

AGREEMENT TO PROVIDE MANAGEMENT
SERVICES TO AN ASSISTED LIVING FACILITY

This agreement made and entered into effective as of the ____ day of ____, 2025 by and between _____, a _____ (hereinafter referred to as “Manager”), and the Housing Authority of the City of Bremerton, a public body corporate and politic organized and existing under the Constitution and laws of the State of Washington (hereinafter referred to as “BHA” or “Owner”).

WHEREAS, BHA is the legal owner and operator of certain improved real property and the improvements thereon known as Bay Vista Commons consisting of a 72-unit assisted living facility located at 191 Russell Road, Bremerton, Washington commonly known as Bay Vista Commons Assisted Living Community (the “Facility”);

WHEREAS, BHA owns the Bay Vista Commons facility and has leased the property in perpetuity to the Bay Vista Commons ALC, LLC (“BVC ALC”) a single member limited liability company under the laws of the state of Washington. BHA is the sole manager and member of the BVC ALC. BVC ALC was formed to meet eligibility requirements for a HUD insured mortgage on the property that was secured in 2016. BHA is the legal owner of the fee interest in the real property and has leased the facility to BVC ALC for its use in operating a healthcare facility. The facility is operated by BHA and managed by BHA through a property management and assisted living services agreement contract.

WHEREAS, the original debt issuance of the Facility was re-financed in 2016 with a HUD insured mortgage. The terms of the mortgage and regulatory agreements require periodic financial and operational reports to Lancaster Pollard (“Lender”) and to HUD. The property management and assisted living services agreement entered into with any management agent for Owner must include an addendum required by HUD for properties financed with such FHA Loans - providing for expectations of the management agent to provide certification regarding compliance with facility requirements as may be requested and providing acknowledgement of the managing agent of HUD’s rights that are in addition to the management agreement’s specific terms and obligations with Owner (as those terms and certain other terms used herein are defined in Exhibit A hereto);

WHEREAS, Owner desires to engage the services of an experienced assisted living facility management company to manage the Facility on Owner’s behalf;

WHEREAS, Manager is experienced and qualified in the field of the marketing and management of assisted living facilities;

WHEREAS, Owner has determined that Manager’s price is economical in light of the range of services which it provides; and

WHEREAS, Manager is willing to provide certain management services to the Facility on Owner’s behalf, pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants herein contained, IT IS AGREED AS FOLLOWS:

I. Management Responsibilities of Manager:

- A. In General. Owner hereby engages Manager and Manager hereby accepts such engagement and agrees to provide management services to Owner in connection with the operation of the Facility, upon the terms and conditions set forth in this Agreement.
- B. Compliance with Applicable Section 8 Requirements. Subject to the terms of Section I.(C), Manager acknowledges that, pursuant to and in accordance with the Section 8 ACC (as defined in Exhibit A), up to forty-five (45) dwelling units in Facility are to be set aside and operated and maintained as “Project Units” in accordance with the Applicable Section 8 Requirements (as defined in Exhibit A). Under the terms of the Section 8 ACC, the Project Units will receive Operating Subsidies (as defined in Exhibit A). Manager certifies to Owner that, as Manager, it shall undertake and perform all of Owner’s management duties and responsibilities in compliance with the Applicable Section 8 Requirements. Manager further acknowledges and agrees that (i) Owner is required to maintain and operate the Project Units in compliance with the Applicable Section 8 Requirements and to ensure that rents, charges and Operating Subsidies generated from the Project Units are used solely for eligible, reasonable and necessary expenditures related to the Project Units in accordance with the annual operating budget prepared by Manager and approved by Owner pursuant to Section I(D)(12). Manager is responsible to Owner for the management of the Facility in accordance with the foregoing (and in the event that Manager believes that conflict or potential conflict exists among the foregoing authorities), Manager shall consult with Owner regarding the resolution thereof in accordance with the following protocol: in the event of any conflict or inconsistency between the requirements contained in this Agreement and the Applicable Section 8 Requirements, the Applicable Section 8 Requirements shall in all instances be controlling.
- C. Limitation on Authority. By entering into this Agreement, Owner does not delegate to Manager any powers, duties, or responsibilities which it is prohibited by law from delegating, but Owner does hereby grant to Manager the exclusive right to manage the Facility subject to Owner’s supervision and right to enter the Facility at any time to ensure Manager’s compliance with its obligations under the Agreement and to the other terms and conditions of this Agreement. Owner has and retains under this agreement the ultimate responsibility for the operational decisions at the Facility. In furtherance and not in limitation of the foregoing, Owner and Manager acknowledge and agree that it is the intent of the parties that Manager shall be fully responsible for the day-to-day operation of the Facility and that Owner is not intended to assume any liability arising from those operations or the breach by Manager of its obligations under this Agreement.
- D. Services Provided. Subject to the foregoing, Manager shall provide the following services:
1. Operational Policies and Forms: Manager shall develop and implement such operational policies and procedures as may be necessary in connection with the ongoing licensure of the Facility and for the efficient and effective operation thereof and shall from time to time during the term hereof develop such new policies and procedures as shall be reasonably necessary to ensure the establishment and maintenance of operations standards appropriate for the nature of the Facility.

2. Charges: Manager shall establish the schedules of recommended charges, including any and all special charges for services rendered to the residents at the Facility which Manager shall submit the same to Owner for its review and approval, which approval shall not be unreasonably withheld. Residents of the Facility shall be provided with notice of any changes in the schedules of charges in accordance with RCW Chapter 70.129, the Long Term Care Residents Rights Act, and, if applicable, the terms of their admission agreement, which shall be an agreement between the residents and Owner, and the policies and procedures of the Facility.
3. Information: Manager shall develop any informational material, mass media releases, and other related publicity materials, which are necessary or appropriate for the operation of the Facility. Such materials shall identify Owner as the holder of the boarding home license for the Facility and shall not state or convey the impression that Manager is the licensee. Further, when Manager takes any action on behalf of Owner, any communication or correspondence must clearly indicate that it is acting as the agent of Owner. All information material, mass media releases, and other related publicity materials shall be presented to Owner or Owner's representative for approval.
4. Regulatory Compliance: Owner and Manager acknowledge and agree at the commencement of the Term (as defined below) of this Agreement that the Facility is licensed by the State of Washington, it being understood and agreed that under Washington law, Owner is responsible for ensuring that all such licenses are obtained and maintained and that the Facility is operated in compliance with all applicable laws and regulations, including but not limited to the laws and regulations governing the licensure of boarding homes and local, state and federal employment rules and regulations. Manager shall render assistance to Owner to prepare all materials and follow all procedures necessary to retain licensure of the Facility as a boarding home under all applicable state laws. Owner is responsible to ensure all licenses are obtained and maintained. Within 48 hours of receipt or sooner if deemed necessary by Owner to correct any cited deficiencies in a timely manner, Manager shall provide Owner with copies by fax, overnight mail, email or other comparable means of expedited transmission of any written notices of non-compliance which it receives from any governmental authority having jurisdiction over the Facility. In addition, Owner shall have the right to approve, which approval shall not be unreasonably withheld, any plan of correction developed by Manager including, but not limited to, any plan of correction with respect to any survey or other governmental action which threatens default under the Section 8 ACC between Owner and HUD, revocation of the licensure or, if applicable, Medicaid certification of, or a ban on admissions at or the imposition of civil or criminal penalties against, the Facility or Owner and to approve the election by Manager to contest the application of any law to the operation of the Facility.
5. Equipment and Improvements: Manager shall, at the expense of Owner, cause the Facility to be maintained in a good, safe and sanitary condition and in a rentable and tenantable state of repair, all in accordance with the Applicable Section 8 Requirements and any other applicable federal, state and local statutes and regulations. Manager shall coordinate all necessary and approved repairs, replacements, and maintenance to the Facility within the budgetary limits set forth in the annual capital budget prepared by Manager and shall ensure that the same are undertaken in a workmanlike and lien-free manner.

