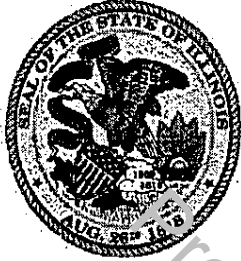


Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



Report Mortgage Fraud  
844-768-1713



\*2022034092\*

Doc# 2022034092 Fee \$88.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

EDWARD N. MOODY

COOK COUNTY RECORDER OF DEEDS

DATE: 08/07/2020 03:36 PM PG: 1 OF 3:

The property identified as: **PIN:** 05-34-121-041-0000

**Address:**

**Street:** 432 Poplar Drive

**Street line 2:**

**City:** Wilmette

**State:** IL

**ZIP Code:** 60091

**Lender:** First Midwest Bank

**Borrower:** 432 Poplar Drive, LLC

**Loan / Mortgage Amount:** \$20,000,000.00

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.

**Certificate number:** 0CB50FA6-B907-4E56-9C03-758D08E33DD0

**Execution date:** 1/31/2020

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This Instrument Was Prepared By  
And After Recording Please Return To:

Daniel Kohn, Esq.  
 Duane Morris LLP  
 190 South LaSalle Street  
 Suite 3700  
 Chicago, Illinois 60603

## MORTGAGE, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FINANCING STATEMENT

THIS MORTGAGE, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FINANCING STATEMENT (this "**Mortgage**") is made as of July 31, 2020, by **432 POPLAR DRIVE, LLC**, an Illinois limited liability company ("**Mortgagor**"), with a mailing address c/o Citadel Healthcare, 5611 Dempster Street, Morton Grove, Illinois 60053, Attention: Jonathan Aaron, to **FIRST MIDWEST BANK**, an Illinois banking corporation ("**Mortgagee**"), its successors and its assigns, with a mailing address of 8750 West Bryn Mawr, Suite 3700, Chicago, Illinois 60631; Attention: Diana Pogue; for itself as a Lender (as hereinafter defined) and as the administrative agent (the "**Administrative Agent**") for the Lenders (as hereinafter defined) and pertains to the real estate described in **Exhibit "A"** attached hereto and made a part hereof (the "**Premises**").

I

### RECITALS

A. Pursuant to the terms and conditions of a Term Loan and Security Agreement of even date herewith (as amended, restated or replaced from time to time, the "**Loan Agreement**") among Mortgagor, 7445 Sheridan Road, LLC, an Illinois limited liability company ("**Sheridan**"; Mortgagor and Sheridan are sometimes collectively referred to herein as "**Borrowers**"), Mortgagee and the other lenders set forth therein (the "**Other Lenders**"; Mortgagee and the

1

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Other Lenders are sometimes hereinafter individually referred to herein as a “**Lender**” and are sometimes hereinafter collectively referred to as “**Lenders**”), Lenders have agreed to loan to Borrowers the principal amount of Twenty Million and No/100 Dollars (\$20,000,000.00) (the “**Term Loan**”). The Term Loan shall be evidenced by the Term Loan Note (as defined in the Loan Agreement) jointly and severally made by Borrower payable to Lenders, as applicable, in the aggregate principal amount of the Term Loan and due on the Stated Maturity Date (as defined in the Loan Agreement), except as may be accelerated pursuant to the terms hereof or of the Term Loan Note, the Loan Agreement or any other Financing Agreement (as hereinafter defined).

B. As security for the repayment of the Term Loan, in addition to this Mortgage, certain other Financing Agreements have been executed and delivered to Lender (the Term Loan Note, this Mortgage, the Loan Agreement, those certain guaranty agreements of even date herewith, executed by Jonathan Aaron, an individual (“**Aaron**”), Kenneth Ripstein, an individual (“**Ripstein**”), The Waterford, LLC, an Illinois limited liability company (“**Waterford**”), and Citadel Care Center-Wilmette, LLC, an Illinois limited liability company (“**Citadel**”; Aaron, Ripstein, Waterford and Citadel are sometimes hereinafter individually and collectively referred to as “**Guarantor**”), and all other documents or instruments executed and/or delivered as additional evidence of, or security for repayment of, the Term Loan, whether now or hereafter existing, and all renewals, amendments, supplements, restatements, extensions, and modifications thereof (including, the “**Financing Agreements**” (as defined in the Loan Agreement) and thereto, are hereinafter sometimes collectively referred to as the “**Financing Agreements**”). The terms and provisions of the other Financing Agreements are hereby incorporated herein by this reference.

C. In consideration of advances, credits and other financial accommodations heretofore or hereinafter made to Borrowers by Lenders, Lenders have required Mortgagor hereby to deliver, pledge, assign, transfer, mortgage and warrant to Mortgagee, as Administrative Agent to and for the benefit of Lenders, the Mortgaged Property (as that term is hereinafter defined) as security for repayment of the Term Loan as well as any and all other amounts owed to Lenders under the terms of the Financing Agreements.

II

## THE GRANT

**NOW, THEREFORE**, to secure (i) the payment of the principal amount of the Term Loan Note and interest thereon (at variable rates and/or as otherwise set forth in the Term Loan Note) and all actual fees and premiums, if any, thereon, and all other sums due thereunder or advanced by Lenders in accordance with the Financing Agreements and all actual costs and expenses incurred by Lenders in connection with any of the Financing Agreements, (ii) all Bank Product Obligations (as defined in the Loan Agreement) of Mortgagor to Lenders under and pursuant to Bank Products (as defined in the Loan Agreement), including without limitation all Hedging Obligations (as defined in the Loan Agreement) under any Hedging Agreements (as defined in the Loan Agreement), to the extent applicable (iii) the joint and several obligations of Waterford and Citadel under the Revolving Loan Agreement (as such term is defined in the Loan Agreement) and the other revolving loan documents described in such Revolving Loan

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Agreement (collectively, the “**Related Loan Documents**”), evidencing the joint and several obligations of Waterford, Citadel, Citadel Care Center-Sterling LLC, an Illinois limited liability company doing business as The Citadel of Sterling, and PA Peterson at the Citadel, LLC, an Illinois limited liability company, to Lenders under the Related Loan Documents (collectively, the “**Related Loan Obligations**”) in the current maximum principal amount of Four Million Five Hundred Thousand and No/100 Dollars (\$4,500,000.00) (Mortgagor derives substantial direct and indirect economic benefit from the making of the Related Loan Obligations, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged); and (iv) the reimbursement to Lenders for any amounts advanced pursuant to any letters of credit issued pursuant to the Financing Agreements or any fees or charges associated with such letters of credit (all such obligations and payments are sometimes referred to herein as the “**indebtedness secured hereby**”), and to secure any and all obligations, contingent or otherwise, whether now existing or hereafter arising of Borrowers to Lenders, and to secure the observance and performance of the agreements contained herein and in the other Financing Agreements, Mortgagor hereby **GRANTS, ASSIGNS, REMISES, RELEASES, WARRANTS, BARGAINS, SELLS, CONVEYS, and MORTGAGES** to Mortgagee, its successors and its assigns, forever all of Mortgagor’s estate, right, title and interest, whether now or hereafter acquired, in and to the Premises, together with the following described property, whether now or hereafter acquired (the Premises, together with a security interest in and a lien on the following described property being hereinafter referred to collectively as the “**Mortgaged Property**”), all of which other property is hereby pledged on a parity with the Premises and not secondarily:

(a) All buildings and other improvements of every kind and description now or hereafter erected or placed thereon and all materials intended for construction, reconstruction, alteration and repair of such improvements now or hereafter erected thereon, all of which materials shall be deemed to be included within the Mortgaged Property immediately upon the delivery thereof to the Premises;

(b) All right, title and interest of Mortgagor in the Premises, if any, including, without limitation, any after-acquired title or reversion, in and to the beds of the ways, streets, avenues, sidewalks and alleys adjoining the Premises;

(c) Each and all of the tenements, hereditaments, easements, appurtenances, passages, waters, water courses, riparian rights and any and all other rights, liberties and privileges of the Premises or in any way now or hereafter appertaining thereto, including homestead and any other claim at law or in equity, as well as any after-acquired title, franchise or license and the reversions and remainders thereof;

(d) All leases or license agreements now or hereafter on or affecting the Premises, whether written or oral, and all agreements for use of the Premises, together with all rents, issues, deposits, profits and all accounts relating to the Premises and other benefits now or hereafter arising from or in respect of the Premises accruing and to accrue from the Premises and the avails thereof granting to any person or entity any right to use or occupy, and any other agreement with respect to the use or occupancy of, all or any portion of the Premises or the improvements of any type or nature located thereon;

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(e) All fixtures and personal property now or hereafter owned by Mortgagor and attached to, contained in or used in connection with the Premises or the aforesaid improvements thereon, including, without limitation, any and all air conditioners, antennae, appliances, apparatus, awnings, basins, bathtubs, boilers, bookcases, cabinets, carpets, coolers, curtains, dehumidifiers, disposals, doors, drapes, dryers, ducts, elevators, engines, equipment, escalators, fans, fittings, floor coverings, furnaces, furnishings, furniture, hardware, heaters, humidifiers, incinerators, inventory, lighting, machinery, motors, ovens, pipes, plumbing, pumps, radiators, ranges, recreational facilities, refrigerators, screens, security systems, shades, shelving, sinks, sprinklers, stoves, toilets, ventilators, wall coverings, washers, windows, window coverings, wiring and all renewals or replacements thereof or articles in substitution therefor, whether or not the same be attached to such improvements, it being agreed that all such property owned by Mortgagor and placed on the Premises or used in connection with the operation or maintenance thereof shall, so far as permitted by law, be deemed for the purpose of this Mortgage to be part of the real estate constituting and located on the Premises and covered by this Mortgage, excluding furniture, equipment and materials not owned by Mortgagor;

(f) All judgments, insurance proceeds, awards of damages and settlements which may result from any damage to all or any portion of the Premises and the other Mortgaged Property, or any part thereof, or to any rights appurtenant thereto;

