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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



1526645033

Doc#: 1526645033 Fee: \$112.00
RHSP Fee: \$9.00 RPHF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 09/23/2015 10:35 AM Pg: 1 of 38

Report Mortgage Fraud
800-532-8785

The property identified as: PIN: 09-26-423-007-0000

Address:

Street: 10 North Summit Avenue

Street line 2:

City: Park Ridge

State: IL

ZIP Code: 60068

Lender: Synovus Bank

Borrower: CSH Park Ridge, LLC

Loan / Mortgage Amount: \$21,740,000.00

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.

Stewart Title NTS - Chicago
10 S. Riverside Plaza, Suite 1450
Chicago, IL 60606
PH: 312-849-4400
File No: 14000070027

4 of 5

Certificate number: 1135DA18-0C0E-461E-9921-C92985A19490

Execution date: 9/18/2015

CORD REVIEW

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THIS INSTRUMENT PREPARED BY
AND UPON RECORDING SHOULD BE RETURNED TO:
Margaret Ann Brown, Esq.
Troutman Sanders LLP
1850 Towers Crescent Plaza, Suite 500
Tysons Corner, VA 22182

MORTGAGE, ASSIGNMENT, SECURITY AGREEMENT AND FIXTURE FILING

THIS MORTGAGE, ASSIGNMENT, SECURITY AGREEMENT AND FIXTURE FILING (this "Security Instrument"), is made as of September 18, 2015, by **CSH PARK RIDGE, LLC**, a Delaware limited liability company ("Borrower") whose address is c/o Capitol Seniors Housing, 1275 Pennsylvania Avenue, NW, Washington, DC 20004 to **SYNOVUS BANK**, a Georgia state banking corporation (together with its successors and assigns, "Lender") whose address is 800 Shades Creek Parkway, Suite 325, Birmingham, Alabama 35209. **CSH PARK RIDGE LESSEE, LLC**, a Delaware limited liability company ("**Tenant**"), joins in this Security Instrument for the purpose of subordinating its interest in the Mortgaged Property created by the Master Lease as well granting a security interest in any portion of the Mortgaged Property owned by such Tenant.

RECITALS

A. Lender has agreed to make (i) a term loan to Borrower in the principal amount not to exceed Twenty-One Million Seven Hundred Forty Thousand and No/100 Dollars (\$21,740,000.00) (the "Term Loan") and (ii) a construction loan to Borrower in the principal amount not to exceed Four Million Two Hundred Thirty-Seven Thousand and No/100 Dollars (\$4,237,000.00) (the "Construction Loan"; the Construction Loan together with the Term Loan, each a "Loan" and collectively, the "Loans"), which Construction Loan may be increased by an earnout advance in an additional principal amount of up to Two Million Dollars (\$2,000,000.00).

B. The Term Loan is evidenced by a certain Promissory Note of even date herewith from Borrower in the maximum principal amount of Twenty-One Million Seven Hundred Forty Thousand and No/100 Dollars (\$21,740,000.00) (as amended, modified, substituted, extended, and renewed from time to time, the "Term Note"), payable to the order of Lender with interest from the date thereof at the rates set forth in the Term Note, principal and interest to be payable in accordance with the terms and conditions provided in the Term Note. The Construction Loan is evidenced by a certain Promissory Note of even date herewith from Borrower in the maximum principal amount of Four Million Two Hundred Thirty-Seven Thousand and No/100 Dollars (\$4,237,000.00) (as amended, modified, substituted, extended, and renewed from time to time, the "Construction Note"; the Construction Note, together with the Term Note, each a "Note" and collectively, the "Notes"), payable to the order of Lender with interest from the date thereof at the rates set forth in the Construction Note, principal and interest to be payable in accordance with the terms and conditions provided in the Construction Note.

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C. Proceeds of the Loans (including, without limitation, the Earnout Advance (as defined in the Loan Agreement)) are to be advanced in accordance with a Loan Agreement of even date herewith between Borrower and Lender (as amended, modified, substituted, extended, and renewed from time to time, the "Loan Agreement").

D. The Facility, as defined herein, is leased to Tenant pursuant to that certain Lease Agreement dated as of even date herewith by and between Borrower, as landlord, and Tenant, as tenant (as amended, modified, substituted, extended, and renewed from time to time, the "Master Lease").

E. As a condition precedent to making the Loans, Lender has required that Borrower and Tenant execute this Security Instrument as security for the Loans and the other Loan Obligations (as hereinafter defined).

GRANTING CLAUSES

NOW, THEREFORE, for and in consideration of the Loan Obligations, and to secure the prompt payment thereof, Borrower and Tenant do hereby irrevocably grant with mortgage covenants, bargain, sell, assign, transfer, mortgage, pledge and set over to Lender, its successors and assigns, forever and grants to Lender, a security interest in and to the Mortgaged Property.

TO SECURE unto Lender, its successors and assigns forever, the repayment of the Loan Obligations, at and in the manner stipulated herein, in the Notes and in the other Loan Documents (as hereinafter defined), and the performance of the covenants and agreements of Borrower and Tenant contained in the Loan Documents, subject, however, to the terms and conditions herein.

PROVIDED, HOWEVER, that if Borrower shall pay to Lender the entire Loan Obligations described in the Notes and in the other Loan Documents, all without any deduction or credit for taxes or other similar charges paid by Borrower, and shall cause all other obligated parties to keep, perform, and observe all and singular the covenants and promises herein, in the Notes and in each of the other Loan Documents to be kept, performed, and observed, all without fraud or delay, then this Security Instrument, and all the properties, interests, and rights hereby granted, bargained, and sold shall cease, terminate, and be void.

AND Borrower and Tenant covenant and agree as follows:

AGREEMENT

1. DEFINITIONS. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Loan Agreement. The following terms, when used in this Security Instrument, shall have the meanings assigned to them in the Recital above or otherwise shall have the following meanings:

(a) "1933 Act" has the meaning given to that term in Section 13 (Transfers of the Mortgaged Property or Beneficial Interest in Grantor).

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(b) **“Accounts”** has the meaning given such term in the UCC, and includes, without limitation, any rights of Borrower and Tenant arising from the operation of the Facility to payment for goods sold or leased or for services rendered, not evidenced by an Instrument, including, without limitation, (i) all accounts arising from the operation of the Facility, (ii) all moneys and accounts, if any, held by Lender pursuant to this Security Instrument or any other Loan Document, (iii) all rights to payment from residents and others arising from the operation of the Facility, (iv) receivables arising out of the use of a credit or charge card or information contained on or for use with the card, (v) Supporting Obligations, letter-of-credit rights and letters of credit given by any Person with respect to any of the foregoing, and (vi) all books and records in whatever media (paper, electronic or otherwise) recorded or stored, with respect to any or all of the foregoing and all equipment and general intangibles necessary or beneficial to retain, access and/or process the information contained in those books and records. Accounts shall include the Proceeds thereof.

(c) **“Appurtenant Rights”** means all air rights, development rights, zoning rights, easements, rights-of-way, strips and gores of land, vaults, streets, roads, alleys, tenements, passages, sewer rights, waters, water courses, water rights and powers, minerals, flowers, shrubs, crops, trees, timber and other emblements now or hereafter appurtenant to, or used or useful in connection with, or located on, under or above the Land, or any part or parcel thereof, and all ground leases, estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances, reversions, and remainders whatsoever, in any way belonging, relating or appertaining to the Land, or any part thereof, now or hereafter.

(d) **“Assignment of Contracts”** means that certain Assignment of Contracts of even date herewith executed by Borrower and Tenant for the benefit of Lender, as amended from time to time.

(e) **“Assignment of Leases and Rents”** means that certain Assignment of Leases and Rents of even date herewith executed by Borrower and Tenant for the benefit of Lender, as amended from time to time.

(f) **“Chattel Paper”** has the meaning given such term in the UCC, and includes, without limitation, a record or records (including, without limitation, electronic chattel paper) which evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, or a lease of specific goods; all Supporting Obligations with respect thereto; any returned, rejected or repossessed goods and software covered by any such record or records and all proceeds (in any form including, without limitation, accounts, contract rights, documents, chattel paper, instruments and general intangibles) of such returned, rejected or repossessed goods; and all proceeds (cash proceeds and noncash proceeds) of the foregoing.

(g) **“Collateral Assignment of Management Agreement”** means that certain Collateral Assignment of Management Agreement of even date herewith executed by Grantor to and for the benefit of Lender, as amended from time to time.

(h) **“Condemnation”** has the meaning given to that term in Section 12 (Condemnation).

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(i) **“Contracts”** means all license agreements, operating contracts, and all management, service, employment, supply and maintenance contracts and agreements, and any other agreements, licenses or contracts of any nature whatsoever now or hereafter obtained or entered into by Borrower and/or Tenant with respect to the acquisition, construction, renovation, expansion, ownership, occupancy, use, operation, maintenance and administration of the Facility and/or the Mortgaged Property, including, without limitation, any and all contracts between Borrower and/or Tenant and any resident of the Facility giving the resident certain rights of occupancy in the Facility and providing for certain services to such resident.

(j) **“Default Rate”** has the meaning given to that term in each Note.

(k) **“Design and Construction Documents”** means, collectively, (a) all contracts for services to be rendered, work to be performed or materials to be supplied in the construction, renovation or repair of the Facility, including all agreements with architects, engineers or contractors for such services, work or materials; (b) all plans, drawings and specifications for the construction, renovation or repair of the Facility; (c) all permits, licenses, variances and other rights or approvals issued by or obtained from any Governmental Authority or other Person in connection with the construction, renovation or repair of the Improvements; and (d) all amendments of or supplements to any of the foregoing.

(l) **“Deposit Accounts”** has the meaning given such term in the UCC.

(m) **“Equipment”** has the meaning given such term in the UCC, and includes, without limitation, all beds, linen, televisions, carpeting, telephones, cash registers, computers, lamps, glassware, rehabilitation equipment, restaurant and kitchen equipment, and other fixtures and equipment of Borrower and Tenant (including, without limitation, embedded software) located on, attached to or used or useful in connection with any of the Mortgaged Property or the Facility and all renewals and replacements thereof and substitutions therefor; provided, however, that with respect to any items which are leased for the benefit of the Facility and not owned by Borrower or Tenant, the Equipment shall include the leasehold interest only of Borrower or Tenant, as applicable, together with any options to purchase any of said items and any additional or greater rights with respect to such items which Borrower or Tenant may hereafter acquire, but the foregoing shall not be construed to mean that such leasing shall be permitted hereunder and under the other Loan Documents.

(n) **“Event of Default”** means the occurrence of any event listed in Section 14 (Events of Default).

(o) **“Expenses”** means all costs and expenses of any nature whatsoever incurred at any time and from time to time (whether before or after an Event of Default) by the Lender in exercising or enforcing any rights, powers and remedies provided in this Security Instrument or any of the other Loan Documents, including, without limitation, attorney's fees, court costs, receiver's fees, management fees and costs incurred in the repair, maintenance and operation of, or taking possession of, or selling, the Mortgaged Property.

(p) **“Facility”** means the existing senior housing community containing 115 independent living units and 115 independent living beds and 30 assisted living units and 30

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assisted living beds to be located and currently operating on the Land known as "Arbor Terrace at Park Ridge," together with any other general or specialized care facilities, if any (including any Alzheimer's care units, other specialty care assisted living facility, skilled nursing or subacute nursing unit), now or hereafter operated on the Land and including the New Improvements (as defined in the Loan Agreement) to be constructed or renovated on the Land which may result in an increase in bed and/or unit count, all of which shall be done pursuant to all required approvals.

