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Drafted, drawn & prepared for or by,



Recording requested by, and

Doc#: 1416119097 **Fee:** \$58.00
RHSP Fee:\$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 06/10/2014 04:19 PM Pg: 1 of 11

When recorded return to:

WELLS FARGO BANK,
NATIONAL ASSOCIATION
150 East 42nd Street, 38th Floor
New York, New York 10017

ATTN: CMO Loan Admin.
Loan No.: 31-0923882

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

Parties to the Document:

TENANT: Barrington Orthopedic Specialists, Ltd., an Illinois corporation
OWNER: Chicagoland Medical Portfolio DST, a Delaware statutory trust
GUARANTOR: None.
LENDER: WELLS FARGO BANK, NATIONAL ASSOCIATION

Property: 120 East Higgins Road, Elk Grove Village, Illinois

8961456/8963094 D2 D6 50FS

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SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

Tenant's Trade Name: Barrington Orthopedic Specialists

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR LEASEHOLD ESTATE IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF THE MORTGAGE (DEFINED BELOW).

This SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT ("Agreement") is made as of June __, 2014, by and between BARRINGTON ORTHOPEDIC SPECIALISTS, LTD, an Illinois corporation ("Tenant"), and WELLS FARGO BANK, NATIONAL ASSOCIATION (together with its successors and assigns, "Lender"), with reference to the following facts and intentions of the parties:

RECITALS

- A. Chicagoland Medical Portfolio DST, a Delaware statutory trust ("Owner") is or is about to become the owner of the land and improvements commonly known as 120 East Higgins Road, Elk Grove Village, Illinois, and more specifically described in Exhibit A attached hereto ("Property") and the owner of the landlord's interest in the Lease identified in Recital B below.
- B. Tenant is the owner of the tenant's interest in that lease dated June __, 2014, which has not been amended and which was originally executed by Chicagoland Medical Portfolio DST, as landlord, and by Barrington Orthopedic Specialists, Ltd., as tenant (said lease and the referenced amendment(s) thereto are collectively referred to herein as the "Lease").
- C. Owner, as borrower or as co-borrower with one or more other co-borrower(s), has applied to Lender for a loan ("Loan"), which will be secured by, among other things, a mortgage, deed of trust, trust indenture, or deed to secure debt encumbering the Property ("Mortgage") and an assignment of leases and rents ("Assignment of Leases") covering the Property.
- D. As a condition to making the Loan to Owner, Lender has required that Tenant furnish certain assurances to, and make certain agreements with, Lender, as set forth below. Tenant has agreed that the Lease shall be subject and subordinate to the Mortgage held by Lender, provided Tenant is assured of continued occupancy of the Property under the terms of the Lease as hereinafter provided.

THEREFORE, the parties agree as follows:

1. SUBORDINATION.

- 1.1 Subordination. The Lease and all of the terms, covenants, and provisions thereof, and all rights, remedies and options of Tenant thereunder (including, without limitation, any preferential rights contained in the Lease, or otherwise existing, to acquire any or all of the Property, or any superior leasehold interest therein) are and shall at all times continue to be subject and subordinate in all respects to the terms, covenants, and provisions of the Mortgage as of the date hereof, and to the lien thereof, including without limitation, all renewals, increases, modifications, spreaders, consolidations, replacements, and extensions thereof and to all sums secured thereby and advances made thereunder with the same force and effect as if the Mortgage had been executed, delivered, and recorded prior to the execution and delivery of the Lease. Tenant acknowledges that Owner will execute and deliver to Lender an assignment of the Lease as security for the Loan, and Tenant hereby expressly consents to such assignment. Tenant agrees that if there is a default by Owner in the performance and observance of any of the terms of the Loan, Lender may, at its option, demand all rents due under the Lease be paid by Tenant directly to Lender at the address specified by Lender. Tenant agrees that upon Lender's written request for payment of rent directly to

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Lender, Tenant will timely remit any and all payments due under the Lease directly to, and payable to the order of, Lender. Such payments to Lender will constitute performance of Tenant's payment obligations under the Lease.

