copy of all notices in writing which Lessor may, from time to time, give to or serve on Lessee under and pursuant to the terms hereof; such copies shall be mailed or delivered to such holder (or trustee) at, or as near as possible to, the same time such notices are given to or served upon Lessee.

Such holder (or trustee) may, at its option, at any time before the rights of Lessee shall be terminated as provided herein, pay any of the rents due hereunder, or pay any taxes and assessments, or do any other act or thing required of Lessee by the terms hereof, or do any act or thing that may be necessary and proper to be done in the observance of the covenants and conditions hereof, or to prevent the termination hereof. All things so done and performed by such holder (or trustee) shall be as effective to prevent a foreclosure or termination of the rights of the Lessee hereunder as the same would have been if done and performed by Lessee.

Nothing herein shall be construed so as to allow the Lessee to encumber Lessor's interest in the demised premises.

ARTICLE VIII
REPAIRS AND MAINTENANCE; REMOVAL OF IMPROVEMENTS

8.01 Repairs and Maintenance. Lessee agrees that it will during the life of this Lease keep and maintain the Facilities and all parts thereof (including but not limited to the Property) and all machinery or equipment which is a part of or is in, on or about the Facilities operational and in a good condition and repair, ordinary wear and tear excepted, making such replacements as may be necessary or appropriate from time to time, even if compliance with such covenant requires Lessee to make structural or mechanical alterations, additions or improvements to the Improvements or any part thereof and further agrees that during the term hereof it will keep the Facilities and all parts thereof free from filth, nuisance or conditions unreasonably increasing the danger of fire. Lessor shall not be responsible for any repairs, maintenance or replacements needed with respect to the Property or any other part of the Facilities.

8.02 Removal of Machinery and Equipment. Lessee shall have the right, without Lessor's prior written consent, to remove from the Facilities and sell or otherwise dispose of any machinery and equipment which constitutes a part of the Improvements or which is in, on or about the Facilities.

8.03 Disposition of Improvements on Termination of Lease. On termination of this lease for any reason, Lessee may remove any buildings and improvements on the demised premises that it has caused at its expense to be erected thereon, provided that the expense of such removal will be borne in all events by the Lessee; provided, further, that in the event this lease is terminated for any reason and the Lessee does not remove any such improvements and buildings within six (6) months after the said termination, then and in that event such buildings and improvements may, at the option of the Lessor, become its property and it may dispose of them as it wishes; provided, however, that in the event it exercises such option to become owner of the said buildings and improvements, said exercise shall not be construed to constitute an assumption of any indebtedness existing against said buildings by the Lessor. If Lessor does not exercise its option to become owner of said buildings and

improvements, it may require Lessee to remove them at Lessee's expense. In the event Lessee elects or is required by Lessor to remove such buildings and improvements upon said termination, Lessee shall restore the premises to the conditions that existed at the inception of the lease at its own cost.

ARTICLE IX ALTERATIONS

9.01 Alteration of Facilities or Improvements. Lessee shall have the right, without Lessor's prior written consent, to make additions, changes or alterations in and to any part of the Facilities so long as the use of the Facilities as set forth in Section 4.01 of this Lease does not change. All additions, changes or alterations made by Lessee shall (a) be made in a workmanlike manner and in compliance with all applicable statutes, laws, ordinances, rules, regulations and requirements and the requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of this Lease, (b) shall not adversely affect the structural integrity of the Improvements, (c) shall not adversely affect the efficacy of the Improvements, (d) shall not adversely affect the value of the Improvements, (e) when commenced, be prosecuted to completion with due diligence, and (f) when completed, shall be deemed a part of the Improvements.

ARTICLE X PERMITS

10.01 Securing of Permits and Authorizations. Lessee shall not do or permit others under its control to do any work in or about the Facilities, or related to any repair, rebuilding, restoration, replacement, alteration of or addition to the Facilities, or any part thereof, unless Lessee shall have first procured and paid for all requisite municipal and other governmental permits and authorizations.

ARTICLE XI LIENS

11.01 Lessee's Duty to Keep Demised Premises Free of Liens. Lessee shall keep all of the demised premises and every part thereof and all buildings and other improvements at any time located thereon free and clear of any and all mechanics', materialmen's, and other liens for or arising

out of or in connection with work or labor done, services performed, or materials or appliances used or furnished for or in connection with any operations of Lessee, any alterations, improvements, or repairs or additions which Lessee may make or permit or cause to be made, or any work or construction, by, for, or permitted by Lessee on or about the Property, or any obligations of any kind by Lessee (other than as permitted in Article VII of this Lease), and at all times shall promptly and fully pay and discharge any and all claims on which any such lien may or could be based, and shall indemnify Lessor against all such liens and claims of liens and suits or other proceedings pertaining thereto.

