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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



0819845113

Doc#: 0819845113 **Fee:** \$72.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 07/16/2008 12:55 PM Pg: 1 of 19

The property identified as: **PIN:** 27-14-201-013-0000

Address:

Street: 151st street and 80th avenue

Street line 2:

City: orland park

State: IL

ZIP Code: 60462

Lender: harris n.a.

Borrower: orland park memory care llc

Loan / Mortgage Amount: \$7,900,000.00

This property is located within Cook County and is exempt from the requirements of 765 ILCS 77/70 et seq. because it is commercial property.

Certificate number: 6869EFD3-F882-4D8A-A429-8C85A03DB80F

Execution date: 07/11/2008

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This Instrument Prepared
by and after recording return to:

Eric M. Roberson
Chapman and Cutler LLP
111 West Monroe Street
Chicago, Illinois 60603

NOTICE: THIS INSTRUMENT SECURES FUTURE ADVANCES, THE PRIORITY OF WHICH DATE TO THE RECORDING DATE HEREOF.

**CONSTRUCTION MORTGAGE AND SECURITY AGREEMENT WITH
ASSIGNMENT OF RENTS**

This Construction Mortgage and Security Agreement with Assignment of Rents (this "*Mortgage*") dated as of July 11, 2008 from ORLAND PARK MEMORY CARE, LLC, a Delaware limited liability company with its mailing address at c/o The LaSalle Group, Inc., 545 East John Carpenter Freeway, Suite 545, Irving, Texas 75062 (the "*Mortgagor*") to HARRIS N.A., a national banking association with its principal place of business at 201 West Grand Avenue, Bensenville, Illinois 60106 (hereinafter referred to as "*Mortgagee*");

WITNESSETH THAT:

WHEREAS, Mortgagor has entered into that certain Construction Loan Agreement dated as of even date herewith (such Construction Loan Agreement as the same may be amended, modified or restated from time to time being hereinafter referred to as the "*Loan Agreement*"), pursuant to which Mortgagee agrees, subject to certain terms and conditions, to make a credit facility (the "*Loan*") in the principal amount of not to exceed \$7,900,000 (the "*Loan*") at any one time outstanding, with a final maturity of all principal and interest if not sooner paid due at the times set forth herein;

WHEREAS, the Loan is evidenced by a promissory note payable to the order of the Mortgagee in the face principal amount of \$7,900,000 (the "*Note*"), whereby the Mortgagor promises to pay the advances evidenced thereby on or before July 11, 2013 (the "*Termination Date*") with interest as set forth in the Loan Agreement; and

WHEREAS, Lake Superior Contracting, LP has executed and delivered to Mortgagee that certain Application and Indemnity Agreement dated as of July 11, 2008 (the "*Application*") in

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connection with that certain Irrevocable Standby Letter of Credit No. HACH2229740S, issued by the Mortgagee on July 11, 2008 in favor of the Village of Orland Park in the principal amount of \$641,000 (the "*Letter of Credit*"); and

WHEREAS, the Mortgagor may from time to time enter into one or more interest rate exchange, cap, collar, floor or other agreements ("*Hedging Agreements*") with the Mortgagee and its affiliates for the purpose of hedging or otherwise protecting the Mortgagor against changes in interest rates on the Note (the liability of the Mortgagor in respect to such agreements and the Mortgagee and its affiliates being hereinafter referred to as the "*Hedging Liability*"); and

NOW, THEREFORE, to secure (i) the payment of the principal and premium, if any, of and interest on the Note as and when the same become due and payable (whether by lapse of time, acceleration or otherwise) and all advances now or hereafter evidenced thereby, (ii) the payment of all other indebtedness, obligations and liabilities which this Mortgage secures pursuant to any of its terms, (iii) the payment and performance of all obligations arising under the Application in connection with the Letter of Credit, including the obligation of Lake Superior Contracting, LP to reimburse the Mortgagee for any draws under the Letter of Credit, (iv) the payment of all sums due and owing with respect to Hedging Liability and (v) the observance and performance of all covenants and agreements contained herein or in the Loan Agreement, the Note or in any other instrument or document at any time evidencing or securing any of the foregoing or setting forth terms and conditions applicable thereto (all of such indebtedness, obligations and liabilities described in clauses (i), (ii), (iii), (iv) and (v) above being hereinafter collectively referred to as the "*indebtedness hereby secured*"), Mortgagor does hereby grant, bargain, sell, convey, mortgage, warrant, assign, and pledge unto Mortgagee, its successors and assigns, and grant to Mortgagee, its successors and assigns, a continuing security interest in Mortgagor's right, title and interest of Mortgagor in and to, all and singular the properties, rights, interests and privileges described in Granting Clauses I, II, III, IV, V, VI and VII below, all of the same being collectively referred to herein as the "*Mortgaged Premises*":

GRANTING CLAUSE I

That certain real estate (the "*Real Property*") lying and being in Cook County in the State of Illinois more particularly described in Schedule I attached hereto and made a part hereof.

