
LOAN AGREEMENT

Dated as of December 1, 2020

Between

THE COUNTY OF LANCASTER, IN THE STATE OF NEBRASKA

and

TABITHA, INC.

Relating to:

\$_[2020 Principal_]
The County of Lancaster, in the State of Nebraska
Revenue Refunding Bonds
(Tabitha Projects)
Series 2020

Certain rights, title and interest of The County of Lancaster, in the State of Nebraska in this Loan Agreement have been pledged and assigned to BOKF, National Association, as Bond Trustee under a Bond Trust Indenture dated as of December 1, 2020, between the County and the Bond Trustee.

LOAN AGREEMENT

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LOAN AGREEMENT

THIS LOAN AGREEMENT (the “Loan Agreement”), dated as of December 1, 2020, between the **THE COUNTY OF LANCASTER, IN THE STATE OF NEBRASKA** (the “County”), a county and political subdivision duly organized and existing under the laws of the State of Nebraska, and **TABITHA, INC.** (the “Corporation”), a nonprofit corporation organized and existing under the laws of the State of Nebraska;

RECITALS

1. The County is authorized by Sections 13-1101 to 13-1110, inclusive, Reissue Revised Statutes of Nebraska, as amended (the “Act”), to issue bonds and lend the proceeds thereof for the purposes of financing and refinancing the costs of projects for nonprofit enterprises as described in the Act; provided, however, any such bonds shall not be a liability of the County nor a charge against its general credit or taxing powers.

2. The Corporation operates various facilities providing health-related services which are licensed by the State of Nebraska (the “State”) and are conducted as a “nonprofit enterprise” a under the Act, has requested the County, pursuant to and in accordance with the Act, to issue its \$_____ principal amount of Revenue Refunding Bonds (Tabitha Projects), Series 2020 (the “Series 2020 Bonds”), under the Bond Trust Indenture dated as of December 1, 2020 between the County and BOKF, National Association, as bond trustee (the “Bond Trustee”) for the purpose of making a loan under this Loan Agreement for the purposes of (a) financing and refinancing the costs of the Project as defined in the Bond Indenture; (b) refinancing and refunding the Refunded Obligations as defined in the Bond Indenture, (c) funding a debt service reserve fund for the Series 2020 Bonds and (d) paying certain expenses of issuing such bonds.

3. The County by resolution of its Board of Commissioners has found and determined that based upon the representations of the Corporation: (a) the real and personal property comprising the property financed and refinanced by the Project constitute part of a nonprofit enterprise under the Act; and (b) it is desirable to issue the Bonds to be issued under and secured by the Bond Indenture, which constitutes a collateral assignment of the County’s right, title and interest in this Loan Agreement.

4. To further secure the payment of the principal or redemption price of and interest on the Series 2020 Bonds and the Corporation’s obligations hereunder, the Corporation as trustor (the “Trustor”) will execute and deliver a Deed of Trust and Security Agreement dated December __, 2020 (the “Deed of Trust”) to BOKF, National Association, as trustee thereunder (the “Deed Trustee”) for the benefit of Bond Trustee, granting the Deed Trustee a lien on certain real property of the Trustor and a security interest in certain personal property of the Trustor.

5. The County and the Corporation are entering into this Loan Agreement to provide for the Loan of the proceeds of the Series 2020 Bonds by the County to the Corporation, and the repayment of the Loan by the Corporation.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements set forth in this Loan Agreement, the County and the Corporation covenant and agree as follows:

ARTICLE I
DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.1. Definitions of Words and Terms. For all purposes of this Loan Agreement, except as otherwise provided herein or unless the context otherwise requires, words and terms used in this Loan Agreement have the same meanings as set forth in **Section 101** of the Bond Indenture and as set forth in the **Schedule D** of this Loan Agreement.

Section 1.2. Rules of Construction. For all purposes of this Loan Agreement, except as otherwise provided or unless the context otherwise requires, the rules of construction set forth in **Section 102** of the Bond Indenture shall apply in construing the provisions of this Loan Agreement (as applied with reference to this Loan Agreement instead of the Bond Indenture).

ARTICLE II
REPRESENTATIONS

Section 2.1. Representations by the County. The County represents and warrants to the Corporation and the Bond Trustee as follows:

(a) *Organization and Authority.* The County (1) is a county and political subdivision duly organized and existing under the laws of the State of Nebraska, and (2) has lawful power and authority to issue the Series 2020 Bonds for the purposes set forth in the Bond Indenture, to enter into, execute and deliver the Bond Indenture and this Loan Agreement and to carry out its obligations thereunder and hereunder, and (3) by all necessary corporate action has been duly authorized to execute and deliver the Bond Indenture, this Loan Agreement and any other Transaction Documents required to be executed and delivered by it in connection with the issuance of the Series 2020 Bonds, acting by and through its duly authorized officers.

(b) *No Defaults or Violations of Law.* The execution and delivery of the Bond Indenture, this Loan Agreement and any other Transaction Documents by the County will not result in a breach of any of the terms of, or constitute a default under, any indenture, mortgage, deed of trust, lease or other agreement or instrument to which the County is a party or by which it or any of its property or any of the constitutional or statutory rules or regulations applicable to the County or its property.

Section 2.2. Representations by the Corporation. The Corporation represents and warrants to the County and the Bond Trustee as follows:

(a) *Organization and Authority.* The Corporation (1) is a nonprofit corporation organized and existing under the laws of the State of Nebraska, not operated for private or corporate profit, (2) operates as a “nonprofit enterprise” (as defined in the Act) authorized by law to provide or operate its facilities in the State of Nebraska, (3) is a Tax-Exempt Organization, (4) has not declared and has not been determined to have “unrelated business taxable income” as defined in Section 512 of the Internal Revenue Code which could have a material adverse effect on its status as a Tax-Exempt Organization or which, if such income were subject to federal income taxation, could have a material adverse effect on the condition, financial or otherwise, of the Corporation, and (5) has lawful power and authority to enter into, execute and deliver this Loan Agreement, and to execute and deliver any other Transaction Documents required to be executed and delivered by it in connection with the issuance of the Series 2020 Bonds and to

carry out its obligations hereunder and thereunder, and by all necessary corporate action has been duly authorized to execute and deliver this Loan Agreement and other required Transaction Documents, acting by and through its duly authorized officers.

(b) *No Defaults or Violations of Law.* The execution and delivery of this Loan Agreement and other Transaction Documents by the Corporation will not conflict with or result in a breach of any of the terms of, or constitute a default under, any indenture, mortgage, deed of trust, lease or other agreement or instrument to which the Corporation is a party or by which it or any of its property is bound or its articles of incorporation, bylaws, or any of the rules or regulations applicable to the Corporation or its property of any court or other governmental body.

(c) *Licenses, Permits and Approvals.* The Corporation is duly authorized and has all necessary licenses and permits to occupy and operate its health facilities under the laws, rulings, regulations and ordinances of the State of Nebraska and the departments, agencies and political subdivisions thereof, and the Corporation has obtained all requisite approvals of federal, state, regional and local governmental bodies relating to the acquisition, construction, equipping and operation of its health facilities. The Corporation's health facilities are in all material respects in compliance with all applicable federal, state and local zoning, subdivision, environmental, pollution control and other laws, rules, regulations, codes and ordinances.

(d) *Use of Proceeds.* The proceeds of the Series 2020 Bonds will be used by the Corporation solely (1) to finance and refinance the costs of the Project, including refunding the Refunded Obligations, (2) fund a debt service reserve fund for the Series 2020 Bonds, and (3) to pay related costs of issuance.

(e) *Pending Litigation.* No litigation, proceedings or investigations are pending or, to the knowledge of the Corporation, threatened against the Corporation, except: (1) litigation involving claims for liability, the probable recoveries in which and the estimated costs and expenses of defense of which, based upon the advice of litigation counsel to the Corporation, will be entirely within the Corporation's applicable insurance policy limits (including primary and excess insurance policies, subject to applicable deductibles and self-retentions) or are not in excess of the total of the available reserves of the Corporation, or (2) litigation involving other types of claims which if adversely determined will not, based upon the advice of litigation counsel to the Corporation, materially and adversely affect the financial condition or operations of the Corporation. In addition, no litigation, proceedings or investigations are pending or, to the knowledge of the Corporation, threatened against the Corporation seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of the Bond Indenture, the Series 2020 Bonds, this Loan Agreement or any other required Transaction Documents by the County, or this Loan Agreement or any other required Transaction Documents by the Corporation, or which would in any manner challenge or adversely affect the Corporation's status as a Tax-Exempt Organization, the corporate existence or powers of the Corporation to enter into and carry out the transactions described in or contemplated by or the execution, delivery, validity or performance by the Corporation of the terms and provisions of this Loan Agreement or any other Transaction Documents to which it is a party.

Section 2.3. Survival of Representations. All representations of the County or the Corporation contained in this Loan Agreement or in any certificate or other instrument delivered by the County or the Corporation pursuant to this Loan Agreement, the Bond Indenture, or any other Transaction Document, or in connection with the transactions contemplated thereby, shall survive the execution and delivery thereof and the issuance, sale and delivery of the Series 2020 Bonds, as representations of facts existing as of the date of execution and delivery of the instruments containing such representations.

**ARTICLE III
THE LOAN**

Section 3.1. Loan of Funds to the Corporation. Concurrently with the execution and delivery of this Loan Agreement, the County shall make the Loan to the Corporation from the proceeds of the sale of the Series 2020 Bonds, and the Corporation shall receive such Loan from the County, for the purposes and upon the terms and conditions provided in this Loan Agreement and in the Bond Indenture.

Section 3.2. Use of Proceeds. The proceeds of the Series 2020 Bonds loaned to the Corporation shall be deposited with the Bond Trustee and shall be administered, disbursed and applied, together with other available funds of the Corporation, for the purposes and in the manner as provided in the Bond Indenture and in this Loan Agreement.

Section 3.3. Project Documents. The Corporation, at its own cost and expense, shall maintain in its files and available for inspection by the Bond Trustee or its agents upon request copies of the licenses and permits to occupy the Project and to operate the facilities of the Corporation.

Section 3.4. Changes or Amendments to the Project. The Corporation may make, authorize or permit such changes or amendments in the Project as it may reasonably determine to be necessary or desirable; provided, however, that no such change or amendment shall be made to the Project that would cause a material change in the estimated useful life, cost, scope, nature, or function of the Project, unless the Corporation shall file with the Bond Trustee:

(a) a written certificate signed by a Corporation Representative to the effect that the Project will, after such change or amendment, continue to constitute part of a “nonprofit enterprise” within the meaning of the Act, and such change or amendment will not result in the Project or the Corporation being used for any purpose prohibited by this Loan Agreement or otherwise result in the Corporation failing to comply with any provisions of this Loan Agreement or the Tax Compliance Agreement; and

(b) an Opinion of Bond Counsel addressed to the Bond Trustee and the County to the effect that such change or amendment will not result in the interest on the Bonds becoming included in gross income for purposes of federal income taxation.

If any change or amendment would render materially inaccurate the description of the Project in **Appendix A** to the Bond Indenture, there shall be delivered to the Bond Trustee a revised **Appendix A** containing a description of the Project that reflects the change in the Project, the accuracy of which shall be certified by a written certificate signed by the Corporation Representative.

**ARTICLE IV
PAYMENT PROVISIONS**

Section 4.1. Loan Payments. To provide for the payment of the principal of and interest on the Series 2020 Bonds, the Corporation shall make the following payments on the Loan (“Loan Payments”) directly to the Bond Trustee, for the account of the County, for deposit in the Series 2020 Debt Service Fund, on the following dates, and otherwise as set out below:

(a) *Series 2020 Debt Service Fund -- Interest:* On or before 10:00 a.m. central time on each Interest Payment Date (as defined in **Schedule 1** to the Bond Indenture), an amount not less than the amount of interest to become due on the Series 2020 Bonds on such Interest Payment Date; provided, however that the Corporation may be entitled to certain credits on such payments as permitted under **Section 4.2** hereof.

(b) *Series 2020 Debt Service Fund -- Principal:* On or before 10:00 a.m. central time on each principal payment date, an amount not less than the next scheduled installment of principal due on the Series 2020 Bonds on such principal payment date by maturity, scheduled principal payment, or mandatory sinking fund redemption; provided, however, that the Corporation may be entitled to certain credits on such payments as permitted under **Section 4.2** hereof.

(c) *Series 2020 Debt Service Fund -- Redemption:* On or before the date required by this Loan Agreement or the Bond Indenture, moneys received which are intended to redeem Bonds then Outstanding if the Corporation exercises its right to redeem Bonds under any provision of the Bond Indenture (other than pursuant to scheduled principal payment or mandatory sinking fund redemption provisions).

Unpaid Loan Payments shall bear interest at the applicable rate of interest on the Series 2020 Bonds. Any interest charged and collected on an unpaid Loan Payment shall be deposited to the credit of the Series 2020 Debt Service Fund and applied to pay interest on overdue amounts in accordance with the Bond Indenture.

Section 4.2. Credits on Loan Payments. Notwithstanding any provision contained in this Loan Agreement or in the Bond Indenture to the contrary, in addition to any credits on the Loan resulting from the payment or prepayment of Loan Payments from other sources:

(a) any moneys deposited by the Bond Trustee or the Corporation in the Series 2020 Debt Service Fund as interest shall be credited against the obligation of the Corporation to pay interest on the Loan as the same become due;

(b) any moneys deposited by the Bond Trustee or the Corporation in the Series 2020 Debt Service Fund as principal shall be credited against the obligation of the Corporation to pay the principal of the Loan as the same becomes due in the order of maturity thereof, except that prepayments for purposes of making an optional deposit into the Series 2020 Debt Service Fund for the redemption of Series 2020 Bonds shall be applied to the respective maturities of principal of the Loan corresponding to the maturities of the Series 2020 Bonds to be redeemed or purchased, delivered and cancelled from the proceeds of such optional deposit;

(c) the principal amount of Series 2020 Bonds of any maturity purchased by the Corporation and delivered to the Bond Trustee, or purchased by the Bond Trustee and cancelled, shall be credited against the obligation of the Corporation to pay principal on the Loan related to such Series 2020 Bonds so purchased (including installment payments corresponding to mandatory sinking fund payments, if any, on the Series 2020 Bonds); and

(d) the amount of any moneys transferred by the Bond Trustee from any other fund held under the Bond Indenture and deposited in the Series 2020 Debt Service Fund as interest or principal shall be credited against the obligation of the Corporation to pay interest or principal, as the case may be, as the same become due.

