

(b) The surplus, if any, shall be paid to the Borrower or the person lawfully entitled to receive the same as a court of competent jurisdiction may direct.

## ARTICLE VII

### THE TRUSTEE AND PAYING AGENT

Section 701. Corporate Organization, Authorization and Capacity. The Trustee represents and warrants that it is a national banking association duly organized and validly existing under the laws of the United States, having the powers of a trust company authorized to do business in the State of Florida, including the capacity to exercise the powers and duties of the Trustee hereunder, and that by proper corporate action it has duly authorized the execution and delivery of this Agreement.

Section 702. Rights and Duties of the Trustee.

(a) Moneys to be Held in Trust. All moneys received by the Trustee under this Agreement shall be held by the Trustee in trust and applied subject to the provisions of this Agreement.

(b) Accounts. The Trustee shall keep proper accounts of its transactions hereunder (separate from its other accounts), which shall be open to inspection by the Issuer, the Borrower and the Bondowners and their representatives duly authorized in writing.

(c) Bond Register; Beneficial Owners; Percentage.

(i) The Paying Agent shall keep a register of Bonds (the "Bond Register") in which shall be maintained the names and addresses of all owners thereof, the numbers and amounts of the Bonds, and other information appropriate to the discharge of its duties hereunder. The Paying Agent shall make the Bond Register available to the Borrower for its inspection during normal business hours and shall provide to the Borrower upon request a list of the names and addresses of all registered Bondowners and beneficial Owners of Bonds Outstanding, at the expense of the Borrower. In addition, the Paying Agent shall, upon request of any Bondowner owning of at least ten percent (10%) in aggregate principal amount of Bonds Outstanding and at the expense of the Borrower, provide to the requesting Bondowner a list of the names and addresses of all registered Bondowners and beneficial Owners of Bonds Outstanding.

(ii) The Paying Agent shall also maintain a register of the beneficial owners of Bonds upon receipt of written certification of such beneficial owner as to its beneficial ownership, accompanied by evidence thereof reasonably satisfactory to the Paying Agent and setting forth its address. Upon the transfer of a Bond, the new registered Owner shall become the beneficial owner until another beneficial owner is designated. A copy of any notice sent hereunder to Bondowners shall also be sent to beneficial owners and any consent, request, direction, approval, objection or other instrument or action required or permitted by this Agreement to be executed or taken by any Bondowner (other than the

transfer of a Bond) shall be fully effective if executed or taken by the beneficial owner thereof provided that, in the event of conflicting instruments executed by the registered Bondowner and the beneficial owner, the action of the registered Bondowner shall govern.

(iii) For purposes of determining whether a Bondowner holds a certain percentage in aggregate principal amount of Bonds Outstanding for the purposes of this Agreement, ownership by Bondowners which are affiliates shall be aggregated. A Bondowner is an affiliate of another if the first controls the second, is controlled by the second or is under common control with the second, or if both Bondowners share a common investment advisor (or affiliated investment advisors). The Trustee shall be entitled to rely upon a certificate of any Bondowner with respect to such matters. For the purposes of this subsection, Bondowner shall be deemed to include beneficial owners of the Bonds listed in the register thereof maintained under clause (ii) hereof.

(d) Performance of the Issuer's Obligations. If the Issuer shall fail to observe or perform any covenant or obligation contained in this Agreement, the Trustee may to whatever extent it deems appropriate for the protection of the Bondowners or itself, perform any such obligation in the name of the Issuer and on its behalf.

(e) Actions for Protection of Bondholders. The Trustee shall not be required to monitor the financial condition of the Borrower or the physical condition of the Mortgaged Property and, unless otherwise expressly provided, shall not have any responsibility with respect to reports, notices, certificates or other documents filed with it hereunder, except to make them available for inspection by Bondholders. Except for (i) a default under Section 304(d) and 311(a) hereof or (ii) the failure of the Borrower to maintain insurance requirements hereunder or file any financial statements or reports required to be filed with the Trustee pursuant to Sections 406(d), 407(f), 408(b) and 1007 hereof or (iii) any other event of which the responsible trust officer has "actual knowledge" and which event, with the giving of notice or lapse of time or both, would constitute an Event of Default under this Agreement, the Trustee shall not be required to take notice of any other breach or default by the Borrower or the Issuer except when given written notice thereof by the owners of not less than a majority in aggregate principal amount of the Outstanding Bonds. As used above, the term "responsible trust officer" means the trust officer of the Trustee assigned to supervise this Agreement and "actual knowledge" means the actual fact or state of knowing, without any duty to make any investigation with regard thereto. The Trustee shall notify the Bondholders, within five (5) Business Days of an Event of Default described in clauses (i), (ii) and (iii) above. The Trustee shall accelerate payments under Section 602 when instructed to do so by the written direction of the owners of at least a majority in principal amount of the Outstanding Bonds. The Trustee shall proceed under Section 603 for the benefit of the Bondholders in accordance with the written directions of the owners of a majority in principal amount of the Outstanding Bonds. The Trustee shall not be required, however, to take any remedial action (other than acceleration or the giving of notice) unless reasonable indemnity is furnished for any expense or liability to be incurred therein.

Notwithstanding anything to the contrary contained in this Agreement, in the event the Trustee is entitled to commence an action to foreclose under this Agreement or otherwise exercise its remedies to acquire control or possession of the Facility, the Trustee shall not be required to commence any action or exercise any such remedy if the Trustee has determined in its discretion that the Trustee may incur liability under any environmental law as the result of the presence at, or release on or from the Facility of any Hazardous Materials unless the Trustee has received security or indemnity from a person, in an amount and in a form satisfactory to the Trustee in its sole discretion, protecting the Trustee from all liability.

The Trustee shall not require an indemnity bond or other security for indemnity if the Bondowners providing such reasonable indemnity as is required hereunder have an aggregate net worth or net asset value of in excess of \$100 million. In the case in which more than one Bondowner is providing indemnity, such indemnity shall be several and not joint and as to each Bondowner, such indemnity obligation shall not exceed the percentage interest in the Bonds represented by the Owners giving such direction. Such indemnity shall be only for those actions or inactions taken or not taken at the indemnifying Owner's actual direction. If provided indemnity by the Bondowners as aforesaid, Trustee shall utilize nationally recognized counsel or other nationally recognized advisors designated by the indemnifying Bondowners' (it being agreed that the Bondowners shall pay reasonable legal fees of Trustee's independent counsel to negotiate the indemnity on behalf of Trustee and to analyze whether the direction by the holders of at least a majority of the principal amount of the Bonds is being given in accordance with the Agreement but no other fees). In the event the Trustee requires independent counsel, the costs and expenses thereof shall be for its own account and the Trustee shall not have any right for reimbursement against the trust estate or the Bondowners. In any case in which indemnification is provided to the Trustee hereunder, such indemnification shall be only for those actions taken or not taken at the indemnifying Bondowner's actual direction.

Upon receipt of written notice, direction or instruction and indemnity, as provided above, and after making such investigation, if any, as it deems appropriate to verify the occurrence of any event of which it is notified as aforesaid, the Trustee shall promptly pursue the remedy provided by this Agreement or any of such remedies (not contrary to any such direction) as it deems appropriate for the protection of the Bondowners (or as directed by the Bondowners pursuant to Section 607), and in its actions under this paragraph, the Trustee shall act for the protection of the Bondowners with the same promptness and prudence as would be expected of a prudent person in the conduct of such person's own affairs.

(f) Reports by the Trustee.

(i) Within ten (10) days after the end of any month, the Trustee shall furnish to any Bondowner upon written request, without charge, a report on the status of each of the funds and accounts established under this Agreement that are held by the Trustee, showing at least the balance in such fund or account as of the first day of the preceding month, the deposits to (including interest on investments) and the disbursements from each such fund or account during such preceding month, and the balance in each such fund or account on the last day of the preceding month.

(ii) Within 30 days after the end of each Fiscal Year of the Borrower, the Trustee shall furnish to any Bondowner upon written request, without charge, an annual report for such Fiscal Year on the status of each of the funds and accounts within funds established under the Agreement that are held by the Trustee, showing at least the balance in each such fund or account as of the first day of such Fiscal Year, the deposits to (including interests and investments) and the disbursements from each such fund or account during such Fiscal Year, and the balance in each such fund or account on the last day of such Fiscal Year.

(iii) Upon the request of any Bondowner owning at least ten percent (10%) in aggregate principal amount of Bonds Outstanding, the Trustee will provide such Bondowner information about the Issuer, the Borrower, or the Trustee within the Trustee's possession or reasonably obtainable.

(g) Notices by the Trustee. The Trustee shall give notice to the Borrower, the Issuer, and each Bondowner of:

(i) the failure of the Borrower to make a payment required of it under Subsection 311(a); and

(ii) any withdrawal from the Debt Service Reserve Fund or decline in value of investments in such Fund resulting in the amount therein being less than the Debt Service Reserve Fund Requirement;

(iii) any withdrawal from the Replacement Reserve Fund pursuant to Section 305(b).

(iv) the failure of the Borrower to file any financial statements or reports required to be filed with the Trustee pursuant to Sections 406(d), 407(f), 408(b) and 1007; and

(v) any other event of which the responsible trust officer (as defined in Subsection 702(e)) has actual knowledge (as defined in Subsection 702(e)) and which event, with the giving of notice or the lapse of time, or both, would constitute an Event of Default under this Agreement.

(h) Responsibility. The Trustee shall be entitled to the advice of counsel (who may be counsel for any party) and shall not be liable for any action taken in good faith in reliance on such advice. The Trustee may rely conclusively on any notice, certificate or other document furnished to it under this Agreement and reasonably believed by it to be genuine. The Trustee shall not be liable for any action taken or omitted to be taken by it in good faith and reasonably believed by it to be within the discretion or power conferred upon it, or taken by it pursuant to any direction or instruction by which it is governed under this Agreement or omitted to be taken by it by reason of the lack of direction or instruction required for such action, or be responsible for the consequences of any error of judgment reasonably made by it, provided, however, that the Trustee shall not be relieved from liability for its own negligent action, its own negligent failure to act or its own willful misconduct. When any payment or consent or other action by the Trustee is called for by this Agreement, the Trustee may defer such action pending receipt of

such evidence, if any, as it may reasonably require in support thereof. A permissive right or power to act shall not be construed as a requirement to act. The Trustee shall in no event be liable for the application or misapplication of funds, or for other acts or defaults, by any person, firm or corporation except by its own directors, officers, agents and employees. No recourse shall be had by the Borrower, the Issuer, any Bondowner or any holder of Alternative Indebtedness for any claim based on this Agreement, the Bonds, any Alternative Indebtedness or any agreement securing the same against any director, officer, agent or employee of the Trustee unless such claim is based upon the bad faith, fraud or deceit of such person. Without limiting the foregoing, the Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Agreement, and no implied agreements or obligations shall be read into this Agreement against the Trustee. In case an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Agreement, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under circumstances in the conduct of his or her own affairs.

(i) Ownership of Bonds. The Trustee may be or become the owner of or trade in Bonds with the same rights as if it were not the Trustee.

(j) Surety Bond. The Trustee shall not be required to furnish any bond or surety.

(k) Continuation Statements. It shall be the duty of the Trustee to execute and file, or cause to be executed and filed, such continuation statements as may be required by the UCC with respect to any security interest granted to the Trustee hereunder for the benefit of the Bondholders. All such continuation statements shall be signed by the secured party and any assignee. The Borrower shall pay or reimburse the Trustee for all reasonable costs incurred by the Trustee in the preparation and filing of any such continuation statements.

(l) Financial Obligations. Nothing contained in this Agreement shall in any way obligate the Trustee to pay any debt or meet any financial obligations to any person in relation to the Mortgaged Property except from moneys received under the provisions of this Agreement or from the exercise of the Trustee's rights hereunder other than the moneys received for its own purposes.

(m) Trustee Not Required to Pay Interest. The Trustee shall not be under any liability for interest on any money received hereunder except such as may be agreed upon with the Issuer or the Borrower.

(n) Reports Delivered to the Trustee. The Trustee shall be under no obligation to analyze or make any credit decisions with respect to any financial statements or reports received by it hereunder but shall hold such financial statements and reports solely for the benefit of, and review by, Owners of the Bonds.

(o) No Responsibility for Disclosure Documents. Except for information concerning the Trustee, the Trustee shall have no duty or responsibility to examine or review and shall have no liability for the contents of any document submitted or delivered to any Bondowner in the

nature of a preliminary or final placement memorandum, official statement, offering circular, or other disclosure document.

(p) No Responsibility for Operation or Maintenance of Facility. All costs of operating and maintaining the Facility shall be paid by the Borrower and neither the Issuer nor the Trustee shall have any obligation or liability with respect to the operation or maintenance of the Facility.

Section 703. Fees and Expenses of the Trustee. Except to the extent the Trustee has been paid or reimbursed from the Expense Fund, the Borrower shall pay to the Trustee reasonable fees for its services and pay or reimburse the Trustee for its reasonable actual expenses and disbursements, including attorneys' fees and expenses, hereunder, which fees and expenses shall be invoiced, itemized, and provided to the Borrower. The Borrower shall indemnify and save the Trustee harmless against any expenses and liabilities which it may incur in the exercise of its duties hereunder and which are not due to its negligence or bad faith. Any fees, expenses, reimbursements or other charges which the Trustee may be entitled to receive from the Borrower hereunder, if not paid when due, shall bear interest at the "prime rate" (or, if none, the nearest equivalent) of the bank or trust company at the time serving as Trustee hereunder, but shall not give rise to any lien upon any funds or other property then or thereafter held hereunder by the Trustee (except as otherwise provided herein). The Trustee may not apply any such funds to any of the foregoing items, and the Borrower shall remain liable for the same. Any subsequent payment of any such item by the Borrower shall be used to restore the funds so applied. Whenever the Trustee incurs expenses or renders services after the occurrence of an Event of Default described in Section 601 hereof, the expenses and compensation for services are intended to constitute expenses of administration under any bankruptcy or similar law. The Trustee may deduct its reasonable fee therefore from any payment it is requested to make hereunder by wire transfer.

Section 704. Resignation or Removal of the Trustee. The Trustee may resign on not less than thirty (30) days' notice given in writing to the Issuer, the Bondowners and the Borrower, but such resignation shall not take effect until a successor has been appointed and has accepted such appointment. The Trustee will promptly certify to the Issuer that it has mailed such notice to all Bondowners and such certificate will be conclusive evidence that such notice was given in the manner required hereby. So long as no Event of Default exists hereunder, the Borrower may remove the Trustee on not less than thirty (30) days' notice given in writing to the Issuer, the Bondowners and the Trustee. The Trustee may be removed by written notice from the Voting Majority Bondholders to the Trustee, the Issuer and the Borrower.

Section 705. Successor Trustee. Any corporation or association which succeeds to the corporate trust business of the Trustee as a whole or substantially as a whole, whether by sale, merger, consolidation or otherwise, shall thereby become vested with all the property, rights and powers of the Trustee under this Agreement, without any further act or conveyance.

In case the Trustee resigns or is removed or becomes incapable of acting, or becomes bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee or of its property is appointed, or if a public officer takes charge or control of the Trustee, or of its property or affairs, a successor shall be appointed by the Majority Bondowner or, if none, by the Borrower

with the consent of the Issuer. Neither The Bank of New York nor any of its affiliates may become a successor Trustee, either by appointment or by becoming successor in trust as a result of a merger, acquisition or purchase of a corporate trust business, without the consent of the Borrower. The successor Trustee shall notify the Bondholders of the appointment in writing within twenty (20) days from the appointment. If no appointment of a successor is made within forty-five (45) days after the giving of written notice in accordance with Section 704 or after the occurrence of any other event requiring or authorizing such appointment, the outgoing Trustee or any Bondholder may apply to any court of competent jurisdiction for the appointment of such a successor, and such court may thereupon, after such notice, if any, as such court may deem proper, appoint such successor. Any successor Trustee appointed under this section shall be a trust company or a bank having the powers of a trust company, authorized to do business in the State of Florida, having a capital and surplus of not less than \$100,000,000. Any such successor Trustee shall notify the Issuer and the Borrower of its acceptance of the appointment and, upon giving such notice, shall become Trustee, vested with all the property, rights and powers of the Trustee hereunder, without any further act or conveyance. Such successor Trustee shall execute, deliver, record and file such instruments as are required to confirm or perfect its succession hereunder and any predecessor Trustee shall from time to time execute, deliver, record and file such instruments as the incumbent Trustee may reasonably require to confirm or perfect any succession hereunder.

Section 706. Trustee Requirement to Act. In any instance hereunder in which the Trustee's consent is required, the Trustee agrees to either give or deny such consent within thirty (30) days of receipt of written request therefore by the Borrower by certified mail, return receipt requested. Any such consent which is not given or denied within such thirty-day period shall be deemed given.

Section 707. Appointment of Co-Trustee.

(a) At any time or times, for the purposes of conforming to any legal requirements, restrictions or conditions in any state, or if the Trustee shall be advised by counsel that it is necessary or advisable in the interest of the Bondholders or the Trustee so to do, the Issuer and the Trustee shall have power to appoint (and upon the request of the Trustee, the Issuer shall for such purpose join with the Trustee in execution, delivery and recording of all instruments and agreements necessary or proper to appoint) another corporation or one or more persons, approved by the Trustee, either to act as separate Trustee or Trustees or Co-Trustee or Co-Trustees of all or part of the trust estate created by this Agreement (the "Trust Estate") jointly with the Trustee hereunder. In the event that the Issuer shall not have joined in any such appointment within twenty days after the receipt by it of a request so to do, the Trustee alone shall have power to make such appointments.

(b) Every separate Trustee, every Co-Trustee and every successor Trustee (other than the Trustee initially acting as Trustee hereunder, hereinafter in this Section called the "Initial Trustee", and any Trustee which may be appointed as successor to it) shall, to the extent permitted by law, be appointed subject to the following provisions and conditions, namely:

(i) The Series 2007 Bonds secured hereby shall be authenticated and delivered, and all powers, duties, obligations and rights, conferred upon the Trustee in respect of

the custody of all funds and any securities pledged hereunder, shall be exercised solely by the Initial Trustee or its successors in the trust hereunder; and

(ii) No power shall be exercised hereunder by such separate Trustee or Co-Trustee except with the consent in writing of the Initial Trustee or its successors in the trust hereunder; and

(iii) The Issuer and the Initial Trustee or its successors in the trust hereunder, at any time by an instrument in writing executed by them jointly, may accept the resignation or remove any separate Trustee or Co-Trustee appointed under this Section, and may likewise and in like manner appoint a successor to such separate Trustee or Co-Trustee who shall be so removed or who shall have resigned as provided in this Agreement, as the case may be, anything herein contained to the contrary notwithstanding; and

(iv) Such Co-Trustee shall meet the requirements described in the last paragraph of Section 705 hereof.

(c) Any notice, request or other writing, by or on behalf of the holders of the Series 2007 Bonds issued hereunder, delivered solely to the Initial Trustee, or its successors in the trust, shall be deemed to have been delivered to all of the then Trustees and Co-Trustees as effectually as if delivered to each of them. Every instrument appointing any Trustee or Co-Trustee other than a successor to the Initial Trustee shall refer to this Agreement and the conditions in this Section expressed, and upon the acceptance in writing by such Trustee or Co-Trustee, he, they or it shall be vested with the rights, powers, estate and/or property specified in such instrument either jointly with the Initial Trustee, or its successor, or separately, as may be provided therein, subject to all the trusts, conditions and provisions of this Agreement; and every such instrument shall be filed with the Initial Trustee or its successors in the trust. Any separate Trustee or Co-Trustee may at any time by an instrument in writing constitute the Initial Trustee or its successors in the trust hereunder, his, their or its agent or attorney-in-fact, with full power and authority, to the extent which may be authorized by law, to do all acts and things and exercise all discretion authorized or permitted by him, them or it, for and in behalf of him, them or it, and in his, their or its name. Any Co-Trustee may, as to any action hereunder, whether discretionary or otherwise act by attorney-in-fact. In case any separate Trustee or Co-Trustee or a successor to any of them, shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of said separate trustee or Co-Trustee, so far as permitted by law shall vest in and be exercised by the Initial Trustee or its successors in trust until the appointment of a successor to such separate Trustee or Co-Trustee.

## **ARTICLE VIII**

### **THE ISSUER**

Section 801. Corporate Organization, Authorization and Power. The Issuer represents and warrants as follows:

(i) it is a public instrumentality and a body corporate and politic duly organized and validly existing under the laws of the State of Florida, with the power

under and pursuant to the Act, to execute and deliver this Agreement and to perform its obligations hereunder, and to issue and sell the Bonds pursuant to this Agreement; and

(ii) it has taken all necessary action and has complied with all provisions of the Constitution of the State of Florida and the Act required to make this Agreement and the Bonds the valid obligations of the Issuer which they purport to be; and, when executed and delivered by the parties hereto, this Agreement will constitute a valid and binding agreement of the Issuer enforceable in accordance with its terms, except as enforceability may be subject to the exercise of judicial discretion in accordance with general equitable principles and to applicable bankruptcy, insolvency, reorganization, moratorium and other laws for the relief of debtors heretofore or hereafter enacted to the extent that the same may be constitutionally applied; and

(iii) when delivered to and paid for by the initial purchasers in accordance with the terms of this Agreement and the Placement Agreement, the Bonds will constitute valid and binding special obligations of the Issuer enforceable in accordance with their terms, except as enforceability may be subject to the exercise of judicial discretion in accordance with general equitable principles and to applicable bankruptcy, insolvency, reorganization, moratorium and other laws for the relief of debtors heretofore or hereafter enacted to the extent that the same may be constitutionally applied, and will be entitled to the benefits of this Agreement; and

(iv) the Issuer makes no representation or warranty that interest on the Bonds is or will continue to be exempt from federal or state income taxation.

Section 802. Covenant as to Payment; Faith and Credit of Commonwealth Not Pledged.

The Issuer covenants that it will promptly pay or cause to be paid the principal of, interest, premium, if any, and other charges, if any, on the Bonds at the place, on the dates and in the manner provided herein and in the Bonds. The Bonds shall not be deemed to constitute a debt, liability, or obligation of the Issuer or the State of Florida, or a pledge of the faith and credit of the Issuer or of the State of Florida or of any political subdivision of the State of Florida, but shall be payable solely from the revenues provided therefor. The Issuer shall not be obligated to pay the principal of the Bonds nor interest thereon except from the revenues and proceeds pledged therefor. Neither the faith and credit nor the taxing power of the Issuer or of the State of Florida or of any political subdivision thereof is pledged to the payment of the principal of or the interest on the Bonds.

Section 803. Rights and Duties of the Issuer.

(a) Remedies of the Issuer. Notwithstanding any contrary provision in this Agreement, the Issuer shall have the right to take any action not prohibited by law or make any decision not prohibited by law with respect to proceedings for indemnity against the liability of the Issuer and its elected officials, officers, employees and agents and for collection or reimbursement of moneys due to it under this Agreement for its own account. The Issuer may enforce its rights under this Agreement which have not been assigned to the Trustee by legal proceedings for the specific performance of any obligation contained herein or for the enforcement of any other legal or equitable remedy, and may recover damages caused by any

breach by the Borrower of its obligations to the Issuer under this Agreement, including Additional Payments, court costs, reasonable attorney's fees and other costs and expenses incurred in enforcing such obligations.

(b) Limitations on Actions. Without limiting the generality of Subsection 803(c), the Issuer shall not be required to monitor the financial condition of the Borrower and shall not have any responsibility or other obligation with respect to reports, notices, certificates or other documents filed with it hereunder.

(c) Responsibility. The Issuer shall be entitled to the advice of counsel (who may be counsel for any party) and shall be wholly protected as to any action taken or omitted to be taken in good faith in reliance on such advice. The Issuer may rely conclusively on any communication or other document furnished to it under this Agreement and reasonably believed by it to be genuine. The Issuer shall not be liable for any action (i) taken by it in good faith and reasonably believed by it to be within the discretion or powers conferred upon it, (ii) in good faith omitted to be taken by it because reasonably believed to be beyond the discretion or powers conferred upon it, (iii) taken by it pursuant to any direction or instruction by which it is governed under this Agreement or (iv) omitted to be taken by it by reason of the lack of direction or instruction required for such action hereunder, nor shall it be responsible for the consequences of any error of judgment reasonably made by it. It shall in no event be liable for the application or misapplication of funds, or for other acts or defaults by any person except its own elected officials, officers and employees. When any consent or other action by the Issuer is called for by this Agreement, the Issuer may defer such action pending such investigation or inquiry or receipt of such evidence, if any, as it may require in support thereof. It shall not be required to take any remedial action (other than the giving of notice) unless reasonable indemnity is provided for any expense or liability to be incurred thereby. It shall be entitled to reimbursement for expenses reasonably incurred or advances reasonably made, with interest at the "prime rate" of the bank or trust company at the time serving as Trustee hereunder (or, if none, the nearest equivalent), in the exercise of its rights or the performance of its obligations hereunder, to the extent that it acts without previously obtaining indemnity. No permissive right or power to act shall be construed as a requirement to act; and no delay in the exercise of any such right or power shall affect the subsequent exercise of that right or power. The Issuer shall not be required to take notice of any breach or default by the Borrower under this Agreement except when given notice thereof by the Trustee. No recourse shall be had by the Borrower, the Trustee or any Bondowner for any claim based on this Agreement, the Bonds or any agreement securing the same against any elected official, officer, agent or employee of the Issuer alleging personal liability on the part of such person unless such claim is based upon the willful dishonesty of or intentional violation of law by such person. No covenant, stipulation, obligation or agreement of the Issuer contained in this Agreement shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future elected official, officer, employee or agent of the Issuer in his or her individual capacity, and no person executing a Bond shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof.

(d) Financial Obligations. Nothing contained in this Agreement is intended to impose any pecuniary liability on the Issuer nor shall it in any way obligate the Issuer to pay any debt or meet any financial obligations to any person at any time in relation to the Project except from moneys received under the provisions of this Agreement; provided, however, that nothing

contained in this Agreement shall in any way obligate the Issuer to pay such debts or meet such financial obligations from moneys received for the Issuer's own account.

Section 804. No Recourse. Notwithstanding anything to the contrary contained in this Agreement, no recourse under or upon any obligation, covenant or agreement contained herein or in any Bonds shall be had against the Issuer or any elected official, officer, employee or agent, past, present or future, of the Issuer or of any successor of the Issuer under this Agreement, any other agreement, any rule of law, statute or constitutional provision, or by enforcement of any assessment or by any legal or equitable proceeding or otherwise, it expressly being agreed and understood that the obligations of the Issuer hereunder, and under the Bonds and elsewhere, are solely corporate obligations of the Issuer to the extent specifically limited in the Act and that no personal liability whatsoever shall attach to or shall be incurred by the Issuer or such elected official, officers, employees or agents, past, present or future, of the Issuer or of any successor of the Issuer, or of any successor of the Issuer, or any of them, because of such indebtedness or by reason of any obligation, covenant or agreement contained herein, in the Bonds or implied therefrom.

## ARTICLE IX

### THE BONDOWNERS

Section 901. Action by Bondowners. Any request, authorization, direction, notice, consent, waiver or other action provided by this Agreement to be given or taken by Bondowners may be contained in and evidenced by one or more writings of substantially the same tenor signed by the requisite number of Bondowners or their attorneys duly appointed in writing. Proof of the execution of any such instrument, or of an instrument appointing any such attorney, shall be sufficient for any purpose of this Agreement (except as otherwise herein expressly provided) if made in the following manner, but the Issuer or the Trustee may nevertheless require further or other proof in cases where it deems the same reasonably necessary:

The fact and date of the execution by any Bondowner or his or her attorney of such instrument may be proved by the certificate, which need not be acknowledged or verified, of an officer of a bank or trust company satisfactory to the Trustee or of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such request or other instrument acknowledged to him or her the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. The authority of the person or persons executing any such instrument on behalf of a corporate Bondowner may be established without further proof if such instrument is signed by a person purporting to be the president or a vice president of such corporation with a corporate seal affixed and attested by a person purporting to be its secretary or assistant secretary.

The ownership of Bonds and the amount, numbers and other identification, and date of holding the same shall be proved by the registry books.