(g) All compensation, awards, damages, claims, rights of actions and proceeds of or on account of (i) any damage or taking pursuant to the power of eminent domain, of the Premises and the other Mortgaged Property or any part thereof, (ii) damage to all or any portion of the Premises and the other Mortgaged Property by reason of the taking, pursuant to the power of eminent domain, of all or any portion of the Premises and the other Mortgaged Property or of other property, or (iii) the alteration of the grade of any street or highway on or about the Premises and the other Mortgaged Property or any part thereof; and except as otherwise provided herein, Mortgagor is hereby authorized to collect and receive said awards and proceeds and to give proper receipts and acquittances therefor and to apply the same toward the payment of the indebtedness and other sums secured hereby;

(h) All accounts relating to the Premises, contract rights, general intangibles, actions and rights in action, including, without limitation, all rights to insurance proceeds and unearned premiums arising from or relating to damage to the Premises or the other Mortgaged Property or any part thereof;

(i) All proceeds, products, replacements, additions, substitutions, renewals and accessions of and to the Premises or the other Mortgaged Property;

(j) All building materials and goods owned by Mortgagor which are procured or to be procured for use on or in connection with the Mortgaged Property, whether or not such materials and goods have been delivered to the Premises;

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(k) All plans, specifications, architectural renderings, drawings, licenses, permits, soil test reports, other reports of examinations or analyses, contracts for services to be rendered to Mortgagor, or otherwise in connection with the Mortgaged Property and all other property, contracts, reports, proposals, and other materials now or hereafter existing in any way relating to the Premises or the other Mortgaged Property or construction of additional improvements thereto which are owned by Mortgagor;

(l) All real estate tax refunds and other related refunds for the Premises; and

(m) The proceeds from any sale, transfer, pledge or other disposition of any or all of the foregoing described Mortgaged Property.

To have and to hold the same unto Mortgagee and its successors and assigns forever, for the purposes and uses herein set forth together with all right to possession of the Premises after the occurrence and continuance of any Default (as hereinafter defined in **Section 4.1** hereof) hereunder subject only to the schedule of exceptions, if any, listed in the title insurance policy insuring Mortgagee's interest in the Premises (collectively, "**Permitted Encumbrances**"); Mortgagor hereby **RELEASING AND WAIVING** all rights under and by virtue of the homestead exemption laws of the State where the Premises are located.

**MORTGAGOR REPRESENTS, WARRANTS AND COVENANTS** to Mortgagee that Mortgagor is lawfully seized of the Premises, that the same is unencumbered except by the Permitted Encumbrances, that it has good right, full power and lawful authority to convey and mortgage the same, and that Mortgagor will warrant and forever defend said parcels and the quiet and peaceful possession of the same against the lawful claims of all persons whomsoever.

If and when the principal amount of the Term Loan Note, and all interest as provided thereunder has been paid, and Borrowers, Waterford and Citadel have satisfied all obligations thereunder and under the other Financing Agreements, then this Mortgage shall be released at the cost of Mortgagor, but otherwise shall remain in full force and effect.

## III

### GENERAL AGREEMENTS

**Section 3.1 Principal and Interest.** Mortgagor shall pay or cause to be paid promptly when due the principal and interest on the indebtedness evidenced by the Term Loan Note at the times, at the variable rates and in the manner provided in the Term Loan Note, this Mortgage and the other Financing Agreements. Any amount not paid when due hereunder, and such failure continues beyond any applicable grace period, shall accrue interest at the Default Rate (as defined in the Loan Agreement).

**Section 3.2 Property Taxes.** Mortgagor shall pay immediately, when first due and owing, all general taxes, special taxes, special assessments, water charges, sewer charges, and any other charges that may be asserted against the Mortgaged Property or any part thereof or interest therein, and furnish to Mortgagee duplicate receipts therefor within thirty (30) days after

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payment thereof. Mortgagor may, in good faith and with reasonable diligence, contest the validity or amount of any such taxes or assessments, provided that:

(a) such contest shall have the effect of: (i) preventing the collection of the tax or assessment so contested and the sale or forfeiture of the Mortgaged Property or any part thereof or interest therein to satisfy the same; or (ii) is done during the applicable time period allowed by the Cook County Assessor;

(b) Mortgagor has notified Mortgagee in writing of the intention of Mortgagor to contest the same before any tax or assessment has been increased by any interest, penalties or costs; and

(c) If Mortgagor has not previously paid such taxes under protest, Mortgagor has deposited with Mortgagee, at such place as Mortgagee may from time to time in writing designate, a sum of money or other security acceptable to Mortgagee that is sufficient, in Mortgagee's sole and absolute judgment, to pay in full such contested tax and assessment and all penalties and interest that might become due thereon, and shall keep on deposit an amount sufficient, in Mortgagee's reasonable judgment, to pay in full such contested tax and assessment, increasing such amount to cover additional penalties and interest whenever, in Mortgagee's sole and absolute judgment, such increase is advisable. Upon the consummation of such contest, and provided there is no existing Default hereunder, any excess funds held by Mortgagee shall be returned to Mortgagor.

In the event Mortgagor fails to prosecute such contest in good faith and with reasonable diligence, Mortgagee may, at its option, apply the monies and liquidate any securities deposited with Mortgagee in payment of, or on account of, such taxes and assessments, or any portion thereof then unpaid, including all penalties and interest thereon. If the amount of the money and any such security so deposited is insufficient for the payment in full of such taxes and assessments, together with all penalties and interest thereon, Mortgagor shall forthwith, upon demand, either deposit with Mortgagee a sum that, when added to such funds then on deposit, is sufficient to make such payment in full, or, if Mortgagee has applied funds on deposit on account of such taxes and assessments, restore such deposit to an amount satisfactory to Mortgagee. Provided no Default exists and is continuing hereunder, Mortgagee shall if so requested in writing by Mortgagor, after final disposition of such contest and upon Mortgagor's delivery to Mortgagee of an official bill for such taxes, apply the money so deposited in full payment of such taxes and assessments or that part thereof then unpaid, together with all penalties and interest thereon, and any excess security shall be returned to Mortgagor.

**Section 3.3 Tax Escrow.** Mortgagor, to provide for the payment of real estate taxes and assessments pertaining to the Premises, shall provide Mortgagee with a tax escrow, such amounts to be deposited and utilized in accordance with the terms of the Loan Agreement.

**Section 3.4 Payments by Mortgagee.** Following the occurrence, and during the continuance, of a Default hereunder, Mortgagee is hereby authorized to make or advance, in the place and stead of Mortgagor, any payment relating to taxes, assessments, water and sewer charges, and other governmental charges, fines, impositions or liens that may be asserted against the Mortgaged Property or any part thereof, and may do so according to any bill, statement or

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estimate procured from the appropriate public office without inquiry into the accuracy thereof or into the validity of any tax, assessment, lien, sale, forfeiture or title or claim relating thereto. Following the occurrence and during the continuance of a Default hereunder, Mortgagee is further authorized to make or advance, in the place and stead of Mortgagor, any payment relating to any apparent or threatened adverse title, lien, statement of lien, encumbrance, claim, charge or payment, as well as take any and all actions which Mortgagee deems necessary or appropriate on Mortgagor's behalf whenever, each in Mortgagee's reasonable judgment, such payments or actions are necessary to protect the full security intended to be created by this Mortgage. In connection with any such advance, Mortgagee is further authorized, at its option, to obtain a continuation report of title or title insurance policy prepared by the title insurance company that issues Mortgagee's loan policy in connection with the Term Loan. All payments, costs and other expenses incurred by Mortgagee pursuant to this **Section 3.4**, including without limitation reasonable attorneys' fees, expenses and court costs, shall constitute additional indebtedness secured hereby and shall be repayable by Mortgagor upon demand with interest at the Default Rate.

## **Section 3.5 Insurance.**

(a) Mortgagor shall at all times keep all buildings, improvements, fixtures and articles of personal property now or hereafter situated on the Premises insured against loss or damage by fire and such other hazards as may reasonably be required by Mortgagee, in accordance with the terms, coverages and provisions described in the Loan Agreement. Unless Mortgagor provides Mortgagee evidence of the insurance coverages required hereunder, Mortgagee may purchase insurance at Mortgagor's expense to cover Mortgagee's interest in the Premises. The insurance may, but need not, protect Mortgagor's interest. The coverages that Mortgagee purchases may not pay any claim that Mortgagor makes or any claim that is made against Mortgagor in connection with the Premises. Mortgagor may later cancel any insurance purchased by Mortgagee, but only after providing Mortgagee with evidence that Mortgagor has obtained insurance as required by this Mortgage. If Mortgagee purchases insurance for the Premises, Mortgagor will be responsible for the costs of such insurance, including, without limitation, interest and any other charges which Mortgagee may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the Indebtedness. The cost of the insurance may be more than the cost of insurance Mortgagor may be able to obtain on its own.

(b) Mortgagor shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder unless Mortgagee is included thereon as the loss payee or an additional insured as applicable, under a standard mortgage clause acceptable to Mortgagee and such separate insurance is otherwise acceptable to Mortgagee.