Section 4.3. Debt Service Reserve Fund. The Corporation shall pay to the Bond Trustee for deposit in the Series 2020 Reserve Fund the amounts at the times as required by the Bond Indenture.

Section 4.4. Additional Payments. The Corporation shall make the following additional payments (“Additional Payments”) to the following Persons:

(a) *County Fees.* The Corporation shall pay to the County upon demand, its regular ongoing annual fees and charges and all reasonable expenses, including reasonable attorneys’ fees, incurred by the County in relation to the Series 2020 Bonds and the transactions contemplated by this Loan Agreement, the Bond Indenture or any of the Transaction Documents.

(b) *Bond Trustee Fees and Professional Fees.* The Corporation shall pay to the Bond Trustee and any Paying Agent, registrars, counsel, accountants, engineers and other Persons when due, all reasonable fees, charges and expenses of such Persons for services rendered under the Bond Indenture and under any of the Transaction Documents and expenses incurred in the performance of such services under the Bond Indenture and any of the Transaction Documents for which such Persons are entitled to payment or reimbursement, including expenses of compliance with the Tax Compliance Agreement.

(c) *Advances by Bond Trustee.* The Corporation shall pay to the Bond Trustee, the amount of all advances of funds made by the Bond Trustee under the provisions of this Loan Agreement or the Bond Indenture, with interest thereon at the prime rate announced from time to time by the Bond Trustee plus 2%.

(d) *Arbitrage Rebate Payments.* The Corporation shall pay to the United States Government all rebate payments required under Section 148(f) of the Internal Revenue Code.

(e) *Costs of Enforcement.* In the event the Corporation defaults under any of the provisions of this Loan Agreement and the Bond Trustee employs attorneys or incurs other expenses for the collection of required payments or the enforcement of performance or observance of any obligation or agreement on the part of the Corporation contained in this Loan Agreement, the Corporation on demand therefor shall pay to the Bond Trustee the reasonable fees of such attorneys and such other fees or expenses so incurred by the Bond Trustee. The Corporation also shall pay, and shall indemnify the County and the Bond Trustee from and against, all costs, expenses and charges, including reasonable counsel fees, incurred for the collection of payments due or for the enforcement or performance or observance of any covenant or agreement of the Corporation under this Loan Agreement or the Bond Indenture or any other Transaction Document.

(f) *Taxes and Assessments.* The Corporation also covenants and agrees, at its expense, to pay all taxes and assessments of any type or character charged to the County or to the Bond Trustee affecting the amount available to the County or the Bond Trustee from payments to be received hereunder or in any way arising due to the transactions contemplated hereby (including property and other taxes and assessments assessed or levied by any public agency or governmental authority of whatsoever character having power to levy taxes or assessments) but excluding any taxes based upon the capital and/or income of the Bond Trustee or any other Person other than the Corporation; provided, however, that the Corporation shall have the right to protest any such taxes or assessments and to require the County or the Bond Trustee, as the case may be, at the Corporation’s expense, to protest and contest any such taxes or assessments assessed or levied upon them and that the Corporation shall have the right to withhold payment of any such taxes or assessments pending disposition of any such protest or contest unless such

withholding, protest, or contest would materially adversely affect the rights or interests of the County or the Bond Trustee.

(g) *Other Amounts Payable.* The Corporation shall pay to the Person or Persons entitled thereto, any other amounts which the Corporation has agreed to pay under this Loan Agreement.

(h) *Purchase Price of Bonds.* The Corporation shall pay to the Person or Persons entitled thereto, the purchase price of Bonds tendered for purchase pursuant to the terms of the Bond Indenture on the dates and in the amounts required thereunder.

Section 4.5. Prepayment of the Loan. The Corporation shall have and is granted the option to prepay from time to time the amounts payable under this Loan Agreement in sums sufficient to redeem or to pay or cause to be paid all or part of the Series 2020 Bonds in accordance with the provisions of the Bond Indenture. Upon the written direction from the Corporation to the County to redeem Series 2020 Bonds subject to optional redemption under the Bond Indenture, the County shall forthwith take all steps (other than the payment of the money required for such redemption) necessary under the applicable redemption provisions of the Bond Indenture to effect redemption of all or part of the then Outstanding Series 2020 Bonds, as may be specified by the Corporation, on the date established for such redemption. Whenever any Series 2020 Bonds shall have been called for optional redemption under any provision of the Bond Indenture, the Corporation shall deposit with the Bond Trustee moneys in such amounts required and at such times to redeem such Series 2020 Bonds, including the principal, redemption premium, if any, and accrued interest thereon to the redemption date (unless such optional redemption is cancelled pursuant to the terms of the Bond Indenture). The Corporation further agrees that in the event the payment of principal of and interest on the Loan is accelerated upon the occurrence of an event of default under this Loan Agreement, all Loan Payments payable for the remainder of the term of this Loan Agreement shall be accelerated and prepayment shall be made on the Loan in such amounts. Any such prepayments shall be deposited in the Series 2020 Debt Service Fund and applied by the Bond Trustee in accordance with the provisions of the Bond Indenture. Any such prepayment shall be credited against Loan Payments to become due on the Loan. The Corporation may also prepay all or any portion of its indebtedness on the Loan by providing for the payment of all or any portion of the Series 2020 Bonds in accordance with **Article X** of the Bond Indenture.

Section 4.6. Obligations Absolute and Unconditional. The obligations of the Corporation under this Loan Agreement with respect to the Series 2020 Bonds are general obligations of the Corporation, and the full faith and credit of the Corporation is pledged to the payment of all sums due and payable by the Corporation under this Loan Agreement. The Corporation shall pay all Loan Payments and Additional Payments due under this Loan Agreement and perform its obligations, covenants and agreements under this Loan Agreement, without notice or demand, and without abatement, deduction, set-off, counterclaim, recoupment, discrimination or defense or any right of termination or cancellation arising from any circumstances whatsoever, and regardless of the invalidity of any portion of this Loan Agreement, and, to the extent permitted by law, the Corporation waives the provisions of any statute or other law now or hereafter in effect contrary to any of its obligations, covenants or agreements under this Loan Agreement or which releases or purports to release the Corporation therefrom. Nothing in this Loan Agreement shall be construed as a waiver by the Corporation of any rights or claims the Corporation may have against the County under this Loan Agreement or otherwise, but any recovery upon such rights or claims shall be had from the County separately, it being the intent of this Loan Agreement that the Corporation shall be unconditionally and absolutely obligated to perform fully all of its obligations, agreements and covenants under this Loan Agreement for the benefit of the owners of the Series 2020 Bonds.

Section 4.7 Security Documents; Pledge of Gross Revenues. To secure the payment of the Loan and the performance of the duties and obligations of the Corporation under the Loan and this Loan Agreement, the Corporation (a) pursuant to the Security Documents has encumbered, pledged and assigned to the Bond Trustee and its successors and assigns, and has granted a security interest in, the Encumbered Property and (b) hereby pledges and assigns to the County and its successors and assigns (including the Bond Trustee) and grants a security interest in the Gross Revenues.

The Corporation shall take all necessary action to maintain and preserve (1) the lien and security interest in the Encumbered Property granted by the Deed of Trust and (2) the security interest in Gross Revenues so long as any Bonds or the Loan are Outstanding. The Corporation shall cause the Deed of Trust, this Loan Agreement and any financing statements in respect thereof to be promptly filed, registered and recorded in such manner and in such places as may be required by law in order to fully perfect and protect such lien and security interest and to preserve and protect the rights of the holders of the Bonds and the Bond Trustee, and from time to time will perform or cause to be performed any other act as provided by law and will execute or cause to be executed any and all continuation statements and further instruments that may be requested by the Bond Trustee for such perfection and protection.

Except to the extent it is exempt therefrom, the Corporation shall pay or cause to be paid all filing, registration and recording fees and all expenses incident to the preparation, execution and acknowledgment of such instruments of perfection, and all federal or state fees and other similar fees, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Deed of Trust or this Loan Agreement and such instruments of perfection. In the event that the Corporation fails to execute any of such instruments within **10** days after demand to do so, the Corporation hereby makes, constitutes and irrevocably appoints the Bond Trustee as its attorney-in-fact and in its name, place and stead so to do.

Notwithstanding the lien and security interest granted in the Encumbered Property pursuant to the Deed of Trust and the Gross Revenues under this Loan Agreement, it is understood and agreed that so long as the Corporation makes when due and payable all Loan Payments, all payments of principal of and interest on Parity Obligations and all Additional Payments required by the Loan Agreement, including without limitation the payments described in **Sections 4.1** and **4.2** of this Loan Agreement, the Corporation shall be entitled to utilize the Encumbered Property and the Gross Revenues for its proper corporate purposes.

So long as no default shall have occurred and be continuing under this Loan Agreement, the Bond Trustee shall release, without the consent of any of the owners of the Bonds, any of the property subject to the lien and security interest of the Deed of Trust upon compliance with the requirements for such release contained in the Deed of Trust or as may be permitted pursuant to the terms of this Loan Agreement.

Upon the occurrence of an event of default under this Loan Agreement, all revenues pledged as security for the obligations of the Corporation under this Loan Agreement then on hand shall be transferred immediately to the Bond Trustee, and all such revenues received thereafter shall immediately upon receipt, be transferred to the Bond Trustee, and held for application pursuant to this Loan Agreement and the Bond Indenture.

Section 4.8. Assignment of County's Rights. Under the Bond Indenture, the County has pledged, assigned, transferred in trust and granted a security interest to the Bond Trustee in all of the County's rights, title and interest under this Loan Agreement accruing to or vested in the County (except

for the County's rights to payment of its fees and expenses and the County's right to indemnification in certain circumstances and as otherwise expressly set forth in this Loan Agreement) as security for the Bonds, and such rights, title and interest may be exercised, protected and enforced for or on behalf of the owners of the Bonds in conformity with this Loan Agreement and the Bond Indenture. The Bond Trustee is hereby given the right to enforce, as assignee of the County, the performance of the obligations of the Corporation under this Loan Agreement, and the Corporation hereby consents to the same and agrees that the Bond Trustee may enforce such rights as provided in this Loan Agreement and in the Bond Indenture. This Loan Agreement recognizes that the Bond Trustee is a third-party creditor-beneficiary of this Loan Agreement.

ARTICLE V GENERAL COVENANTS AND PROVISIONS

Section 5.1. Maintenance and Use of the Project. The Corporation shall cause the Project to be maintained, preserved and kept in good repair and working order and condition and in as safe condition as its operations will permit and will make all necessary repairs, renewals, replacements and improvements thereof. Nothing in this Section shall obligate the Corporation to preserve, repair, renew or replace any part of the Project no longer used or, in the judgment of its governing board, no longer useful in the conduct of its business, or prevent the Corporation from discontinuing the operation of any part of the Project, if in its reasonable judgment (evidenced, in the case of such a cessation other than in the ordinary course of business, by a determination by its governing board) such discontinuance is desirable in the conduct of its business and not disadvantageous in any material respect to the owners of the Bonds. The Corporation may make additions, alterations and changes to the Project so long as such additions, alterations and changes are made in compliance with the provisions of this Loan Agreement and will not result in a violation of the provisions of this Loan Agreement, and the Corporation may dispose of any part of the Project as permitted by this Loan Agreement.

Subject to the provisions of this Article and the Act, the Corporation shall have the right to use the Project for any purpose allowed by law and contemplated by the Act. Except as provided in this Loan Agreement, the County reserves no power or authority with respect to the operation of the Project by the Corporation and activities incident thereto, it being the intention of the parties to this Loan Agreement that so long as the Corporation shall duly and faithfully observe and perform all of the terms, covenants, provisions and agreements of this Loan Agreement, the Corporation shall manage, administer and govern the Project and the Encumbered Property in its activities and affairs on a continuing day-to-day basis.

The Corporation agrees that it will not use or permit the use of any of the properties financed, or for which it is reimbursed, in whole or in part, out of the proceeds of the Bonds: in a manner which is prohibited by the Establishment of Religion Clause of the First Amendment to the Constitution of the United States of America and the decisions of the United States Supreme Court interpreting the same or by any comparable provisions of the Constitution of the State of Nebraska and the decisions in the Supreme Court of the State of Nebraska interpreting the same. The foregoing restrictions, however, shall not be construed to prevent the Corporation from making such other use as may at such time be permissible under all of the Act, the First Amendment to the Constitution of the United States of America and the decisions of the United States Supreme Court interpreting the same and any comparable provisions of the Constitution of the State of Nebraska and the decisions in the Supreme Court of the State of Nebraska interpreting the same.

Section 5.2. Compliance with Laws and Regulations. The Corporation shall conduct its affairs and carry on its business and operations in such manner as to comply with any and all applicable laws of the United States of America and the State of Nebraska and to observe and conform to all valid orders, regulations or requirements of any governmental authority applicable to the conduct of its

business and operations and the ownership of its property; provided, however, that nothing contained in this Loan Agreement shall require the Corporation to comply with, observe and conform to any such law, order, regulation or requirement of any governmental authority so long as the validity thereof shall be contested by the Corporation in good faith by appropriate proceedings, provided that the Corporation shall have set aside on its books adequate reserves with respect to such contest and such contest shall not materially impair the ability of the Corporation to meet its obligations under this Loan Agreement.