Any request, consent or vote of the owner of any Bond shall bind all future owners of such Bond. Bonds owned or held by or for the account of the Issuer or the Borrower shall not be deemed Outstanding Bonds for the purpose of any consent or other action by Bondholders.

Section 902. Proceedings by Bondholders. No Bondholder shall have any right to institute any legal proceedings for the enforcement of this Agreement or any applicable remedy hereunder, unless the owners of a majority in principal amount of the Bonds have directed the Trustee to act and furnished the Trustee indemnity as provided in Subsection 702(e) and have afforded the Trustee reasonable opportunity to proceed, and the Trustee shall thereafter fail or refuse to take such action.

Notwithstanding the foregoing, or any other provision of this Agreement, the owners of at least a majority in aggregate principal amount of Bonds then Outstanding shall have the right to take any and all actions to enforce the provisions of this Agreement in their own name or, upon providing indemnity to the Trustee reasonably satisfactory to the Trustee for costs and liabilities arising therefrom, in the name of the Trustee. In the event that such owners elect to take such action, they shall notify the Trustee in writing of their election and shall be subject to the same in repayment, indemnity, lien and security rights afforded to the Trustee in Section 703 hereof.

In any case where more than one Bondholder is providing indemnity, such indemnity shall be several and not joint and, as to each Bondholder, such indemnity obligation shall equal its percentage interest of the outstanding Bonds owned by the Bondholders which have voted to direct action requiring such indemnification. If provided indemnity, the Trustee shall utilize counsel or other advisors designated by a majority in interest of the indemnifying Bondholders to whom the Trustee has no reasonable objection and in the event the Trustee requires independent counsel, the costs and expenses thereof shall be paid for its own account and the Trustee shall not have any right for reimbursement against the trust estate or any funds hereunder or against the Bondholders.

Subject to the foregoing, any Bondholder may by any available legal proceedings enforce and protect its rights hereunder and under the laws of the State of Florida.

Section 903. Actions by Bondholders. In any instance hereunder in which consent, approval or any other action of the Bondholders is required, the Trustee shall give notice of such requirement to the Bondholders, and such notice shall include a statement that prior to an Event of Default, any group of three (3) or fewer Bondholders who collectively own more than fifty percent (50%) of the aggregate principal amount of Outstanding Bonds may be designated as a Majority Bondholder hereunder by notice to the Trustee. Prior to the occurrence of any Event of Default, any such consent, approval or other action by the Majority Bondholder shall not be unreasonably withheld or delayed and shall be deemed given if the Majority Bondholder has failed to object in writing within thirty (30) days of receipt of written notice of the request therefor.

## ARTICLE X

### THE BORROWER

Section 1001. Corporate Organization, Authorization and Powers. Each Borrower represents and warrants that it is a nonprofit corporation duly organized, validly existing and in good standing under the laws of the State of Florida, with the power to own its properties and assets and to carry on its business as presently conducted and as planned to be conducted, enter into and perform this Agreement and that by proper corporate action it has duly authorized the execution and delivery of this Agreement. Each Borrower further represents and warrants that the execution and delivery of this Agreement and the consummation of the transactions contemplated herein will not conflict with or constitute a breach of or default under any bond, indenture, note or other evidence of indebtedness of the Borrower, the articles of incorporation or by-laws of the Borrower, any gifts, bequests or devises pledged to or received by the Borrower, or any contract, lease or other instrument to which the Borrower is a party or by which it or any of its property is bound or result in the creation or imposition of any lien or encumbrance of any nature, other than the liens created pursuant to this Agreement, or cause the Borrower to be in violation of any applicable statute or rule or regulation of any governmental authority.

Section 1002. Litigation. Each Borrower represents and warrants that there is no action, suit or proceeding at law or in equity by or before any court, governmental instrumentality or other agency now pending, or, to the knowledge of the Borrower, threatened against or affecting it, or any of its properties or rights, except any tort claims which are covered by insurance.

Section 1003. Tax Status. (a) Each Borrower represents and warrants that (i) it is an organization described in Section 501(c)(3) of the IRC and it is not a "private foundation" as defined in Section 509 of the IRC; (ii) the Borrower's central organization has received letters from the Internal Revenue Service to the effect that the central organization and its subordinates are exempt under a group exemption from federal income tax under Section 501(a) of the IRC, are organizations described under Section 501(c)(3) of the IRC, and are not "private foundations" as defined in Section 509 of the IRC; (iii) such letters have not been modified, limited or revoked; (iv) it and the central organization are in compliance with all terms, conditions and limitations, if any, contained in such letters; (v) the facts and circumstances which form the basis of such letters continue substantially to exist as represented to the Internal Revenue Service; (vi) the Borrower has taken all necessary steps to be included and the central organization has taken all steps to include the Borrower in such group exemption; and (vii) it is exempt from federal income taxes under Section 501(a) of the IRC. To the extent consistent with its status as a nonprofit corporation, the Borrower agrees that it will not take any action or omit to take any action if such action or omission would cause any revocation or adverse modification of such federal income tax status of the Borrower.

(b) The Borrower shall not take or omit to take any action if such action or omission (i) would cause the Bonds to be "arbitrage bonds" under Section 148 of the IRC, (ii) would cause the Bonds to not meet any of the requirements of Section 149 of the IRC, or (iii) cause the Bonds to cease to be "qualified 501(c)(3) bonds" under Section 145 of the IRC.

(c) The Borrower represents and warrants and covenants that:

(i) Internal advances to be reimbursed from the proceeds of the Bonds are in every instance for Costs constituting capital expenditures that are either (1) described in a written declaration of the Borrower's intent to reimburse such Costs from proceeds of a debt obligation ("Official Intent") made not later than 60 days after such Costs were paid, (2) in an amount not in excess of the lesser of \$100,000 or 5% of the proceeds of the applicable series of Bonds, or (3) in an amount not in excess of 20% of the issue price of the applicable series of Bonds and consisting of preliminary expenditures of the Project, such as architectural, engineering, surveying and soil testing, but not including such costs as site preparation or land acquisition.

(ii) On the date of any declaration of Official Intent the Borrower had a reasonable expectation that the expenditures described therein would be reimbursed from the proceeds of a debt obligation.

(iii) The Borrower has not made declarations of Official Intent as a matter of course or in amounts substantially in excess of the amounts expected to be necessary for the project described therein.

(iv) The Borrower shall not within one year after the reimbursement of any internal advances from Bond proceeds use funds corresponding to such Bond proceeds in a manner that would cause such funds to be treated as replacement proceeds (within the meaning of Treas. Reg. §1.148-1(c)) of the Bonds or any other indebtedness the interest on which is excluded from gross income for federal income tax purposes, provided, however, that such funds may be deposited in a bona fide debt service fund (as defined in Treas. Reg. §1.148-1(b)).

(v) Each reimbursement of an internal advance (other than an internal advance described in Clause (i)(2) or (i)(3)) from Bond proceeds was made not later than 18 months after

(A) the date the Project Cost was paid, or

(B) the date the portion of the Project to which the Project Cost relates was placed in service or abandoned, but in no event later than 3 years after the Project Cost was paid.

(d) The Borrower represents and warrants that no arrangement, formal or informal, has been, and covenants that none shall be, authorized, permitted or made for the purchase of any of the Bonds by the Borrower or any related party (as defined in Treas. Reg. §1.150-1(b)) in an amount related to the amount loaned by the Issuer to the Borrower.

Section 1004. Securities Law Status. Each Borrower represents and warrants that it is an organization organized and operated exclusively for charitable purposes and not for pecuniary profit; and that no part of its net earnings inures to the benefit of any person, private stockholder or individual, all within the meaning of the Securities Act of 1933, as amended. The Borrower

shall not take any action or omit to take any action if such action or omission would change its status as set forth in this section.

Section 1005. Environmental Matters.

(a) None of the Borrower or any operator of its properties is in violation, or to the Borrower's knowledge is in alleged violation, of any Environmental Law (as hereinafter defined), which violation would have a material adverse effect on the business, assets or financial condition of the Borrower.

(b) None of the Borrower or any operator of its properties has received notice from any third party, including without limitation any federal, state, county, or local governmental authority, (i) that it has been identified as a potentially responsible party under CERCLA or any equivalent state law, with respect to any site or location; (ii) that any hazardous waste, as defined in 42 U.S.C. §6903(5), any hazardous substances, as defined in 42 U.S.C. §9601(14), any pollutant or contaminant, as defined in 42 U.S.C. §9601(33), or any toxic substance, oil or hazardous materials or other chemicals or substances regulated by any Environmental Laws ("Hazardous Substances") which it has generated, transported or disposed of, has been found at any site at which a federal, state, county, or local agency or other third party has conducted or has ordered the Borrower, any subsidiary or another third party or parties (e.g. a committee of potentially responsible parties) to conduct a remedial investigation, removal or other response action pursuant to any Environmental Law; or (iii) that it is or shall be a named party to any claim, action, cause of action, complaint (contingent or otherwise) or legal or administrative proceeding arising out of any actual or alleged release or threatened release of Hazardous Substances. For purposes of this Agreement, "release" means any past or present releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, disposing or dumping of Hazardous Substances into the environment.

(c) (i) The Borrower and each operator of any real property owned or operated by the Borrower is in compliance, in all material respects, with all provisions of the Environmental Laws relating to the handling, manufacturing, processing, generation, storage or disposal of any Hazardous Substances; (ii) to the best of the Borrower's knowledge, no portion of property owned, operated or controlled by the Borrower has been used for the handling, manufacturing, processing, generation, storage or disposal of Hazardous Substances except in accordance with applicable Environmental Laws; (iii) to the best of the Borrower's knowledge, there have been no releases or threatened releases of Hazardous Substances on, upon, into or from any property owned, operated or controlled by the Borrower, which releases could have a material adverse effect on the value of such properties or adjacent properties or the environment; (iv) to the best of the Borrower's knowledge, there have been no releases of Hazardous Substances on, upon, from or into any real property in the vicinity of the real properties owned, operated or controlled by the Borrower which, through soil or groundwater contamination, may have come to be located on the properties of the Borrower; (v) to the best of the Borrower's knowledge, there have been no releases of Hazardous Substances on, upon, from or into any real property formerly but no longer owned, operated or controlled by the Borrower.

(d) None of the properties of the Borrower is or shall be subject to any applicable environmental cleanup responsibility law or environmental restrictive transfer law or regulation by virtue of the transactions set forth herein and contemplated hereby.

(e) "Environmental Law" means any judgment, decree, order, law, license, rule or regulation pertaining to environmental matters, or any federal, state, county or local statute, regulation, ordinance, order or decree relating to public health, welfare, the environment, or to the storage, handling, use or generation of hazardous substances in or at the workplace, worker health or safety, whether now existing or hereafter enacted.

(f) In the event this Agreement is foreclosed or the Borrower tenders a deed in lieu of foreclosure, the Borrower shall deliver the Facility free of any and all Hazardous Substances so that the condition of the Facility shall conform with all Environmental Laws affecting the Facility. Notwithstanding anything to the contrary in this Agreement, the Trustee shall be under no obligation to foreclose under this Agreement if the Trustee has determined in its discretion that it may incur liability under any Environmental Law.

Section 1006. Rates, Charges, and Other Financial Covenants; Occupancy Targets.

(a) The Borrower agrees, subject to any limitations imposed by law, to charge and collect rates and charges which, together with any other moneys legally available to it, shall provide moneys sufficient at all times: (i) to make the payments required by this Agreement and comply with this Agreement in all other respects, and (ii) to satisfy all other obligations of the Borrower.

(b) Without limiting the generality of the foregoing, the Borrower shall maintain a Debt Service Coverage Ratio as of the end of each Fiscal Year at least equal to the Debt Service Ratio Requirement. If, for any such Fiscal Year the Debt Service Coverage Ratio was not at least equal to the Debt Service Ratio Requirement, the Borrower shall, subject to applicable governmental restrictions and agreements, adopt revised rates and charges that will produce such coverage. In such an event, the Borrower shall also, within forty-five (45) days of the end of such Fiscal Year, employ a Consultant to make recommendations as to rates and charges and other aspects of management and operation. Copies of the report of the Consultant shall be filed with the Trustee and any Bondowner owning at least ten percent (10%) in aggregate principal amount of Outstanding Bonds who requests the same. Additionally, the Borrower shall use its best efforts to arrange a meeting with the Consultant (to be held at the offices of the Consultant or at such location as is chosen by the Majority Bondowner, if any, or, if there is no Majority Bondowner, by the Borrower) at which meeting the Consultant will present its final conclusions and recommendations. The Borrower will invite the Bondowners and the Trustee to attend such meeting and representatives of the Borrower and its board of directors shall attend such meeting. The Borrower shall, subject to applicable governmental restrictions, its fiduciary obligations and limitations on its legal authority, revise its rates and charges and other aspects of its management and operation in conformity with the recommendations of the Consultant or file with the Trustee its reasons for not following the recommendations. The Borrower shall thereafter achieve a Debt Service Coverage Ratio at least equal to the Debt Service Ratio Requirement unless for the first 12 months after the ratio first falls below the required level the Consultant certifies that the

Borrower is prevented from doing so by government restrictions and the Debt Service Coverage Ratio actually achieved is at least 1.00.

(c) The Borrower further agrees that it will maintain the Days Cash on Hand Requirement. The Borrower shall calculate its Days Cash on Hand on the last day of each Fiscal Year, beginning June 30, 2008, and shall certify to the Trustee the results of that calculation within sixty days thereof. Additionally, within one hundred twenty (120) days after the end of each Fiscal Year, the Borrower shall furnish to the Trustee a certification from a Certified Public Accountant setting forth the Borrower's Days Cash on Hand as of the close of such Fiscal Year. If the certification of the Borrower or the Certified Public Accountant indicates that the Borrower failed to maintain the Days Cash on Hand Requirement, the Borrower shall, within forty-five (45) days after the date of such certification, employ a Consultant to furnish a report as to why the Borrower failed to maintain the Days Cash on Hand Requirement and to make recommendations as to what remedies the Borrower should pursue to increase its Days Cash on Hand to at least the required number. Copies of the report of the Consultant shall be filed with the Trustee and the Majority Bondowner, if any, and shall be made available to all other Bondowners who request such report in writing. Additionally, the Borrower shall use its best efforts to arrange a meeting with the Consultant (to be held at the offices of the Consultant or at such location as is chosen by the Majority Bondowner, if any, or, if there is no Majority Bondowner, by the Borrower) at which meeting the Consultant will present its final conclusions and recommendations. The Borrower will invite the Bondowners and the Trustee to such meeting and representatives of the Borrower and its board of directors shall attend such meeting. The Borrower shall thereafter, subject to applicable government restrictions, its fiduciary obligations and limitations on its legal authority, take such steps to increase its Days Cash On Hand as are recommended by the Consultant. The Borrower shall thereafter achieve the Days Cash on Hand Requirement unless the Consultant certifies that the Borrower is prevented from doing so by government restrictions, the Borrower's fiduciary obligations or the Borrower's legal authority, and that the Borrower has achieved the maximum amount of Days Cash On Hand as is practicable. Within ninety (90) days of the Consultant's report, the Borrower will cause the Consultant to prepare a follow-up report detailing the Borrower's compliance in implementing the Consultant's recommendations.

(d) The Borrower shall maintain a ratio of its current assets to its current liabilities of not less than 1.1 to 1.0 as of the end of each fiscal quarter.

(e) The Borrower shall pay all Trade Payables within 90 days of receipt of invoice; provided, however, that on any given date an amount less than or equal to 10% of Trade Payables may be outstanding for more than 90 days. If more than 10% of Trade Payables are outstanding for more than 90 days as at the end of any fiscal quarter of the Borrower, the Borrower shall, within 75 days after the end of such quarter, employ a Consultant to advise the Borrower on how to improve payment of Trade Payables. So long as the Borrower retains such Consultant and follows its recommendations, the Borrower shall be deemed to be in compliance herewith even if more than 10% of Trade Payables are outstanding for more than 90 days as at the end of any fiscal quarter of the Borrower; provided, however, that (i) no more than twenty percent (20%) of Trade Payables shall be outstanding for more than 90 days at any time, and (ii) no more than 10% of Trade Payables may be outstanding for more than 90 days as of the end of each month for any twelve consecutive months.

(f) For each 12 month period during which any permitted working capital credit facility is available to the Borrower, amounts outstanding must be paid down to zero for a period at least equal to 10 consecutive days.

Section 1007. Annual Reports and Other Current Information. (a) Within sixty (60) days after the close of each Fiscal Year, the Borrower shall render to the Trustee a report as of the close of the Fiscal Year as to the physical condition of the Mortgaged Property. In addition, the Borrower shall from time to time render such other reports concerning the condition of the Mortgaged Property or compliance with this Agreement as the Trustee or the Majority Bondowner, if any, may reasonably request.

(b) Within forty-five (45) days after the close of each of the first three fiscal quarters of each Fiscal Year of the Borrower, the Borrower shall furnish to the Trustee, and the Majority Bondowner, if any, the quarterly unaudited financial statements of the Borrower for such quarter. Such quarterly financial statements shall be prepared in accordance with generally accepted accounting principles and shall set forth a detailed balance sheet, statements of income and cash flow, a detailed account of accounts receivable and a schedule setting forth the occupancy of the Facility and the payor mix applicable to the Facility. In addition, such report shall contain a report of the Borrower's Excess Cash.

(c) Upon the date of the delivery of the Bonds, and thereafter no later than 45 days before the close of each Fiscal Year of the Borrower, the Borrower shall obtain from the manager of the Facility an annual budget covering the operations of, and proposed capital expenditures to be made with respect to, the Facility for the next Fiscal Year or calendar year (as determined by the Borrower) (or the remainder of the applicable Fiscal Year or calendar year in the case of the initial budget) and shall furnish a copy of such budget to the Trustee and the Majority Bondowner, if any. The Borrower shall submit with such budget to the Trustee and the Majority Bondowner, if any, a statement of an Authorized Officer as to the compliance of such budget with Section 1006. Any capital expenditures or operating leases set forth in such budget which exceed seven percent (7%) of the projected annual net patient revenues for the budgeted Fiscal Year or calendar year may be made or executed, provided that the approval of the Majority Bondowner is required if such Majority Bondowner exists.

(d) Within forty-five (45) days of the end of each Fiscal Year, or calendar year, as the case may be, the Borrower shall deliver to the Trustee and the Majority Bondowner, if any, a report reconciling the Borrower's actual operating results with the budgeted operating results.

(e) Within one hundred twenty (120) days after the close of each Fiscal Year, the Borrower shall furnish (i) to the Issuer, if the Issuer so requests, the Majority Bondowner, if any, and the Trustee copies of its audited financial statements prepared by independent auditors of regional or national standing; and (ii) to the Trustee and the Majority Bondowner, if any, copies of the management letter delivered by the Borrower's auditors in connection with such financial statements.

(f) Within 30 days of the end of each calendar month, the Borrower shall furnish to the Trustee and the Majority Bondowner, if any, a report showing (i) with respect to such month: (A) income and expenses for the Facility, (B) patient census, patient days and occupancy

percentage for the Facility, (C) payor mix and respective per diem charges for each class of payors, and (D) Days Cash on Hand and Trade Payables as of the last day of the preceding calendar month; and (ii) a calculation of the Debt Service Coverage Ratio for the immediately preceding calendar month and the immediately preceding twelve (12) calendar months.

(g) The Borrower shall furnish to the agencies rating the Bonds, if any, such information as they may reasonably require for current reports to their subscribers.

(h) The Borrower shall notify the Majority Bondowner, if any, and the Trustee of

(i) any Event of Default under any bond document, or the occurrence of any event or condition which constitutes, or which with the passage of time or giving of notice or both, would constitute an event of default by the Borrower under any material agreement to which the Borrower is a party or by which the Borrower may be bound, giving in each case the details thereof and specifying the action proposed to be taken with respect thereto;

(ii) any material change with respect to the business, assets, liabilities, financial position, results of operations or business prospects of the Borrower;

(iii) the commencement of all proceedings and investigations by or before any governmental agency or court or before any arbitrator against, or in any other way relating adversely to the Borrower or any of its properties, assets or businesses which, if adversely determined, could singly or when aggregated with all other such proceedings, investigations and actions if adversely determined, have a materially adverse effect on the business, assets, liabilities, financial position, results or operations or business prospects of the Borrower,

(iv) any agreement or arrangement whereby the Borrower engages in a transaction of any kind with any of its affiliates other than in the ordinary course of business; and

(v) the occurrence of any Reportable Event or any Prohibited Transaction (for such purposes, "Prohibited Transaction" shall mean a transaction that is prohibited under Section 4975 of the IRC or Section 406 of ERISA and not exempt under Section 4975 of the IRC or Section 408 of ERISA, and "Reportable Event" shall have the meaning assigned to such term in Title IV of ERISA);

(i) Copies of the reports and statements required to be filed by the Borrower with the Trustee shall be filed with the Trustee in sufficient quantity to permit the Trustee to retain at least one copy for inspection by Bondowners and to permit the Trustee to mail a copy to each Bondowner who requests it in writing. The Trustee shall maintain a list of Bondowners who have made such a request and shall make such list available to the Borrower.

(j) The Borrower agrees that the Trustee, the Issuer and any Owner of at least ten percent (10%) in aggregate principal amount of Bonds Outstanding by its duly authorized representatives, at reasonable times, upon reasonable notice to the Borrower in writing, may inspect any part of the Facility and the Borrower's books and records and discuss the financial

affairs of the Borrower with respect to the Facility with the chief financial officer or chief executive officer of the Borrower and the Manager.

(k) The Company shall provide to the Trustee and to any Bondowner owning at least ten percent (10%) in aggregate principal amount of Outstanding Bonds who requests the same copies of all state inspection reports of the Facility or surveys by regulatory agencies.

Section 1008. Maintenance of Corporate Existence. Each Borrower shall maintain its existence as a nonprofit corporation qualified to do business in the State of Florida and shall not dissolve or dispose of all or substantially all of its assets, or spin off a substantial amount of its assets, or consolidate with or merge into another entity or entities, or permit one or more other entities to consolidate with or merge into it. Except as provided herein, each Borrower will engage solely in the ownership and operations of the Project. AICC may continue the operation of the Existing Facilities and may sell any of the Existing Facilities and convert any of the Existing Facilities to uses other than homes for the developmentally disabled, subject to the requirements of Section 313(d) which requires a partial redemption of the Series 2007 Bonds unless an opinion of Bond Counsel is delivered to the Trustee..

Section 1009. License and Accreditation. The Borrower which operates the Facility shall maintain its licenses with respect to the Facility from the applicable state and local agencies having jurisdiction and all other licenses and permits material to the operation of the Facility.

Section 1010. Restrictions on Encumbrance of Property.

(a) Except as provided in subsection (c) of this Section 1010, the Borrower may not create or suffer to be created any lien upon any of its assets or properties, tangible or intangible, including without limitation the Mortgaged Property or Gross Receipts, now owned or hereafter acquired by it other than Permitted Liens.

(b) Permitted Liens shall consist of the following:

(i) Any lien described in Exhibit B hereto which is existing on the date hereof provided that no such lien (or the amount of Indebtedness secured thereby) may be increased, extended, renewed or modified to apply to any Mortgaged Property or Gross Receipts of the Borrower not subject to such lien on such date, unless such lien as so increased, extended, renewed or modified otherwise qualifies as a Permitted Lien hereunder;

(ii) Liens on revenues and property of the Borrower now or hereafter created to secure the Bonds and the other obligations of the Borrower hereunder;

(iii) Any liens on any Mortgaged Property or Gross Receipts for taxes, assessments, levies, fees, water and sewer rents, and other governmental and similar charges and any liens of mechanics, materialmen, laborers, suppliers or vendors for work or services performed or materials furnished in connection with such Mortgaged Property, which are not due and payable or which are not delinquent, or the amount or validity of which are being contested and execution thereon is stayed as permitted

hereunder or, with respect to liens of mechanics, materialmen, and laborers, have been due for less than sixty (60) days;

(iv) Any lien on a parity with the lien of the Bonds on the Mortgaged Property or Gross Receipts of the Borrower to secure Additional Bonds issued in accordance with Section 501 hereof or to secure Alternative Indebtedness issued in accordance with Section 502 hereof;

(v) Any lien on Accounts Receivable securing or deemed to secure any Indebtedness incurred or deemed incurred by virtue of any recourse obligation associated with any sale or assignment of Accounts Receivable pursuant to Section 1010(c);

(vi) Any lien in the form of a purchase money security interest on any property which is purchased or leased on an installment basis as permitted in Subsection 504(c);

(vii) Statutory rights of the United States of America by reason of federal funds made available under 42 U.S.C. §291 et seq. and similar rights under other federal and state statutes;

(viii) Any lien on property received through gift, grant or bequest arising from restrictions imposed by the donor, grantor or testator on such property or the income thereon;

(ix) The Project Lease;

(x) Any lien or encumbrance on the Existing Facilities; and

(xi) Any further liens or encumbrances consented to by the Majority Bondowner, if any.

(c) In addition to Permitted Liens, subject to Section 504(b), the Borrower may pledge not exceeding eighty percent (80%) of its accounts receivable (prior to the lien of Subsection 311(d)) for working capital provided that the total amount of accounts receivable subjected to a lien in any Fiscal Year does not exceed \$200,000 or, if such total amount does exceed \$200,000, the Majority Bondowner, if any, approves such pledge in writing.

#### Section 1011. Disposition of Property.

(a) The Borrower agrees that it will not in any Fiscal Year sell, lease or otherwise dispose of any of its property except for the following Permitted Dispositions:

(i) any disposition of an item of Mortgaged Personality in accordance with Section 404;

(ii) any disposition in the ordinary course of business for fair consideration;

(iii) any disposition of furnishings and equipment if the Borrower receives fair consideration therefor and the proceeds of such disposition are applied to the purchase of additional furnishings or equipment or are deposited in the Redemption Fund established under section 306 hereof to redeem Bonds;

(iv) any disposition of cash and marketable securities if the Borrower receives fair consideration therefor; and

(v) any disposition of the Existing Facilities; and

(vi) the Borrower may transfer cash and/or marketable securities constituting Excess Cash as provided in this clause (vi) within thirty (30) days of the Borrower's receipt of its audited financial statements for the immediately preceding Fiscal Year, provided that such audited financial statements show that:

(A) there is no Event of Default;

(B) the Debt Service Coverage Ratio for such preceding Fiscal Year was not less than the Debt Service Coverage Ratio Requirement;

(C) Days Cash on Hand upon giving effect to any transfer shall not be less than the Days Cash on Hand Requirement;

(D) the Borrower shall have been in compliance with Section 1006 for such preceding Fiscal Year; and

(E) the Borrower is in compliance with all payments required by this Agreement.

Upon satisfaction of the conditions stated above, the Borrower may distribute its Excess Cash remaining after required deposits to the Debt Service Reserve Fund to any affiliate.

(b) In the event the Borrower makes a transfer of cash and/or marketable securities that purports to comply with the conditions set forth in clauses (A) through (F) of Section 1011(a)(v) and it is subsequently determined that such transfer did not in fact comply with one or more of such conditions, the applicable affiliate shall return to the Borrower immediately following such determination the amount of cash and/or marketable securities so transferred which caused such condition or conditions not to be satisfied at the time of such transfer (taking into account, however, in the case of a failure of compliance with either of the conditions set forth in clause (C) or (E), only a failure of compliance for the four consecutive quarters immediately preceding such transfer).

(c) Following the completion of the Project, the Borrower may dispose of the Existing Facilities and the Trustee shall release the Existing Facilities from the mortgage liens and security interests created by this Agreement. The proceeds from any sale of the Existing Facilities shall not be subject to any liens, security interests or restrictions created by this Agreement.

Section 1012. Capital Additions.

(a) The Borrower may undertake any Capital Addition which involves an expansion of the Facility or the total cost of which is estimated to exceed \$250,000, provided that if a Majority Bondowner exists, the prior written consent of the Majority Bondowner, which consent may impose such conditions or requirements as the Majority Bondowner may deem reasonably appropriate, will be required. The Borrower shall cause any Capital Additions to be constructed, completed, furnished and equipped with reasonable dispatch and pursuant to the estimated time schedule delivered to the Majority Bondowner pursuant to Section 1012(c)(i) hereof and substantially in accordance with the plans and specifications therefor, if any, which have been filed with the Majority Bondowner.

