

Illinois Anti-Predatory
Lending Database
Program

Certificate of Exemption



Doc#: 1415019154 Fee: \$110.00
RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 05/30/2014 02:41 PM Pg: 1 of 37

Report Mortgage Fraud
800-532-8785

The property identified as: PIN: 28-33-403-005-0000

Address:

Street: 18300 S. LAVERGNE AVENUE

Street line 2:

City: COUNTRY CLUB HILLS

State: IL

ZIP Code: 60478

Lender: FIRST MERIT BANK, N.A.

Borrower: MCALLISTER PROPERTY, LLC

Loan / Mortgage Amount: \$23,947,000.00

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

FIDELITY NATIONAL TITLE

53014569E
275

Certificate number: 52DE68B6-3582-462D-B6B9-2716C3DE7255

Execution date: 03/31/2014

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CONSTRUCTION MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING

Borrower: MCALLISTER PROPERTY, LLC, an Illinois limited liability company

Lender: FIRSTMERIT BANK, N.A., a national banking association

Borrower's organizational identification number, if any, assigned by the state of its incorporation or organization is: 02325381.

NOTE TO RECORDER: PLEASE NOTE THAT THIS IS TO BE RECORDED AS A MORTGAGE AND ALSO AS A FIXTURE FILING UNDER THE UNIFORM COMMERCIAL CODE.

THE MAXIMUM PRINCIPAL AMOUNT SECURED BY THIS MORTGAGE IS \$23,947,000.00.

This instrument prepared by:
Jesse G. Shallcross, Esq.
K&L Gates LLP
70 West Madison St., Suite 3100
Chicago, Illinois 60602
(312) 807-4355

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CONSTRUCTION MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING

THIS CONSTRUCTION MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING (as the same may be amended or supplemented at any time, the "Mortgage") is made as of March 31, 2014, by and between:

MCALLISTER PROPERTY, LLC, an Illinois limited liability company, having an address at 18300 South Livergne Avenue, Country Club Hills, IL 60478, as mortgagor ("Borrower");

AND

FIRSTMERIT BANK N.A., a national banking association, having an address at 222 North LaSalle Street, 12th Floor, Chicago, Illinois 60601, as mortgagee (together with its successors, and any subsequent holder or holders of the Note, "Lender").

RECITALS

A. Certain capitalized terms used in these Recitals and elsewhere herein are defined in Section 20.7 of this Mortgage. Other terms are defined throughout the text of this Mortgage or, if not defined herein, are used herein as defined in the Construction Loan Agreement dated as of even date herewith between Borrower and Lender (the "Loan Agreement").

B. Pursuant to the Loan Agreement, Lender has extended to Borrower a construction loan up to the maximum aggregate principal amount of \$23,947,000 (the "Loan") to pay down an existing mortgage and finance the construction of a new 200-unit skilled nursing care facility (the "Project"). Borrower also intends to demolish the existing 111-bed skilled nursing care facility after completion of the Project.

C. Concurrently herewith, Lender has extended a line of credit loan up to the maximum aggregate principal amount of \$1,200,000 (the "Revolving Loan") to McAllister Nursing & Rehab, LLC, an Illinois limited liability company, the operator of the existing facility and Project and the tenant on the Land (the "Operator"), pursuant to a Revolving Loan Agreement dated as of even date herewith by and between Operator and Lender. The Loan and the Revolving Loan are each cross-collateralized and cross defaulted with one another under the terms of the Loan Agreement and Revolving Loan Agreement.

D. As an express condition to the Loan and the Revolving Loan, Borrower must grant this Mortgage to Lender as security for payment of the Debt and performance of the Obligations, and Borrower is willing to do so.

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GRANTS AND AGREEMENTS

NOW, THEREFORE, in consideration of Lender's agreement to make the Loan secured hereby upon and subject to the terms of the Loan Documents, and of the payment of ten dollars (\$10.00) and other good and valuable consideration given by Lender to Borrower, the receipt and sufficiency of which are hereby acknowledged by Borrower, Borrower hereby acts, and covenants, promises and agrees with Lender, as follows:

1. GRANTING CLAUSES

1.1. Grant of the Real Estate Security. Borrower, to secure the payment of the Debt and payment and performance of the Obligations, hereby grants, bargains, sells, mortgages, warrants, assigns and transfers to Lender, all of the following described property:

(a) All of the Land, together with all right, title and interest in and to the Improvements; the easements, rights of way, privileges, hereditaments, gores, streets, alleys, passages, ways, waters, watercourses, rights and appurtenances belonging or appertaining to the Land; the streets and ways adjacent to the Land; all reversions and remainders pertaining to the Land; and all air rights, development rights, water rights and mineral rights appurtenant or belonging to the Land or relating to the Land; and

(b) All the Fixtures; and

(c) All of the Leases and the Rents and all the other benefits of any of the Land, Improvements and Fixtures; and

(d) All proceeds of the conversion, voluntarily or involuntarily, of any of the property described in this Section 1.1 into cash or liquidated claims, including proceeds of insurance and Condemnation Awards.

TO HAVE AND TO HOLD the Mortgaged Property unto Lender, its successors and assigns, forever.

UNDER AND SUBJECT to Permitted Exceptions.

For the purpose of securing in such order of priority as Lender shall elect, the payment of the Debt and the performance of the Obligations, in accordance with their respective terms.

1.2. Grant of Security Interest and Assignment. Borrower, to secure payment of the Debt and payment and performance of the Obligations, hereby transfers and assigns to Lender, and grants to Lender a security interest under the Code in and to, the following described property, whether now owned or hereafter acquired by Borrower:

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(a) All of the Fixtures and all other property described in Section 1.1 hereof which, under any applicable law, may be deemed to be personal property or fixtures, the creation and perfection of a lien on which is governed by the Code;

(b) All of the Intangibles;

(c) All of the Collateral;

(d) All right, title and interest of Borrower in and to all amounts now or hereafter held in escrow and reserve accounts or on deposit with Lender under any provisions of the Loan Documents; and

(e) All the Proceeds of any of the property described in this Section 1.2.

This Mortgage creates a security interest in the Personal Property Security, and shall constitute a Security Agreement under the Code.

1.3. Assignment of Leases and Rents. Borrower hereby absolutely and unconditionally assigns, transfers, pledges, grants a lien upon and encumbers in favor of Lender all of the Leases and Rents, as security for the prompt and timely payment of the Debt and performance of the Obligations. This assignment is in addition to any absolute assignment made pursuant to any separate lease assignment. Lender shall apply any amounts received pursuant to this assignment to the payment of the Debt, the performance of the Obligations, and/or to the operation and Maintenance of the Mortgaged Property, in such order as Lender may elect, without regard to the adequacy of the security or the solvency of Borrower. Notwithstanding such assignment, Lender hereby grants to Borrower a revocable license to collect and retain the Rents for Borrower's own account, until an Event of Default shall occur; but upon occurrence of any Event of Default, the right herein granted to Borrower to collect the Rents shall at Lender's option, terminate. Borrower shall apply any Rents collected in accordance with the terms of the Loan Agreement. This assignment of Rents to Lender is intended to be an absolute assignment from Borrower to Lender and not merely the passing of a security interest. The Rents are hereby assigned absolutely by Borrower to Lender subject only to Borrower's license to collect such amounts prior to the occurrence of any Event of Default.

Borrower hereby represents and warrants to Lender: (a) That Borrower has full right and power to assign the Leases and Rents to Lender, and has not, other than with respect to the Subordinated Loans, executed any prior and now existing assignment of any of its rights under any Lease or to any portion of the Rents to any person other than Lender; (B) That Borrower has not done any act or thing which might prevent Lender from enjoying the benefits of the Leases and Rents assigned hereby; (c) That each of the Leases is valid and enforceable; (D) That neither Borrower nor, to the best knowledge of Borrower, the tenants are in default under any of the terms of any of the Leases; and (E) That no Rents have been collected or accepted by Borrower more than one month in advance of the time when the same become due under the terms of the Leases, except Rents collected at the execution of a Lease, which are to be applied to the Rents at the beginning of the term of the Lease, or as security for the performance of the tenant's obligations under the Lease.

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Borrower hereby covenants, promises and agrees that Borrower will: (i) Observe, fulfill and perform each and every condition, covenant and provision of the Leases to be fulfilled or performed by Borrower; (ii) Enforce at the sole cost and expense of Borrower the performance or observance of each and every material covenant and condition of each of the Leases; (iii) At the sole cost and expense of Borrower, appear in and defend any action growing out of or in any manner connected with any of the Leases, Rents or the obligations or liabilities of Borrower or any party thereunder; (iv) From time to time, upon request by Lender, execute and deliver to Lender, acknowledge when appropriate and record or file in the public records when appropriate, any and all writings, including without limitation further assignments of any Lease or Leases, financing statements and other writings that Lender may deem necessary or desirable to carry out the purpose and intent of this assignment, or to enable Lender to enforce any right or rights hereunder; and (v) From time to time, upon request by Lender, furnish to Lender a true copy of any Lease.

Borrower will not, without the prior written consent of Lender, outside of the ordinary course of business for a realty company owning a skilled nursing facility: (A) Modify or alter any of the terms or provisions of any of the Leases; (B) Terminate the term of, or accept a surrender of, any of the Leases; (C) Anticipate Rents for more than one calendar month prior to the accrual thereof under the terms of the Leases; (D) Waive, or release any party under any of the Leases; (E) Pledge, transfer, mortgage or otherwise encumber or assign the Leases or the Rents (other than in connection with the Subordinated Loans); (F) Permit any Lease to be subordinated to any deed of trust or mortgage junior in lien to the Mortgage encumbering the leased premises (other than in connection with the Subordinated Loans); (G) In any other manner impair the value of the Leases or Rents or the security of the assignment thereof as provided herein; or (H) Execute any Lease except for actual occupancy by the lessee thereunder.

1.4. **Fixture Filing.** From the date of its recording, this Mortgage shall be effective as a financing statement filed as a fixture filing with respect to all the fixtures. For this purpose, the following information is set forth:

- (a) Name and Address of Debtor:

MCALLISTER PROPERTY, LLC, an Illinois limited liability company
Address: as set forth above.

- (b) Name and Address of Secured Party:

FIRSTMERIT BANK, N.A., a national banking association
Address: as set forth above.

- (c) Borrower's organizational identification number is 02325381.

(d) This document covers goods which are or are to become, or may be or become, fixtures. This document is to be filed in the real estate records. A description of the real estate is attached hereto as Exhibit A. Borrower is the record owner of the real estate.

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2. MAXIMUM PRINCIPAL AMOUNT / OBLIGATIONS SECURED.