- 1.2 **Condition Precedent.** Lender would not make the Loan without this Agreement.
- 1.3 **Entire Agreement.** This Agreement shall be the whole agreement and only agreement with regard to the subordination of the Lease to the Mortgage, and shall supersede and cancel, but only insofar as would affect the priority between the Mortgage and the Lease, any prior agreements as to such subordination, including, without limitation, those provisions, if any, contained in the Lease which provide for the subordination of the Lease to a deed or deeds of trust, a mortgage or mortgages, a deed or deeds to secure debt or a trust indenture or trust indentures.
- 1.4 **Disbursements.** Lender, in making disbursements pursuant to the Note, the Mortgage or any loan agreements with respect to the Property, is under no obligation or duty to, nor has Lender represented that it will, see to the application of such proceeds by the person or persons to whom Lender disburses such proceeds, and any application or use of such proceeds for purposes other than those provided for in such agreement or agreements shall not defeat this agreement to subordinate in whole or in part.
- 1.5 **Subordination.** Tenant intentionally and unconditionally waives, relinquishes and subordinates all of Tenant's right, title and interest in and to the Property, to the Mortgage and understands that in reliance upon, and in consideration of, this waiver, relinquishment and subordination, specific loans and advances are being and will be made by Lender and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment and subordination.

2. **NON-DISTURBANCE AND ATTORNMENT.**

- 2.1 **Non-Disturbance.** Notwithstanding anything to the contrary contained in the Lease, so long as there shall exist no breach, default or event of default (beyond any period given to Tenant in the Lease to cure such default) on the part of Tenant under the Lease at the time of any foreclosure of the Mortgage, Lender agrees that the leasehold interest of Tenant under the Lease shall not be terminated by reason of such foreclosure, but rather the Lease shall continue in full force and effect and Lender shall recognize and accept Tenant as tenant under the Lease subject to the provisions of the Lease. Nothing contained herein shall prevent Lender from naming Tenant in any foreclosure or other action or proceeding initiated by Lender pursuant to the Mortgage only to the extent necessary under applicable Law in order for Lender to avail itself of and complete the foreclosure or other remedy.
- 2.2 **Attornment.** Notwithstanding anything to the contrary contained in the Lease, should title to the leased premises and the landlord's interest in the Lease be transferred to Lender or any other person or entity ("**New Owner**") by foreclosure of the Mortgage, by conveyance instrument in-lieu of foreclosure of the Mortgage, or otherwise, Tenant agrees, for the benefit of New Owner and effective immediately and automatically upon the occurrence of any such transfer, that: (a) Tenant shall pay to New Owner all rental payments required to be made by Tenant pursuant to the terms of the Lease for the remainder of the term of the Lease; (b) Tenant shall be bound to New Owner in accordance with all of the provisions of the Lease for the remainder of the term of the Lease; (c) Tenant shall attorn to New Owner as its landlord, such attornment to be effective and self-operative without the execution of any further instruments; (d) Tenant shall promptly execute and deliver to New Owner (upon New Owner's request) an appropriate agreement of attornment to New Owner and any subsequent titleholder of the Property; (e) New Owner shall not be subject to any claims, offsets or defenses which Tenant might have against any prior landlord (including Owner); (f) New Owner shall not be obligated to complete any construction work required to be done by any prior landlord (including Owner) pursuant to the provisions of the Lease or to

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reimburse Tenant for any construction work done by Tenant; (g) New Owner shall not be required to make any repairs to the Property or the leased premises required as a result of fire or other casualty or by reason of condemnation unless New Owner shall be obligated under the Lease to make such repairs and then shall be obligated to finance the completion of such repairs only to the extent of casualty insurance proceeds or condemnation awards received; (h) New Owner shall not be required to make any capital improvements to the Property or to the leased premises which Owner may have agreed to make, but had not completed, or to perform or provide any services not related to possession or quiet enjoyment of the leased premises; (i) New Owner shall not be liable for any act, omission or default of any prior landlord (including Owner); (j) New Owner shall not be bound by any rent or additional rent which Tenant might have paid for more than the current month or any security deposit or other prepaid charge paid to any prior landlord (including Owner); (k) New Owner shall not be bound by any amendment or modification of the Lease made without its written consent; and (l) New Owner shall not be liable for any obligations of landlord (including Owner) arising under the Lease following any subsequent transfer of the title to the leased premises by New Owner.