11.02 Contesting Liens. If Lessee desires to contest any such lien, it shall notify Lessor of its intention to do so within thirty (30) days after the filing of such lien. In such case, and provided that Lessee shall on demand protect Lessor by a good and sufficient surety bond (or other security satisfactory to Lessor) against such lien and any cost, liability, or damage arising out of such contest, Lessee shall not be in default hereunder until the lesser of (i) thirty (30) days after the final determination of the validity thereof, or (ii) the expiration of time provided in such final determination, within which time Lessee shall satisfy and discharge such lien to the extent held valid, but the satisfaction and discharge of any such lien shall not, in any case, be delayed until execution is had on any judgment rendered thereon, and such delay shall be a default of Lessee hereunder. In the event of any such contest, Lessee shall protect and indemnify Lessor against all loss, expense, and damage resulting therefrom.

ARTICLE XII UTILITIES

12.01 Utilities. All utilities and utility services used by Lessee in, on or about the Facilities shall be paid for by Lessee and shall be contracted for by Lessee in Lessee's own name, and Lessee shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith.

ARTICLE XIII
LESSOR'S ACCESS

13.01 Access to Facilities. Lessor, for itself and its duly authorized representatives and agents, reserves the right to enter the Facilities during the business hours of Lessee, on twenty-four (24) hours' notice to Lessee (except in situations reasonably deemed by Lessor to constitute emergencies or to be in the exercise of Lessor's police powers) during the life of this Lease for the purpose of (a) examining and inspecting the same, and (b) performing such work in and about the Facilities made necessary by reason of Lessee's default under any of the provisions of this Lease, (c) for such other purposes as Lessor may reasonably determine to be necessary or appropriate. Lessor may, during the progress of said work mentioned in (b) above, keep and store on the Facilities all necessary materials, supplies and equipment, and Lessor shall not be liable for any inconvenience, annoyances, disturbance, loss of business or other damage suffered by reason of the performance of any such work or by the storage of materials, supplies and equipment or by Lessor's exercise of any of its rights under this Lease. In exercising its rights hereunder, Lessor shall use reasonable efforts to avoid unreasonable interference with the operation of the Facilities.

ARTICLE XIV
EMINENT DOMAIN

14.01 Effect of total condemnation. In the event the entire demised premises shall be appropriated or taken under the power of eminent domain by any public or quasi-public authority, Lessee shall thereupon be released from any rental payment liability thereafter accruing hereunder.

14.02 Effect of partial condemnation. In the event a portion of the demised premises shall be so appropriated or taken and the remainder of the property shall not be suitable for the use then being made of the property by Lessee, or if the remainder of the property is not one undivided parcel of property, Lessee shall have the right to terminate this lease as of the date of such taking or giving to Lessor written notice of such termination within thirty (30) days after Lessor has notified Lessee in writing that the property has been so appropriated or taken.

14.03 Condemnation award. In the event of the termination of this lease by reason of the total or partial taking of the demised premises by eminent domain or in the event of the partial taking of the demised premises without termination of the lease, then in any such condemnation proceedings Lessor and Lessee shall be free to make claim against the condemning or taking authority for the amount of any damage done to them, respectively, as a result thereof.

14.04 Rights Hereunder Shall Prevail. Lessor and Lessee hereby agree that, notwithstanding any provision which may be made in the judgment or decree entered in any proceedings concerning the respective rights of Lessor and Lessee in and to any award or awards made therein, the total amounts awarded to Lessor and Lessee in such proceedings shall be held and disbursed in accordance with the provisions of this Lease.

ARTICLE XV DAMAGE OR DESTRUCTION BY CASUALTY

15.01 Damage or Destruction by Fire or Other Casualty. If at any time during the life of this Lease any part of the Improvements is damaged or destroyed by fire or other casualty, this Lease shall not be thereby terminated and neither the term nor any of the obligations (including the payment of Total Rent) of either party under this Lease shall be reduced or affected in any way. If Lessee elects to rebuild, Lessee shall first submit to Lessor, and secure Lessor's written approval of, the plans for repairing or rebuilding, which approval shall not be unreasonably withheld. All proceeds of insurance obtained by Lessee shall become the absolute property of Lessee, and all proceeds of insurance obtained by Lessor shall become the absolute property of Lessor.