This Mortgage is given for the purpose of securing the payment of all of the Debt and performance of all the Obligations (of every kind and character now or hereafter existing, whether matured or unmatured, contingent or liquidated); provided, however, that the aggregate amount of the principal indebtedness under the Note, the payment of which is secured by this Mortgage, shall not exceed TWENTY-THREE MILLION NINE HUNDRED FORTY-SEVEN THOUSAND AND 00/100 U.S. DOLLARS (\$23,947,000.00) (the "Maximum Amount"). Notwithstanding anything to the contrary contained herein: (i) the Maximum Amount shall be deemed to be the first indebtedness to be advanced and the last indebtedness to be repaid; (ii) the security afforded by this Mortgage for the payment of the Debt and performance of the Obligations shall not be reduced by any payments or other sums applied to the reduction of the indebtedness so long as the total amount of outstanding principal indebtedness exceeds the Maximum Amount and thereafter shall be reduced only to the extent that any such payments and other sums are actually applied by Lender, in accordance with the Loan Documents, to reduce the outstanding principal of the Note to an amount less than the Maximum Amount; (iii) if at any time after the reduction of the outstanding principal balance of the Note to an amount less than the Maximum Amount, principal Debt should subsequently be incurred such that it increases the total outstanding principal indebtedness to an amount equal to or exceeding the Maximum Amount, the security afforded by this Mortgage shall thereupon be increased to the Maximum Amount; and (iv) the limitation contained in this Section 2 on the Maximum Amount shall only pertain to principal of the Note and shall not be construed as limiting the amount of interest, fees, expenses, indemnified amounts and other Debt secured hereby that are not principal of the Note, it being the intention of the parties to this Mortgage that this Mortgage shall secure any principal of the Debt remaining unpaid at the time of foreclosure up to the Maximum Amount, plus interest thereon, all costs of collection and all other amounts (except principal indebtedness under the Note in excess of the Maximum Amount) included in the Debt.

3. COVENANTS AS TO PAYMENT, PERFORMANCE AND TITLE; WARRANTIES; REPRESENTATIONS

3.1. Payment of Note. Borrower shall pay to Lender the entire Debt, practically as and when the same shall become due, without offset, counterclaim or defense. Borrower will fully and faithfully observe and perform all of the provisions of the Loan Documents. The Loan Documents are incorporated herein by this reference.

3.2. Defeasance. If all the Debt shall be paid and the Obligations shall be performed, all at the times and in the manner provided in the Loan Documents, then Lender shall deliver to Borrower, at Borrower's expense, a release of this Mortgage in recordable form.

3.3. Warranty of Title. Borrower warrants that: (a) Borrower has good and marketable title to an indefeasible estate in fee simple in and to the Land and the Improvements, subject only to the Permitted Exceptions; (b) Borrower has good title to all of the rest of the Mortgaged Property, subject only to the Permitted Exceptions; and (c) this Mortgage is a Lien on and

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security interest in the Mortgaged Property, subject to no encumbrances except the Permitted Exceptions. Borrower shall not, without the prior written consent of Lender, install in or locate on the Mortgaged Property any equipment or fixtures which are subject to any Lien other than the Permitted Exceptions, except those liens arising during construction which are satisfied in due course or challenged in accordance with Section 8.3 of the Loan Agreement. None of the Rents is subject to any previous assignment, nor will any of the Rents be assigned hereafter, except to Lender as security for any of the Debt and/or Obligations and other than in connection with the Subordinated Loans.

3.4. Agreement to Defend. Borrower shall preserve Borrower's title and interest in the Mortgaged Property as described in Section 3.3, and will forever warrant and defend the validity and priority of the lien, security interest and assignment created hereby against the claims of all persons whomsoever, subject only to the Permitted Exceptions.

3.5. Additions to the Mortgaged Property. All right, title and interest of Borrower in and to all extensions, improvements, betterments, renewals, substitutes and replacements of, and all additions and appurtenances to, the Mortgaged Property hereafter acquired by, or released to, Borrower, or constructed, assembled or placed by Borrower on the Land, immediately upon such acquisition, release, construction, assembling or placement, and in each such case, without any further act by Borrower, shall become subject to the lien and security interest of this Mortgage as though they were now owned by Borrower and specifically described in the granting clauses hereof.

3.6. Easements Outside the Land. In the event any easements or rights in common or otherwise (other than revocable rights) in any lands not covered by the lien of this Mortgage are granted as an appurtenance to the use and operation of any of the Mortgaged Property, then this Mortgage shall attach to and be a lien on such easements and rights in such other lands, and the lien hereof spread to cover such easements and rights with the same force and effect as though specifically described in the granting clauses hereof.

3.7. Further Assurances. Promptly upon request of Lender, Borrower shall do all acts and things, including but not limited to the execution and delivery of any further deeds, conveyances, mortgages, assignments, financing statements, continuation statements, and further assurances, deemed reasonably necessary or desirable by Lender to establish, confirm, maintain and continue the Lien and security interest created and intended to be conferred hereby and the priority thereof. Borrower hereby appoints Lender as attorney-in-fact for Borrower to execute, deliver and file any and all such documents, writings, and other instruments as Lender may require, in order to perfect and maintain the priority of such Lien and security interest.

3.8. Representations and Warranties Regarding Mortgaged Property. Borrower hereby represents and warrants to Lender as follows:

(a) The Mortgaged Property is owned by Borrower, free and clear of all liens and encumbrances except Permitted Exceptions.

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(b) The Mortgaged Property (and the present and intended use of the Mortgaged Property) complies with all applicable laws, ordinances, and regulations of all Governmental Authorities having jurisdiction over the Mortgaged Property, including without limitation all zoning ordinances and laws, and the Americans With Disabilities Act, 42 U.S.C. Section 12101, et seq., and all laws, ordinances and regulations affecting protected wetlands.

(c) The Mortgaged Property constitutes one or more zoning lots separate and apart from all adjoining property, and is assessed separately from all other lands for tax purposes.

(d) The Mortgaged Property is or will be serviced by all necessary utilities, including electricity, water, sewer, gas and telephone. All utility lines servicing the Mortgaged Property are or will be either located in a public right-of-way adjacent to such Mortgaged Property, or provided through public utility company rights-of-way (or those of a governmental or quasi-governmental authority or agency) or over private easements which are not subject to termination by foreclosure of any mortgages or deeds of trust of record encumbering the property subject to such easements.

(e) Borrower has not entered into any agreements with any other person or entity for the management, leasing or operation of any of the Mortgaged Property, except for those agreements a true and complete copy of which have been furnished to Lender. All fees under any such agreement are subordinated to the Loan, and each such agreement is terminable without cause at any time on not more than thirty (30) days notice following any foreclosure or sale of the portion of the Mortgaged Property which is the subject of the agreement.

(f) If access between the Mortgaged Property and a public street is provided by an easement, Borrower's easement rights therein are encumbered by the Mortgage, and such easement is not subject to being cut off by a foreclosure of any mortgages or deeds of trust encumbering the property which is subject to it.

(g) There are no: (1) liens or, to the best of Borrower's knowledge, notices (including, without limitation, federal or state tax liens, judgment liens, real estate broker liens, appraiser liens, and title examination liens) affecting the Mortgaged Property, except real estate taxes and assessments not yet due and payable and the liens in connection with the Subordinated Loans; (2) unpaid city, county, state, federal or other governmental or association taxes or assessments of any kind on the Mortgaged Property, except real estate taxes and assessments not yet due and payable; (3) other than as set forth in the Loan Agreement, which amounts shall be paid in full upon the date hereof, amounts owed to any real estate broker or sales person, real estate appraiser or title examiner with respect to the Mortgaged Property, nor any agreement, written or oral, which may be the basis for a broker's, appraiser's or title examiner's lien; or (4) improvements to the Mortgaged Property (or property adjacent thereto) which may be the basis for a special assessment.

(h) All labor and material used in the construction of improvements on the Mortgaged Property to date have been fully paid for and there are now no unpaid labor, mechanics or material claims against any of the Mortgaged Property.

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(i) There are no violations of any covenants, conditions, restrictions or plat building lines affecting the Mortgaged Property.

(j) No one other than Borrower or Operator (1) is in possession of any of the Mortgaged Property, (2) has any possessory interest in any of the Mortgaged Property, (3) has any interest, right or estate in the Mortgaged Property (except the Subordinate Lenders in connection with the Subordinated Loans), or (4) has any right or option to purchase, sell or encumber any of the Mortgaged Property, including any right of first refusal with respect to the purchase of all or any part of the Mortgaged Property.

4. COVENANTS AS TO IMPOSITIONS

4.1. Payment of Impositions. Prior to the date on which any interest or penalties shall commence to accrue thereon, Borrower will pay and discharge all Impositions, except as challenged in accordance with Section 8.3 of the Loan Agreement.

4.2. Escrow Deposits. If an Event of Default shall have occurred and Lender shall have so requested by written notice to Borrower, Borrower will deposit with Lender within ten (10) days after such notice is given, a sum of money equal to the amount needed to pay the annual real estate taxes and assessments and premiums for insurance required by Section 5.1 hereof by the next Escrow Date for such taxes, assessments, and premiums, less the amount to be deposited under the next sentence hereof between the date such escrow deposits commence and such Escrow Date (such amount to be calculated separately for taxes and for insurance premiums, if the Escrow Date for them is different). If Lender requires Borrower to make the foregoing escrow deposits, Borrower shall also deposit with Lender contemporaneously with each monthly payment coming due thereafter under the Note, a sum equal to one-twelfth (1/12) of Lender's estimate from time to time of the amount needed to pay the annual real estate taxes and assessments and premiums for insurance required by Section 5.1 hereof by the Escrow Date for such taxes, assessments and premiums. Lender shall deposit all such amounts in a non-interest bearing account separate and apart from Lender's general assets, for application to the real estate taxes, assessments and insurance premiums as the same come due. If any Event of Default shall occur, Lender shall have the right, at its election, to apply any amounts in such account against all or any part of the Debt secured by this Mortgage. If the real estate taxes and assessments and insurance premiums for which deposits are required to be escrowed pursuant to this Section 4.2 shall at any time exceed the estimate therefor and the amounts paid into escrow under this Section 4.2, Borrower shall on demand make good the deficiency. Borrower will furnish to Lender tax and insurance bills in sufficient time to enable Lender to pay such taxes and premiums, before interest and penalties accrue thereon. All determinations of the amount so payable and of the fractional part thereof to be deposited with Lender from time to time, so that the aggregate of such deposits shall be sufficient to pay the real estate taxes, assessments and insurance premiums, shall be made by Lender in its reasonable discretion. Nothing herein contained shall be deemed to affect any right or remedy of Lender under any other provisions of this Mortgage or under any statute or rule of law to pay any such amount and to add the amount so paid, together with interest at the Default Rate, to the Debt.