3. **LEASE DEFAULTS.** In the event Owner shall fail to perform or observe any of the terms, conditions or agreements in the Lease, Tenant shall give written notice thereof to Lender and Lender shall have the right (but not the obligation) to cure such default. Tenant shall not take any action with respect to such default under the Lease, including without limitation any action in order to terminate, rescind or avoid the Lease or to withhold any rent or other monetary obligations thereunder, for a period of thirty (30) days following receipt of such written notice by Lender; provided, however, that in the case of any default which cannot with diligence be cured within said thirty (30) day period, if Lender shall proceed promptly to cure such default and thereafter prosecute the curing of such default with diligence and continuity, the time within which such default may be cured shall be extended for such period as may be necessary to complete the curing of such default with diligence and continuity, but in no event longer than one hundred eighty (180) days. Tenant will accept performance by Lender of any term of the Lease required to be performed by Owner with the same force and effect as though performed by Owner, although Lender shall in no event be required to do so.

4. **OBLIGATIONS AND LIABILITY OF LENDER.** Lender shall have no obligations nor incur any liability with respect to any warranties of any nature whatsoever, whether pursuant to the Lease or otherwise, including, without limitation, any warranties respecting us, compliance with zoning, hazardous wastes or environmental laws, Owner's title, Owner's authority, habitability, fitness for purpose or possession. Furthermore, in the event that Lender shall acquire Owner's interest in the Property, Lender shall have no obligation, nor incur any liability, beyond Lender's interest in the Property, and Tenant shall look exclusively to such interest of Lender in the Property for the payment and discharge of any obligations or liability imposed upon Lender hereunder, under the Lease (or under any new lease with Tenant), and Lender is hereby released and relieved of any other obligations or liability hereunder under the Lease or under any such new lease. Lender shall not, either by virtue of the Mortgage, the Assignment of Leases or this Agreement, be or become a mortgagee in possession or be or become subject to any liability or obligation under the Lease or otherwise until Lender shall have acquired the Owner's interest in the Property, by foreclosure or otherwise, and then such liability or obligation of Lender under the Lease (as modified by the terms of this Agreement) shall extend only to those liabilities or obligations accruing subsequent to the date that Lender has acquired Owner's interest in the Property. Without limiting the generality of the foregoing, neither the Mortgage, the Assignment of Leases nor this Agreement shall, prior to Lender's acquisition of Owner's interest in the Property, by foreclosure or otherwise, operate to place responsibility for the control, care, management or repair of the Property upon Lender or impose upon Lender responsibility for the carrying out of any of the terms or conditions of the Lease, and Lender shall not be responsible or liable for any waste committed on either the leased premises or the Property by any party whatsoever, for any dangerous or defective condition of the Property or for any negligence in the management, upkeep, repair or control of either the leased premises or the Property. Notwithstanding anything contained in this Agreement or the Lease to the contrary, upon Lender's transfer or assignment of Lender's interests in the Loan, the Lease (or any new lease executed pursuant to this Agreement), or the

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Property, Lender shall be deemed released and relieved of any obligations under this Agreement, the Lease (or any new lease executed pursuant to this Agreement), and with respect to the Property.

5. Intentionally omitted.

6. Intentionally omitted.

7. **MISCELLANEOUS.**

7.1 **Reliance by Lender.** Tenant acknowledges that the representations and agreements made by Tenant to and with Lender herein constitute a material inducement to Lender to make the Loan, and that Lender would not make the Loan in the absence of this Agreement.

7.2 **Heirs, Successors and Assigns.** The covenants herein shall be binding upon, and inure to the benefit of, the heirs, successors and assigns of the parties hereto. Whenever necessary or appropriate to give logical meaning to a provision of this Agreement, the term "Owner" shall be deemed to mean the then current owner of the Property and the landlord's interest in the Lease.

7.3 **Addresses; Request for Notice.** So long as the Mortgage remains outstanding and unsatisfied, Tenant will mail or deliver to Lender, at the address and in the manner herein below provided, a copy of all notices given to the Owner by Tenant under and pursuant to the terms and provisions of the Lease. All notices and other communications that are required or permitted to be given to a party under this Agreement shall be in writing and shall be sent to such party, either by personal delivery, by overnight delivery service, by certified first class mail, return receipt requested, or by facsimile transmission, to the address or facsimile number below. All such notices and communications shall be effective upon receipt of such delivery or facsimile transmission. The addresses and facsimile numbers of the parties shall be:

<u>Owner:</u>	<u>Tenant:</u>	<u>Lender:</u>
Chicagoland Medical Portfolio DST 2901 Butterfield Road Attn: Asset Manager Oak Brook, IL 60523 Tel. No.: 630-218-8000	Barrington Orthopedic Specialists, Ltd. 929 W. Higgins Road Elk Grove Village, IL Tel. No.: _____ Fax No.: _____	Wells Fargo Bank, National Association Wells Fargo Center 1901 Harrison Street, 2 nd Floor Oakland, California 94612 Attention: Commercial Mortgage Servicing Facsimile No.: 1-866-359-5952 Loan No.: 31-0923882

provided, however, any party shall have the right to change its address for notice hereunder by the giving of written notice thereof to the other party in the manner set forth in this Agreement.