(q) **"Fixtures"** means all property which is now or hereafter so attached to the Land or the Improvements as to constitute a fixture under applicable law and all renewals and replacements thereof and substitutions therefor, including, without limitation, machinery, equipment, engines, boilers, incinerators, installed building materials; systems and equipment for the purpose of supplying or distributing heating, cooling, electricity, gas, water, air, or light; antennas, cable, wiring and conduits used in connection with radio, television, security, fire prevention, or fire detection or otherwise used to carry electronic signals; telephone systems and equipment; elevators and related machinery and equipment; fire detection, prevention and extinguishing systems and apparatus; security and access control systems and apparatus; plumbing systems; water heaters, ranges, stoves, microwave ovens, refrigerators, dishwashers, garbage disposers, washers, dryers and other appliances; light fixtures, awnings, storm windows and storm doors; pictures, screens, blinds, shades, curtains and curtain rods; mirrors; cabinets, paneling, rugs and floor and wall coverings; fences, trees and plants; and exercise equipment.

(r) **"General Intangibles"** has the meaning given such term in the UCC, and includes, without limitation, all intangible personal property of Borrower and Tenant arising out of or connected with the Mortgaged Property or the Facility and all renewals and replacements thereof and substitutions therefor (other than Accounts, Rents, Instruments, Inventory, Money, Permits and Reimbursement Contracts), including, without limitation, things in action, contract rights and other rights to payments of Money, commercial tort claims, other claims (including without limitation all claims for income tax and other refunds), payment intangibles and Supporting Obligations.

(s) **"Impositions"** and **"Imposition Deposits"** are defined in Section 4 (Deposits for Taxes, etc.).

(t) **"Improvements"** means all buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, including but not limited to, all gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, elevators and motors, plumbing and heating fixtures, carpeting and other floor coverings, water heaters, awnings and storm sashes, and cleaning apparatuses which are or shall be attached to the Land or said buildings, structures or improvements.

(u) **"Instruments"** has the meaning given such term in the UCC, and includes, without limitation, all instruments, Chattel Paper, documents or other writings obtained by Borrower or Tenant from or in connection with the operation of the Mortgaged Property or the construction and operation of the Facility (including without limitation, all ledger sheets, computer records and printouts, data bases, programs, books of account, software, trademarks or

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trade names, utility contracts, maintenance and service contracts and files of Borrower and Tenant relating thereto).

(v) **"Inventory"** has the meaning given such term in the UCC, and includes, without limitation, all inventories of food, beverages and other comestibles owned and held by Borrower and/or (including, without limitation, embedded software) for sale or use at or from the Mortgaged Property or the Facility, and soap, paper supplies, medical supplies, drugs and all other such goods, wares and merchandise held by Borrower and/or Tenant for sale to or for consumption by residents, guests or patients of the Land or the Facility and all such other goods returned to or repossessed by Borrower and/or Tenant.

(w) **"Investment Property"** has the meaning given such term in the UCC, and includes, without limitation, a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account, and all proceeds (cash proceeds and non-cash proceeds) of, and Supporting Obligations with respect to, the foregoing.

(x) **"Land"** means the land described in Exhibit "A" attached hereto and incorporated herein.

(y) **"Leases"** means all present and future leases, subleases, licenses, concessions or grants or other possessory interests now or hereafter in force, whether oral or written, covering or affecting the Mortgaged Property and/or the Facility, or any portion of the Mortgaged Property and/or the Facility and all modifications, extensions or renewals thereof, including, without limitation, the Master Lease.

(z) **"Lender"** means the entity identified as "Lender" in the first paragraph of this Security Instrument, or any subsequent holder of either Note.

(aa) **"Lien"** means any voluntary or involuntary mortgage, security deed, deed of trust, lien, pledge, assignment for collateral, security interest, title retention agreement, financing lease, levy, execution, seizure, judgment, attachment, garnishment, charge, lien or other encumbrance of any kind, including those contemplated by or permitted in this Security Instrument and the other Loan Documents.

(bb) **"Loan Documents"** means this Security Instrument, the Notes, the Loan Agreement, the Guaranty Agreement, the Assignment of Contracts, the Assignment of Leases and Rents, the Collateral Assignment of Management Agreement, and the Subordination of Management Agreement, together with any and all other documents executed by Borrower, Tenant or others, now or in the future, evidencing, securing or otherwise relating to either Loan, as such documents may be amended from time to time.

(cc) **"Loan Obligations"** means the aggregate of the principal and interest owing from time to time under the Notes and all expenses, charges and other amounts owing from time to time under the Notes, the Loan Agreement (including, without limitation, all amounts due and owing pursuant to Section 2.6 of the Loan Agreement), this Security Instrument or any of the other Loan Documents, including, without limitation, prepayment fees, late charges, default interest and advances to protect the security of this Security Instrument under

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Section 7 (Protection of Lender's Security), if any, and other obligations from time to time owing to, or for the benefit of, Lender pursuant to the Loan Documents.

(dd) "**Money**" means all of Borrower's and Tenant's rights to all monies, cash, rights to Deposit Accounts, or other items of legal tender obtained from or for use in connection with the operation of the Facility.

(ee) "**Mortgaged Property**" means all of Borrower's and Tenant's present and future right, title and interest in and to all of the following, provided that if any of the following capitalized terms are defined in the UCC, each such term shall have the meaning given such term in the UCC and shall include, without limitation, the additional items set forth in this Security Instrument with respect to such term:

- (i) the Land;
- (ii) all Appurtenant Rights;
- (iii) all Equipment;
- (iv) all Improvements;
- (v) all Fixtures;
- (vi) all Accounts;
- (vii) all Deposit Accounts;
- (viii) all Contracts;
- (ix) all General Intangibles;
- (x) all Permits (to the extent assignable);
- (xi) the Design and Construction Documents;
- (xii) all Money;
- (xiii) all Instruments;
- (xiv) all Inventory;
- (xv) all Reimbursement Contracts;
- (xvi) all Rents;
- (xvii) all Personalty;
- (xviii) all Leases;

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- (xix) all Chattel Paper;
- (xx) all Supporting Obligations;
- (xxi) all Investment Property;
- (xxii) all Proceeds;

(xxiii) all contracts, options and other agreements for the sale of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property entered into by Borrower and/or Tenant now or in the future, including cash or securities deposited to secure performance by parties of their obligations;

(xxiv) all Imposition Deposits;

(xxv) all refunds or rebates of Impositions by any municipal, state or federal authority or insurance company (other than refunds applicable to periods before the real property tax year in which this Security Instrument is dated);

(xxvi) all names under or by which any of the above Mortgaged Property may be operated or known, and all trademarks, trade names, and goodwill relating to any of the Mortgaged Property; and

(xxvii) all renewals, replacements and Proceeds of any of the foregoing and any substitutions therefor.

(ff) “**Note**” and “**Notes**” have the meaning assigned to such terms in the Recitals.

(gg) “**Notice**” has the meaning given to that term in Section 24.

(hh) “**Opinion of Counsel**” means an opinion or opinions in writing signed by independent legal counsel to Borrower, designated by Borrower, and reasonably satisfactory to Lender.

(ii) “**Personalty**” means all Equipment, Inventory, General intangibles which are used now or in the future in connection with the ownership, management or operation of the Land or the Improvements or are located on the Land or in the Improvements, including furniture, furnishings, machinery, building materials, appliances, goods, supplies, tools, books, records (whether in written or electronic form), computer equipment (hardware and software) and other tangible personal property (other than Fixtures) which are used now or in the future in connection with the ownership, management or operation of the Land or the Improvements or are located on the Land or in the Improvements, and any operating agreements relating to the Land or the Improvements, and any surveys, plans and specifications and contracts for architectural, engineering and construction services relating to the Land or the Improvements and all other intangible property and rights relating to the operation of, or used in connection with, the Land or the Improvements, including all governmental Permits relating to any activities on the Land.

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(jj) **"Prior Lien"** has the meaning given to that term in Section 30 (Subrogation).

(kk) **"Proceeds"** means all awards, payments, earnings, royalties, issues, profits, liquidated claims and proceeds (including proceeds of insurance and condemnation and any conveyance in lieu thereof), whether cash or noncash, moveable or immoveable, tangible or intangible, from the sale, conversion (whether voluntary or involuntary), exchange, transfer, collection, loss, damage, condemnation, disposition, substitution or replacement of any of the Mortgaged Property.

(ll) **"Property Jurisdiction"** means the state in which the Mortgaged Property is located.

(mm) **"Rents"** means all rent and other payments of whatever nature from time to time payable pursuant to the Leases or for retail space or other space at the Facility (including, without limitation, rights to payment earned under leases for space in the Improvements for the operation of ongoing retail businesses such as newsstands, barbershops, beauty shops, physicians' offices, pharmacies and specialty shops).

(nn) **"Single-Purpose Entity"** has the meaning given to such term in the Loan Agreement.

(oo) **"Stock"** means all shares, options, warrants, general or limited partnership interests, membership interests, participations or other equivalents (regardless of how designated) in a corporation, limited liability company, partnership or any equivalent entity, whether voting or nonvoting, including, without limitation, common stock, preferred stock, or any other "equity security" (as such term is defined in Rule 3a11-1 of the General Rules and Regulations promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended).

(pp) **"Subordination of Management Agreement"** means that certain Subordination of Management Agreement of even date herewith among Grantor, Manager (as defined in the Loan Agreement), and Lender, as the same may be amended, modified, substituted, extended, or renewed from time to time.

(qq) **"Supporting Obligation"** has the meaning given such term in the UCC, and includes, without limitation, a letter-of-credit right, secondary obligation, or obligation of a secondary obligor, or secondary obligation that supports the payment or performance of an Account, Chattel Paper, a document, a General Intangible, an Instrument, or Investment Property.

(rr) **"Taxes"** means all taxes, assessments, vault rentals and other charges, if any, general, special or otherwise, including all assessments for schools, public betterments and general or local improvements, which are levied, assessed or imposed by any public authority or quasi-public authority, and which, if not paid, will become a lien, on the Land or the Improvements.

(ss) **"Transfer"** has the meaning given to such term in the Loan Agreement.

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(tt) "UCC" has the meaning given to that term in Section 2.

(uu) "UCC Collateral" has the meaning given to that term in Section 2 (Uniform Commercial Code).

