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**Illinois Anti-Predatory
Lending Database
Program**

Certificate of Exemption



**Report Mortgage Fraud
844-768-1713**



2306657044

Doc# 2306657044 Fee \$88.00

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

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 03/07/2023 12:52 PM PG: 1 OF 35

The property identified as: **PIN:** 29-18-410-054-0000

Address:

Street: 15600 S. Honore Avenue

Street line 2:

City: Harvey

State: IL

ZIP Code: 60426

Lender: Capital Funding, LLC

Borrower: Heather Health Care Center II, L.L.C.

Loan / Mortgage Amount: \$6,238,780.00

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: 6D5C1327-30AF-49B4-A2BD-1F9D9C897D6B

Execution date: 3/1/2023

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**Recording Requested By
And When Recorded Mail To:**

Capital Funding, LLC
1422 Clarkview Road
Baltimore, Maryland 21209
Attention: Stephanie Jenifer

MORTGAGE, SECURITY AGREEMENT AND FIXTURE FILING

HEATHER HEALTH CARE CENTER II, L.L.C.,
an Illinois limited liability company
(as Grantor)

CAPITAL FUNDING, LLC,
a Maryland limited liability company
(as Agent)

Dated: March 1, 2023

Heather Healthcare
15600 Honore Ave, Harvey, IL 60426

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MORTGAGE, SECURITY AGREEMENT AND FIXTURE FILING

THIS MORTGAGE, SECURITY AGREEMENT AND FIXTURE FILING (this "Security Instrument"), is made as of March 1, 2023 by HEATHER HEALTH CARE CENTER II, L.L.C., an Illinois limited liability company (together with its successors and assigns, the "Grantor"), as mortgagor, for the benefit of CAPITAL FUNDING, LLC, a Maryland limited liability company, as mortgagee, in its capacity as Agent (in such capacity, "Agent") for Lenders (as defined below). All capitalized terms not defined herein shall have the respective meanings set forth in the Loan Agreement (defined below).

A. WHEREAS, pursuant to a certain Loan Agreement of even date herewith (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "Loan Agreement") between Grantor, Agent and the other financial institutions who are or hereafter become parties to the Loan Agreement (together with Agent, collectively or individually, as the context may require, referred to herein as "Lender" or "Lenders"), Grantor has agreed to borrow from Lender the aggregate sum of Six Million Two Hundred Thirty-Eight Thousand Seven Hundred Eighty and No/100 Dollars (\$6,238,780.00) (the "Loan"), and evidenced by that certain Promissory Note, dated as of the date hereof, made by Borrower in favor of Lender (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time (the "Note");

B. WHEREAS, the Grantor wishes and intends, by the execution and delivery of this Security Instrument, to (a) secure the full and punctual payment and performance of the Loan Obligations (as defined in the Loan Agreement), and (b) induce the Lender to make the Loan.

C. NOW, THEREFORE, that the Grantor, in consideration of the premises and the sum of Ten Dollars (\$10.00) lawful money of the United States of America, to the Agent and Lenders in hand paid, the receipt and sufficiency of which are hereby acknowledged, irrevocably mortgages, grants, bargains, pledges, assigns, warrants, transfers and conveys to Lender, subject only to the matters listed as the Permitted Encumbrances (as defined in the Loan Agreement) and made a part hereof, with power of sale, and grants a security interest to Lender in, to secure the prompt and complete payment and performance when due of all Loan obligations, all of its present and future estate, right, title and interest in and to the Land (as defined herein) and as described on Exhibit A attached hereto, located in the City of Harvey, State of Illinois, together with all of the other Mortgaged Property (as defined herein); and

The Grantor covenants that Grantor is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant, convey and assign the Mortgaged Property, that the Mortgaged Property is unencumbered, except for the Permitted Encumbrances, and that Grantor will warrant and defend generally the title to the Mortgaged Property against all claims and demands, subject to any Permitted Encumbrances, TO HAVE AND TO HOLD the Mortgaged Property unto Lender and its successors and assigns forever, subject to the matters listed in the Permitted Encumbrances (as defined in the Loan Agreement) and the provisions, terms and conditions of this Security Instrument.

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1. **DEFINITIONS.** The following terms, when used in this Security Instrument (including when used in the above Recitals), shall have the following meanings:

- (a) “Accounts” shall have the meaning set forth in the Loan Agreement.
- (b) “Appurtenant Rights” means all air rights, development rights, zoning rights, easements, rights-of-way, strips and gores of land, vaults, streets, roads, alleys, tenements, passages, sewer rights, waters, water courses, water rights and powers, minerals, flowers, shrubs, crops, trees, timber and other emoluments now or hereafter appurtenant to, or used or useful in connection with, or located on, under or above the Land, or any part or parcel thereof, and all ground leases, estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances, reversions, and remainders whatsoever, in any way belonging, relating or appertaining to the Land, or any part thereof, now or hereafter.
- (c) “Assignment of Rents” means that certain Assignment of Rents and Leases of even date herewith from Grantor in favor of Lender.
- (d) “Collateral” means, collectively, all of Grantor’s right, title and interest in and to the Mortgaged Property and all of Grantor’s rights as a secured party in and to the property of Operator to which Operator granted a security interest in favor of Grantor under a Lease, all whether now owned or hereafter acquired, and including replacements, additions, accessions, substitutions, and products thereof and thereto, and all other property which is or hereafter may become subject to a Lien in favor of Lender as security for any of the Loan Obligations.
- (e) “Collateral Agreements” means collectively, as applicable, any security agreements, assignments, pledges or escrow agreements granted for the benefit of the Lender as additional security for the Loan and Loan Obligations.
- (f) “Debt” means the aggregate of the principal of and interest on the Note due and owing from time to time and all expenses, charges and other amounts due and owing from time to time under the Note, the Loan Agreement, this Security Instrument or any other Loan Document, including, without limitation, prepayment premiums, loan fees, late charges, default interest and advances to protect the security of this Security Instrument under Section 7, if any.
- (g) “Equipment” means all beds, linen, televisions, carpeting, telephones, cash registers, computers, lamps, glassware, rehabilitation equipment, restaurant, restaurant and kitchen equipment, and other fixtures and equipment of Grantor located on, attached to or used or useful in connection with any of the Land or the Facility and all renewals and replacements thereof and substitutions therefore; provided, however, that with respect to any items which are leased for the benefit of the Facility and not owned by Grantor, the Equipment shall include the leasehold interest only of Grantor together with any options to purchase any of said items and any additional or greater rights with respect to such items which Grantor may hereafter acquire, but the foregoing shall not be construed to mean that such leasing shall be permitted hereunder and under the other Loan Documents. Notwithstanding the forgoing, Equipment shall not include any property

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belonging to tenants under any Leases at the Facility, except to the extent that Grantor shall have rights or interest therein.

