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**LEASE AGREEMENT**

**Dated as of June 1, 2022**

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**between the**

**CITY OF BEL AIRE, KANSAS**

**and**

**CATHOLIC CARE CENTER, INC.**

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**[\$[Principal Amount A]  
City of Bel Aire, Kansas  
Health Care Facilities  
Revenue Bond  
(Catholic Care Center)  
Series 2022A**

**[\$[Principal Amount B]  
City of Bel Aire, Kansas  
Health Care Facilities  
Revenue Bond  
(Catholic Care Center)  
Series 2022B**

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**LEASE AGREEMENT**

**TABLE OF CONTENTS**

		<b>Page</b>
Parties.....		1
Recitals.....		1
 <b>ARTICLE I</b> <b>DEFINITIONS; RULES OF INTERPRETATION</b>		
Section 1.1.	Definitions .....	2
Section 1.2.	Rules of Interpretation .....	2
 <b>ARTICLE II</b> <b>REPRESENTATIONS, COVENANTS AND WARRANTIES</b>		
Section 2.1.	Representations, Covenants and Warranties of the Issuer .....	3
Section 2.2.	Representations, Covenants and Warranties of the Corporation .....	4
 <b>ARTICLE III</b> <b>ISSUANCE OF BONDS</b>		
Section 3.1.	Agreement to Issue the Series 2022 Bonds.....	7
Section 3.2.	Application and Disbursement of Series 2022 Bond Proceeds.....	7
Section 3.3.	Project Documents.....	7
Section 3.4.	Default by Contractor or Subcontractor.....	7
Section 3.5.	No Warranty of Condition or Suitability .....	8
Section 3.6.	Additional Bonds .....	8
 <b>ARTICLE IV</b> <b>LEASING OF THE FACILITY TO THE CORPORATION</b>		
Section 4.1.	Granting of Leasehold .....	8
Section 4.2.	Quiet Enjoyment and Possession .....	8
Section 4.3.	Operational and Use of Facility .....	8
 <b>ARTICLE V</b> <b>BASE RENTAL PAYMENTS</b>		
Section 5.1.	Base Rental Payments.....	9
Section 5.2.	Credits on Base Rental Payments .....	10
Section 5.3.	Additional Payments.....	10
Section 5.4.	Obligations of the Corporation Unconditional .....	11
Section 5.5.	Net Lease .....	11
 <b>ARTICLE VI</b> <b>PROPERTY, TAXES AND UTILITIES</b>		
Section 6.1.	Repairs and Maintenance.....	11

Section 6.2.	Conditions for Removal of Personal Property .....	12
Section 6.3.	Corporation to Pay Taxes .....	12
Section 6.4.	Securing of Permits and Authorizations .....	12
Section 6.5.	Utilities .....	12
Section 6.6.	Insurance.....	13
Section 6.7.	Damage, Destruction and Condemnation .....	13
Section 6.8.	Environmental Compliance .....	14
Section 6.9.	Liens on Property; Right of Contest .....	14

**ARTICLE VII  
ASSIGNMENT, SELLING AND LEASING**

Section 7.1.	Assignment, Selling and Leasing.....	14
Section 7.2.	The Issuer to Assign Rights to Bond Trustee .....	15

**ARTICLE VIII  
DISCLAIMER OF WARRANTIES; INDEMNITY**

Section 8.1.	Disclaimer of Warranties .....	15
Section 8.2.	Release and Indemnification Clauses .....	15

**ARTICLE IX  
EVENTS OF DEFAULT AND REMEDIES**

Section 9.1.	Events of Default Defined .....	17
Section 9.2.	Remedies on Default.....	18
Section 9.3.	Agreement to Pay Attorneys’ Fees and Expenses .....	20
Section 9.4.	No Additional Waiver Implied by One Waiver.....	20

**ARTICLE X  
OPTIONS; PREPAYMENT OF BASE RENTAL PAYMENTS**

Section 10.1.	Option or Obligation to Prepay the Base Rental Payments upon Occurrence of Certain Events.....	20
Section 10.2.	Additional Option to Prepay the Base Rental Payment .....	21

**ARTICLE XI  
TAX COVENANTS**

Section 11.1.	Tax Covenants of the Corporation.....	21
Section 11.2.	Tax Covenants of the Issuer.....	21

**ARTICLE XII  
MISCELLANEOUS**

Section 12.1.	Compliance with the Master Indenture.....	21
Section 12.2.	Financial Statements, Etc. ....	22
Section 12.3.	Further Agreements by the Corporation with Others.....	22
Section 12.4.	Corporation to Provide Health Care Services.....	22
Section 12.5.	Further Assurances and Corrective Instruments .....	22
Section 12.6.	The Corporation Representative .....	22

Section 12.7.	Term of Lease Agreement .....	22
Section 12.8.	Notices .....	22
Section 12.9.	Issuer Not Liable.....	23
Section 12.10.	Amendments, Changes and Modifications .....	23
Section 12.11.	Severability .....	23
Section 12.12.	Execution in Counterparts; Electronic Transactions.....	23
Section 12.13.	Governing Law .....	23

Schedule 1 - Legal Descriptions of Facility Site

## LEASE AGREEMENT

**THIS LEASE AGREEMENT**, made and entered into as of June 1, 2022 (the “Lease Agreement”), by and between the **CITY OF BEL AIRE, KANSAS**, a municipal corporation organized under the laws of the State of Kansas (the “Issuer”), and **CATHOLIC CARE CENTER, INC.**, a Kansas not-for-profit corporation (the “Corporation”);

### RECITALS

**1.** The Issuer is a municipal corporation duly organized and existing under the laws of the State of Kansas (the “State”) authorized under K.S.A. 12-1740 to 12-1749d, inclusive, and K.S.A. 10-116a, all as amended (the “Act”), to issue revenue bonds, the proceeds of which shall be used for the purpose of paying all or part of the cost of purchasing, acquiring, constructing, reconstructing, improving, equipping, furnishing, repairing, enlarging or remodeling facilities for agricultural, commercial, hospital, industrial, natural resources, recreational development and manufacturing purposes and to enter into leases or lease-purchase agreements with any person, firm or corporation for such facilities, and to issue revenue bonds to refund any such revenue bonds, all to promote, stimulate and develop the general welfare and economic prosperity of the State through the promotion and advancement of physical and mental health, industrial, commercial, agricultural, natural resources and of recreational development in the State; to encourage and assist in the location of new business and industry in the State and the expansion, relocation or retention of existing business, industry and health development; and to promote the economic stability of the State by providing greater employment opportunities, diversification of industry and improved physical and mental health, thus promoting the general welfare of the citizens of the State.

**2.** Pursuant to the Act and a Bond Trust Indenture dated as of June 1, 2022 (the “Bond Indenture”) between the Issuer and Security Bank of Kansas City, as bond trustee (the “Bond Trustee”), the Issuer proposes to issue its Health Care Facilities Revenue Bond (Catholic Care Center), Series 2022A, in the principal amount of \$[Principal Amount A] (the “Series 2022A Bond”) and its Health Care Facilities Revenue Bond (Catholic Care Center), Series 2022B, in the principal amount of \$[Principal Amount B] (the “Series 2022B Bond” and together with the Series 2022A Bond, the “Series 2022 Bonds”), for the purpose of providing funds, together with other available funds of the Corporation, to be used to (i) refinance the Refinanced Obligation (as defined in the Bond Indenture), (ii) pay costs of purchasing, acquiring, constructing, reconstructing, improving, equipping, furnishing, repairing, enlarging or remodeling the Facility (as defined in this Bond Indenture), (iii) pay certain costs related to the issuance of the Series 2022 Bonds.

**3.** The Bond Indenture makes provision for the issuance of additional parity bonds from time to time (the “Additional Bonds,” and, together with the Series 2022 Bonds, the “Bonds”) on the terms and conditions provided for therein.

**4.** The Corporation will lease the Facility (as defined in the Bond Indenture) to the Issuer pursuant to the Base Lease Agreement dated as of June 1, 2022, between the Corporation and the Issuer.