ARTICLE XVI DEFAULT

16.01 Default Provisions. This Lease is made on condition that if:

- (a) Lessee fails to pay when due any installment of Basic Rent or Additional Rent, and such failure to pay continues for thirty (30) days after written notice from Lessor of such failure; or

(b) Should Lessor deem Lessee to be in default of any other covenant or obligation herein, Lessor shall notify Lessee of the breach in writing. Thereafter, Lessee will, within thirty days after written notification, notify Lessor whether or not intends to remedy the breach. Lessee shall remedy the same within ninety (90) days after Lessor has given Lessee written notice specifying such failure (or within such additional period, if any, as may be reasonably required to cure such failure if it is of such nature that it cannot be cured within said ninety (90) day period because of governmental restriction or other cause beyond the control of Lessee);

then Lessor may at Lessor's election then or at any time thereafter, and while such default shall continue, give Lessee written notice of Lessor's termination of this Lease, and, upon such notice, Lessee's rights to possession of the Improvements shall cease and this Lease shall thereupon be terminated, and Lessor may re-enter and take possession of the Improvements as its own property; or Lessor may remain out of possession of the Improvements and treat the term of the Lease as subsisting and in full force and effect, in which event Lessor shall have all rights and remedies available at law, in equity or hereunder; and as an alternative remedy Lessor may, at Lessor's election, without terminating the term, or this Lease, re-enter the Improvements or take possession thereof pursuant to legal proceedings or pursuant to any notice provided for by law, and having elected to re-enter or take possession of the Improvements without terminating the term, *or* this Lease, Lessor shall use reasonable diligence as Lessee's agent to relet the Improvements, or parts thereof, for such term or terms and at such rental and upon such other terms and conditions as Lessor may reasonably deem advisable, with the right to make alterations and repairs to the Improvements, and no such re-entry or taking of possession of the Improvements by Lessor shall be construed as an election on Lessor's part to terminate this Lease, and no such re-entry or taking of possession by Lessor shall relieve Lessee of its obligation to pay Basic Rent or Additional Rent (at the time or times provided herein), or of any of its other obligations under this Lease, all of which shall survive such

re-entry or taking of possession, and Lessee shall continue to pay the Basic Rent and Additional Rent provided for in this Lease until the end of the term and whether or not the Improvements shall have been relet, less the net proceeds, if any, of any reletting of the Improvements after deducting all of Lessor's expenses in or in connection with such reletting, including without limitation all repossession costs, brokerage commissions, legal expenses, expenses of employees, alterations costs and expenses of preparation for reletting. Having elected either to remain out of possession and treating this Lease as remaining in full force and effect or to re-enter or take possession of Improvements without terminating the term, or this Lease, Lessor may by notice to Lessee given at any time thereafter while Lessee is in default in the payment of Basic Rent or Additional Rent or in the performance of any other obligation under this Lease, elect to terminate this Lease and, upon such notice, this Lease shall thereupon be terminated. If in accordance with any of the foregoing provisions of this Article, Lessor shall have the right to elect to re-enter and take possession of the Improvements, Lessor may enter and expel Lessee and those claiming through or under Lessee and remove the property and effects of both or either (forcibly if necessary) without being guilty of any manner of trespass and without prejudice to any remedies for arrears of rent or preceding breach of covenant.

16.02 Performance of Lessee's Obligations by Lessor. I. If Lessee shall fail to keep or perform any of its obligations as provided in this Lease then Lessor may (but shall not be obligated so to do) upon the continuance of such failure on Lessee's part for ninety (90) days after notice of such failure is given Lessee by Lessor (except that such notice need not be given in any case reasonably deemed by Lessor to constitute an emergency), and without waiving or releasing Lessee from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and all sums so paid by Lessor and all necessary incidental costs and expenses incurred by Lessor in performing such obligation shall be deemed Additional Rent and shall be paid to Lessor on demand, and if not so paid by Lessee, Lessor shall have the same rights

and remedies provided for in this Article XVI in the case of default by Lessee in the payment of Basic Rent.

16.03 Costs to Enforce. Each party covenants to pay and to indemnify the other against all reasonable costs, expenses and other charges, including counsel fees, lawfully and reasonably incurred in the successful enforcement of any agreement by the other party contained in this Lease.

ARTICLE XVII NOTICE

17.01 Notices. All notices required or desired to be given hereunder shall be in writing and all such notices and other written documents required or desired to be given hereunder shall be deemed duly served and delivered for all purposes (a) upon Lessor, if mailed by certified or registered mail, postage prepaid, addressed to Lessor at : The Incorporated County of Los Alamos, 1000 Central Avenue, Suite 350, Los Alamos, New Mexico 87544 Attention: County Administrator, or at such other place as Lessor from time to time may designate in writing to Lessee, and (b) upon Lessee, if mailed by certified or registered mail, postage prepaid, addressed to Lessee at Los Alamos Retirement Community, Inc., P.O. Box 1069, Los Alamos, New Mexico 87544, Attention: President⁴, or at such other place as Lessee from time to time may designate in writing to Lessor. All notices given by certified or registered mail as aforesaid shall be deemed duly given as of the date they are so mailed.

