  
20090312000089770 1/9 \$35.00  
Shelby Cnty Judge of Probate, AL  
03/12/2009 09:20:54AM FILED/CERT

## REGULATORY AGREEMENT NURSING HOMES

By and Between

Mature Options Eldercare, Inc.,  
an Alabama corporation  
4072 Milners Crescent  
Birmingham, Alabama 35242  
("Lessee")

and

United States Secretary of Housing  
and Urban Development  
Birmingham Field Office  
Medical Forum Building  
950 22nd Street North,  
Suite 900  
Birmingham, Alabama 35203  
("Secretary")

dated

March 12, 2009

**REGULATORY AGREEMENT  
NURSING HOMES**

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



Project Number 062-22033		Mortgagee: <b>GREYSTONE SERVICING CORPORATION, INC.</b>	
Amount of Mortgage Note \$ 2,134,800.00		Date March 12, 2009	
Mortgage Recorded: State Alabama <b>A</b>	County Shelby	Date March 12, 2009	
Book <b>20090312000089750</b>		Page	


This Agreement entered into this 12th day of March, 19 2009,  
between MATURE OPTIONS ELDERCARE, INC., an Alabama corporation  
whose address is 4072 Milners Crescent, Birmingham, Alabama 35242  
(jointly and severally, hereinafter referred to as Lessee) and the undersigned Federal Housing Commissioner, (hereinafter called Commissioner).  
*Whereas, PELHAM SENIOR LIVING TRIPLE NET, LLC (hereinafter called the "lessor-mortgagor" or "Lessor"), is the mortgagor of a certain project, which project is more particularly described in Schedule "A" attached hereto.*

*Whereas the lessor-mortgagor has entered into certain lease with the Lessee for the aforesaid project (hereinafter called the "Lease") the terms of which are described in the Memorandum of Lease recorded concurrently herewith Now Therefore:*

In consideration of the consent of the Commissioner to the ~~leasing of the aforesaid project by the Lease~~, **Mortgagor**, and in order to comply with the requirements of the National Housing Act and the Regulations adopted by the Commissioner pursuant thereto, Lessees agree for themselves, their successors, heirs and assigns, that in connection with the mortgaged property and the project operated thereon and so long as the Contract of Mortgage Insurance continues in effect, and during such further period of time as the Commissioner shall be the owner, holder or reinsurer of the mortgage, or during any time the Commissioner is obligated to insure a mortgage on the mortgaged property:

- (1) The lease shall be subject and subordinate to the mortgage securing the note or other obligation endorsed for insurance by the commissioner;
- (2) Lessee shall make payments under lease when due;
- (3) Payments by the lessee to the Lessor shall be sufficient to pay all mortgage payments including payments to reserves for taxes, insurance, etc., payments to the Reserve for Replacements, and to take care of necessary maintenance. If at the end of any calendar year, or any fiscal year if the project operates on the basis of a fiscal year, payments under the lease have not been sufficient to take care of the above items, the lessor and lessee upon request in writing from the Commissioner shall renegotiate the amounts due under the lease so that such amounts shall be sufficient to take care of such items; the Commissioner shall be furnished by the lessee, within thirty days after being called upon to do so, with a financial report in form satisfactory so the Commissioner covering the operations of the mortgaged property and of this project; *Continued on Rider attached hereto;*
- (4) The lessee shall not sublease the project or any part thereof without the consent of the Commissioner;
- (5) The lessee shall at all times maintain in full force and effect a license from the State or other licensing authority to operate the project as ~~a nursing home~~,\* but the owner shall not be required to maintain such a license; *(See Rider attached hereto and made part hereof)*
- (6) Lessee shall maintain in good repair and condition any parts of the project for the maintenance of which lessee is responsible under the terms of the lease.
- (7) Lessee shall not remodel, reconstruct, add in, or demolish any part of the mortgaged property or subtract from any real or personal property of the project *without the prior written consent of the Commissioner.*
- (8) Lessee shall not use the project for any purpose except the operation of ~~a nursing home~~; *an assisted living facility.*
- (9) If a default is declared by the Commissioner under the provisions of Paragraph ~~10~~ 11 of the Regulatory Agreement entered into by the lessor-mortgagor and the Commissioner on the 12th day of March, 19 2009, a copy of notice of default having been given to the lessee, the lessee will thereafter make all future payments under the lease to the Commissioner;
- (10) The lease may be cancelled upon thirty days written notice by the Commissioner given to the lessor and the lessee for a violation of any of the above provisions unless the violation is corrected to the satisfaction of the Commissioner within said thirty day period.
- (11) The Commissioner must approve any change in or transfer of ownership of the lessee entity, and any change in or transfer of the management operation, or control of the project. *The Lease may not be amended, modified or assigned without the written consent of the Commissioner.*