2. UNIFORM COMMERCIAL CODE SECURITY AGREEMENT.

(a) This Security Instrument is also a security agreement and fixture filing under the Uniform Commercial Code (the "UCC") as adopted in the Property Jurisdiction for any of the Mortgaged Property which, under applicable law, may be subject to a security interest under the Uniform Commercial Code as adopted in the Property Jurisdiction, whether acquired now or in the future, and all products and cash and non-cash Proceeds thereof (collectively, "UCC Collateral"), and Borrower and Tenant hereby grant to Lender a security interest in the UCC Collateral. Borrower and Tenant hereby authorize Lender to record, and agree that they shall execute and deliver to Lender, upon Lender's request, financing statements, continuation statements and amendments in such form as Lender may reasonably require to perfect or continue the perfection of this security interest. Borrower shall pay all actual filing costs and all costs and expenses of any record searches for financing statements that Lender may require. Without the prior written consent of Lender, Borrower and Tenant shall not create or permit to exist any other lien or security interest in any of the UCC Collateral (other than Permitted Encumbrances). If an Event of Default has occurred and is continuing, Lender shall have the remedies of a secured party under the Uniform Commercial Code as adopted in the Property Jurisdiction, in addition to all remedies provided by this Security Instrument or existing under applicable law. In exercising any remedies, Lender may exercise its remedies against the UCC Collateral separately or together and in any order, without in any way affecting the availability of Lender's other remedies hereunder and/or under applicable law. The terms "sign," "signed" and "signatures" shall have their ordinary meanings except that, to limited extent Lender in an authenticated record expressly agrees otherwise from time to time in the exercise of its sole and absolute discretion, the terms may also include other methods used to authenticate. Without implying any limitation on the foregoing, with respect to the UCC Collateral that may be perfected by control, Borrower and/or Tenant, as applicable, shall take such steps as Lender may require in order that Lender may have such control. To the extent that the proceeds of any of the Accounts are expected to become subject to the control of, or in the possession of, a party other than Borrower, Tenant or Lender, Borrower or Tenant (as applicable) shall cause all such parties to execute and deliver on the date of this Security Instrument and from time to time hereafter security documents, financing statements or other documents as requested by Lender and as may be necessary to evidence and/or perfect the security interest of Lender in those proceeds. Borrower and Tenant agree that a copy of a fully executed security agreement and/or financing statement shall be sufficient to satisfy for all purposes the requirements of a financing statement as set forth in Article 9 of the UCC. Borrower and Tenant each hereby irrevocably appoint Lender as Borrower's and Tenant's attorney-in-fact, with power of substitution, in the name of Lender or in the name of Borrower or Tenant or otherwise, for the use and benefit of Lender, but at the cost and expense of Borrower and/or Tenant and without notice to Borrower or Tenant, solely to execute and deliver any and all of the instruments and other documents and take any action which Lender may require pursuant the foregoing provisions of this Section. Further, to the extent permitted by applicable laws, Lender may file, without Borrower's or Tenant's signature, one or more financing statements or other notices disclosing Lender's liens and other

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security interests. All financing statements and notices may describe Lender's collateral as all assets or all personal property of Borrower and Tenant.

(b) IT IS INTENDED THAT THIS SECURITY INSTRUMENT SHALL BE EFFECTIVE AS A FINANCING STATEMENT FILED AS A FIXTURE FILING UNDER THE UNIFORM COMMERCIAL CODE AS ADOPTED BY THE STATE OF ILLINOIS. Certain of the Mortgaged Property described herein is or is to become fixtures related to the Land and Improvements.

3. LEASES. Borrower and Tenant shall not, without the prior written consent and approval of Lender, which shall not be unreasonably withheld, enter into any Lease (except for admission of Facility patients or residents and commercial Leases providing services to Facility residents (i.e. beauty salons, physical therapy), which in the aggregate, do not exceed 12,860 square feet of the Improvements), or enter into or permit any management agreement of or affecting any part of the Mortgaged Property, other than the Management Agreement described in the Loan Agreement. Borrower and Tenant shall not enter into any material amendment, modification or replacement of the Master Lease without the prior written consent and approval of Lender, which shall not be unreasonably withheld.

4. DEPOSITS FOR TAXES, INSURANCE AND OTHER CHARGES.

(a) During the continuance of an Event of Default, upon Lender's demand, Borrower shall deposit with Lender on the day monthly installments of principal and/or interest, or both, are due under the Notes (or on another day designated in writing by Lender), until the Loan Obligations are paid in full, an additional amount sufficient to accumulate with Lender the entire sum required to pay, when due (i) to the extent applicable, the yearly water and sewer charges which may be levied on all or any part of the Mortgaged Property, (ii) the premiums for fire and other hazard insurance, business interruption insurance and such other insurance as Lender may require under the Loan Agreement, (iii) the yearly Taxes, and (iv) amounts for other charges and expenses which Lender at any time reasonably deems necessary, to prevent the imposition of liens on the Mortgaged Property, that would impair the status of Lender's liens as first priority on the Mortgaged Property, all as reasonably estimated from time to time by Lender, plus one-sixth of such estimate. The amounts deposited under the preceding sentence are collectively referred to in this Security Instrument as the "Imposition Deposits." The obligations of Borrower for which the Imposition Deposits are required are collectively referred to in this Security Instrument as "Impositions." The amount of the Imposition Deposits shall be sufficient to enable Lender to pay each Imposition before the last date upon which such payment may be made without any penalty or interest charge being added plus one-sixth of such estimate. Lender shall maintain records indicating how much of the monthly Imposition Deposits and how much of the aggregate Imposition Deposits held by Lender are held for the purpose of paying property taxes, insurance premiums and each other obligation of Borrower for which Imposition Deposits are required. Any waiver by Lender of the requirement that, following an Event of Default, Borrower remit Imposition Deposits to Lender may be revoked by Lender, in Lender's discretion, at any time upon notice to Borrower.

(b) Imposition Deposits shall be held in an institution (which may be Lender, if Lender is such an institution) whose deposits or accounts are insured or guaranteed by a

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federal agency. Lender shall not be obligated to open additional accounts or deposit Imposition Deposits in additional institutions when the amount of the Imposition Deposits exceeds the maximum amount of the federal deposit insurance or guaranty. Lender shall apply the Imposition Deposits to pay Impositions so long as no Event of Default has occurred and is continuing. Unless applicable law requires, Lender shall not be required to pay Borrower any interest, earnings or profits on the Imposition Deposits. Borrower hereby pledges and grants to Lender a security interest in the Imposition Deposits as additional security for all of Borrower's obligations under this Security Instrument and the other Loan Documents. Any amounts deposited with Lender under this Section 4 shall not be trust funds, nor shall they operate to reduce the Loan Obligations, unless applied by Lender for that purpose under Section 4(e) below.

(c) Unless Lender has waived the Imposition Deposit requirement during the continuance of an Event of Default, Borrower shall direct the applicable Governmental Authority to deliver the invoices and bills for all Impositions to Lender. If Lender receives a bill or invoice for an Imposition, Lender shall pay the Imposition from the Imposition Deposits held by Lender. Lender shall have no obligation to pay any Imposition to the extent it exceeds Imposition Deposits then held by Lender. Lender may pay an Imposition according to any bill, statement or estimate from the appropriate public office or insurance company without inquiring into the accuracy of the bill, statement or estimate or into the validity of the Imposition.

(d) If at any time the amount of the Imposition Deposits held by Lender for payment of a specific Imposition exceeds the amount reasonably deemed necessary by Lender, plus one-sixth ($1/6^{\text{th}}$) of such estimate, the excess shall be credited against future installments of Imposition Deposits. If at any time the amount of the Imposition Deposits held by Lender for payment of a specific Imposition is less than the amount reasonably estimated by Lender to be necessary, plus one-sixth ($1/6^{\text{th}}$) of such estimate, Borrower shall pay to Lender the amount of the deficiency within fifteen (15) days after notice from Lender.

(e) If an Event of Default has occurred and is continuing, Lender may apply any Imposition Deposits, in any amounts and in any order as Lender determines, in Lender's sole discretion, to pay any Impositions or as a credit against the Loan Obligations. Upon payment in full of the Loan Obligations, Lender shall promptly refund to Borrower any Imposition Deposits held by Lender.

5. APPLICATION OF PAYMENTS. If at any time Lender receives, from Borrower, Tenant or otherwise, any amount applicable to the Loan Obligations which is less than all amounts due and payable at such time, then Lender may apply that payment to amounts then due and payable in any manner and in any order determined by Lender, in Lender's sole discretion. Neither Lender's acceptance of an amount which is less than all amounts then due and payable nor Lender's application of such payment in the manner authorized in the immediately preceding sentence shall constitute or be deemed to constitute either a waiver of the unpaid amounts or an accord and satisfaction. Notwithstanding the application of any such amount to the Loan Obligations, Borrower's and Tenant's obligations under this Security Instrument and the Notes shall remain unchanged.

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6. USE OF PROPERTY. Unless required by applicable law, Borrower and Tenant shall not (a) except for any change in use approved by Lender, allow changes in the use for which all or any part of the Mortgaged Property is contemplated to be used at the time this Security Instrument was executed, (b) except for any conversion approved by Lender in writing, convert any part of the Facility to a different commercial use other than as a senior living facility with independent living, assisted living and memory care units, or (c) initiate or acquiesce in a change in the zoning classification of the Land and/or the Facility, without Lender's prior written consent, which shall not be unreasonably withheld.

7. PROTECTION OF LENDER'S SECURITY.

(a) If Borrower or Tenant fails to perform any of their respective obligations under this Security Instrument or any other Loan Document after the expiration of any applicable notice and cure periods, or if any action or proceeding is commenced and is continuing which Lender reasonably believes to represent a material adverse threat to the Mortgaged Property, Lender's security or Lender's rights under this Security Instrument, including eminent domain, insolvency, code enforcement, civil or criminal forfeiture, enforcement of Hazardous Materials Laws (as defined in the Loan Agreement), fraudulent conveyance or reorganizations, then Lender at Lender's option may make such appearances, disburse such sums and take such actions as Lender reasonably deems necessary to perform such obligations of Borrower and/or Tenant and to protect Lender's interest, including (i) disbursement of fees and out of pocket fees and reasonable expenses of attorneys, accountants, inspectors and consultants, (ii) entry upon the Mortgaged Property to make repairs or secure the Mortgaged Property, (iii) procurement of the insurance coverages required under the Loan Agreement, and (iv) payment of amounts which Borrower has failed to pay under Section 9 (Taxes; Operating Expenses).

(b) Any amounts disbursed by Lender under this Section 7, or under any other provision of this Security Instrument, or under any of the other Loan Documents, that treats such disbursement as being made under this Section 7, shall be added to, and become part of the Loan Obligations, shall be immediately due and payable and shall bear interest from the date of disbursement until paid at the Default Rate.

(c) Nothing in this Section 7 shall require Lender to incur any expense or take any action.

8. INSPECTION. Lender, its agents, representatives, and designees may make or cause to be made entries upon and inspections of the Mortgaged Property (including environmental inspections and tests) during normal business hours, upon reasonable advance notice to Borrower (which may be oral) except in an emergency or during the continuance of an Event of Default in which event no advance notice needs to be given.

9. TAXES; OPERATING EXPENSES.

(a) Subject to the provisions of Section 9(c) and Section 9(d) below, Borrower and/or Tenant, as applicable, shall pay all Taxes when due and before the addition of any interest, fine, penalty or cost for nonpayment.

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(b) Subject to the provisions of Section 9(c) below, Borrower and/or Tenant, as applicable, shall pay the expenses of operating, managing, maintaining and repairing the Mortgaged Property (including, insurance premiums, utilities, repairs and replacements) before the last date upon which each such payment may be made without any penalty or interest charge being added or lien imposed.

(c) As long as no Event of Default has occurred and is continuing, Borrower or Tenant shall not be obligated to pay Taxes, insurance premiums or any other individual Imposition to the extent that Imposition Deposits are held by Lender for the purpose of paying that specific Imposition. If an Event of Default exists, Lender may exercise any rights Lender may have with respect to Imposition Deposits without regard to whether Impositions are then due and payable.

(d) Borrower or Tenant (as applicable), at its own expense, may contest by appropriate legal proceedings, conducted diligently and in good faith, the amount or validity of any Imposition other than insurance premiums, if (i) Borrower or Tenant (as applicable) notifies Lender of the commencement or expected commencement of such proceedings, (ii) the Mortgaged Property is not in danger of being sold or forfeited, as reasonably determined by Lender, (iii) if reasonably requested by Lender, Borrower or Tenant (as applicable) deposits with Lender cash reserves or other collateral sufficient to pay the contested Imposition, or, as an alternative, at Borrower's or Tenant's (as applicable) option, obtain and deliver to Lender a bond in the amount of the contested Imposition (iv) Borrower or Tenant (as applicable) furnishes whatever security is required in the proceedings or is reasonably requested by Lender, which may include the delivery to Lender of the reserves or bond established by Borrower or Tenant to pay the contested Imposition, as additional security, and (v) such contest operates to suspend enforcement of such Imposition.