(c) In the event of loss, Mortgagor shall give prompt notice thereof to Mortgagee, who, if such loss exceeds the lesser of ten percent (10%) of the Indebtedness or Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) ("**Threshold**"), shall have the sole and absolute right to make proof of loss. If such loss exceeds the Threshold



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or if such loss is equal to or less than the Threshold and the conditions set forth in clauses (i), (ii) and (iii) of the immediately succeeding sentence are not satisfied, then Mortgagee, solely and directly shall receive such payment for loss from each insurance company concerned. If and only if (i) such loss is equal to or less than the Threshold, (ii) no Event of Default or event that with the passage of time, the giving of notice or both would constitute an Event of Default then exists, and (iii) Mortgagee determines in its commercially reasonable discretion that the work required to complete the repair or restoration of the Premises necessitated by such loss can be completed no later than six (6) months prior to the Stated Maturity Date, then Mortgagee shall endorse to Mortgagor any such payment and Mortgagor may collect such payment directly. Mortgagee shall have the right, at its option and in its sole discretion, to apply any insurance proceeds received by Mortgagee pursuant to the terms of this paragraph, after the payment of all of Mortgagee's expenses, either (i) on account of the Indebtedness, irrespective of whether such principal balance is then due and payable, whereupon Mortgagee may declare the whole of the balance of Indebtedness plus any prepayment premium/make whole costs described in the Loan Agreement, including without limitation the Prepayment Premium (as defined in the Loan Agreement, if any), to be due and payable, or (ii) to the restoration or repair of the property damaged as provided in subparagraph (d) below; provided, however, that Mortgagee hereby agrees to permit the application of such proceeds to the restoration or repair of the damaged property, subject to the provisions of subparagraph (d) below, if (i) Mortgagee has received satisfactory evidence that such restoration or repair shall be completed no later than the date that is six (6) months prior to the Stated Maturity Date, and (ii) no Event of Default, or event that with the passage of time, the giving of notice or both would constitute an Event of Default, then exists. If insurance proceeds are made available to Mortgagor by Mortgagee as hereinafter provided, Mortgagor shall repair, restore or rebuild the damaged or destroyed portion of the Premises so that the condition and value of the Premises are substantially the same as the condition and value of the Premises prior to being damaged or destroyed. Any insurance proceeds applied on account of the unpaid principal balance of the Term Loan Note shall be subject to the prepayment/make whole costs described in the Loan Agreement, including without limitation the Prepayment Premium, to the extent applicable. In the event of foreclosure of this Mortgage, all right, title and interest of Mortgagor in and to any insurance policies then in force shall pass to the purchaser at the foreclosure sale.

**(d)** If insurance proceeds are made available by Mortgagee to Mortgagor, Mortgagor shall comply with the following conditions:

(i) Before commencing to repair, restore or rebuild following damage to, or destruction of, all or a portion of the Premises, whether by fire or other casualty, Mortgagor shall obtain from Mortgagee its approval of all site and building plans and specifications pertaining to such repair, restoration or rebuilding.

(ii) Prior to each payment or application of any insurance proceeds to the repair or restoration of the improvements upon the Premises to the extent permitted in subparagraph (c) above (which payment or application may be made,

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at Mortgagee's option, through an escrow, the terms and conditions of which are satisfactory to Mortgagee and the cost of which is to be borne by Mortgagor), Mortgagee shall be satisfied as to the following:

(1) no Event of Default or any event which, with the passage of time or giving of notice would constitute an Event of Default, has occurred and is continuing;

(2) either such Improvements have been fully restored, or the expenditure of money as may be received from such insurance proceeds will be sufficient to repair, restore or rebuild the Premises, free and clear of all liens, claims and encumbrances, except the lien of this Mortgage and the Permitted Exceptions, or, if such insurance proceeds shall be insufficient to repair, restore and rebuild the Premises, Mortgagor has deposited with Mortgagee such amount of money which, together with the insurance proceeds shall be sufficient to restore, repair and rebuild the Premises; and

(3) prior to each disbursement of any such proceeds, Mortgagee shall be furnished with a statement of Mortgagee's architect (the cost of which shall be borne by Mortgagor), certifying the extent of the repair and restoration completed to the date thereof, and that such repairs, restoration, and rebuilding have been performed to date in conformity with the plans and specifications approved by Mortgagee and with all statutes, regulations or ordinances (including building and zoning ordinances) affecting the Premises; and Mortgagee shall be furnished with appropriate evidence of payment for labor or materials furnished to the Premises, and total or partial lien waivers substantiating such payments.

(iii) If Mortgagor shall fail to restore, repair or rebuild the Improvements within a time deemed reasonably satisfactory by Mortgagee, then Mortgagee, at its option and after thirty (30) days prior written notice to Mortgagor, may (a) commence and perform all such necessary acts to restore, repair or rebuild the said Improvements for or on behalf of Mortgagor, or (b) declare an Event of Default. If insurance proceeds shall exceed the amount necessary to complete the repair, restoration or rebuilding of the Improvements, such excess shall be applied on account of the Indebtedness irrespective of whether such Indebtedness is then due and payable without payment of any premium or penalty.

**(e) RIGHT OF MORTGAGEE TO PURCHASE INSURANCE.**  
**UNLESS MORTGAGOR PROVIDES MORTGAGEE WITH EVIDENCE OF THE INSURANCE COVERAGE REQUIRED BY THIS MORTGAGE, MORTGAGEE MAY PURCHASE INSURANCE AT MORTGAGOR'S EXPENSE TO PROTECT MORTGAGEE'S INTERESTS IN THE MORTGAGED PROPERTY. THIS INSURANCE MAY, BUT NEED NOT, PROTECT MORTGAGOR'S INTERESTS IN THE MORTGAGED PROPERTY. THE**

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COVERAGE PURCHASED BY MORTGAGEE MAY NOT PAY ANY CLAIMS THAT MORTGAGOR MAKES OR ANY CLAIM THAT IS MADE AGAINST MORTGAGOR IN CONNECTION WITH THE MORTGAGED PROPERTY. MORTGAGOR MAY LATER CANCEL ANY SUCH INSURANCE PURCHASED BY MORTGAGEE, BUT ONLY AFTER PROVIDING MORTGAGEE WITH EVIDENCE THAT MORTGAGOR HAS OBTAINED INSURANCE AS REQUIRED BY THIS MORTGAGE. IF MORTGAGEE PURCHASES INSURANCE FOR THE MORTGAGED PROPERTY, MORTGAGOR WILL BE RESPONSIBLE FOR THE COSTS OF THAT INSURANCE, INCLUDING INTEREST AND ANY OTHER CHARGES THAT MORTGAGEE MAY IMPOSE IN CONNECTION WITH THE PLACEMENT OF THE INSURANCE, UNTIL THE EFFECTIVE DATE OF THE CANCELLATION OR EXPIRATION OF THE INSURANCE. THE COSTS OF THE INSURANCE MAY BE ADDED TO THE SECURED INDEBTEDNESS. THE COSTS OF THE INSURANCE MAY BE MORE THAN THE COST OF INSURANCE MORTGAGOR MAY BE ABLE TO OBTAIN ON ITS OWN.

**Section 3.6 Condemnation and Eminent Domain.** Any and all awards heretofore or hereafter made or to be made to the present or any subsequent owner of the Mortgaged Property by any governmental or other lawful authority for the taking, by condemnation or eminent domain, of all or any part of the Mortgaged Property, (including any award from the United States government at any time after the allowance of a claim therefor, the ascertainment of the amount thereto, and the issuance of a warrant for payment thereof), are hereby assigned by Mortgagor to Mortgagee, which awards Mortgagee is hereby authorized to negotiate, collect and receive from the condemnation authorities. Mortgagee is hereby authorized to give appropriate receipts and acquittances therefor. Mortgagor shall give Mortgagee immediate notice of the actual or threatened commencement of any condemnation or eminent domain proceedings of which it has knowledge affecting all or any part of the Mortgaged Property (including severance of, consequential damage to or change in grade of streets), and shall immediately deliver to Mortgagee copies of any and all papers served in connection with any such proceedings. Mortgagor further agrees to make, execute and deliver to Mortgagee, free and clear of any encumbrance of any kind whatsoever, any and all further assignments and other instruments deemed reasonably necessary by Mortgagee for the purpose of validly and sufficiently assigning all awards and other compensation heretofore, now and hereafter made to Mortgagor for any taking, either permanent or temporary, under any such proceeding. Any such award shall be applied toward the indebtedness secured by this Mortgage or applied toward restoring the Mortgaged Property in accordance with the provisions of and in the same manner as is provided for insurance proceeds in **Section 3.5** hereof. Notwithstanding the foregoing, any expenses, including, without limitation, reasonable attorneys' fees and expenses, actually incurred by Mortgagee in intervening in such action or compromising and settling such action or claim, or collecting such proceeds, shall be reimbursed to Mortgagee first out of the proceeds.

**Section 3.7 Maintenance of Property.** Except as contemplated under the Loan Agreement, no portion of the Mortgaged Property shall be altered, removed or demolished, severed, removed, sold or mortgaged, without the prior written consent of Mortgagee. In the event of the demolition or destruction in whole or in part of any of the fixtures, chattels or articles of personal property covered by this Mortgage or by any separate security agreement executed in

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conjunction herewith, the same shall be replaced promptly by similar fixtures, chattels and articles of personal property at least equal in value, quality and condition to those replaced, free from any other security interest therein, encumbrances thereon or reservation of title thereto. Mortgagor shall, promptly repair, restore or rebuild any building or other improvement or any part thereof now or hereafter situated on the Premises that may become damaged or be destroyed whether or not proceeds of insurance are available or sufficient for such purpose. Any such building or other improvement or any part thereof shall be repaired, restored or rebuilt so as to be of at least equal value and of substantially the same character as prior to such damage or destruction.

Except as contemplated under the Loan Agreement or in **Section 3.6** hereof, Mortgagor further agrees not to permit, commit or suffer any waste, impairment or deterioration of the Mortgaged Property or any part thereof, to keep and maintain the Mortgaged Property and every part thereof in good repair and condition, reasonable wear and tear excepted, to effect such repairs as Mortgagee may reasonably require, and, from time to time, to make all such necessary and proper replacements thereof and additions thereto so that the Premises and such buildings, other improvements, fixtures, chattels and articles of personal property will, at all times, be in good condition, fit and proper for the respective purposes for which they were originally erected or installed.

**Section 3.8 Compliance with Laws.** Mortgagor shall: (i) substantially comply with, all statutes, ordinances, regulations, rules, orders, decrees and other requirements relating to the Mortgaged Property, or any part thereof, by any federal, state or local authority, including, without limitation, the Americans with Disabilities Act of 1990, and (ii) observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including, without limitation, zoning variances, special exceptions, and nonconforming uses), privileges, franchises and concessions that are applicable to the Mortgaged Property or that have been granted to or contracted for by Mortgagor in connection with any existing or presently contemplated use of the Mortgaged Property or any part thereof. Mortgagor shall not initiate or acquiesce in any changes to or termination of any of the foregoing or of zoning design actions affecting the use of the Mortgaged Property or any part thereof without the prior written consent of Mortgagee.