ARTICLE XVIII MISCELLANEOUS

18.01 Rights and Remedies. The rights and remedies reserved by Lessor and Lessee hereunder and those provided by law shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. Lessor and Lessee shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Lease, notwithstanding the availability of an

⁴ Note to draft: Lessee to confirm address.

adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity.

18.02 Waiver of Breach No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by either party of any covenant, agreement or undertaking, the non-defaulting party may nevertheless accept from the other any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such default or defaults which were in existence at the time such payment or payments or performance were accepted by it.

18.03 Title and Quiet Possession. Lessor represents that Lessor is the owner of the demised premises in fee simple and has full right to make this lease and that Lessee shall have quiet and peaceable possession of the demised premises during the term hereof. Lessor makes no representation as to the encumbrances, easements, exceptions or reservations, if any, which exist on the demised premises at the time of execution of this lease and Lessee is leasing the demised premises subject to such encumbrances, easements, exceptions or reservations.

18.04 Amendments. This Lease may be amended, changed or modified only by a written agreement duly executed by Lessor and Lessee. The Parties hereby agree to execute and abide by the terms of the Lease Addendum attached to this Lease in connection with Lessee's refinancing of its debt. To the extent any terms or conditions of this Lease and the Lease Addendum conflict, the terms and conditions of the Lease Addendum shall control.

18.05 Construction and Enforcement. This Lease shall be construed and enforced in accordance with the laws of New Mexico. Venue for any action hereunder is appropriate in Los Alamos County. Wherever in this Lease it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed,

be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation. The terms "Lessor" and/or "Lessee" and all pronouns used herein referring to "Lessor" and/or "Lessee" shall include the singular and plural, and masculine, feminine and neuter gender, as the context and circumstances require, and if there be two or more included in the term, the provisions hereof shall apply to each, jointly and severally.

18.06 Invalidity of Provisions of Lease. If for any reason any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provisions hereof shall not be affected thereby.

18.07 Covenants Run With the Leased Premises. The covenants, agreements and conditions herein contained shall run with the land and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, subject, however, to the provisions of Article VII hereof.

18.08 Headings. The Article and Section headings shall not be treated as a part of this Lease or as affecting the true meaning of the provisions hereof.

18.09 Execution of Counterparts. This Lease may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

18.10 Estoppel Certificate by Lessor. Lessor will execute, acknowledge and deliver to Lessee, within ten (10) days after Lessee's written request therefore, a written statement certified by an authorized official of Lessor to the effect that (a) this Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease is in full force and effect, as modified, and stating the modifications), (b) the dates, if any, to which Basic Rent and Additional Rent have been paid, and (c) no notice has been received by Lessor and Lessor is not otherwise aware of any default which has not been cured, except as to defaults specified in said certificate. Such certificate shall also contain such additional

information, statements and agreements as Lessee shall reasonably request. Any such certificate may be relied upon by any prospective purchaser or mortgagee of the Facilities or any part thereof.

18.11 No Partnership. Lessor does not in any way or for any purpose become a partner of Lessee in the conduct of its business or otherwise, nor a joint venturer or a member of a joint enterprise with Lessee.

18.12 Holding Over. In the event Lessee remains in possession of the Property after the expiration of the tenancy created under this Lease, and without the execution of a new lease, Lessee, at the option of Lessor, shall be deemed to be occupying the Property as a Lessee from month to month, at monthly rent of 1/12th of the Total Rent for the last lease year of the term, subject to all of the other conditions, provisions and obligations of this Lease insofar as the same applicable to a month to month tenancy.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, Lessor and Lessee have caused this Lease to be executed effective as of the date first above written.

**INCORPORATED COUNTY OF
LOS ALAMOS, NEW MEXICO**

By: _____
Geoff Rodgers
Council Chair

[SEAL]

Attest

Sharon Stover
County Clerk

APPROVED AS TO FORM:

Rebecca W. Ehler
County Attorney

**LOS ALAMOS RETIREMENT
COMMUNITY, INC.**

By: _____
President

ATTEST:

Secretary

[illegible]

This instrument was acknowledged before me on _____, 2013, by _____, Council Chair of the County Council of the Incorporated County of Los Alamos, New Mexico.