Section 5.3. Insurance. The Corporation shall maintain or cause to be maintained insurance, which may include one or more self-insurance programs, with respect to the Project and its operations covering such risks that are of an insurable nature and of a character customarily insured against by health facilities in the State operating similar properties and engaged in similar operations (including but not limited to property and casualty and general liability) and in such amounts as, in its judgment, are adequate to protect the Corporation and the Project and its operations.

Section 5.4. Indemnity. The Corporation, to the extent permitted by law, shall pay and indemnify and save the County and the Bond Trustee and their respective members, directors, officers, employees and agents harmless from and against all loss, liability, damage, cost or expense arising out of the issuance of the Bonds and the execution or administration of this Loan Agreement and the other Transaction Documents, including, but not limited to, claims for loss or damage to any property or injury to or death of any person, asserted by or on behalf of any person, firm, corporation or governmental authority arising out of or in any way connected with the Project, or the conditions, occupancy, use, possession, conduct or management of, or any work done in or about the Project. The Corporation shall also pay and indemnify and save the County and the Bond Trustee and their respective members, directors, officers, employees and agents harmless of, from and against, all costs, reasonable counsel fees, expenses and liabilities incurred by them or by the Corporation in any action or proceeding brought by reason of any such claim, demand, expense, penalty, fine or tax. If any action or proceeding is brought against the County or the Bond Trustee or their respective members, directors, officers, employees or agents by reason of any such claim or demand, the Corporation, upon notice from the County or the Bond Trustee, covenants to resist and defend such action or proceeding on demand of the County or the Bond Trustee or their respective members, directors, officers, employees or agents. Notwithstanding the foregoing, neither the County nor the Bond Trustee nor their respective members, directors, officers, employees and agents shall be indemnified against liability for any damage (including, without limitation damage arising out of bodily injury to persons or damage to property) caused by their own negligence or willful misconduct or the negligence or willful misconduct of their own members, directors, officers, employees or agents. The Corporation shall also pay and indemnify the County and the Bond Trustee from and against, all fees, costs, expenses and charges, including reasonable counsel fees, incurred, in enforcing any covenant or agreement of the Corporation contained in this Loan Agreement or the Bond Indenture after default of the Corporation. Notwithstanding the preceding indemnifications, nothing contained in this Section nor **Section 4.6** hereof shall be interpreted or construed to prevent or prohibit the Corporation from raising any statutory or common law defense as to any person, corporation, entity, or individual not a party to this Loan Agreement. In the event the Corporation shall fail to employ competent counsel or actively defend such action or proceeding, or if either the County or the Bond Trustee reasonably determine that a conflict of interest exists, or if either the County or the Bond Trustee believes in good faith that there are defenses available to it which are adverse to or in conflict with those available to the Corporation or which either the County or the Bond Trustee believes in good faith cannot be effectively asserted by common counsel, either the County or the Bond Trustee, or both, may employ separate counsel at the reasonable expense of the Corporation. The County and the Bond Trustee always have the right to employ separate legal counsel but, subject to the preceding sentence, the fees and expenses of its separate legal counsel must be paid by the County or the Bond Trustee unless the Corporation and the County and the Bond Trustee have mutually agreed to the employment of the County's or Bond Trustee's separate counsel. The Corporation is not liable for any settlement of a suit,

claim, demand, action or proceeding effected without its written consent and the Corporation agrees that it will not settle any claim or action without the consent of the County or the Bond Trustee, as applicable. This indemnification survives the payment in full of the Series 2020 Bonds and any resignation or removal of the Bond Trustee.

Section 5.5. Financial Covenants. The Corporation covenants and agrees to comply with the financial covenants set forth on **Schedule FC** of this Loan Agreement. For purposes of the financial covenants and calculations herein: (i) any references or requirements herein with respect to the Corporation or the audited or unaudited financial statements of the Corporation shall not be deemed to include affiliates of the Corporation whose operations do not comprise part of the Encumbered Property, including amounts or liabilities attributable to the operations of [Tabitha Village, Inc., Tabitha Grand Island, Inc., or] Tabitha ALF Real Estate Holding, Inc.; (ii) if consolidated or combined financial statements include financial data of affiliates that are not the Corporation, such consolidated or combined financial statements shall include such schedules consolidating such financial data for the Corporation as is necessary or appropriate to determine compliance with the requirements of this Loan Agreement. As used in this paragraph, “affiliates” means the Corporation and each Person, the financial statements of which are required, under GAAP, to be consolidated or combined into the financial statements of the Corporation.

Section 5.6. Reporting. The Corporation covenants and agrees to comply with the reporting requirements set forth on **Schedule R** of this Loan Agreement.

Section 5.7. Tax Covenants. The Corporation covenants and agrees that it will not take any action or permit any action to be taken that would adversely affect the exclusion, if any, from gross income for federal income tax purposes of the interest on the Bonds and will take whatever action, or refrain from whatever action, necessary to comply with the requirements of the Internal Revenue Code to maintain the exclusion, if any, from gross income for federal income tax purposes of the interest on the Bonds, and the Corporation shall comply with the Tax Compliance Agreement (defined in the Bond Indenture) and will pay or provide for payment to the United States Government or the Bond Trustee, all rebate payments required under Section 148(f) of the Internal Revenue Code and the Tax Compliance Agreement. This covenant shall survive payment in full or defeasance of the Bonds.

Section 5.8. Advances by Bond Trustee. If the Corporation fails to make any payment or perform any of its covenants in this Loan Agreement, the Bond Trustee may but shall not be required, at any time and from time to time, use and apply any moneys held by it under the Bond Indenture, or make advances, to effect payment or performance of any such covenant on behalf of the Corporation. All moneys so used or advanced by the Bond Trustee, together with interest at the Bond Trustee’s announced prime rate per annum plus 2%, shall be repaid by the Corporation upon demand and such advances shall be secured under the Bond Indenture prior to the Bonds. For the repayment of all such advances the Bond Trustee shall have the right to use and apply any moneys at any time held by it under the Bond Indenture but no such use of moneys or advance shall relieve the Corporation from any default hereunder.

Section 5.9. Pledge and Assignment of Security Interest in Gross Revenues. In order to secure the payment and performance of the duties and obligations of the Corporation under this Loan Agreement and the Bond Indenture, including with respect to any Bonds and Parity Obligations, the Corporation does hereby pledge and assign unto the County and its successors and assigns (including the Bond Trustee), and grant a security interest thereunto the Gross Revenues. Notwithstanding the security interest granted in such Gross Revenues pursuant to this Section and in the Security Documents, it is understood and agreed that, subject to **Article VI** hereof, the Corporation shall be entitled to utilize Gross Revenues for its proper purposes.

Section 5.10. Parity Obligations. So long as no Event of Default has occurred and is continuing the Corporation may issue or incur Parity Obligations for any proper purpose if the conditions set forth in this Section are met.

Such Parity Obligations may, at the option of the Corporation, be secured on a parity basis with the Bonds (but not a senior basis) including the lien and security provided for in the Security Documents. The holders of such Parity Obligations shall not be entitled to share on a parity with the owners of the Bonds in any project fund, costs of issuance fund, bond fund or debt service fund, debt service reserve fund or similar fund or account established under the Bond Indenture for a series of Bonds unless such parity of the Parity Obligations is specifically provided in a Supplemental Bond Indenture for a series of Bonds. Such Parity Obligations may be further secured in any manner not inconsistent with the provisions and intent of the Bond Indenture or this Loan Agreement, and may be secured by any partial interest in Gross Revenues or other liens and security interests to the extent set forth in the Supplemental Loan Agreement or other instrument relating to such Parity Obligations.

In the event that the Corporation shall propose to secure any such Parity Obligation by a lien, mortgage or other security interest as described above, the County, the Bond Trustee and the Corporation shall take, or shall cause to be taken, such actions (including entering into a Supplemental Loan Agreement, Parity Obligations/intercreditor agreement, or Supplemental Bond Indenture) and execute, deliver, file and record such instruments of security as their respective counsel agree to be necessary or appropriate to grant to and/or otherwise secure for the holder or holders of the Parity Obligation a security interest similar to that of the County and the Bond Trustee, and the Corporation shall as a condition of securing such Parity Obligation execute, deliver, file and record, and cause to be executed, delivered, filed and recorded by such holder or holders, such documents as counsel for the County and the Corporation agree to be necessary or appropriate therefor.

Any default under any instrument or agreement providing for repayment of any Parity Obligation secured on a parity with the Bonds as provided in this Section shall be a default under this Loan Agreement and there shall be included in any instrument or agreement providing for repayment of such Parity Obligation a provision that any default under this Loan Agreement which is not cured during any applicable cure or grace period shall be a default under such instrument or agreement. Any action which cures a default under any such instrument or agreement shall also cure such default under this Loan Agreement.

Section 5.11. Preservation of Existence and Status. Except as otherwise expressly provided in this Loan Agreement, the Corporation shall: (a) preserve and keep in full force and effect its corporate or other separate legal existence; (b) remain qualified to do business and conduct its affairs in each jurisdiction where ownership of its property or the conduct of its business or affairs requires such qualification; (c) maintain its status as a nonprofit corporation organized and existing under the laws of the State of Nebraska, a Tax-Exempt Organization, and a “nonprofit enterprise” under the Act.

Section 5.12. Payment of Taxes and Other Charges. The Corporation shall pay or cause to be paid as they become due and payable all taxes, assessments and other governmental charges lawfully levied or assessed or imposed upon the Corporation or its property or any part thereof or upon any income therefrom; provided, however, that the Corporation shall not be required to pay and discharge or cause to be paid and discharged any such tax, assessment or governmental charge to the extent that the amount, applicability or validity thereof shall currently be contested in good faith by appropriate proceedings and the Corporation shall have established and shall maintain adequate reserves on its books for the payment of the same.

Section 5.13. Licenses and Permits. The Corporation shall procure and maintain all licenses and permits material to the operation of its business and affairs and will maintain accreditation of its facilities by the appropriate accrediting body; provided, however, that the Corporation shall not be required to procure or maintain in effect any right, license or accreditation that the governing board of the Corporation determines in good faith, is not in the best interests of the Corporation and is no longer desirable in the conduct of its business and the lack of which will not materially impair the ability of the Corporation to pay or perform its obligations under this Loan Agreement.

Section 5.14. Encumbered Property Covenants. The Corporation shall comply with the covenants set forth on **Schedule P** of this Loan Agreement.

Section 5.15. Indebtedness Incurrence. The Corporation shall comply with the requirements for incurrence of Indebtedness set forth on **Schedule I** of this Loan Agreement.

Section 5.16. Rates and Charges. The Corporation agrees to operate its facilities on a revenue producing basis and to charge such rates and charges for its facilities and services and to exercise such skill and diligence as to provide income, together with other available funds sufficient to pay promptly all payments of principal and interest on its Indebtedness, all expenses of operation, maintenance and repair of its facilities and all other payments required to be made by it to the extent permitted by law.

ARTICLE VI DEFAULT AND REMEDIES

Section 6.1. Events of Default. The term “**event of default,**” wherever used in this Loan Agreement, means any one of the following events (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(a) default in the payment of any interest on the Loan within five (5) days of when such interest becomes due and payable; or

(b) default in the payment of the principal of (or premium, if any, on) the Loan within five (5) days of when such principal becomes due and payable (whether at maturity, upon proceedings for redemption, by acceleration or otherwise); or

(c) default in the performance, or breach, of any covenant or agreement of the Corporation in this Loan Agreement (other than a covenant or agreement a default in the performance or breach of which is specifically dealt with elsewhere in this Section), and continuance of such default or breach for a period of **30** days after there has been given to the Corporation by the Bond Trustee or to the Corporation and the Bond Trustee by the owners of at least **10%** in principal amount of the Bonds Outstanding, a written notice specifying such default or breach and requiring it to be remedied; provided, that if such default cannot be fully remedied within such **30**-day period, but can reasonably be expected to be fully remedied, such default shall not constitute an event of default if the Corporation shall immediately upon receipt of such notice commence the curing of such default and shall thereafter prosecute and complete the same within a period of **60**-days from the date of the written notice of such breach or default (or such greater period accepted by the Bond Trustee); or

(d) any representation or warranty made by the Corporation in this Loan Agreement or in any written statement or certificate furnished to the County or the Bond Trustee or the

purchaser of any Bond in connection with the sale of any Bond or furnished by the Corporation pursuant to this Loan Agreement proves untrue in any material respect as of the date of the issuance or making thereof and shall not be corrected or brought into compliance within **30** days after there has been given to the Corporation by the Bond Trustee or to the Corporation and the Bond Trustee by the owners of at least **10%** in principal amount of the Bonds Outstanding, a written notice specifying such default or breach and requiring it to be remedied; provided, that if such default cannot be fully remedied within such **30**-day period, but can reasonably be expected to be fully remedied, such default shall not constitute an event of default if the Corporation shall immediately upon receipt of such notice commence the curing of such default and shall thereafter prosecute and complete the same with due diligence and dispatch and within a **60**-day period the written notice specifying such default or breach; or

(e) the entry of a decree or order by a court having jurisdiction in the premises for relief in respect of the Corporation, or adjudicating the Corporation bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, adjustment or composition of or in respect of the Corporation under the United States Bankruptcy Code or any other applicable federal or state law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of or for the Corporation or any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order unstayed and in effect for a period of **60** consecutive days; or

(f) the commencement by the Corporation of a voluntary case, or the Corporation by it of proceedings, to be adjudicated bankrupt or insolvent, or the consent by it to the Corporation of bankruptcy or insolvency proceedings against it, or the filing by it of a petition or answer or consent seeking reorganization, arrangement or relief under the United States Bankruptcy Code or any other applicable federal or state law, or the consent or acquiescence by it to the filing of any such petition or the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Corporation or any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability or its failure to pay its debts generally as they become due, or the taking of corporate action by the Corporation in furtherance of any such action.