**Section 3.9 Liens and Transfers.** Except as expressly authorized in the Loan Agreement, without Mortgagee's prior written consent, Mortgagor shall not, directly or indirectly, create, suffer or permit to be created or filed or to remain against the Mortgaged Property, or any part thereof, hereafter any mortgage lien or other lien, encumbrance or charge on, pledge of, or conditional sale or other title retention agreement with respect to the Mortgaged Property, whether superior or inferior to the lien of this Mortgage; provided, however, that Mortgagor may, within thirty (30) days after the filing thereof, contest in good faith by appropriate legal or administrative proceedings any lien claim arising from any work performed, material furnished or obligation incurred by Mortgagor upon furnishing Mortgagee a bond issued by a company approved by Mortgagee in its reasonable discretion covering the lien claim, or an endorsement to Mortgagee's title insurance policy insuring Mortgagee's interest in the Premises insuring over said lien claim, each in form and substance satisfactory to Mortgagee in its reasonable discretion, or such other security and indemnification satisfactory to Mortgagee, in its reasonable discretion, for the final payment and discharge thereof. In the event Mortgagor hereafter creates, suffers or permits any superior or inferior lien to be attached to the Mortgaged Property or any part thereof

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without such consent or without furnishing security as aforesaid, and such lien is not released within thirty (30) days after written notice from Mortgagee, Mortgagee shall have the unqualified right, at its option, to accelerate the maturity of the Term Loan Note, causing the entire principal balance thereof and all interest accrued thereon to be immediately due and payable.

Except as expressly authorized in the Loan Agreement, Mortgagor will not sell, lease, transfer, convey, assign, pledge, hypothecate or otherwise dispose of the title to all or any portion of the Mortgaged Property, whether by operation of law, voluntarily or otherwise, or any interest (beneficial or otherwise) thereto, or enter into any agreement to do any of the foregoing which will not result in payment in full of the Term Loan.

Any waiver by Mortgagee of the provisions of this **Section 3.9** shall not be deemed to be a waiver of the right of Mortgagee in the future to insist upon strict compliance with the provisions hereof.

**Section 3.10 Subrogation to Prior Lienholder's Rights.** If the proceeds of the Term Loan secured hereby or any part thereof, or any amount paid out or advanced by Mortgagee is used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any prior lien or encumbrance upon the Mortgaged Property or any part thereof, then Mortgagee shall be subrogated to the rights of the holder thereof in and to such other lien or encumbrance and any additional security held by such holder, and shall have the benefit of the priority of the same.

**Section 3.11 Mortgagee's Dealings with Transferee.** In the event of the sale or transfer, by operation of law, voluntarily or otherwise, of all or any part of the Mortgaged Property, Mortgagee shall be authorized and empowered to deal with the vendee or transferee with regard to the Mortgaged Property, the indebtedness secured hereby and any of the terms or conditions hereof as fully and to the same extent as it might with Mortgagor, without in any way releasing or discharging Mortgagor from its covenants hereunder, specifically including those contained in **Section 3.9** hereof, and without waiving Mortgagee's right of acceleration pursuant to **Section 3.9** hereof.

**Section 3.12 Stamp Taxes.** If at any time the United States government or any federal, state or municipal governmental subdivision requires Internal Revenue or other documentary stamps, levies or any tax on this Mortgage or on the Term Loan Note, or requires payment of the United States Interest Equalization Tax on any of the indebtedness secured hereby, then such indebtedness and all interest accrued thereon shall be and become due and payable, at the election of Mortgagee, thirty (30) days after the mailing by Mortgagee of notice of such election to Mortgagor; provided, however, that such election shall be unavailing, and this Mortgage and the Term Loan Note shall be and remain in effect, if Mortgagor may and does lawfully pay for such stamps or tax, including interest and penalties thereon, to or on behalf of Mortgagee.

**Section 3.13 Change in Tax Laws.** In the event of the enactment, after the date of this Mortgage, of any law of the state in which the Premises are located deducting from the value of the Premises, for the purpose of taxation, the amount of any lien thereon, or imposing upon Mortgagee the payment of all or any part of the taxes, assessments, charges or liens hereby required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of

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mortgages or debts secured by mortgages or Mortgagor's interest in the Mortgaged Property, or the manner of collection of taxes, so as to affect this Mortgage or the indebtedness secured hereby or the holder thereof, then Mortgagor, upon demand by Mortgagee, shall pay such taxes, assessments, charges or liens, or reimburse Mortgagee therefor; provided, however, that if, in the opinion of counsel for Mortgagee, it might be unlawful to require Mortgagor to make such payment or the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then Mortgagee may elect, by notice in writing given to Mortgagor, to declare all of the indebtedness secured hereby to become due and payable thirty (30) days after the giving of such notice. Nothing contained in this **Section 3.13** shall be construed as obligating Mortgagee to pay any portion of Mortgagor's federal, state or local income tax.

**Section 3.14 Inspection of Property.** Mortgagor shall permit Mortgagee and its representatives and agents to inspect the Mortgaged Property from time to time upon reasonable prior telephonic notice during normal business hours and as frequently as Mortgagee considers reasonable so as not to unreasonably disturb the operations at the Premises.

**Section 3.15 Inspection of Books and Records.** Mortgagor shall keep and maintain full and correct books and records showing in detail the income and expenses of the Mortgaged Property and after prior written demand therefor by Mortgagee shall permit Mortgagee and its agents and representatives to visit its offices, discuss its financial affairs with its officers and independent public accountants whether or not any representative of Mortgagor is present and to examine such books and records and all supporting vouchers and data, copies of any leases encumbering the Premises and such other information as Mortgagee may deem reasonably necessary or appropriate at any time and from time to time on Mortgagee's prior written request at Mortgagor's offices, at the address hereinabove identified or at such other location as may be reasonably requested by Mortgagee during normal business hours and so as not to unreasonably disturb the operations at the Premises.

**Section 3.16 Financial Information.** Mortgagor shall furnish to Mortgagee any and all financial information required pursuant to the terms of the Loan Agreement.

**Section 3.17 Acknowledgment of Debt.** Mortgagor shall furnish from time to time, within ten (10) days after Mortgagee's request, a written statement, duly acknowledged, specifying the amount due under the Term Loan Note, this Mortgage and any of the other Financing Agreements and disclosing whether any alleged offsets or defenses exist against the indebtedness secured hereby.

**Section 3.18 Other Amounts Secured; Maximum Indebtedness.** Mortgagor acknowledges and agrees that this Mortgage secures the entire principal amount of the Term Loan Note and interest accrued thereon, regardless of whether any or all of the loan proceeds are disbursed on or after the date hereof, and regardless of whether the outstanding principal is repaid in whole or part and future advances made at a later date, as well as any amounts owed to Mortgagee pursuant to **Sections 3.2** and **3.4** hereof, any and all litigation and other expenses pursuant to **Sections 4.5** and **4.6** hereof and any other amounts as provided herein or in any of the other Financing Agreements, including, without limitation, the payment of any and all loan commissions, service charges, liquidated damages, expenses and advances due to or paid or

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incurred by Mortgagee in connection with the Term Loan, all in accordance with the Financing Agreements. Under no circumstances, however, shall the total indebtedness secured hereby exceed Forty-Nine Million and No/100 Dollars (\$49,000,000.00).

**Section 3.19 Declaration of Subordination.** At the option of Mortgagee, this Mortgage shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any condemnation or eminent domain award) to any and all leases of all or any part of the Mortgaged Property upon the execution by Mortgagee and recording thereof, at any time hereafter, in the appropriate official records of the county wherein the Premises are situated, of a unilateral declaration to that effect.

**Section 3.20 Releases.** Mortgagee, without notice and without regard to the consideration, if any, paid therefor, and notwithstanding the existence at that time of any inferior liens thereon, may release from the liens of Mortgagee all or any part of the Mortgaged Property, or release from liability any person or entity obligated to repay any indebtedness secured hereby, without in any way affecting the liability of any party pursuant to the Term Loan Note, this Mortgage or any of the other Financing Agreements, including, without limitation, any guaranty given as additional security for the indebtedness secured hereby, and without in any way affecting the priority of the lien of this Mortgage, and may agree with any party liable therefor to extend the time for payment of any part or all of such indebtedness. Any such agreement shall not in any way release or impair the lien created by this Mortgage or reduce or modify the liability of any person or entity obligated personally to repay the indebtedness secured hereby, but shall extend the lien hereof as against the title of all parties having any interest, subject to the indebtedness secured hereby, in the Mortgaged Property.

**Section 3.21 Mortgagor's Representations.** Mortgagor hereby represents and covenants to Mortgagee that:

(a) Mortgagor is lawfully seized of the Mortgaged Property hereby mortgaged, granted and conveyed and has the right to mortgage, grant and convey the Mortgaged Property, that the Mortgaged Property is unencumbered except by the Permitted Encumbrances, if any, and that Mortgagor will represent, warrant and defend generally the title to the Mortgaged Property, or any portion thereof, against any and all claims and demands, subject only to the Permitted Encumbrances, if any.

(b) Mortgagor (i) is an Illinois limited liability company, duly organized and validly existing under the laws of the State of Illinois and is in good standing in the State of Illinois; (ii) has the power and authority to own its properties and to carry on its business as now being conducted; and (iii) is in compliance with all laws, regulations, ordinances and orders of public authorities applicable to it in all material respects.

(c) The execution, delivery and performance of the Term Loan Note, the Loan Agreement, this Mortgage and the other Financing Agreements: (i) have received all necessary trust, partnership, governmental, company, and corporate approval; (ii) do not violate any provision of any law, any order of any court or agency of government or any indenture, agreement or other instrument to which Mortgagor is a party, or by which it or any portion of the Mortgaged Property is bound; and (iii) are not in conflict with, nor will

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result in breach of, or constitute (with due notice or lapse of time) a default under any indenture, agreement, or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever, upon any of its property or assets, except as contemplated by the provisions of this Mortgage.