\* *an assisted living facility,*

  
20090312000089770 2/9 \$35.00  
Shelby Cnty Judge of Probate, AL  
03/12/2009 09:20:54AM FILED/CERT

- (12) The lessee shall not reduce or expand, allow to be reduced or expanded, or cause the expansion or reduction of the bed capacity of the project without the consent of the Commissioner. Any change in the bed capacity shall violate this Regulatory Agreement.
- (13) The lessee shall not enter into any management contract involving the project, unless such shall contain a provision that, in the event of default under the Regulatory Agreement as recited in paragraph 9 (above) of this Agreement, the management agreement shall be subject to termination without penalty upon written request of the Commissioner. Upon such request the lessee shall immediately arrange to terminate the contract within a period of not more than thirty (30) days and shall make arrangements satisfactory to the Commissioner for continuing proper management of the project.
- (14) The mortgaged property, equipment, buildings, plans, offices, apparatus, devices, books, contracts, records, documents, and other papers relating thereto shall at all times be maintained in reasonable condition for proper audit and subject to examination and inspection at any reasonable time by the Commissioner or his duly authorized agents. Lessee shall keep copies of all written contracts or other instruments which affect the mortgaged property, all or any of which may be subject to inspection and examination by the Commissioner or his/her authorized agents.
- (15) There shall be full compliance with the provisions of (1) any State or local laws prohibiting discrimination in housing on the basis of race, color, creed, or national origin; and (2) with the Regulations of the Federal Housing Administration providing for non-discrimination and equal opportunity in housing. It is understood and agreed that failure or refusal to comply with any such provisions shall be a proper basis for the Commissioner to take any corrective action he may deem necessary including, but not limited to, the refusal to consent to a further renewal of the lease between the mortgagor-lessor and the lessee, the rejection of applications for FHA mortgage insurance and the refusal to enter into future contracts of any kind with which the lessee is identified; and further, if the lessee is a corporation or any other type of business association or organization which may fail or refuse to comply with the aforementioned provisions, the Commissioner shall have similar right of corrective action (1) with respect to any individuals who are officers, directors, trustees, managers, partners, associates or principal stockholders of the lessee; and (2) with respect to any other type of business association, or organization with which the officers directors, trustees, managers, partners, associates or principal stockholders of the lessee may be identified.

**Instructions to Closing Attorney**  
**Regulatory Agreement - form HUD-92466-NHL**  
**Nursing Homes - Sections 232**

This Regulatory Agreement must be executed by the Lessee and the Commissioner and recorded before the Note is endorsed for insurance.

Note that there is space left on the back of the printed form for proper execution of the instrument.

The execution by the Commissioner and the Lessee must be in accordance with the requirements of the jurisdiction where the project located and must permit the instrument to be recorded.

The Agreement is to be executed in the name of the Commissioner. It will be signed for the Commissioner by the Field Office Manager or authorized agent who endorses the Note for insurance.

Recording must be at the expense of the mortgagor-owner or lessee.

Sufficient space is left on back for the insertion of any necessary additional provisions. Any changes in the Agreement and any substantial additions shall receive the prior approval of the Assistant Secretary for Housing.

A copy of the Commissioner-approved lease shall be attached to this Regulatory Agreement. If the lease has already been filed or recorded, re-recording will be unnecessary, and a copy of the recorded lease (with recording data) will be attached following recording of the form HUD-92466-NHL.