GRANTING CLAUSE II

Any and all other, further or additional title, estates, interests or rights which may at any time be acquired by Mortgagor in or to the Real Property, and/or the property described in the preceding Granting Clauses and Mortgagor expressly agrees that if Mortgagor shall, at any time prior to the payment in full of all the indebtedness hereby secured, acquire fee simple title or any other greater estate to the Real Property, the lien of this Mortgage shall attach, extend to, cover and be a lien upon such fee simple title or greater estate.

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GRANTING CLAUSE III

All buildings and improvements of every kind and description heretofore or hereafter erected or placed on the Real Property and all materials intended for construction, reconstruction, alteration and repairs of the buildings and improvements now or hereafter erected thereon, all of which materials shall be deemed to be included within the premises immediately upon the delivery thereof to the said real estate, all fixtures, machinery, apparatus, equipment, fittings and articles of personal property now or hereafter attached to or contained in or used or useful in connection with the Real Property, the operation, maintenance and protection thereof or the operation of the business of the Mortgagor thereon and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to the Real Property in any manner; it being mutually agreed, intended and declared that all the aforesaid property shall, so far as permitted by law, be deemed to form a part and parcel of the real estate and for the purpose of this Mortgage to be real estate and covered by this Mortgage; and as to the balance of the property aforesaid, this Mortgage is hereby deemed to be as well a security agreement under the provisions of the Uniform Commercial Code for the purpose of creating hereby a security interest in said property, which is hereby granted by Mortgagor as debtor to Mortgagee as secured party, securing the indebtedness hereby secured. The addresses of Mortgagor (debtor) and Mortgagee (secured party) appear at the beginning hereof.

GRANTING CLAUSE IV

All right, title and interest of Mortgagor now owned or hereafter acquired in and to all and singular the estates, tenements, hereditaments, privileges, easements, licenses, franchises, appurtenances and royalties, mineral, oil, and water rights owned by Mortgagor and belonging or in any wise appertaining to the Real Property and the buildings and improvements now or hereafter located thereon and the reversions, rents, issues, revenues and profits thereof, including all interest of Mortgagor in all rents, issues and profits of the aforementioned property and all rents, issues, profits, revenues, royalties, bonuses, rights and benefits due, payable or accruing (including all deposits of money as advanced rent or for security unless prohibited by any federal, state or local law, regulation, ordinance or directive) under any and all leases or subleases and renewals thereof, or under any contracts or options for the sale of all or any part of, said property (including during any period allowed by law for the redemption of said property after any foreclosure or other sale), together with the right, but not the obligation, to collect, receive and receipt for all such rents and other sums and apply them to the indebtedness hereby secured and to demand, sue for and recover the same when due or payable; *provided* that the assignments made hereby shall not impair or diminish the obligations of Mortgagor under the provisions of such leases or other agreements nor shall such obligations be imposed upon Mortgagee. By acceptance of this Mortgage, Mortgagee agrees, not as a limitation or condition hereof, but as a personal covenant available only to Mortgagor that until an event of default (as hereinafter defined) shall occur giving Mortgagee the right to foreclose this Mortgage or exercise the power of sale contained herein, Mortgagor may collect, receive (but not more than 30 days in advance unless agreed to in writing by Mortgagee) and enjoy such rents.

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GRANTING CLAUSE V

All judgments, awards of damages, settlements and other compensation heretofore or hereafter made resulting from condemnation proceedings or the taking of the Real Property or any part thereof or any building or other improvement now or at any time hereafter located thereon or any easement or other appurtenance thereto under the power of eminent domain, or any similar power or right (including any award from the United States Government at any time after the allowance of the claim therefor, the ascertainment of the amount thereof and the issuance of the warrant for the payment thereof), whether permanent or temporary, or for any damage (whether caused by such taking or otherwise) to said property or any part thereof or the improvements thereon or any part thereof, or to any rights appurtenant thereto, including severance and consequential damage, and any award for change of grade of streets (collectively, "Condemnation Awards").

GRANTING CLAUSE VI

All property and rights, if any, which are by the express provisions of this instrument required to be subjected to the lien hereof and any additional property and rights that may from time to time hereafter, by installation or writing of any kind, be subjected to the lien hereof by Mortgagor or by anyone in Mortgagor's behalf.

GRANTING CLAUSE VII

All rights in and to common areas and access roads on adjacent properties heretofore or hereafter granted to Mortgagor and any after-acquired title or reversion in and to the beds of any ways, roads, streets, avenues and alleys adjoining the Real Property or any part thereof.

TO HAVE AND TO HOLD the Mortgaged Premises and the properties, rights and privileges hereby granted, bargained, sold, conveyed, mortgaged, warranted, pledged and assigned, and in which a security interest is granted, or intended so to be, unto Mortgagee, its successors and assigns, forever; *provided, however*, that this Mortgage is upon the express condition that if the principal of and interest on the Note and all sums from time to time advanced thereon shall be paid in full, and all other indebtedness hereby secured shall be fully paid and performed and any and all commitments contained in the Loan Agreement to extend credit thereunder shall have terminated, then this Mortgage and the estate and rights hereby granted shall cease, determine and be void and this Mortgage shall be released by Mortgagee upon the written request and at the expense of Mortgagor, otherwise to remain in full force and effect.