(h) “Event of Default” means the occurrence of any event listed in Section 14, hereof.

(i) “Facility” means the long term skilled nursing care facility known as “Heather Healthcare” located on the Land, as it may now or hereafter exist, together with any other general or specialized care facilities, if any (including any Alzheimer’s care unit, subacute, and any assisted care living facility, now or hereafter operated on the Mortgaged Property).

(j) “Fixtures” means all property which is now or hereafter so attached to the Land or the Improvements as to constitute a fixture under applicable law and all renewals and replacements thereof and substitutions therefore, including, without limitation: machinery, equipment, engines, boilers, incinerators, installed building materials; systems and equipment for the purpose of supplying or distributing heating, cooling, electricity, gas, water, air, or light; antennas, cable, wiring and conduits used in connection with radio, television, security, fire prevention, or fire detection or otherwise used to carry electronic signals; telephone systems and equipment; elevators and related machinery and equipment; fire detection, prevention and extinguishing systems and apparatus; security and access control systems and apparatus; plumbing systems; water heaters, ranges, stoves, microwave ovens, refrigerators, dishwashers, garbage disposers, washers, dryers and other appliances; light fixtures, awnings, storm windows and storm doors; pictures, screens, blinds, shades, curtains and curtain rods; mirrors; cabinets, paneling, rugs and floor and wall coverings; fences, trees and plants; and exercise equipment. Notwithstanding the forgoing, Fixtures shall not include any property which tenants are entitled to remove pursuant to any leases of the Facility, except to the extent that Grantor shall have any right or interest therein.

(k) “General Intangibles” means all intangible personal property of Grantor arising out of or connected with the Land or the Facility and all renewals and replacements thereof and substitutions therefore (other than Accounts, Rents, Instruments, Inventory, Money, Permits and Reimbursement Contracts).

(l) “Governmental Authority” means any board, commission, department or body of any municipal, county, state or federal governmental unit, or any subdivision of any of them, that has or acquires jurisdiction over the Mortgaged Property and/or the Improvements or the use, operation or improvement of the Mortgaged Property.

(m) “Grantor” means all persons or entities identified as “Grantor” in the first paragraph of this Security Instrument, together with their successors and assigns.

(n) “Impositions” and “Imposition Deposits” are defined in Section 4, hereof.

(o) “Improvements” means all buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, including, but not limited to, all gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, elevators and motors,

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plumbing and heating fixtures, carpeting and other floor coverings, water heaters, awnings and storm sashes, and cleaning apparatus which are or shall be attached to the Mortgaged Property or said buildings, structures or improvements.

(p) "Instruments" means all instruments, chattel paper, documents or other writings obtained by Grantor from or in connection with the operation of the Land or the Facility (including without limitation, all ledger sheets, computer records and printouts, data bases, programs, books of account and files of Grantor relating thereto).

(q) "Inventory" means all inventories of food, beverages and other comestibles held by Grantor for sale or use at or from the Land or the Facility, and soap, paper supplies, medical supplies, drugs and all other such goods, wares and merchandise held by Grantor for sale to or for consumption by residents, guests or patients of the Land or the Facility and all such other goods returned to or repossessed by Grantor.

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

(s) "Leases" means all present and future leases, subleases, licenses, concessions or grants or other possessory interests now or hereafter in force, whether oral or written, covering or affecting the Mortgaged Property, or any portion of the Mortgaged Property and all modifications, extensions or renewals thereof.

(t) "Lender" means the financial institutions who are or hereafter become parties to the Loan Agreement.

(u) "Lien" has the meaning set forth in the Loan Agreement.

(v) "Loan Agreement" means that certain Loan Agreement of even date herewith by and among Agent, Lender and Borrower.

(w) "Loan Documents" has the meaning set forth in the Loan Agreement.

(x) "Loan Obligations" has the meaning set forth in the Loan Agreement.

(y) "Management Company" means any Person, other than the Grantor, engaged to manage the Property.

(z) "Medicaid" means that certain program of medical assistance, funded jointly by the federal government and the States, for impoverished individuals who are aged, blind and/or disabled, and/or members of families with dependent children, which program is more fully described in Title XIX of the Social Security Act (42 U.S.C. §§ 1396 *et seq.*) and the regulations promulgated thereunder.

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(aa) "Medicare" means that certain federal program providing health insurance for eligible elderly and other individuals, under which physicians, hospitals, skilled nursing homes, home health care, and other providers are reimbursed for certain covered services they provide to the beneficiaries of such program, which program is more fully described in Title XVIII of the Social Security Act (42 U.S.C. §§ 1395 *et seq.*) and the regulations promulgated thereunder.