(e) Borrower and Tenant shall promptly deliver to Lender a copy of all notices of, and invoices for, Impositions, and if Borrower or Tenant pays any Imposition directly, Borrower and Tenant shall promptly furnish to Lender receipts evidencing such payments.

(f) In the event of the passage of any law subsequent to the date of this Security Instrument in any manner changing or modifying the laws now in force governing the taxation of deeds of trust or mortgages or debts secured by deeds of trust or mortgages or the manner of collecting any such taxes so as to adversely affect Lender (including, without limitation, a requirement that internal revenue stamps be affixed to this Security Instrument or any of the other Loan Documents), Borrower or Tenant, as applicable, will promptly pay any such tax. If Borrower or Tenant, as applicable, fails to make such prompt payment, or if any law prohibits Borrower or Tenant, as applicable, from making such payment or would penalize Lender if Borrower or Tenant, as applicable, made such payment, then the entire unpaid balance of the Loan Obligations shall become due and payable after ninety (90) days notice, at the sole option of Lender. In no event, however, shall any income taxes of Lender or franchise taxes of Lender measured by income, or taxes in lieu of such income taxes or franchise taxes, be required to be paid by Borrower or Tenant.

10. LIENS; ENCUMBRANCES. Borrower and Tenant acknowledge that the existence of any Lien on the Mortgaged Property, other than Permitted Encumbrances and Liens

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approved by Lender in accordance with the Loan Documents, whether voluntary, involuntary or by operation of law, is a "Transfer" which constitutes an Event of Default as provided under Section 14.

11. PRESERVATION, MANAGEMENT AND MAINTENANCE OF MORTGAGED PROPERTY. Borrower and Tenant (a) shall not commit material waste or permit material impairment or deterioration of the Mortgaged Property, (b) shall not abandon the Facility, (c) shall restore or repair promptly, in a good and workmanlike manner, any damaged part of the Mortgaged Property to the equivalent of its original condition, or such other condition as Lender may reasonably approve in writing, whether or not insurance proceeds or condemnation awards are available to cover any costs of such restoration or repair, except to the extent Lender applies such insurance proceeds or condemnation awards to reduce the Loan Obligations, (d) shall keep the Mortgaged Property in good repair, including the replacement of Personalty and Fixtures with items of equal or better function and quality, except for obsolete items for which no functional replacement is reasonable or feasible in accordance with commercially reasonable standards (unless required under the Management Agreement), (e) shall provide for professional management of the Mortgaged Property by a manager satisfactory to Lender in its sole discretion under a contract reasonably approved by Lender in writing, and (f) shall give notice to Lender of and, unless otherwise directed in writing by Lender, shall appear in and defend any action or proceeding purporting to affect the Mortgaged Property, Lender's security or Lender's rights under this Security Instrument. Except as contemplated by the Loan Agreement, Borrower and Tenant shall not (and shall not permit any other person to) remove, demolish or alter the Mortgaged Property or any part of the Mortgaged Property in any material respect except to comply with applicable law or in connection with the replacement of tangible Personalty.

12. CONDEMNATION.

(a) Borrower and Tenant shall promptly notify Lender upon receiving knowledge of any action or proceeding relating to any condemnation or other taking, or conveyance in lieu thereof, of all or any part of the Mortgaged Property, whether direct or indirect (a "Condemnation"). Borrower and/or Tenant, as required, shall appear in and prosecute or defend any proceeding relating to any Condemnation unless otherwise directed by Lender in writing. Borrower and Tenant authorize and appoint Lender as attorney-in-fact for Borrower and Tenant solely to, during the continuance of an Event of Default, commence, appear in and prosecute, in Lender's or Borrower's or Tenant's name, any action or proceeding relating to any Condemnation and to settle or compromise any claim in connection with any Condemnation. This power of attorney is coupled with an interest and therefore is irrevocable. However, nothing contained in this Section 12 shall require Lender to incur any expense or take any action. Borrower and Tenant hereby transfer and assign to Lender, all right, title and interest of Borrower and Tenant in and to any award or payment with respect to (i) any Condemnation, or any conveyance in lieu of Condemnation, and (ii) any damage to the Mortgaged Property caused by governmental action that does not result in a Condemnation.

(b) Lender may apply such awards or proceeds, after the deduction of Lender's expenses incurred in the collection of such amounts, at Lender's option, to the restoration or repair of the Mortgaged Property or to the payment of the Loan Obligations, with

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the balance, if any, to Borrower. Unless Lender otherwise agrees in writing, any application of any awards or proceeds to the Loan Obligations shall not extend or postpone the due date of any monthly installments referred to in the Notes, Section 4 (Deposits for Taxes, etc.), or change the amount of such installments. Borrower and Tenant agree to execute such further evidence of assignment of any awards or proceeds as Lender may require.

13. TRANSFERS OF THE MORTGAGED PROPERTY OR BENEFICIAL INTERESTS IN GRANTOR. Except as otherwise permitted under Section 5.9 of the Loan Agreement, Transfers shall not be permitted.

14. EVENTS OF DEFAULT. The occurrence of an Event of Default under the Loan Agreement or any of the other Loan Documents shall constitute an Event of Default under this Security Instrument.

15. REMEDIES.

(a) Acceleration of Maturity. During the continuance of an Event of Default, the entire Loan Obligations shall, at the option of Lender, immediately become due and payable without notice or demand, time being of the essence of this Security Instrument, and no omission on the part of Lender to exercise such option when entitled to do so shall be construed as a waiver of such right.

(b) Uniform Commercial Code. Lender shall have all of the rights and remedies of a secured party under the UCC. Upon demand by Lender, Borrower and/or Tenant, as applicable, shall assemble the UCC Collateral and make it available to Lender, at a place designated by Lender. Lender or its agents may without notice from time to time enter upon Borrower's or Tenant's premises to take possession of the UCC Collateral, to remove it, to render it unusable, to process it or otherwise prepare it for sale, or to sell or otherwise dispose of it.

Any written notice of the sale, disposition or other intended action by Lender with respect to the UCC Collateral which is sent by regular mail, postage prepaid, to Borrower and/or Tenant at the address of Borrower which may from time to time be shown on Lender's records, at least ten (10) days prior to such sale, disposition or other action, shall constitute commercially reasonable notice to Borrower and/or Tenant, as applicable. Lender may alternatively or additionally give such notice in any other commercially reasonable manner. Nothing in this Security Instrument shall require Lender to give any notice not required by applicable laws.

If any consent, approval, or authorization of any state, municipal or other governmental department, agency or authority or of any person, or any person, corporation, partnership or other entity having any interest therein, should be necessary to effectuate any sale or other disposition of the UCC Collateral, Borrower and Tenant agree to execute all such applications and other instruments, and to take all other action, as may be required in connection with securing any such consent, approval or authorization.

Borrower and Tenant recognize that Lender may be unable to effect a public sale of all or a part of the UCC Collateral consisting of securities by reason of certain prohibitions contained in the Securities Act of 1933, as amended (the "1933 Act"), and other applicable federal and

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state laws. Lender may, therefore, in its discretion, take such steps as it may deem appropriate to comply with such laws and may, for example, at any sale of the UCC Collateral consisting of securities restrict the prospective bidders or purchasers as to their number, nature of business and investment intention, including, without limitation, a requirement that the Persons making such purchases represent and agree to the satisfaction of Lender that they are purchasing such securities for their account, for investment, and not with a view to the distribution or resale of any thereof. Borrower and Tenant covenant and agree to do or cause to be done promptly all such acts and things as Lender may request from time to time and as may be necessary to offer and/or sell the securities or any part thereof in a manner which is valid and binding and in conformance with all applicable laws. Upon any such sale or disposition, Lender shall have the right to deliver, assign and transfer to the purchaser thereof any UCC Collateral consisting of securities.

(c) Foreclosure.

(i) When all or any part of the Loan Obligations shall become due, whether by acceleration or otherwise and remain unpaid beyond the applicable notice and cure periods, Lender shall have the right to foreclose the lien hereof for such Loan Obligations or part thereof and/or exercise any right, power or remedy provided in this Security Instrument or any of the other Loan Documents. It is further agreed that if default be made in the payment of any part of the Loan Obligations, as an alternative to the right of foreclosure for the full Loan Obligations after acceleration thereof, Lender shall have the right to institute partial foreclosure proceedings with respect to the portion of said Loan Obligations so in default, as if under a full foreclosure, and without declaring the entire Loan Obligations due (such proceeding being hereinafter referred to as a "partial foreclosure"), and provided that if foreclosure sale is made because of default of a part of the Loan Obligations, such sale may be made subject to the continuing lien of this Security Instrument for the unmatured part of the Loan Obligations. It is further agreed that such sale pursuant to a partial foreclosure shall not in any manner affect the unmatured part of the Loan Obligations, but as to such unmatured part, the lien hereof shall remain in full force and effect just as though no foreclosure sale had been made under the provisions of this paragraph (a). Notwithstanding the filing of any partial foreclosure or entry of a decree of sale in connection therewith, Lender may elect at any time prior to a foreclosure sale pursuant to such decree to discontinue such partial foreclosure and to accelerate the entire Loan Obligations by reason of any uncured Event of Default upon which such partial foreclosure was predicated or by reason of any other Event of Default and proceed with full foreclosure proceedings. It is further agreed that several foreclosure sales may be made pursuant to partial foreclosures without exhausting the right of full or partial foreclosure sale for any unmatured part of the Loan Obligations. In the event of a foreclosure sale, Lender is hereby authorized, without the consent of Borrower or Tenant, to assign any and all insurance policies to the purchaser at such sale or to take such other steps as Lender may deem advisable to cause the interest of such purchaser to be protected by any of such insurance policies.

(ii) In any suit to foreclose or partially foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Lender for

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attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to the title as Lender may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Mortgaged Property. All expenditures and expenses of the nature mentioned in this paragraph and such other expenses and fees as may be incurred in the enforcement of Borrower's or Tenant's obligations hereunder, the protection of said Mortgaged Property and the maintenance of the lien of this Security Instrument, including the reasonable fees of any attorney employed by Lender in any litigation or proceeding affecting this Security Instrument, the Notes, or the Mortgaged Property, including probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threatened suit or proceeding shall be immediately due and payable by Borrower, with interest thereon at the Default Rate and shall be secured by this Security Instrument.

(iii) The proceeds of any foreclosure (or partial foreclosure) sale of the Mortgaged Property shall be distributed and applied in the following order of priority: first, to all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in paragraph (b) above; second, to all other items which may under the terms hereof constitute secured indebtedness additional to the Loan Obligations, with interest thereon as provided herein or in the other Loan Documents; third, to all principal and interest remaining unpaid on Loan Obligations; and fourth, any surplus to Borrower or Tenant, their successors or assigns, as their rights may appear or to any other party legally entitled thereto.

(d) Right to Enter and Take Possession.