Promptly after any officer of the Corporation may reasonably be deemed to have knowledge of a default hereunder, the Corporation will deliver to the Bond Trustee a written notice specifying the nature and period of existence thereof and the action the Corporation is taking and proposes to take with respect thereto.

The provisions of subsection (c) and (d) above are subject to the following limitation: If by reason of Force Majeure, the Corporation is unable in whole or in part to carry out any of its agreements contained herein, the Corporation shall not be deemed in default under subsections (c) and (d) above during the continuance of such disability. The term "Force Majeure" includes the following: acts of God; strikes; lockouts or other employee disturbances; acts of public enemies; orders of any kind of the government of the United States of America, the state or states in which the Corporation is doing business, or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; riots; epidemics; storms; floods; washouts; droughts; civil disturbances; explosions; breakage or accident to machinery, transmission pipes or canals; partial or entire failure of utilities; or similar acts or events (other than financial acts or events) not within the control of the Corporation. The Corporation agrees, however, to remedy with all reasonable dispatch the cause or causes preventing the Corporation from carrying out its agreements contained herein.

Section 6.2. Acceleration of Maturity; Rescission and Annulment. If an event of default under this Loan Agreement occurs and is continuing, the Bond Trustee, as assignee of the County, may, and if requested by the owners of not less than **25%** in principal amount of the Bonds Outstanding shall, by written notice to the Corporation and the County, declare the principal of the Loan and the interest accrued thereon to be due and payable, and upon any such declaration such principal and interest shall become immediately due and payable.

At any time after such a declaration of acceleration has been made, but before any judgment or decree for payment of money due on the Loan has been obtained by the Bond Trustee as hereinafter in this Article provided, the Bond Trustee may, by written notice to the Corporation, rescind and annul such declaration and its consequences if:

- (a) the Corporation has deposited with the Bond Trustee a sum sufficient to pay
 - (1) all overdue installments of interest on the Loan,
 - (2) the principal of (and premium, if any, on) the Loan which have become due otherwise than by such declaration of acceleration and interest thereon at the rate or rates prescribed therefor in the Loan,
 - (3) interest upon overdue installments of interest at the rate or rates prescribed therefor in the Loan, and
 - (4) all sums paid or advanced by the Bond Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Bond Trustee, its agents and counsel; and
- (b) all events of default, other than the non-payment of the principal of the Loan which have become due solely by such declaration of acceleration, have been cured or have been waived as provided in **Section 6.7** hereof.

No such rescission and annulment shall affect any subsequent default or impair any right consequent thereon.

Section 6.3. Exercise of Remedies by the Bond Trustee. Upon the occurrence and continuance of any event of default under this Loan Agreement, unless the same is waived as provided in this Loan Agreement, the Bond Trustee, as assignee of the County, shall have the following rights and remedies, in addition to any other rights and remedies provided under this Loan Agreement or by law:

- (a) *Right to Bring Suit, Etc.* The Bond Trustee may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce the payment of the principal of, premium, if any, and interest on the Loan, including interest on overdue principal (and premium, if any) and on overdue installments of interest, and any other sums due under this Loan Agreement, to enforce and compel the performance of the duties and obligations of the Corporation as set forth in this Loan Agreement and to enforce or preserve any other rights or interests of the Bond Trustee under this Loan Agreement existing at law or in equity.
- (b) *Exercise of Remedies at Direction of Bondowners.* If requested in writing to do so by the owners of not less than **25%** in principal amount of Bonds Outstanding and if indemnified as provided in **Section 802(c)** of the Bond Indenture, the Bond Trustee shall be

obligated to exercise such one or more of the rights and remedies conferred by this Article as the Bond Trustee shall deem most expedient in the interests of the bondowners.

(c) *Restoration of Positions.* If the Bond Trustee has instituted any proceeding to enforce any right or remedy under this Loan Agreement by suit, or otherwise, and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Bond Trustee, then and in every case the Corporation and the Bond Trustee shall, subject to any determination in such proceeding, be restored to their former positions and rights hereunder, and thereafter all rights and remedies of the Bond Trustee shall continue as though no such proceeding had been instituted.

Section 6.4. Application of Moneys Collected. Any moneys collected by the Bond Trustee pursuant to this Article (after the deductions for payment of costs and expenses of proceedings resulting in the collection of such moneys) together with any other sums then held by the Bond Trustee as part of the Trust Estate, shall be applied as provided in **Article VII** of the Bond Indenture and, in case of the distribution of such money on account of principal (or premium, if any) or interest on the Bonds, shall be credited against amounts due on the Loan.

Section 6.5. Rights and Remedies Cumulative. No right or remedy herein conferred upon or reserved to the Bond Trustee is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 6.6. Delay or Omission Not Waiver. No delay or omission of the Bond Trustee to exercise any right or remedy accruing upon an event of default shall impair any such right or remedy or constitute a waiver of any such event of default or an acquiescence therein. Every right and remedy given by this Article or by law to the Bond Trustee or to the bondowners may be exercised from time to time and as often as may be deemed expedient by the Bond Trustee.

Section 6.7. Waiver of Past Defaults. Before any judgment or decree for payment of money due has been obtained by the Bond Trustee as provided in this Article, the owners of a majority in principal amount of the Bonds Outstanding may, by written notice delivered to the Bond Trustee and the Corporation, on behalf of the owners of all the Bonds waive any past default hereunder and its consequences, except a default:

- (a) in the payment of the principal of (or premium, if any) or interest on the Loan, or
- (b) in respect of a covenant or provision hereof which under **Article VII** cannot be modified or amended without the consent of the owner of each Outstanding Bond affected.

Upon any such waiver, such default shall cease to exist, and any event of default arising therefrom shall be deemed to have been cured, for every purpose of this Loan Agreement; but no such waiver shall extend to or affect any subsequent or other default or impair any right or remedy consequent thereon.

**ARTICLE VII
SUPPLEMENTAL LOAN AGREEMENTS**

Section 7.1. Supplemental Loan Agreements without Consent of Bondowners. The County and the Corporation may from time to time, without the necessity of obtaining the written consent of the owners of any Bonds, enter into one or more Supplemental Loan Agreements, in form satisfactory to the Bond Trustee, for any of the following purposes:

(a) to correct or amplify the description of the Project or to more precisely identify the Project financed or refinanced out of the proceeds of the Bonds, or to substitute or add additional property thereto; or

(b) to add to the conditions, limitations and restrictions on the authorized amount, terms or purposes of the Loan, as herein set forth, additional conditions, limitations and restrictions thereafter to be observed; or

(c) to add to the covenants of the Corporation or to the rights, powers and remedies of the Bond Trustee for the benefit of the owners of all Bonds or to surrender any right or power herein conferred upon the Corporation; or

(d) to cure any ambiguity, to correct or supplement any provision herein which may be inconsistent with any other provision herein or to make any other provisions, with respect to matters or questions arising under this Loan Agreement, which shall not be inconsistent with the provisions of this Loan Agreement, provided such action shall not in the judgment of the Corporation adversely affect the interests of the owners of the Bonds; or

(e) to issue Additional Bonds in accordance with the Bond Indenture or incur Parity Obligations in accordance with this Loan Agreement; or

(f) to make necessary or advisable amendments or additions in connection with the issuance of Additional Bonds in accordance with the Bond Indenture or the incurrence of Parity Obligations in accordance with this Loan Agreement.

Section 7.2. Supplemental Loan Agreements with Consent of Bondowners. With the consent of the owners of not less than a majority in principal amount of the Bonds then Outstanding affected by such Supplemental Loan Agreement, the County and the Corporation may enter into Supplemental Loan Agreements, in form satisfactory to the Bond Trustee, for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Loan Agreement or of modifying in any manner the rights of the Bond Trustee and the owners of the Bonds under this Loan Agreement; provided, however, that no such Supplemental Loan Agreement shall, without the consent of the owner of each Outstanding Bond affected thereby:

(a) change the stated maturity of the principal of, or any installment of interest on, the Loan, or reduce the principal amount thereof or the interest thereon, or change any place of payment where, or the coin or currency in which, the Loan, or the interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the stated maturity thereof (or, in the case of redemption, on or after the redemption date); or

(b) reduce the percentage in principal amount of the Outstanding Bonds, the consent of whose owners is required for any such Supplemental Loan Agreement, or the consent of whose

owners is required for any waiver provided for in this Loan Agreement of compliance with certain provisions of this Loan Agreement or certain defaults hereunder and their consequences; or

(c) modify any of the provisions of this Section, except to increase any percentage provided thereby or to provide that certain other provisions of this Loan Agreement cannot be modified or waived without the consent of the owner of each Bond affected thereby.

The Bond Trustee may in its discretion determine whether or not any Bonds would be affected by any Supplemental Loan Agreement and any such determination shall be conclusive upon the owners of all Bonds, whether theretofore or thereafter authenticated and delivered hereunder. The Bond Trustee shall not be liable for any such determination made in good faith.

It shall not be necessary for the required percentage of owners of Bonds under this Section to approve the particular form of any proposed Supplemental Loan Agreement, but it shall be sufficient if such act shall approve the substance thereof.

Section 7.3. Execution of Supplemental Loan Agreements. In executing or consenting to any Supplemental Loan Agreement permitted by this Article, the County and the Bond Trustee shall receive, and, subject to **Section 801** of the Bond Indenture, shall be fully protected in relying upon the Opinion of Bond Counsel stating that the execution of such Supplemental Loan Agreement is authorized or permitted by this Loan Agreement, the Indenture and the Act and that the execution and delivery thereof will not adversely affect the exclusion, if any, from federal gross income of interest on the Bonds and that such Supplemental Loan Agreement will, upon execution and delivery thereof, be valid and binding upon the County in accordance with its terms, and an Opinion of Counsel to the effect that such Supplemental Loan Agreement will, upon execution and delivery thereof, be valid and binding upon the Corporation in accordance with its terms. The Bond Trustee may, but shall not be obligated to, consent to any such Supplemental Loan Agreement which affects the Bond Trustee's own rights, duties or immunities under this Loan Agreement or otherwise.

Section 7.4. Effect of Supplemental Loan Agreements. Upon the execution of any Supplemental Loan Agreement under this Article, this Loan Agreement shall be modified in accordance therewith and such Supplemental Loan Agreement shall form a part of this Loan Agreement for all purposes; and the Corporation, the County, the Bond Trustee and every owner of Bonds theretofore or thereafter authenticated and delivered under the Bond Indenture shall be bound thereby.

Section 7.5. Reference in Bonds to Supplemental Loan Agreements. Bonds authenticated and delivered after the execution of any Supplemental Loan Agreement pursuant to this Article may, and if required by the Bond Trustee shall, bear a notation in form approved by the Bond Trustee as to any matter provided for in such Supplemental Loan Agreement. If the County shall so determine, new Bonds so modified as to conform, in the opinion of the Bond Trustee and the County, to any such Supplemental Loan Agreement may be prepared and executed by the County and authenticated and delivered by the Bond Trustee in exchange for Outstanding Bonds.

ARTICLE VIII TERM AND TERMINATION OF LOAN AGREEMENT

Section 8.1. Term of Loan Agreement. This Loan Agreement shall be effective concurrently with the initial issuance and delivery of the Bonds and shall continue in force and effect until the principal of and interest on all of the Bonds have been fully paid (or provision for their payment shall

have been made in accordance with **Article X** of the Bond Indenture) together with all sums to which the County and the Bond Trustee are entitled from the Corporation under this Loan Agreement; provided, however, the provisions of **Sections 4.4(e)** and **5.4** related to indemnification of the County and the Bond Trustee and **Sections 9.5** and **9.6** related to immunity and limitation of liability shall remain in full force and effect following the payment of the Bonds.

Section 8.2. Termination and Discharge of Loan Agreement. If the Corporation shall pay and discharge or provide for the payment or redemption and discharge of the whole amount of the principal of and interest on the Bonds at the time Outstanding as provided in the Bond Indenture, and shall pay or cause to be paid all other sums payable under this Loan Agreement, then all right, title and interest of the County and the Bond Trustee under this Loan Agreement shall thereupon cease, terminate and become void (except as provided in **Section 8.1** hereof), and this Loan Agreement, and the covenants of the Corporation contained in this Loan Agreement, shall be discharged and the County and the Bond Trustee shall execute and deliver to the Corporation a proper instrument or proper instruments acknowledging the satisfaction and termination of this Loan Agreement, and shall assign and transfer or cause to be assigned or transferred, and shall deliver or cause to be delivered to the Corporation, all property, including money, then held by the County or the Bond Trustee with respect to the Bonds other than moneys deposited with the Bond Trustee for the payment of the principal of or interest on the Bonds. Notwithstanding the foregoing, the provisions of **Sections 9.5** and **9.6** hereof shall remain in full force and effect following the termination of this Loan Agreement and the termination and discharge of the Bond Indenture.

ARTICLE IX MISCELLANEOUS PROVISIONS

Section 9.1. Covenants under Transaction Documents. The Corporation shall deliver to the County and the Bond Trustee all notices, reports, opinions and other documents and information required by the Bond Indenture to be submitted to the County and the Bond Trustee at the times required by the Bond Indenture and all other Transaction Documents, and shall perform or cause to be performed all covenants and agreements required on the part of the Corporation contained in this Loan Agreement, the Bond Indenture and any other Transaction Documents. This Loan Agreement, all supplements to this Loan Agreement and all other Transaction Documents shall be delivered to and held by the Bond Trustee.

Section 9.2. Further Assurances. The Corporation will do, execute, acknowledge and deliver such further acts, instruments, financing statements and assurances as the Bond Trustee may reasonably require for accomplishing the purposes of the Bond Indenture and this Loan Agreement.

Section 9.3. Payments Due on Saturdays, Sundays and Holidays. If the day for any payment due or the taking of any action under this Loan Agreement is not a Business Day, then such payment may be made or action taken on the next succeeding Business Day without additional interest and with the same force and effect as if made on the specified date for payment.