(b) The Borrower shall issue or enter into all necessary purchase orders, work orders and agreements needed to undertake and complete each Capital Addition. In addition, the Borrower shall enter into construction contracts providing for a fixed cost or guaranteed maximum price with respect to any Capital Addition involving construction prior to the commencement of construction thereof. Prior to commencement of any Capital Addition involving construction with a total estimated construction cost in excess of \$250,000, the Borrower shall designate an architect, subject to the approval of the Majority Bondowner, if any, which approval shall be deemed given if the Majority Bondowner does not respond in writing within thirty (30) days of the written notice of designation by the Borrower. The Borrower shall cause any Capital Addition involving construction to be completed in accordance with the construction contracts and shall enforce all such construction contracts. The Borrower shall assign all of its rights under the construction contracts and any amendments thereto to the Trustee as additional security for the Bonds.

(c) The Borrower further agrees as follows with respect to any Capital Addition:

(i) Prior to the commencement of construction on any Capital Addition, the Borrower shall file with the Majority Bondowner, if any, an estimate of the Costs thereof and the estimated schedule for the completion of each phase of the Capital Addition in question and for the payment of such costs, which estimates and schedules for any Capital Addition involving construction with a total estimated construction cost in excess of \$250,000 shall be approved by the architect, if any. In addition, prior to the commencement of construction of any Capital Addition, the Borrower shall file with the Majority Bondowner, if any, copies of (A) the applicable construction contracts, and (B) the plans and specifications for the construction portion, if any, of such Capital Addition prepared by an architect and, if the total estimated cost of construction is in excess of \$250,000, approved by the architect.

(ii) Provided that no Event of Default has occurred and is continuing, changes relating to any Capital Addition, or to any construction contract, or any estimate, schedule or plans and specifications therefor, including any change orders under any construction contract, may be made at the discretion of the Borrower; provided that such changes are filed with the Majority Bondowner, if any, and are in compliance with all applicable laws, acts, rules, regulations, order and requirements as aforesaid; and provided further that prior to any such change becoming effective with respect to any

Capital Addition with a total estimated construction cost in excess of \$250,000, such change must be: (i) in writing, (ii) approved by the architect, if any, and such approval, in all cases, shall include a statement that the approval of any regulatory body required in connection with the change, if any, has been obtained; (iii) approved by an Authorized Officer of the Borrower; and (iv) filed with the Majority Bondowner, if any. In addition, any changes creating (or increasing) an expansion of the Facility or, with respect to any Capital Addition having an estimated cost in excess of \$250,000, increasing such cost by more than 10%, shall be approved in writing by the Majority Bondowner, if any.

(iii) The Borrower will not do or refrain from doing any act whereby any surety on any bond may be released in whole or in part from any obligation assumed by such surety or from any agreement to be performed by such surety under the bond. In the event of any default on the part of any general contractor, architect or other contractor or any subcontractor or supplier under any contract made by it in connection with any Capital Addition or in the event of a breach of warranty with respect to any materials, workmanship or performance guaranty the Borrower will notify the Majority Bondowner, if any, and will proceed, either separately or in conjunction with others, to pursue such remedies against the architect, the general contractor, contractor, subcontractor or supplier so in default and against each surety for the performance of such contract as it may deem advisable. The Borrower shall advise the Majority Bondowner, if any, of the steps it intends to take in connection with any such default. If the Borrower refuses to prosecute any action or proceeding or take any other action against such general contractor, architect, contractor, subcontractor, supplier or surety, the Majority Bondowner, if any, may, but is not required to, proceed to take all such action in the name of the Borrower or in its own name and the Borrower shall pay all expenses in connection therewith.

(iv) In connection with any Capital Addition involving construction, the Borrower agrees to obtain or cause to be obtained by the general contractor or, as applicable, its subcontractors for such Capital Addition a surety bond or bonds covering performance of contracts, including coverage for correction of defects developing within one year after completion and acceptance, and payment for labor and materials. The bond or bonds shall be executed by a responsible surety company or companies qualified to do business in the State of Florida and satisfactory to the Borrower, the Insurance Consultant, and the Majority Bondowner, if any, and shall name the Trustee as an obligee and shall be in amounts, in the aggregate, equal to not less than 100% of the amount of the contracts, including increases caused by change orders. Such bonds shall be delivered to the Trustee prior to the commencement of the construction in respect of which they are obtained, except that bonds covering increases under change orders may be delivered prior to the implementation of the change order. The net amounts recovered by the Borrower on such bonds shall be deposited in the Replacement Reserve Fund.

(d) During the period of construction for any Capital Addition, the Borrower shall deliver to the Majority Bondowner, if any, a monthly status report prepared by the architect, if one was required, otherwise by the Borrower, which shall indicate the status of completion of the construction, that such construction is in accordance with the plans and specifications (if any),

the estimated time schedule for completion and the then total estimated cost of construction against the original budget therefor.

(e) Prior to the commencement of construction of any Capital Addition, the Borrower shall file with the Majority Bondowner, if any, and the Trustee the certificate of an Insurance Consultant to the effect that insurance obtained by the Borrower with respect to such construction meets the requirements of Sections 406, 407 and 408, as applicable.

(f) Upon completion of any Capital Addition, the Borrower shall furnish the Trustee with its certificate which may be given in reliance upon appropriate certifications of the architect, showing such completion and the date thereof and certifying that all required insurance has been obtained, that all construction has been completed in accordance with the approved plans and specifications and approved changes, if any, and that all costs of the Capital Addition (other than retainage) have been paid or stating the amount to be reserved for the payment of any unpaid costs and certifying that such amounts are more than sufficient. If an architect is required to be appointed in connection with such Capital Addition pursuant to Section 1012(b), any such certificate must be approved by such architect. The Trustee may then release any retainage from the Replacement Reserve Fund to the appropriate parties upon delivery of (i) a requisition and certificates meeting the provisions of Section 401 hereof except for the provision therein requiring retainage; (ii) acknowledgments of payment and waivers of lien for all lienable work done and materials delivered from all contractors, subcontractors and material suppliers who perform services or provided materials with respect to the Capital Addition; (iii) if applicable, a final title insurance policy or endorsement insuring the mortgage lien of this Agreement with respect to the Facility in any real property in which an interest was obtained in connection with the Capital Addition, subject only to Permitted Liens; and (iv) if applicable, a certificate of occupancy.

Section 1013. Restrictions on Borrowing and Guarantees.

(a) Borrowing. The Borrower may not incur Additional Indebtedness except as permitted in sections 501, 502, 503 and 504 hereto.

(b) Guarantees. The Borrower may not guarantee the obligations of others.

Section 1014. Stipulation to Certain Matters in Litigation.

(a) In the event that the Borrower shall ever cease to maintain a place of business in the State of Florida and if any service upon the Borrower may be required in connection with any suit or exercise of other remedies against it hereunder or under any other documents which provide a source of security for this financing, the Borrower shall and does hereby appoint the Secretary of State of the State of Florida as its agent to receive such service in such event with written notice sent by the Issuer or the Trustee to the Borrower by registered mail, postage prepaid at the address as provided for herein. Without limiting the right of any person to bring suit against the Borrower in any other jurisdiction, the Borrower does hereby consent to jurisdiction to any such suit brought in Florida and does hereby waive any objection to the venue of any such suit, action or proceeding on this Agreement in any of the courts of Florida.

(b) Any dispute arising out of, or relating to, the Borrower Documents (as defined in the Placement Agreement), or the breach thereof, may be decided at the election of the holders of a majority in principal amount of the Bonds by arbitration according to standard industry rules and policies.

Section 1015. Selection of Manager; Change in Manager.

(a) The Borrower has contracted with Eidetik, Inc. to serve as Manager of the Facility pursuant to a Management Agreement dated as of August 1, 2007. Provided a Majority Bondholder exists, the Borrower will not make any change in the Manager of the Facility without the consent of such Majority Bondowner, which consent shall not be unreasonably withheld or delayed. The consent of the Majority Bondholder shall be deemed conclusively to be granted if the Borrower provides written notice to the Majority Bondholder of the proposed change in Manager, including the identity of the proposed new Manager, and the Majority Bondholder does not object in writing within 30 days of the date on which the Borrower gives such notice. Upon the occurrence of an Event of Default described in Section 601(a)(i) hereof, the Majority Bondowner, if any, may require a change in the Manager of the Facility.

(b) All contingent management fees payable to the Manager shall be subordinated to all obligations of the Borrower with respect to the Bonds and hereunder pursuant to the Subordination Agreement.

Section 1016. Costs and Expenses. All expenses in connection with the preparation, execution, delivery, recording and filing of this Agreement and other collateral documents and in connection with the preparation, issuance and delivery of the Series 2007 Bonds, the Issuer's fees, the fees and expenses of Bond Counsel, the fees and expenses of the Trustee, and the fees and expenses of Trustee's counsel shall be paid directly by the Borrower.

Section 1017. Completion of Improvements. Borrower hereby covenants to complete the improvements to the Project to be financed with proceeds of the initial series of Bonds not later than December 31, 2007.

Section 1018. Investments. The Borrower shall not have outstanding or hold or acquire or make or commit itself to make, any Investment (as hereinafter defined) except (a) Investments of the funds and accounts permitted hereunder, and (b) Investments by the Borrower in: (i) obligations of the Trustee or any other bank or trust company having a capital and surplus in excess of \$100,000,000; (ii) obligations of the United States of America or any agency or instrumentality thereof; (iii) repurchase agreements involving securities described in clauses (i) and (ii) with the Trustee or any other bank or trust company described in clause (i); and (iv) commercial paper which is rated not less than P-1 or A-1 or their equivalents by Moody's Investors Service or Standard & Poor's Ratings Group, respectively, or their successors. "Investment" shall mean (a) any stock, evidence of indebtedness or other security of another Person, (b) any loan, advance, contribution to capital, extension of credit (except for current trade and customer accounts receivable for inventory sold or services rendered in the ordinary course of business and payable in accordance with customary trade terms) to another Person, or (c) any other investment, in all cases whether existing on the date of this Agreement or thereafter made.

Section 1019. Distributions.

The Borrower shall not make any Distribution, except as permitted by Section 1011 hereof. "Distribution" shall mean (a) the declaration of payment of any amount on or in respect of any membership interest in the Borrower or (b) the purchase, redemption or other acquisition or retirement of any membership interest in the Borrower.

Section 1020. Transactions with Affiliates.

The Borrower shall not enter into any transaction, including without limitation the purchase, sale or exchange of property or the rendering or receipt of any service to or from any Affiliate (as hereinafter defined), except that (a) the Borrower may pay salaries and bonuses to its directors, officers and employees as are usual and customary in the Borrower's business, (b) the Borrower may pay amounts due to The Guardian Foundation, Inc., its successor and assigns, under the Corporate Administration Agreement, to the extent permitted by the Subordination Agreement, (c) the Borrower may make payments to the Manager to the extent permitted under the Subordination Agreement and (d) the Borrower may enter into transactions with Affiliates on an "arms-length" basis, on terms no less favorable to the Borrower than would be available from third parties. "Affiliate" shall mean (a) any director or officer of the Borrower and (b) any Person that controls, is controlled by or is under common control with the Borrower. For purposes of this definition, "control" of a Person shall mean the possession, directly or indirectly, of the power to direct or cause the direction of its management or policies, whether through membership interest, the ownership of voting securities, by contract or otherwise.

Section 1021. No Transfer of Patients.

The Borrower will not move any residents from the Facility to any other facility unless such resident's needs cannot be adequately met at the Facility. This paragraph is subject to the resident's right to choose his or her care facility.

Section 1022. Continuing Disclosure.

The Borrower and the Trustee hereby covenant and agree that each will comply with and carry out all of the provisions of the Continuing Disclosure Agreement applicable to it and this Section 1022. The Issuer shall have no liability to the owners of the Bonds or any other person with respect to such disclosure matters. Notwithstanding any other provision of this Agreement, failure of the Borrower or the Trustee to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default; however, the Trustee may (and, at the request of the owners of at least a majority principal amount of Outstanding Bonds, shall) or any owner (including a beneficial owner) of Bonds may seek specific performance of the Borrower's or the Trustee's obligations to comply with the Continuing Disclosure Agreement or this Section 1022 and not for money damages in any amount.

## ARTICLE XI

### **AMENDMENTS OF AND SUPPLEMENTS TO THE AGREEMENT**

Section 1101. No Amendment Without Consent of Holders. The Issuer and the Trustee may not amend or supplement this Agreement or the Bonds except as provided in Section 1102 hereof.

Section 1102. Amendment With Consent of Bondowners.

(a) The Issuer or the Trustee may enter into an amendment or supplement to the Agreement or the Bonds upon prior notice to all Bondowners and with the consent of the Voting Majority Bondholders. However, except as provided in paragraph (b) of this Section 1102, no amendment or supplement may (i) extend the maturity of the principal of, or interest on, any Bond, (ii) reduce the rate of interest, or waive interest or principal, on any Bond (iii) affect a privilege or priority of any Bond or Bonds over any other Bond or Bonds, (iv) reduce the percentage of the principal amount of the Bonds required for consent to such amendment or supplement, (v) reduce the redemption price of such Bonds, (vi) create a lien ranking prior to or on a parity with the lien of this Agreement (other than for parity Indebtedness as provided herein) or (viii) amend the Subordination Agreement without the consent of all Bondowners which are affected. In addition, if money or United States Government Obligations have been deposited or set aside with the Trustee pursuant to Section 205 for the payment of Bonds and those Bonds shall not have in fact been actually paid in full, no amendment to the provisions of any Article that would be applicable to such Bonds shall be made without the consent of all Owners of such Bonds.

(b) Notwithstanding the provisions of paragraph (a) above, at any time while an Event of Default is continuing, any amendment (other than an amendment referred to in the last sentence of paragraph (a) above) which would otherwise require the consent of the Owners of all Bonds then outstanding and affected by such change shall only require the consent of the Owners of at least a majority in aggregate principal amount of Bonds Outstanding so affected.

Section 1103. Effect of Consents. After an amendment or supplement becomes effective as permitted in Section 1102 hereof, it will bind every Bondowner.

Section 1104. Notation on or Exchange of Bonds. If an amendment or supplement changes the term of a Bond, the Trustee may require the Owners of such Bond to deliver it to the Trustee. The Trustee may place an appropriate notation on the Bond about the changed terms and return it to the Bondowner. Alternatively, if the Trustee, the Issuer and the Borrower so determine, the Issuer in exchange for the Bond will issue and the Trustee will authenticate a new Bond that reflects the changed terms.

Section 1105. Signing of Amendments and Supplements. The Trustee will sign any amendment or supplement to this Agreement or the Bonds authorized by this Article if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If such amendment or supplement does so affect the Trustee, the Trustee may, but need not, sign it. In signing an amendment or supplement, the Trustee will be entitled to receive

and (subject to Section 702(h) hereof) will be fully protected in relying on an Opinion of Counsel stating that such amendment or supplement is authorized by this Agreement.

Section 1106. Notice to Bondowners. The Trustee shall cause notice of the execution of each supplement to this Agreement to be sent to each Bondowner, together with a copy of such supplement or amendment.

## ARTICLE XII

### MISCELLANEOUS

Section 1201. Successors and Assigns. The rights and obligations of the parties to this Agreement shall inure to their respective successors and assigns.

Section 1202. Notices. Unless otherwise expressly provided, all notices to the Issuer, the Trustee, the Paying Agent and the Borrower shall be in writing and shall be deemed sufficiently given if sent by registered or certified mail, postage prepaid, or delivered during a Business Day as follows: (a) to the Issuer at Clerk of the Circuit Court, Nassau County, 76347 Veteran's Way, Yulee, Florida 32097, (b) to the Trustee at Bank of Oklahoma, N.A., One Williams Center, 10th Floor, Tulsa, Oklahoma 74103, attention of Corporate Trust Department, and (c) to the Borrower at Nassau Care Centers, Inc., Fifteen Piedmont Center, Suite 930, 3575 Piedmont Road, N.E., Atlanta, Georgia 30305, attention of President, or, as to all of the foregoing, to such other address as the addressee shall have indicated by prior written notice to the one giving notice. All notices to a Bondowner shall be in writing and shall be deemed sufficiently given if sent by mail, postage prepaid, to the Bondowner at the address shown on the registration books maintained by the Paying Agent except as otherwise herein provided. A Bondowner may direct the Paying Agent to change its address as shown on the registration books by written notice to the Paying Agent.

Notice hereunder may be waived prospectively or retrospectively by the person entitled to the notice, but no waiver shall affect any notice requirement as to other persons.

Section 1203. Agreement Not for the Benefit of Other Parties. This Agreement is not intended for the benefit of and shall not be construed to create rights in parties other than the Borrower, the Issuer, the Trustee and the Bondowners.

Section 1204. Severability. In the event that any provision of this Agreement shall be held to be invalid in any circumstance, such invalidity shall not affect any other provisions or circumstances.

Section 1205. Counterparts. This Agreement may be executed and delivered in any number of counterparts, each of which shall be deemed to be an original, but such counterparts together shall constitute one and the same instrument.

Section 1206. Captions. The captions and table of contents of this Agreement are for convenience only and shall not affect the construction hereof.

Section 1207. Governing Law. This instrument shall be governed by and construed in accordance with the laws of the State of Florida.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by their respective duly authorized officers seal all as of the date first above written.

Attest:

NASSAU COUNTY, FLORIDA

Clerk of the Circuit Court,  
ex officio Clerk of the Board  
of County Commissioners

By: \_\_\_\_\_  
Chairman, Board of County Commissioners

AICC, INC.

By: \_\_\_\_\_  
President

NASSAU CARE CENTERS, INC.

By: \_\_\_\_\_  
President

BANK OF OKLAHOMA, NA, as Trustee

By: \_\_\_\_\_  
Vice President

Acknowledgments

STATE OF FLORIDA )

)SS

COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 2007, by [REDACTED], the \_\_\_\_\_ of Nassau County, Florida, a body corporate and politic and a political subdivision of the State of Florida, on behalf of such County.

My commission expires: \_\_\_\_\_.

(Notary Seal)

\_\_\_\_\_  
Notary Public

STATE OF FLORIDA )

)SS

COUNTY OF [REDACTED] )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 2007, by Gregory K. Grove, the President of Nassau Care Centers, Inc., a Florida nonprofit corporation, on behalf of the corporation.

My commission expires: \_\_\_\_\_.

(Notary Seal)

\_\_\_\_\_  
Notary Public

STATE OF FLORIDA )

)SS

COUNTY OF [REDACTED] )

The foregoing instrument was acknowledged before me on \_\_\_\_\_, 2007, by Gregory K. Grove, the President of AICC, Inc., a Florida nonprofit corporation, on behalf of the corporation.

My commission expires: \_\_\_\_\_.

(Notary Seal)

\_\_\_\_\_  
Notary Public

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

)  
)  
)

The foregoing instrument was acknowledged before me on  
\_\_\_\_\_, 2007, by \_\_\_\_\_, a Vice President of Bank of Oklahoma,  
NA, a national banking association, as Trustee, on behalf of said Trustee.

My commission expires: \_\_\_\_\_.

(Notary Seal)

\_\_\_\_\_

Notary Public

SCHEDULE A

Description of Mortgaged Property

SCHEDULE B

Description of Existing Liens

SCHEDULE C

Form of Requisition

Requisition No. \_\_\_\_\_

NASSAU COUNTY, FLORIDA  
First Mortgage Revenue Bonds  
(Nassau Care Centers, Inc. Project), Series 2007

REQUISITION FOR PAYMENT FROM CONSTRUCTION FUND  
(CONSTRUCTION ACCOUNT)

1. The following sums are requisitioned for payment to other than Nassau Care Centers, Inc. (the "Borrower"):

| <u>Item No.</u> | <u>Amount</u> | <u>Payee's Invoice No.</u> | <u>Payee</u> | <u>Purpose</u> |
|-----------------|---------------|----------------------------|--------------|----------------|
|-----------------|---------------|----------------------------|--------------|----------------|

2. The following sums are requisitions for reimbursement to the Borrower:

| <u>Item No.</u> | <u>Amount</u> | Original Payee's<br><u>Invoice No.</u> | <u>Payee</u> | <u>Purpose</u> |
|-----------------|---------------|----------------------------------------|--------------|----------------|
|-----------------|---------------|----------------------------------------|--------------|----------------|

3. This requisition is for Project Costs which have not been the basis of a prior or contemporaneous requisition or of a prior payment of an external loan or of a prior reimbursement of internal advances and which have not been paid from gifts or grants received by the undersigned Borrower for the Project. It is for work actually performed or material, equipment or other property actually supplied for the Project in accordance with the applicable plans and specifications. It contains no amount entitled to be retained. To the extent this requisition includes a request for reimbursement of any costs paid by the Borrower prior to the issuance of the Bonds, the reimbursement is consistent with the representations and warranties contained in Subsection 1003(c) of the Mortgage, Security Agreement and Trust Agreement dated as of August 1, 2007 (the "Agreement").

4. (a) The work and material, equipment or other property covered by this requisitions have been performed or delivered to the Borrower and are in accordance in all material respects with all applicable building, zoning, land use, environmental protection, sanitary, safety and health care laws, rules and regulations, all applicable grant, reimbursement and insurance requirements and the provisions of the Agreement. All permits, licenses, and approvals required for the items covered by this requisition have been obtained (except that no building permit need have been issued prior to the requisition for such a permit);

(b) with respect to items covered in this requisitions, there are no venders, mechanics, or other liens, which should be satisfied or discharged before the payments as requisitioned herein are made, or which will not be discharged before the payments requisitions herein are made;

(c) the amount remaining in the Construction Fund after the payment of this requisition will be sufficient to pay all remaining the Project Costs; and

(d) each item of this requisition is for a facility covered by a Certificate of Need or exempt from the requirement of a Certificate of Need; with respect to any such facility for which a Certificate of Need has been obtained, the facility remains consistent with the Certificate of Need and the cost of the facility has not exceeded and is not expected to exceed the amount approved in the Certificate of Need; with respect to any such facility which is exempt from the requirement of a Certificate of Need, the facility remains consistent with the exemption; and, as to any such facility which is exempt by reason of its cost being not more than the amount exempted by statute, its cost has not exceed and is not expected to exceed that amount.

(e) each requisition for construction work shall be accompanied by acknowledgment of payment and waivers of liens from all persons supplying labor or materials for all lienable work done and materials delivered through the date of the previous requisition.

5. (a) This requisition relates to construction or other work (including, but not limited to payments for a Capital Addition as described in the Agreement) for which an architect or general contractor is responsible.
- (b) This requisition does not relate to construction or other work for which an architect or general contractor is responsible.

NASSAU CARE CENTERS, INC.

Dated:

By \_\_\_\_\_  
Project Officer

Confirmed: (if item 5 (a) is selected)

By \_\_\_\_\_  
Architect/General Contractor

Confirmed: (if required by item 4 (e))

By \_\_\_\_\_

Note:

1. The signer of this requisition may rely, as to conclusions of law, on an Opinion of Counsel furnished to the Issuer and referred to in this requisition.
  
2. The Majority Bondowner or, if none, the Trustee may waive an provision required to be contained in this requisition or confirmed by an architect or general contractor, if any, upon advice of counsel that the waiver does not adversely affect either the security for the Bonds or the exclusion of interest on the Bonds from gross income for federal income tax purposes.

SCHEDULE D

Mortgaged Personality

**EXHIBIT "B"**

**PRELIMINARY PRIVATE PLACEMENT MEMORANDUM**

PRELIMINARY PRIVATE PLACEMENT MEMORANDUM DATED AUGUST \_\_, 2007

NEW ISSUE – BOOK ENTRY ONLY

In the opinion of Nabors, Giblin & Nickerson, P.A., Bond Counsel, assuming continuing compliance with certain tax covenants, interest on the 2007 Bonds is excluded from gross income for federal income tax purposes and is not subject to the federal alternative minimum tax on individuals under existing statutes, regulations, rulings and court decisions. However, see "TAX EXEMPTION" for a description of the alternative minimum tax imposed on corporations and certain other federal tax consequences of ownership of the 2007 Bonds. Bond Counsel is further of the opinion that the 2007 Bonds and the interest thereon are exempt from taxation under the laws of the State of Florida, except as to estate taxes and taxes imposed by Chapter 220, Florida Statutes, on interest, income or profits on debt obligations owned by corporations as defined therein.

**\$11,500,000\***  
**Nassau County, Florida**  
**First Mortgage Revenue Bonds**  
**(Nassau Care Centers, Inc. Project), Series 2007**

**Dated: Date of Delivery**

**Due: October 1, as shown below**

The 2007 Bonds will be issued pursuant to a Mortgage Deed, Security Agreement and Trust Agreement dated as of August 1, 2007 (the "Agreement") among AICC, Inc. and Nassau Care Centers, Inc. (collectively, the "Borrower"), Nassau County, Florida (the "Issuer"), and Bank of Oklahoma, N.A., as trustee (the "Trustee"). The 2007 Bonds will be payable solely from certain funds and accounts held by the Trustee and payments made by the Borrower under the Agreement. The Borrower's obligations under the Agreement will be secured by, among other things, a first mortgage lien on and a first security interest in the New Facilities and a first security interest in the Borrower's Gross Receipts (as herein defined). The sole source of funds available to the Borrower to make such payments under the Agreement will be revenues derived by the Borrower from the operation of the New Facilities. The ability of the Borrower to generate sufficient revenues to make such payments is subject to certain risks which are discussed herein under the heading "CERTAIN BONDOWNERS' RISKS." See also "SECURITY FOR THE 2007 BONDS" herein.

The 2007 Bonds are issuable only as fully registered bonds, registered in the name of Cede & Co., as registered owner and nominee for The Depository Trust Company, New York, New York ("DTC"). Individual purchases will be made in book-entry form, in the denomination of \$100,000 or any multiple of \$5,000 in excess thereof. Purchasers will not receive certificates representing their interest in the 2007 Bonds purchased. So long as Cede & Co. is the registered owner of the 2007 Bonds and nominee of DTC, references herein to the Bondholders or registered owners shall mean Cede & Co. and shall not mean the Beneficial Owners of the 2007 Bonds. See "THE 2007 BONDS – Book-Entry Only System" herein.

Interest on the 2007 Bonds will be payable quarterly on January 1, April 1, July 1 and October 1, commencing January 1, 2008, to the registered owners of the 2007 Bonds as of the applicable record dates, as herein described.

The 2007 Bonds are subject to optional and mandatory redemption prior to maturity as described herein.

Proceeds of the 2007 Bonds will be used, together with other available funds: (i) to refund the Issuer's \$4,440,000 of outstanding ICF/MR Revenue Bonds (GF/Amelia Island Properties, Inc. Project), Series 1993A and its \$790,000 of outstanding ICF/MR Subordinate Revenue Bonds (GF/Amelia Island Properties, Inc. Project), Series 1993C, (ii) to finance the acquisition and construction of the New Facilities; (iii) to capitalize interest on the 2007 Bonds for a period of approximately 14 months; (iv) to fund a Debt Service Reserve Fund for the 2007 Bonds; and (v) to pay certain costs of issuance of the 2007 Bonds. See "ESTIMATED SOURCES AND USES OF FUNDS" herein.

THE 2007 BONDS ARE SPECIAL, LIMITED OBLIGATIONS OF THE ISSUER. NEITHER THE 2007 BONDS NOR ANY OTHER OBLIGATIONS OF OR INDEBTEDNESS INCURRED BY THE ISSUER SHALL CONSTITUTE AN INDEBTEDNESS OR OBLIGATION OF NASSAU COUNTY, THE STATE OF FLORIDA, OR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF, NOR SHALL ANY ACT OF THE ISSUER IN ANY MANNER CONSTITUTE OR RESULT IN THE CREATION OF AN INDEBTEDNESS OF NASSAU COUNTY, THE STATE OF FLORIDA, OR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF. THE 2007 BONDS SHALL BE PAYABLE SOLELY FROM THE REVENUES PLEDGED THEREFOR PURSUANT TO THE AGREEMENT, AND NO HOLDER OF THE 2007 BONDS SHALL EVER HAVE THE RIGHT TO COMPEL ANY EXERCISE OF THE TAXING POWER OF NASSAU COUNTY, THE STATE OF FLORIDA, OR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF NOR TO ENFORCE THE PAYMENT THEREOF AGAINST NASSAU COUNTY, THE STATE OF FLORIDA, OR ANY SUCH POLITICAL SUBDIVISION OR AGENCY. THE ISSUER HAS NO TAXING POWER.