**5.** The Corporation and the Issuer desire to enter into this Lease Agreement whereby the Facility described herein is subleased by the Issuer to the Corporation, and the Corporation agrees to pay Base Rental Payments (as hereinafter defined) sufficient to pay the principal of and premium, if any, and interest on, the Bonds.

6. To induce the Issuer to issue the Series 2022 Bonds, the Corporation shall issue its Master Indenture Note (Catholic Care Center Obligated Group), Series 2022A, in the aggregate principal amount of the Series 2022 Bonds, under the Master Trust Indenture dated as of June 1, 2022, (as supplemented and amended, the “Master Indenture”), between the Corporation and any future Members of the Obligated Group (as defined therein) and Security Bank of Kansas City, as master trustee (the “Master Trustee”).

**NOW, THEREFORE,** for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto agree as follows:

## **ARTICLE I**

### **DEFINITIONS; RULES OF INTERPRETATION**

**Section 1.1. Definitions.** The words and terms used in this Lease Agreement shall have the meanings specified in the Bond Indenture or the Master Indenture except as otherwise defined herein.

**Section 1.2. Rules of Interpretation.** For all purposes of this Lease Agreement, except as otherwise expressly provided or unless the context otherwise requires:

- (a) The terms defined in the Bond Indenture, the Master Indenture or herein include the plural as well as the singular.
- (b) All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with generally accepted accounting principles to the extent applicable.
- (c) All references herein to “generally accepted accounting principles” refer to such accounting principles generally accepted in the United States of America in effect on the date of the determination, certification, computation or other action to be taken hereunder using or involving such terms, provided, as applied to any entity that operates a hospital, extended care facility or other discrete enterprise of a type with respect to which particular accounting principles from time to time shall have been generally adapted or modified, the term “generally accepted accounting principles” shall include the adaptations or modifications.
- (d) All references in this instrument to designated “Articles,” “Sections” and other subdivisions are to be the designated Articles, Sections and other subdivisions of this instrument as originally executed.
- (e) The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Lease Agreement as a whole and not to any particular Article, Section or other subdivision.
- (f) The Article and section headings herein and in the Table of Contents are for convenience only and shall not affect the construction hereof.

- (g) Whenever an item or items are listed after the word “including,” such listing is not intended to be a listing that excludes items not listed.

## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES

**Section 2.1. Representations, Covenants and Warranties of the Issuer. The Issuer represents, covenants and warrants, to the best of its knowledge and belief, as follows:**

(a) The Issuer (1) is a municipal corporation organized and existing under the laws of the State of Kansas, and (2) has lawful power and authority to enter into, execute and deliver the Bond Documents to which the Issuer is a party, and by all necessary corporate action has been duly authorized to execute and deliver this Lease Agreement and any other Bond Documents required to be executed and delivered by it in connection with the issuance of the Bonds, acting by and through its duly authorized officers.

(b) It has, by ordinance duly adopted, authorized the issuance, sale, execution and delivery of the Bonds, its entering into and performance of its obligations under, and the execution and delivery on its behalf of, the Bond Indenture and the Bond Documents to which it is a party, under the terms of which the proceeds of the Bonds are to be made available to the Corporation and the rights of the Issuer hereunder (except as provided in the Bond Indenture) are pledged and assigned to the Bond Trustee as security for the payment of all amounts to become due on the Bonds.

(c) To the best of the knowledge of the officers of the Issuer executing this Lease Agreement, the execution and delivery of this Lease Agreement, and any other Bond Documents to which the Issuer is a party, by the Issuer will not result in a breach of any of the terms of, or constitute a default under, any indenture, mortgage, deed of trust, lease or other agreement or instrument to which the Issuer is a party or by which it or any of its property is bound or its bylaws or any of the constitutional or statutory rules or regulations applicable to the Issuer or its property.

(d) It has not pledged, assigned or granted and will not pledge, assign or grant any of its rights or interest in or under this Lease Agreement for any purpose other than as provided in the Bond Indenture.

(e) The Series 2022 Bonds have been issued following the public hearing and public approval requirements of Section 147(f) of the Code.

All representations of the Issuer contained herein, in the ordinance authorizing the Bonds or in any certificate or other instrument delivered by the Issuer pursuant hereto, or pursuant to the Bond Indenture, or in connection with the transactions contemplated thereby, shall survive the execution and delivery thereof and the issuance, sale and delivery of the Bonds as representations of facts existing as of the date of execution and delivery of the instrument containing such representation.

**Section 2.2. Representations, Covenants and Warranties of the Corporation. . The Corporation represents, covenants and warrants as follows:**

(a) *Organization and Authority.* The Corporation is a not-for-profit corporation duly incorporated and in good standing in the State and has full power and authority under the laws of the State to enter into the transactions contemplated by the Bond Documents that name it as a party, and is not in violation of any provision of its Articles of Incorporation or its Bylaws; the Corporation has power to enter into the Bond Documents that name it as a party and has by proper corporate action duly authorized the execution and delivery of the Bond Documents that name it as a party and the performance of its obligations under the Bond Documents.

(b) *No Defaults or Violations of Law.* Neither the execution and delivery of any Bond Document by the Corporation, nor the consummation of the transactions contemplated by any Bond Document conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Corporation is now a party or by which the Corporation is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Corporation under the terms of any instrument or agreement other than as imposed by the Bond Documents.

(c) *Tax-Exempt Organization Status.* The Corporation is a Tax-Exempt Organization; it has not declared and has not been determined to have any “unrelated business taxable income” as defined in Section 512 of the Internal Revenue Code which could have a material adverse effect on its status as a Tax-Exempt Organization or which, if such income were subject to federal income taxation, could have a material adverse effect on the condition, financial or otherwise, of the Corporation.

(d) *The Project.* The Project is a “facility” for which bonds may be issued under the Act.

(e) *The Obligated Group.* The Corporation is the only Member of the Obligated Group, and the Series 2022 Bonds, upon their issuance, will constitute “Related Obligations” under the Master Indenture.

(f) *Government Approvals.* The Corporation is duly authorized and licensed to operate its facilities under the laws, rulings, regulations and ordinances of the State and the departments, agencies and political subdivisions thereof, and the Corporation has obtained all requisite approvals of the State and other federal, regional and local governmental bodies, relating to the operation of its facilities that are currently in operation and relating to the acquisition, construction and equipping of the Project, except for building permits which are not currently obtainable, but which it reasonably expects to obtain in the ordinary course. The Facility, including the Project, is, in all material respects in compliance with applicable federal, state and local zoning, subdivision, environmental, pollution control and other laws, rules, regulations, codes and ordinances.

(g) *Use of Proceeds.* The proceeds of the Series 2022A Bond will be used to refinance the Refinanced Obligation and pay Costs of Issuance of the Series 2022 Bonds, and the proceeds of the Series 2022B Bond will be used to pay Project Costs and Costs of Issuance of the Series 2022 Bonds, as set forth in the recitals to this Lease Agreement.



(h) *Pending Litigation.* No litigation, proceedings or investigations are pending or, to the knowledge of the Corporation, threatened against the Corporation, except: (1) litigation involving claims for professional liability, the probable recoveries in which and the estimated costs and expenses of defense of which, in the opinion of general counsel to the Corporation, will be entirely within the Corporation's applicable insurance policy limits (subject to applicable deductibles) or are not in excess of the total of the available reserves held under the Corporation's applicable self-insurance program, and (2) litigation involving other types of claims which if adversely determined will not, in the opinion of counsel to the Corporation, materially and adversely affect the financial condition or operations of the Corporation. In addition, no litigation, proceedings or investigations are pending or, to the knowledge of the Corporation, threatened against the Corporation seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of any Bond Document by the Issuer, or any Bond Document by the Corporation, or which would in any manner challenge or adversely affect the corporate existence or powers of the Corporation to enter into and carry out the transactions described in or contemplated by or the execution, delivery, validity or performance by the Corporation of the terms and provisions of any of the Bond Documents to which it is a party.

(i) *Financial Statements.* The consolidated audited financial statements of the Corporation and the Foundation certified by an independent accountant, and the unaudited financial statements of the Corporation, all as heretofore delivered to the Issuer and the Purchaser correctly and fairly present the financial condition of the Corporation as of the dates and for the periods stated therein, and the results of the operations of the Corporation for each of such periods, respectively, all in accordance with generally accepted accounting principles consistently applied except as stated in the notes thereto, and there has been no material adverse change in the condition, financial or otherwise, of the Corporation from that set forth in said financial statements, except as disclosed in writing to the Purchaser.