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4.3. Evidence of Payment. Within thirty (30) days after the date when any Impositions which are or could become a Lien on any part of the Mortgaged Property would become delinquent, Borrower will furnish to Lender official receipts of the appropriate Governmental Authorities to which the Impositions are payable, or other evidence reasonably satisfactory to Lender evidencing the payment thereof, unless Lender has paid such Impositions from the sums deposited under Section 4.2 hereof. The certificate, advice or bill of the appropriate official designated by law to receive payment of any Imposition indicating non-payment of such Imposition shall be conclusive evidence (as between Lender and Borrower) that such Imposition is due and unpaid, and Lender may rely thereon.

5. INSURANCE

5.1. Insurance Required. Borrower will obtain, keep in force and maintain the following insurance coverages at all times until this Mortgage is satisfied of record:

(a) Property Insurance. To the extent any Improvements are now or hereafter located on the Land, a standard property insurance policy on the "Special" or "all-risk" form, covering the Mortgaged Property, and providing coverage against such other risks as Lender may from time to time require, in the amount of the full replacement cost (insurable value) thereof, without reduction for depreciation, but in no event less than the maximum principal amount of the Note. Property insurance policies shall include either an agreed amount endorsement or a waiver of any co-insurance provisions, sufficient to insure that no co-insurance requirements apply.

(b) Builder's Risk. During the period of any construction, renovation, demolition or alteration work on the Mortgaged Property, a completed value, "All Risk" Builders Risk form or "Course of Construction" insurance policy in non-reporting form, in an amount approved by Lender, including without limitation such endorsements as Lender may require, insuring Lender against damage to the Mortgaged Property. Such policy shall also provide coverage for collapse and theft, and shall contain a "permission to occupy on completion" endorsement or equivalent.

(c) Flood Insurance. If the Improvements or any part thereof are situated in an area now or subsequently designated by FEMA as a special flood hazard area, a policy of flood insurance in an amount equal to the lesser of: (i) the minimum amount required, under the terms of coverage, to compensate for any damage or loss on a replacement basis (or the unpaid balance of the Debt if replacement cost coverage is not available for the type of building insured); or (ii) the maximum insurance available under the appropriate National Flood Insurance program. The maximum deductible shall be \$3,000 per building or a higher minimum amount as required by FEMA or other applicable law.

(d) Liability Insurance. A Commercial General Liability Policy ("CGL Policy"), with coverage on an "occurrence" basis, in such form, amounts and with such companies as Lender may from time to time require, pursuant to the terms of this Mortgage, including as follows:

(1) During construction of the Project, Such CGL Policy shall have an annual general aggregate limit of not less than \$2,000,000, and a "per occurrence" limit of not less than \$1,000,000, and, if it covers more than one location, shall contain a "per location" or "per

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project" limit of not less than \$2,000,000. Such CGL Policy shall also include coverage for the following: (A) damage to rented premises with a limit of not less than \$100,000; (B) medical expense with a limit of not less than \$5,000; (C) personal injury with a limit of not less than \$1,000,000; and (D) products and completed operations with a limit of not less than \$200,000. Deductibles or self-insured retentions (as the case may be) under the liability policies shall not exceed \$250,000, without prior written consent of Lender.

(2) After construction of the Project, such CGL Policy shall have an annual general aggregate limit of not less than \$750,000, and a "per occurrence" limit of not less than \$250,000, and, if it covers more than one location, shall contain a "per location" or "per project" limit of not less than \$750,000. Deductibles or self-insured retentions (as the case may be) under the liability policies shall not exceed \$50,000, without prior written consent of Lender.

Additional coverage beyond those provided by the standard ISO CGL Policy form (such as liquor liability, automobile, aircraft/watercraft, pollution legal and remediation, garagekeepers' legal liability, and others) shall be provided if Lender so requires. All policies required by this Section 5.1(d) shall name Lender as an additional insured under an endorsement satisfactory to Lender.

(e) Boiler and Machinery Coverage. Boiler and machinery insurance coverage, if steam boilers or other pressure-fired vessels are in operation at the Mortgaged Property, or as otherwise required by Lender. Minimum liability coverage per accident must equal the replacement cost (insurable value) of the Improvements housing such boiler or pressure-fired machinery. If one or more large HVAC units is in operation at the Mortgaged Property, "Systems Breakdowns" coverage shall be required, as determined by Lender. Minimum liability coverage per accident must equal the value of such unit(s).

(f) Business Income Insurance. Business income coverage with respect to the Mortgaged Property, covering loss of rents and "extra expense", in an amount at least equal to the estimated aggregate Rents (such estimate to be subject to Lender's approval) for a period of at least twelve months, and such coverage amount shall be adjusted annually to reflect the anticipated Rents payable in the following twelve months.

(g) Workmen's Compensation. When required by any applicable law, ordinance or other regulation, Worker's Compensation and Employer's Liability Insurance covering all persons subject to the workers' compensation laws of the State.

(h) Other Insurance. Such other insurance with respect to the Mortgaged Property as may from time to time be required by Lender against other insurable hazards or casualties (including, without limitation, sinkhole, mine subsidence, war risk, terrorism risk, earthquake and environmental insurance, including, without limitation, insurance against contamination of the Mortgaged Property by third parties) which at the time are commonly insured against in the case of property similarly situated, due regard being given to the height and type of buildings, their construction, location, use and occupancy.

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5.2. Requirements Re: Insuring Companies, Policies, Mortgagee Clause, Coverage Increases, Deductibles, Etc. All policies of insurance required herein: (a) shall be issued by and maintained with insurance companies licensed to do business in the State, and having a rating of A-, VII or better by the A.M. Best Company; (b) contain the complete address (or legal description) of the Mortgaged Property; (c) be for terms of at least one year with premium prepaid; (d) be subject to the approval of Lender (not to be unreasonably withheld) as to insurance companies, amounts, content, forms of policies, method by which premiums are paid, expiration dates and all other respects; and (e) include a provision naming Lender, its successors and assigns as their interests may appear: (1) as an additional insured under all liability insurance policies, (2) as the first mortgagee on all property insurance policies under a standard non-contributory mortgagee clause (or lender's loss payable clause), and (3) as the lender's loss payee on all loss of rents or loss of business income insurance policies. Each insurance policy: (i) shall provide for at least thirty (30) days' prior written notice to Lender as a loss payee prior to any policy reduction or cancellation for any reason other than non-payment of a premium and at least ten (10) days' prior written notice to Lender prior to any cancellation due to non-payment of premium; (ii) shall contain an endorsement or agreement by the insurer that any loss shall be payable to Lender in accordance with the terms of such policy notwithstanding any act, omission or negligence of Borrower which might otherwise result in forfeiture of such insurance; and (iii) shall waive all rights of subrogation against Lender. Such policies shall provide, among other things, that all policy proceeds for an individual claim or aggregate of claims arising under the same event giving rise to such claims which are (x) less than \$250,000 are payable to Lender and Borrower jointly and (y) equal or greater than \$250,000 are payable directly to Lender (and not to Lender and Borrower jointly). All policies must be satisfactory to Lender in all respects, and shall have such endorsements as may be required by Lender from time to time. Lender shall have the right to periodically review the amount of the CGL Policy coverage and the coverage amounts of all other insurance policies required hereunder, and to require an increase in such coverage amounts if Lender deems such an increase to be reasonably prudent under then existing circumstances. Deductibles and self-insured retentions under insurance policies required hereby shall not exceed \$250,000 without written consent of Lender.

5.3. Lender Not Responsible for Insurance. Lender, by approving, disapproving, accepting, preventing, obtaining or failing to obtain any insurance, shall not incur any liability for the form or legal sufficiency of insurance contracts, solvency of insurance companies, or payment of lawsuits and expenses, and Borrower hereby expressly assumes full responsibility therefor and for any liability, if any, thereunder.

5.4. Proceeds on Foreclosure. In the event of foreclosure of this Mortgage, or other transfer of title to the Mortgaged Property in extinguishment of the Debt, all right, title and interest of Borrower in and to all proceeds of any insurance policies required hereby then in force shall pass to the purchaser or grantee.

5.5. Proof of Loss; Adjustment of Claims. If any Casualty shall occur, Borrower shall promptly make proof of loss to the insurers; but Lender may itself make proof of loss if Lender gives written notice to Borrower electing to make such proof of loss. Borrower shall not adjust or compromise any claim under any insurance required hereby without the written consent of Lender.

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5.6. Delivery of Policies; Renewals. Borrower, as of the date hereof, shall deliver to Lender evidence that the insurance policies required hereby have been prepaid as required above and either duplicate originals of such policies, if required by Lender, or certified copies of such insurance policies and original certificates of insurance signed by an authorized agent of the applicable insurance companies evidencing such insurance, and satisfactory to Lender. Borrower shall renew all such insurance and deliver to Lender certificates and policies evidencing such renewals at least thirty (30) days before any such insurance shall expire.

5.7. Blanket Policies. Any insurance policies required hereby may be in the form of a blanket policy provided that the blanket policy must properly identify and fully protect the Mortgaged Property as if a separate policy were issued for full replacement cost (insurable value) thereof, without reduction for depreciation, at the time of loss and otherwise meet all of Lender's insurance requirements set forth in this Section 5. Borrower hereby acknowledges and agrees that failure to pay any portion of the premium therefor which is not allocable to the Mortgaged Property or by any other action not relating to the Mortgaged Property which would otherwise permit the issuer thereof to cancel the coverage thereof, would require the Mortgaged Property to be insured by a separate, single-property policy.

5.8. Maintenance of Other Insurance. Borrower shall not obtain insurance for the Mortgaged Property in addition to that required by Lender and contributing, in the event of loss, with any insurance required hereby, without the prior written consent of Lender, which consent will not be unreasonably withheld provided that: (a) Lender is a named insured or a first mortgagee-loss payee on such insurance, as applicable, (b) Lender receives complete copies of all policies evidencing such insurance, and (c) such insurance complies with all of the requirements set forth herein.

5.9. Lender's Right to Insure. If Borrower fails to at all required times maintain the insurance coverages required hereby, or fails to deliver to Lender the policies and evidences of insurance and renewals thereof required hereby, or if Lender receives notice that any insurance required hereby will be cancelled, Lender may purchase insurance at Borrower's expense to protect Lender's interests in the Mortgaged Property. This insurance may, but need not, protect Borrower's interests. The coverage that Lender purchases may not pay any claim that Borrower makes or any claim that is made against Borrower in connection with the Mortgaged Property. Borrower may later cancel any insurance purchased by Lender, but only after providing evidence that Borrower has obtained insurance as required by this Section 5. If Lender purchases insurance for the Mortgaged Property, Borrower will be responsible for the costs of that insurance, including the insurance premium, interest and any other charges Lender may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the Debt. The costs of the insurance may be more than the cost of insurance Borrower may be able to obtain on its own.