Section 9.4. Notices. It shall be sufficient service of any notice, request, complaint, demand or other paper required by this Loan Agreement to be given to or filed with the County, the Bond Trustee, the Corporation or the owners of the Bonds if the same is given or filed in the manner and at the addresses specified in the Bond Indenture.

Section 9.5. Immunity of Officers, Employees and Members of the County and the Corporation. No recourse shall be had for the payment of the principal of or premium or interest on the Loan or for any claim based thereon or upon any representation, obligation, covenant or agreement in this

Loan Agreement contained against any past, present or future officer, member, director, employee or agent of the County or the Corporation, or, respectively, of any successor public or private corporation thereto, as such, either directly or through the County, the Corporation, or respectively, any successor public or private corporation thereto, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, members, directors, employees or agents as such is hereby expressly waived and released as a condition of and consideration for the execution of this Loan Agreement and the making of the Loan. The provisions of this Section shall remain in full force and effect following the termination of this Loan Agreement.

Section 9.6. Limitation of County's Liability. No agreements or provisions contained herein nor any agreement, covenant or undertaking of the County contained in any Transaction Document executed by the County in connection with the issuance, sale and delivery of the Bonds shall give rise to any pecuniary liability of the County or a general obligation of or a charge against its general credit or shall obligate the County financially in any way, except with respect to the funds available hereunder or under the Bond Indenture and pledged to the payment of the Bonds, and their application as provided under the Bond Indenture. The County's taxing power is not pledged for payment of the Bonds. No failure of the County to comply with any term, covenant or agreement herein or in any Transaction Document executed by the County in connection with the Bonds shall subject the County to any pecuniary charge or liability except to the extent that the same can be paid or recovered from the funds available hereunder or under the Bond Indenture and pledged to the payment of the Bonds. Nothing herein shall preclude a proper party in interest from seeking and obtaining, to the extent permitted by law, specific performance against the County for any failure to comply with any term, condition, covenant or agreement herein or in the Bond Indenture; provided, that no costs, expenses or other monetary relief shall be recoverable from the County except as may be payable from the funds available hereunder or under the Bond Indenture and pledged to the payment of the Bonds. The provisions of this Section shall remain in full force and effect following the termination of this Loan Agreement.

Notwithstanding any other provision of this Loan Agreement or any other Transaction Document, (a) the County shall not be required to take action under this Loan Agreement unless the County (i) is requested in writing by an appropriate Person to take such action and (ii) is assured of payment of or reimbursement for any expense incurred in taking such action, and (b) except with respect to any action for specific performance or any action in the nature of a prohibitory or mandatory injunction, neither the County nor any official, officer, member, director, agent, employee or servant of the County shall be liable to the Corporation, the Bond Trustee or any other Person for any action taken by the County or by its officials, officers, members, directors, agents, employees or servants, or for any failure to take action under this Loan Agreement or the Bond Indenture. In acting under this Loan Agreement, or in refraining from acting under this Loan Agreement, the County may conclusively rely on the advice of its counsel.

Section 9.7. No Violations of Law. Any other term or provision in this Loan Agreement to the contrary notwithstanding:

- (a) in no event shall this Loan Agreement be construed as:
 - (1) depriving the County of any right or privilege; or
 - (2) requiring the County or any member, agent, employee, representative or advisor of the County to take or omit to take, or to permit or suffer the taking of, any action by itself or by anyone else,

which deprivation or requirement would violate, or result in the County's being in violation of the Act or any other applicable state or federal law; and

(b) at no time and in no event will the Corporation permit, suffer or allow any of the proceeds of the Loan to be transferred to any Person in violation of, or to be used in any manner which is prohibited by, the Act or any other state or federal law.

Section 9.8. Benefit of Loan Agreement. This Loan Agreement shall inure to the benefit of the County, the Corporation and the Bond Trustee and their respective successors and assigns and shall be binding upon the County and the Corporation and their respective successors and assigns. Nothing in this Loan Agreement or in the Bond Indenture or the Bonds, express or implied, shall give to any Person, other than the County, the Corporation and the Bond Trustee and their successors and assigns, any benefit or any legal or equitable right, remedy or claim under this Loan Agreement.

Section 9.9. Severability. If any provision in this Loan Agreement, the Bond Indenture or the Bonds shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 9.10. Electronic Transactions. The parties agree that the transaction described herein may be conducted and related documents may be signed, sent, received and stored electronically. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 9.11. Counterparts. This Loan Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 9.12. Governing Law. This Loan Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska.

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IN WITNESS WHEREOF, the County and the Corporation have caused this Loan Agreement to be executed by their duly authorized officers, as of the day and year first above written.

THE COUNTY OF LANCASTER, IN THE STATE OF NEBRASKA

By: _____

Name: Sean Flowerday

Title: Chair

TABITHA, INC.

By: _____
Name:
Title:

**SCHEDULE D
to Loan Agreement**

DEFINITIONS

In addition to the capitalized words and terms defined in Section 101 of the Bond Indenture, the following capitalized words and terms have the following meanings for purposes of this Loan Agreement.

“Balloon Indebtedness” means Long-Term Indebtedness, 25% or more of the original principal of which becomes due and payable (either by maturity or scheduled mandatory redemption) or may become due and payable or required to be purchased or redeemed upon demand of the holder, during the same fiscal year, if such principal becoming due is not required to be amortized below such percentage by scheduled mandatory redemption or prepayment prior to such fiscal year.

“Commitment Indebtedness” means the obligation of the Corporation to repay amounts disbursed pursuant to a binding commitment from a financial institution (including a line of credit, letter of credit, standby bond purchase agreement, reimbursement agreement or similar credit or liquidity facility or arrangement established in connection with the issuance or incurrence of any Indebtedness of the Corporation) to refinance, pay, purchase or redeem when due, tendered or required to be paid, purchased or redeemed, other Indebtedness of the Corporation, which other Indebtedness was incurred in accordance with this Loan Agreement, and the obligation of the Corporation to pay interest payable on amounts disbursed for such purposes, plus any fees payable to such financial institution for such commitment.

“Completion Indebtedness” means Long-Term Indebtedness incurred for the purpose of financing, without materially changing the scope thereof, (a) the completion of facilities for which Long-Term Indebtedness was previously incurred under this Loan Agreement, or (b) the improvement, replacement or substitutions for, or additions to, facilities for which Long-Term Indebtedness was previously incurred, necessitated by faulty design, damage to or destruction of such facilities, or required by enactment of legislation or the promulgation of any ruling affecting the operation of the Corporation by a government agency.

“Consultant” means a professional consulting firm, certified public accounting firm, investment banking firm, or other Person, selected by the Corporation, having the skill and experience necessary to render the particular report required by this Loan Agreement and having a favorable reputation for such skill and experience, which Person shall have no interest, direct or indirect, in the Corporation and shall not have a partner, member, director, officer or employee who is a partner, member, director, officer or employee of the Corporation, it being understood that an arm’s-length contract between such firm and the Corporation for the performance of consulting, accounting, investment banking or financial analysis or other services is not regarded as creating an interest in or an employee relationship with such entity.

“Credit Facility” means any insurance policy, surety bond, letter of credit, line of credit, standby bond purchase agreement, or other form of credit enhancement issued by a bank, trust company, national banking association, insurance company or other credit provider in favor of the owners of such Indebtedness for the purpose of providing a source of funds for the payment of all or a portion of the Corporation’s obligations under the related Indebtedness.

“Days Cash on Hand” means the amount determined by dividing (1) the aggregate unrestricted cash and liquid investment balances of the Corporation and the Guarantor as of a particular date (including liquid board-designated funds) by (2) the quotient derived by dividing (a) the Corporation’s and the Guarantor’s total operating expenses (less depreciation and amortization and other non-cash

items, including, without limitation, losses on refinancing of debt, non-cash termination value of any hedging derivative, interest rate exchange or similar contract, non-cash pension expense, other non-cash expenses, and any one-time charges in connection with development projects that have been abandoned by the Corporation) for the most recent preceding fiscal year for which audited financial statements are available, by (b) the number of days in such fiscal year.

“Debt Service Coverage Ratio” means, for any historical period of time, the ratio determined by dividing (a) a numerator equal to the Net Income Available for Debt Service for that period by (b) a denominator equal to the Maximum Annual Debt Service for such period.

“Debt Service Requirements” means, for any period of time for which calculated, the aggregate of the payments required to be made during such period in respect of principal (whether at maturity, as a result of scheduled mandatory redemption, scheduled mandatory prepayment or otherwise) and interest on Long-Term Indebtedness of each Person or a group of Persons with respect to which calculated; provided that:

- (a) the amount of such payments for a future period are calculated in accordance with the assumptions contained in **Section FC-3**;
- (b) such payments (or portions thereof) are excluded from Debt Service Requirements to the extent that cash or Defeasance Obligations are on deposit in an irrevocable escrow or trust account and such amounts (including, where appropriate, the earnings or other increment to accrue thereon) are required to be applied to pay such principal or interest (or portions thereof) and are sufficient to pay such principal or interest (or portions thereof), or as may otherwise be excluded pursuant to (a) of the definition of Indebtedness herein;
- (c) such payments are excluded from Debt Service Requirements to the extent such principal or interest was paid or is to be paid from the proceeds of the applicable Indebtedness, any Refunding Indebtedness or any other Long-Term Indebtedness (e.g., accrued and capitalized interest); and
- (d) such payments are excluded from Debt Service Requirements to the extent such principal or interest was paid or is to be paid from the proceeds of Subordinated Indebtedness or Non-Recourse Indebtedness.

“Encumbered Property” has the meaning set forth in the Security Documents.

“Encumbrance” means any mortgage, pledge or lease of, security interest in or lien, charge, restriction or encumbrance.

“Existing Indebtedness” means the Indebtedness of the Corporation listed in the Corporation’s audited financial statements for the 2019 fiscal year, excluding the Refunded Obligations and Indebtedness that has been fully repaid since December 31, 2019.

“Expenses” means, for any period of time for which calculated, the total of all operating and non-operating expenses or losses incurred during such period by the Corporation, determined in accordance with GAAP, other than (a) interest expense included in Debt Service Requirements, (b) depreciation and amortization, (c) unrealized losses on investments, investment contracts or interest rate swaps and hedge agreements, or changes in value of split interest gifts or adjustments of actuarial liabilities for annuity obligations, (d) losses resulting from the early extinguishment of debt, costs

associated with the issuance of Long-Term Indebtedness, termination of interest rate swaps and hedge agreements, termination of pension plans, the sale or other disposition of assets not in the ordinary course of business or any reappraisal, revaluation or write-down of assets other than bad debts, and any other extraordinary, unusual, or non-recurring losses or expenses, and (e) other expenses not requiring the payment of cash in any period. "Expenses" shall not include any amounts attributable to operations of affiliates of the Corporation with operations that do not comprise part of the Encumbered Property including, in particular, amounts attributable to the operations of [Tabitha Village, Inc., Tabitha Grand Island, Inc., or] Tabitha ALF Real Estate Holding, Inc. At the option of the Corporation, when computing Expenses, net realized losses from the sale of investments may be included on the basis of the average annual amount of realized gains and losses for the three fiscal years preceding the computation date in lieu of the actual amount of net realized losses from the sale of investments for the fiscal year for which the computation is being made.

"Guaranty" means any obligation of the Corporation guaranteeing, directly or indirectly, (i) any obligation of any other Person other than the Corporation, which obligation would, if such other Person were the Corporation, constitute Long-Term Indebtedness. A Guaranty may be evidenced or secured by an instrument secured as a Parity Obligation.

"Indebtedness" means all indebtedness or obligations of the Corporation for the repayment of borrowed money (including Lease Indebtedness, installment purchase contracts and any Guaranty of indebtedness) shown as liabilities on the balance sheet of the Corporation or that are properly capitalized on the balance sheet of the Corporation in accordance with GAAP; provided that Indebtedness shall not include:

- (a) any portion of any Indebtedness or any Bonds for which cash or Defeasance Obligations are irrevocably on deposit in an escrow or trust account with the Bond Trustee or a third party escrow agent, which cash and Defeasance Obligations (including, where appropriate, the earnings or other increments to accrue thereon) are required to be used to pay the principal of such Indebtedness or Bonds;
- (b) liabilities incurred by the endorsement for collection or deposit of checks or drafts received in the ordinary course of business or overdrafts to banks to the extent there are immediately available funds sufficient to pay such overdrafts and such overdrafts are incurred and corrected in the normal course of business;
- (c) accounts payable and similar liabilities (other than for the repayment of borrowed money) incurred in the ordinary course of business;
- (d) liabilities payable out of current payments for the funding of employee pension plans, retiree benefits other than pensions, health plans and other benefit programs, contributions to self-insurance or pooled-risk insurance programs and estimated long-term self-insurance liability, and the funding of reserves for deferred taxes, deferred revenues, deferred compensation, and similar such liabilities;
- (e) obligations under contracts for supplies, services or pensions allocated to the current operating expenses of future years in which the supplies are to be furnished, the services rendered or the pensions paid;
- (f) Indebtedness of any entity that is not the Corporation (even though such entity may be a subsidiary of or controlled by or under common control with the Corporation) except to

the extent of any Guaranty by the Corporation of such Indebtedness or to the extent the Indebtedness is secured by real estate constituting part of the Encumbered Property;

- (g) any obligations under any interest rate swap or hedge agreement or any instrument issued to evidence and secure the obligations thereunder;
- (h) any other obligations that do not constitute indebtedness under GAAP; and
- (i) any indebtedness, leases, guarantees or other obligations to the extent excluded from the calculation of Debt Service Requirements under this Loan Agreement, and Indebtedness shall not include any leases of real property.

“Index Rate” means the 30-year Revenue Bond Index published most recently by *The Bond Buyer*, or a comparable index if such Revenue Bond Index is not so published, such other index as set forth and deemed reasonable in a report of a Consultant in writing to the Corporation.