Notary Public

[Seal]

My Commission Expires: _____

This instrument was acknowledged before me on _____, 2013, by _____, President of Los Alamos Retirement Community, Inc.

My Commission Expires: _____

This instrument was acknowledged before me on _____, 2013, by _____, Secretary of Los Alamos Retirement Community, Inc.

My Commission Expires: _____

EXHIBIT A

The Property

LEGAL DESCRIPTION "LOT 1A"

Beginning at the Southeast corner of the herein described- tract, being a point on the Northerly right of way line of East Road and the subdivision boundary line common to the Eastern Area No. 1 and Eastern Area No. 2; whence BC-95, a Brass Cap Marker in the Los Alamos County Survey Control System, and having New Mexico State Plane Coordinates (Central Zone) of Y (North) 1,776,009.67, X (East) 488,533.64, bears 5 83 15' 22" W a distance of 1336.23 feet; thence from the Point of Beginning N 78° 38' 12" W a distance of 6.08 feet to a point of curvature; thence along a curve to the left, having a radius of 1615.78 feet, central angle of 9° 07' 38" and a chord bearing of N 83° 37' 12" W 257.12 feet, a distance of 257.39 feet; thence N 01° 35' 03" W a distance of 140.88 feet; thence N 87° 33' 04" W a distance of 29.91 feet; thence N 01° 24' 18" W a distance of 3.55 feet; thence N 87° 15' 29" W a distance of 136.89 feet; thence S 03° 39' 52" E a distance of 144.42 feet to a point of curvature; thence along a curve to the left, having a radius of 11.00 feet and a central angle of 89° 49' 51", a distance of 17.25 feet; thence S 85° 26' 30" W a distance of 61.58 feet to a point of curvature; thence along a curve to the left, having a radius of 11.00 feet and a central angle of 87° 58' 07", a distance of 16.89 feet; thence N 03° 59' 52" W a distance of 146.03 feet to point of beginning; thence N 86° 34' 58" W a distance of 111.65 feet; thence N 02° 32' 42" E a distance of 48.75 feet; thence N 88° 21' 17" W a distance of 139.58 feet; thence N 02° 49' 00" E a distance of 79.96 feet; thence N 88° 47' 13" W a distance of 196.15 feet; thence N 10° 30' 42" W a distance of 97.91 feet; thence N 16° 05' 28" W a distance of 189.11 feet; thence N 40° 49' 07" W a distance of 7.52 feet; thence N 42° 01' 44" W a distance of 125.51 feet; thence S 47° 58' 16" W a distance of 23.25 feet; thence S 87° 09' 16" E a distance of 211.54 feet; thence S 86° 23' 39" E a distance of 104.56 feet; thence S 56° 41' 11" E a distance of 159.22 feet; thence S 72° 59' 13" E a distance of 108.98 feet; thence N 10° 43' 36" W a distance of 256.45 feet to a point of curvature; thence along a curve to the right, having a radius of 50 feet, central angle of 159° 00' 35" and a chord bearing of N 09° 25' 06.5" E 138.76 feet to the Point of Beginning and Containing 4.031 acres; and known as Lot 3 of La Sombra Subdivision.

"LOT 2A"

A CERTAIN PARCEL OF LAND KNOWN AS "LOT 2A" AS SHOWN ON "LOT LINE ADJUSTMENT OF LOT 2, & LOT 3, AND LOT SPLIT LOT 2 OF THE LA SOMBRA SUBDIVISION", SITUATE WITHIN EASTERN AREA No.2, LOS ALAMOS COUNTY, NEW MEXICO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF THE HEREIN DESCRIBED LOT 2A, FROM WHENCE THE U.S.G.L.O.S. BRASS CAP MARKED "BC-95", BEARS SOUTH 50°34'22" WEST, 1096.37 FEET DISTANT;

THENCE FROM SAID POINT OF BEGINNING, SOUTH 73°22'37" EAST, 19.94 FEET, TO A POINT;

THENCE NORTH 84°34'07" EAST, 158.95 FEET TO POINT;

THENCE SOUTH 77°20'34" EAST, 128.34 FEET TO THE NORTHEASTERLY CORNER OF THE HEREIN DESCRIBED LOT;

THENCE SOUTH 00°00'00" EAST, 286.37 FEET TO THE SOUTHEASTERLY CORNER OF THE HEREIN DESCRIBED LOT;

THENCE NORTH 87°05'19" WEST, 231.42 FEET TO POINT;

THENCE ALONG A CURVE TO THE LEFT HAVING AN ARC DISTANCE OF 79.87', A RADIUS OF 50.00', A DELTA OF 91°31'13", AND A CHORD BEARING OF NORTH 68° 11'37" WEST, 71.64 FEET TO THE SOUTHWESTERLY CORNER OF THE HEREIN DESCRIBED LOT;

THENCE NORTH 01°03'34" WEST, 266.83 FEET TO THE POINT AND PLACE OF BEGINNING.