(j) *Full Disclosure.* The financial statements referred to in paragraph (i) of this Section do not, nor do any of the Bond Documents that names the Corporation as a party or any written statement furnished by the Corporation to the Issuer and the Purchaser, taken as a whole, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein or herein not misleading. There is no fact which the Corporation has not disclosed to the Issuer and the Purchaser in writing which materially affects adversely or, so far as the Corporation can now foresee, will materially affect adversely the financial condition of the Corporation, its status as a Tax-Exempt Organization, its ability to own, lease and operate its properties or its ability to make the payments hereunder and under the Series 2022A Master Note when and as the same become due and payable.

(k) *Employee Pension Benefit Plans.* The Corporation has not heretofore engaged in, and the consummation of the transactions herein provided for, and compliance by the Corporation with the provisions of the Bond Documents will not involve, any prohibited transactions within the meaning of the Employee Retirement Income Security Act of 1974, as amended (herein sometimes referred to as "ERISA"), or Section 4975 of the Internal Revenue Code. No "employee pension benefit plans", as defined in ERISA (herein sometimes referred to as the "Plans"), maintained by the Corporation, nor any trusts created thereunder, have incurred, at the end of any plan year, an "accumulated funding deficiency" as defined in Section 302 of ERISA nor does the present value of all benefits vested under all Plans exceed, as of the last

annual valuation date of any such Plan, the value of the assets of the Plans allocable to such vested benefits.

(l) *Environmental Matters.* To the best knowledge of the Corporation, in all material respects, (i) no dangerous, toxic or hazardous pollutants, contaminants, chemicals, waste, materials or substances, as defined in or governed by the provisions of any federal, state or local law, statute, code, ordinance, regulation, requirement or rule relating thereto (collectively, the “Environmental Regulations”), and also including urea-formaldehyde, polychlorinated biphenyls, asbestos, asbestos containing materials, nuclear fuel or waste, radioactive materials, explosives, carcinogens and petroleum products, or any other waste material, substance, pollutant or contaminant which subject the owner of the Facility to any damages, penalties or liabilities under any applicable Environmental Regulation (collectively, the “Hazardous Substances”) are now or have been stored, located, generated, produced, processed, treated, transported, incorporated, discharged, emitted, released, deposited or disposed of in, upon, under, over or from the Facility in violation of any Environmental Regulation; (ii) no threat exists of an unlawful discharge, release or emission of a Hazardous Substance upon or from the Facility into the environment; (iii) the Facility has not been used as or for a mine, a landfill, a dump or other disposal facility, industrial or manufacturing facility, or a gasoline service station; (iv) no underground storage tank that is not in compliance with all applicable Environmental Regulations is now located at the Facility or has previously been located thereat unless it has been removed therefrom; (v) no violation of any Environmental Regulation now exists relating to the Facility, no notice of any such violation or any alleged violation thereof has been issued or given by any governmental entity or agency, and there is not now any investigation or report involving the Facility by any governmental entity or agency which in any way relates to Hazardous Substances; (vi) no person, party or private or governmental agency or entity has given any notice of or asserted any claim, cause of action, penalty, cost or demand for payment or compensation, whether or not involving any injury or threatened injury to human health, the environment or natural resources, resulting or allegedly resulting from any activity or event described in (i) above; (vii) there are not now any actions, suits, proceedings or damage settlements relating in any way to Hazardous Substances, in, upon, under, over or from the Facility; (viii) the Facility is not listed in the United States Environmental Protection Agency’s National Priorities List of Hazardous Waste Sites or any other list of Hazardous Substance sites maintained by any federal, state or local governmental agency; and (ix) the Facility is not subject to any lien or claim for lien or threat of a lien in favor of any governmental entity or agency as a result of any release or threatened release of any Hazardous Substance.

(m) *Valid, Binding and Enforceable Obligations.* All Bond Documents that name the Corporation as a party have been duly executed and constitute legal, valid and binding obligations of the Corporation enforceable in accordance with their respective terms (subject to any applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors’ rights generally from time to time in effect and to applicable principles of equity if equitable remedies are sought).

## ARTICLE III

### ISSUANCE OF BONDS

**Section 3.1. Agreement to Issue the Series 2022 Bonds.** In order to provide funds to finance or refinance the costs of acquiring, constructing, installing, equipping and furnishing the Project, the Issuer, concurrently with the execution and delivery of this Lease Agreement, will issue and deliver the Series 2022 Bonds to the Purchaser and cause the proceeds thereof to be deposited with the Bond Trustee for application as set forth in the Bond Indenture.

**Section 3.2. Application and Disbursement of Series 2022 Bond Proceeds.** The proceeds of the Series 2022 Bonds shall be deposited with the Bond Trustee and applied as provided in the Bond Indenture. The Issuer has, in the Bond Indenture, authorized and directed the Bond Trustee to make disbursements from the Costs of Issuance Fund to pay Costs of Issuance and from the Project Fund to pay the Project Costs. Such amounts shall be disbursed by the Bond Trustee in accordance with Sections 403 and 404 of the Bond Indenture. The Corporation will cause the documents to be filed with the Bond Trustee as specified in Sections 403 and 404 of the Bond Indenture for the disbursement of such amounts. The Issuer hereby agrees to pay for the acquisition and construction of the Project, but solely from the monies available therefor in the Project Fund.

In the event the moneys on deposit in the Project Fund or other separate trust or escrow accounts (together with other funds available to the Corporation for the Project as described in **Section 404** of the Bond Indenture) are at any time insufficient to pay for the completion of the Project, the Corporation agrees to pay the amount of such deficiency.

**Section 3.3. Project Documents.** On or before the issuance of the Series 2022 Bonds or as otherwise provided below, the Corporation, at its own cost and expenses, will deliver to the Bond Trustee copies of the following documents, collectively the “Project Documents” as defined in the Bond Indenture:

(a) *Title Insurance.* A standard ALTA lender’s policy of title insurance, or a commitment therefor, showing the Master Trustee as insured parties, with respect to the real property constituting the Facility, in an aggregate amount not less than \$\_\_\_\_\_, which policy shall insure good and marketable title to that real property, subject only to Permitted Encumbrances.

(b) *Licenses and Permits.* All permits for the acquisition or construction of the Project then in existence.

**Section 3.4. Default by Contractor or Subcontractor.** In the event of material default of any contractor or subcontractor under any contract made in connection with the Project, or in the event of a material breach of warranty with respect to any materials, workmanship or performance, the Corporation will promptly proceed, either separately or in conjunction with others, to pursue diligently the remedies of the Corporation against the contractor or subcontractor in default and against each surety on the bond, if any, securing the performance of such contract. Any amounts recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing, after deduction of expenses incurred in such recovery and after reimbursement to the Corporation of any amounts theretofore paid by the Corporation and not previously

reimbursed to the Corporation, or in the case of a subcontractor's default paid by the Contractor, for correction or remedying of the default which gave rise to the proceedings against the contractor, subcontractor or surety, shall be paid to the Corporation.

**Section 3.5. No Warranty of Condition or Suitability.** The Corporation acknowledges its full familiarity with the Project and that the Issuer, the Purchaser and the Bond Trustee have no responsibility for the plans and specifications for the Project.

**Section 3.6. Additional Bonds.** The Issuer may, in its sole discretion, at the request of the Corporation, issue Additional Bonds for the purposes and upon the terms and conditions provided in Section 203 of the Bond Indenture in aggregate amounts as requested by the Corporation consistent with Section 203 of the Bond Indenture, but in no event shall the Issuer be liable for not issuing Additional Bonds, it being the intent hereof to reserve to the Issuer the full and complete discretion to decline to issue Additional Bonds. No Additional Bonds shall be issued unless the conditions specified in Section 203 of the Bond Indenture are met.