6. MAINTENANCE AND REMOVAL; PERMITTED USES

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6.1. Permitted Removal; Waste. Except as required for construction or renovation of the Improvements pursuant to the Plans and Specifications, Borrower will not cause or permit any Improvement to be removed or demolished. No Fixture shall be removed, severed or destroyed, without the prior written consent of Lender, unless simultaneously with, or prior to, any such permitted removal such Fixture has been replaced with another Fixture of at least equal value. By such removal and replacement Borrower shall be deemed to have subjected such Fixtures to the Lien of this Mortgage. Borrower will not abandon, or cause or permit any waste to, the Mortgaged Property.

6.2. Maintenance. Throughout the term of this Mortgage, Borrower will keep the Mortgaged Property in good order and condition, and do all necessary Maintenance. All Maintenance shall be equal in quality and class to the original work. The standard for Maintenance required shall be that which is appropriate for facilities and buildings of similar construction and class, provided that Borrower shall in any event do all Maintenance necessary to avoid any structural damage or injury to the Improvements, to comply with all Legal Requirements and to keep the Improvements in a proper condition for their Permitted Uses (as defined below). Borrower will not permit any condition to exist on the Mortgaged Property which would wholly or partially invalidate the insurance thereon.

6.3. Inspection of Lender. Without notice to Borrower, but subject to any applicable law, Lender and Lender's representatives may enter the Mortgaged Property at reasonable times to inspect the same; provided, however, Lender shall have no obligation to make any such inspections nor any responsibility to Borrower or any other Person, for any deficiency in construction or other problems which may be revealed by any such inspection, whether or not discovered by Lender. If any Event of Default occurs, Lender may, at its option, enter the Mortgaged Property to protect, restore or do Maintenance on any part thereof. Lender shall not be liable for any such entry upon the Mortgaged Property.

6.4. Permitted Uses. Borrower will use the Mortgaged Property solely for the Permitted Uses.

7. COMPLIANCE WITH LAWS, ORDINANCES

Borrower shall promptly comply with all present and future Legal Requirements, ordinary or extraordinary, foreseen or unforeseen, and all provisions of all instruments of record affecting the Mortgaged Property. Borrower will not make any application to any federal, state or local Governmental Authority for a change in zoning affecting the Mortgaged Property, nor will Borrower consent to any such change, without the prior written consent of Lender, not to be unreasonably withheld.

8. CHANGES AND ALTERATIONS BY BORROWER

Subject to Section 8.3 of the Loan Agreement, Borrower shall have the right from time to time to make changes and alterations in or to the Improvements, at Borrower's expense, subject, however, to the condition that no structural change or alteration, or change which would impair the value of the Mortgaged Property, and no other change or alteration involving an estimated

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cost of more than \$50,000, or \$150,000 in the aggregate, shall be undertaken without the prior written consent of Lender, not to be unreasonably withheld.

9. MECHANICS' AND OTHER LIENS; FIXTURES

Borrower will pay, from time to time when the same shall become due, all claims and demands of contractors, subcontractors, architects, mechanics, materialmen, laborers, and others which, if unpaid, might result in, or permit the creation of, a Lien on any of the Mortgaged Property. Borrower will not create or permit to accrue or suffer to exist any Lien, except Permitted Exceptions, upon any of the Mortgaged Property, including the Leases and Rents, and shall promptly cause any other Lien whatsoever to be paid and discharged. Borrower shall pay all Liens included in Permitted Exceptions in accordance with their terms, when and as the same become due. All equipment, furnishings, and fixtures to be affixed to or attached to the Mortgaged Property shall be owned by Borrower in Borrower's own name.

10. DAMAGE OR DESTRUCTION

10.1. Notice of Casualty; Covenant to Rebuild. If any Casualty shall occur, Borrower shall promptly give written notice thereof to Lender describing the damage and the Casualty. Regardless of the damage resulting from any Casualty and whether or not the Net Insurance Proceeds shall be sufficient or made available for the purpose, at Borrower's reasonable discretion and upon written notice to Lender, Borrower shall either (i) promptly commence the Restoration, and prosecute it with diligence and continuity to completion or (ii) elect to exercise its right under the Loan Agreement and prepay the Debt pursuant to the prepayment provisions contained in the Loan Agreement. If Borrower elects to prepay the Debt pursuant to the Loan Agreement, Lender shall apply the Net Insurance Proceeds in payment or reduction of the Debt and/or the performance of the Obligations and other amounts due pursuant to the Loan Agreement in connection with the prepayment and, if the same are insufficient to pay such amount in full, then Borrower shall promptly pay any such deficiency to the extent still due in connection with such prepayment.

10.2. Application of Proceeds. All insurance proceeds shall be paid to Lender and applied by Lender first to payment of the actual costs, fees and expenses, if any, incurred by Lender in connection with proof of and adjustment of the loss and settlement with the insurance company. The Net Insurance Proceeds shall be applied by Lender, in connection with Borrower's selection made under Section 10.1 above: (a) to the payment of the Debt and/or performance of the Obligations; or (b) to the payment of any of the cost of the Restoration. If (a) estimates received, and/or made, by Lender disclose that the cost of Restoration would be in excess of the amount of the Net Insurance Proceeds made available therefor, or (b) during the period of Restoration the amount of the Net Insurance Proceeds made available for the Restoration shall not be sufficient to complete such Restoration, then in either such event, Borrower shall deposit with Lender such cash or other security as shall be satisfactory to Lender with respect to the deficiency.

10.3. Disbursement of Proceeds. If Net Insurance Proceeds are to be applied to the Restoration, Lender shall hold such Net Insurance Proceeds, together with any amounts and

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security deposited with Lender pursuant to Section 10.1 and 11.2 hereof, and advance the same for costs of the Restoration from time to time as the Restoration progresses. Such funds will be advanced upon written request of Borrower, and upon Borrower's compliance with such requirements as to the disbursement thereof as Lender shall impose.

10.4. Amounts Deposited With Lender. Lender shall have, and Borrower hereby grants to and creates in favor of Lender, a first lien on and security interest in and right of set-off against any sums of money or other security deposited with Lender pursuant to Section 10.1 and 11.2 and the proceeds thereof as security for the payment of the Debt and performance of the Obligations.

11. CONDEMNATION

11.1. Notice of Condemnation; Participation. Borrower shall give Lender immediate notice of any actual or threatened Condemnation. In the event that any of the Mortgaged Property shall be taken in Condemnation proceedings, Lender may participate in such Condemnation proceedings. Borrower shall not adjust, contest, accept, reject or compromise any proposed Condemnation Award without approval of Lender. Lender may collect the Condemnation Award and endorse any drafts therefor. All Condemnation Awards shall be deposited with Lender. Borrower will execute any and all further documents that may be required in order to facilitate collection of any Condemnation Award and the payment of any Condemnation Award to Lender.

11.2. Condemnation. If a Condemnation shall occur, Borrower shall elect to either (i) exercise its right under the Loan Agreement and prepay the Debt pursuant to the prepayment provisions contained in the Loan Agreement or (ii) have the Net Condemnation Award held by Lender and applied and paid over toward the cost of Restoration, substantially in the same manner and subject to the same conditions as those provided in Section 10 hereof with respect to Net Insurance Proceeds and other monies. In the event that Borrower elects to restore the Mortgaged Property, (i) if the costs of Restoration shall exceed the Net Condemnation Award received by Lender and made available for the Restoration, Borrower shall deposit with Lender such cash or other security as shall be satisfactory to Lender with respect to the deficiency and (ii) if the Net Condemnation Award exceeds the costs of Restoration, the excess shall be applied in reduction of the Debt. If Borrower elects to prepay the Debt pursuant to the Loan Agreement, Lender shall apply the Net Condemnation Award in payment or reduction of the Debt and/or the performance of the Obligations and other amounts due pursuant to the Loan Agreement in connection with the prepayment and, if the same are insufficient to pay such amount in full, then Borrower shall promptly pay any such deficiency to the extent still due in connection with such prepayment.

11.3. Expenses of Collection. Lender shall be entitled as a first priority to reimbursement out of any Condemnation Award for all costs and fees of, expenses incurred by, and reimbursements to, Lender with respect to the determination and collection of any Condemnation Award.

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11.4. Voluntary Condemnations. Neither Borrower nor any Person controlled by or under common control with either Borrower, or any other Affiliate of Borrower, will obtain or exercise any power of Condemnation or eminent domain with respect to any of the Mortgaged Property, directly or indirectly, or enter into any agreement with any Person or Governmental Authority with respect to the Condemnation of any of the Mortgaged Property, without the prior written consent of Lender.

12. EVENTS OF DEFAULT AND REMEDIES

12.1. Events of Default Defined. The occurrence of any "Event of Default" as defined in the Loan Agreement shall constitute an Event of Default under this Mortgage.

12.2. Remedies Upon an Event of Default.

(a) Acceleration of Debt. Upon the occurrence of any Event of Default, at Lender's option, the entire unpaid Debt (principal, interest and otherwise), shall become immediately due and payable without notice or demand.

(b) Other Remedies. Upon the occurrence of any Event of Default, Lender may immediately undertake any one or more of the following:

(1) Foreclosure. Institute an action to foreclose this Mortgage, or take such other action as the law may allow, at law or in equity, for the enforcement thereof and realization on the Mortgaged Property, and proceed thereon to final judgment and judicial sale or execution thereon for the entire unpaid balance of the Debt, including interest at the rates and pursuant to the methods of calculation specified in the Note, together with all costs of suit, interest at the Default Rate on any judgment obtained by Lender from and after the date of any judicial sale of the Mortgaged Property until actual payment is made to Lender of the full amount due Lender, and an attorneys' reasonable fee for collection, any usage or custom to the contrary notwithstanding.