THE HEREIN DESCRIBED "LOT 2A" CONTAINS 2.005 ACRES, MORE OR LESS AND IS AS SHOWN ON "LOT LINE ADJUSTMENT OF LOT 2, & LOT 3, AND LOT SPLIT LOT 2 OF THE LA SOMBRA SUBDIVISION", PREPARED BY JAMES B. SANCHEZ, N.M.P.L.S. No. 12655 ON 06-19-98, HAVING PROJECT No. C-1385, FILED FOR RECORD ON THE 8TH DAY OF NOVEMBER, 2001, AT 10:52 AM, RECORDED IN PLAT BOOK 9, PAGE 31, OF THE RECORDS OF LOS ALAMOS COUNTY.

Lease Addendum

U.S. Department of Housing
and Urban Development
Office of Housing

OMB Approval No. 2502-0598
(Exp. 04/30/2014)

Public Reporting Burden for this collection of information is estimated to average 0.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number. While no assurance of confidentiality is pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information Act request.

INSTRUCTIONS FOR LEASEHOLD PROJECTS

These instructions and the following Lease Addendum have been prepared for use in connection with mortgage insurance for projects given pursuant to the National Housing Act, as amended, found at 12 U.S.C. § 1701, *et seq.* (“**Act**”), where the mortgaged property is subject to a ground lease. The ground lease term and other provisions must comply with the section of the Act under which the note is endorsed for insurance. The ground lease provisions must not conflict with any Program Obligations⁵ promulgated by the U.S. Department of Housing and Urban Development (“**HUD**”) with respect to such mortgage insurance. All ground rent amounts must have prior written approval by HUD.

⁵ “**Program Obligations**” means (1) all applicable statutes and any regulations issued by the Secretary pursuant thereto that apply to the Project, including all amendments to such statutes and regulations, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and (2) all current requirements in HUD handbooks and guides, notices, and mortgagee letters that apply to the Project, and all future updates, changes and amendments thereto, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and provided that such future updates, changes and amendments shall be applicable to the Project only to the extent that they interpret, clarify and implement terms in this Lease Addendum rather than add or delete provisions from such document. Handbooks, guides, notices, and mortgagee letters are available on HUD’s official website: (<http://www.hud.gov/offices/adm/hudclips/index.cfm> or a successor location to that site).

These instructions and the following Lease Addendum are based on the presumption that the lease will be a ground lease and all buildings, improvements and fixtures now or hereafter erected will be owned in fee simple by the tenant and be deemed real estate under local law. The term **“Property”** shall be defined in the ground lease as the legally described land except the buildings and improvements now or hereafter located thereon. If the foregoing presumption is not correct the HUD closing attorney must be contacted for further instructions. These instructions and provisions of the following Lease Addendum must be set forth in the body of the ground lease, or the Lease Addendum must be attached to the ground lease and incorporated therein by reference.

LEASE ADDENDUM

Notwithstanding any other provisions of this ground lease, if and so long as this leasehold is subject to a security instrument insured, reinsured, or held by HUD or given to HUD in connection with a resale, or the Property is acquired and held by HUD because of a default under the security instrument, the following provisions of this Lease Addendum shall be in effect:

- a) The tenant is authorized to obtain a loan, the repayment of which is to be insured by HUD and secured by a security instrument on this leasehold estate and the Improvements⁶. The tenant is further authorized to execute all documents necessary as determined by HUD and otherwise to comply with Program Obligations for obtaining such an insured loan.
- b) In the event that HUD acquires title to this leasehold estate or otherwise acquires title to the tenant's interest herein, HUD shall have the option to purchase good and marketable fee simple title to the Property and the landlord's interest, if any, in the Improvements, free of all liens and encumbrances except such as may be waived or accepted by HUD. Such option shall be exercised within twelve (12) months after HUD so acquires such leasehold estate or the tenant's interest. The purchase price shall be the sum of Two Hundred Seventy Thousand Dollars (\$270,000.00⁷), payable in cash, by check drawn on the U.S. Treasury, by electronic funds transfer or by wire transfer, provided all rents are paid to date of transfer of title. HUD shall, within said twelve months, give written notice to the landlord of its election to exercise said option to purchase. The landlord shall, within thirty (30) days after

⁶ **“Improvements”** means the buildings, structures, and alterations now constructed or at any time in the future constructed or placed upon the land, including any future replacements and additions.