7.4 **Invalid or Inoperative Provisions.** If any portion or portions of this Agreement shall be held invalid or inoperative, then all of the remaining portions shall remain in full force and effect, and, so far as is reasonable and possible, effect shall be given to the intent manifested by the portion or portions held to be invalid or inoperative.

7.5 **GOVERNING LAW; JURISDICTION.**

a. THE PARTIES AGREE THAT THIS AGREEMENT AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, CONSTRUED, APPLIED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE WHERE THE PROPERTY IS LOCATED WITHOUT REFERENCE TO THE CHOICE OF LAW PRINCIPLES THEREOF, AND ANY APPLICABLE LAW OF THE UNITED

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STATES OF AMERICA. TO THE FULLEST EXTENT PERMITTED BY LAW, OWNER AND TENANT HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVE ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS AGREEMENT.

- b. ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST LENDER, OWNER OR TENANT ARISING OUT OF OR RELATING TO THIS AGREEMENT MAY BE INSTITUTED IN ANY FEDERAL OR STATE COURT IN THE COUNTY WHERE THE PROPERTY IS LOCATED, AND EACH PARTY HERETO WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING, AND EACH PARTY HERETO HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUIT, ACTION OR PROCEEDING.

- 7.6 **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute and be construed as one and the same instrument.
- 7.7 **Section Headings.** Section headings in this Agreement are for convenience only and are not to be construed as part of this Agreement or in any way limiting or applying the provisions hereof.
- 7.8 **Attorneys' Fees.** If any legal action, suit or proceeding is commenced between Tenant and Lender regarding their respective rights and obligations under this Agreement, the prevailing party shall be entitled to recover, in addition to damages or other relief, costs and expenses, reasonable attorneys' fees and court costs (including, without limitation, expert witness fees). As used herein, the term "prevailing party" shall mean the party which obtains the principal relief it has sought, whether by compromise settlement or judgment. If the party which commenced or instituted the action, suit or proceeding shall dismiss or discontinue it without the concurrence of the other party, such other party shall be deemed the prevailing party.
- 7.9 **Binding Nature.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors, successors-in-title and assigns. When used herein, the term "Owner" refers to the landlord under the Lease and Owner and to any successor to the interest of landlord or Owner under the Lease and "Lender" refers to Lender and to any assignee or subsequent holder of the note secured by the Mortgage (whether by assignment, secondary market transaction, or otherwise) and Lender's servicer of the Loan, if any.
8. **INCORPORATION.** Exhibit A and the Owner's Consent are attached hereto and incorporated herein by this reference.

[Signature Pages to Follow]

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

NOTICE: THIS AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE OWNER TO OBTAIN A LOAN, THE PROCEEDS OF WHICH MAY BE EXPENDED FOR PURPOSES OTHER THAN THE IMPROVEMENT OF THE PROPERTY.

LENDER:

WELLS FARGO BANK, NATIONAL ASSOCIATION

By: _____

Name: John G. Nicol
Title: Managing Director

Property of Cook County Clerk's Office

STATE OF NEW YORK §

§

COUNTY OF NEW YORK §

The foregoing instrument was acknowledged before me on June 3, 2014, by John G. Nicol as Authorized Signor of WELLS FARGO BANK, NATIONAL ASSOCIATION, on behalf of said national association.

Given under my hand and official seal, this 3rd day of June, 2014

Eliza Davies

NOTARY PUBLIC

My Appointment Expires:

04/08/2018

[Notarial Seal]

ELIZA DAVIES
Notary Public- State of New York
No. 01DA6072503
Qualified in Westchester County
My Commission Expires April 8, 2018

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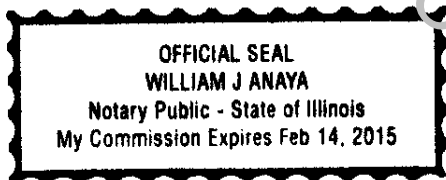
TENANT:

BARRINGTON ORTHOPEDIC SPECIALISTS, LTD, an Illinois corporation

By: *Keith Schroeder*
Name: Keith Schroeder
Title: President

STATE OF ILLINOIS §
§
COUNTY OF COOK §

The foregoing instrument was acknowledged before me on June 4, 2014, by Keith Schroeder, the President of Barrington Orthopedic Specialists, Ltd., an Illinois corporation, on behalf of said corporation.