(i) If an Event of Default shall have occurred and is continuing, Borrower and Tenant, after Lender files a complaint to foreclose (or partially foreclose) this Security Instrument, shall forthwith surrender to Lender the actual possession of the Mortgaged Property and, if and to the extent permitted by law, Lender itself, or by such officers or agents as it may appoint, may enter and take possession of all or any part of the Mortgaged Property, and may exclude Borrower, Tenant and their respective agents and employees upon the appointment of a receiver or an order entitling Lender to possession wholly therefrom, and take possession of the books, papers and accounts of Borrower and/or Tenant relating thereto;

(ii) If Borrower or Tenant shall for any reason fail to surrender or deliver the Mortgaged Property or any part thereof after such demand by Lender, Lender may obtain a judgment or decree conferring upon Lender the right to immediate possession or requiring Borrower and/or Tenant, as applicable, to deliver immediate possession of the Mortgaged Property to Lender. Borrower and/or Tenant, as applicable, will pay to Lender, upon demand, all expenses of obtaining such judgment or decree, including costs and expense incurred by Lender, its attorneys and agents, and all such

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expenses and costs shall, until paid, become part of the Loan Obligations and shall be secured by this Security Instrument;

(iii) Upon every such entering or taking of possession, Lender may, to the extent permitted under applicable law, hold, store, use, operate, manage and control the Mortgaged Property and conduct the business thereof, and, from time to time (A) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional Fixtures, Personalty and Equipment; (B) insure or keep the Mortgaged Property insured; (C) manage and operate the Mortgaged Property and exercise all of the rights and powers of Borrower and Tenant to the same extent as Borrower and Tenant could in their own respective names; and/or (D) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted to Lender, all as Lender from time to time may determine to be in its best interest. Lender may collect and receive all the Rents, including those past due as well as those accruing thereafter, and, after deducting (1) all expenses of Lender taking, holding, managing and operating the Mortgaged Property (including compensation for the services of all persons employed for such purposes); (2) Lender's cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements, purchases and acquisitions; (3) Lender's cost of such insurance deemed necessary by Lender; (4) such taxes, assessments and other similar charges as Lender may at its option pay; (5) other proper charges upon the Mortgaged Property or any part thereof paid by Lender; and (6) the actual fees and disbursements of the attorneys and agents of Lender, Lender shall apply the remainder of the monies and proceeds so received by Lender, first, to the payment of accrued interest; second, to the payment of Imposition Deposits and to other sums required to be paid hereunder; and third, to the payment of overdue installments of principal and any other unpaid Loan Obligations then due. Anything in this Section to the contrary notwithstanding, except as a result of Lender's (or its Affiliates) gross negligence or willful misconduct, Lender shall not incur any liability as a result of any exercise by Lender of its rights under this Security Instrument, and Lender shall be liable to account only for the Rents actually received by Lender;

(iv) If an Event of Default shall exist, Lender may require that Borrower and/or Tenant cause all of their Accounts to be paid to one or more deposit accounts with Lender, or at Lender's option, with another financial institution approved by Lender. Borrower and Tenant assign and grant to Lender a security interest in, pledge of and right of setoff against all moneys from time to time held in such deposit accounts, to the extent permitted by applicable law. Borrower and Tenant agree to promptly notify all of its account debtors, to the extent permitted under applicable law and to the extent Borrower or Tenant, as applicable, maintains such Accounts, to make payments to one or more such deposit accounts upon Lender's request and as designated by Lender, and Borrower and Tenant agree to provide any necessary endorsements to checks, drafts and other forms of payment so that such payments will be properly deposited in such accounts. Lender may cause moneys to be withdrawn from such deposit accounts and applied to the Loan Obligations in such order as Lender may elect, whether or not then due. Borrower and Tenant appoint Lender as Borrower's and Tenant's attorney-in-fact, which appointment is coupled with an interest and is irrevocable, solely to provide any

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notice, endorse any check, draft or other payment for deposit, or take any other action which Borrower or Tenant agrees to undertake in accordance with this Section. Lender shall not be liable for failure to collect or to enforce any Accounts or for any action or omission on the part of Lender, its officers, agents and employees in collecting or enforcing such Accounts; and

(v) Whenever any Event of Default has been cured, Lender shall surrender possession of the Mortgaged Property to Borrower or Tenant, as applicable, their successors and/or assigns. The same right of taking possession, however, shall exist if any subsequent Event of Default shall occur and be continuing.

(c) Performance by Lender. If an Event of Default shall have occurred and be continuing, Lender may, at its sole option, pay, perform or observe the same, and all actual payments made or actual costs or expenses incurred by Lender in connection therewith, with interest thereon at the Default Rate or at the maximum rate from time to time allowed by applicable law, whichever is less, shall be secured hereby and shall be, without demand, immediately repaid by Borrower to Lender. Notwithstanding anything to the contrary herein, Lender shall have no obligation, explicit or implied to pay, perform, or observe any term, covenant, or condition.

(f) Receiver. If any Event of Default shall have occurred and be continuing, Lender, upon application to a court of competent jurisdiction, shall be entitled as a matter of strict right, without notice and without regard to the sufficiency or value of any security for the Loan Obligations or the solvency of any party bound for its payment, to the appointment of a receiver to take possession of and to operate the Facility and to collect and apply the Rents. The receiver shall have all the rights and powers permitted under the laws of the Property Jurisdiction. Borrower and Tenant will pay to Lender upon demand all actual expenses, including receiver's fees, actual attorneys' fees, costs and agent's compensation, incurred pursuant to the provisions of this Section, and upon Borrower's or Tenant's failure to pay the same, any such amounts shall be added to the Loan Obligations and shall be secured by this Security Instrument.

(g) Lender's Power of Enforcement. If an Event of Default shall have occurred and be continuing, Lender may, either with or without entry or taking possession as hereinabove provided or otherwise, proceed by suit or suits at law in equity or any other appropriate proceeding or remedy (a) to enforce payment of either Note or the performance of any term thereof or any other right, (b) to foreclose this Security Instrument and to sell, as an entirety or in separate lots or parcels, the Mortgaged Property, as provided by the applicable law of the Property Jurisdiction, and (c) to pursue any other remedy available to it, all as Lender shall deem most effectual for such purposes. Lender shall take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, as Lender may determine. Lender shall deliver to the purchaser Lender's deed conveying the Mortgaged Property so sold without any covenant or warranty, expressed or implied. The recitals in Lender's deed shall be prima facie evidence of the truth of the statements made therein. Lender shall apply the proceeds of any such sale in accordance with subsection (j) of this Section 15. In addition, if an Event of Default shall have occurred and be continuing, Lender may exercise any and all other remedies applicable and enforceable under the law of the Property Jurisdiction.

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(h) Power of Sale. The Lender or the legal holder of the Loan Obligations may adjourn from time to time any sale by it to be made under or by virtue of this Security Instrument by announcement at the time and place appointed for such sale or for such adjourned sale or sales; and except as otherwise provided by any applicable provision of law, Lender, without further notice or publication, may make such sale at the time and place to which the same shall be so adjourned. Upon the completion of any sale or sales made by Lender under or by virtue of this Section 15, Lender, or an officer of any court empowered to do so, shall execute and deliver to the accepted purchaser or purchasers a good and sufficient instrument, or good and sufficient instruments, granting, conveying, assigning and transferring all estate, right, title and interest in and to the property and rights sold. Any such sale or sales made under or by virtue of this Section 15, whether made under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, shall operate to divest all the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of Borrower or Tenant in and to the properties and rights so sold, and shall be a perpetual bar both at law and in equity against Borrower and Tenant and against any and all persons claiming or who may claim the same, or any part thereof from, through or under Borrower or Tenant. Nothing in this Section 15 or elsewhere in this Security Instrument dealing with foreclosure procedures or specifying particular actions to be taken by Lender or any similar officer shall be deemed to contradict or add to the requirements and procedures now or hereafter specified by the law, and any such inconsistency shall be resolved in favor of the law of the Property Jurisdiction applicable to foreclosures at the time of such foreclosure.

(i) Purchase by Lender. Upon any foreclosure sale, Lender may bid for and purchase the Mortgaged Property and shall be entitled to apply all or any part of the Loan Obligations as a credit to the purchase price.

(j) Application of Proceeds of Sale. In the event of a foreclosure or other sale of all or any portion of the Mortgaged Property, the proceeds of said sale shall be applied, first, to the expenses of such sale and of all proceedings in connection therewith, including reasonable attorneys' fees and expenses (and attorneys' fees and expenses shall become absolutely due and payable whenever foreclosure is commenced); then to insurance premiums, liens, assessments, Impositions and charges, including utility charges and any other amounts advanced by Lender hereunder, and interest thereon; then to payment of the Loan Obligations in such order of priority as Lender shall determine, in its sole discretion or as may be required by applicable law; and finally the remainder, if any, shall be paid to Borrower, Tenant, or to the person or entity lawfully entitled thereto.

(k) Borrower or Tenant as Tenant Holding Over. In the event of any foreclosure sale, Borrower or Tenant (if Borrower or Tenant shall remain in possession) shall be deemed a tenant holding over and shall forthwith deliver possession to the purchaser or purchasers at such sale or be summarily dispossessed according to provisions of law applicable thereto.

(l) Waiver of Appraisalment, Valuation, Etc. Borrower and Tenant agree, to the full extent permitted by law, that during an Event of Default on the part of Borrower or Tenant hereunder, neither Borrower, Tenant nor anyone claiming through or under Borrower or Tenant will assert, claim or seek to take advantage of any appraisalment, redemption, valuation,

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stay, homestead, extension, exemption or laws now or hereafter in force, in order to prevent or hinder the enforcement of foreclosure of this Security Instrument, or the absolute sale of the Mortgaged Property, or the delivery of possession thereof immediately after such sale to the purchaser at such sale.

(m) Discontinuance of Proceedings. In case Lender shall have proceeded to enforce any right, power or remedy under this Security Instrument by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to Lender, then in every such case, Borrower, Tenant and Lender shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Lender shall continue as if no such proceedings had occurred.

(n) Waiver.

(i) No delay or omission by Lender or by any holder of either Note to exercise any right, power or remedy accruing upon any default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such default, or acquiescence therein, and every right, power and remedy given by this Security Instrument to Lender may be exercised from time to time and as often as may be deemed expedient by Lender. No consent or waiver expressed or implied by Lender to or of any breach or default by Borrower or Tenant in the performance of the obligations of Borrower or Tenant hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance of the same or any other obligations of Borrower or Tenant hereunder. Failure on the part of Lender to complain of any act or failure to act or failure to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by Lender of its rights hereunder or impair any rights, powers or remedies of Lender hereunder.

(ii) No act or omission by Lender shall, unless otherwise expressly agreed in writing by Lender, release, discharge, modify, change or otherwise affect the original liability under either Note, this Security Instrument, other Loan Documents or any other obligation of Borrower or any subsequent purchaser of the Mortgaged Property or any part thereof, or any maker, co-signer, endorser, surety or guarantor, nor preclude Lender from exercising any right, power or privilege herein granted or intended to be granted in any Event of Default then existing or of any subsequent default, nor alter the lien of this Security Instrument, except as expressly provided in an instrument or instruments executed by Lender. Without limiting the generality of the foregoing, but subject to any written agreement entered into by Lender, Lender may (A) grant forbearance or an extension of time for the payment of all or any portion of the Loan Obligations or accept partial payment of, compromise, settle, renew, or refuse to enforce any of Borrower's or Tenant's Loan Obligations to Lender under or in connection with this Security Instrument or any of the other Loan Documents; (B) release, waive, substitute or add any or all collateral or additional security for the payment of any of the Loan Obligations; (C) waive or fail to exercise any right granted herein, in the Notes or in other Loan Documents; (D) release any part of the Mortgaged Property from the security interest or lien of this Security Instrument or otherwise change any of the terms, covenants, conditions or agreements of the Notes, this Security Instrument or other Loan

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Documents; (E) consent to the filing of any map, plat or replat affecting the Land; (F) consent to the granting of any easement or other right affecting the Mortgaged Property; (G) make or consent to any agreement subordinating the security title or lien hereof, (H) release, substitute or add any one or more endorsers or guarantors of any or all of the Loan Obligations or (I) take or omit to take any action whatsoever with respect to the Notes, this Security Instrument, the other Loan Documents, the Mortgaged Property or any document or instrument evidencing, securing or in any way related to this Security Instrument, all without releasing, discharging, modifying, changing or affecting any such liability, or precluding Lender from exercising any such right, power or privilege with respect to the lien of this Security Instrument, except to the extent such action expressly authorizes in writing the foregoing. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Mortgaged Property, Lender, without notice, is hereby authorized and empowered to deal with any such vendee or transferee with respect to the Mortgaged Property or the Loan Obligations, or with reference to any of the terms, covenants, conditions or agreements hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any liabilities, obligations or undertakings of Borrower, Tenant any guarantor of the Loan Obligations or others.