“Lease Indebtedness” means a lease with a term greater than one year that is recognized as a lease liability on the balance sheet or statement of financial position of the lessee under GAAP; provided, Lease Indebtedness shall not include any leases of real property.

“Long-Term Indebtedness” means (a) Indebtedness having an original stated maturity or term greater than one year, or (b) Indebtedness having an original stated maturity or term equal to or less than one year that is renewable or extendable at the option of the debtor for a period greater than one year from the date of original issuance or incurrence thereof, or with respect to which the Corporation has incurred Commitment Indebtedness that would refinance such Indebtedness for a period extending beyond one year from the date of original issuance or incurrence thereof.

“Maximum Annual Debt Service” means the maximum amount of Debt Service Requirements for Long-Term Indebtedness as computed for the then current or any succeeding fiscal year; provided that Debt Service Requirements may be computed by the Corporation in accordance with **Section FC-3** hereof.

“Net Income Available for Debt Service” means, for any period of calculation, the excess of Revenues over Expenses.

“Non-Recourse Indebtedness” means Long-Term Indebtedness secured by a mortgage, lien or security interest in Property, the liability for which is limited to the Property subject to such encumbrance, with no other recourse, directly or indirectly, to the Encumbered Property.

“Permitted Encumbrances” means, with respect to the Encumbered Property as of any particular time, the following:

- (a) the lien and security interest of the Bond Indenture on the Trust Estate or of this Loan Agreement in Gross Revenues, the lien and security interest of the Encumbered Property and any other liens or security interests in Property that secure all Bonds and Parity Obligations on a parity basis;
- (b) liens for taxes, assessments, and other governmental charges not delinquent, or if delinquent that are being contested in good faith by appropriate proceedings and as to which a Person shall have set aside on its books adequate reserves with respect thereto;

- (c) mechanic's, laborer's, materialman's, supplier's or vendor's liens not filed of record and similar charges not delinquent, or if filed of record are being contested in good faith and have not proceeded to judgment and as to which a Person shall have set aside on its books adequate reserves with respect thereto;
- (d) liens in respect of judgments or awards with respect to which the Corporation is in good faith currently prosecuting an appeal or proceedings for review, and with respect to which the Corporation shall have secured a stay of execution pending such appeal or proceedings for review, provided the Corporation shall have set aside on its books adequate reserves with respect thereto;
- (e) utility, access and other easements and rights-of-way, restrictions, encumbrances and exceptions that do not materially affect the marketability of title to such Encumbered Property and do not in the aggregate materially impair the use of such Encumbered Property for the purposes for which it is held by the Corporation;
- (f) such minor defects and irregularities of title as normally exist with respect to property similar in character to the Encumbered Property affected thereby and that do not materially affect the marketability of title to or value of such Encumbered Property and do not materially impair the use of such Encumbered Property for the purposes for which it is held by the Corporation;
- (g) zoning laws, ordinances or regulations and similar restrictions that are not violated by the Encumbered Property affected thereby;
- (h) statutory rights under Section 291, Title 42 of the United States Code, as a result of what are commonly known as Hill-Burton grants, and similar rights under other federal or state statutes;
- (i) statutory liens and rights of setoff granted to banks or other financial institutions with respect to funds on deposit in the ordinary course of business;
- (j) all right, title and interest of the state, municipalities and the public in and to tunnels, bridges and passageways over, under or upon the Encumbered Property;
- (k) rights reserved to, or vested in, any municipality or governmental or other public authority by virtue of any franchise, license, contract or statute to control or regulate any Encumbered Property, or to use such Encumbered Property in any manner, or to purchase, or designate a purchaser of or order the sale of, any Encumbered Property of the Corporation upon payment of cash or reasonable compensation therefor, or to terminate any franchise, license or other rights;
- (l) liens on moneys deposited by patients or others with Corporation as security for or as prepayment of the cost of patient care, liens due to rights of third party payors for recoupment of excess reimbursement paid to the Corporation, and liens of residents of life care, elderly housing or similar facilities or endowment or other funds deposited by or on behalf of such residents;
- (m) liens arising by reason of (1) good faith deposits with the Corporation in connection with tenders, leases of real estate, bids or contracts (other than contracts for the payment of money), (2) deposits by the Corporation to secure public or statutory obligations, or to

secure, or in lieu of, surety, stay or appeal bonds, (3) deposits as security for the payment of taxes or assessments or other similar charges, and (4) deposits with, or the giving of any form of security to, any municipality or governmental or other public authority for any purpose at any time as required by law or governmental regulation as a condition to the transaction of any business or the exercise of any privilege or license, or to enable the Corporation to maintain self-insurance or to participate in any funds established to cover any insurance risks or in connection with worker's compensation, unemployment insurance, pensions or profit sharing plans or other social security plans or programs, or to share in the privileges or benefits required for corporations participating in such arrangements;

- (n) restrictions on Encumbered Property received by the Corporation through gifts, grants, bequests, contributions or donations imposed by the donor or grantor of such Encumbered Property and that consist solely of restrictions on the use of such Encumbered Property or the income therefrom;
- (o) liens on and security interests in the proceeds of Indebtedness prior to the application of such proceeds or any debt service fund, reserve fund, escrow fund or similar fund established to secure the payment of Indebtedness;
- (q) leases, under which the Corporation is lessor or sublessor, that relate to Encumbered Property that is of a type that is customarily the subject of such leases including leases of office space for physicians and health or educational institutions, food service facilities, parking facilities, day care centers, gift shops, barber shops, beauty shops, flower shops, radiology, pathology or other hospital-based specialty services, and pharmacy and similar departments; and any other leases entered into in accordance with the disposition of Encumbered Property provisions of this Loan Agreement;
- (r) purchase money mortgages, security interests, and liens securing Purchase Money Indebtedness placed upon Property in order to obtain the use of such Property or to secure a portion of the purchase price thereof;
- (s) liens on the Corporation's accounts receivable arising as a result of a pledge or sale of such accounts receivable with or without recourse, provided that the principal amount of Indebtedness secured by any such lien does not (i) exceed the book value of such accounts receivable (net of delinquent or uncollected accounts, contractual adjustments or discounts, and other allowances), or (ii) with respect to the sale of accounts receivable, exceed the aggregate sales price of such accounts receivable;
- (t) liens on unimproved real property and any other lien or encumbrance created or incurred in the ordinary course of business that does not secure, directly or indirectly, the repayment of borrowed money or the payment of installment sales contracts or leases and that, individually or in the aggregate, does not materially impair the value or the utility of the Encumbered Property subject to such lien or encumbrance; and
- (u) any other liens on Encumbered Property expressly permitted by this Loan Agreement or approved in writing by the owners of a majority in Outstanding principal amount of Bonds and Parity Obligations.

“Property” means with respect to any Person any and all rights, titles and interests of such Person in and to all land, leasehold interests, buildings, fixtures and equipment and any and all other

property, whether real or personal, tangible (including cash) or intangible, wherever situated and whether now owned or hereafter acquired.

“Purchase Money Indebtedness” means Indebtedness incurred by the Corporation pursuant to a purchase money contract, conditional sale agreement, installment purchase contract, lease or other similar debt or title retention agreement in connection with the acquisition of real or personal property and secured by a purchase money mortgage, security interest or lien with respect to the property acquired by the Corporation, to the extent the lien of the seller or lender under such agreement is limited to such property.

“Refunding Indebtedness” means Long-Term Indebtedness issued for the purpose of refunding other Long-Term Indebtedness (including Long-Term Indebtedness commonly referred to as current refunding indebtedness, advance refunding indebtedness or cross-over refunding indebtedness where the proceeds of such Refunding Indebtedness are deposited in an irrevocable escrow or trust account to secure the payment on the applicable payment dates of the interest on and principal of such Refunding Indebtedness and/or the Indebtedness being refunded).

“Revenues” means, for any period of time for which calculated, the total of all operating and non-operating revenues or gains during such period of the Corporation, determined in accordance with GAAP, including (a) gross patient and resident service revenues less contractual allowances, free care and discounted care, plus (b) other operating revenues less applicable allowances such as sale discounts and sale returns, plus (c) non-operating revenues or gains, plus (d) gifts, grants, bequests and donations actually received during that period of time not otherwise included in Revenues if not required to be excluded from Revenues by the remainder of this definition, including formerly restricted gifts, grants and bequests whose restrictions have expired during the period; provided that no determination thereof shall take into account (i) unrealized gains on investments, investment contracts or interest rate swap or hedge agreements, or changes in value of split interest gifts or adjustments of actuarial liabilities for annuity obligations, (ii) gifts, grants, bequests or donations specifically restricted as to use by the donor or grantor for a purpose inconsistent with the payment of debt service or operating expenses of the Corporation, (iii) gifts, grants, bequests or donations pledged but not actually received during that period of time, (iv) other non-cash income, (v) income derived from Defeasance Obligations that are irrevocably deposited in escrow to pay the principal of or interest on Indebtedness, (vi) gains resulting from the early extinguishment of debt, the sale, exchange or other disposition of Property not in the ordinary course of business, or the reappraisal, reevaluation or write-up of assets, (vii) insurance (other than business interruption) and condemnation proceeds, (viii) proceeds of borrowing or (ix) amounts attributable to operations of affiliates of the Corporation with operations that do not comprise part of the Encumbered Property including, in particular, amounts attributable to the operations of [Tabitha Village, Inc., Tabitha Grand Island, Inc., or] Tabitha ALF Real Estate Holding, Inc. For purposes of any calculation made with reference to both Revenues and Expenses, any deduction or reduction from revenues otherwise required by the preceding provisions of this definition may not be made if and to the extent that the amount of such deduction is included in Expenses. At the option of the Corporation, when computing Revenue, net realized gains from the sale of investments may be included on the basis of the average annual amount of those gains and losses for the three fiscal years preceding the computation date in lieu of the actual amount of net realized gains from the sale of investments for the fiscal year for which the computation is being made. In addition, at the option of the Corporation, the Corporation may include inter-company transfers of funds from its affiliates in the definition of Revenues.

“Short-Term Indebtedness” means Indebtedness having an original maturity less than or equal to one year from the date of original incurrence thereof, and not renewable at the option of the debtor for a term greater than one year beyond the date of original incurrence.

“Subordinated Indebtedness” means Indebtedness of the Corporation that by the terms thereof is specifically junior and subordinate to the Bonds and the Parity Obligations with respect to payment of principal and interest thereon and the liens securing the Bonds and the Parity Obligations.

“Variable Rate Indebtedness” means all or such portion of Indebtedness the terms of which provide that interest thereon for the future period of time with respect to which debt service is being calculated is expressed to be calculated at a varying rate in accordance with procedures specified in the instrument creating such Indebtedness that not susceptible of precise determination as of the date of calculation.

**SCHEDULE FC
to Loan Agreement**

FINANCIAL COVENANTS AND CALCULATIONS

Section FC-1. Debt Service Coverage Ratio.

- (a) If the Debt Service Coverage Ratio of the Corporation for any fiscal year, as calculated at the end of such fiscal year, is less than **1.20**, the Corporation shall retain a Consultant to make recommendations with respect to the rates, fees and charges of the Corporation's methods of operation and other factors affecting its financial condition in order to increase the Debt Service Coverage Ratio for subsequent fiscal years to at least **1.20**, subject to **Subsection (b)**. A copy of the report (or summary thereof) of such Consultant and recommendations, if any, shall be filed with the Corporation and the Bond Trustee. The Corporation shall follow each recommendation of the Consultant to the extent feasible (as determined by the board of directors of the Corporation) and permitted by law. This Section shall not be construed to prohibit the Corporation from serving indigent patients to the extent required for the Corporation to continue its qualification as a Tax-Exempt Organization or from serving any other class or classes of patients without charge or at reduced rates so long as such service does not prevent the Corporation from satisfying the other requirements of this Section. The Corporation shall not be required to cause the Consultant's report referred to in this **Subsection (a)** to be prepared more frequently than once every two fiscal years.
- (b) The foregoing provisions notwithstanding, if the Debt Service Coverage Ratio of the Corporation, as calculated at the end of any fiscal year, is less than **1.20**, the Corporation shall not be required to retain a Consultant to make recommendations pursuant to **Subsection (a)** if both (i) the Debt Service Coverage Ratio for such fiscal year was at least **1.00**, and (ii) Days Cash on Hand as of the end of such fiscal year was at least **60**.
- (c) Failure of the Corporation to achieve a Debt Service Coverage Ratio of at least **1.00** for any one fiscal year shall constitute an Event of Default under this Loan Agreement only if Days Cash on Hand as of the end of such fiscal year was less than **60**; provided however, failure to achieve a Debt Service Coverage Ratio of at least **1.00** for any two consecutive fiscal years shall constitute an Event of Default under this Loan Agreement.
- (d) Notwithstanding the foregoing or any other provision of this Loan Agreement to the contrary, failure of the Corporation to achieve a Debt Service Coverage Ratio of at least **1.00** for any fiscal year shall not constitute an Event of Default under this Loan Agreement if the Corporation certifies in writing to the Bond Trustee that the failure to achieve the Debt Service Coverage Ratio of at least **1.00** was a result of Force Majeure (as defined in **Section 6.1** of this Loan Agreement) having occurred in such fiscal year or the immediately preceding fiscal year.

Section FC-2. Liquidity Covenant – Days Cash on Hand.

- (a) The Corporation shall cause to be maintained at least **30** Days Cash on Hand as of the end of the fiscal years ending 2020 and 2021. Beginning with the fiscal year ending 2022, if the Days Cash on Hand as of the end of any fiscal year is less than **45**, the Corporation shall retain a Consultant to make recommendations with respect to the rates, fees and charges of the Corporation's methods of operation and other factors affecting its

financial condition in order to increase the Days Cash on Hand for subsequent fiscal years to at least **45**. A copy of the report (or summary thereof) of such Consultant and recommendations, if any, shall be filed with the Corporation and the Bond Trustee. The Corporation shall follow each recommendation of the Consultant to the extent feasible (as determined by the board of directors of the Corporation) and permitted by law. This Section shall not be construed to prohibit the Corporation from serving indigent patients to the extent required for the Corporation to continue its qualification as a Tax-Exempt Organization or from serving any other class or classes of patients without charge or at reduced rates so long as such service does not prevent the Corporation from satisfying the other requirements of this Section. The Corporation shall not be required to cause the Consultant's report referred to in this **Subsection (a)** to be prepared more frequently than once every two fiscal years.