It is expressly understood and agreed that the indebtedness hereby secured will in no event exceed \$18,200,000 (all such indebtedness being hereinafter referred to as the "*maximum amount secured hereby*").

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Mortgagor hereby covenants and agrees with Mortgagee as follows:

1. *Payment of the Indebtedness.* The indebtedness hereby secured will be promptly paid as and when the same becomes due.

2. *Further Assurances.* Mortgagor will execute and deliver such further instruments and do such further acts as may be necessary or proper to carry out more effectively the purpose of this instrument and, without limiting the foregoing, to make subject to the lien hereof any property agreed to be subjected hereto or covered by the Granting Clauses hereof or intended so to be.

3. *Ownership of Mortgaged Premises.* Mortgagor covenants and warrants that it is lawfully seized of and has good and marketable title to the Mortgaged Premises free and clear of all liens, charges and encumbrances whatever except those exceptions to title listed on Schedule II attached hereto and Liens permitted under the terms and provisions of, and as defined in, the Loan Agreement (the "*Permitted Exceptions*") and Mortgagor has good right, full power and authority to convey, transfer and mortgage the same to Mortgagee for the uses and purposes set forth in this Mortgage; and Mortgagor will warrant and forever defend the title to the Mortgaged Premises subject to the Permitted Exceptions against all claims and demands whatsoever.

4. *Possession.* Provided no Event of Default has occurred and is continuing hereunder, Mortgagor shall be suffered and permitted to remain in full possession, enjoyment and control of the Mortgaged Premises, subject always to the observance and performance of the terms of this Mortgage.

5. *Payment of Taxes.* Mortgagor shall pay or cause to be paid before any penalty attaches, all general taxes and all special taxes, special assessments, water, drainage and sewer charges and all other charges of any kind whatsoever, ordinary or extraordinary, which may be levied, assessed, imposed or charged on or against the Mortgaged Premises or any part thereof and which, if unpaid, might by law become a lien or charge upon the Mortgaged Premises or any part thereof, and shall, upon written request, exhibit to Mortgagee official receipts evidencing such payments, except that, unless and until foreclosure, distraint, sale or other similar proceedings shall have been commenced, no such charge or claim need be paid if being contested (except to the extent any full or partial payment shall be required by law), after notice to Mortgagee, by appropriate proceedings which shall operate to prevent the collection thereof or the sale or forfeiture of the Mortgaged Premises or any part thereof to satisfy the same, conducted in good faith and with due diligence and if Mortgagor shall have furnished such security, if any, as may be required in the proceedings or reasonably requested by Mortgagee.

6. *Payment of Taxes on Indebtedness Hereby Secured, Mortgage or Interest of Mortgagee.* Mortgagor agrees that if any tax, assessment or imposition upon this Mortgage or the indebtedness hereby secured or the interest of Mortgagee in the Mortgaged Premises or upon Mortgagee by reason of or as a holder of any of the foregoing (including, without limitation, corporate privilege, franchise and excise taxes, but excepting therefrom any income tax on

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interest payments on the principal portion of the indebtedness hereby secured imposed by the United States or any state) is levied, assessed or charged, then, unless all such taxes are paid by Mortgagor to, for or on behalf of Mortgagee as they become due and payable (which Mortgagor agrees to do upon demand of Mortgagee, to the extent permitted by law), or Mortgagee is reimbursed for any such sum advanced by Mortgagee, all sums hereby secured shall become immediately due and payable, at the option of Mortgagee upon thirty (30) days' written notice to Mortgagor, notwithstanding anything contained herein or in any law heretofore or hereafter enacted, including any provision thereof forbidding Mortgagor from making any such payment. Mortgagor agrees to exhibit to Mortgagee, upon request, official receipts showing payment of all taxes and charges which Mortgagor is required to pay hereunder.

7. *Recording and Payment of Taxes and Expenses Incident Thereto.* Mortgagor will cause this Mortgage, all mortgages supplemental hereto and any financing statement or other notice of a security interest required by Mortgagee at all times to be kept, recorded and filed at its own expense in such manner and in such places as may be required by law for the recording and filing or for the rerecording and refiling of a mortgage, security interest, assignment or other lien or charge upon the Mortgaged Premises, or any part thereof, in order fully to preserve and protect the rights of Mortgagee hereunder and, without limiting the foregoing, Mortgagor will pay or reimburse Mortgagee for the payment of any and all taxes, fees or other charges incurred in connection with any such recordation or rerecording, including any documentary stamp tax or tax imposed upon the privilege of having this Mortgage or any instrument issued pursuant hereto recorded.

8. *Insurance.* Mortgagor will, at its expense, keep all buildings, improvements, equipment and other property now or hereafter constituting part of the Mortgaged Premises insured in such form and amounts as are set forth in the Loan Agreement. In the event of foreclosure, Mortgagor authorizes and empowers Mortgagee to effect insurance upon the Mortgaged Premises in amounts aforesaid for a period covering the time of redemption from foreclosure sale provided by law, and if necessary therefor to cancel any or all existing insurance policies.