6. Accounting Services:

- a. In order to comply with applicable state and federal law, Owner shall be responsible for the processing and payment of the Facility's accounts payable. Manager shall be responsible for the billing of the Facility's accounts receivable. Accordingly, the accounts payable, receivables, and financial reporting related to the Facility shall be handled in the manner set forth in Section I (D)(7) and in Section I (D)(8).
- b. Manager will have no obligations with respect to the payment or processing of the Facility's accounts payable other than the obligation to ensure that the employees of the Facility code, bundle, and ship to Owner weekly the outstanding Facility invoices and any other information related to any accounts payable which are due and owing in connection with the operation of the Facility. Owner shall then prepare and mail the checks necessary to pay such invoices as and when due and payable. Further, by no later than the fifteenth (15th) business day of each month, Owner shall provide Manager with the trial balance and budget comparison reports.
- c. Manager's obligations with respect to the Facility's accounts receivable shall include recording payment and billings to tenant ledgers and issuing billing statements to the residents of the Facility. Manager will be responsible for the Facility bank deposits (using deposit slips provided by Owner), any payments received by Manager from the residents of the Facility, and remitting to Owner on a weekly basis summaries of such deposits along with copies of checks for refunds in the event of the termination of a resident's occupancy at the Facility for any reason. Accordingly, control over the Facility bank account shall, as set forth in Section I (D)(8), be and remain with Owner. Manager shall, however, be given on-line access to the Facility bank account for the sole purpose of reviewing the daily activity within the Facility bank account. Manager shall be provided no later than the fifteenth (15th) business day of each month with copies of the bank statements by Owner. Any NSF checks which were returned to Owner will be provided to Manager upon receipt. Owner shall be responsible for the reconciliation of such bank statements as part of the process of preparing the Facility financial statements in accordance with Section I (D)(7).
- d. Payroll reports are to be forwarded to Owner two (2) business days prior to the payroll's distribution to allow for the verification of bank account balances. Payroll reimbursement will be paid to Manager on payday subject to timely receipt of payroll reports two (2) business days prior to the payroll's distribution.

7. Financial Reports:

- a. Manager agrees to grant a right of access to Owner, HUD, any agency providing funds to Owner, the Comptroller General of the United States and any of their authorized representatives, with respect to any books, documents, papers or other records pertinent to this Agreement in order to make audits, examinations, excerpts, and transcripts.
- b. Manager shall provide to Owner any reasonable operational information with respect to the Facility which may from time to time be specifically requested by Owner. This includes any information needed to assist Owner in completing the tax returns for which it is responsible hereunder or in complying with any reporting obligations

imposed on Owner under lease or loan documents to which it may be a party, providing Owner has provided Manager with a detailed written description of such reporting requirements.

- c. For the avoidance of doubt, Manager and Owner acknowledge and agree that Manager shall have no obligation to provide Owner with any financial reports or information other than as specifically provided in this Section I (D)(7) .
 - d. Nothing herein shall preclude Manager from delegating to a third party a portion of the reporting duties provided for in this Section; provided that such delegation shall not relieve Manager from ultimate liability for the timely and complete performance of the obligations provided for herein or the expense thereof, to the extent such expenses are to be borne hereunder by Manager. Owner acknowledges and agrees that in the event Manager retains one or more third parties to review the real and/or personal property tax returns or utility bills of the Facility or other third parties charges in an effort to effect cost savings for the Facility, the fees and expenses of such third parties shall be paid from the funds in the Facility bank account.
 - e. Owner, HUD, any agency providing funds to Owner, the Comptroller General of the United States, and any of their authorized representatives shall have the right to perform any audit of Manager's finances and records related to its performance under this Agreement, including without limitation, the financial arrangement with anyone to whom Manager may delegate any part of its obligations under this Agreement. Further, upon request, Manager shall cooperate with Owner's certified public accountant in the event Owner elects, or is required, to have audited annual financial statements prepared.
8. Bank Accounts:
- a. Owner shall establish and maintain in Owner's name checking and other accounts for the Facility with a financial institution reasonably approved by Owner, which account shall be established in a manner which allows for a separate accounting with respect to the units in the Facility which are designated as public housing units, and each of Owner and Manager, acting through one or more designated employees of the Facility, shall deposit therein all money received during the Term of this Agreement in the course of the operation of the Facility and/or required to be deposited therein by Owner in satisfaction of its obligation as described more fully herein; provided, however, that during the Term hereof, withdrawals and payments from this account shall be made only on checks signed by a person or persons designated by Owner, it being understood and agreed that Manager shall have no signing authority on the Facility bank account(s).
 - b. All expenses incurred in the operation of the Facility in accordance with the terms of this Agreement and the budgets submitted to Owner under Section I(D)(12), including, but not limited to, Facility mortgage payments (the "Mortgage Payments"), reimbursement of payroll and employee benefits and payment of Manager's Management Fee (as defined below), shall be paid by check drawn on this account. Manager and Owner acknowledge that the cash flow of the Facility may not be sufficient to pay all of the operating expenses associated with the operation of the Facility, including the Mortgage Payments and the Management Fee. Accordingly, Owner agrees to provide the funds necessary to cover such expenses, provided such expenses are either included within the Budgets submitted to Owner pursuant to

Section I(D)(12), or within the Budget Threshold (as defined in Exhibit A) or approved by Owner pursuant to Section I(D)(12).

- c. Owner acknowledges and agrees that in the course of providing the services described in this Agreement Manager may incur common expenses benefiting all of the facilities owned and/or operated by Manager, including the Facility (the "Common Expenses"). Such Common Expenses shall be included in the expenses of the Facility and may be paid from the cash in the Facility bank account if (i) the same relate to the direct cost of corporate, regional or divisional meetings or training sessions held by Manager and in which the administrative personnel of the Facility have participated ("Meeting and Training Common Expenses"), (ii) the same are included within the approved annual capital or operating budgets ("Budgeted Common Expenses") or (iii) the same are not Meeting and Training Common Expenses or Budgeted Common Expenses (the "Other Common Expenses") but are approved by Owner, which approval shall not be unreasonably withheld, after Manager has provided Owner with a specification setting forth in reasonable detail the nature of such Other Common Expenses. Such Common Expenses shall be allocated to the Facility and to the other facilities owned and/or operated by Manager on a basis which is approved by Owner as being reasonable and appropriate in light of the nature of the Common Expenses; the allocation will be based on the number of persons from the Facility as compared to the total number of persons attending such meeting or training session.