## ARTICLE IV

### LEASING OF THE FACILITY TO THE CORPORATION

**Section 4.1. Granting of Leasehold.** The Issuer hereby rents, leases and lets unto the Corporation and the Corporation hereby rents, leases and hires from the Issuer, for the rentals and upon and subject to the terms and conditions set forth in this Lease Agreement, the Facility for a term commencing on the date of this Lease Agreement and terminating on December 1, 2060, subject to extension of the term pursuant to Section 12.7, and also subject to the restriction that no existing building nor any building which is constructed or placed upon the Land, either temporarily or permanently, shall be used for the purpose of housing any multigame, casino-style gambling on the premises.

**Section 4.2. Quiet Enjoyment and Possession.** The Corporation shall and may peaceably and quietly have, hold and enjoy the Facility, and the Issuer will either, to the extent funds are made available to it for such purposes, defend the Corporation's enjoyment and possession thereof against all parties or, to the extent such an action is lawful, allow the Corporation to prosecute such defense.

**Section 4.3. Operation and Use of Facility.**

(a) The Corporation shall have the exclusive use and possession of the Facility during the term of this Lease Agreement without hindrance by the Issuer and shall have the exclusive right and responsibility for the management, direction, control and operation of the Facility.

(b) The Corporation will cause the Facility to be operated in such a manner that would continue to qualify the Facility as a "facility" for which bonds could be issued under the Act at the time of the issuance of the Bonds. The Facility shall not be used in any manner or to any extent that causes or may cause the interest on the Tax-Exempt Bonds to be includable in gross income for purposes of federal income taxation.

(c) The Facility shall not be used for sectarian instruction or study or as a place of devotional activities or religious worship or as a facility used primarily in connection with any part of the program of a school or department of divinity for any religious denomination or for the training of ministers, priests, rabbis or other similar persons in the field of religion. The foregoing restrictions, however, shall not be construed to prevent the Corporation from (i) maintaining a nondenominational chapel, (ii) conducting education programs on any subject with one or more institutions, whether or not sectarian, or (iii) implementing pastoral care programs of the kind permitted or provided by senior housing and health care facilities generally.

(d) The Corporation shall comply with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities, now or hereafter applicable to the manner of use or condition of the Facility, or otherwise. The Corporation shall pay all costs, expenses, claims, fines, penalties and damages that may in any manner arise out of, or be imposed as a result of, the failure of the Corporation to comply with this Section. Notwithstanding any provision contained in this Section, however, the Corporation shall have the right, at its own cost, expense and risk, to contest or review by legal or other appropriate procedures the validity or legality of any such governmental statute, law, ordinance, order, judgment, decree, regulation, direction or requirement, and during such contest or review the Corporation's noncompliance therewith shall not constitute an Event of Default hereunder.

## ARTICLE V

### BASE RENTAL PAYMENTS AND ADDITIONAL PAYMENTS

**Section 5.1. Base Rental Payments. To provide for the payment of the principal of and redemption premium, if any, and interest on the Bonds, the Corporation will make the following payments ("Base Rental Payments") directly to the Bond Trustee, for the account of the Issuer, for deposit in the Debt Service Fund, on the following dates, and otherwise as set out below:**

(a) *Interest Account.* On or before the first day of each month (or on the next Business Day thereafter if such day is not a Business Day), commencing July 1, 2022, the amount that will be sufficient to pay the interest to become due on the Series 2022 Bonds on the first day of each month (or on the next Business Day thereafter if such day is not a Business Day); provided that the Corporation may be entitled to certain credits on such payments as permitted under **Section 5.2.**

(b) *Principal Account.* On or before the first day of each month (or on the next Business Day thereafter if such day is not a Business Day), commencing July 1, 2022, the amount that will be sufficient to pay the installment of principal due on the Series 2022 Bonds by maturity or mandatory sinking fund redemption on the first day of each month (or on the next Business Day thereafter if such day is not a Business Day); provided that the Corporation may be entitled to certain credits on such payments as permitted under **Section 5.2.**

(c) *Redemption Account.* On or before the Business Day immediately preceding the date any Series 2022 Bonds are to be redeemed (other than Bonds to be redeemed pursuant to mandatory sinking fund redemption requirements), the amount necessary to redeem those Series 2022 Bonds.

(d) *Purchase Account.* On or before the Business Day immediately preceding an Optional Tender Date for which the Registered Owner has given notice of optional tender of the Series 2022B Bond, the amount necessary to pay the purchase price of the Series 2022B Bond subject to mandatory purchase on the Optional Tender Date.

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

To the extent the moneys in the Interest Account, the Principal Account, the Redemption Account or Purchase Account are insufficient to pay any of the principal of and interest and premium, if any, on the Bonds when due, the Corporation shall immediately pay the amount of such deficiency to the Bond Trustee for the account of the Issuer for deposit in the appropriate account of the Debt Service Fund.

**Section 5.2. Credits on Base Rental Payments. The Corporation shall receive credit towards payment of Base Rental Payments as follows:**

(a) Any moneys deposited in the Interest Account, including earnings on investments, shall be credited to the extent of such deposit against the obligation of the Corporation to make the payments under **Section 5.1(a)** as they come due;

(b) Any moneys deposited in the Principal Account, including earnings on investments, shall be credited to the extent of such deposit against the obligation of the Corporation to make the payments under **Section 5.1(b)** as they come due; and

(c) Any moneys deposited in the Redemption Account and committed to the redemption of Bonds shall be credited to the extent of such deposit against the obligation of the Corporation to make the payments under **Section 5.1(c)** as they come due.

(d) Any moneys deposited in the Purchase Account and committed to the mandatory purchase of the Series 2022B Bond shall be credited to the extent of such deposit against the obligation of the Corporation to make the payments under **Section 5.1(d)** as they come due.

**Section 5.3. Additional Payments. The Corporation will pay as Additional Payments (i) all fees, charges and expenses, including agent and counsel fees, of the Bond Trustee and any Paying Agents and (ii) all amounts required to be paid under Sections 5.6 and 6.7 and (iii) all amounts required under Article IX and all other payments of whatever nature which the Corporation has agreed to pay or assume under this Lease Agreement and (iv) all costs incident to the payment of the principal of and interest on the Bonds as the same become due and payable, including all costs, premiums and expenses in connection with the call, redemption and payment of all Outstanding Bonds and (v) all amounts due under Section 5.4 for deposit in the Master Reserve Fund and (vi) all amounts necessary in order for the Bond Trustee to pay all rebates to the United States required under Section 148(f) of the Internal Revenue Code and the Income Tax Regulations thereunder and under any Tax Agreement to the extent the Bond Trustee does not hold funds available and sufficient therefor in accordance with the Bond Indenture and that Tax Agreement and (vii) all expenses incurred in connection with the enforcement of any rights under this Lease Agreement, the Bond Indenture, any Tax Agreement, the Related Master Notes or the Master**

Indenture by the Issuer, the Bond Trustee, the Registered Owners of the Bonds or the Master Trustee.

**Section 5.4. Obligations of the Corporation Unconditional.** The obligations of the Corporation to pay Base Rental Payments and Additional Payments and to perform and observe the other agreements contained herein shall be absolute and unconditional and shall not be subject to any defense or any right of setoff, counterclaim or recoupment arising out of any breach by the Issuer or the Bond Trustee of any obligation to the Corporation, whether hereunder or otherwise, or out of any indebtedness or liability at any time owing to the Corporation by the Issuer or the Bond Trustee and, the Corporation (i) will not suspend or discontinue any payment of Base Rental Payments or Additional Payments, and (ii) except as provided in Section 10.1, will not terminate this Lease Agreement for any cause, including the occurrence of any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Corporation's facilities, the taking by eminent domain of title to or temporary use of any or all of the Corporation's facilities, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State or any political subdivision of either thereof or any failure of the Issuer or the Bond Trustee to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Lease Agreement. Nothing contained in this Section shall be construed to release the Issuer from the performance of any of the agreements on its part herein contained, and in the event the Issuer or the Bond Trustee should fail to perform any such agreement on its part, the Corporation may institute such action against the Issuer or the Bond Trustee as the Corporation may deem necessary to compel performance so long as such action does not abrogate the obligations of the Corporation contained in the first sentence of this Section.