9. *Eminent Domain.* Mortgagor acknowledges that Condemnation Awards have been assigned to Mortgagee, which awards Mortgagee is hereby irrevocably authorized to collect and receive, and to give appropriate receipts and acquittances therefor, and at Mortgagee's option, to apply the same toward the payment of the amount owing on account of the indebtedness hereby secured in such order of application as Mortgagee may elect and whether or not the same may then be due and payable or otherwise adequately secured; *provided, however*, that a Condemnation Award in respect of any taking of a portion (but not all or any material portion) of the Mortgaged Premises shall be made available for the restoration of such Mortgaged Premises in the same manner and subject to the same conditions as are imposed on the release of insurance proceeds set forth in the Loan Agreement as if the Mortgaged Premises so taken were destroyed and the Condemnation Award for such taking was actually insurance proceeds in respect of the Mortgaged Premises so deemed as having been destroyed. In the event that any proceeds of a Condemnation Award shall be made available to Mortgagor for restoring the Mortgaged Premises so taken, Mortgagor hereby covenants to promptly commence and complete such

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restoration of the Mortgaged Premises as nearly as possible to its value, condition and character immediately prior to such taking. Mortgagor covenants and agrees that promptly after Mortgagor becomes aware of same, Mortgagor will give Mortgagee notice of the actual or threatened commencement of any proceedings under condemnation or eminent domain affecting all or any part of the Mortgaged Premises including any easement therein or appurtenance thereof or severance and consequential damage and change in grade of streets, and will deliver to Mortgagee copies of any and all papers served in connection with any such proceedings. Mortgagor further covenants and agrees to make, execute and deliver to Mortgagee, at any time or times upon request, free, clear and discharged of any encumbrances of any kind whatsoever, any and all further assignments and/or instruments reasonably deemed necessary by Mortgagee for the purpose of validly and sufficiently assigning all awards and other compensation heretofore and hereafter to be made to Mortgagor for any taking, either permanent or temporary, under any such proceeding.

10. *Construction, Repair, Waste, Etc.* Mortgagor agrees that no building or other improvement on the Mortgaged Premises and constituting a part thereof shall be altered, removed or demolished nor shall any fixtures or appliances on, in or about said buildings or improvements be severed, removed, sold or mortgaged, without the consent of Mortgagee and in the event of the demolition or destruction in whole or in part of any of the fixtures, chattels or articles of personal property covered hereby, Mortgagor covenants that the same will be replaced promptly by similar fixtures, chattels and articles of personal property at least equal in quality and condition to those replaced, free from any security interest in or encumbrance thereon or reservation of title thereto other than liens permitted by the Loan Agreement and the Permitted Exceptions; *provided, however*, that Mortgagor may alter, remove or demolish any such building, improvement, fixture or appliance, and need not replace any such fixtures or personal property, in each case to the extent such action (i) is desirable to the proper conduct of the business of Mortgagor in the ordinary course as presently conducted and otherwise in the best interest of Mortgagor, (ii) does not impair in any material respect the overall value or utility of the Mortgaged Premises and Mortgagor's other related properties which together with the Mortgaged Premises operate as an integrated facility, (iii) does not decrease the efficiency or capacity of the Mortgaged Premises and (iv) does not impair the rights and benefits under this Mortgage of the Mortgagee. Mortgagor further agrees to permit, commit or suffer no waste, impairment or deterioration of the Mortgaged Premises or any part thereof; to keep and maintain said Mortgaged Premises and every part thereof in good repair and condition; to effect such repairs as Mortgagee may reasonably require and from time to time to make all needful and proper replacements and additions so that said buildings, fixtures, machinery and appurtenances will, at all times, be in good condition, fit and proper for the respective purposes for which they were originally erected or installed; to comply in all material respects with all statutes, orders, requirements or decrees relating to the Mortgaged Premises by any federal, state or municipal authority; to observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including, but not limited to, zoning variances, special exceptions and non-conforming uses), privileges, franchises and concessions which are applicable to the Mortgaged Premises or which have been granted to or contracted for by Mortgagor in connection with any existing or presently contemplated use of the Mortgaged Premises or any part thereof and not to initiate or acquiesce in any changes to or terminations of any of the foregoing or of zoning classifications affecting the use to which the Mortgaged

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Premises or any part thereof may be put without the prior written consent of Mortgagee; and to make no material alterations in or improvements or additions to the Mortgaged Premises except as required by governmental authority or as permitted by Mortgagee. Except as set forth in the Loan Agreement, Mortgagor will not lease the Mortgaged Premises or any material part thereof without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld.

11. *Liens and Encumbrances.* Mortgagor will not, without the prior written consent of Mortgagee, directly or indirectly, create or suffer to be created or to remain and will discharge or promptly cause to be discharged any mortgage, lien, encumbrance or charge on, pledge of, or conditional sale or other title retention agreement with respect to, the Mortgaged Premises or any part thereof, whether superior or subordinate to the lien hereof, except for this Mortgage and the Permitted Exceptions.