The Agreement must be executed by the Lessee prior to execution by the Commissioner.




20090312000089770 3/9 \$35.00  
Shelby Cnty Judge of Probate, AL  
03/12/2009 09:20:54AM FILED/CERT

- (16) *For so long as the Commissioner (or the Commissioner's successors or assigns) is the insurer or holder of a note secured by a mortgage on the project or any part thereof, and notwithstanding any provision of the Lease to the contrary, the terms and conditions of this Agreement, the Regulatory Agreement, any applicable section of the National Housing Act and/or any applicable regulations promulgated thereunder shall be controlling and take precedence over any provision set forth in the Lease and any inconsistent law, regulation, agreement or other requirement regulating the mortgaged property and/or the project, unless otherwise required by law.*
- (17) *Any and all future lessees or sublessees must be bound by a Regulatory Agreement substantially similar to this Regulatory Agreement.*
- (18) *Lessee shall furnish annual financial statements to the Commissioner, in form and substance satisfactory to the Commissioner, within 60 days of the end of each fiscal year of the Project.*

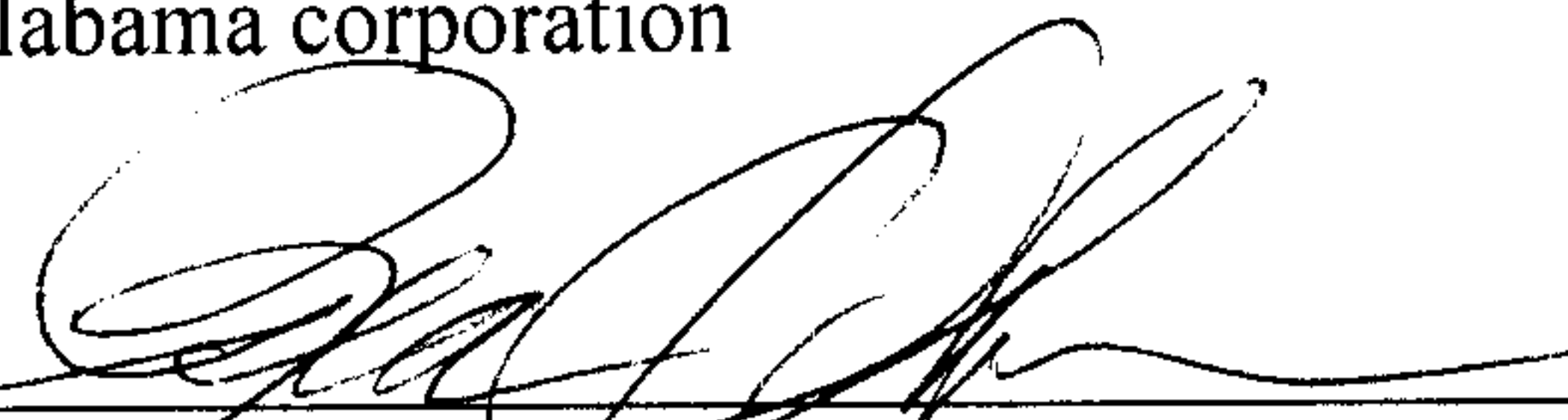
*[the remainder of this page is intentionally left blank]*