(2) Entry. Lender personally, or by its agents or attorneys, may enter into and upon any of the Mortgaged Property and may exclude Borrower and its agents wholly therefrom without liability for trespass, damages or otherwise and Borrower agrees to surrender possession to Lender on demand after the happening of any Event of Default. Upon such an entry, Lender may: (i) use, operate, manage and control the Mortgaged Property and conduct the business thereof, either personally or by its agents or receivers and exercise all rights and powers of Borrower with respect thereto either in the name of Borrower or otherwise as Lender shall deem best; (ii) restore the Mortgaged Property; (iii) complete the construction of any Improvements under construction or renovation and in the course of such completion may make such changes in the contemplated or completed Improvements as Lender may deem desirable and may insure the same; and (iv) do all such Maintenance as Lender may deem advisable. Lender shall be entitled to collect and receive all Rents, and after deducting the expenses of conducting the business thereof and of all necessary Maintenance and amounts necessary to pay for Impositions, premiums for insurance and other proper charges upon any of the Mortgaged Property, as well as just and reasonable compensation for the services of Lender and for all attorneys and agents

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properly engaged and employed by Lender, Lender shall apply the remaining Rents in such order as Lender may elect, to the payment of the Debt and/or performance of the Obligations, and the payment of any other sums required to be paid by Borrower under any of the Loan Documents. Lender shall be liable to account only for Rents actually received by Lender.

(3) Receivership. Lender may have a receiver appointed to enter into possession of the Mortgaged Property, collect the Rents and apply the same as the court may direct. Lender shall be entitled to the appointment of a receiver without the necessity of proving either the inadequacy of the security or the insolvency of Borrower or any other Person who may be liable to pay any of the Debt and/or perform any of the Obligations and Borrower and each such Person shall be deemed to have waived such proof and to have consented to the appointment of such receiver. Should Lender or any receiver collect Rents, the moneys so collected shall not be substituted for payment of the Debt nor can they be used to cure the Event of Default, without the prior written consent of Lender. Borrower hereby expressly consents to the appointment of a receiver for the Mortgaged Property upon the occurrence of any Event of Default, and waives any requirement for the posting of any bond or other security in connection with such appointment and such receiver, and for any hearing in connection with such appointment.

(4) Sale of Personal Property. Lender shall also have such rights and remedies in respect of any of the Personal Property Security and Fixtures as are provided by the Code and such other rights and remedies in respect thereof which Lender may have at law or in equity or under any of the Loan Documents, including the right to take possession of the Personal Property Security and Fixtures wherever located and to sell all or any portion thereof at public or private sale, without prior notice to Borrower, except as otherwise required by law (and if notice is required by law, after ten (10) days' prior written notice), at such place or places and at such time or times and in such manner and upon such terms, whether for cash or on credit, as Lender in its sole discretion may determine. Lender shall apply the proceeds of any such sale first to the payment of the reasonable costs and expenses incurred by Lender in connection with such sale or collection, including reasonable attorney's fees and legal expenses, and second to the payment of the Debt and performance of the Obligations, and then to pay the balance, if any, as required by law. Upon the occurrence of any Event of Default, Borrower, upon demand by Lender, shall promptly assemble any personal property and Fixtures included in the Mortgaged Property and make it available to Lender at a place to be designated by Lender which shall be reasonably convenient to Lender and Borrower. Both Borrower and Lender shall be eligible to purchase any part or all of such property at any such disposition.

(5) Provisions re: Foreclosure Sale. Except to the extent prohibited by applicable law:

(A) If Lender should become the purchaser at any foreclosure sale, it shall be entitled to credit any of the unpaid balance of the Debt against the amount of the purchase price. The purchaser at any foreclosure sale hereunder may disaffirm any easement granted, or any Lease made, in violation of any provision of this Mortgage, and may take immediate possession of the Mortgaged Property free from, and despite the terms of, such grant of easement or Lease. Borrower hereby expressly waives any right which Borrower may have to direct the order in

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which any of the Mortgaged Property shall be sold in the event of any sale or sales pursuant hereto.

(B) In the event of a sale or other disposition of any of the Mortgaged Property, and the execution of a deed or other conveyance pursuant thereto, the recitals in such deed or conveyance of facts, such as default, the giving of notice of default and notice of sale, terms of sale, purchaser, payment of purchase money, and any other fact affecting the regularity or validity of such sale or disposition shall be conclusive proof of the truth of such facts; and any such deed or conveyance shall be conclusive against all persons as to such facts recited therein. In case of any sale in foreclosure of this Mortgage, the Mortgaged Property may be sold in one parcel and as an entirety or in such parcels, manner or order as Lender in its sole discretion may elect.

(c) Set Aside Acceleration. Lender, at its option, may set aside any declared acceleration of maturity of the Note, whereupon the terms and provisions therein stated and the covenants, terms and conditions in this Mortgage shall revive and continue with the same force and effect as if such acceleration had not occurred.

(d) Pursuance of Remedies. Upon the occurrence of an Event of Default hereunder, Lender in pursuance of the foregoing remedies, or in addition thereto, shall be entitled to resort to its several securities for the payment of the sums secured hereby in such order and manner as Lender may think fit without impairing Lender's lien in, or rights to, any of such securities and without affecting the liability of any Person for the Debt.

12.3. Waivers and Releases.

(a) Consent to Jurisdiction, Venue, etc. Borrower hereby consents to the jurisdiction of the courts of the State and the county in which the Mortgaged Property is located with respect to any action, suit or other legal proceeding commenced by Lender pursuant to any of the Loan Documents, and hereby waives any right to transfer any such action to any other court.

(b) Waiver of Redemption. Borrower hereby wholly waives the period of redemption and any right of redemption of any of the Mortgaged Property after sale under this Mortgage, or sale upon foreclosure of this Mortgage, as provided under any law of the State now or hereafter in effect. If title to any of the Mortgaged Property shall become vested in any Person who shall not waive (or who shall not be legally capable of waiving) the right of redemption in the event of foreclosure of (or sale under) this Mortgage, then such transfer of title shall constitute an Event of Default.

(c) Waiver of Marshalling, etc. Borrower, for itself and its successors in title, hereby waives all rights at law or in equity to have the Mortgaged Property marshaled in the event of the foreclosure of this Mortgage. Borrower will not at any time insist upon, plead, or in any manner whatsoever claim or take any benefit or advantage of any present or future laws pertaining to the administration of the estates of decedents, exempting any of the Mortgaged Property from attachment, levy or sale under execution, or providing for any stay of execution, exemption from civil process, or extension of time for payment, or providing for the valuation or appraisal of any

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of the Mortgaged Property prior to any sale or sales thereof which may be made pursuant to any provision herein, or pursuant to the decree, judgment or order of any court. Borrower hereby covenants not to hinder, delay or impede the execution of any power herein granted or delegated to Lender, but to suffer and permit the execution of every power as though no such law or laws had been made or enacted.

(d) Waiver of Notices. Borrower hereby waives all notices not herein elsewhere specifically required, of Borrower's default or of Lender's exercise, or election to exercise, any option or election under this Mortgage.

(e) Waiver of Homestead Exemptions. Borrower hereby fully and absolutely waives and releases all rights and claims it may have in or to any of the Mortgaged Property as a homestead exemption.

(f) Waiver of Personal Service. Borrower hereby waives personal service of process in any action or proceeding at any time commenced to enforce this Mortgage, and agrees that such process shall be deemed properly and adequately served if sent to Borrower at the address provided in or pursuant to Section 13 hereof for the giving of notices to Borrower, by certified or registered mail, return receipt requested, in the manner provided in Section 13 hereof for the giving of notices to Borrower.

(g) Foreclosure Subject to Leases. In the event that Lender shall have the right to foreclose this Mortgage, Borrower authorizes Lender at its option to foreclose subject to the rights of any tenants, and the failure to make any such tenants parties to any such foreclosure proceeding and to foreclose their rights will not be asserted by Borrower as a defense to any proceeding instituted by Lender to collect any of the Debt or any deficiency after foreclosure.

13. NOTICES

Any notices, communications and waivers under this Agreement shall be in writing and shall be (i) delivered in person, (ii) mailed, postage prepaid, either by registered or certified mail, return receipt requested, (iii) sent by overnight express carrier, or (iv) by electronic mail, addressed in each case as follows:

To Lender:

FirstMerit Bank, N.A.
222 North LaSalle Street
12th Floor, CHI902
Chicago, Illinois 60601
Attn: Timothy A. Fossa
Email: timothy.fossa@firstmerit.com

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With a copy to: Thomas C. Homburger
K&L Gates LLP
70 West Madison Street
Suite 3100
Chicago, Illinois 60602
Email: thomas.homburger@klgates.com

To Borrower: McAllister Property, LLC
18300 S. Lavergne Ave.
Country Club Hills, IL 60478
Attention: Joel Atkin

With a copy to: Andrew B. Kagan
Law Offices of Lawrence Y. Schwartz
8170 N. McCormick Blvd., Suite #219
Skokie, IL 60076
Email: akagan_esq@yahoo.com

or to any other address as to any of the parties hereto, as such party shall designate in a written notice to the other party hereto. All notices sent pursuant to the terms of this Section shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight, express carrier, then on the next Business Day immediately following the day sent, (iii) if sent by registered or certified mail, then on the earlier of the third Business Day following the day sent or when actually received, or (iv) if sent by electronic mail, upon dispatch if sent before 5:00 p.m. Central time on any Business Day, and if not, then on the next Business Day thereafter.

14. CERTAIN SECURITY AGREEMENT PROVISIONS

14.1. Status of Borrower. Borrower's exact legal name is correctly set forth at the end of this Mortgage. Borrower is an organization of the type specified in the first paragraph of this Mortgage. Borrower is incorporated in or organized under the laws of the State. Borrower will not cause or permit any change to be made in its name, identity or corporate, limited liability company or partnership structure without the prior written consent of Lender. Borrower's principal place of business and chief executive office, and the place where Borrower keeps its books and records, including recorded data of any kind or nature, regardless of the medium or recording, including software, writings, plans, specifications and schematics, has been for the preceding four months (or, if less, the entire period of the existence of Borrower) and will continue to be the address of Borrower set forth above (unless Borrower notifies Lender in writing at least 30 days prior to the date of such change). Borrower's organizational identification number, if any, assigned by the state of incorporation or organization is correctly set forth in Section 1.4(c) of this Mortgage. Borrower shall promptly notify Lender of any change in its organizational identification number.

14.2. Authorization to File Financing Statements; Power of Attorney. Borrower hereby authorizes Lender at any time and from time to time to file any initial financing statements, amendments thereto and continuation statements with or without the signature of Borrower as

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authorized by applicable law, as applicable to all or part of the Mortgaged Property, including without limitation a financing statement describing the Mortgaged Property as "all assets of the Debtor, whether now owned or hereafter acquired, and proceeds thereof" or words of similar import. For purposes of such filings, Borrower agrees to furnish any information requested by Lender promptly upon request by Lender. Borrower also ratifies its authorization for Lender to have filed any like initial financing statements, amendments thereto and continuation statements, if filed prior to the date of this security instrument. Borrower hereby irrevocably constitutes and appoints Lender and any officer or agent of Lender, with full power of substitution, as its true and lawful attorneys-in-fact with full irrevocable power and authority in the place and stead of Borrower or in Borrower's own name to execute in Borrower's name any documents and otherwise to carry out the purposes of this Section 14.2, to the extent that Borrower's authorization above is not sufficient. To the extent not prohibited by law, Borrower hereby ratifies all acts said attorneys-in-fact have lawfully done in the past or shall lawfully do or cause to be done in the future by virtue hereof. This power of attorney is coupled with an interest and shall be irrevocable.