9. Facility Personnel:

- a. Manager shall recruit, train, promote, direct, discipline, suspend and discharge Facility personnel (with the exception of the Facility Administrator, who shall be approved by Owner); establish salary levels, personnel policies and employment benefits; and ensure the efficient operation of all departments within and services offered by the Facility. Owner must approve Facility Administrator and can also require his/her termination. Owner cannot preclude Manager from terminating the Facility Administrator if Manager feels such action is warranted and/or required. Manager acknowledges that Owner may inquire with Manager's representative about decisions to ensure that operation of the Facility and care provided to residents are appropriate and satisfactory for regulatory and customer satisfaction requirements. Owner acknowledges that final decisions about operations of the Facility are the responsibility of Manager.
- b. All of the Facility personnel may be the employees of Manager or of a Professional Employer Organization ("PEO") at Manager's option. The salaries, bonuses, commissions, and benefits paid to the employees of the Facility, whether by Manager or the PEO, shall be deemed to be a Facility operating expense, provided the same are consistent with the amounts allocated thereto in the operating budgets developed by Manager and approved by Owner or are otherwise approved by Owner, all in accordance with Section I (D)(12). Further, any payroll processing expenses incurred by Manager, including but not limited to, fees paid to a third party payroll processing service and any costs associated with the termination of the contract with the PEO shall be deemed to be facility operating expenses, provided the same are consistent with the amounts allocated thereto in the operating budgets developed by Manager and approved by Owner or are otherwise approved by Owner, all in accordance with Section I (D)(12). The term "**benefits**", as used herein, shall mean: the federal and state taxes imposed on Manager as an employer of such Facility employees (*e.g.*

FICA, FUTA, unemployment taxes), group life insurance premiums, health insurance premiums, disability insurance premiums, costs for training Facility employees (but only to the extent such training is provided by a person or entity that is not affiliated with Manager), costs incurred by Manager to provide Facility employees with uniforms (but only to the extent such uniforms clearly identify the Facility employees as Manager's employees). Notwithstanding the foregoing, the compensation to be deemed operating expenses hereunder will not (1) be based on a share of the Facility's net profits, or (2) exceed the fair market value of the services provided by the Facility employee being so compensated. Manager will reimburse Owner for any compensations paid to Manager derived from the amount of any compensation paid to a Facility employee to the extent it is determined that such compensation exceeded the fair market value of the services provided by such Facility employee. Without Owner's prior written consent, Manager will not: (1) include as a Facility operating expense any matching contribution made to an employee's 401(k) or other retirement savings plan; (2)) include as a Facility operating expense any bonus provided to an employee; or (3) provide a Facility employee with any form of non-monetary compensation at the expense of Owner or the Facility (including, by way of example, free use of a unit or other space at the Facility, rent concessions, utility concessions, and the like).

- c. Owner acknowledges and agrees that Manager may enter into an Agreement with the PEO (the "PEO Contract"), a true and correct copy of which must then be provided to Owner by Manager. Should Manager enter into a PEO Contract, Manager shall administer the PEO Contract, including, but not limited to, monitoring the performance by the PEO of its obligations under the PEO Contract and exercising any rights or remedies granted thereunder in the event of a default by the PEO in the performance of its obligations set forth in such contract including, but not limited to, terminating the PEO Contract and at Manager's option, engaging a new PEO. All costs of entering into, administering and terminating the PEO Contract shall be deemed to be Facility operating expenses provided the same are consistent with the amounts allocated thereto in the operating budgets developed by Manager and approved by Owner or are otherwise approved by Owner, all in accordance with Section I(D)(12).
 - d. Manager shall have the right to involve such regional and corporate personnel in the day to day operation of the Facility and the administration of this Agreement as it deems necessary and appropriate but any compensation or benefits paid to such persons shall be solely the responsibility of Manager and shall not be a Facility expense nor paid from funds in the Facility bank account.
 - e. Manager and its employees shall at all times in connection with the performance of their duties under this Agreement comply with the federal Drug Free Workplace Act of 1988 and HUD's implementing regulations thereunder.
10. Supplies and Equipment: Manager shall purchase supplies and non-capital equipment needed to operate the Facility within the budgetary limits set forth in the annual operating budget prepared by Manager pursuant to Section I(D)(12) and otherwise in accordance with any procurement requirements applicable to the Facility under the Applicable Public Housing Requirements including those set forth at 24 CFR Part 85 or under Owner's procurement rules and regulations. In purchasing said supplies and equipment, if possible and subject to compliance with the foregoing procurement requirements, Manager shall

take advantage of any national or group purchasing agreements to which Manager or Owner may be a party and of all discounts available thereunder; provided, however, Manager shall not be in breach of its obligations hereunder if it is unable to take advantage of such discounts as a result of a breach by Owner of its expense payment obligations as set forth in Section I(D)(8).

11. Legal Proceedings: Unless otherwise directed by Owner, Manager shall, through its legal counsel, coordinate all legal matters and proceedings related to the Facility and shall, upon request, provide Owner's counsel with updates with respect thereto. Manager shall promptly advise Owner of the commencement of any legal proceedings with respect to the Facility, Owner or Manager arising from or related to Manager's operation of the Facility. Owner and Manager acknowledge and agree that under Washington law any administrative appeals of licensing or contract action/enforcement imposed by DSHS may only be filed by Owner or by Manager if it is expressly authorized to do so by Owner. All of the costs incurred in such litigation shall be deemed to be Facility expenses and shall be paid from the funds in the bank account established pursuant to Section I(D)(8) subject to Owner's right to seek indemnification with respect thereto pursuant to Section XII hereof.
12. Budgets: The Facility shall be operated on a fiscal year of October 1 through September 30. The Facility shall be operated in accordance with the terms of the budget agreed upon by Owner and Manager. The initial budget for FY 2025 will be comprised of the approved budgeted amounts for the twelve months ending September 30, 2025. Thereafter, annual budgets shall be completed at least thirty (30) days prior to the start of each fiscal year. Manager shall prepare and submit to Owner for its review and approval, which approval shall not be unreasonably withheld, an annual operating budget and an annual capital expenditure budget by no later than June 30th for the next fiscal year. In the event a budget has not been agreed upon by the beginning of the fiscal year, the budget in effect for the prior fiscal year shall continue in effect until the new budget is agreed upon. Except for expenditures required to be incurred in forty-eight (48) hours or less in order to ensure the ongoing licensure of the Facility or to protect resident health and welfare, no expenditure will be made during a fiscal year on a basis inconsistent with the then-approved budget without Owner's prior approval.
13. Collection of Accounts: Subject to the limitations set forth in Section I(D)(6), Manager shall issue bills and collect accounts and monies owed for goods and services furnished by the Facility, including but not limited to, enforcing the rights of Owner and the Facility as creditor under any contract or in connection with the rendering of any services; provided, however, that any expenses incurred by Manager in so doing shall be treated as Facility operating expenses, which shall be payable out of Facility funds deposited in the bank account described in Section I(D)(8) and, in the case of material proceedings, shall be subject to Owner's prior review and approval, which approval shall not be unreasonably withheld.
14. Debt Compliance: Owner and Manager acknowledge and agree that during the Term of this Agreement, but subject to the terms hereof, Manager has the exclusive right to manage the Facility, subject to Owner's supervision and right to enter into the Facility at any time to ensure Manager's compliance with the terms of this Agreement. Accordingly, Manager shall be required to ensure, at no cost to Manager, the ongoing compliance of the Facility and the operation of the Facility within the terms and conditions of the Applicable Section 8 Requirements and any debt documents, , to which the Facility may