12. *Right of Mortgagee to Perform Mortgagor's Covenants, Etc.* If Mortgagor shall fail to make any payment or perform any act required to be made or performed hereunder (taking into account any applicable cure periods), Mortgagee, without waiving or releasing any obligation or default, may (but shall be under no obligation to) at any time thereafter make such payment or perform such act for the account and at the expense of Mortgagor, and may enter upon the Mortgaged Premises or any part thereof for such purpose and take all such action thereon as, in the opinion of Mortgagee, may be necessary or appropriate therefor. All sums so paid by Mortgagee and all costs and expenses (including without limitation reasonable attorneys' fees and expenses) so incurred, together with interest thereon from the date of payment or incurrence at the Default Rate, shall constitute so much additional indebtedness hereby secured and shall be paid by Mortgagor to Mortgagee on demand. Mortgagee in making any payment authorized under this Section relating to taxes or assessments may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax assessment, sale, forfeiture, tax lien or title or claim thereof. Mortgagee, in performing any act hereunder, shall be the sole judge of whether Mortgagor is required to perform same under the terms of this Mortgage.

13. *After-Acquired Property.* Any and all property hereafter acquired by Mortgagee which is of the kind or nature herein provided and located on the Mortgaged Premises, or intended to be and become subject to the lien hereof, shall *ipso facto*, and without any further conveyance, assignment or act on the part of Mortgagor, become and be subject to the lien of this Mortgage as fully and completely as though specifically described herein; but nevertheless Mortgagor shall from time to time, if requested by Mortgagee, execute and deliver any and all such further assurances, conveyances and assignments as Mortgagee may reasonably require for the purpose of expressly and specifically subjecting to the lien of this Mortgage all such property.

14. *Inspection by Mortgagee.* Mortgagee (who may be accompanied by any participant in the indebtedness hereby secured) shall have the right after notice to Mortgagor to inspect the Mortgaged Premises at all reasonable times, and access thereto shall be permitted for that

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purpose; *provided*, that, prior to an Event of Default, Mortgagee shall give Mortgagor twenty-four hour notice prior to any such inspection.

15. *Subrogation*. Mortgagor acknowledges and agrees that Mortgagee shall be subrogated to any lien discharged out of the proceeds of any extension of credit evidenced by the Note, or out of any advance by Mortgagee hereunder, irrespective of whether or not any such lien may have been released of record.

16. *Events of Default*. Any one or more of the following shall constitute an “*Event of Default*” hereunder:

(a) default in the observance or performance of any provision hereof requiring the maintenance of insurance on the Mortgaged Premises or dealing with the use or remittance of proceeds of the Mortgaged Premises or any part thereof; or

(b) except as otherwise provided in the Loan Agreement, the Mortgaged Premises or any part thereof shall be sold, transferred, or conveyed, whether voluntarily or involuntarily, by operation of law or otherwise, except for sales, transfers or conveyances which are permitted under the terms and provisions of the Loan Agreement; or

(c) any indebtedness secured by a lien or charge on the Mortgaged Premises or any part thereof aggregating \$250,000 or more is not paid when due or proceedings are commenced to foreclose or otherwise realize upon any lien or charge on the Mortgaged Premises or to have a receiver appointed for the property subject thereto or to place the holder of such indebtedness or its representative in possession thereof; or

(d) any event occurs or condition exists beyond any applicable cure periods which is specified as an event of default in any separate assignment of leases and/or rents securing the Note, or in the Loan Agreement or any other instrument or document securing the Note, or relating thereto; or

(e) except as otherwise provided in the Loan Agreement, any lease is purportedly cancelled, terminated, modified or amended in any respect without the prior written consent of the Mortgagee.

For the purposes of this Mortgage, the Mortgaged Premises shall be deemed to have been sold, transferred or conveyed in the event that more than fifty percent of the equity interest in Mortgagor shall be sold, transferred or conveyed, whether voluntarily or involuntarily, subsequent to the date hereof whether in one or a series of related or unrelated transactions unless such sale, transfer or conveyance is by and between the members of the Mortgagor or the sale, transfer or conveyance of the equity interest in any member of the Mortgagor.

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17. *Remedies.* When any Event of Default has happened and is continuing and in addition to such other rights as may be available under applicable law, but subject at all times to any mandatory legal requirements:

(a) *Acceleration.* Mortgagee may, by written notice to Mortgagor, declare the Note and all unpaid indebtedness hereby secured, including any interest then accrued thereon, to be forthwith due and payable, whereupon the same shall become and be forthwith due and payable, without other notice or demand of any kind.

(b) *Uniform Commercial Code.* Mortgagee shall, with respect to any part of the Mortgaged Premises constituting property of the type in respect of which realization on a lien or security interest granted therein is governed by the Uniform Commercial Code, have all the rights, options and remedies of a secured party under the Uniform Commercial Code of Illinois, including without limitation, the right to the possession of any such property, or any part thereof, and the right to enter without legal process any premises where any such property may be found. Any requirement of said Uniform Commercial Code for reasonable notification shall be met by mailing written notice to Mortgagor at its address above set forth at least ten (10) days prior to the sale or other event for which such notice is required. The reasonable costs and expenses of retaking, selling, and otherwise disposing of said property, including attorneys' fees and legal expenses incurred in connection therewith, shall constitute so much additional indebtedness hereby secured and shall be payable upon demand with interest at the Default Rate.