THE 2007 BONDS ARE HIGHLY SPECULATIVE IN NATURE AND ARE SUBJECT TO CERTAIN RISKS. EACH PROSPECTIVE INVESTOR SHOULD CONSIDER ITS FINANCIAL CONDITION AND THE RISKS INVOLVED TO DETERMINE THE SUITABILITY OF INVESTING IN THE 2007 BONDS. INVESTMENT IN SMALL BUSINESSES INVOLVES A HIGH DEGREE OF RISK, AND INVESTORS SHOULD NOT INVEST ANY FUNDS IN THIS OFFERING UNLESS THEY CAN AFFORD TO LOSE THEIR INVESTMENT IN ITS ENTIRETY. THE 2007 BONDS ARE NOT RATED BY ANY RATING AGENCY AND NO RATING HAS BEEN OR IS EXPECTED TO BE APPLIED FOR. SEE "CERTAIN BONDOWNERS' RISKS".

\$ \_\_\_\_\_ % Term Bonds, due October 1, \_\_\_, Price 100% CUSIP \_\_\_\_\_

The 2007 Bonds are offered when, as and if issued and received by the Underwriter, subject to prior sale, withdrawal or modification of the offer without any notice, and subject to the approval of legality by Nabors, Giblin & Nickerson, P.A., Tampa, Florida, Bond Counsel. Delivery of the 2007 Bonds is also subject to the satisfaction of other conditions as described herein. Certain legal matters relating to the Borrower will be passed upon by its counsel, Law Office of Timothy E. Dixon, PA, Baltimore, Maryland, and by its Florida counsel, \_\_\_\_\_, \_\_\_\_\_, Florida. Certain legal matters will be passed upon for the Issuer by David Hallman, Esq., County Attorney, Fernandina Beach, Florida. Certain legal matters will be passed upon for the Underwriter by its counsel, Nixon Peabody LLP, Albany, New York. It is expected that the 2007 Bonds in definitive form will be available for delivery to DTC in New York, New York, on or about \_\_\_\_\_, 2007

**Herbert J. Sims & Co., Inc.**

Dated: \_\_\_\_\_, 2007

\* Preliminary, subject to change

## SHORT STATEMENT

The information set forth in this Short Statement is subject in all respects to more complete information set forth elsewhere in this Private Placement Memorandum, which should be read in its entirety.

The offering of the 2007 Bonds to potential investors is made only by means of this entire Private Placement Memorandum. No person is authorized to detach this Short Statement from this Private Placement Memorandum or otherwise to use it without this entire Private Placement Memorandum. For the definitions of certain words and terms used in this Short Statement, see Appendix C – Definitions and Excerpted Provisions of the Mortgage and Trust Agreement and Subordination Agreement herein.

**NASSAU COUNTY, FLORIDA** (the “Issuer”), a body politic and corporate and a political subdivision of the State of Florida, proposes to issue \$11,500,000\* of its First Mortgage Revenue Bonds (Nassau Care Centers, Inc. Project), Series 2007 (the “2007 Bonds”). The 2007 Bonds are being issued pursuant to the Constitution and laws of the State of Florida including Florida Industrial Development Financing Act, Section 159.25, *et seq.*, Florida Statutes, as amended, and a Mortgage Deed, Security Agreement and Trust Agreement dated as of August 1, 2007 (the “Agreement”) among the Issuer, AICC, Inc. and Nassau Care Centers, Inc. (collectively, the “Borrower”) and Bank of Oklahoma, N.A., as trustee (the “Trustee”).

**NASSAU CARE CENTERS, INC. and AICC, INC.** (collectively, the “Borrower”) are not-for-profit Florida corporations, the sole member of which is The Guardian Foundation, Inc. (“Guardian”), a Pennsylvania not-for-profit corporation. The Borrower is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), and is accordingly exempt from federal income taxation under Section 501(a) of the Code. The Borrower’s tax exempt status is based upon its election to be included within a group exemption granted by the Internal Revenue Service to Guardian on August 23, 1990, and Guardian’s subsequent notification to the Internal Revenue Service of the Borrower’s inclusion in such group exemption. AICC, Inc. (“AICC”) owns and operates the Amelia Island Care Center, a 70-bed intermediate care facility for the developmentally disabled (“ICF/DD”) and [leases] a day program services facility for the developmentally disabled (the “DPS Facility” and, together with the Amelia Island Care Center, the “Existing Facilities”), located in Fernandina Beach, Florida. AICC also leases two six-bed group homes for the developmentally disabled, one located in Fernandina Beach and the other on the mainland, on Spring Road, which is east of Yulee.

AICC and two limited liability companies of which it is the sole member, has acquired three sites in Yulee, Nassau County, Florida, approximately seven miles inland from Amelia Island. AICC will donate the sites to Nassau Care Centers, Inc. (“Nassau”). Nassau proposes to construct on each site an ICF/DD consisting of three eight-bed clusters, as well as an administration building on one of the sites. The three facilities (the “New Facilities”) will have a total complement of 72 beds. Completion of the New Facilities is scheduled for June 2008.

The New Facilities will be leased to Care Centers of Nassau, LLC (the “Operator”), a Florida limited liability company of which Nassau is the sole member. The lease of the New Facilities (the “Lease”) will be for a term of 30 years, and the rental payments thereunder will be sufficient to cover debt service on the 2007 Bonds. Upon completion of the New Facilities, the residents of the Amelia Island Care Center will be transferred to the New Facilities, and the operating license will be transferred from AICC to the Operator. Following this transfer, AICC may be released from its obligations under the Agreement, subject to the conditions described in the Agreement (see “SECURITY FOR THE 2007 BONDS – Release of AICC from Agreement”).

The New Facilities will be managed by Eidetik, Inc. (the “Manager”), a Kentucky corporation formed in 1990, pursuant to a Management Agreement dated as of July 1, 2007 between the Manager and the Operator. The Manager has managed the Existing Facilities since 1993. See “THE MANAGER” herein.

For further information concerning the Borrower, the Existing Facilities and the New Facilities, see the information under the captions “THE BORROWER,” “THE NEW FACILITIES” and “APPENDIX A – Forecasted Financial Statements” hereto.

**THE GUARDIAN FOUNDATION, INC.** (“Guardian”), a Pennsylvania non-profit corporation, is the sole member of the Borrower. Guardian has been determined to be an organization described in Section 501(c)(3) of the Code, and therefore exempt from federal income tax under Section 501(a) of the Code. Guardian has received a group exemption stating that it and its subordinate entities will be treated as organizations described in Section 501(c)(3) of the Code. Guardian has included the Borrower in its list of subordinates covered by such group exemption. Pursuant to applicable Treasury Regulations, the Operator will be disregarded as a separate entity for federal income tax purposes.

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\* Preliminary, subject to change.

Guardian and its 12 affiliated corporations own and operate (except for one leased facility) 11 nursing facilities, 17 assisted living facilities, three group home facilities for the developmentally disabled and four intermediate care facilities for the developmentally disabled, located in six states and containing a total of 1,729 beds.

**PLAN OF FINANCING.** The net proceeds of the 2007 Bonds and the Subordinate Loan will be used: (i) to finance the acquisition and construction of the New Facilities; (ii) to refund the Issuer's \$4,440,000 of outstanding ICF/MR Revenue Bonds (GF/Amelia Island Properties, Inc. Project), Series 1993A and its \$790,000 of outstanding ICF/MR Subordinate Revenue Bonds (GF/Amelia Island Properties, Inc. Project), Series 1993C, (iii) to capitalize interest on the 2007 Bonds for a period of approximately 14 months; (iv) to fund a Debt Service Reserve Fund for the 2007 Bonds; and (v) to pay certain costs of issuance of the 2007 Bonds. See "ESTIMATED SOURCES AND USES OF FUNDS" herein.

**SECURITY.** Pursuant to the Agreement, the Issuer will lend the proceeds of the 2007 Bonds to the Borrower, and the Borrower will agree to repay such loan in the amounts and at the times necessary for the repayment of the 2007 Bonds. Nassau and AICC will be jointly and severally liable for the payment of all amounts and the performance of all obligations under the Agreement, until such time as AICC is released under the Agreement. The Agreement grants to the Trustee a first mortgage lien on and security interest in the New Facilities and a security interest in Gross Receipts (including accounts receivable) of the Borrower. Such mortgage lien and security interest may be subject to certain Permitted Liens, as defined in the Agreement. The 2007 Bonds are equally and ratably secured by the Mortgaged Property under the Mortgage. Pursuant to the Agreement, the Issuer will assign to the Trustee, for the benefit of the Bondholders, all of its right, title and interest in, to and under the Revenues (including all payments due from the Borrower) and all Funds and Accounts established under the Indenture (excluding the Rebate Fund) to secure the payment of the principal or redemption price of and interest on the 2007 Bonds. The 2007 Bonds will be additionally secured by a collateral assignment to the Trustee of the Lease and the rentals payable thereunder. The 2007 Bonds will not be secured by a mortgage lien or security interest in the Existing Facilities, but the security interest granted in the Borrower's Gross Receipts will include the revenues from the Existing Facilities, until the same are sold, or AICC ceases to be obligated under Agreement. See "SECURITY FOR THE 2007 BONDS" herein.

**DEBT SERVICE RESERVE FUND.** A Debt Service Reserve Fund will be established for the benefit of the 2007 Bondholders and initially funded in the amount of \$\_\_\_\_\_. The Debt Service Reserve Fund is available for payment of the principal of and interest on the 2007 Bonds, if payments by the Borrower are insufficient therefor. See "SECURITY FOR THE 2007 BONDS – Debt Service Reserve Fund" herein.

**FINANCIAL COVENANTS.** The Borrower covenants in the Agreement to meet the following financial covenants: (i) to maintain a Debt Service Coverage Ratio (defined as Net Revenues Available for Debt Service to Total Principal and Interest Requirements for the preceding Fiscal Year) as of the end of each Fiscal Year at least equal to 1.10 as of June 30, 2008 and 1.20 as of June 30, 2009 and each Fiscal Year thereafter; (ii) to maintain at least 30 Days' Cash on Hand being on June 30, 2008 and as of the end of each Fiscal Year thereafter; (iii) to maintain a ratio of its current assets to its current liabilities of not less than 1.1 to 1.0 as of the end of each fiscal quarter; and (iv) to pay all Trade Payables within 90 days of receipt of invoice; provided, however, that on any given date an amount less than or equal to 10% of Trade Payables may be outstanding for more than 90 days. See "SECURITY FOR THE 2007 BONDS – Financial Covenants" for a further description, including a description of the actions required to be taken if such covenants are not met.

**ADDITIONAL BONDS AND ALTERNATIVE INDEBTEDNESS.** The Indenture permits the issuance of Additional Bonds, which will be equally and ratably secured with the 2007 Bonds by the Agreement and certain of the Funds and Accounts established under the Indenture. The Agreement also permits the incurring of other Long Term Indebtedness ("Alternative Indebtedness"), which in certain circumstances may be secured, equally and ratably with the 2007 Bonds and any Additional Bonds, by a parity lien on the Mortgaged Property and the Gross Receipts, provided that such Alternative Indebtedness may not be secured by any of the Funds and Accounts established under the Indenture. The issuance of Additional Bonds and the incurring of Alternative Indebtedness are subject to certain financial tests and other requirements. See Appendix C – Definitions and Excerpted Provisions of the Mortgage and Trust Agreement and Subordination Agreement under the headings "Additional Bonds" and "Alternative Indebtedness".

**THE COMPILED FINANCIAL FORECAST,** dated July 3, 2007 (the "Financial Forecast"), has been prepared by Mitchell & Company, Certified Public Accountants ("Mitchell"). Based on the financial results forecasted by management of the Borrower for the fiscal years ending June 30, 2008 through 2012, as outlined in the Financial Forecast, the forecasted Debt Service Coverage Ratios and forecasted Days' Cash on Hand are as set forth below.

**Forecasted Debt Service Coverage Ratio  
and Days' Cash on Hand**

|                                                                                  | Fiscal Years Ending June 30,<br>(Dollars in Thousands) |                |                |                |                |
|----------------------------------------------------------------------------------|--------------------------------------------------------|----------------|----------------|----------------|----------------|
|                                                                                  | <u>2008</u>                                            | <u>2009</u>    | <u>2010</u>    | <u>2011</u>    | <u>2012</u>    |
| <b>Forecasted Debt Service Coverage Ratio</b>                                    |                                                        |                |                |                |                |
| Excess of Revenues Over Expenses                                                 | \$ 0                                                   | (\$ 4,233)     | \$121,851      | \$163,327      | \$205,621      |
| Add: Depreciation and Amortization                                               | 276,974                                                | 276,974        | 276,974        | 276,974        | 276,974        |
| Interest Expense on the 2007 Bonds                                               | <u>690,000</u>                                         | <u>690,000</u> | <u>680,700</u> | <u>670,800</u> | <u>660,300</u> |
| Funds Available for Debt Service, After Payment of Subordinated Management Fees  | \$966,974                                              | \$962,741      | \$1,079,525    | 1,111,101      | \$1,142,895    |
| Maximum Annual Debt Service on the Bonds <sup>(1)</sup>                          | \$848,800                                              | \$848,800      | \$848,800      | \$848,800      | \$848,800      |
| Forecasted Debt Service Coverage Ratio                                           | 1.14                                                   | 1.13           | 1.27           | 1.31           | 1.35           |
| <b>Forecasted Days' Cash on Hand</b>                                             |                                                        |                |                |                |                |
| End of Year Days' Cash on Hand,<br>After Payment of Subordinated Management fees | 0                                                      | 34             | 40             | 48             | 56             |

Note 1. Based on the assumption that the 2007 Bonds are issued in the aggregate principal amount of \$11,500,000 and bear interest at 6% per annum.

The Financial Forecast is a compilation. Mitchell has not examined the Financial Forecast, and expresses no opinion on the assumptions and rational underlying management's forecast.

The above tables should be considered in conjunction with the entire Financial Forecast, included herein as Appendix A, to understand the Project's financial requirements and the assumptions upon which the Borrower's forecast is based. The achievement of any financial forecast is dependent upon future events the occurrence of which cannot be assured. Therefore, the actual results achieved may vary from the Borrower's forecast. Such variation could be material. **The Financial Forecast should be read in its entirety.**

**CERTAIN BONDOWNERS' RISKS.** AN INVESTMENT IN THE 2007 BONDS INVOLVES A HIGH DEGREE OF RISK. A BONDOWNER IS ADVISED TO READ THE SECTIONS "SECURITY FOR THE 2007 BONDS" AND "CERTAIN BONDOWNERS' RISKS" HEREIN FOR A DISCUSSION OF CERTAIN RISK FACTORS WHICH SHOULD BE CONSIDERED IN CONNECTION WITH AN INVESTMENT IN THE 2007 BONDS. Careful consideration should be given to these risks and other risks described elsewhere in this Private Placement Memorandum. Among other things, because the 2007 Bonds are payable solely from the revenues of the Borrower and other moneys pledged to such payment, careful evaluation should be made of certain factors (including, but not limited to, the ability of the Borrower to maintain high occupancy levels and to remain fully licensed and certified under the Florida Medicaid and Medicaid Waiver Programs, and the possibility of adverse changes in those programs), that may adversely affect the ability of the Borrower to generate sufficient revenues to pay its expenses of operation, including the principal or redemption price of and interest on the 2007 Bonds. **THE COMPANY IS ENTIRELY DEPENDENT UPON THE SUCCESSFUL OPERATION OF THE NEW FACILITIES AND RECEIPT OF ADEQUATE MEDICAID REIMBURSEMENT TO MEET ITS OBLIGATIONS UNDER THE AGREEMENT.** In addition, although the Underwriter intends to make a secondary market in the 2007 Bonds, no assurance can be given that a secondary market will develop and, therefore, the 2007 Bonds should be considered a long term investment. See "CERTAIN BONDOWNERS' RISKS" herein.

NEITHER THE ISSUER, ITS COUNSEL, NOR ANY OF ITS MEMBERS, AGENTS, EMPLOYEES OR REPRESENTATIVES HAS REVIEWED THIS PRIVATE PLACEMENT MEMORANDUM OR INVESTIGATED THE STATEMENTS OR REPRESENTATIONS CONTAINED HEREIN, EXCEPT FOR THOSE STATEMENTS RELATING TO THE ISSUER SET FORTH UNDER THE CAPTION "THE ISSUER" HEREIN. EXCEPT WITH RESPECT TO THE INFORMATION CONTAINED UNDER SUCH CAPTIONS, NEITHER THE ISSUER, ITS COUNSEL, NOR ANY OF ITS MEMBERS, AGENTS, EMPLOYEES OR REPRESENTATIVES MAKES ANY REPRESENTATION AS TO THE COMPLETENESS, SUFFICIENCY AND TRUTHFULNESS OF THE STATEMENTS SET FORTH IN THIS PRIVATE PLACEMENT MEMORANDUM. MEMBERS OF THE ISSUER AND ANY OTHER PERSONS EXECUTING THE BONDS ARE NOT SUBJECT TO PERSONAL LIABILITY BY REASON OF THE ISSUANCE OF THE 2007 BONDS.

IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVER-ALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF THE 2007 BONDS AT A LEVEL ABOVE THAT WHICH MIGHT PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

No dealer, broker, salesperson or other person has been authorized by the Issuer, the Borrower or the Underwriter to give any information or to make any representations other than as contained in this Private Placement Memorandum and, if given or made, such other information or representations must not be relied upon as having been authorized by any of the foregoing. This Private Placement Memorandum does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the 2007 Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale.

This Private Placement Memorandum is not to be construed as a contract or agreement between the Issuer and the purchasers or holders of any of the 2007 Bonds.

All quotations from and summaries and explanations of provisions of laws and documents herein do not purport to be complete and reference is made to such laws and documents for the complete statements of their provisions. Any statements made in this Private Placement Memorandum involving estimates or matters of opinion, whether or not expressly stated, are intended merely as estimates or opinions and not as representations of fact. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Private Placement Memorandum nor any sale of the 2007 Bonds shall under any circumstances create any implication that there has been no change in the affairs of the Issuer, the Borrower or the Manager since the date hereof. The Issuer neither has nor assumes any responsibility as to the accuracy or completeness of the information in this Private Placement Memorandum, all of which, other than the information under the captions "THE ISSUER" and "LITIGATION - The Issuer" has been furnished by others.

Upon issuance, the 2007 Bonds will not be registered under the Securities Act of 1933, as amended, and will not be listed on any stock or other securities exchange, nor will the Agreement have been qualified under the Trust Indenture Act of 1939, as amended, in reliance upon exemptions contained in such Acts. The registration or qualification of the 2007 Bonds in accordance with applicable provisions of securities laws of the states in which the 2007 Bonds have been registered or qualified and the exemption from registration or qualifications in other jurisdictions cannot be regarded as a recommendation thereof. Neither those jurisdictions nor any of their agencies have passed upon the merits of the 2007 Bonds or the accuracy or completeness of this Private Placement Memorandum. Any representation to the contrary may be a criminal offense. Neither the Securities and Exchange Commission nor any other federal, state, municipal or other governmental entity will have passed upon the accuracy or adequacy of this Private Placement Memorandum or, except for the Issuer, approved the 2007 Bonds for sale.

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## PRIVATE PLACEMENT MEMORANDUM

**\$11,500,000\***

**NASSAU COUNTY, FLORIDA  
FIRST MORTGAGE REVENUE BONDS  
(NASSAU CARE CENTERS, INC. PROJECT), SERIES 2007**

### INTRODUCTION

The descriptions and summaries of various documents hereinafter set forth do not purport to be comprehensive or definitive, and reference is made to each such document for a complete statement of its terms and conditions. All statements herein are qualified in their entirety by reference to each such document.

**Purpose of Private Placement Memorandum.** The purpose of this Private Placement Memorandum, including the cover page, Short Statement and the appendices attached hereto, is to set forth information in connection with the offering by Nassau County, Florida (the "Issuer") of its \$11,500,000\* First Mortgage Revenue Bonds (Nassau Care Centers, Inc. Project), Series 2007 (the "2007 Bonds"). The 2007 Bonds are authorized to be issued pursuant to the laws of the State of Florida (the "State"), including particularly Florida Industrial Development Financing Act, Section 159.25, *et seq.*, Florida Statutes, as amended. The 2007 Bonds are to be issued under and secured by a Mortgage Deed, Security Agreement and Trust Agreement dated as of August 1, 2007 (the "Agreement") among the Issuer, AICC, Inc. and Nassau Care Centers, Inc. (collectively, the "Borrower") and Bank of Oklahoma, N.A., as trustee (the "Trustee").

The Issuer is a public body politic and corporate and a political subdivision of the State of Florida established under and pursuant to Chapter 154, Florida Statutes, as amended. The Issuer is authorized and empowered to issue the 2007 Bonds for the purpose of financing the cost of the Project as defined herein. See "THE ISSUER" herein.

**Application of 2007 Bond Proceeds; Plan of Financing.** The proceeds to be received by the Issuer from the sale of the 2007 Bonds will be loaned to the Borrower pursuant to the terms of the Agreement and used, together with other available funds: (i) to finance the acquisition, construction and equipment of three 24-bed intermediate care facilities for the developmentally disabled ("ICF/DDs") and an administration building, all located in Yulee, Nassau County, Florida; (ii) to refund the Issuer's \$4,440,000 of outstanding ICF/MR Revenue Bonds (GF/Amelia Island Properties, Inc. Project), Series 1993A and its \$790,000 of outstanding ICF/MR Subordinate Revenue Bonds (GF/Amelia Island Properties, Inc. Project), Series 1993C (collectively, the "1993 Bonds"), (ii) to finance the acquisition and construction of the New Facilities; (iii) to capitalize interest on the 2007 Bonds for a period of approximately 14 months; (iv) to fund a Debt Service Reserve Fund for the 2007 Bonds; and (v) to pay certain costs of issuance of the 2007 Bonds. See "ESTIMATED SOURCES AND USES OF FUNDS" herein.

**Nassau Care Centers, Inc. and AICC, Inc.** are not-for-profit Florida corporations, the sole member of which is The Guardian Foundation, Inc. ("Guardian"), a Pennsylvania not-for-profit corporation. The Borrower is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), and is accordingly exempt from federal income taxation under Section 501(a) of the Code. The Borrower's tax exempt status is based upon its election to be included within a group exemption granted by the Internal Revenue Service to Guardian on August 23, 1990, and Guardian's subsequent notification to the Internal Revenue Service of the Borrower's inclusion in such group exemption. AICC, Inc. ("AICC") owns and operates the Amelia Island Care Center, a 70-bed intermediate care facility for the developmentally disabled ("ICF/DD") and [leases] a day program services facility for the developmentally disabled (the "DPS Facility" and, together with the Amelia Island Care Center, the "Existing Facilities"), located in Fernandina Beach, Florida. Occupancy of the Amelia Island Care Center was \_\_\_\_% as of \_\_\_\_\_, 2007. AICC also leases two six-bed group homes for the developmentally disabled, one located in Fernandina Beach and the other on the mainland, on Spring Road, which is east of Yulee.

AICC and two limited liability companies of which it is the sole member, has acquired three sites of approximately three acres each in Yulee, Nassau County, Florida, approximately seven miles inland from Amelia Island. AICC will donate the sites to Nassau Care Centers, Inc. ("Nassau"). Nassau proposes to construct on these sites the three ICF/DDs to be financed with the proceeds of the 2007 Bonds (the "New Facilities") and the administration building on the largest site. Each of the New Facilities will consist of three eight-bed clusters. The New Facilities will have a total complement of 72 beds. Completion of the New Facilities is scheduled for June 2008.

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\* Preliminary, subject to change.

The New Facilities will be leased to Care Centers of Nassau, LLC (the "Operator"), a Florida limited liability company of which Nassau is the sole member. The lease of the New Facilities (the "Lease") will be for a term of 30 years, and the rental payments thereunder will be sufficient to cover debt service on the 2007 Bonds. Upon completion of the New Facilities, the residents of the Amelia Island Care Center will be transferred to the New Facilities, and the operating license will be transferred from AICC to the Operator. Following this transfer, AICC may be released from its obligations under the Agreement, subject to the conditions described in the Agreement (see "SECURITY FOR THE 2007 BONDS – Release of AICC from Agreement").

The New Facilities will be managed by Eidetik, Inc. (the "Manager"), a Kentucky corporation formed in 1990, pursuant to a Management Agreement dated as of July 1, 2007 (the "Management Agreement") between the Manager and the Operator. The Manager has managed the Existing Facilities since 1993. See "THE MANAGER" herein.

For further information concerning the Borrower, the Existing Facilities and the New Facilities, see the information under the captions "THE BORROWER," "THE NEW FACILITIES" and "APPENDIX A – Forecasted Financial Statements" hereto.

**The Guardian Foundation, Inc.** ("Guardian"), a Pennsylvania non-profit corporation, is the sole member of the Borrower. Guardian has been determined to be an organization described in Section 501(c)(3) of the Code, and therefore exempt from federal income tax under Section 501(a) of the Code. Guardian has received a group exemption stating that it and its subordinate entities will be treated as organizations described in Section 501(c)(3) of the Code. Guardian has included the Borrower in its list of subordinates covered by such group exemption. Pursuant to applicable Treasury Regulations, the Operator will be disregarded as a separate entity for federal income tax purposes.

Guardian and its 12 affiliated corporations own and operate (except for one leased facility) 11nursing facilities, 17 assisted living facilities, three group home facilities for the developmentally disabled and four intermediate care facilities for the developmentally disabled, located in six states and containing a total of 1,729 beds.

For further information concerning the Borrower, see "THE BORROWER" herein and Appendix A - The Financial Forecast.

**Financial Forecast.** Mitchell & Company, Certified Public Accountants, Clearwater, Florida ("Mitchell"), has prepared a Compiled Financial Forecast, dated July 3, 2007 (the "Financial Forecast") and has issued its report thereon, which is included herein as Appendix A. The Financial Forecast was prepared and is included herein to assist prospective holders of the 2007 Bonds in evaluating whether the Borrower could generate sufficient funds to meet its operating expenses, working capital needs and other financial requirements, including the debt service requirements associated with the 2007 Bonds at the assumed interest rates set forth therein during the forecast period. As indicated in the financial forecast, there will usually be differences between the forecasted and actual results, because events and circumstances frequently do not occur as expected, and those differences may be material. The Financial Forecast is a compilation. Mitchell has not examined the Financial Forecast, and expresses no opinion on the assumptions and rational underlying management's forecast

**Security.** The 2007 Bonds will be limited obligations of the Issuer, payable solely from the revenues, receipts, funds and moneys pledged therefor and from any amounts otherwise available under the Agreement for the payment thereof (except the Rebate Fund), all of which will be pledged and assigned to the Trustee equally and ratably for the benefit of the holders of the 2007 Bonds (the "2007 Bondowners").

Payments under the Agreement are to be made directly to the Trustee in such amounts as will pay, when due, the principal or redemption price of and interest on the 2007 Bonds and any other amounts, fees, penalties, premiums, adjustments, expenses, counsel fees and other payments due pursuant to the terms of the Agreement. The right of the Issuer to collect and receive revenues under the Agreement has been assigned and pledged to the Trustee under the Agreement for the benefit of the 2007 Bondowners (except the rights to receive notices, provide consents, and its right to indemnification and reimbursement for advances and expenses). Nassau and AICC will be jointly and severally liable for the payment of all amounts and the performance of all obligations under the Agreement, until such time as AICC is released under the Agreement.