*[Signatures appear on following pages]*

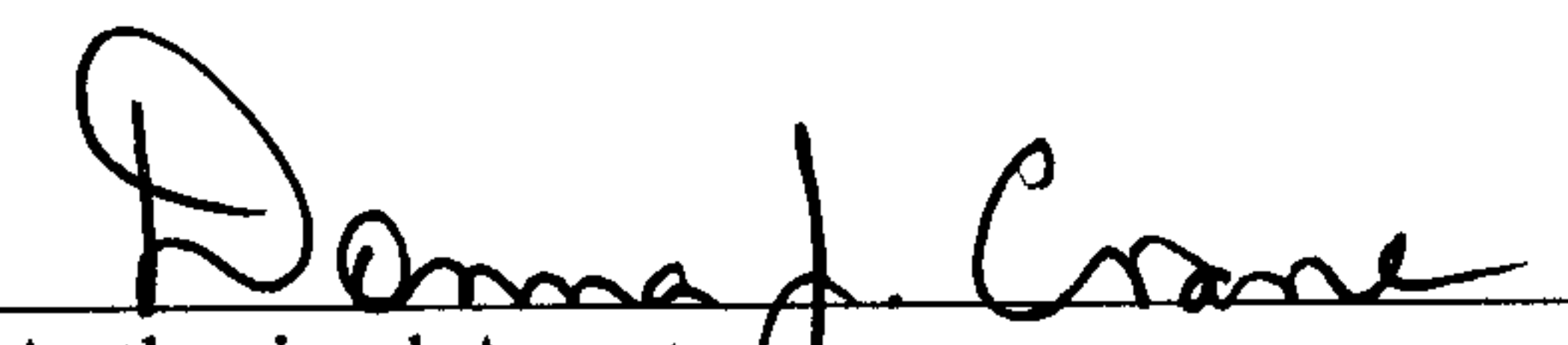
  
20090312000089770 4/9 \$35.00  
Shelby Cnty Judge of Probate, AL  
03/12/2009 09:20:54AM FILED/CERT

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the day and year first above written.

MATURE OPTIONS ELDERCARE, INC.,  
an Alabama corporation

By:   
Rea A. Oliver, President

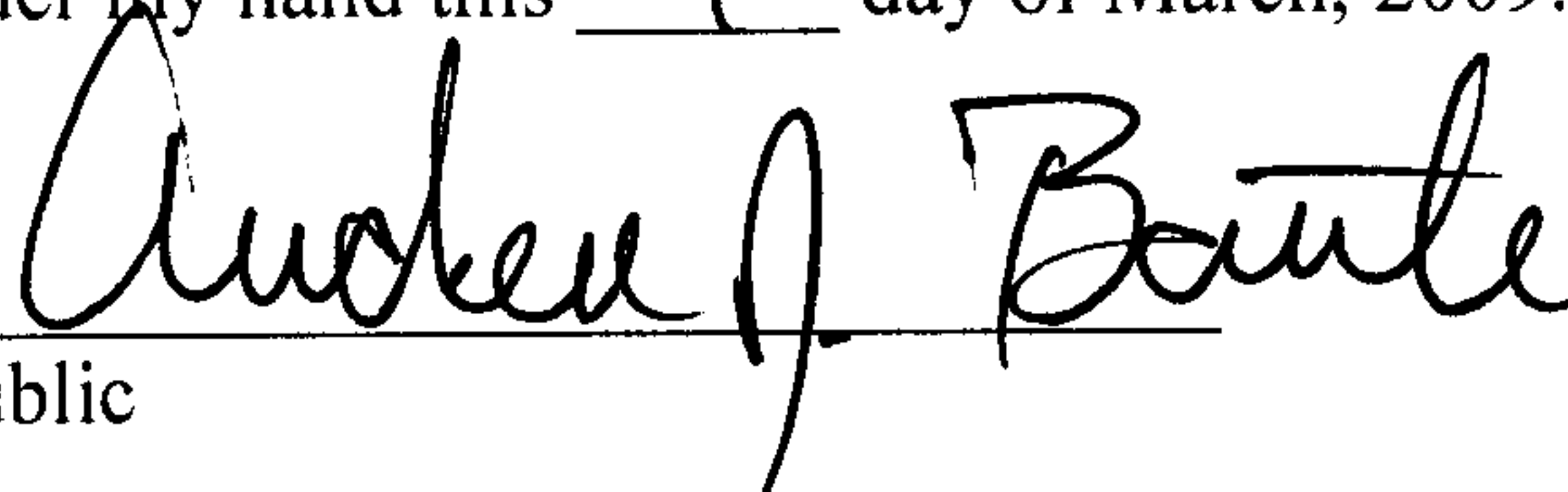
SECRETARY OF HOUSING AND URBAN  
DEVELOPMENT, acting by and through the  
FEDERAL HOUSING COMMISSIONER