(bb) "Mortgaged Property" means all of Grantor's present and future right, title and interest in and to all of the following:

- (1) the Land;
- (2) all Appurtenant Rights;
- (3) all Equipment;
- (4) all Improvements;
- (5) all Fixtures;
- (6) all Accounts;
- (7) all General Intangibles;
- (8) all Permits (to the extent assignable);
- (9) all Instruments;
- (10) all Inventory;
- (11) to the extent transferrable, all Reimbursement Contracts;
- (12) all Rents;
- (13) the Personalty;
- (14) all Leases;
- (15) all Proceeds;
- (16) all contracts, options and other agreements for the sale of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property entered into by Grantor now or in the future, including cash or securities deposited to secure performance by parties of their obligations;

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- (17) all Imposition Deposits;
- (18) all refunds or rebates of Impositions by any municipal, state or federal authority or insurance company (other than refunds applicable to periods before the real property tax year in which this Security Instrument is dated);
- (19) to the extent transferrable, all names under or by which any of the above Mortgaged Property may be operated or known, and all trademarks, trade names, and goodwill relating to any of the Mortgaged Property;
- (20) all other assets of Grantor, wherever located, whether now owned or existing or hereafter acquired or arising, including replacements, accessions, additions, substitutions, and products thereof and thereto, together with all proceeds thereof, and all other property which is or hereafter may become subject to a Lien in favor of Lender as security for any of the Loan Obligations; and
- (21) all renewals, replacements and proceeds of any of the foregoing and any substitutions therefore.
- (cc) "Note" means the Promissory Note evidencing a portion of the Loan in the amount of Six Million Two Hundred Thirty-Eight Thousand Seven Hundred Eighty and No/100 Dollars (\$6,238,780.00), including all schedules, riders, allonges, endorsements, addenda or amendments together with any renewals, replacements, substitutions or extensions thereof.
- (dd) "Payment" with reference to the Loan Obligations means the payment of the Debt and the performance of the Loan Obligations.
- (ee) "Permits" means all licenses, permits and certificates used or useful in connection with the ownership, operation, use or occupancy of the Property and/or the Facility, including, without limitation, business licenses, state health department licenses, food service licenses, licenses to conduct business, certificates of need, air quality permits and all such other permits, licenses and rights, obtained from any governmental, quasi-governmental or private person or entity whatsoever concerning ownership, operation, use or occupancy.
- (ff) "Permitted Encumbrances" has the meaning set forth in Section 5.2 of the Loan Agreement.
- (gg) "Person" means any person, firm, corporation, limited liability company, partnership, trust or other entity.
- (hh) "Personalty" means all furniture, furnishings, Equipment, machinery, building materials, appliances, goods, supplies, tools, books, records (whether in written or electronic form), computer equipment (hardware and software) and other tangible personal property (other than Fixtures) which are owned by Grantor and which are used now or in the future

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in connection with the ownership, management or operation of the Land or the Improvements or are located on the Land or in the Improvements, and any operating agreements relating to the Land or the Improvements, and any surveys, plans and specifications and contracts for architectural, engineering and construction services relating to the Land or the Improvements.

(ii) "Proceeds" means all awards, payments, earnings, royalties, issues, profits, liquidated claims, and proceeds (including proceeds of insurance and condemnation or any conveyance in lieu thereof) from the sale, conversion (whether voluntary or involuntary), exchange transfer, collection, loss, damage, condemnation, disposition, substitution or replacement of any of the Collateral.

(jj) "Reimbursement Contracts" means all third-party reimbursement contracts and provider agreements for the Facility which are now or hereafter in effect with respect to residents or patients qualifying for coverage under the same, including Medicare and Medicaid and private insurance agreements, and any successor program or other similar reimbursement program and/or private insurance agreements.

(kk) "Rents" means all rent and other payments of whatever nature from time to time payable pursuant to the Leases (including, without limitation, rights to payment earned under leases for space in the Improvements for the operation of ongoing retail businesses such as newsstands, concession stands, barbershops, beauty shops, gift shops, cafeterias, dining rooms, restaurants, lounges, vending machines, physicians' offices, pharmacies, laboratories, gymnasiums, swimming pools, tennis courts, golf courses, recreational centers and specialty shops), deposits (whether for security or otherwise but excluding any resident trust accounts), issues, profits, revenues, royalties, rights, benefits, and income of every nature of and from the Mortgaged Property and the operations conducted or to be conducted thereon.

(ll) "Single Purpose Entity" shall mean a Person which owns no interest or property other than the Mortgaged Property and which satisfies the requirements of a "Single Purpose Entity" as set forth in the Loan Agreement.

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

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

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(oo) “Transfer” shall mean the conveyance, assignment, sale, transfer, mortgaging, collateral assignment, encumbrance, pledging, alienation, hypothecation, granting of a security interest in, granting of options with respect to, or other disposition of (directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, and whether or not for consideration or of record) all or any portion of any legal or beneficial interest (i) in all or any portion of the Mortgaged Property; (ii) in the Stock of any corporation which is Grantor, a member of Grantor (if Grantor is a limited liability company), a partner of Grantor or, if applicable, a partner of a general partner of Grantor; and (iii) in Grantor, or, if Grantor is a limited or general partnership, limited liability company, joint venture, trust, nominee trust, tenancy in common or other unincorporated form of business association or form of ownership interest, in any Person having a direct or indirect legal or beneficial ownership in Grantor, including any legal or beneficial interest in any constituent limited partner or member of Grantor. The term “Transfer” shall also include, without limitation, the following: an installment sales agreement wherein Grantor agrees to sell the Mortgaged Property or any part thereof or any interest therein for a price to be paid in installments; an agreement by Grantor leasing all or a substantial part of the Mortgaged Property to one or more Persons pursuant to a single transaction or related transactions, or a sale, assignment or other transfer of, or the grant of a security interest in, Grantor’s right, title and interest in and to any Leases or any Rent; any instrument subjecting the Mortgaged Property to a condominium regime or transferring ownership to a cooperative corporation or other form of multiple ownership or governance; the dissolution or termination of Grantor, any general partner of Grantor, any general partner of any general partner of Grantor, if applicable, or, if Grantor is a limited liability company, any corporate member of Grantor; the issuance of new Stock in any corporation which is Grantor, a member of Grantor (if Grantor is a limited liability company), a partner of Grantor or, if applicable, a partner of a general partner of Grantor; and the merger or consolidation with any other Person of Grantor, any general partner of Grantor, any general partner of any general partner of Grantor, if applicable, or, if Grantor is a limited liability company, any corporate member of Grantor.