(d) The Term Loan Note, the Loan Agreement, this Mortgage and the other Financing Agreements, when executed and delivered by Mortgagor will constitute the legal, valid and binding obligations of Mortgagor and all other obligors named therein, if any, in accordance with their respective terms.

(e) All information, reports, papers, balance sheets, statements of profit and loss, and data given to Mortgagee or its agents and employees regarding Mortgagor or any other party obligated under the terms of the Term Loan Note, the Loan Agreement, this Mortgage or any of the other Financing Agreements are, to Mortgagor's knowledge, accurate and correct in all material respects, and are complete insofar as completeness may be necessary to give Mortgagee a true and accurate knowledge of the subject matter.

(f) There is not now pending against or affecting Mortgagor or any other party obligated under the terms of the Term Loan Note, the Loan Agreement, this Mortgage or any of the other Financing Agreements, nor, to the best of Mortgagor's knowledge, is there threatened in writing any action, suit or proceeding at law, in equity or before any administrative agency which, if adversely determined, would materially impair or affect the financial condition or operation of Mortgagor or the Mortgaged Property.

(g) Mortgagor is not now, nor has ever been (i) listed on any Government Lists, (ii) a person who has been determined by competent authority to be subject to the prohibitions contained in Presidential Executive Order #13224 (Sept. 23, 2001) or any other similar prohibitions contained in the rules and regulations promulgated in accord therewith or in any enabling legislation or other Presidential Executive Orders in respect thereof, (iii) indicted for or convicted of any felony involving a crime or crimes of moral turpitude or for any Patriot Act Offense, or (iv) under investigation by any governmental authority for alleged criminal activity. For purposes hereof, the term "**Patriot Act Offense**" means any violation of the criminal laws of the United States of America or any of the several states or that would be a criminal violation if committed within the jurisdiction of the United States of America or any of the several states relating to terrorism or the laundering of monetary instruments, including any offense under (A) the criminal laws against terrorism, (B) the criminal laws against money laundering, (C) the Bank Secrecy Act, as amended, (D) the Money Laundering Control Act of 1986, as amended or (E) the Patriot Act (as said term is defined in **Section 3.27** hereof).

"Patriot Act Offense" also includes the crimes of conspiracy to commit, or aiding and abetting another to commit a Patriot Act Offense. For purposes hereof, the term "**Government Lists**" means (1) the specially designated nationals and blocked persons lists maintained by the Office of Foreign Assets Controls, (2) other lists of terrorists, terrorist organizations or narcotic traffickers maintained pursuant to any of the rules and regulations of the Office of Foreign Assets Controls that Mortgagee notify Mortgagor in writing is now included in "Government



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Lists” or (3) any similar lists maintained by the United States Department of State, the United States Department of Commerce or any other government authority or pursuant to any Executive Order of the President of the United States that Mortgagee notify Mortgagor in writing is now included in “Government Lists.”

**Section 3.22 Utilities.** Mortgagor will pay or cause to be paid all utility charges incurred in connection with the Premises and all improvements thereon, and shall maintain all utility services now or hereafter available for use at the Premises.

**Section 3.23 Assignment of Rents.** Mortgagor acknowledges that, concurrently herewith, Mortgagor is delivering to Mortgagee, as additional security for the repayment of the Term Loan, an Assignment of Rents and Leases (the “**Assignment**”) pursuant to which Mortgagor, following the occurrence and continuance of Event of Default, shall have assigned to Mortgagee, interests in the leases, rents and income from the Mortgaged Property. All of the provisions of the Assignment are hereby incorporated herein as if fully set forth at length in the text of this Mortgage. Mortgagor agrees to abide by all of the provisions of the Assignment.

**Section 3.24 Security Agreement.**(a) This Mortgage shall be deemed a “Security Agreement” as defined in revised Article 9 of the Illinois Uniform Commercial Code, (the “**Illinois Uniform Commercial Code**”) and creates a security interest in favor of Mortgagee in all property owned by Mortgagor including, without limitation, all personal property, fixtures and goods affecting property either referred to or described herein or in any way connected with the use or enjoyment of the Mortgaged Property to the extent owned by Mortgagor. The remedies for any violation of the covenants, terms and conditions of the agreements herein contained shall be as prescribed herein or by general law or, as to such part of the security which is also reflected in any Financing Statement filed to perfect the security interest herein created, by the specific statutory consequences now or hereinafter enacted and specified in the Illinois Uniform Commercial Code, all at Mortgagee’s sole election. Mortgagor and Mortgagee agree that the filing of such a Financing Statement in the records normally having to do with personal property shall not be construed as in any way derogating from or impairing the intention of the parties hereto that everything owned by Mortgagor used in connection with the production of income from the Premises or adapted for use therein or which is described or reflected in this Mortgage is, and at all times and for all purposes and in all proceedings both legal or equitable shall be, regarded as part of the real estate irrespective of whether (i) any such item is physically attached to the improvements, (ii) serial numbers are used for the better identification of certain equipment items capable of being thus identified in a recital contained herein or in any list filed with Mortgagee, or (iii) any such item is referred to or reflected in any such Financing Statement so filed at any time. Similarly, the mention in any such Financing Statement of (1) the rights in or the proceeds of any fire or hazard insurance policy, or (2) any award in eminent domain proceedings for a taking or for loss of value, or (3) Mortgagor’s interest as lessor in any present or future lease or rights to income growing out of the use or occupancy of the Mortgaged Property whether pursuant to lease or otherwise, shall never be construed as in any way altering any of the rights of Mortgagee under this Mortgage or impugning the priority of Mortgagee’s lien granted hereby or by any other recorded document, but such mention in the Financing Statement is declared to be for the protection of Mortgagee in the event any court or judge shall at any time hold with respect to (1), (2) and (3) that notice of Mortgagee’s priority of interest to be effective

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against a particular class of persons, including, but not limited to, the Federal Government and any subdivisions or entity of the Federal Government, must be filed in the Illinois Uniform Commercial Code records.

(b) Mortgagor shall execute, acknowledge and deliver to Mortgagee, within ten (10) days after prior written request by Mortgagee, any and all security agreements, financing statements and any other similar security instruments reasonably required by Mortgagee, in form and of content reasonably satisfactory to Mortgagee, covering all property of any kind whatsoever owned by Mortgagor that, in the reasonable opinion of Mortgagee, is essential to the operation of the Mortgaged Property and concerning which there may be any doubt whether title thereto has been conveyed, or a security interest therein perfected, by this Mortgage under the laws of the state in which the Premises are located. Mortgagor shall further execute, acknowledge and deliver any financing statement, affidavit, continuation statement, certificate or other document as Mortgagee may request in order to perfect, preserve, maintain, continue and extend such security instruments. Mortgagor further agrees to pay to Mortgagee all fees, costs and expenses (including, without limitation, all reasonable attorneys' fees and expenses and court costs) incurred by Mortgagee in connection with the preparation, execution, recording, filing and refiling of any such document.

(c) Mortgagor shall, at any time and from time to time, take such steps as Mortgagee may reasonably require for Mortgagee to insure the continued perfection and priority of Mortgagee's security interest in any of Mortgagor's property and of the preservation of its rights therein.

**Section 3.25 Fixture Financing Statement.** From the date of its recording, this Mortgage shall be effective as a fixture financing statement with respect to all goods constituting part of the Mortgaged Property which are or are to become fixtures related to the real estate described herein. For this purpose, the following information is set forth:

(a) Name and Address of Debtor:

432 Poplar Drive, LLC  
c/o Citadel Healthcare  
5611 Dempster Street  
Morton Grove, Illinois 6005

(b) Name and Address of Secured Party:

First Midwest Bank  
8750 West Bryn Mawr  
Suite 3700, Chicago, Illinois 60631

(c) This document covers goods which are or are to become fixtures.

**Section 3.26 Interest Laws.** It being the intention of Mortgagee and Mortgagor to comply with the laws of the State of Illinois, it is agreed that notwithstanding any provision to

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the contrary in the Term Loan Note, this Mortgage or any of the other Financing Agreements, no such provision shall require the payment or permit the collection of any amount (“**Excess Interest**”) in excess of the maximum amount of interest permitted by law to be charged for the use or detention, or the forbearance in the collection, of all or any portion of the indebtedness evidenced by the Term Loan Note. If any Excess Interest is provided for, or is adjudicated to be provided for, in the Term Loan Note, this Mortgage or any of the other Financing Agreements, then in such event: (a) the provisions of this **Section 3.26** shall govern and control; (b) neither Mortgagor nor any other party obligated under the terms of the Term Loan Note or any of the other Financing Agreements shall be obligated to pay any Excess Interest; (c) any Excess Interest that Mortgagee may have received hereunder shall, at the option of Mortgagee, be (i) applied as a credit against the then unpaid principal balance under the Term Loan Note, accrued and unpaid interest thereon not to exceed the maximum amount permitted by law, or both, (ii) refunded to the payor thereof, or (iii) any combination of the foregoing; (d) the Interest Rate (as that term is defined in the Term Loan Note) shall be subject to automatic reduction to the maximum lawful contract rate allowed under the applicable usury laws of the aforesaid State, and the Term Loan Note, this Mortgage and the other Financing Agreements shall be deemed to be automatically reformed and modified to reflect such reduction in the Interest Rate; and (e) neither Mortgagor nor any other party obligated under the terms of the Term Loan Note or any of the other Financing Agreements shall have any action against Mortgagee for any damages whatsoever arising out of the payment or collection of any Excess Interest.

**Section 3.27 Patriot Act.** Mortgagor shall use its good faith and commercially reasonable efforts to comply with the Patriot Act and all applicable requirements of governmental authorities having jurisdiction over Mortgagor and/or the Premises, including those relating to money laundering and terrorism. In the event that Mortgagor fails to comply with the Patriot Act or any such requirements of governmental authorities, then Mortgagee may, at its option, cause Mortgagor to comply therewith and any and all costs and expenses incurred by Mortgagee in connection therewith shall be secured by this Mortgage and shall be immediately due and payable. For purposes of this **Section 3.27**, “**Patriot Act**” shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA Patriot Act) of 2001 as the same may be amended from time to time in corresponding provisions of future laws.