(c) *Foreclosure.* Mortgagee may proceed to protect and enforce the rights of Mortgagee hereunder (i) by any action at law, suit in equity or other appropriate proceedings, whether for the specific performance of any agreement contained herein, or for an injunction against the violation of any of the terms hereof, or in aid of the exercise of any power granted hereby or by law, or (ii) by the foreclosure of this Mortgage.

(d) *Appointment of Receiver.* Mortgagee shall, as a matter of right, without notice and without giving bond to Mortgagor or anyone claiming by, under or through it, and without regard to the solvency or insolvency of Mortgagor or the then value of the Mortgaged Premises, be entitled to have a receiver appointed of all or any part of the Mortgaged Premises and the rents, issues and profits thereof, with such power as the court making such appointment shall confer, and Mortgagor hereby consents to the appointment of such receiver and shall not oppose any such appointment. Any such receiver may, to the extent permitted under applicable law, without notice, enter upon and take possession of the Mortgaged Premises or any part thereof by force, summary proceedings, ejectment or otherwise, and may remove Mortgagor or other persons and any and all property therefrom, and may hold, operate and manage the same and receive all earnings, income, rents, issues and proceeds accruing with respect thereto or any part thereof, whether during the pendency of any foreclosure or until any right of redemption shall expire or otherwise.

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(e) *Taking Possession, Collecting Rents, Etc.* Mortgagee may enter and take possession of the Mortgaged Premises or any part thereof and manage, operate, insure, repair and improve the same and take any action which, in Mortgagee's judgment, is necessary or proper to conserve the value of the Mortgaged Premises. Mortgagee may also take possession of, and for these purposes use, any and all personal property comprising a part of the Mortgaged Premises and used in the operation, rental or leasing thereof or any part thereof. Mortgagee shall be entitled to collect and receive all earnings, revenues, rents, issues and profits of the Mortgaged Premises or any part thereof (and for such purpose Mortgagor does hereby irrevocably constitute and appoint Mortgagee its true and lawful attorney-in-fact for it and in its name, place and stead to receive, collect and receipt for all of the foregoing, Mortgagor irrevocably acknowledging that any payment made to Mortgagee hereunder shall be a good receipt and acquittance against Mortgagor to the extent so made) and to apply same to the reduction of the indebtedness hereby secured. The right to enter and take possession of the Mortgaged Premises and use any personal property therein, to manage, operate and conserve the same, and to collect the rents, issues and profits thereof, shall be in addition to all other rights or remedies of Mortgagee hereunder or afforded by law, and may be exercised concurrently therewith or independently thereof. The expenses (including any reasonable receiver's fees, counsels' fees, costs and agent's compensation) incurred pursuant to the powers herein contained shall be so much additional indebtedness hereby secured which Mortgagor promises to pay upon demand together with interest at the Default Rate. Mortgagee shall not be liable to account to Mortgagor for any action taken pursuant hereto other than to account for any rents actually received by Mortgagee. Without taking possession of the Mortgaged Premises, Mortgagee may, in the event the Mortgaged Premises becomes vacant or is abandoned, take such steps as it deems appropriate to protect and secure the Mortgaged Premises (including hiring watchmen therefor) and all costs incurred in so doing shall constitute so much additional indebtedness hereby secured payable upon demand with interest thereon at the Default Rate.

18. *Waiver of Right to Redeem From Sale - Waiver of Appraisal, Valuation, Etc.* Mortgagor shall not and will not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws, or any so-called "*Moratorium Laws*", now existing or hereafter enacted in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws. Mortgagor for itself and all who may claim through or under it waives any and all right to have the property and estates comprising the Mortgaged Premises marshalled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Mortgaged Premises sold as an entirety. In the event of any sale made under or by virtue of this Mortgage, the whole of the Mortgaged Premises may be sold in one parcel as an entirety or in separate lots or parcels at the same or different times, all as the Mortgagee may determine. Mortgagee shall have the right to become the purchaser at any sale made under or by virtue of this Mortgage and Mortgagee so purchasing at any such sale shall have the right to be credited upon the amount of the bid made therefor by Mortgagee with the amount payable to Mortgagee out of the net proceeds of such sale. In the event of any such sale, the Note and the other indebtedness hereby secured, if not previously due, shall be and become immediately due and payable without demand or notice of any kind. To the extent permitted by

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applicable law, Mortgagor hereby waives any and all rights of redemption prior to or from sale under any order or decree of foreclosure pursuant to rights herein granted, or under the power of sale contained herein on behalf of Mortgagor, and each and every person acquiring any interest in, or title to the Mortgaged Premises described herein subsequent to the date of this Mortgage, and on behalf of all other persons to the extent permitted by applicable law.

19. *Costs and Expenses of Foreclosure.* In any sale of the Mortgaged Premises, or any part thereof, pursuant to any judgment or decree of any court or pursuant to the power of sale herein contained or in connection with the enforcement of any of the terms of this Mortgage or otherwise under or by virtue of this Mortgage, there shall be allowed and included as so much additional indebtedness hereby secured to pay out of the proceeds of such sale, all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorneys' fees, appraisers' fees, environmental auditors' fees, outlays for documentary and expert evidence, stenographic charges, publication costs and costs (which may be estimated as the items to be expended after the entry of the decree) of procuring all such abstracts of title, title searches and examination, guarantee policies, Torrens certificates and similar data and assurances with respect to title as Mortgagee may deem to be reasonably necessary either to prosecute any foreclosure action or sale proceeding to evidence to the bidder at any sale pursuant thereto the true condition of the title to or the value of the Mortgaged Premises, all of which expenditures shall become so much additional indebtedness hereby secured which Mortgagor agrees to pay and all of such shall be immediately due and payable with interest thereon from the date of expenditure until paid at the Default Rate.