**Section 5.5. Net Lease.** The parties hereto agree (a) that this Lease Agreement is intended to be a net lease, (b) that the Base Rental Payments are designed to provide the Issuer and the Bond Trustee funds adequate in amount to pay all principal of and interest and any premiums accruing on the Bonds as the same become due and payable, (c) that to the extent that such payments are not sufficient to provide the Issuer and the Bond Trustee with funds sufficient for the purposes aforesaid, the Corporation shall pay, upon demand therefor, as Additional Payments, such further sums of money, in cash, as may from time to time be required for such purposes, and (d) that if, after all of the Bonds are deemed to be paid in accordance with Article XI of the Bond Indenture and provision has been made for payment of all other sums payable under the Bond Indenture and the Tax Agreements in accordance with said Article XI, the Bond Trustee or the Issuer holds unexpended funds received in accordance with the terms hereof, such unexpended funds shall, after payment therefrom of all sums then due and owing by the Corporation under this Lease Agreement, and except as otherwise provided in this Lease Agreement and the Bond Indenture, become the absolute property of and be paid over forthwith to the Corporation.

#### **ARTICLE VI**

#### **PROPERTY, TAXES AND UTILITIES**

**Section 6.1. Repairs and Maintenance.** The Corporation will keep and maintain the Facility and all parts thereof in good condition, working order and repair, will keep the Facility and all parts thereof free from filth, nuisance or conditions unreasonably increasing the danger of fire.

**Section 6.2. Conditions for Removal of Personal Property.** The Corporation may remove, without the consent of the Issuer, any of the machinery, equipment, furnishings or other personal property that constitutes a part of the Facility provided the conditions of Section 409 of the Master Indenture are met. All machinery and equipment constituting a part of the Facility and removed by the Corporation pursuant to this Section shall become the absolute property of the Corporation and may be sold or otherwise disposed of by the Corporation. In all cases, the Corporation shall pay all the costs and expenses of any such removal and shall immediately repair at its expense all damage caused thereby. Notwithstanding the foregoing, the Corporation shall deliver to the Bond Trustee a certificate setting forth a complete description, including the make, model and serial numbers, if any, of all machinery and equipment constituting a part of the Facility that has been removed, stating the reason for such removal, and the disposition, if any, of such machinery and equipment. The Corporation covenants that it will not take any action in connection with the removal, substitution or disposition of machinery and equipment which will adversely affect the exclusion of interest on any Tax-Exempt Bonds from gross income for purposes of federal income taxation.

**Section 6.3. Corporation to Pay Taxes.** The Corporation will from time to time pay or cause to be paid as they become due and payable all taxes, assessments and governmental charges lawfully levied or assessed or imposed upon it or upon its income, profits or property or upon the Facility or any part thereof or upon any income therefrom, or any tax levied upon the Issuer for or on account of all or parts of the Facility; and the Corporation will not suffer any vendors', mechanics', laborers', materialmen's, statutory or other similar lien to remain upon the Facility or any part thereof; provided that the Corporation shall have the right to contest, in good faith, by appropriate proceedings, any tax, assessment, governmental charge or lien and pending such contest may defer the payment thereof, so long as such deferment in payment shall not, in the opinion of counsel for the Corporation, subject the Facility or any part thereof to forfeiture or loss of title thereto.

**Section 6.4. Securing of Permits and Authorizations.** The Corporation shall not do, or permit others under its control to do, any work in or about the Facility or related to any repair, rebuilding, restoration, replacement, alteration of or addition to the Facility, or any part thereof, unless all requisite municipal and other governmental permits and authorizations shall have first been procured and paid for. All such work shall be done in a good and workmanlike manner and in compliance with all applicable building, zoning and other laws, ordinances, governmental regulations and requirements and in accordance with the requirements, rules and regulations of all insurers under the policies required to be carried under Section 6.6.

The Corporation will not allow any of its permits, rights, franchises or privileges to lapse or be forfeited so long as the same shall be necessary for the ownership or operation of the Facility and related properties as senior housing and health care facilities, and it will procure the extension or renewal of each and every right, franchise or privilege so expiring and necessary or desirable for the ownership or operation of the Facility and related properties as such.

**Section 6.5. Utilities.** All utilities and utility services used by the Corporation in, on or about the Facility shall be paid for by the Corporation and shall be contracted for by the Corporation in the Corporation's own name, and the Corporation shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith.



**Section 6.6. Insurance.** The Corporation shall maintain insurance with respect to the Facility and its operation in accordance and in compliance with Section 407 of the Master Indenture, which Section is hereby incorporated by reference. Any policies providing property and casualty, general liability or professional liability coverage respecting the Facility shall name the Issuer, the Bond Trustee and the Master Trustee as additional insureds, and any property and casualty insurance covering the Facility shall name the Bond Trustee as a loss payee.

**Section 6.7. Damage, Destruction and Condemnation.**

(a) *Effect of Damage, Destruction and Condemnation on Payments.* If (i) the Facility or any portion thereof is destroyed (in whole or in part) or is damaged by fire or other casualty or (ii) title to or any interest in, or the temporary use of, the Facility or any part thereof shall be taken under the exercise of or sold under the threat of the exercise of the power of eminent domain, the Corporation shall be obligated to continue to pay the principal of and interest and premium, if any, on the Related Master Notes and all Base Rental Payments and Additional Payments without any diminution, except to the extent any Base Rental Payments are prepaid pursuant to **Section 10.1** and Bonds are redeemed or deemed to be paid in accordance with the Bond Indenture.

(b) *Application of Net Proceeds.* The Net Proceeds of any damage, destruction, condemnation or sale under the threat of condemnation of any part of the Facility described in the preceding paragraph shall be applied by the Corporation (i) to the prompt repair, replacement or restoration of the Facility by the Corporation in a manner that will not impair the character or the operating utility of the Facility as a facility for which bonds may be issued under the Act, or (ii) if the Bond Trustee is provided with an opinion of Bond Counsel to the effect that such use will not adversely affect the validity of the Bonds or the exclusion of the interest on any Tax-Exempt Bonds from gross income for federal income tax purposes, in any other lawful manner that the Corporation may determine consistent with **Section 408** of the Master Indenture.

All amounts to be applied to the redemption of Bonds under this Section and **Section 408** of the Master Indenture shall be paid to the Bond Trustee for deposit in the Redemption Account and the Bond Trustee shall be directed in writing to use such moneys to redeem Bonds on the first possible date or to purchase Bonds in lieu of redemption as provided in the Bond Indenture.

(c) *Insufficiency of Net Proceeds.* Unless the Corporation has exercised its option to prepay the amounts payable under this Lease Agreement pursuant to **Section 10.1**, if the Net Proceeds of any damage, destruction, condemnation or sale under threat of condemnation of any part of the Facility are insufficient to pay in full the cost of any repair, restoration, modification or improvement required by paragraph (b) of this Section, the Corporation will nonetheless complete the work and will pay any cost in excess of the amount of the Net Proceeds held by the Bond Trustee. The Corporation agrees that if by reason of any such insufficiency of the Net Proceeds the Corporation shall make any payments pursuant to this Section, the Corporation shall not be entitled to any reimbursement therefor from the Issuer, the Bond Trustee or the Registered Owners of any of the Bonds, nor shall the Corporation be entitled to any diminution of the amounts payable as the principal of or interest or premium, if any, on the Related Master Notes or as Base Rental Payments or Additional Payments.

**Section 6.8. Environmental Compliance.** The Corporation agrees that it will comply with all applicable environmental, hazardous waste or substance, toxic substance and underground storage laws, rules and regulations and obtain any permits, licenses or similar approvals required by such laws, rules and regulations.

**Section 6.9. Liens on Property; Right of Contest.** The Corporation shall not create or incur, or permit to be created or incurred, or to exist any lien on any portion of the Project except Permitted Encumbrances. The Corporation shall not do or suffer anything to be done whereby the Project, or any part thereof, may be encumbered by any mechanic's or other similar lien and if, whenever and so often as any mechanic's or other similar lien is filed against the Project, or any part thereof, the Corporation shall discharge the same of record within 30 days after the date of filing. Notice is hereby given that the Issuer does not authorize or consent to and shall not be liable for any labor or materials furnished to the Corporation or anyone claiming by, through or under the Corporation upon credit, and that mechanic's or similar liens for any such labor, services or materials shall not attach to or affect the estate of the Issuer in and to the Project, or any part thereof.