The Agreement grants to the Trustee a first mortgage lien on and security interest in the New Facilities and a security interest in Gross Receipts (including accounts receivable) of the Borrower. Such mortgage lien and security interest may be subject to certain Permitted Liens, as defined in the Agreement. The 2007 Bonds will not

be secured by a mortgage lien or security interest in the Existing Facilities, but the security interest granted in the Borrower's Gross Receipts will include the revenues from the Existing Facilities, until the same are sold, or AICC ceases to be obligated under Agreement.

Under the Agreement, the Borrower will grant to the Trustee a mortgage lien and security interest on the real and personal property included in the New Facilities, and the Borrower will also grant the Trustee a security interest in their Gross Receipts (as defined in the Agreement). The real and personal property included in the New Facilities and the Gross Receipts are referred to herein as the "Mortgaged Property". The 2007 Bonds will be additionally secured by a collateral assignment to the Trustee of the Lease and the rentals payable thereunder. The 2007 Bonds will not be secured by a mortgage lien or security interest in the Existing Facilities, but the security interest granted in the Borrower's Gross Receipts will include the revenues from the Existing Facilities, until the same are sold, or AICC ceases to be obligated under Agreement. See "SECURITY FOR THE 2007 BONDS" herein and Appendix C - Definitions and Excerpted Provisions of the Mortgage and Trust Agreement and Subordination Agreement.

**The 2007 Bonds are special, limited obligations of the Issuer. Neither the 2007 Bonds, nor any other obligations of or indebtedness incurred by the Issuer shall constitute an indebtedness or obligation of Nassau County, the State of Florida, or any municipal corporation or political subdivision or agency thereof, nor shall any act of the Issuer in any manner constitute or result in the creation of an indebtedness of Nassau County, the State of Florida, or any political subdivision or agency thereof. The 2007 Bonds shall be payable solely from the revenues pledged therefor pursuant to the Indenture, and no holder of the 2007 Bonds shall ever have the right to compel any exercise of the taxing power of Nassau County, the State of Florida, or any political subdivision or agency thereof nor to enforce the payment thereof against Nassau County, the State of Florida or any such political subdivision or agency. The Issuer has no taxing power.**

**Descriptions and Summaries.** This Private Placement Memorandum contains brief descriptions of, among other things, the Issuer, the Borrower, the New Facilities, the Manager, the 2007 Bonds, the Agreement, the Management Agreement, the Subordinated Loan, the Subordinated Note and the Subordination Agreement. Such descriptions do not purport to be comprehensive or definitive. All references in this Private Placement Memorandum to documents are qualified in their entirety by reference to such documents, and references to the 2007 Bonds are qualified in their entirety by reference to the final definitive 2007 Bonds. Until the issuance and delivery of the 2007 Bonds, copies of the Agreement and the other documents described in this Private Placement Memorandum may be obtained at the principal office of the Underwriter and copies of these documents may be obtained from the Trustee or the Borrower after delivery of the 2007 Bonds.

## THE ISSUER

The Issuer is a body corporate and politic and a political subdivision of the State of Florida, organized and existing under and by virtue of the constitution and the laws of the State of Florida. The Issuer is governed by a five-member Board of County Commissioners. The Issuer is authorized to issue the 2007 Bonds under and by virtue of the Act.i

The 2007 Bonds will be special and limited obligations of the Issuer payable solely from the sources provided for under the Agreement. The Issuer has no taxing power and neither Nassau County, the State of Florida, nor any other political subdivision or agency of the State of Florida is liable for the payment of the principal or redemption price of or interest on the 2007 Bonds.

The officers, agents, employees, and members of the Issuer shall not be personally liable for any costs, losses, damages or liabilities caused or incurred by the Issuer or the Trustee in connection with this Private Placement Memorandum, the Bonds or the Agreement, or for the payment of any obligation under the Bonds or the Agreement.

In authorizing the 2007 Bonds, the members of the Issuer have relied upon information furnished by Borrower and have made no independent investigation of the matters set forth in this Private Placement Memorandum other than the information related to the Issuer in this Section and under the caption, "LITIGATION - The Issuer."

## ESTIMATED SOURCES AND USES OF FUNDS\*

Proceeds of the 2007 Bonds, together with other available moneys, are expected to be applied as follows:

### Sources of Funds

|                                                                   |              |
|-------------------------------------------------------------------|--------------|
| Total Sources of Funds                                            | \$11,500,000 |
| Funds Held for Security of 1993 Bonds                             |              |
| Total Sources of Funds                                            | \$           |
| <u>Uses of Funds</u>                                              |              |
| Construction and Equipment of New Facilities <sup>(1)</sup> ..... | \$           |
| Refunding of 1993 Bonds.....                                      |              |
| Funded Interest (net of interest earnings) .....                  |              |
| Other Costs of New Facilities.....                                |              |
| Development Costs <sup>(1)</sup> .....                            | 6            |
| Debt Service Reserve Fund .....                                   |              |
| Costs of Issuance <sup>(1)</sup> .....                            | <u>0</u>     |
| Total Uses of Funds                                               | \$           |

- (1) Includes guaranteed maximum contract price of \$\_\_\_\_\_ for construction of the New Facilities  
(2) Payment to Guardian Foundation of \$40,000 for reimbursement of expenses and \$25,000 in consulting fees payable to the Manager.  
(2) Includes Underwriter's discount, fees and expenses of the Issuer and its counsel, Underwriter's counsel, Bond Counsel, the Borrower's counsel, financial consultant and printing.

## THE BORROWER

### **Corporate Structure**

AICC, Inc. was incorporated in 1991 to establish, own, acquire, maintain and operate nursing homes, hospitals and related health care facilities, including immediate care facilities for the mentally retarded. AICC financed the acquisition and construction of the Existing Facilities with the proceeds of the 1993 Bonds. Nassau Care Centers, Inc. was incorporated on March 9, 2007, to own, maintain, operate and manage nursing homes, hospitals and related health care facilities, including residential care and retirement housing for the elderly and facilities for the housing and care of developmentally disabled persons. Nassau will own the New Facilities and will lease them to the Operator pursuant to the Lease. Upon completion of the New Facilities, the license to operate the Existing Facilities will be transferred from AICC to the Operator.

The Borrower is a subordinate entity of The Guardian Foundation, Inc. ("Guardian"), which was incorporated as a not-for-profit corporation on March 6, 1989 under the not-for-profit corporation laws of the Commonwealth of Pennsylvania. Guardian is the sole member of the Borrower. The Internal Revenue Service issued a determination letter dated January 30, 1990, determining that Guardian is exempt from federal income tax as an organization described in Section 501(c)(3) of the Code. Guardian received a final determination dated August 31, 1995 as to its status as a non-private foundation which modified its status from that of an organization described in Section 509(a)(2) of the Code to one described in Section 509(a)(3) of the Code.

Guardian has also received a letter from the Internal Revenue Service dated August 23, 1990, granting a group exemption under Section 501(a) of the Code to subordinate entities of Guardian which are organized pursuant to and for the purposes set forth in the form of organizational documents which were submitted to the Internal Revenue Service in connection with the application for the group exemption, and which are supervised and controlled by Guardian. Guardian has organized the Borrower for such purposes and pursuant to such organizational documents and has notified the IRS of its election to include the Borrower in its group exemption. Pursuant to applicable Treasury Regulations, the Operator will be disregarded as a separate entity for federal tax purposes.

The other existing subordinate entities are not-for-profit corporations created under the nonprofit corporation laws of Pennsylvania, Massachusetts, Florida, Georgia, Kentucky and Texas. The directors of the

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\* Preliminary, subject to change.

subordinate entities, including the Borrower, are elected by Guardian. The purpose of the subordinate entities is to permit the financing of different projects through different corporate entities, so as to eliminate any possibility that any problems experienced by one project might adversely affect the financing for another project. Projects operated by one subordinate entity are not pledged as collateral for financings by other subordinate entities. Additional subordinate entities may be created in the future as the need arises.

### **Statement of Purpose**

Guardian and its subordinate entities, including the Borrower, were organized to establish, acquire, own and maintain nursing homes, hospitals and related healthcare facilities, as well as retirement housing for elderly persons, and thereafter to own and operate (through management contracts with third parties) such facilities for charitable purposes.

Guardian and its subordinate entities, including the Borrower, plan to reinvest any excess operating revenues from their facilities in improvements to their physical facilities and to improve the quality of their patient and resident care programs.

### **The Officers and Boards of Directors of the Borrower**

The Borrower is governed by a Board of Directors currently consisting of three members. The members of the Board of Directors of the Borrower were elected for a one-year term.

The Borrower does not pay fees to the directors, but the directors are reimbursed for direct expenses incurred in connection with attendance at directors' meetings or otherwise in connection with the Borrower's business, payment of which is made from the Borrower's general funds.

The Board of Directors of the Borrower are elected by the Board of Directors of Guardian. Officers of the Borrower serve at the discretion of the Board of Directors or until their earlier death, resignation, removal, retirement or disqualification. the Borrower's officers and directors are as follows:

|                                                      |                  |
|------------------------------------------------------|------------------|
| President and Director                               | Gregory K. Grove |
| Vice President, Secretary,<br>Treasurer and Director | Eric I. Weisel   |
| Vice President, Assistant<br>Secretary and Director  | C. Willis Bass   |

Further information regarding these individuals is set forth below.

**Gregory K. Grove.** Mr. Grove was elected a Director and President of the Borrower upon its incorporation in March 2000 and has served as a Director and an officer of Guardian since Guardian was formed in 1989. Mr. Grove is a Director and the President of Guardian and many of its subordinates. Mr. Grove was a co-founder of Grove Capital Corporation, which was formed in 1983 to provide investment banking and underwriting services to the healthcare industry and to small industrial corporations. Since its inception, Grove Capital Corporation has underwritten or acted as financial advisor or placement agent for more than 60 financings aggregating approximately \$300 million, the majority of which financed healthcare facilities. Mr. Grove was previously a member of the Board of Directors and the Executive Committee of the Southeast Finance Seminar and a member of the Board of Directors of Woodland Ridge Senior Living, Inc. He is a member of the Board of Directors and the Executive Committee of GA/Assisted Living Federation of America, Inc. Mr. Grove was previously registered with the National Association of Securities Dealers, Inc. as a Municipal Securities Principal, General Securities Principal, Registered Representative, and Financial and Operations Principal.

Prior to moving to Atlanta, Georgia in 1983, Mr. Grove was with the firm of Shearson American Express in New York City. From 1978 to 1982, he was with the investment banking firm of Oppenheimer & Company, Inc., including several years in their New York headquarters in the Financial Services Department. Mr. Grove began his career in the investment and securities industry in 1972 with Merrill Lynch, Pierce, Fenner & Smith, Incorporated, following receipt of a Masters of Business Administration degree at Tulane University and his graduation from the University of North Carolina with a Bachelors of Arts degree in science.

**Eric I. Weisel.** Mr. Weisel served as Guardian's first President and currently serves as Secretary/Treasurer of the Borrower and Guardian and as Chief Operating Officer of Guardian. He has served as a Director of Guardian since its formation in 1989 and of the Borrower since its incorporation in March 2000. Mr. Weisel is a Director and

the Secretary/Treasurer of Guardian and of most of its subordinates.

From 1983 to April 1999, Mr. Weisel served as Administrator of Bloomsburg Health Care Center, a 154-bed nursing facility in Bloomsburg, Pennsylvania. He was responsible for the final phases of construction and expansion of that facility from 85 to 154 beds, and he supervised the upgrading of staff in order to achieve Medicare, Blue Cross and Veterans Administration certifications. From 1981 to 1994, Mr. Weisel was engaged as an independent medical records consultant to five long-term nursing facilities providing guidance concerning documentation of compliance with state and federal regulations, as well as conducting individual and group in-service training.

From 1982 to 1983, Mr. Weisel served as Administrator of Cheltenham-York Road Nursing and Rehabilitation Center, a 125-bed nursing facility in Philadelphia, Pennsylvania. During his tenure there, this facility was able to improve its reputation in the community, obtain Medicare and Blue Cross certifications, and achieve 100% occupancy. Mr. Weisel's other healthcare related experience includes serving in 1980-1982 as Assistant Administrator, Cheltenham Nursing and Rehabilitation Center, a 255-bed nursing home in Cheltenham, Pennsylvania. Mr. Weisel has received accreditations as a Pennsylvania Nursing Home Administrator and American Medical Record Association Accredited Record Technician.

From 1972 to 1976, Mr. Weisel served as Intelligence Analyst, U.S. Military Liaison Mission to the Commander in Chief, Group of Soviet Forces in East Germany. Mr. Weisel holds a Bachelor of Arts Degree, *cum laude*, from Temple University.

**C. Willis Bass.** Mr. Bass has been a Director of Guardian since its inception in 1989, and is presently a Director and Assistant Secretary of Guardian and many of its subordinates, including the Borrower. For over 23 years Mr. Bass was employed in the securities industry. From mid-1975 until January, 1983, he served as an investment account executive with Merrill Lynch, Pierce, Fenner & Smith, Incorporated, and from then until the end of 1986 he was a First Vice President with Drexel Burnham Lambert, where he managed corporate and pension investment accounts. Since leaving Drexel in December 1986, he has been a self-employed real estate and securities investor, currently managing several real estate holdings in the Southeast. For the past 15 years he has been actively involved in raising funds for various U.S. Olympic Teams. In addition to serving on the Board of Guardian, Mr. Bass is a member of the boards of several other not-for-profit corporations.

Mr. Bass received a Bachelor of Science degree in Industrial Design from Auburn University in 1971 and a graduate degree in Marketing Sciences from the University of Alabama in 1973. He has maintained his Registered Representative license with the National Association of Securities Dealers, Inc.

**Arthur C. DeLozier.** Mr. DeLozier joined Guardian in Atlanta in 1996. He currently serves as Vice President of Accounting and Assistant Secretary and is the Chief Financial Officer of Guardian. Prior to joining Guardian, Mr. DeLozier was the Vice President of Accounting for First American Health Care, a national provider of home health services which also provided management services to several hospital-based home health care entities, a program conceived and initially directed by Mr. DeLozier. Mr. DeLozier has lectured on industry accounting practices and reimbursement topics before several national association seminars.

From 1980 through 1985, Mr. DeLozier was a partner in the firm of Stapleton and DeLozier, PC, a St. Petersburg, Florida, public accounting firm that specialized in the provision of audit and reimbursement services to nursing homes, home health agencies, and rehabilitative agencies.

Prior to that, Mr. DeLozier was employed by Aetna Life and Casualty Insurance Company in Clearwater, Florida, as a Medicare auditor and reimbursement consultant. Until Aetna terminated its fiscal intermediary contract in 1996, that company continued to use pension review programs and internal control review checklists that were designed by him.

Mr. DeLozier graduated with honors in 1975 from the University of South Florida with a baccalaureate degree in accounting. From 1969 through 1972, he served in the United States Air Force in encryption and communication systems support capacities.

#### **Corporate Administration Agreements**

AICC and Nassau have each entered into a corporate administration agreement dated as of July 1, 2005, as amended \_\_\_\_\_, 2007 with Guardian (a "Corporate Administration Agreement"), pursuant to which Guardian has agreed to appoint for the owner and compensate qualified executives, directors and consultants with the skills necessary to perform certain specified executive services, and to provide them with suitable office space and secretarial support and to pay all overhead costs associated therewith, including telephone, copying costs and

benefits, but excluding the costs of travel to and lodging in the vicinity of the Existing Facilities and the New Facilities or the offices of the Manager. Included in the executive services are review and analysis of financial and operating information of the Existing Facilities and the New Facilities; review of all operating and capital budgets proposed by the Manager; and monitoring and overseeing compliance with covenants in bond financing documents. The term of the Corporate Administration Agreement expires June 30, 2015 In consideration of such services, the Borrower has agreed to pay Guardian a fee of \$4,060 per month, to be increased annually by the change in the Consumer Price Index, beginning in January 2006 (the "Corporate Administrative Charge"). The Corporate Administrative Charge does not constitute a Subordinated Payable under the Subordination Agreement. In addition to the Corporate Administrative Charge, following release of the annual audit, the Borrower has agreed to pay Guardian a fee of \$1.06 per resident day in all of the Existing Facilities and the New Facilities], to be increased annually by the change in the Consumer Price Index, beginning January 1, 2008 (the "Subordinated Participation"), subject to the provisions of the Subordination Agreement. See "SECURITY FOR THE 2007 BONDS – The Subordination Agreement". Further, Guardian will be paid a development fee of \$40,000 upon the issuance of the 2007 Bonds.

### **Financial Condition of Affiliates**

Each member of the Guardian affiliated group, other than the Borrower, that owns real estate acquired its property in a highly leveraged transaction utilizing tax-exempt debt. No affiliate has any legal responsibility for the debts of any other, and the financial covenants relating to the debt of each affiliate preclude that affiliate from providing any financial support to other affiliates. The subsequent success or failure of the individual financings have therefore turned on the performance of management, local and industry market conditions, the federal and state reimbursement systems and other factors affecting the operations of the individual facilities. As described above under "Other Subordinate Entities of Guardian", certain affiliates of Guardian have not met their financial covenants, and one affiliate has failed to meet its debt service payment obligations. It is possible that under certain circumstances one or more of the members of the Guardian affiliated group may have to restructure their debt in the future to comply with future financial realities.

No information regarding the financial condition, prior experience, or prospects of Guardian's affiliates is contained in this Private Placement Memorandum because, in the view of the Borrower and Guardian, such information is not material to an analysis of the creditworthiness of the Borrower.

NEITHER GUARDIAN NOR ANY OF ITS AFFILIATES, OTHER THAN THE BORROWER, IS OBLIGATED TO MAKE ANY PAYMENTS WITH RESPECT TO THE BONDS. THE TERMS OF THE EXISTING INDEBTEDNESS OF MOST OF GUARDIAN'S AFFILIATES EFFECTIVELY PROHIBIT THE DIVERSION OF ANY MATERIAL ASSETS OR REVENUES FROM SUCH AFFILIATES TO THE BORROWER SHOULD THEY ENCOUNTER FINANCIAL DIFFICULTY, AND HOLDERS OF THE BONDS HAVE NO CLAIM AGAINST ANY PROPERTY OR OTHER ASSETS OF GUARDIAN OR ITS OTHER AFFILIATES.

### **Statements of Revenues and Expenses**

The following table shows summary statements of revenues and expenses, taken from AICC's audited financial statements for the three fiscal years ended June 30, 2004 through June 30, 2006. This data should be read in conjunction with the financial statements, related notes and other financial information included in AICC's audited financial statements, included herein as contained in Appendix B. The information for the fiscal year ended June 30, is taken from AICC's unaudited financial statements. Unaudited financial statements are not necessarily reflective of the results of operations for a partial year, since there may be certain adjustments which would be made to the audited statements at the end of a fiscal year which are not made for interim audited statements. Also, an audit may result in correcting or reclassify certain entries show in AICC's unaudited statements. The unaudited information set forth below should be considered in light of these qualifications.

|                                   | Fiscal Year Ended June 30, |                          |                          |                            |
|-----------------------------------|----------------------------|--------------------------|--------------------------|----------------------------|
|                                   | <u>2004</u><br>(audited)   | <u>2005</u><br>(audited) | <u>2006</u><br>(audited) | <u>2007</u><br>(unaudited) |
| Operating revenues:               |                            |                          |                          |                            |
| Resident service revenues         | \$7,660,714                | \$7,437,266              | \$7,747,662              | \$                         |
| Operating expenses:               |                            |                          |                          |                            |
| Resident care services            | 3,885,057                  | 3,767,550                | 3,604,637                |                            |
| Dietary services                  | 415,648                    | 383,033                  | 380,514                  |                            |
| Housekeeping and laundry services | 418,322                    | 402,478                  | 411,380                  |                            |
| General and administrative        | 1,313,918                  | 1,298,745                | 1,437,029                |                            |
| Plant operations and maintenance  | 686,969                    | 760,639                  | 786,741                  |                            |
| Interest expense                  | 538,838                    | 526,207                  | 515,258                  |                            |
| Depreciation and amortization     | 299,831                    | 294,247                  | 280,820                  |                            |
| Provision for bad debts           | 0                          | 0                        | 70590                    |                            |
| Total operating expenses          | <u>7,558,538</u>           | <u>7,432,899</u>         | <u>18,919,796</u>        |                            |
| Operating Income                  | 102,131                    | 4,367                    | 260,693                  |                            |
| Other revenue (expense):          |                            |                          |                          |                            |
| Interest incom                    | 92,606                     | 110,947                  | 125,861                  |                            |
| Miscellaneous                     | <u>116</u>                 | <u>7,519</u>             | <u>6,339</u>             |                            |
| Excess of revenues over expenses  | \$194,853                  | 122,833                  | 392,893                  |                            |

## THE FACILITIES

### The Existing Facilities

**General.** The Existing Facilities consist of the Amelia Island Care Center, a 70-bed ICF/DD located at 2700 Atlantic Boulevard, Fernandina Beach, Florida and a the DPS Facility, located at \_\_\_\_\_ in Nassau County, Florida. The Existing Facilities are licensed by Florida's Agency for Health Care Administration and are approved for participation under Medicaid (Title XIX of the federal Social Security Act) services. The ICF/DD provides continuous 24-hour-a-day supervision, room and board, supervised activities, health care services and a written treatment plan for each client identifying measurable goals and an individualized program toward the attainment of these goals. Eligible clients for the ICF/DD and the DPS Facility must be residents of the State having a monthly income of less than the state income standard and total assets not exceeding [\$2,000]. Each client must have severe mental and social incapacity, a preadmission diagnosis of mental retardation and a psychological assessment.

The DPS Facility provides a full range of habilitative training for developmentally disabled persons to achieve the highest practicable degree of normalization and independence in their lives. The DPS Facility operates for eight hours per day, five days per week in conjunction with the ongoing residential programs. The DPS Facility consists of a sheltered work shop (industrial center), classrooms, a teaching kitchen and an administrative area. Developmentally disabled persons produce products in support of local merchants in the sheltered work shop. Basic adult education, pre-vocational and vocational training are conducted in the classrooms to achieve the objectives detailed in each person's active treatment plan.

AICC also leases two six-bed group homes for the developmentally disabled, one located in Fernandina Beach and the other on the mainland, on Spring Road, which is east of Yulee.

**Employees.** AICC's employees will be hired by the Operator upon the opening of the New Facilities. The corporate staff includes \_\_ full-time equivalents ("FTEs"), including risk management, directors of maintenance and nutritional services, therapists, human resources, accounting and staff training personnel. The employees at the Existing Facilities include approximately \_\_ FTEs.

[Number] of the employees in the Existing Facilities are covered by a collective bargaining agreement with [Name of Union] which expires \_\_\_\_\_.

**Historical Occupancy.** The following table shows the historical occupancy of the Amelia Island Care Center:

| Occupancy | Fiscal Year Ended June 30, |             |             |             |
|-----------|----------------------------|-------------|-------------|-------------|
|           | <u>2004</u>                | <u>2005</u> | <u>2006</u> | <u>2007</u> |
|           |                            |             |             |             |

## **The New Facilities**

### **General**

The residents in the Amelia Island Care Center are "Transportation Disadvantaged" as defined by Rule 9J-5.003 (131), FAC, and "disabled" or afflicted by "handicap" as defined by the Federal and Florida Fair Housing Act. The Amelia Island Care Center is located approximately 1,000 feet from the Atlantic Ocean in Hurricane Evacuation Zone 1. Any threat posing a potential evacuation risk for Zone 1 requires, if possible, the evacuation of the resident population at least 24 hours prior to the order for evacuation of the general population. This new requirement, together with the difficulty and increasing expense of maintain the current facility, and the desire to improve the quality of live and residential facilities for the developmentally disabled population being served, are the primary reasons for replacing the current facility and with new facilities off of Amelia Island, at more suitable sites further inland.

The New Facilities will be situated on three separate sites in Yulee, Nassau County, Florida, approximately seven miles inland from Amelia Island. AICC and two limited liability companies of which it is the sole member, has acquired the three sites, which AICC will donate to Nassau. Two of the sites are on Miner Road, and the third is on Hendricks Road. The two sites on Miner Road are approximately three acres each and on each of which will be constructed three eight-bed cluster homes for the developmentally disabled. The site on Hendricks Road is approximately seven acres on which will be constructed three eight-bed cluster homes, along with a building to house administration, provide storage, and garage facilities. The total bed complement of the New Facilities will be 72 beds. The Borrower contemplates completion of the planned improvements by June 2008.

After acquiring the sites, AICC received a Certificate of Need from State of Florida Agency for Health Care Administration to establish the New Facilities. Upon completion of construction, the Amelia Island Care Center facility will be de-licensed.

### **Construction Contract**

The general contractor for the New Facilities is The John Stokes Company (the "General Contractor"), based in Jacksonville, Florida, which had previously done construction work for AICC. The General Contractor and Nassau have entered into a contract for construction of the New Facilities for a guaranteed maximum price of \$\_\_\_\_\_, which is structured as labor only, so that Nassau can purchase materials directly and, as a non-profit organization, be exempt from sales tax, a savings estimated by management to be about \$120,000. With a labor-only general contractor contract, and obtaining surety bonds only from major subcontractors (as described below), management expects to achieve further savings of approximately \$100,000.

Site work will be performed by two contractors: Holland, Inc., for the Hendricks Road site, and Claxton and Luke, Inc., will do site work for the two Miner Road sites. This approach results in lower overall costs for site work and avoids paying the general contractor its overhead, general conditions and profit on the site work component of the project.

Construction bonds will be provided by all major subcontractors such as HVAC, plumbing, and electrical, that have subcontracts of \$100,000 or more. In lieu of a master construction bond for The John Stokes Company, a key man life insurance policy will be obtained, along with an agreement that Eeidetik, Inc., will assume the work if The John Stokes Company is unable to complete the New Facilities on a timely basis within budget.

Modern Construction Corporation will be the construction oversight manager, and has been involved in building a number of facilities for the developmentally disabled in conjunction with Eeidetik, Inc. Additionally, North American Construction Services will oversee and verify removal of contractor liens in connection with disbursement of each progress draw.

### **Medicaid Reimbursement of ICF/DD Facilities**

Substantially all of the revenue of the ICF/DD Facilities is expected to be derived from payments under the Medicaid program. The State's Medicaid program is administered by the Florida Agency for Health Care Administration ("AHCA"), with a portion of the funding for intermediate care facilities for the mentally retarded and developmentally disabled being provided by the federal government and a portion being provided by the State.

Each state participating in the Medicaid program is required to submit and secure approval from the federal Department of Health and Human Services ("DHHS") of its "state plan for medical assistance" which sets forth the methods and procedures for calculating reimbursement for intermediate care facilities for the mentally retarded and developmentally disabled. DHHS has approved the State's Title XIX Intermediate Care Facility for the Mentally

Retarded and Developmentally Disabled October 1, 2005 (the "Plan"), as the basis pursuant to which ICF/DD facilities are reimbursed for services provided to Florida Medicaid recipients. A copy of the Plan may be obtained by written request to the Deputy Assistant Secretary for Medicaid, 1317 Winewood Boulevard, Tallahassee, Florida 32301.

The Plan requires that a cost report be submitted annually, which is used as the basis for setting rates which go into effect each April 1 and October 1, based on the most recent cost report on file. Allowable costs are subject to retroactive state audit, and rates may be revised retroactively for an error in calculating the rate, if an amended cost report shows a change in 1% or more of the total reimbursement rate, or an audit by AHCA discloses a change in allowable costs from that shown in previously filed cost reports.

Each ICF/DD facility is reimbursed for each level of care at the lesser of: (a) the facility's usual and customary charges to the general public for such services or (b) the rates established for the provider under the Plan.

Reimbursement rates are calculated separately for two classes, based on four levels of care: developmental residential (which is still referred to in the Plan, although no longer reimbursed); developmental institutional; developmental non-ambulatory; and developmental medical. For each class of rates, there are four components of the total reimbursement rate: operating costs; resident care costs; property costs and return on equity costs.