20. *Application of Proceeds.* To the extent permitted by applicable law, the proceeds of any foreclosure sale of the Mortgaged Premises or of any sale of property pursuant to Section 17(b) hereof shall be distributed in the following order of priority: First, on account of all costs and expenses incident to the foreclosure or other proceedings including all such items as are mentioned in Sections 17(b) and 19 hereof; Second, to all other items which under the terms hereof constitute indebtedness hereby secured in addition to that evidenced by the Note with interest thereon as herein provided; Third, to all principal of and interest on the Note with any overplus to Mortgagor to the extent Mortgagor may be lawfully entitled to the same.

21. *Deficiency Decree.* If at any foreclosure proceeding the Mortgaged Premises shall be sold for a sum less than the total amount of indebtedness for which judgment is therein given, the judgment creditor shall be entitled to the entry of a deficiency decree against Mortgagor and against the property of Mortgagor for the amount of such deficiency; and Mortgagor does hereby irrevocably consent to the appointment of a receiver for the Mortgaged Premises and the property of Mortgagor and of the rents, issues and profits thereof after such sale and until such deficiency decree is satisfied in full. If the Mortgaged Premises shall be sold pursuant to the power of sale herein contained for a sum less than the total amount of indebtedness hereby secured which is then outstanding and unpaid, the judgment creditor shall be entitled to collect and enforce the collection of such deficiency in the manner provided for by law.

22. *Mortgagee's Remedies Cumulative - No Waiver.* No remedy or right of Mortgagee shall be exclusive of but shall be cumulative and in addition to every other remedy or right now or hereafter existing at law or in equity or by statute or otherwise. Without in any way limiting

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the foregoing, the filing of a suit to foreclose the lien and security interest granted by this Mortgage shall not be considered an election so as to preclude foreclosure under power of sale after a dismissal of the suit; nor shall the publication or necessary notices for foreclosure under power of sale as provided in this Mortgage preclude the prosecution of a later suit thereon. No delay in the exercise or omission to exercise any remedy or right accruing on any default shall impair any such remedy or right or be construed to be a waiver of any such default or acquiescence therein, nor shall it affect any subsequent default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, and when and as often as may be deemed expedient by Mortgagee. For purposes of this Mortgage an Event of Default shall be construed as continuing after its occurrence until the same is cured or waived in writing by the Mortgagee.

23. *Mortgagee Party to Suits.* If Mortgagee shall be made a party to or shall intervene in any action or proceeding affecting the Mortgaged Premises or the title thereto or the interest of Mortgagee under this Mortgage (including probate and bankruptcy proceedings), or if Mortgagee employs an attorney to collect any or all of the indebtedness hereby secured or to enforce any of the terms hereof or realize hereupon or to protect the lien hereof, or if Mortgagee shall incur any costs or expenses in preparation for the commencement of any foreclosure proceedings or for the defense of any threatened suit or proceeding which might affect the Mortgaged Premises or the security hereof, whether or not any such foreclosure or other suit or proceeding shall be actually commenced, then in any such case, Mortgagor agrees to pay to Mortgagee, immediately upon demand, all reasonable costs, charges, expenses and attorneys' fees incurred by Mortgagee in any such case, and the same shall constitute so much additional indebtedness hereby secured payable upon demand with interest at the Default Rate.

24. *Modifications Not to Affect Lien.* Mortgagee, without notice to anyone, and without regard to the consideration, if any, paid therefor, or the presence of other liens on the Mortgaged Premises, may in its discretion release any part of the Mortgaged Premises or any person liable for any of the indebtedness hereby secured, may extend the time of payment of any of the indebtedness hereby secured and may grant waivers or other indulgences with respect hereto and thereto, and may agree with Mortgagor to modifications to the terms and conditions contained herein or otherwise applicable to any of the indebtedness hereby secured (including modifications in the rates of interest applicable thereto), without in any way affecting or impairing the liability of any party liable upon any of the indebtedness hereby secured or the priority of the lien of this Mortgage upon all of the Mortgaged Premises not expressly released, and any party acquiring any direct or indirect interest in the Mortgaged Premises shall take same subject to all of the provisions hereof.

25. *Notice.* All communications provided for herein shall be in writing and shall be deemed to have been given when delivered in accordance with the terms and provisions Section 10.7 of the Loan Agreement.

26. *Default Rate.* For purposes of this Mortgage, the term "Default Rate" shall mean the rate per annum determined by adding 5% to the Prime Rate (as defined in the Loan Agreement) applicable to the Note from time to time. Upon payment and/or performance which

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cures an Event of Default, the Default Rate shall revert to the interest rate in place immediately prior to the Event of Default.