William J. Anaya
NOTARY PUBLIC, State of Illinois
Printed Name: WILLIAM J. ANAYA
My Appointment Expires: 2/14/15

[Notary Seal]

IT IS RECOMMENDED THAT, PRIOR TO THE EXECUTION OF THIS AGREEMENT, THE PARTIES CONSULT WITH THEIR ATTORNEYS WITH RESPECT HERETO.

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OWNER'S CONSENT

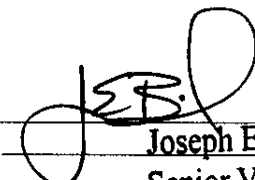
The undersigned, which owns or is about to acquire the Property and the landlord's interest in the Lease, hereby consents to the execution of the foregoing SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN T AGREEMENT, and to implementation of the agreements and transactions provided for there-in.

OWNER:

Chicagoland Medical Portfolio, DST
a Delaware statutory trust

By: Chicagoland Medical Portfolio Exchange, L.L.C.,
a limited liability company, its signatory trustee

By: Inland Private Capital Corporation, a Delaware
corporation, its sole member

By: 
Name: Joseph E. Binder
Title: Senior Vice President

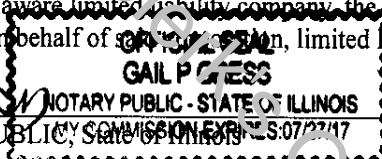
Property of Cook County Office

STATE OF Illinois §

§

COUNTY OF DUPAGE §

The foregoing instrument was acknowledged before me on May 28th, 2014 by Joseph Binder, the Senior Vice President of Inland Private Capital Corporation, a Delaware corporation, the sole member of Chicagoland Medical Portfolio Exchange, L.L.C., a Delaware limited liability company, the signatory trustee of Chicagoland Medical DST, a Delaware statutory trust, on behalf of Chicagoland Medical Portfolio Exchange, L.L.C., limited liability company and trust, respectively.


GAIL P GRESS
NOTARY PUBLIC - STATE OF ILLINOIS
NOTARY PUBLIC, State of Illinois, My Commission Expires 07/27/17

Printed Name: Gail P. Gress

My Appointment Expires: 7/27/17

[Notary Seal]

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EXHIBIT A

PROPERTY/ADDRESS INFORMATION

Property Address: 120 East Higgins Road, Elk Grove Village, Illinois

LEGAL DESCRIPTION OF LAND

[Attached]

Property of Cook County Clerk's Office

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EXHIBIT A

LEGAL DESCRIPTION OF LEASED PREMISES

The entire tract of land, any additions thereto and all improvements constructed on the real estate legally described as follows:

LOT 1 IN JOHN L. MARKAY RESUBDIVISION, BEING A RESUBDIVISION IN SECTION 21, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF REGISTERED FEBRUARY 21, 1975 AS DOCUMENT NO. LR2795914, IN COOK COUNTY, ILLINOIS, (EXCEPTING FROM SAID LOT THAT PART TAKEN BY THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF ILLINOIS IN CASE NO. 93 L 50580 AND DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 1; THENCE ON AN ASSUMED BEARING OF NORTH 7 DEGREES 06 MINUTES 39 SECONDS EAST ALONG THE WESTERLY LINE OF SAID LOT A DISTANCE OF 20.00 FEET; THENCE SOUTH 34 DEGREES 16 MINUTES 45 SECONDS EAST 22.70 FEET; THENCE SOUTH 80 DEGREES 46 MINUTES 06 SECONDS EAST 85.05 FEET TO THE SOUTHERLY LINE OF SAID LOT 1; THENCE NORTH 82 DEGREES 47 MINUTES 23 SECONDS WEST ALONG THE SOUTHERLY LINE OF SAID LOT 1 A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING).

Address of property: 120 East Higgins Road, Elk Grove, IL 60007

PIN: 08-21-401-038-0000