(iii) Borrower and Tenant waive and relinquish any and all rights either may have, whether at law or equity, to require Lender to proceed to enforce or exercise any rights, powers and remedies it may have under the Loan Documents in any particular manner, in any particular order, or in any particular state or other jurisdiction. Borrower and Tenant expressly waive and relinquish any and all rights and remedies that Borrower or Tenant may have or be able to assert by reason of the laws of the Property Jurisdiction pertaining to the rights and remedies of sureties.

(iv) Borrower and Tenant make these arrangements, waivers and relinquishments knowingly and as a material inducement to Lender in making the Loans, after consulting with and considering the advice of independent legal counsel selected by Borrower and Tenant.

(o) Suits to Protect the Mortgaged Property. Lender shall have power to institute and maintain such suits and proceedings as it may deem expedient (i) to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or constitute an Event of Default under this Security Instrument; (ii) to preserve or protect its interest in the Mortgaged Property and in the Rents arising therefrom; and (iii) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would materially impair the security hereunder or be prejudicial to the interest of Lender.

(p) Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Borrower, Tenant, their creditors or their properties, Lender, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Lender allowed in such proceedings for the entire amount due and payable by

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Borrower and/or Tenant under this Security Instrument at the date of the institution of such proceedings and for any additional amount which may become due and payable by Borrower and/ or Tenant hereunder after such date.

(q) Intentionally Deleted

(r) Compliance with Illinois Foreclosure Law.

(i) In the event that any provision in this Security Instrument shall be inconsistent with any provision of the Illinois Mortgage Foreclosure Act (Chapter 735, Sections 5/15-1101 et seq., Illinois Compiled Statutes) (herein called the "Act") the provisions of the Act shall take precedence over the provisions of this Security Instrument, but shall not invalidate or render unenforceable any other provision of this Security Instrument that can be construed in a manner consistent with the Act.

(ii) If any provision of this Security Instrument shall grant to Lender (including Lender acting as a mortgagee-in-possession) or a receiver appointed pursuant to the provisions of Section 15(d) (Right to Enter and Take Possession) any powers, rights or remedies prior to, upon or following the occurrence of an Event of Default which are more limited than the powers, rights or remedies that would otherwise be vested in lender or in such receiver under the Act in the absence of said provision, Lender and such receiver shall be vested with the powers, rights and remedies granted in the Act to the full extent permitted by law.

(iii) Without limiting the generality of the foregoing, all expenses incurred by Lender which are of the type referred to in Section 5/15-1510 or 5/15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in this Security Instrument, shall be added to the Loan Obligations secured by this Security Instrument and/or by the judgment of foreclosure.

16. **REMEDIES CUMULATIVE.** Each right and remedy provided in this Security Instrument is distinct from all other rights or remedies under this Security Instrument or any other Loan Document or afforded by applicable law, and each shall be cumulative and may be exercised concurrently, independently, or successively, in any order.

17. **FORBEARANCE.**

(a) Lender may agree with Borrower or Tenant, from time to time, at Lender's option and without giving notice to, or obtaining the consent of, or having any effect upon the obligations of any guarantor or other third party obligor except to the extent expressly set forth in writing signed by Lender, extend the time for payment of all or any part of the Loan Obligations, reduce the payments due under this Security Instrument, the Notes, the Guaranty Agreement or any other Loan Document, release anyone liable for the payment of any amounts under this Security Instrument, the Notes, the Guaranty Agreement, or any other Loan Document, accept a renewal of the Notes or the Guaranty Agreement, modify the terms and time of payment of the Loan Obligations, join in any extension or subordination agreement, release any Mortgaged Property, take or release other or additional security, modify the rate of interest or period of

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amortization of the Notes or change the amount of the monthly installments payable under the Notes, or otherwise modify this Security Instrument, the Notes, or any other Loan Document.

(b) Any forbearance by Lender in exercising any right or remedy under the Notes, this Security Instrument, the Guaranty Agreement, or any other Loan Document or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Lender of payment of all or any part of the Loan Obligations after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of Lender's right to require prompt payment when due of all other payments on account of the Loan Obligations or to exercise any remedies for any failure to make prompt payment. Enforcement by Lender of any security for the Loan Obligations shall not constitute an election by Lender of remedies so as to preclude the exercise of any other right available to Lender. Lender's receipt of any insurance and/or condemnation proceeds shall not operate to cure or waive any Event of Default.

18. **LOAN CHARGES.** If any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower or Tenant is interpreted so that any charge provided for in any Loan Document, whether considered separately or together with other charges levied in connection with any other Loan Document, violates that law, and Borrower and/or Tenant is entitled to the benefit of that law, that charge is hereby reduced to the extent necessary to eliminate that violation. The amounts, if any, previously paid to Lender in excess of the permitted amounts shall be applied by Lender to reduce the principal of the Loan Obligations. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower or Tenant, as applicable, has been violated, all Loan Obligations which constitute interest, as well as all other charges levied in connection with the Loan Obligations which constitute interest, shall be deemed to be allocated and spread over the stated term of the Notes. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such a manner that the rate of interest so computed is uniform throughout the stated term of the Notes.

19. **WAIVER OF STATUTE OF LIMITATIONS.** Borrower and Tenant hereby waive the right to assert any statute of limitations as a bar to the enforcement of the lien of this Security Instrument or to any action brought to enforce any Loan Document.

20. **WAIVER OF MARSHALLING.** Notwithstanding the existence of any other security interests in the Mortgaged Property held by Lender or by any other party, Lender shall have the right to determine the order in which any or all of the Mortgaged Property shall be subjected to the remedies provided in this Security Instrument, the Notes, any other Loan Document or applicable law. Lender shall have the right to determine the order in which any or all portions of the Loan Obligations are satisfied from the proceeds realized upon the exercise of such remedies. Borrower, Tenant and any party who now or in the future acquires a security interest in the Mortgaged Property and who has actual or constructive notice of this Security Instrument waives any and all right to require the marshalling of assets or to require that any of the Mortgaged Property be sold in the inverse order of alienation or that any of the Mortgaged Property be sold in parcels or as an entirety in connection with the exercise of any of the remedies permitted by applicable law or provided in this Security Instrument.

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21. FURTHER ASSURANCES. Borrower and Tenant shall execute, acknowledge, and deliver, at their sole cost and expense, all further acts, deeds, conveyances, assignments, estoppel certificates, financing statements, transfers and assurances as Lender may reasonably require from time to time in order to better assure, grant, and convey to Lender the rights intended to be granted, now or in the future, to Lender under this Security Instrument and the Loan Documents.

22. ESTOPPEL CERTIFICATE. Within ten (10) days after a request from Lender, Borrower and/or Tenant, as applicable, shall deliver to Lender a written statement, signed and acknowledged by Borrower and/or Tenant, as applicable, certifying to Lender or any person designated by Lender, as of the date of such statement, (a) that the Loan Documents are unmodified and in full force and effect (or, if there have been modifications, that the Loan Documents are in full force and effect as modified and setting forth such modifications); (b) the unpaid principal balance of each Note; (c) the date to which interest under each Note has been paid; (d) that Borrower and/or Tenant, as applicable, is not in default in paying the Loan Obligations or in performing or observing any of the covenants or agreements contained in this Security Instrument or any of the other Loan Documents (or, if Borrower or Tenant is in default, describing such default in reasonable detail); (e) whether or not there are then existing any setoffs or defenses known to Borrower or Tenant against the enforcement of any right or remedy of Lender under the Loan Documents; and (f) any additional facts requested by Lender.

23. GOVERNING LAW; CONSENT TO JURISDICTION AND VENUE.

(a) THE PARTIES HERETO AGREE THAT THE VALIDITY, INTERPRETATION, ENFORCEMENT AND EFFECT OF THIS SECURITY INSTRUMENT, AND ANY LOAN DOCUMENT WHICH DOES NOT ITSELF EXPRESSLY IDENTIFY THE LAW THAT IS TO APPLY TO IT, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF GEORGIA, PROVIDED, THAT THE PARTIES AGREE THAT THE PROVISIONS FOR THE CREATION, PERFECTION, ENFORCEMENT AND FORECLOSURE OF THE LIENS ON AND SECURITY INTERESTS IN OR ASSIGNMENTS OF ANY OF THE MORTGAGED PROPERTY CREATED PURSUANT TO THIS SECURITY INSTRUMENT SHALL BE GOVERNED BY THE LAWS OF THE PROPERTY JURISDICTION.

(b) EACH OF BORROWER AND LENDER CONSENTS TO THE NONEXCLUSIVE JURISDICTION OF ANY AND ALL STATE AND FEDERAL COURTS WITH JURISDICTION IN THE PROPERTY JURISDICTION OVER BORROWER AND BORROWER'S ASSETS. BORROWER AGREES THAT ITS ASSETS SHALL BE USED FIRST TO SATISFY ALL CLAIMS OF CREDITORS ORGANIZED OR DOMICILED IN THE UNITED STATES AND THAT NO ASSETS OF BORROWER IN THE UNITED STATES SHALL BE CONSIDERED PART OF ANY FOREIGN BANKRUPTCY ESTATE.

(c) THE STATE AND FEDERAL COURTS AND AUTHORITIES WITH JURISDICTION IN THE PROPERTY JURISDICTION SHALL HAVE NONEXCLUSIVE JURISDICTION OVER ALL CONTROVERSIES WHICH SHALL ARISE UNDER OR IN RELATION TO THE NOTES, ANY SECURITY FOR THE INDEBTEDNESS, OR ANY OTHER LOAN DOCUMENT. BORROWER IRREVOCABLY CONSENTS TO SERVICE,

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JURISDICTION, AND VENUE OF SUCH COURTS FOR ANY SUCH LITIGATION AND WAIVES ANY OTHER VENUE TO WHICH IT MIGHT BE ENTITLED BY VIRTUE OF DOMICILE, HABITUAL RESIDENCE OR OTHERWISE.

24. NOTICE.

(a) Any notice or other communication required or permitted to be given by this Security Instrument or by applicable law shall be in writing and shall be deemed received (a) on the date delivered, if sent by hand delivery (to the person or department if one is specified below) with receipt acknowledged by the recipient thereof, (b) three (3) Business Days following the date deposited in U.S. mail, certified or registered, with return receipt requested, or (c) one (1) Business Day following the date deposited with Federal Express or other national overnight carrier, and in each case addressed as follows:

Lender: Synovus Bank
800 Shades Creek Parkway, Suite 325
Birmingham, Alabama 35209
Attention: Seniors Housing and Healthcare Lending

with a copy to: Troutman Sanders LLP
1850 Towers Crescent Plaza, Suite 500
Tysons Corner, Virginia 22182
Attention: Margaret Ann Brown, Esq.

Borrower and Tenant: c/o Capitol Seniors Housing
1275 Pennsylvania Avenue, NW, Second Floor
Washington, DC 20004
Attention: Fred Moch

with a copy to: Tatusko Kennedy PC
3016 Williams Drive, Suite 200
Fairfax, Virginia 22031
Attention: Brian Kelly, Esq.

(b) Any party to this Security Instrument may change its address to another single address by notice given as herein provided, except any change of address notice must be actually received in order to be effective. Each party agrees that it will not refuse or reject delivery of any notice given in accordance with this Section, that it will acknowledge, in writing, the receipt of any notice upon request by the other party and that any notice rejected or refused by it shall be deemed for purposes of this Section to have been received by the rejecting party on the date so refused or rejected, as conclusively established by the records of the U.S. Postal Service or the courier service.