2. UNIFORM COMMERCIAL CODE; SECURITY AGREEMENT.

(a) This Security Instrument is also a security agreement under the Uniform Commercial Code as adopted in the State of Illinois for any of the Mortgaged Property which, under applicable law, may be subject to a security interest under the Uniform Commercial Code as adopted in the State of Illinois whether acquired now or in the future, and all of Grantor’s Collateral, products and cash and non-cash proceeds thereof (collectively, “UCC Collateral”), and Grantor hereby assigns and grants to Agent, for its benefit and the benefit of the Lenders, a security interest in the UCC Collateral. Agent is authorized by Grantor to file such financing statements and any extensions, renewals and amendments thereof, of any termination statements and, upon Agent’s request, financing statements, continuation statements and amendments, in such form as Agent may require to perfect or continue the perfection of this security interest. Grantor shall pay all filing costs and all costs and expenses of any record searches for financing statements that Lender may require. Without the prior written consent of Agent, Grantor shall not create or permit to exist any other lien or security interest in any of the UCC Collateral other than Permitted Encumbrances. If an Event of Default has occurred, Agent and Lenders shall have the remedies

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of a secured party under the Uniform Commercial Code as adopted in the State of Illinois in addition to all remedies provided by this Security Instrument or existing under applicable law. In exercising any remedies, Agent and Lenders may exercise their remedies against the UCC Collateral separately or together and in any order, without in any way affecting the availability of Lenders' and Agent's other remedies under and/or under applicable law.

(b) This Security Instrument covers goods which are to become fixtures on the Land, and this Security Instrument constitutes and is filed as a "fixture filing" (as the term is defined in the UCC) upon such of the Mortgaged Property which is or may become fixtures. Grantor has an interest of record in the Land. For purposes of the UCC, the following information is furnished, and Grantor represents and warrants to Lender that the information in subparagraphs (1) and (2) below is correct.

(1) The name and address of the record owner of the Land described in this Security Instrument is HEATHER HEALTH CARE CENTER II, L.L.C., an Illinois limited liability company having its principal office at 4200 W. Peterson, Suite 140, Chicago, IL 60646

(2) The name and address of Grantor, and if Grantor is not an individual, type or organization and organization number of Grantor is HEATHER HEALTH CARE CENTER II, L.L.C., an Illinois limited liability company having its principal office at 4200 W. Peterson, Suite 140, Chicago, IL 60646, with an Illinois organization number of 0146290-3.

3. **LEASES.** Grantor shall not, without the prior written consent and approval of Agent, which consent may be granted or refused for any reason or for no reason whatsoever in Agent's sole and absolute discretion, enter into any Lease except for that certain Lease dated as of May 10, 2005, as amended, by and between Grantor, as Landlord, and Heather Health Care Center, Inc., an Illinois corporation, as Tenant ("Operator") with respect to the Facility, as the same may be amended from time to time; or enter into any management agreement of or affecting any part of the Mortgaged Property except for that certain Financial and Operational Support Services Agreement dated as of January 1, 2012, as amended, by and between ALDEN MANAGEMENT SERVICES, INC., a Illinois corporation and Operator. Notwithstanding the foregoing, the consent of the Agent shall not be required for leases of new office equipment which has a value not exceeding \$15,000 in the aggregate in any one calendar year.

4. **DEPOSITS FOR TAXES, INSURANCE AND OTHER CHARGES.**

(a) At the sole option of Agent, Grantor shall deposit with Agent on the day monthly installments of principal and/or interest, or both, are due under the Note (or on another day designated in writing by Lender), until Loan Obligations are paid in full, an additional amount estimated by Lender sufficient to accumulate with Lender the entire sum required to pay, when due (1) to the extent applicable, the yearly water and sewer charges which may be levied on all or any part of the Mortgaged Property, (2) the premiums for fire and other hazard insurance, business interruption insurance and such other insurance as Lender may require under the Loan Agreement, and (3) the yearly Taxes to prevent the imposition of liens on the Mortgaged Property, or otherwise to protect Lenders' and Agent's interests, all as reasonably estimated from time to time by Agent.

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The amounts deposited under the preceding sentence are collectively referred to in this Security Instrument as the "Imposition Deposits." The obligations of Grantor for which the Imposition Deposits are required are collectively referred to in this Security Instrument as "Impositions." The amount of the Imposition Deposits shall be sufficient to enable Agent to pay each Imposition before the last date upon which such payment may be made without any penalty or interest charge being added plus one-twelfth of such annual estimate. Agent shall maintain records indicating how much of the monthly Imposition Deposits and how much of the aggregate Imposition Deposits held by Agent are held for the purpose of paying property taxes, insurance premiums and each other obligation of Grantor for which Imposition Deposits are required. Any waiver by Agent of the requirement that Grantor remit Imposition Deposits to Agent may be revoked by Agent, in Agent's sole and absolute discretion, at any time upon notice to Grantor.

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

(c) If Agent elects to require Imposition Deposits, Grantor shall direct the applicable Governmental Authority to deliver the invoices and bills for all Impositions to Agent. If Agent receives a bill or invoice for an Imposition, Agent shall pay the Imposition from the Imposition Deposits held by Agent so long as no Event of Default has occurred or is continuing. Agent shall have no obligation to pay any Imposition to the extent it exceeds Imposition Deposits then held by Agent. Agent may pay an Imposition according to any bill, statement or estimate from the appropriate public office or insurance company without inquiring into the accuracy of the bill, statement or estimate or into the validity of the Imposition.

(d) If at any time the amount of the Imposition Deposits held by Agent for payment of a specific Imposition exceeds the amount reasonably deemed necessary by Agent, the excess shall be credited against future installments of Imposition Deposits. If at any time the amount of the Imposition Deposits held by Agent for payment of a specific Imposition is less than the amount reasonably estimated by Agent to be necessary, Grantor shall pay to Agent the amount of the deficiency within fifteen (15) days after notice from Agent.

(e) If an Event of Default has occurred and is continuing, Agent may apply any Imposition Deposits, in any amounts and in any order as Agent determines, in Agent's sole

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discretion, to pay any Impositions or as a credit against Loan Obligations. Upon payment in full of Loan Obligations, Agent shall refund to Grantor any Imposition Deposits held by Agent.

Notwithstanding the forgoing Grantor shall not be required to make the Imposition Deposits, provided that: (i) Grantor delivers to Agent no less than fifteen (15) days after its due date, evidence of payment in full of all general and specific taxes assessed against the Property and the insurance premiums for all insurance required under the Loan Agreement, (ii) no less than fifteen (15) days after any insurance renewal date, Grantor delivers to Agent evidence of the paid premium for the renewal year (iii) Agent receives copies of all cancellation notices for insurance within ten (10) days after receipt by Grantor or Operator, and (iv) no Event of Default shall have occurred and be continuing under any of the Loan Documents.