be subject, provided Owner has provided Manager with a copy thereof. Any and all costs incurred by Manager in connection therewith shall be deemed to be Facility operating expenses, which shall be payable out of Facility funds deposited in the bank account described in Section I(D)(8).

15. Manager's Representative: Manager shall hereby appoint a qualified company representative as the person employed by Manager with whom Owner shall interact with respect to the performance by Manager of its duties hereunder (the "Manager's Representative"). Manager shall have the right from time to time during the Term of this Agreement to replace the Manager's Representative with the approval of Owner, which approval shall not be unreasonably withheld. Nothing herein shall be construed as imposing any personal liability on the Manager's Representative with respect to the acts or omissions of Manager under this Agreement. Nothing in this provision shall impair or limit Owner's right to inspect or observe operations at the Facility.
16. Notice to Residents: Manager shall notify residents in writing that Manager is a management company hired by the facility owner to manage the routine operations of the Facility. Manager shall make available to residents the address and telephone information for Owner in the event a resident, family member or related party may desire to directly contact Owner regarding the management or operations of the Facility. Further, Owner will establish a resident grievance procedure which shall be available to the occupants of the Project Units in the Facility in compliance with the requirements of Section 6(k) of the Act and 24 CFR Part 966, Subpart B. Manager acknowledges and agrees that all resident grievance procedures are detailed in the Management Plan (as defined in Exhibit A), that such procedures may not be inconsistent with Owner's grievance procedures for the residents of Owner-owned Section 8 housing and that such procedures shall provide for informal discussion and settlement of grievances by Manager and a hearing before a hearing officer appointed in accordance with procedures prescribed in the Management Plan. Unless required to comply with Applicable Section 8 Requirements or other requirements of law, Owner shall not amend or modify such resident grievance procedure without the approval of Manager, which approval shall not be unreasonably withheld.
17. Resident Selection and Admission: Manager will offer the Project Units for rent and will rent the Project Units in accordance with the Management Plan, which will incorporate the following Owner and Manager responsibilities:
 - a. Owner shall select applicants who are eligible for admission to the Project Units using screening criteria that are consistent with the Applicable Section 8 Requirements, including the admission and occupancy policies and local preferences set forth in the PHA Administrative Plan, a true and correct copy of which has been provided by Owner to Manager.
 - b. Applicant screening procedures will include verification of credit references and criminal background checks for all applicants, in accordance with procedures set forth in the Management Plan. Owner will also comply with procedures set forth in the Management Plan for informal review of application rejections for all applicants, including procedures for review of eligibility or suitability determinations or denial of preferences for applicants to the Project Units, consisting of a written statement of the reason(s) for rejection and an opportunity to meet with a person, or persons, designated by Owner other than the person who made the initial determination.
 - c. Once an applicant has been found by Owner to be eligible from a financial perspective for admission to a Project Unit, the final decision as to whether such

applicant is suitable for admission to the Facility from a health care perspective will be made by Manager. Manager will also prepare all leases (the "Resident Leases") and parking permits, if any, and will execute the same in its name, identified thereon as the agent for Owner. Owner and Manager acknowledge and agree that the form of Resident Leases shall be subject to the review and approval of Owner, which approval shall not be unreasonably withheld, and that the type of Resident Lease used by Manager will vary depending on whether the resident is residing in a Project Unit, in which case the Resident Lease will be on a form provided by Owner and approved by HUD, whether the resident's care and residency at the Facility is paid for by Medicaid, in which case the Resident Lease will be on a form developed by Manager and approved by DSHS (it being understood and agreed that certain residents residing in a Project Unit may also have some portion of their care paid for by Medicaid and so their Resident Lease will need to comply with both the requirements of HUD and of DSHS) and/or whether the resident is paying for his or her own care and residency at the Facility, in which case the Resident Lease will be on a form developed by Manager.

- d. Owner shall provide Manager with such information as Manager may need to ensure that each resident of a Project Unit contributes thirty percent (30%) of the resident's/residents' adjusted gross income as rent in accordance with 24 CFR Part 5, or flat rents in accordance with 24 CFR Section 960.253. Manager and Owner acknowledge and agree that such rental contributions are subject to annual review and adjustment with the prior written approval of HUD.

II. Insurance

- A. Owner shall cause to be placed and kept in full force and effect an extended coverage insurance policy for the Facility insuring against fire and other perils. Insurance coverage shall be in conformance with the Bond or other lender covenants relating to the financing of the Facility, if any.
- B. Owner and Manager shall each, at Owner's expense, carry commercial general liability insurance with limits of coverage for bodily injury and property damage liability of not less than \$1,000,000 per occurrence and not less than \$2,000,000 policy general aggregate and each party shall provide evidence to the other that the insurance is being maintained in effect along with evidence that the insurance will not be cancelled or materially changed in the scope or amount of coverage unless thirty (30) days' advance notice is given to the non-procuring party. Owner's participation in a governmental risk-sharing pool shall be deemed to satisfy Owner's insurance requirements under the preceding sentence. Each party shall also name the other as an additional insured on its respective policies to the extent of each party's indemnification obligations under this Agreement. It is further agreed that Manager's liability insurance shall be primary with respect to Manager Employee Claims (as defined below), and not contributing with any other insurance maintained by Owner notwithstanding any inconsistent provisions in any such policies maintained by Owner and shall not require contribution by any insurance or self-insurance maintained by Owner on any basis, pro rata or otherwise.
- C. For purposes of the preceding paragraph, Manager Employee Claims shall be defined as any and all claims, demands, suits, actions or judgments which actually or allegedly arise from the acts or omissions of Manager or its officers, agents, employees or contractors except such as may have been caused solely by the negligence of Owner. For example, if Manager's bookkeeper fails to deposit a tenant security deposit in a residential landlord/tenant trust account as required by law, and the tenant therefore brings a claim against Owner for violation of such law, then such claim shall be a Manager Employee Claim covered by Manager's liability insurance.