(c) Any notice under either Note and any other Loan Document which does not specify how notices are to be given shall be given in accordance with this Section 24.

25. SINGLE-PURPOSE ENTITY. Until the Loan Obligations are paid in full, Borrower shall maintain its status as a Single-Purpose Entity and comply with all those

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covenants with respect to its status as a Single-Purpose Entity as set forth in Section 6.5 (Single Purpose Entity) of the Loan Agreement.

26. **FIXTURE FILING.** This Security Instrument is a fixture filing as defined in the Illinois Commercial Code, as amended or recodified from time to time. This Security Instrument is to be recorded in the real estate records of Park Ridge, Cook County, Illinois, and covers goods and personal property that are, or are to become, Fixtures.

27. **DISCLOSURE OF INFORMATION.** Lender may furnish financial information regarding Borrower, Tenant or the Mortgaged Property to third parties with an existing or prospective interest in the enforcement, evaluation, performance, purchase or securitization of the Loan Obligations, including but not limited to credit rating agencies (provided, however, that such parties shall be required to execute a confidentiality agreement prior to receipt of such information). To the extent Lender or any prospective third party (as set forth above) receives material non-public information hereunder concerning Borrower and its affiliates, Lender and each prospective third party (as set forth above) agrees to use such information in compliance with all relevant policies, procedures and contractual obligations (including, without limitation, the confidentiality provisions hereof) and applicable requirements and laws (including United States federal and state security laws and regulations); provided further, however, that in no event shall Lender disclose to any affiliate of Lender or prospective third party (as set forth above) any information whatsoever concerning any member of any Guarantor, or any of their affiliates above Coral Living II, LLC other than (a) the information currently contained in Lender's files regarding such entities and (b) with respect to Borrower, Tenant or Guarantor.

28. **FULL RELEASE.** Upon Borrower's written request and provided that (i) all the Loan Obligations secured by this Security Instrument has been paid or performed in full (other than contingent Loan Obligations which by their terms survive the release hereof and as to which no event giving rise to the incurrence of any such Loan Obligations shall have occurred), and (ii) all fees due Lender in connection with release of this Security Instrument have been paid, Lender shall release the Mortgaged Property from the lien of this Security Instrument. Upon the payment and performance in full of all Loan Obligations (other than contingent obligations which survive the release hereof and as to which no event giving rise to the incurrence of any such obligation shall have occurred), and upon request of Borrower, Lender shall release the lien of this Security Instrument upon the Mortgaged Property and shall surrender to Borrower the Notes and all other documents evidencing the Loan Obligations secured by this Security Instrument. The recitals in the release of any matters or facts shall be conclusive proof of their truthfulness. Such release shall operate as a reassignment of the Rents and profits assigned to Lender under the Assignment of Leases and Rents. Lender shall deliver this Security Instrument and the Notes after release to the Person or Persons legally entitled thereto.

29. **RELATIONSHIP OF PARTIES; NO THIRD PARTY LENDER.** The relationship between Lender and Borrower and Tenant shall be solely that of creditor and debtor, respectively, and nothing contained in this Security Instrument shall create any other relationship between Lender and Borrower or Tenant. No creditor of any party to this Security Instrument and no other person shall be a third party Lender of this Security Instrument or any other Loan Document.

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30. **SUBROGATION.** If, and to the extent that, the proceeds of either Loan are used to pay, satisfy or discharge any obligation of Borrower or Tenant for the payment of money that is secured by a pre-existing mortgage, deed of trust or other lien encumbering the Mortgaged Property ("Prior Lien"), such Loan proceeds shall be deemed to have been advanced by Lender at Borrower's or Tenant's, as applicable, request, and Lender shall automatically, and without further action on its part, be subrogated to the rights, including lien priority, of the owner or holder of the obligation secured by the Prior Lien, whether or not the Prior Lien is released.

31. **NO CLAIM OF CREDIT FOR TAXES.** Borrower or Tenant will not make or claim credit on or deduction from the principal or interest on the sums secured by this Security Instrument by reason of any municipal or governmental taxes, assessments or charges assessed upon the Mortgaged Property, nor claim any deduction from the taxable value of the Mortgaged Property by reason of this Security Instrument.

32. **SEVERABILITY; AMENDMENTS.** The invalidity or unenforceability of any provision of this Security Instrument shall not affect the validity or enforceability of any other provision, and all other provisions shall remain in full force and effect. This Security Instrument contains the entire agreement among the parties as to the rights granted and the obligations assumed in this Security Instrument. This Security Instrument may not be amended or modified except by a writing signed by the party against whom enforcement is sought.

33. **MISCELLANEOUS PROVISIONS.** The captions and headings of the sections of this Security Instrument are for convenience only and shall be disregarded in construing this Security Instrument. Any reference in this Security Instrument to an "Exhibit" or a "Section" shall, unless otherwise explicitly provided, be construed as referring, respectively, to an Exhibit attached to this Security Instrument or to a section of this Security Instrument. All Exhibits attached to or referred to in this Security Instrument are incorporated by reference into this Security Instrument. Any reference in this Security Instrument to a statute or regulation shall be construed as referring to that statute or regulation as amended from time to time. Use of the singular in this Security Instrument includes the plural and use of the plural includes the singular. As used in this Security Instrument, the term "including" means "including, but not limited to."

34. **WAIVER OF TRIAL BY JURY.** EACH OF BORROWER AND LENDER (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL, AND THIS WAIVER IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A JURY TRIAL WOULD OTHERWISE EXIST. BORROWER AND LENDER ARE AUTHORIZED TO SUBMIT THIS INSTRUMENT TO ANY COURT HAVING JURISDICTION OVER THE SUBJECT MATTER AND THE PARTIES TO ANY LOAN DOCUMENT, SO AS TO SERVE AS CONCLUSIVE EVIDENCE OF BORROWER'S AND LENDER'S WAIVER OF THE RIGHT TO JURY TRIAL. FURTHER, EACH OF BORROWER AND LENDER CERTIFIES THAT NEITHER BORROWER'S NOR

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LENDER'S REPRESENTATIVES OR AGENTS HAVE REPRESENTED, EXPRESSLY OR OTHERWISE, THAT ENFORCEMENT OF THIS WAIVER WILL NOT BE SOUGHT.

35. **WAIVER OF AUTOMATIC STAY.** TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, BORROWER HEREBY AGREES THAT, IN CONSIDERATION OF LENDER'S AGREEMENT TO MAKE THE LOANS AND IN RECOGNITION THAT THE FOLLOWING COVENANT IS A MATERIAL INDUCEMENT FOR LENDER TO MAKE THE LOANS, IN THE EVENT THAT BORROWER SHALL (A) FILE WITH ANY BANKRUPTCY COURT OF COMPETENT JURISDICTION OR BE THE SUBJECT OF ANY PETITION UNDER ANY SECTION OR CHAPTER OF TITLE 11 OF THE UNITED STATES CODE, AS AMENDED ("BANKRUPTCY CODE"), OR SIMILAR LAW OR STATUTE, (B) BE THE SUBJECT OF ANY ORDER FOR RELIEF ISSUED UNDER THE BANKRUPTCY CODE OR SIMILAR LAW OR STATUTE; (C) FILE OR BE THE SUBJECT OF ANY PETITION SEEKING ANY REORGANIZATION, ARRANGEMENT, COMPOSITION, READJUSTMENT, LIQUIDATION, DISSOLUTION, OR SIMILAR RELIEF UNDER ANY PRESENT OR FUTURE FEDERAL OR STATE ACT OR LAW RELATING TO BANKRUPTCY, INSOLVENCY, OR OTHER RELIEF FOR DEBTORS; (D) HAVE SOUGHT OR CONSENTED TO OR ACQUIESCED IN THE APPOINTMENT OF ANY TRUSTEE, RECEIVER, CONSERVATOR, OR LIQUIDATOR; OR (E) BE THE SUBJECT OF AN ORDER, JUDGMENT OR DECREE ENTERED BY ANY COURT OF COMPETENT JURISDICTION APPROVING A PETITION FILED AGAINST BORROWER FOR ANY REORGANIZATION, ARRANGEMENT, COMPOSITION, READJUSTMENT, LIQUIDATION, DISSOLUTION, OR SIMILAR RELIEF UNDER ANY PRESENT OR FUTURE FEDERAL OR STATE ACT OR LAW RELATING TO BANKRUPTCY, INSOLVENCY OR RELIEF FOR DEBTORS, THEN, SUBJECT TO COURT APPROVAL, LENDER SHALL THEREUPON BE ENTITLED AND BORROWER HEREBY IRREVOCABLY CONSENTS TO, AND WILL NOT CONTEST, AND AGREES TO STIPULATE TO RELIEF FROM ANY AUTOMATIC STAY OR OTHER INJUNCTION IMPOSED BY SECTION 362 OF THE BANKRUPTCY CODE, OR SIMILAR LAW OR STATUTE (INCLUDING, WITHOUT LIMITATION, RELIEF FROM ANY EXCLUSIVE PERIOD SET FORTH IN SECTION 1121 OF THE BANKRUPTCY CODE) OR OTHERWISE, ON OR AGAINST THE EXERCISE OF THE RIGHTS AND REMEDIES OTHERWISE AVAILABLE TO LENDER AS PROVIDED IN THE LOAN DOCUMENTS, AND AS OTHERWISE PROVIDED BY LAW, AND BORROWER HEREBY IRREVOCABLY WAIVES ITS RIGHTS TO OBJECT TO SUCH RELIEF.

36. **COUNTERPARTS.** This Security Instrument may be executed in any number of counterparts, all of which when taken together shall constitute one and the same Security Instrument.

37. **SUCCESSORS AND ASSIGNS BOUND.** This Security Instrument shall bind, and the rights granted by this Security Instrument shall inure to, the respective successors and assigns of Lender and Tenant, Borrower.

38. **MAXIMUM INDEBTEDNESS.** Notwithstanding anything contained herein to the contrary, in no event shall the indebtedness secured by this Security Instrument exceed an

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amount equal to the Loan Obligations together with the Protective Advances (as hereinafter defined).

39. **CONSTRUCTION LOAN.** The Construction Note evidences a debt created by one or more disbursements made by Lender to Borrower to finance the cost of the construction and renovation of certain improvements upon the Land in accordance with the provisions of the Loan Agreement, and this Security Instrument is a construction mortgage as such term is defined in Section 9-313(1)(c) of the Uniform Commercial Code as adopted in Illinois. The terms and conditions recited and set forth in the Loan Agreement are fully incorporated in this Security Instrument and made a part hereof, and an Event of Default under any of the conditions or provisions of the Loan Agreement shall constitute a default hereunder. Upon the occurrence of and during the continuance of any such Event of Default, the holder of the Construction Note may at its option declare the indebtedness secured thereby immediately due and payable, or complete the construction of said improvements and enter into the necessary contracts therefor, in which case all money expended shall be so much additional indebtedness secured hereby and any money expended in excess of the amount of the original principal shall be immediately due and payable with interest at the Default Rate. Upon completion of the New Improvements free and clear of mechanic's lien claims, and upon compliance with all of the terms, conditions and covenants of the Loan Agreement, the terms of this paragraph shall become null and void and of no further force and effect. In the event of a conflict between the terms of the Loan Agreement and this Security Instrument, the provisions of the Loan Agreement shall apply and take precedence over this Security Instrument.

40. **FURTHER MODIFICATION.** With respect to the Illinois Mortgage Foreclosure Law, the Security Instrument is hereby amended by adding the following provisions thereto.