27. *Partial Invalidity.* All rights, powers and remedies provided herein are intended to be limited to the extent necessary so that they will not render this Mortgage invalid, unenforceable or not entitled to be recorded, registered or filed under any applicable law. If any term of this Mortgage shall be held to be invalid, illegal or unenforceable, the validity and enforceability of the other terms of this Mortgage shall in no way be affected thereby.

28. *Successors and Assigns.* Whenever any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all the covenants, promises and agreements in this Mortgage contained by or on behalf of Mortgagor, or by or on behalf of Mortgagee, shall bind and inure to the benefit of the respective successors and assigns of such parties, whether so expressed or not. If more than one party signs this instrument as Mortgagor, then the term "Mortgagor" as used herein shall mean all of such parties, jointly and severally.

29. *Headings.* The headings in this instrument are for convenience of reference only and shall not limit or otherwise affect the meaning of any provision hereof.

30. *Changes, Etc.* This instrument and the provisions hereof may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought.

31. *Consent to Jurisdiction; Waiver of Jury Trial.* The Mortgagor hereby submits to the jurisdiction of the United States District Court for the Northern District of Illinois and the court of Lake County, State of Illinois for all purpose arising out of or relating to this Mortgage, the other Loan Documents or the transaction contemplated hereby or thereby. The Mortgagor irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter has to the laying of the venue of any such proceeding brought in such a court and any claim that any such proceeding brought in such a court has been brought in an inconvenient forum. MORTGAGOR HEREBY IRREVOCABLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY ON ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENT OR THE TRANSACTION CONTEMPLATED THEREBY.

Upon the Mortgagee's acceptance hereof in the manner hereinafter set forth, this Mortgage and Security Agreement with Assignment of Rents shall be an agreement between Mortgagor and Mortgagee for the uses and purposes hereinabove set forth.

[SIGNATURE PAGE TO FOLLOW]

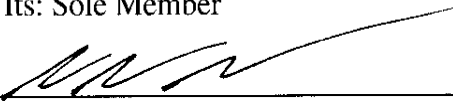
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IN WITNESS WHEREOF, Mortgagor has caused these presents to be signed and sealed the day and year first above written.

ORLAND PARK MEMORY CARE, LLC, a
Delaware limited liability company

By: LaSalle Orland Park Management, LLC, an
Illinois limited liability company
Its: Managing Member

By: The LaSalle Group, Inc., a Texas
corporation
Its: Sole Member

By: 
Name: Mitchell W. Warren
Its: Vice President of Development

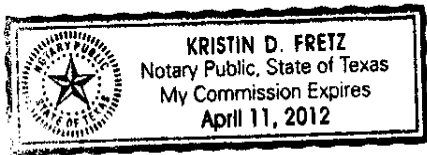
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Texas
STATE OF ~~ILLINOIS~~)
)
COUNTY OF Dallas) SS

I, Kristin D. Fretz, a notary public in and for said County, in said state hereby certify that Mitchell W. Warren, whose name as Vice President of Development of THE LASALLE GROUP, INC., a Texas corporation, the sole manager of LASALLE ORLAND PARK MANAGEMENT, LLC, an Illinois limited liability company as the Managing Member of ORLAND PARK MEMORY CARE, LLC, a Delaware limited liability company, as signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability companies and corporation.

GIVEN under my hand and notarial seal this 10 day of July, 2008.



Kristin D. Fretz
Notary Public

Kristin D. Fretz
Type or Print Name

[SEAL]

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EXHIBIT A

LEGAL DESCRIPTION

THAT PART OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 14, TOWNSHIP 36 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF THE OF THE NORTHEAST QUARTER OF SAID SECTION 14 WITH THE WEST LINE OF THE EAST 183 FEET OF THE EAST HALF OF THE

NORTHEAST QUARTER OF SAID SECTION 14; THENCE SOUTH ALONG THE WEST LINE OF THE EAST 183 FEET OF THE EAST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 14, A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING OF THE PARCEL INTENDED TO BE DESCRIBED, THENCE CONTINUING SOUTH, ALONG THE WEST LINE OF THE EAST 183 FEET OF THE EAST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 14, A DISTANCE OF 400.00 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 450 FEET OF THE EAST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 17, THENCE WEST, ALONG THE SOUTH LINE OF THE NORTH 450 FEET OF THE EAST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 17, A DISTANCE OF 315.00 FEET; THENCE NORTH, PARALLEL WITH THE WEST LINE OF THE EAST 183 FEET OF THE EAST HALF OF THE NORTHEAST QUARTER OF SAID SECTION 14, A DISTANCE OF 400.00 FEET TO A POINT 50.00 FEET SOUTH OF, AS MEASURED PERPENDICULAR TO THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 14; THENCE EAST PARALLEL WITH AND 50.00 FEET SOUTH OF, AS MEASURED PERPENDICULAR TO THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 14, A DISTANCE OF 315.00 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PIN: 27-14-201-015-0000 (Covers this and other property)

Commonly known as: Vacant Land at 151st Street, Orland Park, Illinois

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SCHEDULE II

PERMITTED EXCEPTIONS

All those Schedule B Exceptions as set forth in Chicago Title Insurance Company's pro forma title policy number 8426341.

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