- D. Manager shall not knowingly permit the use of the Facility for any purpose which might void any policy of insurance relating to the Facility, increase the premium otherwise payable or render any loss thereunder uncollectible.
- E. Manager, at Owner’s expense, shall cause to be placed and kept in force Workers’ Compensation insurance as required by the State of Washington for all Facility Employees (defined below).
- F. Manager, at Owner’s expense, shall furnish a fidelity bond in an amount sufficient to cover all employees employed by Manager who shall be responsible for handling any monies belonging to Owner which come under custody or control of Manager. Fidelity Bonds shall at a minimum conform to the following coverage:

<u>Coverage</u>	<u>Deductible</u>	<u>Min. Limit</u>
Employee Dishonesty (Faithful performance)	\$1,000	\$100,000
Forgery or Alteration	\$1,000	\$100,000
Theft, Disappearance, Destruction, inside/outside	\$1,000	\$10,000

- G. PEO Insurance: Manager shall also monitor the compliance of the PEO with its obligation to maintain any health or worker’s compensation or other insurance with respect to the employees of the Facility as may be required by the terms of the PEO Contract, which PEO Contract shall require workers compensation insurance in such limits as may be required by Washington law and employers liability insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease.
 - H. Certificates of Insurance: Each of Owner and Manager shall provide the other with certificates of insurance or insurance endorsements confirming that it has secured the coverage required by this Section II and Manager shall cause the PEO to provide Owner and Manager with a certificate of insurance confirming that it has secured the coverage required by this Section II and the PEO Contract.
- III. Proprietary Interest: The methods, procedures and policies employed by Manager and which are unique to Manager and not generally known or used in the industry and any written materials, including in electronic form, developed by Manager to document such methods, procedures and policies are to remain the property of Manager and are not, at any time during or after the Term of this Agreement, to be utilized, distributed, copied or otherwise employed or acquired by Owner except as authorized by Manager, provided, however, that Manager shall negotiate in good faith the terms and conditions upon which Owner may be permitted by Manager to use such methods, policies, procedures, and materials for a limited transitional period following the termination of this Agreement.
- IV. Term of Agreement/Default:
- A. Term: The term of this Agreement (the “Term”) commenced on June 1, 2025 (the “Commencement Date”) and shall terminate on such date as may be specified by either Manager or Owner on written notice to the other, it being understood and agreed that either Manager or Owner shall have the right to terminate this Agreement at any time with or without cause; provided, however, if not earlier terminated by either Owner or Manager, this Agreement shall terminate on May 31, 2033.
 - B. Payments on Termination: Concurrently with the termination of this Agreement, Owner shall pay to Manager any management fees, including, if applicable, any Deferred Management Fees (as defined below) due to Manager in accordance with the terms

hereof; provided, however, in the event that (A) prior to May 31, 2016 (i) this Agreement is terminated by Manager, other than as a result of the occurrence of an Event of Default by Manager or (b) this Agreement is terminated by either Manager or Owner for any reason or no reason on or after May 31, 2016, there shall be no obligation to pay the Deferred Management Fees concurrently with the termination of this Agreement. Nothing herein shall be construed as precluding Owner or Manager from seeking damages from the other party in the event of the termination of this Agreement as a result of an Event of Default (as defined below).

- C. Cooperation: Upon termination of this Agreement, Manager shall cooperate with any party designated by Owner to effect a smooth transition of operational responsibility for the Facility to, and licensure of the Facility in the name of, said third party of, if such third party is to assume management responsibility for the Facility, to any third party manager operating under a management agreement which has been approved by DSHS. Further, in the event of the termination of this Agreement for any reason, Owner shall continue to be responsible for the care of the residents of the Facility until the earlier to occur of (i) the transfer of the affected Facility to a new licensee or (ii) the transfer of the residents to another facility or facilities licensed under applicable state law or (iii) management responsibility for the Facility is assumed by a manager operating under a management agreement which has been approved by DSHS.
- D. Reports: Manager shall promptly provide Owner with all reports due with respect to periods prior to the date of termination.
- E. Manager Event of Default: With respect to Manager, it shall be an "Event of Default" hereunder:
 - 1. If Manager shall fail to keep, observe or perform any material agreement, term or provision of this Agreement, and such default shall continue for a period of thirty (30) days after notice thereof shall have been given to Manager by Owner, which notice shall specify in detail the event or events constituting the default; provided, however, in the event such failure, other than a breach of laws or a monetary default, cannot be cured within such thirty (30) day period but Manager commences the cure within such thirty (30) day period and diligently prosecutes the same to completion, Manager shall have an additional thirty (30) days in which to complete such cure; provided, further, that in the event of a breach by Manager of its obligations under Section I(D)(4) Manager's right to cure the same shall be subject to any negative regulatory proceedings being stayed pending appeal such that the continuing licensure of the Facility is not jeopardized while Manager exercises its cure rights hereunder; or
 - 2. If Manager shall (A) apply for or consent to the appointment, receiver, trustee or liquidator of Manager of all or a substantial part of its assets, (B) be the subject of an involuntary bankruptcy or receivership proceeding which is not set aside or terminated within thirty (30) days of filing, (C) file a voluntary petition in bankruptcy, or admit in writing its inability to pay its debts as they become due, (D) make a general assignment for the benefit of creditors or (E) file a petition or an answer seeking reorganization or arrangement with creditors or taking advantage of any insolvency law, or if an order, judgment or decree shall be entered by a court of competent jurisdiction, on the application of a creditor, adjudicating Manager a bankrupt or insolvent or approving a petition seeking reorganization of Manager, or appointing a receiver, trustee or liquidator of Manager, or of all or a substantial part of its assets or (F) cease to be licensed, in the manner required by the State of Washington, to enable it to perform its duties hereunder; or
 - 3. If Manager assigns or attempts to assign this Management Agreement or delegate its duties hereunder in violation of the requirements of Section XI hereof, or if there is a

violation of the terms hereof and the consent of Owner to such change is not secured within ten days after Manager's receipt of written notice from Owner;

4. If Manager embezzles or misappropriates Facility funds.

F. Owner Event of Default: With respect to Owner, it shall be an Event of Default hereunder:

1. If Owner shall fail to make or cause to be made any payment to Manager required to be made hereunder (other than its payment of expenses obligation which is addressed in Section IV(F)(2)) and such failure shall continue for a period of thirty (30) days after notice which notice shall specify the payment or payments which Owner has failed to make;
2. If Owner shall fail to keep, observe or perform any material agreement, term or provision of this Agreement and, except as otherwise specifically provided herein, such default shall continue for a period of thirty (30) days after notice, which notice shall specify in detail the event or events constituting the default thereof by Manager to Owner; provided, however, that in the case of Owner's failure to provide necessary payment of expenses in accordance with Section I(D)(8)(b), it shall be deemed to be an Event of Default hereunder if the same is not paid within the time provided in Section I(D)(8), and such failure continues uncured for ten (10) days after Manager gives Owner notice of such failure; and provided further that in the case of Owner's failure to maintain the insurance required by Section II hereof; it shall be an Event of Default hereunder if the same is not cured within thirty (30) days;
3. If Owner shall fail to make payments, or keep any covenants, owing to any third party which are beyond the control of Manager to make or keep, and which would cause Owner to lose possession of the Facility or any personal property required to operate the Facility in the normal course; provided that Manager shall give Owner prompt notice of any such payment and failure to pay of which Manager has knowledge; or
4. If Owner shall (A) apply for or consent to the appointment of a receiver, trustee or liquidator of Owner or of all or a substantial part of its assets, (B) be the subject of an involuntary bankruptcy or receivership proceeding which is not set aside or terminated within thirty (30) days of filing, (C) file a voluntary petition in bankruptcy, or admit in writing its inability to pay its debts as they become due, (D) make a general assignment for the benefit of creditors or (E) file a petition or an answer seeking reorganization of arrangement with creditors or taking advantage of any insolvency law, or if any order, judgment or decree shall be entered by a court of competent jurisdiction, on the application of a creditor, adjudicating Owner a bankrupt or insolvent or approving a petition seeking reorganization of Owner or appointing a receiver, trustee or liquidator of Owner or of all or a substantial part of its assets.