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

6. **USE OF PROPERTY.** Unless required by applicable law, Grantor shall not (a) except for any change in use approved by Agent, allow changes in the use for which all or any part of the Mortgaged Property is being used at the time this Security Instrument was executed, (b) convert any part of the Facility to commercial use other than such use as a skilled nursing facility and related uses, or (c) initiate or acquiesce in a change in the zoning classification of the Mortgaged Property.

7. **PROTECTION OF LENDER'S SECURITY.**

(a) If Grantor fails to perform any of its obligations under this Security Instrument or any other Loan Document, or if any action or proceeding is commenced which purports to affect the Mortgaged Property, Agent's and Lenders' security or Agent's and Lenders' rights under this Security Instrument, including eminent domain, insolvency, code enforcement, civil or criminal forfeiture, enforcement of Hazardous Materials Laws, fraudulent conveyance or reorganizations or proceedings involving a bankrupt or decedent, then Agent, at Agent's option and upon notice to Grantor may make such appearances, disburse such sums and take such actions as Agent reasonably deems necessary to perform such obligations of Grantor and to protect Agent's and Lenders' interest, including (1) disbursement of reasonable fees and out of pocket expenses of attorneys, accountants, inspectors and consultants, (2) entry upon the Mortgaged Property to make repairs or secure the Mortgaged Property, (3) procurement of the insurance coverages required under the Loan Agreement, and (4) payment of amounts which Grantor has failed to pay under Section 9.

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

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

8. **INSPECTION.** Agent, Lenders, its agents, representatives, and designees may make or cause to be made entries upon and inspections of the Mortgaged Property (including environmental inspections and tests) during normal business hours, or at any other reasonable time, upon reasonable advance written notice to Grantor and subject to the rights of Operator under the Lease, except in an emergency or during the continuance of an Event of Default. Grantor shall use its best efforts not to materially interfere with patient care at the Facility during such inspections. Notwithstanding the foregoing, environmental inspections and/or testing shall not occur unless Agent has a reasonable cause to believe an environmental condition exists at the Property.

9. **TAXES; OPERATING EXPENSES.**

(a) Subject to the provisions of Section 9(c) and Section 9(d), Grantor shall pay, or cause to be paid, all Taxes when due and before the addition of any interest, fine, penalty or cost for nonpayment.

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

(c) As long as no Event of Default has occurred and is continuing, Grantor shall not be obligated to pay Taxes, insurance premiums or any other individual Imposition to the extent that Imposition Deposits are held by Agent pursuant to Section 4 for the purpose of paying that specific Imposition. If an Event of Default exists, Agent may exercise any rights Agent may have with respect to Imposition Deposits without regard to whether Impositions are then due and payable.

(d) Grantor, at its own expense, may contest by appropriate legal proceedings, conducted diligently and in good faith, the amount or validity of any Imposition other than insurance premiums, if (1) Grantor notifies Agent of the commencement or expected commencement of such proceedings, (2) the Mortgaged Property is not in danger of being sold or forfeited as determined by Agent in its sole and absolute discretion, (3) if requested by Agent, Grantor deposits with Agent cash reserves or other collateral sufficient to pay the contested Imposition and all interest and penalties, as determined by Agent in its sole and absolute discretion, (4) Grantor furnishes whatever security is required in the proceedings or is reasonably requested

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by Agent, which may include the delivery to Agent of the reserves established by Grantor to pay the contested Imposition and all interest and penalties, as determined by Agent in its sole and absolute discretion, as additional security, and (5) such contest operates to suspend enforcement of such Imposition.

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

10. **LIENS; ENCUMBRANCES.** Grantor acknowledges that the existence of any Lien on the Mortgaged Property, other than Permitted Encumbrances, whether voluntary, involuntary or by operation of law which are not removed, discharged or satisfied within thirty (30) days following the filing or recording of such lien, is a "Transfer" which constitutes an Event of Default as provided under Section 14.

11. **PRESERVATION, MANAGEMENT AND MAINTENANCE OF MORTGAGED PROPERTY.** Grantor shall, or shall cause Operator to (a) not commit waste or permit impairment or deterioration of the Mortgaged Property, (b) not abandon the Facility, (c) restore or repair promptly, in a good and workmanlike manner, any damaged part of the Mortgaged Property to the equivalent of its original condition, or such other condition as Agent may approve in writing, such approval not be unreasonably withheld, conditioned or delayed, whether or not insurance proceeds or condemnation awards are available to cover any costs of such restoration or repair except to the extent Agent applies such insurance proceeds or condemnation awards to reduce the Debt in accordance with the Loan Agreement, (d) keep the Mortgaged Property in good repair (ordinary wear and tear excepted), including the replacement of Personalty and Fixtures with items of equal or better function and quality, (e) use commercially reasonable efforts to provide for professional operation of the Facility by Operator or if Operator shall no longer be operating the Facility, by a manager satisfactory to Agent, in its sole discretion, under a contract approved by Agent in writing, and (f) shall give notice to Agent of and, unless otherwise directed in writing by Agent, shall appear in and defend any action or proceeding purporting to affect the Mortgaged Property, Agent's and Lenders' security or Agent's and Lenders' rights under this Security Instrument. Grantor shall not (and shall not permit any other person to) remove, demolish or alter the Mortgaged Property or any part of the Mortgaged Property except in connection with the replacement of tangible Personalty.

12. CONDEMNATION.

(a) Grantor shall promptly notify Agent of any action or proceeding relating to any condemnation or other taking, or conveyance in lieu thereof, of all or any part of the Mortgaged Property, whether direct or indirect (a "Condemnation"). Grantor shall appear in and prosecute or defend any proceeding relating to any Condemnation unless otherwise directed by Agent in writing. If an Event of Default exists, Grantor authorizes and appoints Agent as attorney-in-fact for Grantor to commence, appear in and prosecute, in Agent's or Grantor's name, any action or proceeding relating to any Condemnation and to settle or compromise any claim in connection with any Condemnation after consultation with Grantor and consistent with commercially

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reasonable standards of a prudent lender. This power of attorney is coupled with an interest and therefore is irrevocable. However, nothing contained in this Section 12 shall require Agent to incur any expense or take any action. In accordance with the Loan Agreement, Grantor transfers and assigns to Agent and Lenders all right, title and interest of Grantor in and to any award or payment with respect to (i) any Condemnation, or any conveyance in lieu of Condemnation, and (ii) any damage to the Mortgaged Property caused by governmental action that does not result in a Condemnation.