Property and return on equity are reimbursed at actual cost to the extent that such costs are allowable and reasonable. For operating and resident care costs, the State reimburses its ICF/DD providers prospectively: cost reports filed for a given fiscal year are used to "estimate" what costs are going to be incurred in future rate setting periods by indexing the reported costs forward by an inflation factor based on the Florida ICF/MR-DD Cost Inflation Index (the "Index"). The maximum increase in rates for each rate semester is 1.4 times the increase in the Index during the last cost reporting period from the prior period. Incentives are paid to providers whose annual rates of cost increase in operating and resident care costs are less than 1.4 times the average cost increase in the Index, based on one-half of the difference between the provider's *per diem* rate, calculated on actual costs, and the maximum rate calculated using the 1.4 times the inflation factor. Incentives are prorated for the percentage of days that a provider is out of compliance with a Condition of Participation in the Medicaid program.

The current reimbursement system may be revised, including possible revision by direction from the Florida Legislature or under federal court decisions. See "CERTAIN BONDOWNERS' RISKS".

### **Depreciation Reimbursement and Payment of 2007 Bond Principal**

Reimbursable property costs include interest and depreciation. Under the Plan, interest expense on the 2007 Bonds allocable to the ICF/DD Facilities is fully reimbursable, but principal payments are not a reimbursable expense *per se*. Accordingly, the principal payments on the 2007 Bonds allocable to the ICF/DD Facilities are expected to be paid from the depreciation reimbursement received from Medicaid for the ICF/DD Facilities. Over the term of the 2007 Bonds the amount of principal on the 2007 Bonds becoming due in each year will increase, but the amount of depreciation expense will decline periodically as the useful lives of the various assets expire. In the later years of the term of the 2007 Bonds (the "Cross-Over Years") when the annual principal payments on the 2007 Bonds exceeds depreciation expense on such Facilities, there will be a cash shortfall (a "Cross-Over Deficit"). In order to provide a source of funds for payment of the Cross-Over Deficits, the Borrower will establish a Board-Designated Fund, into which periodic deposits will be made. Moneys in the Board-Designated Fund will be used in accordance with the provisions of applicable Medicaid depreciation reserve requirements.

## **THE MANAGER**

### **General**

The New Facilities will be operated and managed by Eidetik, Inc., a Kentucky corporation formed in 1990 (the "Manager"), pursuant to a Management Agreement dated as of July 1, 2007 between the Manager and the Operator.

Members of the Manager's management team have been involved with the institutional depopulation trend toward community-based delivery of services to the developmentally disabled since 1978. The Manager provides management services to ICF/DD facilities (including institutional facilities and community-based group names) within a cost effective framework.

The focus of the Manager is to foster, within those persons residing in its managed group homes, all

possible behaviors that maximize the developmental capability while increasing coping skills, raising the complexity of behaviors within a culturally normative framework and allowing each person to reach his or her highest level of functioning.

Direct care services include the provision of twenty-four hour supervised residential, educational, developmental and vocational services to residents. ICF/DDs managed by the Manager accept men and women of all ages.

The Manager is led by a Board of Directors and President with primary and operational policy decisions concerning the group homes provided by William F. Beaven, Chairman of the Board of Directors, President and Chief Executive Officer of the Manager.

Key personnel within the Manager have developed, owned and/or managed [61]*[update?]* similar facilities for MR/DD residents, totaling approximately 1,000 *[update?]* licensed and certified beds in the States of Florida, Indiana, Kentucky, Louisiana and Mississippi. Under ownership and/or management agreements, key personnel of the Manager have supervised approximately 1,500 *[update?]* employees. All ICF/DD facilities have been fully licensed by all applicable state regulatory agencies and have been certified to participate in all appropriate state and federal reimbursement programs. In addition, those ICF/DD facilities that were previously managed by key personnel of the Manager located in Kentucky have been fully accredited with the Accreditation Council for Services for the Mentally Retarded and other Developmentally Disabled Persons.

In recent years, various states have implemented depopulation programs intended to permit developmentally disabled persons to live outside "traditional" institutions. The Medicaid (Disability) program was designed to assist in the development and growth of these programs. The Manager obtains licensure and certification for all group homes under the applicable state Medicaid program.

Members of the Manager's management team have created "DDMGR", a proprietary new generation, personal computer-based management software for the administration of residential care facilities for developmentally disabled residents. DDMGR is a facility data base management tool that combines ease-of-use, security and performance. In addition, a financial reporting system has been designed by the Manager to address specific requirements as they relate to ICF/DD cost reporting and monthly financial statements. In order to accommodate the scattered site disposition of group home facilities, the Manager has developed a specialized staff training system.

Payment of a portion of the Management Fees is subordinated to certain required deposits under the Indenture and to the payment of Operating Expenses. See "SECURITY FOR THE 2007 BONDS – Deposit-Only Account; Priority of Payments."

#### **Officers of the Manager**

**William F. Beaven.** Mr. Beaven is founder, Chairman of the Board of Directors, Chief Executive Officer and President of the Manager. Mr. Beaven obtained a Masters of Social Work degree from the University of Kentucky and a Bachelor of Science with a major in Social Work from Murray State University. His previous experience includes founder and President, Community Homes of Louisiana, Inc. from 1986 through 1990. In addition, Mr. Beaven was co-founder and Vice President of Operations of Normal Life, Inc., from 1983 to 1985 and President of that company from 1985 to 1986. Prior to the formation of Normal Life, Inc he served as Vice President for Health Services, Res-Care, Inc from 1981 to 1983. Community Homes of Louisiana, Inc., Normal Life, Inc and Res-Care, Inc each is a private owner or manager of ICF/DD facilities. Mr. Beaven served on the Board of the National Association of Private Residential facilities for the Mentally Retarded and has authored policy and procedure manuals specific to universal Medicaid requirements.

*[Other Officers? I take it that M/M Wight, Artis and Sutton have left.]*

**Tony W. Steward.** Mr. Steward is Secretary of the Board of Directors of the Manager. He obtained a Bachelor of Science degree from Murray State University with a major in accounting. Prior to joining the Manager, he was employed by Community Homes of Louisiana, Inc., a private owner and manager of ICF/DD facilities. Mr. Steward is experienced in state and federal reimbursement programs, financial reporting systems and the professional management of ICF/MR facilities.

#### **The Management Agreement**

**[TO COME, FOLLOWING RECEIPT OF NEW MANAGEMENT AGREEMENT]**

## THE 2007 BONDS

### General

The 2007 Bonds will be issuable only in fully registered form, without coupons, in minimum denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof. Any outstanding 2007 Bond may, however, be reduced to a denomination of less than \$100,000 (in increments of \$5,000), and thereafter reissued in such denomination, as a result of a redemption of less than all of the outstanding 2007 Bonds.

The 2007 Bonds will be dated the date of delivery, and will bear interest from that date at the rates and mature on the dates and in the amounts set forth on the cover page of this Private Placement Memorandum. Interest on the 2007 Bonds will be computed on the basis of a 360-day year of twelve 30-day months. Interest will be payable on \_\_\_\_\_ 1, \_\_\_\_\_ 1, \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year, commencing \_\_\_\_\_ 1, 2007. The 2007 Bonds are subject to redemption as hereinafter stated.

The principal or redemption price of the 2007 Bonds will be payable upon presentation and surrender of the 2007 Bonds at the designated corporate trust operations office of the Trustee, presently located in Tulsa, Oklahoma. Interest on the 2007 Bonds will be payable to each person appearing on the registration books of the Trustee as a registered owner thereof on the applicable record date, by check or draft mailed on the applicable interest payment date to such registered owner at the registered address set forth in the registration books for such registered owner, or at such other address as may have been filed with the Trustee prior to such record date. Such record date will be the fifteenth day of the month (whether or not a business day) preceding the applicable interest payment date. Alternatively, upon request to the Trustee prior to such record date of any registered Bondowner of at least \$500,000 in aggregate principal amount of 2007 Bonds, such payment of interest may be made by wire transfer. The 2007 Bonds may be transferred upon the books of the Trustee, or exchanged for other 2007 Bonds, without expense to the Bondowner except for applicable taxes and other governmental charges, if any, to be paid by such Bondowner.

### Book-Entry Only System

Portions of the following information concerning DTC and DTC's book-entry only system have been obtained from DTC. The Issuer, the Borrower, the Trustee and the Placement Agent make no representation as to the accuracy of such information.

Initially, the 2007 Bonds will be available in book-entry form only. Purchasers of the 2007 Bonds will not receive certificates representing their interests in the 2007 Bonds purchased. DTC will act as securities depository for the 2007 Bonds. The 2007 Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered 2007 Bond certificate will be issued for the 2007 Bonds, in the aggregate principal amount of such issue, and will be deposited with DTC.

DTC, the world's largest depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 2.2 million issues of U.S. and non-U.S. equity, corporate and municipal debt issues, and money market instruments from over 100 countries that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC, in turn, is owned by a number of Direct Participants of DTC and members of the National Securities Clearing Corporation, Fixed Income Clearing Corporation, and Emerging Markets Clearing Corporation (NSCC, FICC and EMCC are also subsidiaries of DTCC), as well as by the New York Stock Exchange, Inc., the American Stock Exchange LLC, and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has Standard & Poor's highest rating: AAA. The DTC rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org).

Purchases of 2007 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the 2007 Bonds on DTC's records. The ownership interest of each actual purchaser of each 2007 Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the 2007 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the 2007 Bonds, except in the event that use of the book-entry system for the 2007 Bonds is discontinued.

To facilitate subsequent transfers, all 2007 Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the 2007 Bonds with DTC and their registration in the name of Cede & Co. or such other nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the 2007 Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such 2007 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to DTC. If less than all of the 2007 Bonds are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the 2007 Bonds unless authorized by a Direct Participant in accordance with DTC's Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts the 2007 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Payments of the principal, purchase price or redemption price and interest payments of the 2007 Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the Issuer or the Trustee, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC nor its nominee, the Trustee, or the Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal, purchase price or redemption price and interest payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Issuer or the Trustee as Paying Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as securities depository with respect to the 2007 Bonds at any time by giving reasonable notice to the Issuer and the Trustee. Under such circumstances, in the event that a successor securities depository is not obtained, 2007 Bond certificates are required to be printed and delivered.

The Issuer at the request of the Borrower may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, 2007 Bond certificates will be printed and delivered to DTC.

So long as Cede & Co. is the registered owner of the 2007 Bonds, as nominee of DTC, references herein to the bondholders or registered owners of the 2007 Bonds means Cede & Co., not the Beneficial Owners of the 2007 Bonds.

THE ISSUER, THE BORROWER, THE TRUSTEE AND THE PLACEMENT AGENT CANNOT AND DO NOT GIVE ANY ASSURANCES THAT DTC WILL DISTRIBUTE TO ITS PARTICIPANTS OR THAT DIRECT PARTICIPANTS OR INDIRECT PARTICIPANTS WILL DISTRIBUTE TO BENEFICIAL OWNERS OF THE 2007 BONDS (I) PAYMENTS OF THE PRINCIPAL, PURCHASE PRICE OR REDEMPTION PRICE OF, OR

INTEREST ON, THE 2007 BONDS, OR (II) CONFIRMATION OF OWNERSHIP INTERESTS IN THE 2007 BONDS, OR (III) REDEMPTION OR OTHER NOTICES, OR THAT THEY WILL DO SO ON A TIMELY BASIS, OR THAT DTC, DIRECT PARTICIPANTS OR INDIRECT PARTICIPANTS WILL SERVE AND ACT IN THE MANNER DESCRIBED IN THIS OFFICIAL STATEMENT. THE CURRENT "RULES" APPLICABLE TO DTC ARE ON FILE WITH THE SEC AND THE CURRENT "PROCEDURES" OF DTC TO BE FOLLOWED IN DEALING WITH ITS PARTICIPANTS ARE ON FILE WITH DTC.

NONE OF THE ISSUER, THE BORROWER, THE TRUSTEE OR THE BORROWER WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO DTC, DIRECT PARTICIPANTS, INDIRECT PARTICIPANTS OR BENEFICIAL OWNERS OF THE 2007 BONDS WITH RESPECT TO (I) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC, ANY DIRECT PARTICIPANT OR ANY INDIRECT PARTICIPANT, (II) THE PAYMENT BY DTC TO ANY DIRECT PARTICIPANT OR BY ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY AMOUNT DUE TO ANY BENEFICIAL OWNER IN RESPECT OF THE PRINCIPAL, REDEMPTION PRICE OR PURCHASE PRICE OF, OR INTEREST ON, ANY 2007 BONDS, (III) THE DELIVERY OF ANY NOTICE BY DTC, ANY DIRECT PARTICIPANT OR ANY INDIRECT PARTICIPANT, (IV) THE SELECTION OF THE BENEFICIAL OWNERS TO RECEIVE PAYMENT IN THE EVENT OF ANY PARTIAL REDEMPTION OF THE 2007 BONDS, OR (V) ANY OTHER ACTION TAKEN BY DTC, ANY DIRECT PARTICIPANT OR ANY INDIRECT PARTICIPANT.

According to DTC, the foregoing information with respect to DTC has been provided to the Industry for informational purposes only and is not intended to serve as a representation, warranty or contract modification of any kind.

Certificated Bonds. DTC may discontinue providing its services as securities depository with respect to the 2007 Bonds at any time by giving reasonable notice to the Issuer and the Trustee. In addition, the Issuer may determine that continuation of the system of book-entry transfers through DTC (or a successor securities depository) is not in the best interests of the Beneficial Owners. If for either reason the Book-Entry Only system is discontinued, 2007 Bond certificates will be delivered as described in the Agreement and the Beneficial Owners, upon registration of certificates held in the Beneficial Owners' name, will become the Bondholders. Thereafter, 2007 Bonds may be exchanged for an equal aggregate principal amount of 2007 Bonds in other authorized denominations and of the same maturity, upon surrender thereof at the designated corporate trust office of the Trustee. The transfer of any 2007 Bond may be registered on the books maintained by the Trustee for such purpose only upon the assignment in a form satisfactory to the Trustee. For every exchange or registration of transfer of 2007 Bonds, the Issuer and the Trustee may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to such exchange or registration of transfer, but no other charge may be made to the Bondholder for any exchange or registration of transfer of the 2007 Bonds. The Trustee will not be required to transfer or exchange any 2007 Bond during the notice period preceding any redemption if such 2007 Bond (or any part thereof) is eligible to be selected or has been selected for redemption.

#### **Nature of Bonds and Sources of Payment**

The 2007 Bonds will be payable as to principal, premium, if any, and interest solely out of the Revenues, receipts, funds (other than the Rebate Fund) or moneys pledged therefor and from any amounts otherwise available under the Agreement for the payment thereof.

Pursuant to the Agreement, the Issuer will pledge and assign to the Trustee all Revenues to be received from the Borrower or derived from any security provided under the Agreement, all rights to receive such Revenues and all of its other rights under the Agreement (except the rights to receive notices, provide consents, and its right to indemnification and reimbursement for advances and expenses), to the extent permitted by law. The Borrower will have the absolute and unconditional obligation under the Agreement to make all payments required pursuant to the Agreement, including payments equal to the amounts payable as principal, premium, if any, and interest on the Outstanding 2007 Bonds. The payment of the 2007 Bonds will be secured by the Agreement.

#### **Redemption Prior to Maturity**

The 2007 Bonds are subject to redemption prior to maturity as described below.

Optional Redemption. The 2007 Bonds are subject to redemption, prior to maturity, at the option of the Borrower, on or after \_\_\_\_\_ 1, \_\_\_, as a whole at any time, or in part, by lot, on any interest payment date in inverse order of sinking fund installments and at the redemption prices set forth below (expressed as a percentage of the principal amount to be redeemed), plus accrued interest to the redemption date:

| <u>Redemption Period</u>    | <u>Redemption Price</u> |
|-----------------------------|-------------------------|
| ____ 1, ____ through ____,  | ____ %                  |
| ____ 1, ____ through ____,  | ____                    |
| ____ 1, ____ and thereafter | 100                     |

Mandatory Sinking Fund Redemption.

The 2007 Bonds are subject to mandatory redemption through sinking fund installments, prior to maturity, on April 1 and October 1 of each of the years and in the amounts set forth below, at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date:

| <u>Year</u><br>(____ 1) | <u>Amount</u> | <u>Year</u><br>(____ 1) | <u>Amount</u> |
|-------------------------|---------------|-------------------------|---------------|
|                         |               |                         |               |

\* Maturity

Special Redemption. The 2007 Bonds are subject to redemption prior to maturity, as a whole or in part at any time, in inverse order of sinking fund installments, at their principal amounts, without premium, plus accrued interest to the redemption date, (i) from excess 2007 Bond proceeds transferred to the Borrower to fund costs of the Project or, pro rata among Bondholders in the event of substantial loss to the Mortgaged Property as defined in the Agreement, from insurance or condemnation award proceeds allocable to the Bonds; or (ii) *pro rata* among Bondholders, as a result of changes in the Constitution of the United States or the State of Florida, or as a result of legislative, executive or judicial action of the United States, such Commonwealth or any political subdivision thereof, the Agreement becomes void, unenforceable or impossible of performance in accordance with the present intention of the parties, or unreasonable burdens or excessive liabilities are imposed on the Borrower by reason of its ownership of the New Facilities, pursuant to the special redemption provisions in the Agreement.

The 2007 Bonds are also subject to mandatory redemption prior to maturity upon (a) notice from the Borrower to the Trustee that the Borrower has ceased to operate the New Facilities or has caused the New Facilities to cease to be operated as an authorized project for a purpose and use as provided under the Act, without first obtaining the prior written consent of a majority in principal amount of the Bondholders or (b) any representation or warranty of the Borrower is proven to have been false or misleading in any material respect when made, in either case, together with the applicable prepayment premium.

Redemption in the Event of Taxability. The 2007 Bonds are also subject to mandatory redemption as a whole within 120 days the occurrence of a Determination of Taxability, at a redemption price equal to 100% of their principal amounts plus accrued interest at the rate of 13% per annum from the date of the Determination of Taxability to the redemption date.

Redemption Upon Sale of Existing Facilities. The 2007 Bonds are also subject to mandatory redemption in part at any time, at a redemption price of \_\_\_\_ % of the principal amount if such redemption is made prior to \_\_\_\_\_, and thereafter at a redemption price equal to the redemption price for optional redemption, in an aggregate amount not exceeding \$\_\_\_\_\_ (which is the principal amount allocable to refunding of the 1993 Bonds), such redemption to be made within 60 days of the date of sale or other disposition of any of the Existing Facilities financed with proceeds of the 1993 Bonds, unless the Trustee shall have received an opinion of Bond Counsel, that such redemption is not required to preserve the exclusion from gross income of interest on the 2007 Bonds.

Procedure for and Notice of Redemption. In the event this bond is selected for redemption, notice will

be mailed no more than 60 nor less than 30 days prior to the redemption date (except that when 2007 Bonds are to be redeemed upon the occurrence of a Determination of Taxability, such notice shall be mailed no less than 15 days prior to the redemption date) to the Registered Owner at its address shown on the registration books maintained by the Trustee. Such notice shall be mailed by first class mail. Failure to mail notice to the owner of any 2007 Bond or any defect in the notice to such an owner shall not affect the redemption of any other 2007 Bond. Any notice of redemption at the option of the Borrower may state that the call for redemption is conditioned on the issuance of refunding bonds (or other debt issued to refinance the 2007 Bonds) or the deposit of sufficient funds with the Trustee to accomplish such redemption on or before the date fixed for redemption.

#### **Additional Bonds and Other Indebtedness**

Subject to the bondholder consent requirement described below, the Issuer may issue Additional Bonds on a parity with the lien of the 2007 Bonds on Gross Receipts, the Revenues and the Mortgaged Property (i) to complete the Project, (ii) to refund Bonds previously issued hereunder or (iii) to finance or refinance any other project or projects of the Borrower permitted under the Act, provided that the additional project is located or to be located on the Mortgaged Property.

Additional Bonds may be issued, or Alternative Indebtedness may be incurred by the Borrower (a) only with the prior written consent of the Owners of more than 50% in principal amount of Bonds then Outstanding or (b) if the aggregate principal amount of the Additional Bonds is not greater than \$2,000,000 and, after giving effect to the issuance of such Additional Bonds, the Historical Pro Forma Debt Service Coverage Ratios for the two most recently completed Fiscal Years and for the most recent year to date period for which financial statements are available is not reduced by more than 5% from the actual Debt Service Coverage Ratios for such periods, provided that the Historical Pro Forma Debt Service Coverage Ratios for such periods shall at least equal the Debt Service Coverage Ratio Requirement.

No Additional Bonds may be issued (except to refund Bonds) unless: (1) no Default or Event of Default shall have occurred and be continuing; (2) the conditions for the incurrence of Additional Indebtedness set forth in the Agreement have been satisfied; (3) there shall have been filed with the Trustee a certificate of an architect setting forth (a) the estimated cost of the project being financed or refinanced with the proceeds of the Additional Bonds; (b) the estimated amounts which will be required from month to month for paying such cost; and (c) the estimated date of completion of such project; provided, however, no architect certificate is required in the event the project is an acquisition; (4) the Borrower shall have delivered to the Trustee the opinions of counsel required by the Agreement; and (5) the requirements of the Agreement relating to Capital Additions, if applicable, have been satisfied.

The Borrower may incur other indebtedness, other than Additional Bonds, both long term and short term, including indebtedness on a parity and ratably secured, with the 2007 Bonds, and short term indebtedness secured by a first lien on its accounts receivable, upon meeting certain conditions set forth in the Agreement. See Appendix C - Definitions and Excerpted Provisions of the Mortgage and Trust Agreement and Subordination Agreement.

## DEBT SERVICE SCHEDULE

The following table sets forth the debt service schedule for the 2007 Bonds, including the principal of the 2007 Bonds to be redeemed by mandatory sinking fund redemption.

| <u>Year Ending<br/>October 1</u> | <u>Principal</u> | <u>Interest</u> | <u>Total Debt<br/>Service</u> |
|----------------------------------|------------------|-----------------|-------------------------------|
| 2008                             |                  |                 |                               |
| 2009                             |                  |                 |                               |
| 2010                             |                  |                 |                               |
| 2011                             |                  |                 |                               |
| 2012                             |                  |                 |                               |
| 2013                             |                  |                 |                               |
| 2014                             |                  |                 |                               |
| 2015                             |                  |                 |                               |
| 2016                             |                  |                 |                               |
| 2017                             |                  |                 |                               |
| 2018                             |                  |                 |                               |
| 2019                             |                  |                 |                               |
| 2020                             |                  |                 |                               |
| 2021                             |                  |                 |                               |
| 2022                             |                  |                 |                               |
| 2023                             |                  |                 |                               |
| 2024                             |                  |                 |                               |
| 2025                             |                  |                 |                               |
| 2026                             |                  |                 |                               |
| 2027                             |                  |                 |                               |
| 2028                             |                  |                 |                               |
| 2029                             |                  |                 |                               |
| 2030                             |                  |                 |                               |
| 2031                             |                  |                 |                               |

## SECURITY FOR THE 2007 BONDS

### **2007 Bonds Payable from Revenues under the Agreement**

The 2007 Bonds will be limited obligations of the Issuer payable solely from the revenues derived by the Issuer pursuant to the Agreement, or from insurance or condemnation proceeds or other amounts available under the Agreement (other than the Rebate Fund). The Issuer will lend the proceeds of the 2007 Bonds to the Borrower pursuant to the Agreement, which will remain in force until all 2007 Bonds at any time outstanding under the Agreement have been paid or payment has been provided therefor. Pursuant to the Agreement, the Borrower will be required to pay to the Trustee amounts sufficient to pay the principal or redemption price of and interest on the 2007 Bonds, as well as other amounts set forth in the Agreement. Such obligation will be a joint and several obligation of Nassau and AICC, unless and until AICC is released from its obligations under the Agreement, as described below.

Under the Agreement, to secure payment and performance of all obligations under the 2007 Bonds, the Issuer will assign and pledge to the Trustee as security for the payment of the 2007 Bonds, with certain exceptions and reservations as set forth therein, (i) all right, title and interest of the Issuer in and to the Agreement; (ii) all of the Issuer's rights, whether currently existing or hereafter acquired, to receive and enforce repayment of its loan of the proceeds of the 2007 Bonds to the Borrower and to enforce payment of the 2007 Bonds and all of its other rights under the Agreement; and (iii) all revenues to be received from the Borrower and all funds and investments from time to time held in the Funds and Accounts established under the Agreement, except the Rebate Fund.

### **Mortgage on the New Facilities and Security Interest in Gross Receipts**

Under the Agreement, the Borrower will grant to the Trustee a first mortgage on the land and improvements constituting the New Facilities and a first priority security interest in the fixtures, furnishings and equipment included therein. A mortgagee's title insurance policy in an amount equal to the aggregate principal amount of the 2007 Bonds will be delivered on the date of issuance of the 2007 Bonds, insuring that the Trustee has a valid first priority mortgage lien on the land and improvements constituting the New Facilities, subject only to

certain Permitted Liens. Under the Agreement the Borrower and AICC also grant to the Trustee a first priority security interest in their Gross Receipts, including accounts receivable from the operation of the Existing Facilities and New Facilities. The 2007 Bonds will not be secured by a mortgage lien or security interest in the Existing Facilities, but the security interest granted in AICC's Gross Receipts will include the accounts receivable from the Existing Facilities, until such time as AICC is released from its obligations under the Agreement, as described below.

The mortgage lien and security interests created by the Agreement may be subject to Permitted Liens.

#### **Release of AICC from Agreement**

AICC is currently the licensed operator of the Existing Facilities. AICC may be released from its obligations under the Agreement upon the occurrence of all of the following: (i) the transfer by AICC of the Project operating licenses, provider agreements and other governmental approvals to the Operator, (ii) evidence that the Operator has received all governmental approvals necessary to operate the Project, (iii) the agreement by the Operator to be bound by terms and conditions of the Agreement, and all covenants, agreements and obligations of the Borrower hereunder, (iv) the transfer by AICC to Nassau Care and/or the Operator of all assets held by AICC relating to the Project including all bank accounts, business records, operating contracts and personal property; provided that AICC shall not be required transfer the Existing Facilities or any bank accounts, business records, operating contracts and personal property relating to the Existing Facilities, and (v) evidence that, prior to its assumption of this Agreement, the Operator had no material assets or liabilities and no material claims against it by any party. Upon satisfaction of the conditions stated in this paragraph, the Trustee shall release and discharge AICC from its obligations under the Agreement.

#### **Deposit-Only Account; Priority of Payments**

The Borrower shall establish a deposit-only account (the "Deposit-Only Account") with a commercial bank (which may include the Trustee) and shall deposit and cause the Manager to deposit therein all Gross Receipts of the Borrower upon receipt thereof. The Borrower shall also establish an operating account (the "Operating Account"), against which the Borrower will write checks for its expenses of operation. The Borrower hereby pledges and grants a security interest in the Deposit-Only Account to the Trustee to secure its obligations hereunder.

So long as no Event of Default has occurred and is continuing, the Borrower shall transfer funds from the Deposit-Only Account to the Operating Account on a daily basis to provide for the payment of Operating Expenses, including trade accounts payable regardless of when incurred. All payments to be made by the Borrower shall be applied in the order of priority established below and shall be subject to the terms of the Subordination Agreement.

Upon the occurrence and continuance of an Event of Default, the Trustee may or, if directed by the holders of a majority in aggregate principal amount of the Bonds shall, (i) establish a concentration account (which may be either a trust account or an account established with a commercial bank [which may be the Trustee]) (the "Concentration Account") and (ii) sweep all amounts on deposit in the Deposit-Only Account to the Concentration Account. The Trustee shall apply amounts on deposit in the Concentration Account to the following uses, in the following priority:

(1) First, as the same shall become due, all amounts due to be paid to the Rebate Fund pursuant to applicable regulations, as certified to the Trustee in a certificate furnished by the Borrower;

(2) Second, all amounts due to be paid to the Taxes and Insurance Fund pursuant to Section 309A;

(3) Third, on the last Business Day of each month, to the Operating Account in the amount estimated by the Manager in the current operating budget on file with the Trustee (excluding the amounts to be paid pursuant to the other clauses of this paragraph and any interest on Indebtedness) to be the Operating Expenses for, and trade accounts payable due in, the following month or as otherwise shown in a certificate of the Manager delivered to the Trustee, which certificate may set forth actual Operating Expenses which do not exceed the estimated Operating Expenses by more than ten percent (10%) and which certificate shall explain any negative deviation from the current operating budget submitted to the Trustee pursuant to the Agreement;

(4) Fourth, to the Debt Service Fund on the twenty-fifth day of each month, commencing \_\_\_\_\_, 2007, an amount equal to one-third (1/3) of the interest coming due on the Bonds on the next March 1, June, September 1, or December 1, as the case may be, after taking into account amounts on deposit in the Capitalized Interest Account;

(5) Fifth, to the Debt Service Fund on the twenty-fifth day of each month, commencing December 25, 2008, an amount equal to one-sixth (1/6th) of the principal or sinking fund installment payment due on the Bonds on the next July 1 and January 1; and

(6) Sixth, to pay any monthly payment required under the Agreement to replenish the Debt Service Reserve Fund;

(7) Seventh, to pay any monthly payment required under the Agreement to fund or replenish the Replacement Reserve Fund; and

(8) Eighth, in payment of Subordinated Payables in accordance with and to the extent permitted by the provisions of the Subordination Agreement.