## IV

### DEFAULTS AND REMEDIES

**Section 4.1 Events Constituting Defaults.** Each of the following events shall constitute a default (a “**Default**”) under this Mortgage:

(a) Failure of Mortgagor to pay (i) any installment of principal or interest payable to the Mortgagee pursuant to the Term Loan Note on the date due, or (ii) any other amount due to Mortgagee under the Term Loan Agreement within thirty (30) days after the date when any such payment is due, declared due, or demanded;

(b) Failure of Mortgagor to comply with any of the requirements of **Section 3.9**;

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(c) Mortgagor fails or neglects to perform, keep or observe any of the covenants, conditions, promises or agreements contained in this Mortgage and such failure or neglect shall continue for a period of thirty (30) calendar days after notice to Mortgagor by Mortgagee, and such cure period may be extended at Mortgagee's sole discretion for an additional period of thirty (30) days so long as Mortgagor has commenced pursuit of curing such default during the initial thirty (30) days and continues to diligently pursue such cure;

(d) The occurrence of any default or event of default under the terms of any of the Financing Agreements after the expiration of the applicable notice and grace period, if any; or

(e) The occurrence of any event of default under one or more of the Related Loan Documents which is not cured within any applicable cure period.

**Section 4.2 Acceleration of Maturity.** Upon the occurrence and during the continuance of any Default, at the election of Mortgagee, the entire principal balance then outstanding under the Term Loan Note, together with all unpaid interest accrued thereon and all other sums due from Mortgagor hereunder, under this Mortgage or any other Financing Agreement shall become immediately due and payable with interest thereon at the Default Rate.

**Section 4.3 Foreclosure of Mortgage.** Upon the occurrence and during the continuance of any Default (beyond any applicable notice and cure periods), or at any time thereafter, Mortgagee may, at its option, proceed to foreclose the lien of this Mortgage by judicial proceedings in accordance with the laws of the state in which the Premises are located and to exercise any other remedies of Mortgagee provided herein or in the other Financing Agreements, or which Mortgagee may have at law or in equity. Any failure by Mortgagee to exercise such option shall not constitute a waiver of its right to exercise the same at any other time.

**Section 4.4 Mortgagee's Continuing Options.** The failure of Mortgagee to declare a Default or exercise any one or more of its options to accelerate the maturity of the indebtedness secured hereby and to foreclose the lien hereof following any Default as aforesaid, or to exercise any other option granted to Mortgagee hereunder in any one or more instances, or the acceptance by Mortgagee of partial payments of such indebtedness, shall neither constitute a waiver of any such Default or of Mortgagee's options hereunder nor establish, extend or affect any grace period for payments due under the Term Loan Note, but such options shall remain continuously in force. Acceleration of maturity, once claimed hereunder by Mortgagee, may, at Mortgagee's option, be rescinded by written acknowledgment to that effect by Mortgagee and shall not affect Mortgagee's right to accelerate maturity upon or after any future Default.

**Section 4.5 Litigation Expenses.** In any proceeding to foreclose the lien of this Mortgage or enforce any other remedy of Mortgagee under the Term Loan Note, this Mortgage, the other Financing Agreements or in any other proceeding whatsoever in connection with the Mortgaged Property in which Mortgagee is named as a party, there shall be allowed and included, as additional indebtedness secured hereby in the judgment or decree resulting therefrom, all actual and reasonable expenses paid or incurred in connection with such proceeding by or on behalf of Mortgagee, including, without limitation, reasonable attorney's fees and

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expenses and court costs, appraiser's fees, outlays for documentary evidence and expert advice, stenographers' charges, publication costs, survey costs, and costs (which may be estimated as to items to be expended after entry of such judgment or decree) of procuring all abstracts of title, title searches and examinations, title insurance policies and any similar data and assurances with respect to title to the Premises as Mortgagee may deem reasonably necessary, and any other reasonable expenses and expenditures which may be paid or incurred by or on behalf of Mortgagee and permitted by the IMF Law (as such term is hereinafter defined in **Section 4.9** to be included in the decree of sale, either to prosecute or defend in such proceeding or to evidence to bidders at any sale pursuant to any such decree the true condition of the title to or value of the Premises or the Mortgaged Property. All expenses of the foregoing nature, and such expenses as may be incurred in the protection of any of the Mortgaged Property and the maintenance of the lien of this Mortgage thereon, including, without limitation, the reasonable fees and expenses of, and court costs incurred by, any attorney employed by Mortgagee in any litigation affecting the Term Loan Note, this Mortgage or any of the other Financing Agreements or any of the Mortgaged Property, or in preparation for the commencement or defense of any proceeding or threatened suit or proceeding in connection therewith, shall be immediately due and payable by Mortgagor with interest thereon at the Default Rate.

**Section 4.6 Performance by Mortgagee.** Following the occurrence and during the continuance of a Default, or in the event any action or proceeding is instituted which materially affects, or threatens to materially affect, Mortgagee's interest in the Mortgaged Property, Mortgagee may, but need not, make any payment or perform any act on Mortgagor's behalf in any form and manner deemed expedient by Mortgagee, and Mortgagee may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any; purchase, discharge, compromise or settle any tax lien or other prior or junior lien or title or claim thereof; redeem from any tax sale or forfeiture affecting the Mortgaged Property; or contest any tax or assessment thereon. All monies paid for any of the purposes authorized herein and all expenses paid or incurred in connection therewith, including without limitation reasonable attorneys' fees and court costs, and any other monies advanced by Mortgagee to protect the Mortgaged Property and the lien of this Mortgage, shall be so much additional indebtedness secured hereby, and shall become immediately due and payable by Mortgagor to Mortgagee without notice and with interest thereon at the Default Rate from the date an advance is made to and including the date the same is paid. The action or inaction of Mortgagee shall never be construed to be a waiver of any right accruing to Mortgagee by reason of any default by Mortgagor. Mortgagee shall not incur any personal liability because of anything it may do or omit to do hereunder, nor shall any acts of Mortgagee act as a waiver of Mortgagee's right to accelerate the maturity of the indebtedness secured by this Mortgage or to proceed to foreclose this Mortgage.

**Section 4.7 Right of Possession.** In any case in which, under the provisions of this Mortgage, Mortgagee has a right to institute foreclosure proceedings, whether or not the entire principal sum secured hereby becomes immediately due and payable as aforesaid, or whether before or after the institution of proceedings to foreclose the lien hereof or before or after sale thereunder, to the fullest extent allowable at law, Mortgagor shall, forthwith upon prior written demand of Mortgagee, surrender to Mortgagee, and Mortgagee, subject to and in compliance with the rules and regulations of the Illinois Department of Public Health ("IDPH"), shall be entitled to take actual possession of, the Mortgaged Property or any part thereof, personally or by its agent or attorneys, and Mortgagee, in its discretion, may enter upon and take

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and maintain possession of all or any part of the Mortgaged Property, together with all documents, books, records, papers and accounts of Mortgagor or the then owner of the Mortgaged Property relating thereto, and may exclude Mortgagor, such owner and any agents and servants thereof wholly therefrom and may, as attorney-in-fact or agent of Mortgagor or such owner, or in its own name as Mortgagee and under the powers herein granted:

(a) hold, operate, manage and control all or any part of the Mortgaged Property and conduct the business, if any, thereof, either personally or by its agents, with full power to use such measures, whether legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or security of the rents, issues, deposits, profits and avails of the Mortgaged Property, including, without limitation, actions for recovery of rent, and actions in forcible detainer, all without notice to Mortgagor;

(b) cancel or terminate any lease or sublease of all or any part of the Mortgaged Property for any cause or on any ground that would entitle Mortgagor to cancel the same;

(c) elect to disaffirm any lease or sublease of all or any part of the Mortgaged Property made subsequent to this Mortgage or subordinated to the lien hereof, subject to the terms of any subordination, non-disturbance and attornment agreement then in effect;

(d) extend or modify any then existing leases and make new leases of all or any part of the Mortgaged Property, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the Stated Maturity Date of the Term Loan and the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor, all persons whose interests in the Mortgaged Property are subject to the lien hereof and the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the indebtedness secured hereby, satisfaction of any foreclosure decree or issuance of any certificate of sale or deed to any such purchaser; and

(e) make all necessary or proper repairs, decoration, renewals, replacements, alterations, additions, betterments and improvements in connection with the Mortgaged Property as may seem judicious to Mortgagee, to insure and reinsure the Mortgaged Property and all risks incidental to Mortgagee's possession, operation and management thereof, and to receive all rents, issues, deposits, profits and avails therefrom.

Without limiting the generality of the foregoing, Mortgagee shall have all right, power, authority and duties as provided in the Illinois Mortgage Foreclosure Law, as amended (Illinois Compiled Statutes 735 ILCS 5/15 1001, et. Seq.) (the "IMF Law"). Nothing herein contained shall be construed as constituting Mortgagee as mortgagee in possession in the absence of the actual taking of possession of the Premises.

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**Section 4.8 Priority of Payments.** Any rents, issues, deposits, profits and avails of the Property received by Mortgagee after taking possession of all or any part of the Mortgaged Property, or pursuant to any assignment thereof to Mortgagee under the provisions of this Mortgage shall be applied in payment of or on account of the following, in such order as Mortgagee or, in case of a receivership, as the court, may in its sole and absolute discretion determine:

(a) operating expenses of the Mortgaged Property (including, without limitation, reasonable compensation to any receiver of the Mortgaged Property, any agent or agents to whom management of the Mortgaged Property has been delegated, and paying premiums on insurance hereinabove authorized);

(b) taxes, special assessments, water and sewer charges now due or that may hereafter become due on the Mortgaged Property, or that may become a lien thereon prior to the lien of this Mortgage;

(c) any and all repairs, decorating, renewals, or replacements of the Mortgaged Property (including, without limitation, the cost, from time to time, of installing or replacing any personal property therein) as is necessary in the reasonable judgment of Mortgagee or any receiver thereof, to make it readily rentable or salable);

(d) any indebtedness secured by this Mortgage or any deficiency that may result from any foreclosure sale pursuant hereto; and

(e) any remaining funds to Mortgagor or its successors or assigns, as their interests and rights may appear.