- (b) Failure to achieve Days Cash on Hand of at least **45** for any fiscal year ending 2022 or thereafter shall not constitute an Event of Default under this Loan Agreement if the Corporation engages and follows the recommendations of the Consultant as provided in **Subsection (a)**.

Section FC-3. Calculation of Debt Service Requirements. For purposes of the various calculations under this Loan Agreement, the amount of Long-Term Indebtedness of the Corporation, the amortization schedule of such Indebtedness and the Debt Service Requirements with respect to such Indebtedness, the principal of and interest payable on such Indebtedness shall be deemed due and payable on the stated due dates thereof (i.e., scheduled principal and interest payment dates to the scheduled maturity date without regard to any put, tender or similar optional or mandatory purchase feature); provided however, at the election of the Corporation, the foregoing may be calculated as follows:

- (a) *Balloon Indebtedness.* The Debt Service Requirements on Balloon Indebtedness may be deemed to be payable as follows:
 - (1) If the Corporation has incurred and there is in effect at the time any such Indebtedness is incurred Commitment Indebtedness to provide refinancing sufficient to pay the principal amount of any such Balloon Indebtedness becoming due in each fiscal year in which **25%** or more of the original principal amount of such Balloon Indebtedness comes due, such Indebtedness may be deemed to be payable in accordance with the terms of such Commitment Indebtedness; or
 - (2) If the Corporation Representative delivers a certificate to the Bond Trustee that establishes an amortization schedule for any such Indebtedness, which provides for payments of principal and interest for each fiscal year that are sufficient to make any actual payments required to be made in such fiscal year by the terms of such Indebtedness; and the Corporation agrees in such certificate that the Corporation will deposit for each fiscal year with a bank or trust company (pursuant to an agreement between the Corporation and such bank or trust company) the amount of principal shown on such amortization schedule net of any amount of principal actually paid on such Indebtedness during such fiscal year (other than from amounts on deposit with such bank or trust company), which deposit shall be made prior to any such required actual payment during such fiscal year if the amounts so on deposit are intended to be the source of such actual payments, then such Indebtedness may be deemed to be payable in accordance with the terms of such amortization schedule and agreement; or

- (3) Balloon Indebtedness may be deemed to be Long-Term Indebtedness payable on a level annual debt service basis over **30** years (or such lesser period determined by the Corporation) from the date of issuance or incurrence of such Balloon Indebtedness, bearing interest on the unpaid principal balance at the Index Rate.
- (b) *Capital Appreciation Indebtedness.* The principal amount of Indebtedness that constitutes “**capital appreciation indebtedness**” (defined below) shall be deemed to be the “**accreted value**” (defined below) thereof as of the relevant date. “**Capital appreciation indebtedness**” means any Long-Term Indebtedness for which interest is payable only at the maturity of such Indebtedness, upon the prepayment or redemption of such Indebtedness before maturity, or upon the conversion of such Indebtedness to Indebtedness with interest payable periodically in installments prior to maturity. “**Accreted value**” means with respect to any capital appreciation indebtedness (a) as of any “**valuation date**” (defined below), the amount set forth in the instrument authorizing such Indebtedness as the value of such Indebtedness on such valuation date and (b) as of any date other than a valuation date the sum of (i) the accreted value on the next preceding valuation date and (ii) the product of (A) a fraction, the numerator of which is the number of days having elapsed from the preceding valuation date and the denominator of which is the number of days from such preceding valuation date to the next succeeding valuation date and (B) the difference between the accreted values for such valuation dates. “**Valuation date**” means with respect to any capital appreciation indebtedness the date or dates set forth in the instrument relating to such Indebtedness on which specific accreted values are assigned to the capital appreciation indebtedness.
- (c) *Lease Indebtedness.* The principal amount of Indebtedness in the form of Lease Indebtedness shall be deemed to be the aggregate present value amount, as of the date of determination, due and to become due under such Lease Indebtedness that would be recognized as a lease liability on the balance sheet or statement of financial position of the lessee under GAAP, and the Debt Service Requirements on a Lease Indebtedness for the period of time for which calculated shall be deemed to be the aggregate present value amount of such lease liability to be payable under such Lease Indebtedness during such period. Notwithstanding the foregoing, at the option of the Corporation, for purposes of this Loan Agreement and the calculations hereunder: (i) the principal amount of Indebtedness of any Lease Indebtedness and the principal portion of the Debt Service Requirements for such Lease Indebtedness may be limited to the principal portion of the related lease liability, (ii) the interest portion of the Debt Service Requirements for such Lease Indebtedness may be limited to the interest portion of the related lease liability, (iii) any lease constituting an operating lease under GAAP, or any lease that otherwise would not constitute a finance lease under GAAP, may be excluded from Lease Indebtedness, Indebtedness and Debt Service Requirements, (iv) Lease Indebtedness in an aggregate Outstanding principal amount not greater than **5%** of the Revenues of the System, for the most recent fiscal year for which audited financial statements are available, may be excluded from Lease Indebtedness, Indebtedness and Debt Service Requirements, (v) all or any portion of a lease to the extent such lessee’s liability for which has been prepaid or subleased, assigned or otherwise assumed by a Person other than such lessee may be excluded from Lease Indebtedness, Indebtedness and Debt Service Requirements, (vi) any extension options which have not yet been exercised by the Corporation may be disregarded, and (vii) any changes to GAAP for leases may be disregarded, and any relief under GAAP relating to implementation of changes to GAAP for leases may be applied under this Loan Agreement to all or any portion of any lease

regardless of whether such election has been or will be made in connection with audited financial statements.

- (d) *Commitment Indebtedness.* No debt service shall be deemed payable with respect to Commitment Indebtedness until such time as the obligation to make payments under the commitment actually rises (and only to the extent of advances actually made under such Commitment Indebtedness). From and after such funding, the amount of such debt service shall be calculated in accordance with the actual amount required to be repaid on such Commitment Indebtedness and the actual interest rate and amortization schedule applicable thereto. No new Indebtedness shall be deemed to arise when any funding occurs under any such commitment.
- (e) *Guaranties.* When calculating the principal and the Debt Service Requirements attributable to a Guaranty that is deemed to be Indebtedness of the Corporation:
- (1) The principal amount of such Indebtedness shall be deemed to equal that portion of the principal amount of the obligation guaranteed by the Corporation.
 - (2) The Debt Service Requirements on such Indebtedness shall be deemed to be:
 - (A) **0%** of the debt service requirements (calculated in the same manner as Debt Service Requirements of the Corporation) on the guaranteed obligation, if the Corporation has not been called upon to make a payment under the Guaranty within the 12 months immediately preceding the date of the calculation; or
 - (B) **100%** of the debt service requirements (calculated in the same manner as Debt Service Requirements of the Corporation) on the guaranteed obligation, (1) for purposes of the incurrence thereof, or (2) after incurrence thereof, if the Corporation has made any payment in respect of the debt service requirements on the guaranteed obligation within the 12 months immediately preceding the date of the calculation.
- If the amount payable under the Guaranty is limited, the Debt Service Requirements on such Indebtedness shall be based on that limited amount for purposes of the calculations above and shall not exceed that limit.
- (f) *Long-Term Indebtedness Supported by Commitment Indebtedness.* The Debt Service Requirements on Long-Term Indebtedness with respect to which the Corporation has incurred Commitment Indebtedness that would refinance such Indebtedness for a period extending beyond its original maturity date, may be deemed to be payable in accordance with the terms of such Commitment Indebtedness.
- (g) *Variable Rate Indebtedness.* In determining the Debt Service Requirements on any portion of Long-Term Indebtedness constituting Variable Rate Indebtedness in the course of the various calculations required under certain provisions of this Loan Agreement, interest on such portion of Indebtedness for the period of determination shall be computed by the Corporation (i) for any portion of Variable Rate Indebtedness that has a determinable fixed rate for any period, using such determinable fixed rate for such period (without regard to potential future rate adjustments based on conditions subsequent, e.g., taxable rates, default rates, and rating or corporate tax rate change based adjustments),

and (ii) for any portion of Variable Rate Indebtedness for which the rate is not determinable, at the election of the Corporation, using one of (a) the Index Rate, (b) the rate based on any formula or index for such future period provided in the instrument for such Indebtedness determined using then current market information as of the date of computation, (c) the rate then in effect for such Indebtedness as of the date of computation, or (d) the actual average rate effective for the Indebtedness for the most recent 12-month period.

- (h) *Interest Rate Agreements.* Any portion of any Indebtedness of the Corporation for which an interest rate swap or hedge agreement has been obtained by the Corporation may, at the option of the Corporation, be deemed to bear interest for the period of time that the interest rate swap or hedge agreement is in effect at a net rate that takes into account the interest payments made by the Corporation on that Indebtedness and the payments made or received by the Corporation on that agreement. Notwithstanding the foregoing, any termination, breakage or similar payment under an interest rate swap or hedge agreement shall not be included in Debt Service Requirements. In addition, so long as any Indebtedness is deemed to bear interest at a rate taking into account an interest rate swap or hedge agreement, any payments made by the Corporation on such agreement shall be excluded from Expenses and any payments received by the Corporation on such agreement shall be excluded from Revenues, in each case, for all purposes of this Loan Agreement.

- (i) *Permitted Debt Amortization.* The Debt Service Requirements for Long-Term Indebtedness and Guaranties for any period may, at the option of the Corporation, be computed as follows:
 - (A) In the case of any Long-Term Indebtedness, the amount of principal and interest payable during a fiscal year on such Long-Term Indebtedness on a historical basis may be determined assuming (1) that the principal balance of such Long-Term Indebtedness (after adjustment of Guaranties as provided in paragraph (C)) for such fiscal year was refinanced as the beginning of such fiscal year, (2) that such principal balance will be payable over a term of **30** years commencing as of the beginning of such fiscal year (or such lesser period selected by the Corporation), (3) that such principal balance bears interest at the Index Rate, and (4) the debt service on such Long-Term Indebtedness is payable in equal annual installments sufficient to pay both principal and interest over such term of **30** years;

 - (B) In the case of any Long-Term Indebtedness, the amount of principal and interest payable during each fiscal year on such Long-Term Indebtedness in periods after the date of determination may be projected assuming (1) that the principal balance of such Long-Term Indebtedness (after adjustment of Guaranties as provided in paragraph (C)) on the date of determination will be refinanced, (2) that such principal balance will be payable over a term of **30** years from the date of determination (or such lesser period selected by the Corporation), (3) that such principal balance will bear interest at the Index Rate, and (4) the debt service on such Long-Term Indebtedness will be payable in equal annual installments sufficient to pay both principal and interest over such term of **30** years; and

 - (C) In the case of any Guaranty, the principal of (and premium, if any) and interest and other debt service charges on the debt that is guaranteed for the period of

time for which Debt Service Requirements are calculated may be weighted in the calculation of Debt Service Requirements as provided in **Subsection (e)** hereof with respected to such Guaranty.

- (j) *Refunding Indebtedness.* Any portion of Long-Term Indebtedness for which Refunding Indebtedness or a commitment therefor (e.g., a forward purchase or delivery agreement) has been executed by the Corporation with a third-party financial institution or lender may, at the option of the Corporation, be included in the calculations of Debt Service Requirements and the other calculations hereunder in lieu of the Indebtedness or obligations to be refinanced or refunded even if such refunding or refinancing has not yet occurred, and thereafter the refunded indebtedness may, at the option of the Corporation, be excluded from such calculations.

**SCHEDULE I
to Loan Agreement**

INDEBTEDNESS INCURRENCE

Section I-1. Indebtedness Incurrence. The Corporation shall not incur Indebtedness other than Existing Indebtedness and the following Indebtedness:

- (a) *Long-Term Indebtedness.* The Corporation may incur Long-Term Indebtedness if prior to incurrence thereof or, if such Long-Term Indebtedness was incurred in accordance with another Subsection of this Section and the Corporation wishes to have such Indebtedness reclassified as having been issued under this **Subsection (a)**, prior to such reclassification, there is delivered to the Bond Trustee:
- (1) *Historical Pro Forma Debt Service Coverage Test:* A certificate of a Corporation Representative demonstrating that the Debt Service Coverage Ratio, on a pro forma basis after giving effect to the incurrence of such Indebtedness, for the most recent fiscal year for which audited consolidated financial statements of the Corporation are available was not less than **1.25**; or
- (2) *Historical and Projected Debt Service Coverage Test:* (A) A certificate of the Corporation Representative demonstrating that the Debt Service Coverage Ratio for the most recent fiscal year for which audited consolidated financial statements are available was not less than **1.25**; and (B) a written report of a Consultant to the effect that the projected Debt Service Coverage Ratio for each of the next two succeeding fiscal years or, if such Indebtedness is being incurred in connection with the financing of facilities, for each of the first two fiscal years succeeding the projected completion date of such facilities, is not projected to be less than **1.35**, provided that such report shall include forecasted balance sheets, statements of operations and statements of cash flow for each of such two fiscal years and a statement of the relevant assumptions upon which such forecasted statements are based.
- (b) *Commitment Indebtedness.* The Corporation may incur Commitment Indebtedness if the Indebtedness supported by such Commitment Indebtedness was incurred in accordance with one of the provisions of this Section.
- (c) *Completion Indebtedness.* The Corporation may incur Completion Indebtedness in a principal amount that (i) is not in excess of the amount required to provide completed and equipped facilities of substantially the same type and scope contemplated at the time Long-Term Indebtedness was originally incurred to finance those facilities, to provide for capitalized interest during the period of construction, to provide any reserve fund relating to such Completion Indebtedness and to pay the costs and expenses of issuing or incurring such Completion Indebtedness, if prior to the incurrence of the Completion Indebtedness there is delivered to the Bond Trustee a certificate of the Corporation Representative stating: (1) that at the time the original Long-Term Indebtedness for the facilities to be completed was incurred, the Corporation had reason to believe that the proceeds of such Indebtedness together with other moneys then expected to be available would provide sufficient moneys for the completion of such facilities; (2) the amount estimated to be needed to so complete the facilities; and (3) that the proceeds of such Completion Indebtedness to be applied to the completion of the facilities, together with a

reasonable estimate of investment income to be earned on such proceeds and available to pay such costs, the amount of moneys, if any, committed to such completion from available cash or marketable securities and reasonably estimated earnings thereon, enumerated bank loans (including letters or lines of credit) and any other moneys reasonably expected to be available, will be in an amount not less than the estimated amount needed to complete the facilities set forth in such certificate.