⁷ Note to draft: This was the appraised value of the land. Please let us know if you would like to review said appraisal.

HUD gives such notice, execute and deliver to HUD a deed⁸ of conveyance to HUD as grantee conveying the said fee and interest and containing a covenant against the grantor's acts, but excepting therefrom acts of the tenant and those claiming by, through or under the tenant. Nothing in this option shall require the landlord to pay any taxes or assessments that were due and payable by the tenant.

- c) If approved by HUD, the tenant may convey, assign, transfer, lease, sublease or sell all or any part of its leasehold interest in the Property and its interest in the Improvements without the need for approval or consent by any other person or entity.
- d) (i) Insurance policies shall be in an amount, and with such company or companies and in such form, and against such risks and hazards, as shall be approved by lender and HUD.

(ii) The landlord shall not take out separate insurance concurrent in form or contributing in the event of loss with that specifically required to be furnished by the tenant to lender. The landlord may at its own expense, however, take out separate insurance which is not concurrent in form or not contributing in the event of loss with that specifically required to be furnished by the tenant to lender.
- e) (i) If all or any part of the Property or the Improvements or the leasehold estate shall be taken or damaged by condemnation, that portion of any award attributable to the Improvements or the tenant's interest in the leasehold estate or damage to the Improvements or the to tenant's interest in the leasehold estate shall be paid to lender or otherwise disposed of as may be provided in the security instrument. Any portion of the award attributable solely to the underlying fee estate (exclusive of any Improvements) shall be paid to the landlord. After the date of taking, the annual ground rent shall be reduced ratably by the proportion which the award paid to the landlord bears to the total value of the Property as established by the amount HUD is to pay, as set forth in paragraph (b) of this Lease Addendum.

(ii) In the event of a negotiated sale of all or a portion of the Property or the Improvements, in lieu of condemnation, the proceeds shall be distributed and annual ground rent reduced as provided in cases of condemnation, but the approval of HUD and lender shall be required as to the amount and division of the payments to be received.
- f) The landlord may terminate the ground lease prior to the expiration day of the full term of this ground lease ("**Expiration Date**") after a tenant default under this ground lease ("**Ground Lease Event of Default**"), but only under the following circumstances and procedures. If any Ground Lease Event of Default shall occur, then and in any such event, the landlord shall at any time thereafter during the

⁸ Note to draft: Lender's counsel suggests that we submit this showing the strikethrough, with LAC to indicate the type of deed (e.g. special warranty deed, quitclaim deed) it can give and indicate the limitation in a footnote.

continuance of such Ground Lease Event of Default and prior to any cure, give written notice of such default(s) ("**Notice of Default**") to the tenant, lender and HUD, specifying the Ground Lease Event of Default and the methods of cure, or declaring that a Ground Lease Event of Default is incurable. If the Ground Lease Event of Default is a failure to pay money, the landlord shall specify and itemize the amounts of such default. Failure to pay money shall be specified as a separate default and not combined with a non-monetary Ground Lease Event of Default. Within sixty (60) days from the date of giving the Notice of Default to the tenant, the tenant must cure a monetary default by paying the landlord all amounts specified in the Notice of Default and must cure any specified Ground Lease Event of Default that is capable of being cured within such period. During the period of 180 days commencing upon the date Notice of Default was given to lender and HUD, lender or HUD may: (a) cure any Ground Lease Event of Default; and (b) commence foreclosure proceedings or institute other state or federal procedures to enforce lender's or HUD's rights with respect to the leasehold or the tenant Improvements. If the tenant, lender or HUD reasonably undertake to cure any Ground Lease Event of Default during the applicable cure period and diligently pursues such cure, the landlord shall grant such further reasonable time as is necessary to complete such cure. If HUD or lender commences foreclosure or other enforcement action within such 180 days, then its cure period shall be extended during the period of the foreclosure or other action and for 90 days after the ownership of the tenant's rights under the lease is established in or assigned to HUD or such lender or a purchaser at any foreclosure sale pursuant to such foreclosure or other action. The transfer of the tenant's rights under the lease to lender, HUD or purchaser, pursuant to such foreclosure or other action shall be deemed a termination of any incurable Ground Lease Event of Default and such terminated Ground Lease Event of Default shall not give the landlord any right to terminate the lease. Such purchaser may cure a curable Ground Lease Event of Default within said 90 days. If after the expiration of all of the foregoing cure periods, no cure or termination of an existing Ground Lease Event of Default has been achieved as aforesaid, then and in that event, this lease shall terminate, and, on such date, the term of this lease shall expire and terminate and all rights of the tenant under the lease shall cease and the Improvements, subject to the security instrument and the rights of lender thereunder, shall be and become the property of the landlord. All costs and expenses incurred by or on behalf of the landlord (including, without limitation, reasonable attorneys' fees and expenses) occasioned by any default by the tenant under this ground lease shall constitute additional rent hereunder. The landlord shall have no right to terminate this ground lease except as provided in this paragraph (f).