By:   
Authorized Agent

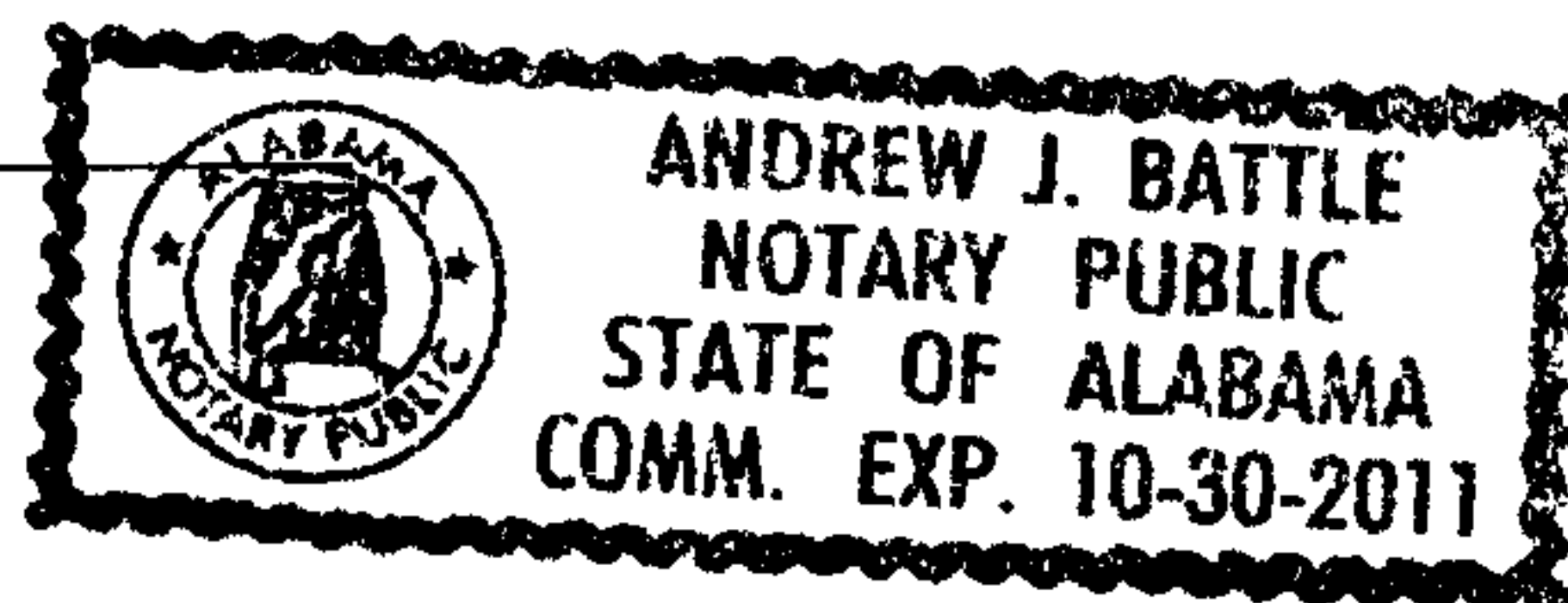
STATE OF ALABAMA     )  
COUNTY OF JEFFERSON    )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Rea A. Oliver whose name as the President of Mature Options Eldercare, Inc., is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this 9th day of March, 2009.

  
Notary Public

My Commission Expires: \_\_\_\_\_



20090312000089770 5/9 \$35.00  
Shelby Cnty Judge of Probate, AL  
03/12/2009 09:20:54AM FILED/CERT


STATE OF ALABAMA     )  
COUNTY OF JEFFERSON    )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Donna J. Crane whose name as the Authorized Agent of the United States Department of Housing and Urban Development, for and on behalf of said Department, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such Authorized Agent and with full authority, executed the same voluntarily for and as the act of said Department.

Given under my hand this 14th day of March, 2009.