- (d) *Guaranties.* The Corporation may execute a Guaranty, if the conditions for the incurrence of Indebtedness set forth in this Section are satisfied where it is assumed that the obligation guaranteed by the Corporation is Indebtedness of the Corporation, and any calculation required by the applicable Subsection of this Section is made in accordance with the requirements and assumptions contained in **Section FC-3(e)** set forth on **Schedule FC** of this Loan Agreement.
- (e) *Indebtedness Assumed in Connection with Gifts.* The Corporation may incur Indebtedness assumed in connection with a gift, bequest or devise of Property, if the principal amount of such Indebtedness does not exceed the current value of the Corporation's interest in such Property.
- (f) *Indebtedness Incurred in Connection with Pledge or Sale of Accounts Receivable.* The Corporation may incur Indebtedness in connection with a pledge of accounts receivable by the Corporation, with or without recourse, or a sale of accounts receivable consisting of an obligation to repurchase all or a portion of such accounts receivable upon certain conditions, if the principal amount of such Indebtedness does not either (A) with respect to a pledge of accounts receivable, exceed the book value of such accounts receivable, or (B) with respect to a sale of accounts receivable, exceed the aggregate sale price of such accounts receivable received by the Corporation.
- (g) *Non-Recourse Indebtedness.* The Corporation may incur Non-Recourse Indebtedness without limit.
- (h) *Subordinated Indebtedness.* The Corporation may incur Subordinated Indebtedness without limit.
- (i) *Refunding Indebtedness.* The Corporation may incur Refunding Indebtedness for the purpose of refunding (whether in advance of maturity or otherwise) any Outstanding Long-Term Indebtedness, if the Corporation determines that such refunding is in the best interest of the Corporation.
- (j) *Purchase Money Indebtedness.* The Corporation may incur Purchase Money Indebtedness if, immediately after entering into such Purchase Money Indebtedness, the aggregate principal amount due on all Purchase Money Indebtedness Outstanding under this **Subsection (j)**, together with the Outstanding principal amount of any Indebtedness Outstanding under **Subsections (k)** and **(m)**, will not be greater than **25%** of the Revenues of the Corporation for the most recent fiscal year for which audited financial statements are available.
- (k) *Short-Term Indebtedness.* The Corporation may incur Short-Term Indebtedness if, immediately after the incurrence of such Short-Term Indebtedness, the total principal amount of Outstanding Short-Term Indebtedness under this **Subsection (k)**, together with the Outstanding principal amount of any Indebtedness incurred under **Subsections (j)** and

(m), will not exceed **25%** of the Revenues of the Corporation for the most recent fiscal year for which audited financial statements are available.

- (l) *Lease Indebtedness.* The Corporation may incur Indebtedness in the form of Lease Indebtedness pursuant to any other Subsection of this Section upon satisfaction of the conditions specified in such Subsection. Leases that do not constitute Lease Indebtedness are not limited by this Section.
- (m) *Other Indebtedness.* The Corporation may incur other Indebtedness if, immediately after incurring such Indebtedness, the aggregate Outstanding principal amount of other Indebtedness incurred under this **Subsection (m)**, together with the Outstanding principal amount of any Indebtedness incurred under **Subsections (j) and (k)**, will not exceed **25%** of the Revenues of the Corporation for the most recent fiscal year for which audited financial statements are available.

Indebtedness or any portion thereof may be classified and incurred under any one or more of the above-referenced Subsections with respect to which the tests set forth in such Subsections are met. The Corporation may elect to have Indebtedness that was classified and issued pursuant to one Subsection, reclassified as having been incurred under another Subsection, by demonstrating compliance with such other Subsection on the assumption that such Indebtedness is being reissued on the date of delivery of the materials required to be delivered under such other Subsection. From and after such demonstration, such Indebtedness shall be deemed to have been incurred under the Subsection with respect to which such compliance has been demonstrated until any subsequent reclassification of such Indebtedness.

Section I-2. Affiliates. Any existing debt obligation of any affiliate of the Corporation that owns, operates or leases Property that does not constitute part of the real estate comprising part of the Encumbered Property shall be considered permitted hereunder. In addition, any affiliate of the Corporation may enter into new debt obligations of any kind to refinance, construct, acquire, furnish, and equip operations or facilities on real property that does not constitute part of Encumbered Property. This Section is included herein for the avoidance of doubt and shall not be read to construe any security interest, lien or right of the County, Bond Trustee, or owners of the Bonds in any Property that does not constitute, or is not derived from, the Encumbered Property.

SCHEDULE P
to Loan Agreement

ENCUMBERED PROPERTY COVENANTS

Section P-1. Liens and Encumbrances. The Corporation shall not create or incur or permit to be created or incurred or to exist any Encumbrance upon the Encumbered Property, except Permitted Encumbrances, and shall promptly discharge or terminate all Encumbrances on the Encumbered Property that are not Permitted Encumbrances. The Corporation shall at all times comply with all terms, covenants and provisions contained in any Encumbrance at such time existing upon the Encumbered Property or any part thereof or securing any of its Indebtedness or other obligations, except where such noncompliance would not materially impair the ability of the Corporation to meet its obligations under this Loan Agreement and would not materially adversely affect its financial condition.

Section P-2. Sale or Other Disposition of Encumbered Property. The Corporation will not in any fiscal year sell, lease, transfer or otherwise dispose of Encumbered Property in an amount which, together with all other Encumbered Property transferred by the Corporation in such fiscal year, aggregates in excess of **5%** of the total value of the Encumbered Property of the Corporation (calculated on the basis of the book value or, if the Corporation so elects, on the basis of current value), except for transfers of Encumbered Property as follows:

- (a) The Corporation may transfer Encumbered Property to any Person in the ordinary course of business;
- (b) The Corporation may transfer Encumbered Property to any Person for fair and adequate consideration on terms no less favorable to the Corporation than would be obtained in a comparable arm's-length transaction;
- (c) The Corporation may transfer Encumbered Property to any Person if, in the reasonable judgment of the Corporation, such Encumbered Property has, or within the next succeeding 24 calendar months is reasonably expected to, become inadequate, obsolete or worn out, or otherwise unsuitable, unprofitable, undesirable or unnecessary for the operation of the Corporation's primary business;
- (d) The Corporation may transfer Encumbered Property to any Person, if such Encumbered Property consists solely of assets that are specifically restricted by the donor or grantor to a particular purpose that is inconsistent with their use for payment on Long-Term Indebtedness of the Corporation;
- (e) The Corporation may transfer Encumbered Property as part of a merger, consolidation, sale or conveyance permitted under this Loan Agreement;
- (f) The Corporation may transfer Encumbered Property as a loan to any Person, including any affiliate, provided that, if made to an entity that is not an affiliate, such loan is evidenced in writing, (and if such Person is not a wholly controlled subsidiary of the Corporation) such loan bears interest at a reasonable interest rate, and the Bond Trustee receives a certificate of the Corporation Representative stating that there is a reasonable expectation that such loan will be repaid in accordance with its terms;
- (g) The Corporation may transfer Encumbered Property to any Person, including any affiliate, provided that prior to such transfer the Bond Trustee receives a certificate of the

Corporation Representative certifying that, immediately after the proposed disposition, the Corporation could meet the conditions described in this Loan Agreement for the incurrence of one dollar of additional Long-Term Indebtedness after taking into account the effect of the proposed disposition assuming for the purposes of any historical test that such transaction occurred at the beginning of the most recent fiscal year for which audited consolidated financial statements of the Corporation are available (which certificate shall contain any demonstrations required to satisfy said conditions and shall have attached the written report (or summary thereof) of a Consultant, if any, required to satisfy said conditions);

Section P-3. Consolidation, Merger, Conveyance or Transfer of Encumbered Property. The Corporation shall not consolidate with or merge into any other Person or convey or transfer Encumbered Property substantially as an entirety to any Person, unless the following conditions are met:

- (a) such merger, consolidation, conveyance or transfer is on such terms as shall fully preserve the lien and security of the Bond Indenture and this Loan Agreement and the rights and powers of the Bond Trustee and the owners of the Bonds under the Bond Indenture and this Loan Agreement;
- (b) the Person formed by such consolidation or into which the Corporation is merged or the Person which acquires by conveyance or transfer the Corporation's Encumbered Property substantially as an entirety is a corporation or other legal entity organized and existing under the laws of the United States of America or any state thereof, is a "nonprofit enterprise" within the meaning of the Act authorized to conduct business in the State of Nebraska, is a Tax-Exempt Organization, and shall execute and deliver to the Bond Trustee a written instrument, containing an assumption by such successor of the due and punctual payment of the principal of (and premium, if any) and interest on the Loan and the performance and observance of every covenant and condition of this Loan Agreement to be performed or observed by the Corporation;
- (c) the Bond Trustee receives a certificate of the Corporation Representative stating that, immediately after giving effect to such transaction, (1) no event of default hereunder shall have occurred and be continuing, (2) the successor or transferee shall possess such permits, licenses and accreditations to operate such Encumbered Property as may be required if it is to operate such Encumbered Property, (3) the Corporation could meet the conditions described in this Loan Agreement for the incurrence of one dollar of additional Long-Term Indebtedness, and (4) the unrestricted net assets of the successor or transferee will be equal to at least 90% of the unrestricted net assets of the Corporation immediately prior to such transaction;
- (d) the Bond Trustee and the County receive an Opinion of Counsel to the effect that (1) such consolidation, merger, conveyance or transfer complies with this Section and all conditions precedent herein provided for relating to such transaction have been complied with, (2) such transaction will not adversely affect the status of the successor or transferee as a Tax-Exempt Organization, and (3) the successor or transferee is liable on the Loan, as if such Loan were originally made to such Person; and
- (e) the Bond Trustee and the County receive an Opinion of Bond Counsel to the effect that under then existing law the consummation of such consolidation, merger, conveyance, or transfer would not adversely affect the exclusion, if any, of the interest payable on the Bonds from gross income under the Internal Revenue Code.

Upon any consolidation or merger or any conveyance or transfer of the Corporation's Encumbered Property substantially as an entirety in accordance with this Section, the successor corporation or other entity formed by such consolidation or into which the Corporation is merged or to which such conveyance or transfer is made shall succeed to, and be substituted for, and may exercise every right and power of, the Corporation under this Loan Agreement with the same effect as if such successor corporation or other entity had been named as the Corporation herein.

**SCHEDULE R
to Loan Agreement**

REPORTING

Section R-1. Financial Reporting. The Corporation shall keep proper books of record and account, in which full and correct entries shall be made of all dealings or transactions of or in relation to the properties, business and affairs of the Corporation in accordance with GAAP. The Corporation shall furnish to the Bond Trustee, and upon request the County, the following:

- (a) *Annual Financial Statements.* As soon as practicable after they are available but in no event more than **180** days after the last day of each fiscal year of the Corporation, the audited financial statements of the Corporation for such fiscal year certified by the Corporation's independent certified public accountants; and
- (b) *Officer's Certificate.* At the time of the delivery of the financial statements referred to in **Subsection (a)** above, a written certificate of the Corporation Representative that shall (i) set forth all required financial ratios required under this Loan Agreement (as described in **Schedule FC** hereto) with the calculations thereof attached thereto for the most recent fiscal year calculated on the basis of said audited financial statements, and (ii) certify that, to the Corporation Representative's knowledge, no condition exists that constitutes, or with the giving of notice or the passage of time or both would constitute, an Event of Default or, if any such condition exists, describing that condition and any corrective action being taken or contemplated.

None of the Bond Trustee or the County shall be responsible for review of the content of the foregoing documents.

The Corporation shall at reasonable times upon not less than 5 Business Days prior written request of the County or the Bond Trustee, and at the expense of the Corporation, permit the County and the Bond Trustee by their representatives to inspect the properties, books of account, records, reports and other papers of the Corporation, except, medical records, donor records, personnel records, and any other confidential records, and to take copies and extracts therefrom to the extent reasonably necessary relating to compliance with this Loan Agreement, and will afford and procure a reasonable opportunity to make any such inspection, and the Corporation will furnish to the County or the Bond Trustee any and all information as the County or the Bond Trustee may reasonably request, with respect to the performance by the Corporation of its covenants in this Loan Agreement. The County is under no obligation to review or to act upon information provided to it pursuant to this Section.

The Corporation may (but is not obligated to) satisfy any of the foregoing reporting requirements by causing such items to be posted on the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system website and providing written notice of such posting to the recipients required hereunder.

Section R-2. Continuing Disclosure. The Corporation will comply with and carry out all of the provisions of the Continuing Disclosure Agreement. Notwithstanding any other provision of this Loan Agreement, failure of the Corporation to comply with the Continuing Disclosure Agreement shall not be considered an event of default under this Loan Agreement; however, any owner or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the Corporation to comply with its obligations under this Section. For purposes of this

Section, "Beneficial Owner" shall have the meaning assigned thereto in the Continuing Disclosure Agreement.