15. NON WAIVER, ETC.

15.1. Waiver Not Affecting Mortgage. No failure by Lender to insist upon the strict performance by Borrower of any of the provisions hereof shall be deemed to be a waiver of any of the provisions hereof, and Lender, notwithstanding any such failure, shall have the right thereafter to insist upon the strict performance by Borrower of all of the provisions of this Mortgage. Neither Borrower nor any other Person liable for the payment of any of the Debt or the performance of any of the Obligations, nor any Person giving security for any of the Debt or for the performance of any of the Obligations, shall be relieved of any of such respective obligations, nor shall any security given by any of them be released, nor the position of any subordinate lienholder be improved, by reason of: (a) any failure by Lender to comply with any request by Borrower or of any other Person so obligated to foreclose or otherwise enforce this Mortgage; (b) the release, regardless of consideration, of any of the security held for payment of any of the Debt and/or the performance of any of the Obligations; (c) any agreement or stipulation between any subsequent owner or owners of the Mortgaged Property and Lender extending the time of payment or modifying the terms of the Note or any of the Loan Documents; (d) any grant of forbearance or extension of time for the payment of any of the Debt or the performance of the Obligations; (e) Lender's acceptance of any other or additional security for the payment of any of the Debt or the performance of any of the Obligations; (f) Lender's waiver of or failure to exercise any right granted herein or in any of the Loan Documents; (g) any changes hereafter made in any of the terms, covenants, conditions or agreements of this Mortgage or in any other Loan Document; (h) Lender's giving of consent to the filing of any map, plat, replat or condominium declaration affecting any of the Mortgaged Property; (i) Lender's giving of consent to the granting of any easement or other right affecting the Mortgaged Property; or (j) Lender's making or consenting to any agreement subordinating the lien hereof.

15.2. Right to Cure Defaults. If Borrower shall fail to fully and timely perform any of the Obligations, Lender shall be under no obligation to take action to correct such failures. However, at its option, Lender may take such action and expend such sums as Lender deems

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necessary to correct such failures and/or any consequences thereof. Such action or payment by Lender shall not constitute a waiver by Lender of the performance of said act, and Lender may treat Borrower's failure to perform such act as a default (and, upon expiration of any applicable grace period, an Event of Default) notwithstanding Lender's having undertaken (or completed) the performance of the act. Borrower will repay to Lender upon demand any amounts expended by Lender to correct each such failure and/or any consequences thereof, and all expenses of Lender in taking such action, with interest at the Default Rate from the incurring of such expense or the making of such payment, as the case may be. The payment of such amounts to Lender shall be secured by this Mortgage.

16. GENERAL COVENANTS

16.1. Estoppel Certificate. Borrower, within three (3) days upon request in person or within ten (10) days upon request by mail, will furnish a duly acknowledged written statement in form satisfactory to Lender setting forth the amount of the Debt then secured by this Mortgage, and stating either that no offsets or defenses exist against the Debt, or if such offsets or defenses are alleged to exist, the nature and extent thereof, and containing such other matters as Lender shall reasonably request.

16.2. Lender Expenses. Borrower shall promptly pay upon request all expenses and costs incurred by Lender, including reasonable attorney's fees, together with interest thereon (at the Interest Rate, except as expressly provided below) from the date of the payment thereof by Lender, in connection with:

(a) any action, proceeding, litigation or claim instituted or asserted by or against Lender or in which Lender becomes engaged, wherein it becomes necessary in the opinion of Lender to protect Lender's interests in the Mortgaged Property or the security afforded hereby, or by any of the Loan Documents, or to defend or uphold the Lien of this Mortgage, or the validity or effectiveness of any assignment of any claim, award, payment, insurance policy or any other right or property conveyed, encumbered or assigned by Borrower to Lender under this Mortgage, or the priority of any of the same, together with interest thereon (at the Default Rate);

(b) any further assurances requested by Lender under Section 3.7, or any other provision hereof, including all filing and recording costs and costs of searches;

(c) the negotiation, preparation, execution and delivery of the Loan Documents, and any amendments and supplements thereto at any time entered into;

(d) all taxes, fees and other assessments, including stamp taxes, if any, upon any documents or transactions contemplated by this Mortgage or in connection with the recording and filing of any Loan Document;

(e) the collection and/or enforcement of any Debt and/or Obligations, including the realization upon any of the Mortgaged Property or other security for any of the Debt or Obligations, together with interest thereon (at the Default Rate); and

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(f) the collection and application of any insurance proceeds and Condemnation Awards.

All such expenses and costs, with interest thereon at the Default Rate as provided above, shall be added to and become part of the Debt and be secured by this Mortgage; provided, however, that in any action to foreclose this Mortgage or to recover or collect the sums due hereunder, the provisions of law and of this Mortgage (other than in this Section 16.2) relative to the recovery of costs, disbursements, commissions, allowances and attorneys' fees, shall prevail over any conflicting requirements of this Section 16.2. The provisions of this Section 16.2 shall survive payment of the Debt and performance of the Obligations and any release of, or reconveyance under, this Mortgage.

16.3. Taxation of Mortgage. In the event of the passage after the date of this Mortgage of any law deducting from the value of the Mortgaged Property for the purpose of taxation any Lien thereon, or changing in any way the laws now in force for the taxation of mortgages or deeds of trust, or debts secured thereby, so as to adversely affect the interest of Lender, then Borrower shall bear and pay the full amount of such taxes, provided that if payment by Borrower of any such new or additional taxes would be unlawful or would render the Debt wholly or partially usurious, Lender may, at Lender's option, declare the whole sum secured by this Mortgage, with interest thereon, to be due and payable on a date to be specified in a written notice to Borrower, which shall be not less than 60 days after the date such notice is given.

16.4. Amendments. No provision of this Mortgage shall be changed, altered, modified or released except by an agreement in writing signed by Borrower and Lender. No compliance with or failure to comply with any provision of this Mortgage shall be waived or excused except by a written instrument executed by Lender.

16.5. Usury Savings Provision. It is the intent of the parties that the rate of interest and all other charges to Borrower be lawful; therefore, if for any reasons the payment of a portion of interest or charges as required by this Mortgage would exceed the limit established by applicable law, then the obligation to pay interest or charges shall automatically be reduced to such limit and if any amounts in excess of such limit shall have been paid, then such amount shall be applied to the unpaid principal amount of the Obligations or refunded so that under no circumstances shall interest or charges required hereunder exceed the maximum rate allowed by law. Notwithstanding any provision to the contrary contained in this Mortgage or the Loan Documents, Borrower shall not be required to pay, and Lender shall not be permitted to collect, any amount of interest in excess of the maximum amount of interest permitted by law ("Excess Interest"). If any Excess Interest is provided for or determined by a court of competent jurisdiction to have been provided for in this Mortgage or in any of the Loan Documents, then in such event: (a) the provisions of this Section shall govern and control; (b) Borrower shall not be obligated to pay any Excess Interest; (c) any Excess Interest that Lender may have received hereunder shall be, at Lender's option, (i) applied as a credit against the outstanding principal balance of the Obligations or accrued and unpaid interest (not to exceed the maximum amount permitted by law), (ii) refunded to the payor thereof, or (iii) any combination of the foregoing; (d) the interest rate(s) provided for herein shall be automatically reduced to the maximum lawful rate allowed from time to time under applicable law (the "Maximum Rate"), and this Mortgage

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and the Loan Documents shall be deemed to have been and shall be reformed and modified to reflect such reduction; and (e) Borrower shall not have any action against Lender for any damages arising out of the payment or collection of any Excess Interest.

16.6. RESERVED.

16.7. Application of Moneys. Whenever in this Mortgage Lender is to apply, or shall elect to apply, any sum of money to payment of any of the Debt, or to performance of any of the Obligations, Lender may so apply such sums to principal, interest, costs and expenses, or otherwise, all in such order of priority as Lender may elect, unless a different order of priority is required by applicable law.

16.8. Lender Not Liable; Indemnity. Lender shall not be responsible or liable in any way for any condition in or upon any of the Mortgaged Property (whether or not discovered by Lender), including any condition relating to the presence on the Mortgaged Property of any Hazardous Substance, or any defects in any of the Mortgaged Property or any personal injury, death, damage to property, loss, cost, liability, damage or expense in any way arising out of or connected with the condition or maintenance of any of the Mortgaged Property or any construction or other work thereon, or Borrower's use and occupancy of the Mortgaged Property. Borrower will indemnify, defend and hold Lender harmless from and against all such liability and responsibility. The provisions of this Section 16.8 shall survive the payment of the Debt, performance of the Obligations, release of this Mortgage and the reconveyance of the Mortgaged Property.

16.9. Lease Priority. This Mortgage shall not be subordinate to any Lease, unless Lender enters into a separate agreement with the tenant for such subordination. Each Lease hereafter made shall: (a) require the tenant to enter into an agreement with Lender, if Lender so requests, which will provide that, in the event of the sale of any of the Mortgaged Property under any judicial foreclosure hereof, or of a deed in lieu of foreclosure, such tenant will, upon the written request of any Person succeeding to the interest of Borrower as the result of said sale or deed, automatically become the tenant of any such successor in interest, without any change in the terms or other provisions of the Lease, and that said successor in interest shall not be bound by (i) any payment of rent for more than one (1) month in advance, (ii) any provision requiring the return of any security deposit or prepayment in the nature of security for the performance by said Tenant of its obligations under said Lease, or any provision entitling the Tenant to credit any such amounts to its obligations under its Lease, or (iii) any amendment or modification in the Lease made without the consent of Lender or any such successor in interest; and (b) require the tenant, upon Lender's request, to enter into an agreement in recordable form with Lender to provide, at the option of Lender, that this Mortgage shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to any Condemnation Awards or insurance proceeds), to such tenant's Lease. Borrower shall join in any of such agreements if Lender so requests. On request of Lender, Borrower shall obtain from the tenants and furnish to Lender the agreements required by this Section 16.9, all of which agreements shall be in form and substance satisfactory to Lender.