- g) Upon termination of this ground lease pursuant to paragraph (f) above, the landlord shall immediately seek to obtain possession of the Property and Improvements. Upon acquiring such possession, the landlord shall notify HUD and lender in writing. Lender and HUD shall each have six (6) months from the date of receipt of such notice of acquisition to elect to take, as tenant, a new ground lease on the Property and on the Improvements. Such new ground lease shall have a term equal to the unexpired portion of the term of this ground lease immediately prior to such

termination and shall, except as otherwise provided herein, be on the same terms and conditions as contained in this ground lease, including without limitation, the option to purchase set forth under paragraph (b) above, except that lender's or HUD's liability for ground rent shall not extend beyond their occupancy under such ground lease. The landlord shall tender such new ground lease to lender or HUD within thirty (30) days after a request for such ground lease and shall deliver possession of the Property and Improvements immediately upon execution of the new ground lease. Upon executing a new ground lease, lender or HUD shall pay to the landlord any unpaid ground rent due or that would have become due under this ground lease to the date of the execution of the new ground lease, including any taxes which were liens on the Property or the Improvements and which were paid by the landlord, less any net rentals or other income which the landlord may have received on account of the Property and Improvements since the date of default under this ground lease.

- h) The landlord agrees that within ten (10) days after receipt of written request from the tenant, it will join in any and all applications for permits, licenses or other authorizations required by any Governmental Authority⁹ in connection with any work which the tenant may do hereunder and will also join in any grants for easements for electric telephone, telecommunications, cable, gas, water, sewer and such other public utilities and facilities as may be reasonably necessary in the operation of the Property or of any Improvements and if, at the expiration of such ten (10) day period, the landlord shall not have joined in any such application, or grants for easements, the tenant shall have the right to execute such application and grants in the name of the landlord, and for that purpose, the landlord hereby irrevocably appoints the tenant as its attorney-in-fact to execute such papers on behalf of the landlord, only to the extent that a public body as landlord may do so within the exercise of its municipal powers and responsibilities.
- i) Nothing in this ground lease shall require the tenant to pay any franchise, estate, inheritance, succession, capital levy or transfer tax of the landlord or any income excess profits or revenue tax, or any other tax, assessment charge or levy upon the rent payable by the tenant under this ground lease.
- j) All notices, demands and requests which are required to be given by the landlord, the tenant, lender or HUD in connection with this Ground Lease shall be in writing and shall be sent by registered or certified mail, postage prepaid, and addressed to the address of the party as given in this instrument unless a request for a change in this address has been sent to the party giving the notice by registered or certified mail prior to the time when such notice is given.

All notices to lender or HUD shall be addressed as follows:

⁹ "Governmental Authority" means any board, commission, department or body of any municipal, county, state, tribal or federal governmental unit, including any U.S. territorial government, and any public or quasi-public authority, or any subdivision of any of them, that has or acquires jurisdiction over the mortgaged property, including the use, operation or improvement of the mortgaged property.

If to Lender: _____

If to HUD: : U.S. Department of Housing and Urban Development
Office of Residential Care Facilities
451 7th Street
Washington, DC 20410

If to Tenant: Los Alamos Retirement Community, Inc.
Attention: President
P.O. Box 1069
Los Alamos, New Mexico 87544

If to Landlord: The Incorporated County of Los Alamos
Attention: County Administrator
1000 Central Avenue, Suite 350
Los Alamos, New Mexico 87544

- k) This ground lease shall not be modified without the written consent of HUD and lender.
- l) The provisions of this Lease Addendum benefit lender and HUD and are specifically declared to be enforceable against the parties to this lease and all other persons by lender and HUD. In the event of any conflict, inconsistency or ambiguity between the provisions of this Lease Addendum and the provisions of any other part of this ground lease, the provisions of this Lease Addendum shall prevail and control.

Warning

Any person who knowingly presents a false, fictitious or fraudulent statement or claim in a matter within the jurisdiction of the U.S. Department of Housing and Urban Development is subject to criminal penalties, civil liability and administrative sanctions.