(b) Subject to the provisions of Section 4.5 of the Loan Agreement, Agent, in its sole and absolute discretion, may apply such awards or proceeds, after the deduction of Agent's and Lenders' reasonable expenses incurred in the collection of such amounts, at Agent's option, to the restoration or repair of the Mortgaged Property or to the payment of Loan Obligations, with the balance, if any, to Grantor. In the event Agent shall apply any such awards or proceeds to the payment of the Loan, no Breakage Costs (as defined in the Note) shall be payable by Grantor in connection with such payment. Unless Agent otherwise agrees in writing, any application of any awards or proceeds to Loan Obligations shall not extend or postpone the due date of any monthly installments referred to in the Note, Section 4 of this Security Instrument or any Collateral Agreement, or change the amount of such installments. Grantor agrees to execute such further evidence of assignment of any awards or proceeds as Agent may require.

13. TRANSFER RESTRICTIONS.

(a) Except as otherwise expressly permitted under and in accordance with the Loan Agreement, Transfers shall not be permitted. Any Transfer made in violation of the Loan Agreement shall constitute an automatic Event of Default.

(b) Notwithstanding any provision herein to the contrary, no Transfer otherwise permitted under the Loan Agreement shall occur unless Grantor shall have given Agent not less than thirty (30) Business Days prior notice of the intended Transfer together with a certificate of an officer of Grantor stating (i) the nature and size of the interest to be the subject of the Transfer, (ii) the name and address of the Person to which such interest shall be conveyed, sold or transferred unless such interest is to be conveyed, sold or transferred pursuant to a registered public sale pursuant to applicable securities laws, and (iii) that the proposed transaction is a bona fide sale, transfer or conveyance solely for cash or equivalent consideration, if applicable. Agent reserves the right to condition any consent required pursuant to the Loan Agreement with respect to a Transfer upon (A) the payment of all expenses incurred by Agent and Lenders as set forth below and, in connection with the Transfer of any fee interest in the Mortgaged Property, an assumption fee equal to one percent (1.0%) of the outstanding balance of the Loan, (B) Agent's approval of the financial condition, managerial capabilities and ownership structure of the proposed transferee, including requiring that the transferee of any fee interest in the Mortgaged Property be a Single-Purpose Entity, (C) if the Transfer shall result in a change in control of Grantor or the Mortgaged Property, execution of an assumption agreement by the proposed transferee, in form and content acceptable to Agent, (D) the Loan being in good standing and free from any default, and (E) if required by Agent, receipt of an Opinion of Counsel reasonably satisfactory to Agent stating that,

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if effected, the proposed Transfer would have no effect on the enforceability of the Security Instrument or the other Loan Documents, and would not result in the dissolution or termination of Grantor, the managing member of Grantor, if applicable, any general partner of Grantor or any general partner of any general partner of Grantor, if applicable. Each request for approval shall be accompanied by a \$3,500 nonrefundable review fee paid to the Agent in cash, which will be credited to the 1% assumption fee if the transfer is approved. Grantor agrees to pay on demand all expenses (including, without limitation, reasonable attorney's fees and disbursements, title search costs and title insurance endorsement premiums) incurred by Agent in connection with the review, approval and documentation of any Transfer. In no event shall any Transfer otherwise permitted under this Section occur if such Transfer is required to be registered under the Securities Act of 1933, as amended (the "1933 Act"), or any state securities or Blue Sky laws, or offered pursuant to Rule 144A promulgated under the 1933 Act.

14. **EVENTS OF DEFAULT.** The occurrence of any one or more of the following shall constitute an Event of Default under this Security Instrument:

(a) any failure by Grantor to pay or deposit within five (5) days after the same becomes due any amount required by the Note, this Security Instrument or any other Loan Document and such failure continues for a period of ten (10) days following Agent's written notice to Grantor;

(b) any failure by Grantor to maintain the insurance coverage required under the Loan Agreement, which is not cured within five (5) days after Grantor's receipt of written notice thereof from the Agent

(c) any failure by Grantor to comply with the provisions of Section 25 ("Single Purpose Entity");

(d) fraud or material misrepresentation or material omission by Grantor, or Operator, any of its officers, directors, trustees, members, general partners or managers or any Guarantor in connection with (1) the application for or creation of Loan Obligations, (2) any financial statement, financial report, certification, or other report or information required under the Loan Agreement required to be provided to Lender during the term of Loan Obligations;

(e) a failure of Grantor to comply with the provisions of Section 13 ("Transfer Restrictions");

(f) the commencement of a forfeiture action or proceeding, whether civil or criminal, which, in Agent's reasonable judgment, could result in a forfeiture of the Mortgaged Property or otherwise materially impair the lien created by this Security Instrument or Agent's interest in the Mortgaged Property;

(g) any failure by Grantor to perform any of its obligations under this Security Instrument (other than those specified in Sections 14 (a) through (f) hereof) as and when required, thirty (30) days after written notice of such failure by Agent to Grantor; provided, however, that if

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such default cannot be cured within such thirty (30) day period, then such cure period shall be extended for an additional sixty (60) days as long as Grantor is diligently and in good faith prosecuting such cure to completion. However, no such notice or grace period shall apply in the case of any such failure which could, in Agent's judgment, absent immediate exercise by Agent of a right or remedy under this Security Instrument, result in harm to Agent, impairment of the Note or this Security Instrument or any other security given under any other Loan Document;

(h) any Event of Default under any other Loan Document, or any failure by Grantor or Operator to perform any of its obligations as and when required under any Loan Document other than this Security Instrument which continues beyond the applicable cure period, if any, specified in that Loan Document;

(i) any exercise by the holder of any debt instrument secured by a mortgage, deed of trust or deed to secure debt on the Mortgaged Property of a right to declare all amounts due under that debt instrument immediately due and payable;

(j) the Mortgaged Property becomes part of a bankrupt debtor's estate pursuant to any chapter of the United States Bankruptcy Code or the Mortgaged Property otherwise becomes subject to any reorganization, receivership (other than a receivership proceeding instituted by Agent) or insolvency proceeding or any similar proceeding pursuant to any federal, state or foreign law affecting debtor and creditor rights; or

(k) any failure of Grantor to obtain the approval of Agent for any Management Company other than Manager (in the event that Manager no longer manages the Property) with respect to the management of the Property, which approval shall be in the sole and absolute discretion of Agent.