### **Debt Service Reserve Fund**

Proceeds of the 2007 Bonds in the amount of \$ \_\_\_\_\_ will be deposited with the Trustee to provide a Debt Service Reserve Fund. The Debt Service Reserve Fund will secure the 2007 Bonds only, and will be held in trust by the Trustee. If on any date the amount in the Debt Service Fund is less than the amount then required to pay the principal (including sinking fund installments) and interest then due on the 2007 Bonds, the Trustee, after the transfer of any available moneys from the Replacement Reserve Fund, shall apply the amount in the Debt Service Reserve Fund to the extent necessary to meet the deficiency. The Borrower shall remain liable for any required sums which it has not paid to the Rebate Fund or Debt Service Fund and any subsequent payment thereof shall be used to restore the funds so applied.

If the amount in the Debt Service Reserve Fund on \_\_\_\_\_ 1 or \_\_\_\_\_ 1 of any year (less any payment made therefrom on that day pursuant to the preceding paragraph) exceeds the Debt Service Reserve Fund Requirement, the Trustee shall transfer the excess to the Debt Service Fund to be credited against payments otherwise required to be made thereto.

In the event of any withdrawal from the Debt Service Reserve Fund to cure any deficiency in the Debt Service Fund or in the event that the Trustee notifies the Borrower that the amount on deposit in the Debt Service Reserve Fund is less than 95% of the Debt Service Reserve Fund Requirement because of a decline in the value of the securities in such Fund, the Borrower shall pay, or cause to be paid, to the Trustee, (i) the full amount of such withdrawal immediately for deposit in the Debt Service Reserve Fund, or (ii) the amount of such decline (below 95%) in value for deposit into the Debt Service Reserve Fund in no more than six equal, consecutive, monthly installments, each payable on the last day of the month, commencing within 30 days of the date which the Trustee notifies the Borrower of the decline in value; provided that if an additional decline occurs prior to the restoration of any decline, such additional decline shall be restored in equal monthly installments over the remainder of the restoration period for the initial decline.

### **Replacement Reserve Fund**

A Replacement Reserve Fund is established with the Trustee under the Agreement. The moneys in the Replacement Reserve Fund and any investments held as part of such Fund shall be held in trust and, except as otherwise provided in the Agreement, shall be applied by the Trustee

If on any date the amount in the Construction Fund is insufficient to pay for Project costs, the Trustee shall at the Borrower's request apply the amount in the Replacement Reserve Fund to the extent necessary to meet the deficiency.

If on any date the amount in the Debt Service Fund is less than the amount required to be transferred to the Paying Agent to pay the principal (including sinking fund installments) and interest on the Bonds, the Trustee shall apply the amount in the Replacement Reserve Fund to the extent necessary to meet the deficiency. The Borrower shall remain liable for any required sums which it has not paid to the Debt Service Fund and any subsequent payment thereof shall be used to restore the funds so applied.

Beginning July 1, 2008, the Borrower shall pay to the Trustee for deposit into the Replacement Reserve Fund, on the twenty-fifth day of each month, the amount of \$5,000, until such time as the amount on deposit in the Replacement Reserve Fund is equal to the Replacement Reserve Fund Requirement; provided, that if at any time the amount in the Replacement Reserve Fund drops below the Replacement Reserve Fund Requirement, the Borrower shall be obligated to resume making the required monthly payments to the Trustee until the deficiency is made up; provided, however, that the Borrower may receive a credit against its obligation to deposit for each month if there is delivered to the Trustee a certificate of the Borrower to the effect that the credited amount has been spent for

budgeted capital expenditures not paid from the Replacement Reserve Fund and not previously used as a credit against amounts to be deposited in the Replacement Reserve Fund. If the amount in the Replacement Reserve Fund on June 30 of any year (after any required transfer to the Debt Service Fund) exceeds the Replacement Reserve Fund Requirement, the Trustee may, upon written request of the Borrower, transfer such excess to the Borrower unless there is an Event of Default known to the Trustee, in which case the excess shall be applied to cure any such Event of Default.

If moneys in the Replacement Reserve Fund are to be used for Capital Additions, the Trustee shall make payment only upon receipt of a certificate of the Borrower describing the Capital Addition and stating that the total amount to be withdrawn from the Replacement Reserve Fund, together with other amounts available for the purpose (which amounts shall be identified), will be sufficient to pay the costs of the Capital Addition (which shall be itemized). If the Capital Addition involves construction, repairs or renovation estimated to cost in excess of \$100,000, the Borrower's certificate shall be approved by the Majority Bondowner, if any, and shall state that the plans and specifications have been approved by all governmental bodies required to approve them (specifying such bodies) or that such approval is reasonably expected as needed, that the contracts entered into or to be entered into by the Borrower (which shall be specified) or its agents cover substantially all phases of the construction, repairs or renovation not being done by employees of the Borrower, and that the contractors have furnished customary labor and performance bonds. If the Capital Addition involves the acquisition of furnishings, equipment, machinery, or apparatus to be used in the Mortgaged Property, as to such acquisition the Trustee shall make payment only upon receipt of a certified resolution of the Borrower stating that the Capital Addition is reasonable and practicable, and the cost of such furnishings, equipment, machinery or apparatus is reasonable.

### **Financial Covenants**

Debt Service Coverage Ratio Covenant. The Borrower shall maintain a Debt Service Coverage Ratio (defined as Net Revenues Available for Debt Service of the Borrower and the Operator to Total Principal and Interest Requirements for the preceding Fiscal Year) as of the end of each Fiscal Year at least equal to 1.10 as of June 30, 2008 and 1.20 as of June 30, 2009 and each Fiscal Year thereafter (the "Debt Service Ratio Requirement"). If, for any such Fiscal Year the Debt Service Coverage Ratio was not at least equal to the Debt Service Ratio Requirement, the Borrower shall, subject to applicable governmental restrictions and agreements, adopt revised rates and charges that will produce such coverage. In such an event, the Borrower shall also, within 45 days of the end of such Fiscal Year, employ a Consultant to make recommendations as to rates and charges and other aspects of management and operation. Copies of the report of the Consultant shall be filed with the Trustee and any Bondowner owning at least 10% in aggregate principal amount of Outstanding Bonds who requests the same. Additionally, the Borrower shall use its best efforts to arrange a meeting with the Consultant (to be held at the offices of the Consultant or at such location as is chosen by the Majority Bondowner, if any, or, if there is no Majority Bondowner, by the Borrower) at which meeting the Consultant will present its final conclusions and recommendations. The Borrower will invite the Bondowners and the Trustee to attend such meeting and representatives of the Borrower and its board of directors shall attend such meeting. The Borrower shall, subject to applicable governmental restrictions, its fiduciary obligations and limitations on its legal authority, revise its rates and charges and other aspects of its management and operation in conformity with the recommendations of the Consultant or file with the Trustee its reasons for not following the recommendations. The Borrower shall thereafter achieve a Debt Service Coverage Ratio of at least equal to the Debt Service Ratio Requirement unless for the first 12 months after the ratio first falls below the required level the Consultant certifies that the Borrower is prevented from doing so by government restrictions and the Debt Service Coverage Ratio actually achieved is at least 1.00.

Days' Cash on Hand Requirement. The Borrower further agrees that it will maintain at least 30 Days Cash on Hand being on June 30, 2008 and thereafter. A "Days Cash on Hand" means as of the last day of any Fiscal Year an amount equal to: (A) (1) the Borrower's Unrestricted Cash as of the last day of such Fiscal Year divided by (2) an amount equal to the Operating Expenses of the Borrower for the twelve-month period then ending (or if the Borrower has not conducted operations for a full twelve months, an amount equal to the Operating Expenses of the Borrower for such shorter period, annualized); (B) multiplied by 365. The Borrower shall calculate its Days' Cash on Hand on the last day of each Fiscal Year, beginning June 30, 2008, and shall certify to the Trustee the results of that calculation within sixty days thereof. Additionally, within 120 days after the end of each Fiscal Year, the Borrower shall furnish to the Trustee a certification from a Certified Public Accountant setting forth the Borrower's Days' Cash on Hand as of the close of such Fiscal Year. If the certification of the Borrower or the Certified Public Accountant indicates that the Borrower failed to maintain the Days' Cash on Hand Requirement, the Borrower shall, within 45 days after the date of such certification, employ a Consultant to furnish a report as to why the Borrower failed to maintain the Days' Cash on Hand Requirement and to make recommendations as to what remedies the Borrower should pursue to increase its Days' Cash on Hand to at least the required number. Copies of the report of the Consultant shall be filed with the Trustee and the Majority Bondowner, if any, and shall be made available to all other Bondowners who request such report in writing. Additionally, the Borrower shall use its best efforts to

arrange a meeting with the Consultant (to be held at the offices of the Consultant or at such location as is chosen by the Majority Bondowner, if any, or, if there is no Majority Bondowner, by the Borrower) at which meeting the Consultant will present its final conclusions and recommendations. The Borrower will invite the Bondowners and the Trustee to such meeting and representatives of the Borrower and its board of directors shall attend such meeting. The Borrower shall thereafter, subject to applicable government restrictions, its fiduciary obligations and limitations on its legal authority, take such steps to increase its Days' Cash On Hand as are recommended by the Consultant. The Borrower shall thereafter achieve the Days' Cash on Hand Requirement unless the Consultant certifies that the Borrower is prevented from doing so by government restrictions, the Borrower's fiduciary obligations or the Borrower's legal authority, and that the Borrower has achieved the maximum amount of Days' Cash On Hand as is practicable. Within 90 days of the Consultant's report, the Borrower will cause the Consultant to prepare a follow-up report detailing the Borrower's compliance in implementing the Consultant's recommendations.

Current Ratio Covenant. The Borrower shall maintain a ratio of its current assets to its current liabilities of not less than 1.1 to 1.0 as of the end of each fiscal quarter.

Trade Payables Covenant. The Borrower shall pay all Trade Payables within 90 days of receipt of invoice; provided, however, that on any given date an amount less than or equal to 10% of Trade Payables may be outstanding for more than 90 days. If more than 10% of Trade Payables are outstanding for more than 90 days as at the end of any fiscal quarter of the Borrower, the Borrower shall, within 75 days after the end of such quarter, employ a Consultant to advise the Borrower on how to improve payment of Trade Payables. So long as the Borrower retains such Consultant and follows its recommendations, the Borrower shall be deemed to be in compliance herewith even if more than 10% of Trade Payables are outstanding for more than 90 days as at the end of any fiscal quarter of the Borrower; provided, however, that (i) no more than 20% of Trade Payables shall be outstanding for more than 90 days at any time, and (ii) no more than 10% of Trade Payables may be outstanding for more than 90 days as of the end of each month for any twelve consecutive months.

### **Subordination Agreement**

Pursuant to the terms of the Subordination Agreement, payment of (i) 50% of the total of the Base Management Fee and the Incentive Fee due to the Manager under the Management Agreement (the "Subordinated Management Fees"), (ii) the Subordinated Participation and (iii) the amounts payable under the Subordinated Note (collectively, the "Subordinated Payables") are subordinated to the payments due under the Agreement and Operating Expenses, and it shall not constitute an Event of Default under the Subordination Payables if the Borrower shall fail, because of the provisions of the Subordination Agreement, to make a payment with respect to Subordinated Payables.

The Borrower shall not pay any Subordinated Payables (i) to the extent that such payment would reduce the number of Days' Cash on Hand, determined immediately after such payment, to less than the Days' Cash on Hand Requirement, as most recently determined for purposes of the Agreement, or (ii) if at the time of such payment, any Event of Default shall have occurred and be then continuing under the Agreement.

Following receipt of the unaudited financial statements for each fiscal quarter, and receipt of the audited financial statements for each Fiscal Year, the Borrower shall make payments of the Subordinated Payables to the extent, if any, that after making such payment, the "Adjusted Debt Service Coverage Ratio" would not be less than 1.20. The Adjusted Debt Service Coverage Ratio shall be calculated quarterly, on the basis of a trailing twelve-month period (or such lesser time as has elapsed from March 1, 2007), by adding back to the numerator of such ratio the amount of Subordinated Payables expensed during the computation period which would otherwise have caused the Adjusted Debt Service Coverage Ratio to be less than 1.20, and the payment of such amount of Subordinated Payables shall be deferred pursuant to the Subordination Agreement. For this purpose, principal of the Subordinated Note is deemed to be an expense. Further, Subordinated Payables expensed during prior periods but paid during the Computation Period shall reduce the Adjusted Debt Service Coverage Ratio for the Computation Period, and cannot be paid to the extent they would cause the Adjusted Debt Service Coverage Ratio to be less than 1.20.

The Subordinated Payables will be paid only in the following order of priority:

- (a) First, any portion of the Subordinated Management Fees theretofore accrued that constitutes Base Management Fees;
- (b) Second, the balance of the Subordinated Management Fees;
- (c) Third, that portion of the payments on the Subordinated Note which constitutes interest thereon;

- (d) Fourth, the balance of the payments on the Subordinated Note then due and payable; and
- (e) Fifth, the Subordinated Participation which has theretofore accrued.

See Appendix C – Definitions and Excerpted Provisions of the Mortgage and Trust Agreement and Subordination Agreement and Subordination Agreement.

## CERTAIN BONDOWNERS' RISKS

### General

**INVESTMENT IN THE 2007 BONDS INVOLVES A HIGH DEGREE OF RISK. THE RELATIVELY HIGH INTEREST RATES BORNE BY THE 2007 BONDS (AS COMPARED TO PREVAILING INTEREST RATES ON MORE SECURE OBLIGATIONS) REPRESENTS ADDITIONAL RETURN TO THE INVESTOR FOR ASSUMING THIS RISK. EACH PROSPECTIVE 2007 BONDOWNER SHOULD CAREFULLY EXAMINE THIS PRIVATE PLACEMENT MEMORANDUM AND CONSIDER SUCH BONDOWNER'S FINANCIAL CONDITION AND OBJECTIVES IN ORDER TO MAKE A JUDGMENT AS TO WHETHER THE 2007 BONDS ARE AN APPROPRIATE INVESTMENT.**

This discussion of risk factors is not, and is not intended to be, exhaustive.

### Risk of Operation

The Borrower will acquire or lease the New Facilities on the date of issuance of the 2007 Bonds and expects to have no assets or operations other than the New Facilities and the proceeds thereof. Therefore, the Borrower's sole source of revenues will be the operation of the New Facilities. No representation or assurance is given or made that revenues will be realized by the Borrower in amounts sufficient to pay debt service on the 2007 Bonds and other payments necessary to meet the obligations of the Borrower.

The ability of the Borrower to generate sufficient revenues to meet its operating expenses, working capital needs and its obligations on the 2007 Bonds is subject to many factors, including the capabilities of the Manager and the Borrower, federal and state reimbursements from Medicaid, demand for the Borrower's services, government regulation and licensing requirements, the demand for facilities providing service to the developmentally disabled, competition from other healthcare providers, inflation, litigation, the availability of labor and future economic and other factors which are not determinable or quantifiable at this time.

Future revenues and expenses of the New Facilities and the Borrower are subject, among other things, to the capabilities of management of the Borrower and the Manager and future economic and other conditions which are not accurately predictable and which may adversely affect revenues and the timely payment of principal of and interest on the 2007 Bonds. Revenues would be adversely affected by the occurrence of any of the following conditions: (a) a decision by governmental payors to shift residents to group homes or other community-based settings, (b) termination or restriction of governmental financial assistance programs, including the Medicaid program, (c) changes in reimbursements made to similar facilities by agencies that provide such reimbursements, (d) a reduced demand for care in settings such as the New Facilities, (e) the failure of the Borrower to achieve and maintain a sufficient occupancy rate at the New Facilities, (f) the failure of the Borrower to contain its operating expenses, (g) changes in the regulation of ICF/DD facilities or Medicaid waiver group homes by governmental entities, including the regulation of rates and the regulation of facilities and services, (h) the professional and personnel relationships of the staff and employees, including potential labor disputes, (i) changes in the population or economic conditions of the service areas of the New Facilities, (j) competition arising from other health care facilities and providers of health care services in the service areas of the New Facilities, and (k) continued licensure and certification of the New Facilities.

### Financial Feasibility of the New Facilities

The financial forecasts contained in the Financial Forecast are based on certain assumptions made by the Borrower and the Manager. As stated in the Financial Forecast, there usually will be differences between the forecasted and actual results, because events and circumstances frequently do not occur as expected, and those differences may be material. In addition, such financial forecast is only for the five Fiscal Years ending June 30, 2012 and consequently does not cover the entire period during which the 2007 Bonds may be outstanding. The Financial Forecast included in Appendix A should be read in its entirety.

**BECAUSE THERE IS NO ASSURANCE THAT ACTUAL EVENTS WILL CORRESPOND WITH THE ASSUMPTIONS MADE, NO REPRESENTATION CAN BE MADE THAT THE FORECASTS IN THE FINANCIAL FORECAST WILL CORRESPOND WITH RESULTS ACTUALLY ACHIEVED IN THE FUTURE. ACTUAL OPERATING RESULTS MAY BE AFFECTED BY MANY UNCONTROLLABLE FACTORS, INCLUDING, BUT NOT LIMITED TO, INCREASED COSTS, LOWER THAN ANTICIPATED RATES, EMPLOYEE RELATIONS, GOVERNMENTAL CONTROLS, CHANGES IN APPLICABLE GOVERNMENTAL REGULATIONS, CHANGES IN DEMOGRAPHIC TRENDS, CHANGES IN THE HEALTHCARE INDUSTRY AND GENERAL ECONOMIC CONDITIONS.**

The Financial Forecast is a compilation, and Mitchell has expressed no opinion on the underlying assumptions or rationale. Neither the Issuer, the Underwriter, its counsel, nor Bond Counsel have approved or verified the assumptions or conclusions contained in the Financial Forecast.

### **Competition**

Provision of services to the developmentally disabled is competitive. In addition, other competitive facilities may be developed in the New Facilities' service areas.

The Borrower and the Manager believe that the New Facilities can effectively compete with other facilities currently located in its service area; however, there can be no guarantee that in the future the Borrower will be able to compete with other providers serving the developmentally disabled.

### **Third Party Payments**

The sole source of operating revenues of the New Facilities is third-party contracts from the State which are supported by payments under the Medicaid program. See "THE NEW FACILITIES – Medicaid Reimbursement for ICF/DD Facilities" and "- Group Homes Reimbursement".

Payment to Medicaid providers in Florida may be delayed or reduced due to budgetary constraints or limited availability of revenues due to general economic conditions affecting the state. Such delays and reductions have occurred in the past, and no assurance can be given that future reductions will not be made in the scope of covered services or the rates of increase in reimbursement rates, or that future reimbursement will be adequate to cover the provider's cost of providing service.

The ICF/DD Facilities' provider agreements with AHCA are for a term of one year and may be terminated at any time in the event the ICF/DD Facilities fails to maintain compliance with numerous regulatory requirements. The value and earning potential of the ICF/DD Facilities depend upon their continued use as ICF/DDs, and continued funding by the federal and State of Florida governments of the cost of caring for patients therein.

### **Governmental Spending on Health Care**

The health care industry in general is subject to regulation by a number of governmental agencies, including those which administer the Medicaid program, federal, state, and local agencies responsible for the administration of health planning programs, and other federal, state, and local agencies. As a result, the health care industry is sensitive to legislative and regulatory changes in and limitations on governmental spending for the governmental programs which affect it. The rapidly rising cost of health care and the consequent drain on both federal and state budgets through federal and state participation in the Medicaid Program has for some time been a major area of concern on the part of both federal and state governments. As a result of changing federal and state implementation, regulation, and participation in the Medicaid program, potential Bondholders should form a judgment as to the future commitment by the federal government and the State of Florida to provide reasonable levels of reimbursement to operators for costs incurred by them in caring for developmentally disabled persons who are unable to pay for such care themselves.

### **Current and Future Federal and State Legislation**

In 1996, the Florida Legislature adopted legislation ("Chapter 96-417") which made a finding that the most appropriate and cost-effective care for state-supported clients who reside in privately owned or operated residential facilities for individuals with developmental disabilities is provided through community-based, noninstitutional service delivery models that are financed through noninstitutional financing mechanisms. Based on this and other findings, Chapter 96-417 stated the intent of the Florida Legislature that privately owned or operated facilities authorized to receive reimbursement through the Medicaid Intermediate Care Facility for the Developmentally Disabled program on June 30, 1996, should no longer be reimbursed through that program but may continue to serve

clients through noninstitutional service arrangements that are financed through noninstitutional funding mechanisms. Chapter 96-417 did support the continuation of Medicaid reimbursement for state-owned-and-operated intermediate care facilities for the developmentally disabled.

The enforcement of Chapter 96-417 was enjoined by the United States District Court for the Southern District of Florida, in *Cramer v. Chiles*, a legal action brought as a class action by developmentally disabled Medicaid recipients against the State of Florida. In 1999, the court granted summary judgment for the plaintiff, concluding that Chapter 96-417 violated the federal Medicaid statute in effectively eliminating a choice between ICF/DDs and home- and community-based waiver services for the developmentally disabled. The state was permanently enjoined from enforcing Chapter 96-417 in a manner which would breach federal law. The court retained jurisdiction to consider implementation of a transition plan which preserves state cost-reduction purposes, to the extent possible, without compromising legal rights of the developmentally disabled. No final order has been entered, but subsequent legislation, discussed below has confirmed the continuation of Medicaid reimbursement for ICF/DDs.

As part of the Balanced Budget Act of 1997, Congress repealed the Boren Amendment, which had required that each state Medicaid agency provide for rates "reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable state and federal laws . ." The repeal of this standard gives AHCA greater flexibility to amend its Medicaid reimbursement plan for ICF/DDs in the future, perhaps to a plan that is not cost based at all.

In 1997, legislation was adopted in the Florida Legislature which directed AHCA to implement changes to the Medicaid reimbursement methodology for ICF/DDs, in light of the repeal of the Boren Amendment. The proposed changes would have included reducing the target rate of inflation, reducing incentive payments, setting ceiling limitations by component of reimbursement, eliminating provisions for rebasing rate calculations and establishing separate reimbursement plans for facilities that are government operated versus facilities that are privately owned. Legislation such as that describe above may be enacted in the future. This legislation, however, was repealed with an effective date of the repeal in 1999.

In 1999, the Florida Legislature enacted Chapter 99-144, which revised the requirements for licensure of ICF/DDs in Florida, and included a finding that "the eligibility criteria for intermediate care facilities for the developmentally disabled which are specified in the Medicaid State Plan in effect of the effective date of this Act are essential to the system of residential services." This finding indicates a change of legislative intent, away from the cutbacks which would have been required by Chapter 96-417. Chapter 99-144 did, however, authorize the Governor of Florida to direct AHCA "to amend the Medicaid State Plan to delete the optional Medicaid service known as intermediate care services for the developmentally disabled" if such action is "necessary to safeguard the State's systems of providing services to elderly and disabled persons . . ." Such an amendment to the Medicaid State Plan would require approval by the federal Health Care Financing Administration, and would have the effect of eliminating a choice to receive care in a institutional rather than a community setting, which could be called into question under the *Olmstead* decision, discussed below.

In summary, legislation has twice been adopted in Florida in the last five years which would have adversely affected Medicaid reimbursement for ICF/DDs, but in each case the legislation was not implemented. The legislation currently in effect, which was enacted in 1999, continues reimbursement for ICF/DDs. No assurance can be given that there will not be changes in the future which could adversely affect Medicaid reimbursement for ICF/DDs.

### **Deinstitutionalization of Care for the Developmentally Disabled**

In 1999 the Supreme Court decided in the case of *Olmstead v. L.C.*, that the Americans With Disabilities Act requires states to provide persons with mental disabilities with community-based treatment rather than institutional placement in situations where (1) the state's treatment professionals have determined that community placement is appropriate; (2) the transfer from institutional care to a less restrictive setting is not opposed by the affected individual; and (3) the community placement can be reasonably accommodated, taking into account the resources available to the state and the needs of others with mental disabilities. The decision, which arose from a challenge to the Medicaid reimbursement in Georgia, directed further consideration by the lower federal courts of what relief to order, after considering the range of the state's facilities for care of persons with mental disabilities and its obligation to administer services with an even hand.

This decision may have the effect of decreasing the amount of care provided to the developmentally disabled in ICF/DDs in Florida and the revenues generated by such facilities, and may increase the amount of litigation regarding the appropriate place to provide care in particular cases.

## **Program Audit**

The Florida Medicaid program as applicable to ICF/DDs is a cost-based prospective rate system. the Borrower's cost reports, filed following the close of each fiscal year, are subject to audit each year. These cost reports, as audited, serve as the basis for prospective rate adjustments. An audit disallowance of costs claimed by the Borrower to be allowable, following appeal by the Borrower (which is permitted by law), may require the Borrower to effect mid-year budget adjustments to reduce costs in accordance with the audit-reduced reimbursement rates or to pay back to the State of Florida that amount previously reimbursed for disallowed costs.

## **Government Reimbursement of Management Fees**

The Manager will be paid a management fee for managing the New Facilities, one-half of which is subordinated to the payment of the 2007 Bonds and the payment of which will be deferred upon the occurrence of certain events. See "SECURITY FOR THE 2007 BONDS – Subordination Agreement". While the Borrower anticipates that it will be reimbursed for the payment of the management fee applicable to the ICF/DD Facilities on a yearly basis regardless of whether any portion of such management fee is deferred, there can be no assurance that the Borrower will be reimbursed for the full amount of such management fee, because (a) under Medicare reimbursement rules, payment of deferred expenses is required to be made within one or at most three years, and (b) state regulators often utilize federal Medicare reimbursement principles in determining the amount of Medicaid reimbursements to which providers may be entitled. In addition, reimbursement of operating costs under Medicaid is subject to caps which may result in reimbursement being disallowed for all or a portion of the management fee. The ability of the Borrower to pay debt service on the 2007 Bonds may be adversely affected if reimbursement is disallowed for all or a material portion of the management fees attributable to the ICF/DD facilities.

## **Government Reimbursement of Cost of Ownership**

The Borrower will not receive direct reimbursement under Medicaid for principal payments on its capital indebtedness. Instead it is reimbursed for depreciation and amortization expense, which, since both are non-cash expenses, provide the ICF/DD Facilities cash flow with which to pay principal. Although the 2007 Bond issue provides for substantially level annual debt service, the portion of debt service constituting principal rises from a very small proportion in the early years of the amortization schedule to a very large proportion in the later years. The amount of the Borrower's depreciation and amortization expense will not remain constant throughout the life of its permanent financing because the useful lives of various depreciable assets and the periods of amortization for various costs will differ and because the Borrower expects to make additional capital expenditures during the course of the financing, which themselves will generate additional depreciation reimbursements. Total depreciation and amortization typically do not, however, vary nearly as significantly as the amounts of annual principal payments on the 2007 Bonds, which usually increase from year to year on an upwardly accelerating curve. Consequently, the Borrower will experience an artificially inflated cash flow in the early years of its financing, which will steadily shrink to a crossover point, after which the gap between the actual principal payments and the amount of depreciation and amortization reimbursable through Medicaid will rapidly widen.

The only material revenue sources from which to pay shortfall after the crossover point are monies theretofore deposited into the Depreciation Reserve Fund and investment income thereon, monies saved through the deferral of management fees.