**Section 4.9 Appointment of Receiver.** Upon or at any time after the filing of any complaint to foreclose the lien of this Mortgage, the court may appoint upon petition of Mortgagee, and at Mortgagee's sole option, a receiver of the Mortgaged Property pursuant to the IMF Law and the Illinois Nursing Home Care Reform Act, as amended. Such appointment may be made either before or after sale, without notice; without regard to the solvency or insolvency, at the time of application for such receiver, of the person or persons, if any, liable for the payment of the indebtedness secured hereby; without regard to the value of the Mortgaged Property at such time and whether or not the same is then occupied as a homestead; without bond being required of the applicant; and Mortgagee hereunder or any employee or agent thereof may be appointed as such receiver. Such receiver shall have all powers and duties prescribed by the IMF Law, including the power to take possession, subject to and in compliance with IDPH rules and regulations, control and care of the Mortgaged Property and to collect all rents, issues, deposits, profits and avails thereof during the pendency of such foreclosure suit and apply all funds received toward the indebtedness secured by this Mortgage, and in the event of a sale and a deficiency where Mortgagor has not waived its statutory rights of redemption, during the full statutory period of redemption, as well as during any further times when Mortgagor or its devisees, legatees, administrators, legal representatives, successors or assigns, except for the intervention of such receiver, would be entitled to collect such rents, issues, deposits, profits and avails, and shall have all other powers that may be necessary or useful in such cases for the protection, possession, control, management and operation of the Mortgaged Property during the

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whole of any such period. To the extent permitted by law, such receiver may extend or modify any then existing leases and make new leases of the Mortgaged Property or any part thereof, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the Stated Maturity Date of the Term Loan, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the Mortgaged Property are subject to the lien hereof, and upon the purchaser or purchasers at any such foreclosure sale, notwithstanding any redemption from sale, discharge of indebtedness, satisfaction of foreclosure decree or issuance of certificate of sale or deed to any purchaser.

**Section 4.10 Foreclosure Sale.** In the event of any foreclosure sale of the Mortgaged Property, the same may be sold in one or more parcels. Mortgagee may be the purchaser at any foreclosure sale of the Mortgaged Property or any part thereof.

**Section 4.11 Application of Proceeds.** The proceeds of any foreclosure sale of the Mortgaged Property, or any part thereof, shall be distributed and applied in the following order of priority: (a) on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in **Sections 4.5 and 4.6** hereof; (b) all other items that, under the terms of this Mortgage, constitute secured indebtedness additional to that evidenced by the Term Loan Note, with interest thereon at the Default Rate; (c) all principal and interest, together with any prepayment charge, remaining unpaid under the Term Loan Note, in the order of priority specified by Mortgagee in its sole and absolute discretion; and (d) the balance, if any, to Mortgagor or its successors or assigns, as their interests and rights may appear.

**Section 4.12 Application of Deposits.** Following the occurrence and during the continuance of any Default, Mortgagee may, at its option, without being required to do so, apply any monies or securities that constitute deposits made to or held by Mortgagee or any depository pursuant to any of the provisions of this Mortgage toward payment of any of Mortgagor's obligations under the Term Loan Note, this Mortgage or any of the other Financing Agreements in such order and manner as Mortgagee may elect in its sole and absolute discretion. When the indebtedness secured hereby has been fully paid, any remaining deposits shall be paid to Mortgagor. Such deposits are hereby pledged as additional security for the prompt payment of the indebtedness evidenced by the Term Loan Note and any other indebtedness secured hereby and shall be held to be applied irrevocably by such depository for the purposes for which made hereunder and shall not be subject to the direction or control of Mortgagor.

**Section 4.13 Indemnification.** Except with respect to liabilities, obligations, claims, damages, causes of action and costs and expenses arising from Mortgagee's gross negligence, fraud and/or willful misconduct, Mortgagor will indemnify and hold Mortgagee harmless from and against any and all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, reasonable attorneys' fees, expenses and court costs) incurred by or asserted against Mortgagee by reason of (a) Mortgagor's ownership of the Mortgaged Property or any interest therein or receipt of any rents, issues, proceeds or profits therefrom; (b) any accident, injury to or death of persons, or loss of or damage to property occurring in, on or about the Premises or any part thereof or on the adjoining sidewalks, curbs, adjacent parking areas or streets; (c) any use, non-use or condition in, on or about the Premises or any part thereof or on the adjoining sidewalks, curbs, adjacent parking areas



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or streets; (d) any failure on the part of Mortgagor to perform or comply with any of the terms of this Mortgage; or (e) performance of any labor or services or the furnishing of any materials or other property in respect of the Premises or any part thereof. Any amounts owed to Mortgagee by reason of this **Section 4.13** shall constitute additional indebtedness which is secured by this Mortgage and shall become immediately due and payable upon demand therefor, and shall bear interest at the Default Rate from the date such loss or damage is sustained by Mortgagee until paid. The obligations of Mortgagor under this **Section 4.13** shall survive any termination or satisfaction of this Mortgage.

**Section 4.14 Waiver of Right of Redemption and Other Rights.** To the full extent permitted by law, Mortgagor agrees that it will not at any time or in any manner whatsoever take any advantage of any stay, exemption or extension law or any so called "Moratorium Law" now or at any time hereafter in force, nor take any advantage of any law now or hereafter in force providing for the valuation or appraisal of the Mortgaged Property, or any part thereof, prior to any sale thereof to be made pursuant to any provisions herein contained, or to any decree, judgment or order of any court of competent jurisdiction; or after such sale claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshaling thereof, upon foreclosure sale or other enforcement hereof. To the full extent permitted by law, Mortgagor hereby expressly waives any and all rights it may have to require that the Premises be sold as separate tracts or units in the event of foreclosure. To the full extent permitted by law, Mortgagor hereby expressly waives any and all rights of redemption under the IMF Law, on its own behalf, on behalf of all persons claiming or having an interest (direct or indirect) by, through or under Mortgagor and on behalf of each and every person acquiring any interest in or title to the Premises subsequent to the date hereof, it being the intent hereof that any and all such rights of redemption of Mortgagor and such other persons, are and shall be deemed to be hereby waived to the full extent permitted by applicable law. To the full extent permitted by law, Mortgagor agrees that it will not, by invoking or utilizing any applicable law or laws or otherwise, hinder, delay or impede the exercise of any right, power or remedy herein or otherwise granted or delegated to Mortgagee, but will permit the exercise of every such right, power and remedy as though no such law or laws have been or will have been made or enacted. To the full extent permitted by law, Mortgagor hereby agrees that no action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and valid in an action at law upon the Term Loan Note. Mortgagor acknowledges that the Premises do not constitute agricultural real estate as defined in Section 5/15-1201 of the IMF law or residential real estate as defined in Section 5/15-1219 of the IMF Law.

V

## MISCELLANEOUS

**Section 5.1 Notices.** Any notice that Mortgagee or Mortgagor may desire or be required to give to the other hereunder shall be deemed given if given in accordance with the terms and conditions of the Loan Agreement.

Except as otherwise specifically required herein, notice of the exercise of any right or option granted to Mortgagee by this Mortgage is not required to be given.

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**Section 5.2 Time of Essence.** It is specifically agreed that time is of the essence of this Mortgage.

**Section 5.3 Covenants Run with Land.** All of the covenants of this Mortgage shall run with the land constituting the Premises.

**Section 5.4 Governing Law; Litigation.** The place of the location of the Mortgaged Property being the State of Illinois, this Mortgage shall be construed and enforced according to the laws of that State. To the extent that this Mortgage may operate as a security agreement under the Illinois Uniform Commercial Code, Mortgagee shall have all rights and remedies conferred therein for the benefit of a secured party, as such term is defined therein. TO THE MAXIMUM EXTENT PERMITTED BY LAW, MORTGAGOR HEREBY AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS MORTGAGE SHALL BE TRIED AND DETERMINED ONLY IN THE STATE OR FEDERAL COURT LOCATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, OR AT THE SOLE OPTION OF MORTGAGEE IN ANY OTHER COURT IN WHICH MORTGAGEE SHALL INITIATE LEGAL OR EQUITABLE PROCEEDINGS AND WHICH HAS SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, MORTGAGOR HEREBY EXPRESSLY WAIVES ANY RIGHT IT MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS SECTION 5.4.

**Section 5.5 Rights and Remedies Cumulative.** All rights and remedies set forth in this Mortgage are cumulative, and the holder of the Term Loan Note and of every other obligation secured hereby may recover judgment hereon, issue execution therefor, and resort to every other right or remedy available at law or in equity, without first exhausting and without affecting or impairing the security of any right or remedy afforded hereby.

**Section 5.6 Severability.** If any provision of this Mortgage or any paragraph, sentence, clause, phrase or word, or the application thereof, is held invalid in any circumstance, the validity of the remainder of this Mortgage shall be construed as if such invalid part were never included herein.

**Section 5.7 Non-Waiver.** Unless expressly provided in this Mortgage to the contrary, no consent or waiver, whether express or implied, by any interested party referred to herein to or of any breach or default by any other interested party referred to herein regarding the performance by such party of any obligations contained herein shall be deemed a consent to or waiver of the party of any obligations contained herein or shall be deemed a consent to or waiver of the performance by such party of any other obligations hereunder or the performance by any other interested party referred to herein of the same, or of any other, obligations hereunder.

**Section 5.8 Headings.** The headings of sections and paragraphs in this Mortgage are for convenience or reference only and shall not be construed in any way to limit or define the content, scope or intent of the provisions hereof.