G. Notices of Default: Owner and Manager shall use good faith efforts to provide DSHS at Aging and Disability Services Administration **Insert Current Information** (the "DSHS Address") with copies of any written notices of default issued under the terms of this Section IV but neither Owner nor Manager shall be in default of its obligations hereunder should it fail to do so.

V. Owner's Inspection: Manager acknowledges and agrees that during the Term of this Agreement, Owner is ultimately responsible for the care provided to the residents of the Facility and for the compliance of the Facility with applicable law. Accordingly, during the Term hereof, Owner may enter and inspect the Facility at any time provided Owner coordinates such inspections with the on-site administrative personnel at the Facility in order to minimize any disruption of Manager's day-to-day operations of the Facility and to ensure that such inspections do not violate resident rights to privacy under state or federal resident rights laws. In addition, Owner shall have the right to inspect and/or audit all books and records pertaining to the operation of the Facility and shall have the right to conduct, and to

- permit the holder of any debt secured by the Facility to conduct telephonic or personal interviews with the Administrator of the Facility and/or with any of Manager's regional personnel involved in the operation of the Facility with respect to any matters related to the operation thereof.
- VI. Facility Operations:
- A. Standard of Performance: In performing its obligations under this Agreement, Manager shall at all times act in a commercially reasonable manner and act in good faith and with professionalism in accordance with the requirements of applicable laws, rules, regulations and ordinances and policies adopted by, and resources available to, the Facility. Manager shall use its commercially reasonable efforts to operate the Facility in as cost-efficient and profitable a manner as possible; provided, however, that nothing in this Agreement shall relieve Owner as the licensed operator of the Facility from its ultimate responsibility under State law for the care provided at the Facility.
 - B. Force Majeure: Manager will not be deemed to be in violation of this Management Agreement if and to the extent that it is prevented from performing any of its obligations hereunder for any reason beyond its control, other than its own monetary condition, including, without limitation, strikes, shortages, war, acts of God, lack of Owner's financial resources or any statute, regulation, or rule of federal, state or local government or agency thereof.
 - C. Non-Discrimination: In performing its obligations under this Agreement, Manager shall use its commercially reasonable efforts to comply with all federal, state and local laws prohibiting illegal discrimination in housing on the basis of race, color, sex, creed, disability, or national origin, including, without limitation, Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241) and the regulations issued pursuant thereto (24 CFR Subtitle A, Part I), regulations issued pursuant to Executive Order 11063, Title VIII of the 1968 Civil Rights Act, the Americans with Disabilities Act of 1990 (42 USC Sections 12181, et seq.), the Fair Housing Amendments Act of 1988 (42 USC Sections 3604(f), et seq.) and Section 504 of the Rehabilitation Act of 1973 (29 USC Section 794).
 - D. Facility Records: All of the records of the Facility shall be and remain the property of Owner and Manager shall at all times maintain the confidentiality of all resident records, including, without limitation, all medical records and shall only disclose the same as required by law and/or authorized by the resident to whom such record relates.
- VII. Management Fee: In consideration for the provision of the services contemplated in this Agreement, Manager shall receive a monthly fee equal to the sum of \$_____ (the "Base Management Fee") plus _____% of the gross revenues of the Facility each month in excess of \$100,000 (the "Percentage Management Fee" and together with the Base Management Fee, the "Management Fee"); provided, however, in the event the monthly fee in any month exceeds \$_____ (which amount shall be increased throughout the Term by ___% on each anniversary of the Commencement Date) the excess portion of the fee (the "Deferred Management Fee") shall be deferred and shall only be due and payable if and to the extent required by the provisions of this Section VII, and also provided that if Manager is not a governmental entity, the monthly fee shall not exceed two times the Base Management Fee. For purposes hereof, "Gross Revenues" shall mean all revenues generated by the Facility, directly or indirectly from residents of the Facility, including without limitation fees and other amounts received directly from residents, relatives of residents and third party payors and, except as otherwise provided below, amounts received from concessionaires, subcontractors, agencies, etc., but shall specifically exclude the proceeds from the sale of the Facility or any portion thereof including any Facility equipment and any insurance and condemnation proceeds, any and all pass-through amounts for which Manager is merely acting as the collection agent, any refunds or reimbursements received from any

concessionaires, subcontractors, agencies, etc. and any refundable security deposits, regardless of whether or not they are held in a separate trust account.

- A. Proration of Fee: If the services of Manager commence or terminate (for any reason, including those set forth in Section IV) other than on the first day of the month, the Base Management Fee and the gross revenues upon which the Percentage Management Fee is calculated shall be prorated in proportion to the number of days for which services are actually rendered.
- B. Payment of Fee: The Management Fee shall be disbursed by Owner to Manager out of the Facility bank account in accordance with the provisions of Section I(D)(8).
- C. Deferred Management Fee: Except as otherwise provided in Section IV(B), the Deferred Management Fee shall be due and payable, without interest, concurrently with the termination of this Agreement.

VIII. Assignment: This Agreement shall not be assigned by either party without the prior written consent of the other party and no assignment of this agreement shall be effective unless the assignee, in the case of an assignment by Owner, has first been duly licensed by DSHS, or unless the Management Agreement between Owner and the assignee, in the case of an assignment by Manager, has been approved by DSHS. Any assignment in violation of the terms of this Section VIII shall be null and void and of no force or effect from the purported effective date of such assignment. For purposes hereof, the transfer of 51% or more of the ownership interests in Manager or the sale of all or substantially all of the assets of Manager – whether voluntary or by operation of law – shall be deemed to be an assignment of this Agreement which requires the consent of Owner in accordance with the terms hereof. For purposes hereof, Owner’s approval shall not be deemed to be unreasonably withheld if Owner is unable to secure the consent of the holder of any debt secured by the Facility to such an assignment, if and to the extent such consent is required by the terms of the documents evidencing such debt.