17. TRANSFER OF MORTGAGED PROPERTY

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17.1. Restrictions Upon Transfer. Lender has made the Loan in reliance in part upon the management and development skills of Borrower. Accordingly, without the prior written approval of Lender, Borrower, except as may be permitted by Section 17.2 hereof, shall not: (a) allow a Transfer of any of Borrower's interest in the Mortgaged Property to occur or (b) permit any Transfer of any ownership interest (whether stock, general partnership interest or otherwise) in Borrower; and any such prohibited act shall be an Event of Default.

17.2. Permitted Transfers. Lender shall have the right to condition its consent to any Transfer prohibited by Section 17.1 hereof upon the payment of a fee or charge and/or upon an increase in the rate of interest and/or changes in the other provisions of any of the Loan Documents. References in this Mortgage to proceeds of any of the Mortgaged Property are not intended as a consent to, and do not authorize, any Transfer of any of the Mortgaged Property.

18. FUTURE ADVANCES

In addition to the indebtedness evidenced by the Note and all other Debt, this Mortgage, to the fullest extent permitted by the law of the State, shall secure also and constitute a Lien on the Mortgaged Property for all future advances made by Lender to Borrower and future obligations incurred by Borrower to Lender in connection with the Mortgaged Property or the Loan to the same extent as if such future advances were made or such future obligations incurred on the date of the execution of this Mortgage.

19. ENVIRONMENTAL MATTERS

Concurrently herewith, Borrower and Guarantors have executed and delivered to Lender that certain Environmental Indemnity Agreement dated as of the date hereof (the "Environmental Indemnity") pursuant to which Borrower and Guarantors have indemnified Lender for environmental matters concerning the Mortgaged Property, as more particularly described therein. The provisions of the Environmental Indemnity are hereby incorporated herein and this Mortgage shall secure the obligations of the Mortgagor thereunder.

20. DEFINITIONS, CONSTRUCTION AND INTERPRETATION.

20.1. Governing Law. This Mortgage shall be governed by and construed in accordance with the internal laws of the State (without regard to the conflict of laws rules), which laws shall, without limitation, govern the enforceability, validity and interpretation of this Mortgage, except to the extent that the creation or perfection of any security interest or enforcement of any remedy is governed by the laws of the State. Notwithstanding anything to the contrary contained in this Mortgage or in any other document described herein, Borrower expressly consents to jurisdiction in the courts and laws of the State and consents to the applicability of the laws of the State, with respect to any personal liability and any action for a deficiency judgment, whether before or after any foreclosure.

20.2. Successors and Assigns. All of the grants, obligations, covenants, agreements, terms, provisions and conditions herein shall run with the Land, and shall apply to, bind and

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inure to the benefit of, the successors of Borrower and any subsequent owner of the Land or the Improvements, and the successors of Lender and any subsequent holder of the Note.

20.3. Provisions Severable. If any term or provision of this Mortgage or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Mortgage, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Mortgage shall be valid and be enforced to the fullest extent permitted by law.

20.4. Multiple Counterparts. This Mortgage may be executed in any number of counterparts and by the parties hereto on different counterparts. Each such counterpart shall for all purposes be deemed to be an original and all such counterparts shall together constitute but one and the same Mortgage. Executed signature pages to any counterpart instrument may be detached and affixed to a single counterpart, which single counterpart with multiple executed signature pages affixed thereto constitutes the original counterpart instrument. All of these counterpart pages shall be read as though one and they shall have the same force and effect as if all of the parties had executed a single signature page.

20.5. Other Interpretive Provisions. As used herein, the following words and phrases shall have the following meanings: (i) "including" shall mean "including but not limited to"; (ii) "provisions" shall mean "provisions, terms, covenants and/or conditions"; and (iii) "any of" shall mean all or any part of or interest in that with respect to which such phrase is used.

20.6. Miscellaneous Provisions. Whenever used herein, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall be applicable to all genders. Subject to Section 20.8, if any provision of this Mortgage shall conflict with any provision of any other Loan Document, the provision of the document which shall enlarge the interest of Lender in the Mortgaged Property, afford Lender greater financial security in the Mortgaged Property and/or assure payment of the Debt and performance of the Obligations in full, shall control. Except as otherwise expressly stated herein, with respect to any matters which, under this Mortgage, Lender shall have the right to approve, consent to, be satisfied with, exercise its judgment with regard to or calculate, the decisions of Lender with respect to such matters shall be made in the sole discretion of Lender, may be given or withheld without regard to reasonableness, and shall be final and conclusive. The headings and captions in this Mortgage are for convenience only and are not to be construed as defining or limiting in any way the scope or intent of the provisions of this Mortgage. The granting of consent by Lender to any matter as to which such consent is required by the provisions hereof shall not be deemed a waiver of the right to require consent to future or successive matters. If any of the Mortgaged Property could, under applicable law, be treated either as personal property or as a part of the real estate, or if it is unclear whether such property is real property or personal property, it is the intention of Borrower and Lender that such property be treated for all purposes hereunder as real estate. Each of the parties have participated in the negotiation and preparation of this Mortgage, with the advice of counsel, and this Mortgage shall not be construed against any party by reason of that party having prepared the initial draft, or subsequent versions, of this Mortgage.

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20.7. Definitions. As used herein, each of the following terms shall have the meaning indicated below, unless the context clearly requires otherwise:

"Casualty" shall mean any damage, destruction, or loss to or of any of the Mortgaged Property resulting from fire, any peril insured against, or any other cause except a Condemnation.

"CGL Policy" shall mean a Commercial General Liability insurance policy meeting the requirements of Section 5.1(d) hereof.

"Code" shall mean the Uniform Commercial Code as adopted and in effect in the State of Illinois on the date hereof and as amended or supplemented at any time hereafter.

"Collateral" shall mean collectively the "Accounts", "Chattel Paper", "Deposit Accounts", "Documents", "Equipment", "General Intangibles", "Goods", "Instruments", "Inventory", "Investment Property" and "Letter-of-Credit Rights" as such terms are defined in the Code, and all Personal Property, Records, Intellectual Property, and other assets, tangible or intangible, now owned or hereafter acquired by Borrower, and the Proceeds of each thereof.

"Condemnation" shall mean any condemnation or taking of any of the Mortgaged Property or the use thereof by any Governmental Authority or other Person pursuant to the power of eminent domain or condemnation, and any conveyance of any of the Mortgaged Property in lieu of condemnation.

"Condemnation Award" shall mean any and all awards, damages and other sums of money at any time owed or becoming payable, or paid, with respect to any Condemnation, including any payments for any conveyance in lieu of Condemnation, and awards for changes of grade of any streets.

"Debt" shall mean (i) all indebtedness of Borrower evidenced by the Note, including principal, interest, additional interest if any, late charges, and interest after default, (ii) any and all extensions, renewals, refinancings or refundings thereof in whole or in part whether or not now provided for in the Loan Documents, (iii) all costs and expenses incurred by Lender in the collection of any of such indebtedness, including attorneys' fees and legal expenses, (iv) all future advances made by Lender for the protection or preservation of any of the Mortgaged Property, and (v) all other amounts coming due to Lender under any provision of any of the Loan Documents, including but not limited to the Revolving Loan Documents.

"Default Rate" shall mean the "Default Rate" as defined in the Note.

"Escrow Date" shall mean: (a) when used in relation to real estate taxes and assessments on the Mortgaged Property, the thirtieth (30th) day before any of such taxes and assessments are first due and payable in each year; and (b) when used with respect to insurance premiums, the thirtieth (30th) day before such premiums are due.

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"Event of Default" shall mean an Event of Default as defined in Section 12.1 hereof, and any event, omission or circumstance otherwise specifically stated in this Mortgage to be an Event of Default.

"FEMA" shall mean the Federal Emergency Management Agency, and its successors.

"Fixtures" shall mean all fixtures, equipment, apparatus, machinery, fittings and appliances, chattels, building materials and tangible personal property of every kind and character, now or at any time hereafter affixed to or attached to or placed upon or used in any way in connection with the complete and comfortable use, enjoyment, occupancy, operation and/or maintenance of the Improvements or the Land, including such of the foregoing as may be used in connection with the generating or distributing of air, water, heat, electricity, light, fuel or refrigeration, or for ventilating or sanitary purposes, or for the removal of dust, refuse or garbage, and all renewals, replacements and substitutions thereof, additions and accessions thereto, and all spare parts for any of the same.

"Governmental Authority" shall mean the United States of America, the State, any political subdivision of either of them, and any court, agency, department, commission, board, bureau, officer or instrumentality of any of them.

"Guarantors" shall mean Eli Atkin, Yael Atkin, Joel Atkin and Donna Atkin, jointly and severally.

"Impositions" shall mean all taxes and assessments of every kind and nature now or hereafter assessed against or levied upon any of the Mortgaged Property or the revenues, rents, issues or profits thereof by any Governmental Authority, including real and personal property taxes, general and special assessments, inspection and license fees, water and sewer rents and charges.

"Improvements" shall mean the buildings, structures and other improvements now or hereafter located on the Land.

"Intangibles" shall mean all goodwill, trademarks, trade names, option rights, purchase contracts, computer records and software, books and Records and general intangibles of Borrower relating to any of the Mortgaged Property, all Intellectual Property, all rights of Borrower under or with respect to all accounts, contract rights, instruments, chattel paper and other rights of Borrower for payment of money for property sold or lent, for services rendered, for money lent, or for advances or deposits made, all rights of Borrower to plans and specifications, designs, drawings, models and other matters prepared for any construction or renovation on the Land, all rights of Borrower under any contracts executed by Borrower as owner with any provider of goods or services in connection with any construction or renovation undertaken on, or services performed or to be performed in connection with, any part of the Mortgaged Property, and all certificates of need and other intangible property of Borrower related to or used in connection with any of the Mortgaged Property, and shall specifically include, without limiting the foregoing, all trade insignia and logos (including goodwill related thereto), if any, used in connection with the operation of the Mortgaged Property.

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"Intellectual Property" shall mean all patents, trademarks, trade names, and service marks, and related goodwill, now or hereafter acquired by Borrower.

"ISO" shall mean the Insurance Services Office.

"Land" shall mean all of the real property and interests in real property described on Exhibit A attached to and incorporated into this Mortgage.

"Leases" shall mean all agreements for use and occupancy of any part of the Mortgaged Property, now existing or hereafter entered into, including all present and future leases (including subleases), licenses, concessions, rights in respect of tenants holding over and tenancies following attornment, and all extensions, modifications, renewals or supplements to any lease, license or concession, and all cash or securities deposited with Borrower to secure performance of the tenant's obligations under such Lease.

"Legal Requirements" shall mean collectively (i) all present and future laws, ordinances, orders, rules, regulations and requirements of all Governmental Authorities, including those with respect to zoning, subdivision, building, safety, fire protection, wetlands protection, historical preservation, access for the handicapped or disabled, ecological or environmental matters; and (ii) all covenants, restrictions and conditions now or hereafter of record which may apply to any of the Mortgaged Property or the use, occupancy, possession, Maintenance, Restoration or enjoyment thereof.