(a) **Benefits to Act.** Borrower, Tenant and Lender shall have the benefit of all of the provisions of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1101) (the "Act"), including all amendments thereto which may become effective from time to time after the date hereof. If any provision of the Act which is specifically referred to herein may be repealed, Lender shall have the benefit of such provision as most recently existing prior to such repeal, as though the same were incorporated herein by express reference.

(b) **Insurance.** Wherever provision is made in the Security Instrument for insurance policies to include mortgage clauses or other loss payable clauses or endorsements in favor of Lender, or to confer authority upon Lender to settle or participate in the settlement of losses under policies of insurance or to hold and disburse or otherwise control use of insurance proceeds, from and after the entry of judgment of foreclosure all such rights and powers of the Lender shall continue in the Lender as judgment creditor or mortgagee until confirmation of sale.

(c) **Protective Advances.** All advances, disbursements and expenditures made by Lender before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings authorized, by the Security Instrument or by the Act (collectively "Protective Advances"), shall have the benefit of all applicable provisions of the Act.

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All Protective Advances shall be so much additional indebtedness secured by the Mortgage, and shall become immediately due and payable without notice and with interest thereon from the date of the advance until paid at the rate due and payable after a default under the terms of the Note.

This Security Instrument shall be a Lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Security Instrument is recorded pursuant to Subsection (b)(1) of Section 5/15-1302 of the Act.

All Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the Act, apply to and be included in:

- (i) determination of the amount of indebtedness secured by this Security Instrument at any time;
- (ii) the indebtedness found due and owing to the Lender in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;
- (iii) if right of redemption has not been waived by the Borrower or the Tenant in the Security Instrument, computation of amount required to redeem, pursuant to Subsections (d)(2) and (e) of Section 5/15-1603 of the Act;
- (iv) determination of amount deductible from sale proceeds pursuant to Section 5/15-1512 of the Act;
- (v) application of income in the hands of any receiver or Lender as mortgagee in possession; and
- (vi) computation of any deficiency judgment pursuant to Subsections (b)(2) and (e) of Sections 5/15-1508 and Section 5/15-1511 of the Act.

(d) Mortgagee in Possession. In addition to any provision of this Security Instrument authorizing the Lender to take or be placed in possession of the Mortgaged Property, or for the appointment of a receiver, Lender shall have the right, in accordance with Sections 5/15-1701 and 5/15-1702 of the Act, to be placed in possession of the Mortgaged Property or at its request to have a receiver appointed, and such receiver, or Lender, if and when placed in possession, shall have, in addition to any other powers provided in this Security Instrument, all powers, immunities, and duties as provided for in Sections 5/15-1701 and 5/15-1703 of the Act.

(e) Waiver of Redemption. Borrower and Tenant acknowledge that the Mortgaged Property does not constitute agricultural real estate, as said term is defined in Section 5/15-1201 of the Act or residential real estate as defined in Section 5/15-1219 of the Act. Pursuant to Section 5/15-1601 (b) of the Act, Borrower and Tenant hereby waive any and all right to redemption.

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41. **LIMITATION OF LIABILITY.** It is agreed, notwithstanding any provisions contained in this Security Instrument or any of the other Loan Documents to the contrary, that no member of Borrower shall have any recourse or personal liability under this Security Instrument, or any other Loan Documents and that Lender shall not seek, nor be entitled to enforce, any deficiency, monetary or other judgment against any member of Borrower, or any direct or indirect partner or member in any member of Borrower, except to the extent of liability, if any, arising out of the Guaranty or the Environmental Indemnity to which such member or partner is a party. It is agreed that neither a negative or deficit capital account for and obligation to contribute capital or extend credit by any member of the Borrower shall be considered an asset of Borrower.

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IN WITNESS WHEREOF, Borrower has caused this Mortgage, Assignment, Security Agreement and Fixture Filing to be properly executed as of the date first above written.

WITNESS OR ATTEST:

BORROWER:

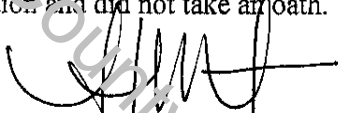

Print Name: DAVID Stivala

CSH PARK RIDGE, LLC,
a Delaware limited liability company

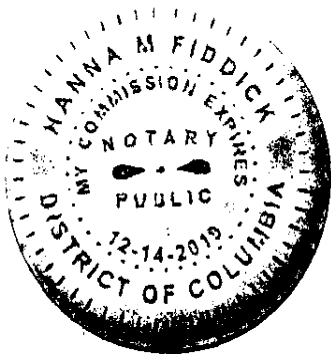
By:  [SEAL]
Name: **Fred Moon**
Title: **Vice President**

STATE/DISTRICT OF Columbia: SS
COUNTY OF _____

The foregoing instrument was acknowledged before me this 16th day of Sept., 2015, by Fred Moon, as VP of CSH Park Ridge, LLC, a Delaware limited liability company. She/he is personally known to me or has produced driver's license as identification and did not take an oath.


Print Name: HANNA FIDDICK
Notary Public
My Commission Expires: 12-14-19

[NOTARY STAMP OR SEAL]



UNOFFICIAL COPY

WITNESS OR ATTEST:

TENANT:

David Stivaletti
Print Name: DAVID Stivaletti

CSH PARK RIDGE LESSEE, LLC,
a Delaware limited liability company

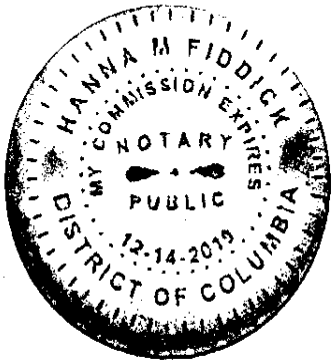
By: _____ [SEAL]
Name: Fred Moon
Title: Vice President

STATE/DISTRICT OF Columbia: JS
COUNTY OF _____

The foregoing instrument was acknowledged before me this 16th day of Sept., 2015, by Fred Moon, as VP of CSH Park Ridge Lessee, LLC, a Delaware limited liability company. She/he is personally known to me or has produced driver's license as identification and did not take an oath.

Hanna Fiddick
Print Name: HANNA FIDDICK
Notary Public
My Commission Expires: 12-14-19

[NOTARY STAMP OR SEAL]



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EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

LOTS 9 TO 12 AND LOT 13 (EXCEPT THE NORTH 55 FEET THEREOF) IN BLOCK 7 IN PENNY AND ROOT'S SUBDIVISION OF BLOCKS 6 AND 7 IN BRICKTON, A SUBDIVISION OF PENNY AND MEACHAM OF PART OF THE SOUTH EAST 1/4 OF SECTION 26, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

THE FOLLOWING DESCRIPTION IS ONE AND THE SAME PROPERTY AS THE PROPERTY DESCRIBED AS PARCEL 1:

LOTS 9 TO 12 AND LOT 13 (EXCEPT THE NORTH 55 FEET THEREOF) IN BLOCK 7 IN PENNY AND ROOT'S SUBDIVISION OF BLOCKS 6 AND 7 IN BRICKTON, A SUBDIVISION OF PENNY AND MEACHAM OF PART OF THE SOUTHEAST 1/4 OF SECTION 26, TOWNSHIP 41 NORTH RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF THE NORTH 55 FEET OF LOT 13 IN SAID BLOCK 7, WITH THE WEST LINE OF SAID LOT 13, BEING ALSO THE EAST LINE OF MEACHAM AVENUE; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST (BEING AN ASSUMED BEARING FOR THIS LEGAL DESCRIPTION) ALONG THE WEST LINE OF LOTS 9, 10, 11, 12 AND 13, AND THE EAST LINE OF SAID MEACHAM AVENUE, A DISTANCE OF 274.28 FEET TO THE SOUTHWEST CORNER OF SAID LOT 9, BEING A POINT ON THE NORTH LINE OF TOUHY AVENUE; THENCE NORTH 88 DEGREES 05 MINUTES 50 SECONDS EAST ALONG THE SOUTH LINE OF SAID LOT 9 AND THE NORTH LINE OF SAID TOUHY AVENUE, A DISTANCE OF 184.73 FEET TO THE SOUTHEAST CORNER OF SAID LOT 9, BEING A POINT ON THE WEST LINE OF SUMMIT AVENUE; THENCE NORTH 00 DEGREES 23 MINUTES 10 SECONDS EAST ALONG THE EAST LINE OF LOTS 9, 10, 11, 12 AND 13, BEING ALSO THE WEST LINE OF SAID SUMMIT AVENUE, A DISTANCE OF 274.60 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THE NORTH 55 FEET OF LOT 13 IN SAID BLOCK 7; THENCE SOUTH 88 DEGREES 01 MINUTES 05 SECONDS WEST ALONG SAID LAST DESCRIBED SOUTH LINE A DISTANCE OF 186.59 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

NON-EXCLUSIVE EASEMENTS DATED JUNE 16, 2008 AND RECORDED DECEMBER 11, 2008 AS DOCUMENT 0834618035 AS ACKNOWLEDGED BY THE CITY OF PARK RIDGE, AN ILLINOIS MUNICIPAL CORPORATION AND SUMMIT SQUARE, LLC FOR THE PURPOSE OF THE CONSTRUCTION, MAINTENANCE, REPAIR, REPLACEMENT

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AND INSTALLATION OF STAIRWAYS AND RELATED FIXTURES AND ATTACHMENTS UPON, OVER, THROUGH, THE FOLLOWING DESCRIBED PROPERTY:

(NORTH)

COMMENCING AT THE SOUTHWEST CORNER OF LOT 2 IN UPTOWN REDEVELOPMENT PHASE 2, A SUBDIVISION IN THE SOUTHEAST 1/4 OF SECTION 26, TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN; THENCE EAST ALONG THE SOUTH LINE OF SAID LOT 2, 133.60 FEET TO A PLACE OF BEGINNING; THENCE NORTH AT 90 DEGREES TO THE LAST DESCRIBED LINE A DISTANCE OF 4.00 FEET; THENCE EAST PARALLEL TO THE SOUTH LINE OF SAID LOT 2, A DISTANCE OF 16.00 FEET; THENCE SOUTH AT 90 DEGREES TO THE LAST DESCRIBED LINE, A DISTANCE OF 4.00 FEET TO A POINT ON THE AFORESAID SAID SOUTH LINE OF SAID LOT 2; THENCE WEST ALONG SAID LINE TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

(WEST)

COMMENCING AT THE SOUTH WEST CORNER OF LOT 9 IN BLOCK 7 IN PENNY AND ROOT'S SUBDIVISION OF BLOCKS 5 AND 7 IN BRICKTON, A SUBDIVISION OF PENNY AND MEACHAM OF PART OF THE SOUTHEAST 1/4 OF SECTION 26, TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN; THENCE NORTH ALONG THE WEST LINE OF SAID LOT 9, BEING ALSO THE EAST LINE OF MECHAM AVENUE, A DISTANCE OF 27.59 FEET TO A PLACE OF BEGINNING; THENCE WEST AT 90 DEGREES TO THE LAST DESCRIBED LINE A DISTANCE OF 4.00 FEET; THENCE NORTH PARALLEL TO THE WEST LINE OF SAID LOT 9, A DISTANCE OF 22.00 FEET; THENCE EAST AT 90 DEGREES TO THE LAST DESCRIBED LINE, A DISTANCE OF 4.00 FEET TO A POINT ON THE WEST LINE OF SAID LOT 9; THENCE SOUTH ALONG SAID LINE TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

FOR INFORMATION ONLY:

ADDRESS: 10 NORTH SUMMIT AVENUE, PARK RIDGE, ILLINOIS

TAX PARCEL NUMBER: 09-26-423-007-0000