Notwithstanding anything to the contrary contained herein, in the event of any conflict or inconsistency between any provision of this Section 14 and any provision of the Loan Agreement, the provisions of the Loan Agreement shall govern.

15. REMEDIES.

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

(b) Right to Enter and Take Possession.

(1) If an Event of Default shall have occurred, Grantor, upon demand of Agent, shall forthwith surrender to Agent the actual possession of the Mortgaged Property and, if and to the extent permitted by law, Agent itself, or by such officers or agents as it may appoint, may enter and take possession of all or any part of the Mortgaged Property without the appointment

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of a receiver or an application therefor, and may exclude Grantor and its agents and employees wholly therefrom, and take possession of the books, papers and accounts of Grantor relating thereto.

(2) If Grantor shall for any reason fail to surrender or deliver the Mortgaged Property or any part thereof after such demand by Agent, Agent may apply for the appointment of a receiver or obtain a judicial order, judgment or decree conferring upon Agent the right to immediate possession or requiring Grantor to deliver immediate possession of the Mortgaged Property to Agent. Grantor will pay to Agent, upon demand, all expenses of obtaining such judgment or decree, including costs and expense incurred by Agent, Lenders, its attorneys and agents, and all such expenses and costs shall, until paid, become part of Loan Obligations and shall be secured by this Security Instrument.

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

(4) If an Event of Default shall have occurred, Agent may, to the extent permitted by law, require that Grantor cause all of its Accounts, to be paid to a lockbox or to one or more deposit accounts with Agent, or at Agent's option, with another financial institution approved by Agent. Grantor assigns and grants to Agent and Lenders a security interest in, pledge of and right of setoff against all moneys from time to time held in such deposit accounts, to the

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extent permitted by applicable law. Grantor agrees to promptly notify all of its account debtors, including the Medicaid and Medicare agencies and other account debtors pursuant to all Reimbursement Contracts, to the extent permitted under applicable law and to the extent Grantor maintains such Accounts, to make payments to one or more such deposit accounts upon Agent's request and as designated by Agent, and Grantor agrees to provide any necessary endorsements to checks, drafts and other forms of payment so that such payments will be properly deposited in such accounts. Agent may require that the deposit accounts be established so as to comply with any applicable Medicaid, Medicare and other requirements applicable to payments of any accounts receivable. Agent may cause moneys to be withdrawn from such deposit accounts and applied to Loan Obligations in such order as set forth in the Loan Agreement. Grantor appoints Agent as Grantor's attorney-in-fact, which appointment is coupled with an interest and is irrevocable, to provide any notice, endorse any check, draft or other payment for deposit, or take any other action which Grantor agrees to undertake in accordance with this Section. Agent shall not be liable for failure to collect or to enforce any Accounts or for any action or omission on the part of Agent, Lenders, its officers, agents and employees in collecting or enforcing such Accounts.

(5) Whenever all Loan Obligations shall have been paid, Agent shall surrender possession of the Mortgaged Property to Grantor, its successors and/or assigns.

(c) Performance by Agent. Upon the occurrence of an Event of Default, Agent may, at its sole option, pay, perform or observe the same, and all payments made or costs or expenses incurred by Agent in connection therewith, with interest thereon at the Default Rate (as defined in the Note) or at the maximum rate from time to time allowed by applicable law, whichever is less, shall be secured hereby and shall be due and payable within ten (10) days after demand by Agent. Notwithstanding anything to the contrary herein, Agent shall have no obligation, explicit or implied to pay, perform, or observe any term, covenant, or condition.

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

(e) Agent's Power of Enforcement. If an Event of Default shall have occurred, Agent may institute an action of mortgage foreclosure or, either with or without entry or taking possession as herein above provided or otherwise, proceed by suit or suits at law in equity or any other appropriate proceeding or remedy (1) to enforce payment of the Note or the performance of any term thereof or any other right, (2) to foreclose this Security Instrument and to sell, as an

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entirety or in separate lots or parcels, the Mortgaged Property, as provided by applicable law, and (3) to pursue any other remedy available to it, all as the Lender shall deem most effectual for such purposes. Agent shall take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, as Agent may determine. Grantor authorizes Agent, at Agent's option, to foreclose this Security Instrument subject to the rights of any tenants of the Mortgaged Property; provided, however, that all leases executed subsequent to the recordation of this Security Instrument shall at all times be subject and subordinate to the Security Instrument and to all the terms and conditions of this Security Instrument and to the rights and liens of the holder of this Security Instrument and to all renewals, modifications, consolidations, replacements, and extensions thereof. The failure to make any such tenants parties defendant to any such foreclosure proceedings and to foreclose their rights will not be, nor may be asserted by Grantor to be, a defense to any proceedings instituted by Agent to recover Loan Obligations secured hereby or any deficiency remaining unpaid after the foreclosure sale of the Mortgaged Property. Upon any such foreclosure sale, Agent may bid for and purchase the Mortgaged Property and, upon compliance with the terms of sale, may hold, retain, possess and dispose of the Mortgaged Property in its own absolute right without further accountability.