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**Section 5.9 Grammar.** As used in this Mortgage, the singular shall include the plural, and masculine, feminine and neuter pronouns shall be fully interchangeable, where the context so requires. Whenever the words “including”, “include” or “includes” are used in this Mortgage, they should be interpreted in a non-exclusive manner as though the words “, without limitation,” immediately followed the same.

**Section 5.10 Successors and Assigns.** This Mortgage and all provisions hereof shall be binding upon Mortgagor, its successors, assigns, legal representatives and all other persons or entities claiming under or through Mortgagor, and the word “Mortgagor,” when used herein, shall include all such persons and entities and any others liable for the payment of the indebtedness secured hereby or any part thereof, whether or not they have executed the Term Loan Note or this Mortgage. The word “Mortgagee,” when used herein, shall include Mortgagee’s successors, assigns and legal representatives, including all other holders, from time to time, of the Term Loan Note.

**Section 5.11 No Joint Venture.** Mortgagor and Mortgagee acknowledge and agree that under no circumstances shall Mortgagee be deemed to be a partner or joint venturer with Mortgagor, including, without limitation, by virtue of its becoming a mortgagee in possession or exercising any of its rights pursuant to this Mortgage or pursuant to any of the other Financing Agreements, or otherwise.

**Section 5.12 Additional Fees.**

(a) Mortgagor agrees to pay on demand all of the reasonable out-of-pocket costs and expenses of Mortgagee (including, without limitation, the reasonable fees and out-of-pocket expenses of Mortgagee’s counsel) in connection with the preparation, negotiation, execution and delivery of the Term Loan Note, this Mortgage, any of the other Financing Agreements and all other instruments or documents provided for herein or delivered or to be delivered hereunder or in connection herewith.

(b) The reasonable costs and expenses which Mortgagee actually incurs in any manner or way with respect to the following shall be part of the indebtedness secured hereby, payable by Mortgagor on demand if at any time after the date of this Mortgage Mortgagee: (i) employs counsel for advice or other representation (A) with respect to the amendment or enforcement of the Term Loan Note, this Mortgage or any of the other Financing Agreements, (B) to represent Mortgagee or any of the Other Lenders in any work-out or any type of restructuring of the Term Loan, or any litigation, contest, dispute, suit or proceeding or to commence, defend or intervene or to take any other action in or with respect to any litigation, contest, dispute, suit or proceeding (whether instituted by Mortgagee, one of the Other Lenders, Mortgagor or any other person or entity) in any way or respect relating to the Term Loan Note, this Mortgage, any of the other Financing Agreements, Mortgagor’s affairs or any collateral securing the indebtedness secured hereby or (C) to enforce any of the rights of Mortgagee or any of the Other Lenders with respect to Mortgagor; and/or (ii) seeks to enforce or enforces any of the rights and remedies of Mortgagee or any of the Other Lenders with respect to Mortgagor. Without limiting the generality of the foregoing, such expenses, costs, charges and fees include: reasonable fees, costs and expenses of attorneys, accountants and consultants; court costs

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and expenses; court reporter fees, costs and expenses; long distance telephone charges; telegram and telecopier charges; and expenses for travel, lodging and food.

## **Section 5.13 Compliance with the Illinois Mortgage Foreclosure Law.**

(a) In the event that any provision in this Mortgage shall be inconsistent with any provisions of the IMF Law, the provision of the IMF Law, shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the IMF Law.

(b) Mortgagor and Mortgagee shall have the benefit of all of the provisions of the IMF Law, including all amendments thereto which may become effective from time to time after the date hereof. In the event any provision of the IMF Law which is specifically referred to herein may be repealed, Mortgagee 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.

(c) If any provision of this Mortgage shall grant to Mortgagee any rights or remedies upon default of Mortgagor which are more limited than the rights that would otherwise be vested in Mortgagee under the IMF Law in the absence of said provision, Mortgagee shall be vested with the rights granted in the IMF Law to the full extent permitted by law.

(d) Without limiting the generality of the foregoing, all expenses incurred by Mortgagee to the extent reimbursable under any provisions of the IMF Law, whether incurred before or after any decree or judgment of foreclosure shall be added to the indebtedness hereby secured or by the judgment of foreclosure.

**Section 5.14 Loan Agreement.** The proceeds of the Term Loan are to be disbursed by Mortgagee and the Other Lenders to Mortgagor in accordance with the provisions contained in the Loan Agreement. All advances and indebtedness arising and accruing under the Loan Agreement from time to time shall be secured hereby to the same extent as though the Loan Agreement were fully incorporated in this Mortgage, and the occurrence and continuance of any Default under the Loan Agreement shall constitute a default under this Mortgage entitling Mortgagee to all of the rights and remedies conferred upon Mortgagee by the terms of this Mortgage or by law, as in the case of any other default.

**Section 5.15 Recapture.** To the extent Mortgagee receives any payment by or on behalf of Mortgagor, which payment or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to Mortgagor or its estate, trustee, receiver, custodian or any other party under any bankruptcy law, state or federal law, common law or equitable cause, then to the extent of such payment or repayment, the obligation or part thereof which has been paid, reduced or satisfied by the amount so repaid shall be reinstated by the amount so repaid and shall be included within the indebtedness hereby secured as of the date such initial payment, reduction or satisfaction occurred.

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**Section 5.16 No Lien Management Agreements.** Mortgagor shall include a “no lien” provision in any property management agreement hereafter entered into by Mortgagor with a property manager for the Mortgaged Property, whereby the property manager waives and releases any and all mechanics’ lien rights that the property manager, or anyone claiming through or under the property manager, may have pursuant to 770 ILCS 60/1. Such property management agreement containing such “no lien” provision or a short form thereof shall, at Mortgagee’s request, be recorded with the Recorder of Cook County, Illinois, as appropriate.

**Section 5.17 Deed in Trust.** If title to the Mortgaged Property or any part thereof is now or hereafter becomes vested in a trustee, any prohibition or restriction contained herein against the creation of any lien on the Mortgaged Property shall be construed as a similar prohibition or restriction against the creation of any lien on or security interest in the beneficial interest of such trust.

**Section 5.18 JURY WAIVER.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OF MORTGAGOR AND MORTGAGEE HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY ACTION, CAUSE OF ACTION, CLAIM, DEMAND, OR PROCEEDING ARISING UNDER OR WITH RESPECT TO THIS MORTGAGE, OR IN ANY WAY CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE DEALINGS OF MORTGAGOR AND MORTGAGEE WITH RESPECT TO THIS MORTGAGE, OR THE TRANSACTIONS RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OF MORTGAGOR AND LENDER HEREBY AGREES THAT ANY SUCH ACTION, CAUSE OF ACTION, CLAIM, DEMAND OR PROCEEDING SHALL BE DECIDED BY A COURT TRIAL WITHOUT A JURY AND THAT MORTGAGOR OR LENDER MAY FILE A COPY OF THIS MORTGAGE WITH ANY COURT OR OTHER TRIBUNAL AS WRITTEN EVIDENCE OF THE CONSENT OF EACH OF MORTGAGOR AND LENDER TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

**Section 5.19 Creditor's Rights and Fraudulent Conveyance Savings.** Notwithstanding any provision herein contained to the contrary, Mortgagor’s liability under this Mortgage shall be limited to an amount not to exceed as of any date of determination the amount which could be claimed by Mortgagee from Mortgagor under this Mortgage without rendering such claim voidable or avoidable under Section 548 of the Bankruptcy Code (Title 11, U.S.C.) or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law (collectively, the “**Avoidance Laws**”) after taking into account, among other things, Mortgagor’s right of contribution and indemnification from each other party to the Term Loan, if any, it being understood that such liability shall at all times equal or exceed the amount of the Term Loan made and disbursed directly to or for the direct benefit of Mortgagor. To the end set forth above, but only to the extent that the obligations of Mortgagor hereunder would otherwise be subject to avoidance under the Avoidance Laws, if Mortgagor is not deemed to have received valuable consideration, fair value, fair consideration or reasonably equivalent value for the obligations, or if the obligations would render Mortgagor insolvent, or leave Mortgagor with an unreasonably small capital to conduct its business, or cause Mortgagor to have incurred debts (or to have intended to have incurred debts) beyond its ability to pay such

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debts as they mature, in each case as of the time any of the obligations is deemed to have been incurred for the purposes of the Avoidance Laws, the maximum amount of obligations for which Mortgagor shall be liable hereunder shall be reduced to that amount which, after giving effect thereto, would not cause the obligations as so reduced, to be subject to avoidance under the Avoidance Laws.

(Signature page follows.)

Property of Cook County Clerk's Office  
COOK COUNTY  
RECORDER OF DEEDS  
COOK COUNTY  
RECORDER OF DEEDS  
COOK COUNTY  
RECORDER OF DEEDS

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

**MORTGAGOR:**

432 POPLAR DRIVE, LLC, an Illinois limited liability company

By: \_\_\_\_\_  
Name: Jonathan Aaron  
Title: Manager

Property of Cook County Clerk's Office

**COOK COUNTY  
RECORDER OF DEEDS**

**COOK COUNTY  
RECORDER OF DEEDS**





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## EXHIBIT "A"

### LEGAL DESCRIPTION

PARCEL 1:

LOT 5 (EXCEPT THE NORTH 16 FEET) AND LOT 6 IN THE SUBDIVISION OF SWARTOUT'S RESUBDIVISION OF LOTS 4 AND 5 IN BLOCK 11 IN WILMETTE VILLAGE IN SECTION 34, TOWNSHIP 42 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOT 5 IN OWNER'S SUBDIVISION OF LOT 6 IN BLOCK 11 IN WILMETTE VILLAGE, IN SECTION 34, TOWNSHIP 42 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

LOT 1 IN DOIG'S RESUBDIVISION OF LOTS 7 AND 8 IN BLOCK 11 IN WILMETTE VILLAGE IN SECTION 34, TOWNSHIP 42 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common Address: 432 Poplar Drive  
Wilmette, Illinois 60091

PIN(s): 05-34-121-056-0000  
05-34-121-041-0000