IX. Notices: All notices required or permitted hereunder shall be given in writing by hand delivery, by registered or certified mail, postage prepaid, by overnight delivery or by facsimile transmission (with receipt confirmed with the recipient). The parties agree to use their good faith efforts to give notice of any change of address to DSHS at the DSHS Address but neither shall be in default of its obligations hereunder should it fail to do so. Notice shall be delivered or mailed to the parties at the following addresses or at such other places as either party shall designate in writing. All notices shall be deemed duly given when delivery is received or refused by party.

To Manager: Name
 Address
 Address
 Attn:
 Telephone:
 Fax:

To Owner: Bremerton Housing Authority
 600 Park Avenue
 Bremerton, WA 98337
 Attn: Jill Stanton, Executive Director
 Telephone: (360) 616-7240
 Fax: (360) 616-2815

X. Relationship of the Parties: The relationship of the parties shall be that of principal and independent contractor and all acts performed by Manager during the Term hereof as

- Manager of the Facility shall be deemed to be performed in its capacity as an independent contractor. Nothing contained in the Section 8 ACC or this Agreement, nor any act of HUD or Owner, is intended to or shall be construed to give rise to or create any relationship of third party beneficiary, principal and agent, limited or general partnership, joint venture or any association or relationship involving HUD, except between HUD and Owner as provided under the terms or the Section 8 ACC, nor a partnership or joint venture or similar arrangement or agreement between Owner, its successors and assigns on the one hand, and Manager, its successors and assigns on the other hand.
- XI. Indemnification:
- A. Manager shall indemnify, defend and hold harmless Owner from any loss incurred by or damage to Owner where such loss or damage results from the negligence or willful misconduct of Manager in performing its obligations under this Agreement or from a breach of this Agreement by Manager; provided, however, nothing herein shall be construed as imposing liability on Manager for any deductibles or retention amounts payable under the insurance policies provided by Manager pursuant to Section II, which amounts shall be and remain Facility expenses payable from the Facility bank account. Owner shall (or shall cause the applicable insurance carrier to) indemnify, defend and hold Manager harmless from any loss incurred by or damage to Manager (not including any loss or damage caused by an entity owned or controlled by or under common control with Manager) where such loss or damage results from the negligence or willful misconduct of Owner in performing its obligations under the Agreement or from a breach of this Agreement by Owner.
- B. The foregoing shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Owner or any of Owner's agents or subcontractors under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts, it being agreed and understood by the parties hereto that Owner expressly waives any immunity it might otherwise have or assert under any industrial insurance or similar act with respect to the foregoing obligations. If any claim, action or proceeding is asserted or brought against Manager, Owner, upon notice from Manager, shall or shall cause the applicable insurance carrier to, defend the same at Owner's expense by legal counsel reasonably satisfactory to Manager. The foregoing indemnity and any other indemnity rights granted to Manager shall survive any expiration or earlier termination of this Agreement.
- XII. Entire Agreement: This Agreement contains the entire agreement between the parties relating to the operation of the Facility and shall be binding upon and inure to the benefit of their successors and assigns. This Agreement may not be modified or amended except by written instruments signed by both of the parties hereto. Owner and Manager shall use good faith efforts to provide DSHS at the DSHS Address with copies of any written changes, modifications or amendments to this Agreement but neither Owner nor Manager shall be in default of its obligations hereunder should it fail to do so.
- XIII. Captions: The captions used herein are for convenience of reference only and shall not be construed in any manner to limit or modify any of the terms hereof.
- XIV. Attorney's Fees: In the event either party brings an action to enforce this Agreement, the prevailing party in such action shall be entitled to recover from the other all costs incurred in connection therewith, including reasonable attorney's fees.
- XV. Severability: In the event one or more of the provisions contained in this Agreement is deemed to be invalid, illegal or unenforceable in any respect under applicable law, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be impaired thereby.
- XVI. Cumulative; No Waiver: No right or remedy herein conferred upon or reserved to either of the parties hereto is intended to be exclusive of any other right or remedy, and each and every

right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter legally existing upon the occurrence of an Event of Default hereunder. The failure of either party hereto to insist at any time upon the strict observance or performance of any of the provisions of this Agreement or to exercise any right or remedy as provided in this Agreement shall not impair any such right or remedy or be construed as a waiver or relinquishment thereof with respect to subsequent defaults. Every right and remedy given by this Agreement to the parties hereof may be exercised from time to time and as often as may be deemed expedient by the parties thereto, as the case may be.

- XVII. Authorization of Agreement: The execution and performance of this Agreement by Owner and Manager have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of Owner and Manager in accordance with its terms.
- XVIII. Counterparts: This Agreement may be executed in any number of counterparts, each of which shall be an original, and each such counterpart shall together constitute but one and the same Agreement.
- XIX. Waiver of Jury Trial: EACH OF THE PARTIES HERETO WAIVES ANY RIGHT WHICH IT MAY HAVE TO HAVE ANY DISPUTE WITH RESPECT TO THE INTERPRETATION OR ENFORCEMENT OF THIS AGREEMENT TRIED BEFORE A JURY AND AGREES THAT ALL SUCH DISPUTES SHALL BE TRIED BEFORE A JUDGE AND NOT A JURY.
- XX. HUD Addendum: The parties agree to comply with provisions of the HUD Addendum attached as Exhibit B hereto which is incorporated herein by reference.

IN WITNESS WHEREOF, the parties have hereto caused this Agreement to be duly executed, as of the day and year first above written.

Manager: _____

By _____

Its _____

Date _____

Owner: Housing Authority of the City of Bremerton

By _____

It's _____

Date _____

EXHIBIT A
CERTAIN DEFINED TERMS

“Act” shall mean the United States Housing Act of 1937 (42 USC Sections 1437, et seq.), as amended from time to time, any successor legislation and all implementing regulations issued by HUD thereunder or in furtherance thereof.

“Applicable Section 8 Requirements” shall mean all requirements applicable to public housing, including, but not limited to, (i) Subpart A of the Act and, if applicable, any waivers of such regulatory requirements issued by HUD, (ii) the Section 8 ACC, (iii) HUD notices, (iv) the HUD approved Declaration of Trust in favor of HUD, (v) Owner’s admission and occupancy policies applicable to the Facility as set forth in Owner’s approved PHA Administrative Plan under 24 CFR Part 5, and (vi) all applicable federal statutory, regulatory and executive order requirements, as those requirements may be amended from time to time, in each instance, if and to the extent Owner and Manager agree that the same are applicable to the Facility and the operation and maintenance thereof. Owner will be responsible for knowledge of and updates to these requirements. It will be Owner’s responsibility to communicate changes in a timely manner to Manager.

“Budget Threshold” is the expenditure amount in total for each budget line item in the Budgets submitted to and approved by Owner pursuant to Section I(D)(12).

“HUD” shall mean the United States Department of Housing and Urban Development.

“Management Plan” shall mean that plan dated _____ and executed by Owner and Manager.

“Operating Subsidies” shall mean subsidies made available to Owner by HUD pursuant to the Section 8 ACC and Section 8 of the Act.

PHA Administrative Plan shall mean that certain Public Housing Authority Administrative Plan dated September 26, 2011 as amended from time to time.