## **ARTICLE VII**

### **ASSIGNMENT, SELLING AND LEASING**

#### **Section 7.1. Assignment, Selling and Leasing.**

(a) Subject to the Master Indenture, this Lease Agreement may be assigned as a whole or in part, or all or any portion of the Facility or any part thereof or its interest therein may be sold, subleased or otherwise transferred by the Corporation, subject to each of the following conditions:

(i) The Bond Trustee shall have received an opinion of Bond Counsel to the effect that the assignment, sale, sublease or other transfer does not result in the Facility no longer being "facilities" under the Act and does not adversely affect the exclusion of the interest on any Tax-Exempt Bonds from gross income for federal income tax purposes.

(ii) The Corporation shall, within 30 days after the delivery thereof, furnish or cause to be furnished to the Issuer and the Bond Trustee a true and complete copy of each assignment, assumption of obligation, lease, deed, bill of sale or other instrument of transfer, as the case may be.

(iii) The assignee, purchaser, sublessee or other transferee shall assume the obligations (other than payment obligations which may, but need not, be assumed) of the Corporation hereunder to the extent of the interest assigned, sold, subleased or otherwise transferred.

(iv) The Issuer shall have given its prior written consent to such assignment, sale or sublease.

(b) The Corporation may sublease or otherwise transfer all or any portion of the Facility or may sell, sublease or otherwise transfer all or any portion of its interest in the Facility to the Issuer or another governmental entity or agency in connection with the issuance by the Issuer or other entity or

agency of bonds or other obligations to repair, reconstruct, remodel, renovate, extend, enlarge or improve the Facility for the use of the Corporation.

(c) Notwithstanding the provisions of **Section 7.1(a)**, the Corporation may, in accordance with the provisions of the Tax Agreement, grant residents of the Facility the use of skilled nursing, assisted living and any independent living units in the Facility under Residency Agreements (as such term is defined in the Master Indenture) or other use agreement and sublease portions of the Facility to Persons (as such term is defined in the Master Indenture) providing services to residents of the Facility in the normal course of the Corporation's business; provided however, the Corporation shall comply with the provisions of (a) hereof in connection with the sublease of any substantial portion of the Facility to any one Person.

(d) No assignment, sale, sublease or other transfer shall relieve the Corporation from primary liability for any obligations hereunder, and in the event of any such assignment, sale, sublease or other transfer the Corporation shall continue to remain primarily liable for payment of Base Rental Payments and Additional Payments and for performance and observance of the other agreements on its part herein provided to be performed and observed by the Corporation to the same extent as though no assignment, sale, lease or other transfer had been made.

(e) Notwithstanding the provisions of **Section 7.1(a)**, the Corporation may, in accordance with the provisions of the Tax Agreement, sell, transfer or dispose of property constituting a portion of the Facility pursuant to **Section 6.2** hereof.

**Section 7.2. The Issuer to Assign Rights to Bond Trustee. Pursuant to the Bond Indenture, the Issuer will assign to the Bond Trustee to secure payment of the Bonds all of the Issuer's right, title and interest in this Lease Agreement (except the Issuer's rights under Sections 5.3, 8.2, and 9.3), such assignment to be subject and subordinate to the Corporation's rights under this Lease Agreement.**

## ARTICLE VIII

### DISCLAIMER OF WARRANTIES; INDEMNITY

**Section 8.1. Disclaimer of Warranties. Neither the Issuer nor the Bond Trustee makes any warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for any particular purpose or fitness for the use contemplated by the Corporation of the Facility or any component thereof, or any other representation or warranty with respect to the Facility or any component thereof. In no event shall the Issuer or the Bond Trustee be liable for incidental, indirect, special or consequential damages, in connection with or arising out of this Lease Agreement or the use of the Facility.**

### **Section 8.2. Release and Indemnification Covenants.**

(a) The Corporation will pay, and will protect, indemnify and save the Issuer, the Bond Trustee and their respective directors, officials, officers, employees, attorneys, agents and consultants harmless from and against all liabilities, losses, damages, costs, expenses (including reasonable attorneys' fees and expenses), causes of action, suits, claims, demands and judgments of any nature arising from:

(1) any injury to or death of any person or damage to property resulting from or connected with the use, non-use or condition of the Facility or a part thereof;

(2) violation of any agreement or condition of this Lease Agreement, except by the Issuer or the Bond Trustee;

(3) the performance of any act required of the Issuer by this Lease Agreement or the Bond Indenture;

(4) violation of any contract, agreement or restriction by the Corporation relating to the Facility;

(5) violation of any law, ordinance or regulation arising out of the ownership or use of the Facility or a part thereof;

(6) any statement or information concerning the Corporation, its directors, officers and members or its property, contained in any final official statement or prospectus furnished to purchasers of any Bonds, that is untrue or incorrect in any material respect, and any omission from any such official statement or prospectus of any statement or information which should be contained therein for the purpose for which the same is to be used or which is necessary to make the statements therein concerning the Corporation, its directors, officers and members or its property not misleading in any material respect, provided that any such final official statement or prospectus is approved in writing by the Corporation; or

(7) the issuance of the Bonds.

(b) With respect to an instance in which indemnity is sought:

(1) in the event of any settlement of any litigation, commenced or threatened, arising from a claim based upon any such untrue statement or omission, such indemnity shall be limited to the aggregate amount paid under a settlement effected with the written consent of the Corporation, together with such costs and expenses (including reasonable attorneys' fees and expenses) as may have been incurred by the indemnified party;

(2) the Issuer or the Bond Trustee or any of their respective directors, officials, officers, employees, attorneys, agents or consultants, as the case may be, shall promptly notify the Corporation in writing of any claim or action brought against the Issuer or the Bond Trustee (or any of their respective directors, officials, officers, employees, attorneys, agents or consultants), as the case may be, in respect of which indemnity may be sought against the Corporation, setting forth the particulars of such claim or action;

(3) the Issuer and the Bond Trustee may employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall not be payable by the Corporation unless such employment has been specifically authorized by the Corporation, or, unless such separate counsel is necessary to avoid a conflict of interest or other counsel employed by the Corporation has failed to diligently pursue the defense thereof.

(4) Upon notice the Corporation shall defend such persons in any such action or proceeding and the Corporation will also assume and pay, or cause to be paid, for the defense of

any cause of action, suit, claim or demand arising from any of the events listed in subparagraph (a).

(c) Notwithstanding that it is the intention of the parties that the Issuer, the Bond Trustee and any director, official, officer, employee, attorney and consultant of the Issuer or the Bond Trustee shall not incur any pecuniary liability by reason of this Lease Agreement or the Bond Indenture, or the undertakings required of the Issuer, the Bond Trustee or any director, official, officer, employee, attorney, agent or consultant of the Issuer or the Bond Trustee under this Lease Agreement or the Bond Indenture, by reason of the issuance of the Bonds, by reason of the performance of any act required of the Issuer or any director, official, officer, employee, attorney, agent or consultant of the Issuer or the Bond Trustee under this Lease Agreement or the Bond Indenture, nevertheless if the Issuer, the Bond Trustee or any director, official, officer, employee, attorney or consultant of the Issuer or the Bond Trustee should incur any such pecuniary liability then in such event the Corporation shall indemnify and hold harmless the Issuer and the Bond Trustee and any director, official, officer, employee, attorney and consultant of the Issuer or the Bond Trustee (other than with regard to claims resulting from the willful misconduct of the party seeking indemnification, and, in the case of the Bond Trustee or any director, official, officer, employee, attorney or counselor of the Bond Trustee other than with regard to claims resulting from the negligence of the party seeking indemnification), against all claims by or on behalf of any person, firm or corporation, arising out of the same and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon.

(d) Notwithstanding the foregoing, neither the Issuer nor the Bond Trustee nor their respective directors, officials, officers, employees, attorneys, agents and consultants shall be indemnified against liability for damage arising out of bodily injury to persons or damage to property caused by their own willful and malicious acts or omissions or willful and malicious acts or omissions of their respective council members, directors, officials, officers, attorneys, agents, employees or consultants.