Roberta J. Lynan  
Notary Public

My Commission Expires: \_\_\_\_\_

  
20090312000089770 6/9 \$35.00  
Shelby Cnty Judge of Probate, AL  
03/12/2009 09:20:54AM FILED/CERT

RIDER TO AND MADE A PART OF  
REGULATORY AGREEMENT NURSING HOMES (form HUD-92466-NHL)  
BETWEEN MATURE OPTIONS ELDERCARE, INC.,  
AND FEDERAL HOUSING COMMISSIONER  
DATED MARCH 12, 2009

***continuation of paragraph 3:***

(3)(a) Payment for services, supplies, and materials shall not exceed the amount ordinarily paid for such services, supplies, or materials in the area where the services are rendered or the supplies or materials furnished.

(3)(b) The books and accounts of the operations of the mortgaged property and of the project shall be kept in accordance with the requirements of the Secretary.

(3)(c) Within sixty (60) days following the end of each fiscal year, the Commissioner shall be furnished with a complete annual financial report based upon an examination of the books and records of the operations of the mortgaged property and of the project prepared in accordance with the requirements of the Secretary, and prepared and certified by an officer of the Lessee under the provisions of 18 U.S.C. Section 1001, 1010, and 1012. The Lessee shall submit such financial reports to the HUD Office.

(3)(d) At the request of the Commissioner, his agents, employees, or attorneys, the Lessee shall furnish monthly occupancy reports and give specific answers to questions upon which information is desired from time to time relative to income, assets, liabilities, contracts, operation, and condition of the property and the status of the insured mortgage.

(3)(e) All rents and other receipts of the project shall be deposited in the name of the project in a financial institution, whose deposits are insured by an agency of the Federal Government. Such funds shall be withdrawn only in accordance with the provisions of this agreement.

(3)(f) Reserved.

(3)(g) Reserved.

(3)(h) Any Mortgagor/Lessor receiving property of the project in violation of this Agreement shall hold such funds in trust. At such time the Mortgagor/Lessor shall have lost control and/or possession of the project, all funds held in trust shall be delivered to the mortgagee to the extent that the mortgage indebtedness has not been satisfied.


***continuation of paragraph 5:***

(a) The Mortgagor (the lessor-mortgagor) and/or Lessees and/or Operator and/or Management Agent, as applicable, shall maintain the requisite level of professional liability insurance as determined by

the Commissioner. Annually, Lessee shall provide to the Commissioner a certification of compliance with the Commissioner's professional liability insurance requirements.

***RECORD AND RETURN TO:***


Elizabeth B. Joiner, Chief Counsel  
HUD Office of Counsel  
Birmingham Field Office  
Medical Forum Building  
950 22nd Street North,  
Suite 900  
Birmingham, Alabama 35203

  
20090312000089770 8/9 \$35.00  
Shelby Cnty Judge of Probate, AL  
03/12/2009 09:20:54AM FILED/CERT

This document was prepared by:

John R. Brennan, Esq.  
Byrne, Costello & Pickard, P.C.  
Tower I, Suite 800  
100 Madison St.  
Syracuse, New York 13202-2721

***SCHEDULE "A"***

  
20090312000089770 9/9 \$35.00  
Shelby Cnty Judge of Probate, AL  
03/12/2009 09:20:54AM FILED/CERT

**Real Property Description**

A part of Northeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of Section 36, Township 19 South, Range 3 West, being more particularly described as follows:

Commence at the Southeast corner of the Northeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of Section 36, Township 19 South, Range 3 West; thence run West along the South line of said  $\frac{1}{4}$  -  $\frac{1}{4}$  Section 138.44 feet to an existing iron pin and the point of beginning; thence continue West along the last described course 324.18 feet; thence turn right 116 degrees 32 minutes 26 seconds and run Northeasterly 247.63 feet to a point on the Southwesterly Right of Way of Old Montgomery Highway; thence turn right 92 degrees 00 minutes 07 seconds and run Southeasterly along said Right of Way line 294.56 feet; thence turn right 90 degrees 42 minutes 00 seconds and run Southwesterly 92.59 feet to the point of beginning; being situated in Shelby County, Alabama.

LESS AND EXCEPT any part of subject property lying within a road Right-Of-Way.