In the event the Borrower is unable to keep the operating costs of its ICF/DD Facilities within the limits of the operating cost component of its ICF/DD Medicaid rate, or if it experienced losses from the operation of its Group Homes, the Borrower might be unable to fund the Depreciation Reserve Fund at the required level to fund the anticipated shortfall. Further, if the Borrower is unable to invest monies in the Depreciation Reserve Fund at the rate assumed for the funding thereof (5% per annum), then the funds deposited in the Depreciation Surplus Account may prove inadequate to cover the anticipated shortfall.

## **Licensure**

The continued licensure and certification to participate in the Medicaid or Med-Waiver programs depends upon many factors, including, among other things, accommodations, equipment, services, patient care, safety, personnel, physical environment, and adequate policies, procedures and controls. Federal, state, and local agencies survey facilities on a regular basis to determine whether they are in compliance with governmental operating and health standards and conditions for participating in governmental reimbursement programs. Such surveys include reviews of patient utilization and inspection of standards of patient care. The Borrower will attempt to assure that the New Facilities will be operated in compliance with applicable licensing standards and that the New Facilities

remain certified to participate in the Medicaid program or, in the case of the Group Homes, the Med-Waiver program. However, to the extent these standards are not met, the licenses of the New Facilities could be limited (such as by a ban on future admissions), suspended, or revoked, or decertification proceedings could be commenced against the ICF/DD Facilities to exclude them from participating in the Medicaid program, or the Med-Waiver contracts for one or more Group Homes could be canceled. Any such action might adversely affect the revenues and cash flow of the New Facilities and the Borrower.

### **Certificate of Need**

Certificate of Need ("CON") regulations control the development of health care services and facilities. Florida CON law generally provides that prior to the expansion of existing ICF/DD facilities, the construction of new ICF/DD facilities, the addition of ICF/DD beds, or the introduction of certain new services, approval must first be obtained from the AHCA. The CON process is intended to promote high quality health care at the lowest possible cost and avoid unnecessary duplication of services and facilities. The primary source of new competition for the ICF/DD Facilities is expected to come from community-based waiver facilities, usually houses in residential settings that are constructed or leased to provide care in a community setting for mentally retarded persons. There is a trend in favor of treatment in such settings of the mentally retarded. See "Deinstitutionalization of Care for the Developmentally Disabled".

No CON is required in Florida with respect to Medicaid waiver group homes. Operators of group homes would, however, be required to obtain a license from the State Department of Children and Families and negotiate a contract to receive payment under the Medicaid Waiver.

### **Malpractice Claims and Losses**

The operations of the Borrower and of the New Facilities may also be affected by increases in the incidence of malpractice lawsuits against physicians and health care facilities, in general, and increases in the dollar amount of patient damage recoveries, resulting in increased insurance premiums and increased difficulty in obtaining malpractice insurance. The Borrower has covenanted in the Agreement to maintain malpractice insurance with private insurance carriers. It is not possible at this time to determine either the extent to which such malpractice coverage will continue to be available to the Borrower or the premiums at which such coverage can be obtained, or whether the malpractice insurance maintained by the Borrower will be sufficient to cover any claim or claims for damages that may be recovered against the Borrower.

### **Liability Insurance**

General liability and professional liability insurance in Florida and certain other states has become very difficult for nursing facilities to obtain, due to significant increases in damages awarded in litigation against such facilities, and the adoption of regulations setting standards for rights of residents in certain health care facilities. This trend may in the future affect providers of services to persons with developmental disabilities, which could have an adverse effect on the Borrower's financial condition, due to increased liability insurance premiums, increased frequency of litigation, higher judgment awards or costs of settling litigation, or all of these factors.

### **Special Purpose Nature of the ICF/DD Facilities**

The ICF/DD Facilities are not practically suited to uses other than as a health care facility. As a result, the remedies available to the Trustee and Bondholders in the event of a default under the Agreement may be limited and the realization of revenues from the sale or leasing of the ICF/DD Facilities might be adversely affected.

### **Effect of Bankruptcy**

If either the Borrower or Central Florida Group Homes were to file a petition for relief under Chapter 11 of the U.S. Bankruptcy Code, its revenues, its accounts receivable and other property acquired after the filing would not ordinarily be subject to the security interests created under the Agreement. Despite the security interest of the Trustee in that Borrower's property, the bankruptcy court could order that such property, including such Borrower's accounts receivable, proceeds thereof and other Gross Receipts, be used for the benefit of such Borrower or the New Facilities despite the security interest of the Trustee in such Gross Receipts, provided that "adequate protection" were given to the Trustee. The filing would operate as an automatic stay of the commencement or continuation of any judicial or other proceeding against such Borrower and its property and as an automatic stay of any act or proceeding to enforce a lien upon its property.

In a bankruptcy proceeding, the petitioning debtor may file a plan of reorganization which modifies the

rights of creditors to receive payments of the debts owing to them by the debtor. The plan, when confirmed by the bankruptcy court, binds each creditor, whether or not the claim of that creditor is impaired under the plan, and whether or not such creditor has accepted the plan. With a few exceptions, the confirmation of a plan of reorganization discharges all claims against the debtor provided for in the plan. No plan may be confirmed unless, among other conditions, the plan is in the best interests of creditors, is feasible and has been accepted (or has been deemed to have been accepted) by each class of claims impaired under the plan. Each class of claims has accepted the plan if at least two-thirds in dollar amount and more than one-half in number of the allowed claims of the class that are voted with respect to the plan are cast in its favor. Even if the plan is not so accepted, it may be confirmed if the court finds that the plan does not discriminate unfairly and is fair and equitable with respect to each class of claims or interests that is impaired under and has not accepted the plan.

### **Rights of Residents**

In the event that the Trustee seeks to enforce any of the remedies provided by the Agreement upon the occurrence of a default thereunder, it is impossible to predict, due to the possible exercise of judicial discretion in accordance with general principles of equity and public policy, the judicial resolution of competing claims between the Trustee, Bondowners and residents of the New Facilities who have fully complied with all the terms and conditions of the resident leases.

### **Normal Risks Attending Any Investment in Real Estate**

There are many diverse risks attending any investment in real estate not within the Borrower's control, and such risks may have a substantial bearing on the profitability and financial feasibility of the New Facilities. Such risks include possible adverse use of adjoining land, fire or other casualty, condemnation, increased taxes, changes in demand for such facilities, decline in the neighborhood and general economic conditions.

### **Market for the 2007 Bonds**

No application for any credit rating of the 2007 Bonds has been made. There can be no assurance that there will be a secondary market for the 2007 Bonds or, if a secondary market exists, that the 2007 Bonds can be sold for any particular price. Accordingly, a purchaser of the 2007 Bonds should be prepared to have funds committed for an indefinite period of time, perhaps until the 2007 Bonds mature or are redeemed.

### **Additional Debt**

The Agreement, subject to the terms and conditions set forth therein, permits the Borrower to incur additional Long Term Indebtedness which may be equally and ratably secured with the 2007 Bonds. Any such Long Term Indebtedness would be entitled to share ratably with the holders of the 2007 Bonds in any moneys realized from the exercise of remedies in the event of a default by the Borrower. In addition, the Borrower may pledge not exceeding eighty percent (80%) of its accounts receivable (prior to the lien of the Agreement for working capital provided that the total amount of accounts receivable subjected to a lien in any Fiscal Year does not exceed \$200,000 or, if such total amount does exceed \$200,000, the Majority Bondowner, if any, approves such pledge in writing).

### **Priority of Security, Enforceability of Remedies**

The 2007 Bonds are payable from the payments to be made under the Agreement. The 2007 Bonds are secured by the mortgage on the land and building comprising the New Facilities and an assignment of security interests in the personal property comprising the New Facilities. The lien of the Agreement is subject to certain Permitted Liens. A security interest in the Gross Receipts of the Borrower has been granted to the Trustee pursuant to the Agreement. In addition, the effectiveness of the security interest granted in the Gross Receipts may be limited if the proceeds thereof are commingled with other moneys not subject to such security interest and if the Trustee does not take possession of cash constituting Gross Receipts or the proceeds thereof.

The practical realization of value from these properties upon any default will depend upon the exercise of various remedies specified by the Agreement. These and other remedies may, in many respects, require judicial actions, which are often subject to discretion and delay. Under existing law (including particularly the U.S. Bankruptcy Code), the remedies specified by the Agreement may not be readily available or may be limited. A court may decide not to order the specific performance of the covenants contained in the Agreement. The various legal opinions to be delivered concurrently with the delivery of the 2007 Bonds will be qualified as to the enforceability of the various legal instruments by limitations imposed by state and federal laws, rulings and decisions affecting remedies, and by bankruptcy, reorganization, or other laws affecting the enforcement of

creditors' rights generally.

#### **Liquidation of Security May Not Be Sufficient in the Event of a Default**

Because the Borrower has no significant assets other than its interest in the New Facilities, the Trustee and the Issuer must look solely to the New Facilities and the other security for the 2007 Bonds to pay and satisfy the 2007 Bonds in accordance with their terms. The 2007 Bondholders are dependent, primarily, upon the success of the New Facilities and the value of its assets for the payment of the principal, premium, if any, and interest on the 2007 Bonds. In the event the revenues from the New Facilities are insufficient to pay the 2007 Bonds, then, after the other security for the 2007 Bonds and any other assets of the Borrower have been exhausted, the 2007 Bondholders will have no person to pursue for any deficiency which may exist.

#### **Termination of Management Agreement**

The Management Agreement relating to the New Facilities between the Borrower and the Manager allows the Manager, at its option, to terminate the Management Agreement if payment of all or a portion of the Total Management Fees (other than Subordinated Management Fees) that have accrued but have not been paid, shall have been deferred for a period of 90 days or longer.

The provisions of the Subordination Agreement could require the accrual and nonpayment of fees due to the Manager under the Management Agreement, and amounts so accrued could be significant. If the Manager exercises its option to terminate the Management Agreement upon the accrual and nonpayment of the management fees, there can be no assurance that any replacement manager will subordinate its management fees to the payment of the 2007 Bonds, as the Manager has done under the Management Agreement.

#### **Taxation of Nonprofit Organizations**

The Subcommittee on Oversight and Investigation of the Committee on Ways and Means of the U.S. House of Representatives has held public hearings on the issue of unfair competition between nonprofit and for-profit organizations. Similar hearings have been conducted by certain state legislative bodies. These hearings have focused on the need for changes in the law relating to the taxation of nonprofit organizations in connection with revenue producing activities in which they are engaged. In addition, taxing authorities in certain state and local jurisdictions have recently sought to impose or increase taxes related to the properties and operations of nonprofit organizations, particularly where such authorities have been dissatisfied with the amount of service provided to indigent persons. The Financial Forecast has assumed that the New Facilities will be subject to local property taxes. There can be no assurance that future changes in the law, rules, regulations and policies relating to the taxation of nonprofit organizations will not have a material adverse effect upon the revenues of the Borrower.

#### **Anti-Fraud and Abuse Laws**

The Office of the Inspector General of the Health Care Financing Administration of the U.S. Department of Health and Human Services has recently published several "fraud alerts" expressing heightened interest in investigating and prosecuting violations of the anti-fraud and abuse laws. Entities that violate these laws are subject to a spectrum of penalties and sanctions, including fines and possible exclusion from the Medicare and Medicaid programs. The determination that any such violation has occurred with respect to activities of the Borrower could have a materially adverse effect on the Borrower.

#### **Possible Changes in the Borrower's Tax Status**

The possible modification or repeal of certain existing federal income or state tax laws or other loss by the Borrower of the present advantages of certain provisions of the federal income or state tax laws could materially and adversely affect the status of the Borrower, and thereby the revenues of the Borrower. By virtue of Guardian's group exemption, and the Borrower's election to be included therein, the Borrower is an exempt organization under Section 501(c)(3) of the Code. The Financial Forecast assumes that the Borrower will continue to be so treated. As an exempt organization, the Borrower is subject to a number of requirements affecting its operations. The failure of the Borrower to remain qualified as an exempt organization would affect the funds available to the Borrower for payments under the Agreement. Failure of the Borrower to comply with certain requirements of the Code, or adoption of amendments to the Code to restrict the use of tax-exempt bonds for facilities such as the New Facilities, could cause interest on the 2007 Bonds to be included in the gross income for federal income tax purposes of the 2007 Bondholders or former 2007 Bondholders. The tax-exempt status of the 2007 Bonds is based on the continued compliance by the Issuer and the Borrower with certain covenants contained in the Agreement and in certificates executed by the Issuer and the Borrower in connection therewith. These covenants relate generally to arbitrage

limitations, rebate of certain excess investment earnings to the federal government, restrictions on the amount of issuance costs financed with the proceeds of the 2007 Bonds and maintenance of the Borrower's tax-exempt status. Failure to comply with any of these covenants may result in the treatment of interest on the 2007 Bonds as taxable income to the holders thereof, retroactive to their date of issuance. See "TAX MATTERS" herein.

#### **Lien for Clean-Up of Hazardous Materials**

The federal Comprehensive Environmental Response, Compensation and Liability Act (the "Federal Superfund Act") authorizes the United States Environmental Protection Agency (the "EPA") to arrange for response actions, such as clean-up, removal or containment, in the event of a release or threat of release of a hazardous substance and imposes liability for certain response costs and damages on the present owner (among other parties) of the site of such release or threat of release. The Federal Superfund Act provides that all costs and damages for which a person is liable to the United States shall constitute a lien upon all real property belonging to such person which is subject to or affected by the response action.

Environmental site assessments were performed for each of the three sites of the New Facilities., for the Hendricks Road site in July 2004 and the two Miner Road sites in January and December 2004, by Hakala & Associates, Inc. These reports found no evidence of recognized environmental conditions at the respective sites, except that at the Miner Road West site there was a permanent monitoring well observed, which follow-up research determined to have been installed as part of an assessment of the area performed after discovery of an illegal solid waste landfill. Groundwater sampling at the time of the report (in 2004) indicated there was no longer an environmental impact, and Nassau County has issued a No Further Action status for the site.

#### **Other Possible Risk Factors**

Regulatory and other changes resulting from the factors mentioned above, among others, or the occurrence of other unanticipated events, could have a material adverse effect on the Borrower's operations and the forecasts set forth in the Financial Forecast, which is attached hereto as Appendix A, should be read in its entirety.

The occurrence of any of the following events, or other unanticipated events, could adversely affect the operations of the Borrower:

- (a) Establishment of mandatory governmental wage, rent or price controls;
- (b) Inability to control increases in operating costs, including salaries, wages and fringe benefits, supplies and other expenses;
- (c) Unionization, employee strikes and other adverse labor actions which could result in a substantial increase in expenditures without a corresponding increase in revenues; and
- (d) Adoption of other federal, state or local legislation or regulations having an adverse effect on the future operating or financial performance of the Borrower.

#### **LITIGATION**

##### **The Borrower and the Manager**

The Borrower and the Manager have represented that no litigation or proceedings are pending or, to their knowledge, threatened against either of them or any of their respective properties, which might have a material adverse effect on the New Facilities.

##### **The Issuer**

To the knowledge of the officers of the Issuer, no litigation is pending or threatened seeking to restrain or enjoin the issuance or delivery of any of the 2007 Bonds or in any way contesting the existence or powers of the Issuer relating to the issuance of the 2007 Bonds.

#### **LEGAL MATTERS**

Certain legal matters in connection with the authorization, issuance, sale, execution, and delivery of the

2007 Bonds are subject to the approval of Nabors, Giblin & Nickerson, P.A., Tampa, Florida, Bond Counsel, the form of whose approving opinion is attached hereto as Appendix D.

Bond Counsel has not been engaged to, nor has it undertaken to, review (1) the accuracy, completeness or sufficiency of this Private Placement Memorandum or any other offering material relating to the 2007 Bonds; provided, however, that Bond Counsel shall render an opinion to the Underwriter of the 2007 Bonds (upon which only the Underwriter may rely) relating to the fairness of the presentation of certain statements contained herein, under the heading "TAX EXEMPTION" and certain statements which summarize provisions of the Agreement, the 2007 Bonds, the Act, and the Constitution of the State of Florida and federal tax law, and (2) the compliance with any federal or state law with regard to the sale or distribution of the 2007 Bonds.

Certain legal matters will be passed upon for the Borrower by its counsel, Law Office of Timothy E. Dixon, PA, Baltimore, Maryland[, and by its Florida counsel, \_\_\_\_\_, \_\_\_\_\_, Florida]; for the Issuer by David Hallman, Esq., County Attorney, Fernandina Beach, Florida; and for the Underwriter by its counsel, Nixon Peabody LLP, Albany, New York.

#### **FINANCIAL CONSULTANT**

The financial forecast, included as part of the Financial Forecast attached hereto as Appendix A, has been examined by Mitchell & Company, Certified Public Accountants, Clearwater, Florida, independent certified public accountant. His report has been included in this Private Placement Memorandum in reliance on his experience in reporting on financial forecasts for nursing home facilities. As stated in the financial forecast, there will usually be differences between the forecasted data and actual results because events and circumstances frequently do not occur as expected, and those differences may be material.

#### **UNDERWRITING**

The 2007 Bonds are being purchased by Herbert J. Sims & Co., Inc., as Underwriter. The Underwriter has agreed to purchase the 2007 Bonds at an aggregate discount of \$ \_\_\_\_\_. The purchase contract for the 2007 Bonds provides that the Underwriter will purchase all of the 2007 Bonds if any are purchased. The Borrower has agreed to indemnify the Underwriter and the Issuer against losses, claims, damages and liabilities arising out of any incorrect statement or information contained in or information omitted from this Private Placement Memorandum to the extent set forth in the purchase contract.

The initial public offering prices set forth on the front cover page hereof may be changed from time to time by the Underwriter and the Underwriter may offer to sell 2007 Bonds to certain dealers and others at prices lower than the offering prices stated on the front cover page hereof.

#### **TAX EXEMPTION**

##### **Opinion of Bond Counsel**

The Internal Revenue Code of 1986, as amended (the "Code") includes requirements which the Issuer and the Institution must continue to meet after the issuance of the 2007 Bonds in order that interest on the 2007 Bonds not be included in gross income for federal income tax purposes. The Issuer's or the Borrower's failure to meet these requirements may cause interest on the 2007 Bonds to be included in gross income for federal income tax purposes retroactive to their date of issuance. The Issuer and the Borrower have covenanted in the Agreement to take the actions required by the Code in order to maintain the exclusion from gross income for federal income tax purposes of interest on the 2007 Bonds.

In the opinion of Bond Counsel, assuming continuing compliance by the Issuer and the Borrower with the tax covenants referred to above, under existing statutes, regulations, rulings and court decisions, interest on the 2007 Bonds is excluded from gross income for federal income tax purposes. Interest on the 2007 Bonds is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; however, interest on the 2007 Bonds is taken into account in determining adjusted current earnings for purposes of computing the alternative minimum tax imposed on "corporations" (as defined in the Code).

Bond Counsel is further of the opinion that the 2007 Bonds and the interest thereon are exempt from taxation under the laws of the State of Florida, except as to estate taxes and taxes imposed by Chapter 220, Florida Statutes, on interest, income or profits on debt obligations owned by corporations, as defined therein.

As to questions of fact material to the opinion of Bond Counsel, Bond Counsel will rely upon representations and covenants made on behalf of the Issuer and the Borrower in the Agreement, certificates of appropriate officers and certificates of public officials (including certifications as to the use of proceeds of the 2007 Bonds and of the property financed thereby), and on the opinion being delivered by Law Office of Timothy E. Dixon, PA, Borrower's counsel, in connection with the delivery of the 2007 Bonds with respect to G/F Orlando being an organization described in Section 501(c)(3) of the Code, without undertaking to verify the same by independent investigation.

Except as described above, Bond Counsel will express no opinion regarding the federal income tax consequences resulting from the ownership of, receipt or accrual of interest on, or disposition of, the 2007 Bonds. Prospective purchasers of 2007 Bonds should be aware that the ownership of 2007 Bonds may result in other collateral federal tax consequences. For example, ownership of the 2007 Bonds may result in collateral tax consequences to various types of corporations relating to (1) denial of interest deduction to purchase or carry Bonds, (2) the branch profits tax and (3) the inclusion of interest on the 2007 Bonds in passive income for certain S corporations. In addition, the interest on the 2007 Bonds may be included in gross income by recipients of certain Social Security and Railroad Retirement benefits.

PURCHASE OWNERSHIP, SALE OR DISPOSITION OF THE 2007 BONDS AND THE RECEIPT OR ACCRUAL OF THE INTEREST THEREON MAY HAVE ADVERSE FEDERAL TAX CONSEQUENCES FOR CERTAIN INDIVIDUAL AND CORPORATE BONDOWNERS, INCLUDING, BUT NOT LIMITED TO, THE CONSEQUENCES DESCRIBED ABOVE. PROSPECTIVE BONDOWNERS SHOULD CONSULT WITH THEIR TAX SPECIALISTS FOR INFORMATION IN THAT REGARD.

#### **Other Tax Matters**

Interest on the 2007 Bonds may be subject to state or local income taxation under applicable state or local laws in jurisdictions other than Florida. Purchasers of the 2007 Bonds should consult their tax advisors as to the income tax status of interest on the 2007 Bonds in their particular state or local jurisdiction.

During recent years, legislative proposals have been introduced in Congress, and in some cases enacted, that altered certain federal tax consequences resulting from the ownership of obligations that are similar to the 2007 Bonds. In some cases these proposals have contained provisions that altered these consequences on a retroactive basis. Such alteration of federal tax consequences may have affected the market value of obligations similar to the 2007 Bonds. From time to time, legislative proposals are pending which could have an effect on both the federal tax consequences resulting from ownership of the 2007 Bonds and their market value. No assurance can be given that legislative proposals will not be enacted that would apply to, or have an adverse effect upon, the 2007 Bonds.

#### **CONTINUING DISCLOSURE**

The Borrower has covenanted in a Continuing Disclosure Agreement dated as of August 1, 2007 (the "Continuing Disclosure Agreement") that, in compliance with Rule 15c2-12(b)(5) (the "Rule") of the Securities Exchange Act of 1934, it will deliver to each Repository, as defined in Appendix D hereto, within 120 days after the end of each Fiscal Year:

(a) a copy of its annual financial statements prepared in accordance with generally accepted accounting principles and audited by a certified public accountant including (i) a statement of the balances on deposit in each fund and account established under the Agreement, and (ii) a calculation of the Borrower's compliance with the Debt Service Coverage Ratio covenant, Days' Cash on Hand Covenant, Trade Payables covenant and current ratio covenant (described above under "SECURITY FOR THE 2007 BONDS – Financial Covenants"), together with a letter from such accountant to the effect that in the course of such audit nothing came to its attention to lead it to believe that any default had occurred under the Agreement, or specifying the nature of such default; and

(b) a report of the occupancy of the New Facilities, showing for each fiscal quarter during the preceding Fiscal Year the average occupancy of each facility included in the Project during such quarter

The Borrower has covenanted in the Agreement to deliver to each Nationally Recognized Municipal Securities Information Repository (or “NRMSIR”) designated under the Rule, or to the Municipal Securities Rulemaking Board (the “MSRB”), and the State Information Repository (or “SID”) if any, designated under the Rule, in a timely manner, notice of any of the following events with respect to the 2007 Bonds, if material: (1) principal and interest payment delinquencies; (2) non-payment related defaults; (3) unscheduled draws on debt service reserves reflecting financial difficulties; (4) unscheduled draws on credit enhancements reflecting financial difficulties; (5) substitution of credit or liquidity providers, or their failure to perform; (6) adverse tax opinions or events affecting the tax-exempt status of the 2007 Bonds; (7) modifications to rights of security holders; (8) bond calls; (9) defeasances; (10) release, substitution or sale of property securing repayment of the 2007 Bonds; or (11) rating changes.

The Borrower has covenanted in the Agreement to give to the Trustee and each NRMSIR or the MSRB and the SID, in a timely manner, notice of any failure by the Borrower to provide any information required pursuant to paragraphs (a) and (b) above within the time limit specified therein.

The Borrower meet the requirements described in this heading to file any report or notice required pursuant to this heading by sending the same electronically to the “Central Post Office”, DisclosureUSA, created by the Municipal Advisory Council of Texas at [www.DisclosureUSA.org](http://www.DisclosureUSA.org), and requesting that such report or notice be transmitted to the Repositories. This paragraph shall be of no further force and effect if the Securities and Exchange Commission revokes its approval of DisclosureUSA as a place of central filing for reports under the Rule.

The Borrower’s obligations under the foregoing provisions shall be for the benefit of the beneficial owners of the 2007 Bonds, and shall be enforceable by any beneficial owner of the 2007 Bonds in an action for specific performance against the Borrower.

The Borrower’s obligations under the foregoing provisions may be amended to the extent required or permitted by the Rule, or in connection with a change in the identity, nature or status of the Borrower, or the type of business conducted by it; provided that any such amendment either (i) does not materially impair the interests of Bondowners, in the determination of the Trustee (which may be based on an opinion of counsel); or (ii) is approved by the holders of a majority in aggregate principal amount of the 2007 Bonds.

#### **LIMITED OBLIGATIONS; STATE NOT LIABLE ON 2007 BONDS**

The 2007 Bonds are special, limited obligations of the Issuer. Neither the 2007 Bonds nor any other obligations of or indebtedness incurred by the Issuer shall constitute an indebtedness or obligation of Nassau County, the State of Florida, or any political subdivision or agency thereof, nor shall any act of the Issuer in any manner constitute or result in the creation of an indebtedness of Nassau County, the State of Florida, or any such political subdivision or agency. The 2007 Bonds shall be payable solely from the Revenues pledged therefor pursuant to the Indenture, and no holder of the 2007 Bonds shall ever have the right to compel any exercise of the taxing power of Nassau County, the State of Florida, or any political subdivision or agency thereof nor to enforce the payment thereof against Nassau County, the State of Florida, or any such political subdivision or agency. The Issuer has no taxing power.

#### **MISCELLANEOUS**

The references to the Act, the Agreement, the 2007 Bonds, the Subordination Agreement and the other agreements described herein are outlines of certain provisions thereof. Such outlines do not purport to be complete, and for full and complete statements of the provisions thereof reference is made to the Act, the 2007 Bonds, the Agreement and the other agreements described herein. Copies of such documents are on file at the offices of the Issuer and the Borrower and following delivery of the 2007 Bonds will be on file at the offices of the Trustee. See Appendix C – Definitions and Excerpted Provisions of the Mortgage and Trust Agreement and Subordination Agreement.

The agreement of the Issuer with the holders of the 2007 Bonds is fully set forth in the Agreement, and neither any advertisement of the 2007 Bonds nor this Private Placement Memorandum is to be construed as constituting an agreement with the purchasers of the 2007 Bonds. So far as any statements are made in this Private Placement Memorandum involving estimates, projections or matters of opinion, whether or not expressly so stated, they are intended merely as such and not as representations of fact.

CUSIP identification numbers will be printed on the 2007 Bonds, but no error in the printing of such numbers shall constitute cause for a failure or refusal by the purchaser thereof to accept delivery of and pay for any 2007 Bonds.

The attached Appendices are integral parts of this Private Placement Memorandum and must be read together with all of the foregoing statements.

The Issuer and the Borrower have consented to the use and distribution of this Private Placement Memorandum. The contents of this Private Placement Memorandum are the responsibility of the Borrower, except that the Issuer is responsible for the statements contained under the captions "THE ISSUER" and "LITIGATION - The Issuer". The Borrower has reviewed the information contained herein which relates to it and its property and operations, and has authorized all such information for use within this Private Placement Memorandum.

**APPENDIX A**  
**THE FINANCIAL FORECAST**

**APPENDIX B**

**AUDITED FINANCIAL STATEMENTS OF AICC, INC.**

**FOR THE FISCAL YEARS ENDED**

**JUNE 30, 2005 AND 2006**

**APPENDIX C**

**DEFINITIONS AND EXCERPTED PROVISIONS OF  
THE MORTGAGE AND TRUST AGREEMENT  
AND SUBORDINATION AGREEMENT**

**APPENDIX D**  
**FORM OF OPINION OF BOND COUNSEL**