(e) The protection and indemnification provided to the Issuer and the Bond Trustee and their respective directors, officials, officers, employees, attorneys, agents and consultants herein shall survive and be enforceable against the Corporation even though this Lease Agreement may, for all other purposes, have been terminated.

## ARTICLE IX

### EVENTS OF DEFAULT AND REMEDIES

**Section 9.1. Events of Default Defined. The following shall be “Events of Default” under this Lease Agreement and the term “Event of Default” shall mean any one or more of the following events:**

(a) Default in the due and punctual payment of any Base Rental Payments or of any Additional Payments.

(b) Failure by the Corporation to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Lease Agreement, other than as referred to in subparagraph (a), for a period of 30 days after written notice specifying such failure and requesting that it be remedied shall have been given to the Corporation by the Issuer or the Bond Trustee, unless the Bond Trustee shall agree in writing to an extension of such time prior to

its expiration; provided that, if the failure stated in the notice cannot be corrected within the applicable period, the Bond Trustee will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Corporation within the applicable period and is being diligently pursued until the default is corrected.

(c) The dissolution or liquidation of the Corporation or the voluntary initiation by the Corporation of any proceeding under any federal or state law relating to bankruptcy, insolvency, arrangement, reorganization, readjustment of debt or any other form of debtor relief, or the initiation against the Corporation of any such proceeding which shall remain undismissed for 60 days, or failure by the Corporation to promptly have discharged any execution, garnishment or attachment of such consequence as would impair the ability of the Corporation to carry on its operations or assignment by the Corporation for the benefit of creditors, or the entry by the Corporation into an agreement of composition with creditors or the failure generally by the Corporation to pay its debts as they become due.

(d) An Event of Default under the Bond Indenture.

(e) An Event of Default under the Master Indenture.

The provisions of subsection (b) of this Section are subject to the following limitation: if by reason of force majeure the Corporation is unable in whole or in part to carry out any of its agreements contained herein (other than its obligations to pay Base Rental Payments or Additional Payments), the Corporation shall not be deemed in default during the continuance of such inability because of its failure to carry out those agreements. The term “force majeure” as used herein shall mean, without limitation, the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or of the State or of any of their departments, agencies or officials, or of any civil or military authority; insurrections; riots; landslides; earthquakes; fires; storms; droughts; floods; explosions; breakage or accident to machinery, transmission pipes or canals; and any other cause or event not reasonably within the control of the Corporation. The Corporation agrees, however, to remedy with all reasonable dispatch the cause or causes preventing the Corporation from carrying out its agreement, provided that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the Corporation and the Corporation shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of the Corporation unfavorable to the Corporation.

**Section 9.2. Remedies on Default. Whenever any Event of Default shall have happened and be continuing, the Bond Trustee, as the assignee of the Issuer, may take one or any combination of the following remedial steps:**

(a) If the Bond Trustee has declared the principal of the Bonds and the interest accrued thereon to be due and payable, declare the principal of the Base Rental Payments and all interest accrued thereon to be immediately due and payable and the same shall thereupon be immediately due and payable;

(b) Give the Corporation written notice of intention to terminate this Lease Agreement on a date specified therein, which date shall not be earlier than 10 days after such notice is given, and if all Events of Default have not then been cured, on the date so specified, the

Corporation's rights to possession of the Facility shall cease and this Lease shall thereupon be terminated, and the Issuer may re-enter and take possession of the Facility; or

(c) Without terminating this Lease Agreement, re-enter the Facility or take possession thereof pursuant to legal proceedings or pursuant to any notice provided for by law, and use reasonable diligence to relet the Facility, or parts thereof, for such term or terms and at such rental and upon such other terms and conditions as the Issuer may deem in the best interests of the Bondholders, with the right to make alterations and repairs to the Facility, and no such re-entry or taking of possession of the Facility by the Issuer shall be construed as an election on the Issuer's part to terminate this Lease Agreement, and no such re-entry or taking of possession by the Issuer shall relieve the Corporation of its obligation to pay Base Rental Payments or Additional Payments (at the time or times provided herein), or of any of its other obligations under this Lease Agreement, all of which shall survive such re-entry or taking of possession, and the Corporation shall continue to pay the Base Rental Payments and Additional Payments provided for in this Lease Agreement until the end of the term, whether or not the Facility shall have been relet, less the net proceeds, if any, of any reletting of the Facility after deducting all of the Issuer's reasonable expenses in or in connection with such reletting, including without limitation all repossession costs, brokerage commissions, legal expenses, expenses of employees, alteration costs and expenses of preparation for reletting; or

(d) At any time after the termination of this Lease Agreement pursuant to **Subsection (b)**, whether or not the Issuer shall have collected any current damages, the Issuer shall, at its option, be entitled to recover from the Corporation, and the Corporation will pay to the Issuer on demand, as and for liquidated and agreed final damages for the Corporation's default and in lieu of all current damages beyond the date of such demand, an amount equal to all unpaid installments of rent (as hereinafter defined).

(e) Exercise any or all the rights of and remedies with regard to any personal property included in the Facility available to a secured creditor under the Kansas UCC.

(f) Have reasonable access to and inspect, examine and make copies of the books and records and any and all accounts and data of the Corporation during regular business hours of the Corporation if reasonably necessary in the opinion of the Bond Trustee;

(g) Request that the Master Trustee declare the principal of the Related Master Notes and all interest due thereon to be due and payable or request that the Master Trustee exercise any other remedy under the Master Indenture; or

(h) Take whatever action at law or in equity may appear necessary or desirable to collect the Base Rental Payments or Additional Payments then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Corporation under this Lease Agreement.

If any statute or rule of law shall validly limit the amount of such liquidated final damages to less than the amount agreed upon, the Issuer shall be entitled to the maximum amount allowable under such statute or rule of law. The term "all unpaid installments of rent" shall mean an amount equal to the entire principal amount of the then Outstanding Bonds, together with any applicable redemption premiums and all interest accrued or to accrue on and prior to the next succeeding redemption date or dates on which the Bonds can be redeemed after giving notice to the Owners thereof as required by the Bond Indenture (less

moneys available for such purpose then held by the Bond Trustee), plus any other payments due or to become due hereunder, including, without limitation, any unpaid fees and expenses, including agent and counsel fees, of the Bond Trustee and any paying agents of the Bonds which are then due or will become due under the Bond Indenture.

Any amounts collected pursuant to action taken under this Section shall be paid into the Debt Service Fund and applied in accordance with the Bond Indenture.

**Section 9.3. Agreement to Pay Attorneys' Fees and Expenses.** In the event the Corporation should default under any of the provisions of this Lease Agreement and the Issuer or the Bond Trustee should employ attorneys or incur other expenses for the collection of payments required hereunder or the enforcement of performance or observance of any obligation or agreement on the part of the Corporation contained herein, the Corporation shall on demand therefor pay to the Issuer the reasonable fee of such attorneys and such other expenses so incurred by the Issuer or the Bond Trustee.

**Section 9.4. No Additional Waiver Implied by One Waiver.** In the event any agreement contained in this Lease Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

## ARTICLE X

### OPTIONS; PREPAYMENT OF BASE RENTAL PAYMENTS

**Section 10.1. Option or Obligation to Prepay the Base Rental Payments upon Occurrence of Certain Events.** The Corporation shall have and is hereby granted the option to prepay the Base Rental Payments, in whole or in part, if an event described in Section 6.7(a) has occurred, provided that the Corporation has elected to prepay the Base Rental Payments in whole or in part pursuant to Section 6.7(b).