“Section 8 ACC” shall mean that certain Revised Consolidated Annual Contribution Contract for the Section 8 Rental Certification and Rental Voucher Programs dated April 21, 1998, as amended from time to time.

EXHIBIT B**Management Agreement
Addendum****U.S. Department of Housing
and Urban Development**

OMB Approval No. 2502-0605

(exp. 06/30/2017)

Section 232

Office of Residential

Care Facilities

Public reporting burden for this collection of information is estimated to average 0.5 hours. This includes the time for collecting, reviewing, and reporting the data. The information is being collected to obtain the supportive documentation which must be submitted to HUD for approval, and is necessary to ensure that viable projects are developed and maintained. The Department will use this information to determine if properties meet HUD requirements with respect to development, operation and/or asset management, as well as ensuring the continued marketability of the properties. 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.

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.

THIS HUD ADDENDUM TO MANAGEMENT AGREEMENT (this “**Addendum**”), dated as of _____, 20____ is attached to and made part of the foregoing management agreement (the “**Agreement**”) entered into by _____ (the “**Owner/Operator**”) and _____ (the “**Management Agent**”), and amends or supplements the Agreement. For so long as the United States Department of Housing and Urban Development (“**HUD**”) is the holder or insurer of any indebtedness (the “**FHA Loan**”) secured by the facility identified on Schedule 1 attached hereto (the “**Project**”), the provisions of this Addendum shall apply to the Agreement. In the event of any conflict between the terms of this Addendum and the Agreement, the terms of this Addendum shall govern and control.

1. The Management Agent shall deliver and update as required for so long as the Agreement remains in effect a HUD Management Agent Certification—Residential Care Facilities (form HUD-9839-ORCF), or such other form as HUD may develop from time to time for similar purposes (the “**Management Certification**”). The Management Agent’s compliance with the Management Certification is a material term of the Agreement. It is the express intention of the parties that the Agreement and this Addendum be construed in strict accordance with the Management Certification and all Program Obligations.

2. The Agreement shall terminate immediately and without penalty if so directed by HUD based upon any of the following:

- a. An event of default occurs under the terms of the note or security instrument securing the FHA Loan.
- b. HUD assumes control of the Project as a mortgagee in possession.
- c. HUD determines that any of the certificates of need, bed authority, provider agreements, licenses, permits, and approvals necessary to operate the Project or to fund the operations of the Project (collectively, the “**Permits and Approvals**”) are of substantial and imminent risk of

being terminated, suspended or otherwise restricted and that such termination, suspension, or other restriction would have a materially adverse effect on the Project.

3. The Agreement shall terminate without penalty thirty (30) days after HUD has mailed to Owner/Operator written notice of HUD's desire to terminate the Agreement based upon any of the following:

- a. Any failure of the Management Agent to comply with the provisions of the Management Certification;
- b. The violation of any regulatory agreement entered into by HUD with the Project's owner, operator, master-tenant, or subtenant in connection with the FHA Loan; or
- c. Other good cause.

4. Notwithstanding any contrary provision of the Agreement, the notice period for any termination of the Management Agent for good cause initiated by the Owner/Operator shall not exceed a maximum of thirty (30) days.

5. In the event of termination of the Agreement, the Management Agent will not more than thirty (30) days later turn over to Owner/Operator all of the Project's real and personal property in the Management Agent's control including, without limitation, any of the Project's cash, trust accounts, investments, books, and records. The Management Agent shall fully cooperate in the Project's transition to new management as retained by the Owner/Operator in accordance with Program Obligations and take all actions within the Management Agent's purview necessary to (i) provide for an orderly transition; (ii) maintain normal operations; (iii) avoid the displacement of residents; and (iv) ensure no adverse effects to the Project with respect to the Permits and Approvals.

6. The Agreement shall not be assigned or materially amended without the prior written approval of HUD. A material amendment shall include, without limitation, an increase in any management fees or other payments payable by the Owner/Operator as described in the Management Certification, a decrease in the services to be provided by the management agent hereunder, any alteration affecting compliance with Program Obligations, or any alteration or modification whatsoever to this Addendum.

7. The Management Agent shall not be the owner or holder of any of the Permits and Approvals, nor hold any security interest therein, without obtaining HUD's prior written consent. In the event the Management Agent becomes the owner or holder of any of the Permits and Approvals, the Management Agent shall immediately enter into a regulatory agreement in the form prescribed by HUD and shall be subject to all Program Obligations as applicable to facility operators. The Management Agent shall act perform its obligations under the Agreement in compliance with all applicable requirements of the Permits and Approvals. The Management Agent shall take no direct or indirect action to convey, assign, encumber, transfer, or alienate from the Project any of the Permits and Approvals.

8. In the event of any conflict between the Agreement and Program Obligations, Program Obligations shall govern control. “**Program Obligations**” means (i) all applicable statutes and any regulations issued by HUD 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 (ii) 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 Agreement 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.

9. All fees, incentives, bonuses and other consideration described in the Agreement must be computed and paid in accordance with Program Obligations.

10. The Management Agent shall have no right of indemnification from liability for any act of its own gross negligence and/or willful misconduct. Except as otherwise approved by HUD in writing, no other indemnity, right of subrogation, or hold harmless provision provided in the Agreement for the benefit of the Management Agent shall have any force or effect.

11. The Management Agent shall maintain its books, records, and accounts as they pertain to the operations of the Project (the “**Records**”) in accordance with Program Obligations including, without limitation, the applicable requirements of Section 19 of the Healthcare Regulatory Agreement—Borrower (form HUD-92466-ORCF) (the “**Owner’s Regulatory Agreement**”), the Management Certification, and, if the Project’s owner and operator are legally distinct entities, Section 20 of the Healthcare Regulatory Agreement—Operator (form HUD-92466A-ORCF) (the “**Operator’s Regulatory Agreement**”). The Management Agent shall provide to HUD and the Owner/Operator any Records or other information related to the Project in its possession and necessary for the Owner/Operator to satisfy its financial reporting obligations. All Records of the Management Agent shall be available for examination by HUD or its authorized representatives at the Project or such other location as may be mutually agreed. Upon request of HUD or its authorized representatives, the Management Agent shall provide legible copies of any Records. All access, documents, materials, and copies required to be provided by this Section 11 shall be provided in accordance with the applicable timeframes mandated by the Owner’s Regulatory Agreement, the Management Certification, and/or the Operator’s Regulatory Agreement and, if no specific timeframe has been established, then within a reasonable time.

12. Should the duties of the Management Agent include resident care and services, the Management Agent shall maintain professional liability insurance in compliance with the requirements set forth in Program Obligations. The Management Agent shall provide a certification of compliance with this requirement annually to HUD. Such certification shall be attached to an Acord or certified copy of the insurance policy.

Contract # _____

THIS ADDENDUM was entered the ____ day of _____, 20____.

MANAGEMENT AGENT

[Management Agent]

Authorized Representative

OWNER/OPERATOR

[Owner/Operator]

Authorized Representative

Contract # _____

SCHEDULE 1

Facility	FHA Project #	Address