"Lien" shall mean any mortgage, deed of trust, security agreement, financing statement, security interest, judgment lien, mechanic's or materialman's lien, any other lien, encumbrance, charge, retention or reservation of title as security, pledge, hypothecation or assignment as security, of any of, or upon, the Mortgaged Property, whether now existing or hereafter created, suffered or incurred.

"Loan" shall have the meaning set forth in the recitals hereof.

"Loan Agreement" shall have the meaning set forth in the recitals hereof.

"Loan Amount" shall mean the maximum aggregate principal amount of the Loan as may be advanced under and pursuant to the Loan Agreement, which sum shall not exceed Twenty-Three Million Nine Hundred Forty-Seven Thousand and 00/100 U.S. Dollars (\$23,947,000.00).

"Loan Documents" shall have the meaning set forth in the Loan Agreement.

"Maintenance" shall mean all repairs, renewals, replacements, alterations, additions, betterments and improvements to the Mortgaged Property (whether interior or exterior, structural or non-structural, ordinary or extraordinary, foreseen or unforeseen), that are necessary to keep the Mortgaged Property in good order, condition and repair, consistent with the standard described in Section 6.2 and suitable for the Permitted Uses.

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"Maturity Date" shall mean the Maturity Date set forth in the Loan Agreement.

"Mortgaged Property" shall mean collectively all the property and interests, tangible and intangible, described or referred to in Section 1.1, 1.2 and 1.3 hereof, whether now owned or hereafter acquired by Borrower.

"Net Condemnation Award" shall mean a Condemnation Award, less the costs and expenses, including reasonable attorney's fees and expenses, incurred by Lender in connection with such Condemnation Award and the Condemnation to which it relates.

"Net Insurance Proceeds" shall mean all of the proceeds and sums of money owed or becoming due or paid under any policy of insurance upon any of the Mortgaged Property, including any sums paid in settlement of any claim under any such insurance policy, less the costs and expenses, including reasonable attorney's fees and expenses, incurred by Lender in connection with such insurance proceeds and the Casualty to which they relate.

"Note" shall mean that certain Promissory Note of even date herewith in the Loan Amount from Borrower to the order of Lender, as amended, modified, supplemented, replaced, exchanged, extended, renewed, increased, refunded or restated from time to time.

"Obligations" shall mean the obligation to pay the Debt and all obligations of Borrower to Lender arising from or out of any of the Loan Documents, including, without limitation, the obligations and liabilities of Borrower to Lender under and pursuant to any interest rate, currency or commodity swap agreement, cap agreement or collar agreement, executed by and between Borrower and Lender from time to time.

"Permitted Exceptions" shall have the meaning set forth in the Loan Agreement.

"Permitted Uses" shall mean (a) prior to completion of construction of the Project, use of the Mortgaged Property solely as a 111-bed skilled nursing facility and (b) after completion of construction of the Project and demolition of the old skilled nursing facility, use of the Mortgaged Property solely as a 200-unit skilled nursing facility, and activities incidental thereto.

"Person" shall mean an individual, corporation, general partnership, limited partnership, limited liability company, unincorporated association, trust or any other legal entity.

"Personal Property" shall mean all tangible personal property now owned or hereafter acquired by Borrower.

"Personal Property Security" shall mean, collectively, the Fixtures, Intangibles, and all other property described in Section 1.2 hereof, whether now owned or hereafter acquired by Borrower.

"Proceeds" shall mean all "Proceeds" as defined in the Code, with respect to the Collateral or Mortgaged Property, and includes without limitation proceeds of insurance payable by reason of loss or damage to the Collateral or Mortgaged Property.

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"Records" shall mean all "Records" as defined in the Code, now owned or hereafter acquired by Borrower, and includes without limitation all books, records, computer records and software relating to any part of the Mortgaged Property.

"Rents" shall mean: all rentals, security deposits, reimbursements and other sums of money now or hereafter due to Borrower under any Lease; all of the rents, issues, profits, royalties, income, receipts, revenues and earnings now or hereafter due Borrower under any Lease or arising from the use and enjoyment of any of the Mortgaged Property; all damages for default by any party under any Lease; all proceeds of any policy of insurance covering loss of rents or business interruption resulting from any Casualty; all rights of Borrower to collect and recover any of such amounts; and the proceeds of all such Rents.

"Restoration" shall mean the restoration, repair, rebuilding, alteration and/or replacement of any of the Mortgaged Property made necessary by any Casualty or Condemnation, to a condition as nearly as possible to its condition prior to such Casualty or Condemnation (but with such changes as Borrower may make pursuant to Section 8 hereof), and includes demolition, temporary repairs and the protection of the Mortgaged Property pending the completion of Restoration.

"Revolving Loan" shall have the meaning set forth in the recitals herein.

"Revolving Loan Agreement" shall have the meaning set forth in the recitals herein.

"Revolving Loan Documents" shall mean the Revolving Loan Agreement and any other instruments evidencing, securing or guarantying obligations of any party under the Revolving Loan.

"State" shall mean the state where the Mortgaged Property is located.

"Transfer" shall mean: (a) with respect to Borrower's interest in the Mortgaged Property, any sale, assignment, lease, transfer or conveyance (whether voluntarily, involuntarily, by operation of law or otherwise) of any of Borrower's interest in the Mortgaged Property, or any agreement by Borrower to do any of the same; and (b) with respect to any ownership interest (whether stock, partnership interest, membership interest or otherwise) of any Person in Borrower, or any ownership interest (direct or indirect) in any Person which is a shareholder, partner, member or other owner of an interest in Borrower, any sale, assignment, conveyance, transfer, grant of a security interest in or encumbrance of any of such interest, or any agreement by any such Person to do so.

20.8 Construction Loan. The Note evidences a debt created by one or more disbursements made by Lender to Borrower to finance the cost of the construction of certain improvements upon the Land in accordance with the provisions of the Loan Agreement, and this Mortgage is a construction mortgage as such term is defined in the Code. The terms and conditions recited and set forth in the Loan Agreement are fully incorporated in this Mortgage and made a part hereof. In the event of a conflict between the terms of the Loan Agreement and

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this Mortgage, the provisions of the Loan Agreement shall apply and take precedence over this Mortgage.

21. WAIVER OF TRIAL BY JURY

21.1. Waiver of Trial By Jury. LENDER AND BORROWER IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY COURT IN ANY ACTION: (A) LENDER BRINGS TO COLLECT AMOUNTS OWED UNDER OR SECURED BY THIS MORTGAGE; (B) ALLEGING THAT (I) LENDER OR BORROWER HAS BREACHED THIS MORTGAGE OR ANY AGREEMENT SECURED BY THIS MORTGAGE, (II) LENDER OR BORROWER HAS BREACHED ANY OTHER AGREEMENT, EXPRESS OR IMPLIED, (III) LENDER OR ANY OF LENDER'S OFFICERS, EMPLOYEES OR AGENTS HAVE ACTED WRONGFULLY, NEGLIGENTLY OR OTHERWISE TORTIOUSLY WITH RESPECT TO BORROWER; OR (C) TO WHICH BORROWER AND LENDER ARE PARTIES. THIS WAIVER OF TRIAL BY JURY DOES NOT WAIVE EITHER BORROWER'S OR LENDER'S RIGHT TO BRING A LAWSUIT THAT A JUDGE, WITHOUT A JURY, WOULD DECIDE.

[SIGNATURE PAGE FOLLOWS]

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IN WITNESS WHEREOF, Borrower has executed this Mortgage as of the day and year first above written.

BORROWER:

MCALLISTER PROPERTY, LLC,
an Illinois limited liability company

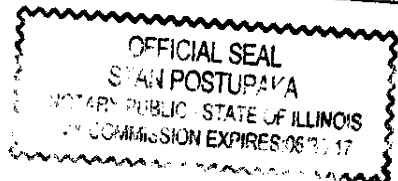
By: [Signature]
Name: ELISHA ATKIN
Title: MANAGER

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Stan Posturava a Notary Public in and for said County, in the State aforesaid, do hereby certify that ELISHA ATKIN the MANAGER of McAllister Property, LLC, an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 27 day of MARCH, 2014.

[Signature]



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EXHIBIT A

Legal Description

(See attached)

Property of Cook County Clerk's Office

WWWW

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EXHIBIT A

Legal Description

PARCEL 1:

LOT 4 (EXCEPT THE EAST 604.52 FEET THEREOF) IN HOMEWOOD ESTATES, BEING A SUBDIVISION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER (EXCEPT THE SOUTH 520 FEET OF THE EAST 520 FEET AND EXCEPT THE NORTH 165 FEET THEREOF) IN SECTION 33, TOWNSHIP 36 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL2:

LOT 10 IN HOMEWOOD ESTATES BEING A SUBDIVISION OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 (EXCEPT THE SOUTH 520 FEET OF THE EAST 520 FEET AND EXCEPT THE NORTH 165 FEET THEREOF) IN SECTION 33, TOWNSHIP 36 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PORTION OF LOT 10: BEGINNING AT THE SOUTHEAST CORNER OF LOT 10; THENCE NORTH ALONG THE EAST LINE OF SAID LOT 10 A DISTANCE OF 1.59 FEET TO A POINT; THENCE SOUTHWESTERLY ALONG A STRAIGHT LINE A DISTANCE OF 90.014 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 10; THENCE EAST ALONG THE SOUTH LINE OF SAID LOT 10 A DISTANCE OF 90 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL3:

LOT 11 IN HOMEWOOD ESTATES BEING A SUBDIVISION OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 (EXCEPT THE SOUTH 520 FEET OF THE EAST 520 FEET AND EXCEPT THE NORTH 165 FEET THEREOF) AND (EXCEPT THAT PART THEREOF TAKEN FOR STREET PURPOSES IN CASE 70L 11480), IN SECTION 33, TOWNSHIP 36 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL4:

THAT PART OF VACATED LAVERGNE AVENUE LYING WEST OF AND ADJOINING LOTS 4 AND 11 IN HOMEWOOD ESTATES, A SUBDIVISION OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 (EXCEPT THE SOUTH 520 FEET OF THE EAST 520 FEET AND EXCEPT THE NORTH 165 FEET THEREOF) OF SECTION 33, TOWNSHIP 36 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.N.: 28-33-403-⁰⁰⁵~~006~~-0000
 28-33-403-007-0000
 28-33-403-008-0000

Commonly Known As: 18300 South Lavergne Avenue, Country Club Hills, Illinois 60478