To exercise such option, the Corporation shall, within 120 days following the event authorizing or requiring such prepayment, give written notice to the Issuer and to the Bond Trustee and shall specify therein the date of prepaying all the Base Rental Payments or a portion thereof, which date shall be not less than 50 days nor more than 90 days from the date such notice is mailed, and in case of a redemption of the Bonds in accordance with the Bond Indenture, shall make arrangements satisfactory to the Bond Trustee for the giving of the required notice of redemption. The prepayment amount payable by the Corporation in the event of its prepayment of the Base Rental Payments in whole shall be an amount that is required, when added to the amount in the Debt Service Fund and any moneys deposited with the Bond Trustee pursuant to **Section 408** of the Master Indenture, to provide the Bond Trustee with funds or securities sufficient for all Bonds to be deemed to be paid in accordance with **Article XI** of the Bond Indenture and to pay or make provision for payment of all other sums payable under the Bond Indenture in accordance with said **Article XI**.



**Section 10.2. Additional Option to Prepay the Base Rental Payments.** The Corporation shall have and is hereby granted the option to prepay from time to time all or part of the Base Rental Payments in sums sufficient to redeem or to pay or cause to be paid all or part of the Bonds in accordance with the Bond Indenture. Upon the agreement of the Corporation to deposit moneys in the Redemption Account in an amount sufficient to redeem Bonds subject to redemption, the Issuer, at the request of the Corporation, shall forthwith take all steps (other than the payment of the money required for such redemption) necessary under the applicable redemption provisions of the Bond Indenture to effect redemption of all or part of the then Outstanding Bonds, as may be specified by the Corporation, on the date established for such redemption.

## **ARTICLE XI**

### **TAX COVENANTS**

**Section 11.1. Tax Covenants of the Corporation.** The Corporation covenants and agrees that it will not take any action or permit any action to be taken that would adversely affect the exclusion from gross income for federal income tax purposes of the interest on any Tax-Exempt Bonds and will take whatever action, or refrain from whatever action, necessary to comply with the requirements of the Internal Revenue Code to maintain the exclusion from gross income for federal income tax purposes of the interest on all Tax-Exempt Bonds, and the Corporation will comply with the Tax Agreements and will pay or provide for payment to the United States Government or the Bond Trustee all rebate payments required under Section 148(f) of the Internal Revenue Code and the Tax Agreements to the extent such amounts are not available to the Bond Trustee in the Rebate Fund held under the Bond Indenture. This covenant shall survive payment in full or defeasance of the Tax-Exempt Bonds.

**Section 11.2. Tax Covenants of the Issuer.** The Issuer will not intentionally take any action that it knows would adversely affect the exclusion of interest on the Tax-Exempt Bonds from gross income for purposes of federal income taxation.

## **ARTICLE XII**

### **MISCELLANEOUS**

**Section 12.1. Compliance with the Master Indenture.** The Corporation will abide by the terms, provisions and restrictions set forth in the Master Indenture.

**Section 12.2. Financial Statements, Etc.** The Corporation shall furnish to the Purchaser, the Bond Trustee and any Registered Owner or beneficial owner of Bonds Outstanding that requests such information in writing copies of all financial statements, reports, certificates and other items or information furnished to the Master Trustee pursuant to Section 412 of the Master Indenture at the same time that they are furnished to the Master Trustee. The Bond Trustee shall have no duty to review any financial statement delivered to it pursuant to the Master Indenture, this Lease Agreement or any other Bond Document and does not have a duty to verify the accuracy of such financial statements. In addition, the Bond Trustee shall not be considered to have notice of the contents of such financial statements or of a default or event of default under the Bond Indenture, the Lease Agreement or any other Bond Document based on such contents.

The Bond Trustee may rely conclusively on any such documents delivered to it pursuant to this **Section 12.2** and shall not be required to make any independent inspection or investigation in connection therewith.

**Section 12.3. Further Agreements by the Corporation with Others.** The rights and interests granted to the Corporation by this Lease Agreement are rights and interests granted by the Issuer and the covenants and agreements made by the Corporation in this Lease Agreement are made to the Issuer for the benefit of the Issuer, the Bond Trustee and the Bondholders. The Corporation may make additional covenants to and agreements with others with respect to the matters and property covered hereby, including the covenants and agreements set forth in the Master Indenture; provided that they do not infringe upon the rights and interests granted to, or retained by, the Issuer, the Bond Trustee or the Bondholders.

**Section 12.4. Corporation to Provide Health Care Services.** The Corporation shall continue to provide senior living and related health care services as its primary business.

**Section 12.5. Further Assurances and Corrective Instruments.** The Issuer and the Corporation will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Lease Agreement.

**Section 12.6. The Corporation Representative.** Whenever under this Lease Agreement the approval of the Corporation is required or the Corporation is required to take some action at the request of the other, such approval or such request shall be given for the Corporation by the Corporation Representative. The Bond Trustee and any party hereto shall be authorized to act on any such approval or request.

**Section 12.7. Term of Lease Agreement.** This Lease Agreement shall remain in full force and effect from the date hereof until the Bonds have been fully paid or provision made for such payment pursuant to Article VIII of the Bond Indenture and all Additional Payments due hereunder have been paid.

**Section 12.8. Notices.** Any notice, request, complaint, demand, communication or other paper shall be sufficiently given and shall be deemed given when delivered or mailed and addressed as specified in Section 1203 of the Bond Indenture.

A duplicate copy of each notice required to be given hereunder to the Bond Trustee, the Issuer or the Corporation shall also be given to the other parties specified in **Section 1203** of the Bond Indenture.

The Issuer, the Corporation, the Bond Trustee and the Purchaser may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

**Section 12.9. Issuer Not Liable.** Notwithstanding any other provision of this Lease Agreement (a) the Issuer shall not be liable to the Corporation, the Bond Trustee or any other person for any failure of the Issuer to take action under this Lease Agreement unless the Issuer (i) is requested in writing by an appropriate person to take such action, (ii) is assured of payment of or reimbursement for any expense in such action by the Corporation, and (iii) is afforded, under the existing circumstances, a reasonable period to take action, and (b) except with respect to any action for specific performance or any action in the nature of a prohibitory or mandatory injunction, neither the Issuer nor any director, official, attorney, consultant, agent or employee of the Issuer shall be liable to the Corporation, the Bond Trustee or any other person for any action taken by the Issuer or by its directors, officials, agents, attorneys, consultants or employees, or for any failure to take action under this Lease Agreement or the Bond Indenture. In acting under this Lease Agreement, or in refraining from acting under this Lease Agreement, the Issuer may conclusively rely on the advice of its counsel.

**Section 12.10. Amendments, Changes and Modifications.** Subsequent to the issuance of Bonds and prior to their payment in full (or provision for the payment thereof having been made in accordance with **Article XI** of the Bond Indenture), and except as otherwise herein expressly provided, this Lease Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the Bond Trustee, in accordance with the Bond Indenture.

**Section 12.11. Severability.** If any provision of this Lease Agreement shall be held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstances, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or Sections in this Lease Agreement contained shall not affect the remaining portions of this Lease Agreement, or any part thereof.

**Section 12.12. Execution in Counterparts; Electronic Transactions.** This Lease Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument. The transaction described herein may be conducted and related documents may be sent, received, and stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**Section 12.13. Governing Law.** This Lease Agreement is governed by the laws of the State, without regard to the choice of law rules of the State. Venue for any action under this Lease Agreement to which the Issuer is a party shall lie within the district court of the State located in Sedgwick County, and the parties hereto consent to the jurisdiction and venue of any such court and hereby waive any argument that venue in such forums is not convenient.

**IN WITNESS WHEREOF**, the Issuer has caused this Lease Agreement to be executed in its name and with its official seal hereunto affixed and attested by its duly authorized officials and the Corporation has caused this Lease Agreement to be executed in its corporate name with its corporate seal hereunto affixed and attested by its duly authorized officers, all as of the date first above written.

**CITY OF BEL AIRE, KANSAS**

(Seal)

By: \_\_\_\_\_  
Name: Jim Benage  
Title: Mayor

ATTEST:

\_\_\_\_\_  
Name: Melissa Krehbiel  
Title: City Clerk

**CATHOLIC CARE CENTER, INC.**

By: \_\_\_\_\_  
Title: Chief Executive Officer

## **SCHEDULE 1**

### **Description of the Facility**

All real property, buildings, improvements, equipment, furnishings and machinery owned or leased by the Corporation and financed or refinanced in whole or in part with the proceeds of the Series 2022 Bonds and any Additional Bonds and located or to be located on the following property:

[\*Legal description to come.\*]