(f) Power of Sale. If any Event of Default shall have occurred, to the extent permitted by applicable laws, Agent may, either with or without entry or taking possession of the Mortgaged Property as provided in this Security Instrument or otherwise, personally or by its agents or attorneys, and without prejudice to the right to bring an action for foreclosure of this Security Instrument, sell the Property or portion thereof, and all estate, right, title and interest, of Grantor therein, and to the extent permitted by law, terminate all rights of redemption with respect thereto, pursuant to any procedures provided by applicable law. Any sale or sales pursuant hereto shall be for the Property as a whole or in parcels and shall be held at such time and place, upon such terms and after such notice thereof as may be required or permitted by applicable law. All notices hereunder or under any applicable law pertaining hereto shall be in writing and shall be deemed sufficiently served for all purposes when given pursuant to Section 24(a) of this Security Instrument or as otherwise permitted by applicable laws. For purposes hereof, notices may be given by the parties hereto or by their respective attorneys.

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

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

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

(j) Waiver of Appraisalment, Valuation, Etc. Grantor agrees, to the full extent permitted by law, that in case of an Event of Default on the part of Grantor hereunder, neither Grantor nor anyone claiming through or under Grantor will assert, claim or seek to take advantage of any appraisalment, redemption, valuation, stay, homestead, extension, exemption or laws now or hereafter in force, in order to prevent or hinder the enforcement of foreclosure of this Security Instrument, or the absolute sale of the Mortgaged Property, or the delivery of possession thereof immediately after such sale to the purchaser at such sale.

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

(l) Waiver.

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

(2) No act or omission by Agent or Lenders or the failure to perfect any lien or security interest created hereby shall release, discharge, modify, change or otherwise affect the original liability under the Note, this Security Instrument, other Loan Documents or any other obligation of Grantor or any subsequent purchaser of the Mortgaged Property or any part thereof, or any maker, co-signer, endorser, surety or guarantor, nor preclude Agent or Lenders from exercising any right, power or privilege herein granted or intended to be granted in any Event of Default then existing or of any subsequent default, nor alter the lien of this Security Instrument, except as expressly provided in an instrument or instruments executed by Agent. Without limiting the generality of the foregoing, Agent may (A) grant forbearance or an extension of time for the payment of all or any portion of Loan Obligations; (B) take other or additional security for the

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payment of any of Loan Obligations; (C) waive or fail to exercise any right granted herein, in the Note or in other Loan Documents; (D) release any part of the Mortgaged Property from the security interest or lien of this Security Instrument or otherwise change any of the terms, covenants, conditions or agreements of the Note, this Security Instrument or other Loan Documents; (E) consent to the filing of any map, plat or replat affecting the Land; (F) consent to the granting of any easement or other right affecting the Mortgaged Property; (G) make or consent to any agreement subordinating the security title or lien hereof, or (H) take or omit to take any action whatsoever with respect to the Note, this Security Instrument, the other Loan Documents, the Mortgaged Property or any document or instrument evidencing, securing or in any way related to this Security Instrument, in accordance with the terms hereof and thereof, all without releasing, discharging, modifying, changing or affecting any such liability, or precluding Agent or Lenders from exercising any such right, power or privilege with respect to the lien of this Security Instrument. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Mortgaged Property, Agent, without notice, is hereby authorized and empowered to deal with any such vendee or transferee with respect to the Mortgaged Property or Loan Obligations, or with reference to any of the terms, covenants, conditions or agreements hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any liabilities, obligations or undertakings of Grantor, any guarantor of Loan Obligations or others.

(3) Grantor waives and relinquishes any and all rights it may have, whether at law or equity, to require Lenders or Agent to proceed to enforce or exercise any rights, powers and remedies it may have under the Loan Documents in any particular manner, in any particular order, or in any particular state or other jurisdiction. Grantor expressly waives and relinquishes any and all rights and remedies that Grantor may have or be able to assert by reason of the laws of the Property Jurisdiction pertaining to the rights and remedies of sureties.

(4) Grantor makes these arrangements, waivers and relinquishments knowingly and as a material inducement to Lenders and Agent in making the Loan, after consulting with and considering the advice of independent legal counsel selected by Grantor.

(m) Suits to Protect the Mortgaged Property. Lenders and Agent shall have power to institute and maintain such suits and proceedings as it may deem expedient (1) to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or constitute an Event of Default under this Security Instrument; (2) to preserve or protect its interest in the Mortgaged Property and in the Rents arising therefrom; and (3) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would materially impair the security hereunder or be prejudicial to the interest of Lenders and Agent.

(n) Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Grantor, its creditors or its properties, Lender, to the extent permitted by law, shall be entitled to file such

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proofs of claim and other documents as may be necessary or advisable in order to have the claims of Agent allowed in such proceedings for the entire amount due and payable by Grantor under this Security Instrument at the date of the institution of such proceedings and for any additional amount which may become due and payable by Grantor hereunder after such date.

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

17. **FORBEARANCE.**

(a) Agent may agree with Grantor, from time to time, at Agent's option and without giving notice to, or obtaining the consent of, or having any effect upon the obligations of any Guarantor or other third party obligor, extend the time for payment of all or any part of Loan Obligations, reduce the payments due under this Security Instrument, the Note, or any other Loan Document, release anyone liable for the payment of any amounts under this Security Instrument, the Note, or any other Loan Document, accept a renewal of the Note, modify the terms and time of payment of Loan Obligations, consolidate the Notes, join in any extension or subordination agreement, release any Mortgaged Property, take or release other or additional security, modify the rate of interest or period of amortization of the Note or change the amount of the monthly installments payable under the Note, or otherwise modify this Security Instrument, the Note, or any other Loan Document.

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

18. **LOAN CHARGES.** If any applicable law limiting the amount of interest or other charges permitted to be collected from Grantor is interpreted so that any charge provided for in any Loan Document, whether considered separately or together with other charges levied in connection with any other Loan Document, violates that law, and Grantor is entitled to the benefit of that law, that charge is hereby reduced to the extent necessary to eliminate that violation. The amounts, if any, previously paid to Agent in excess of the permitted amounts shall be applied by Agent to reduce the principal of Loan Obligations. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Grantor has been violated, all Debt which constitutes interest, as well as all other charges levied in connection with Loan Obligations which constitute interest, shall be deemed to be allocated and

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spread over the stated term of the Note. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such a manner that the rate of interest so computed is uniform throughout the stated term of the Note.

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

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

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

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

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23. GOVERNING LAW; CONSENT TO JURISDICTION AND VENUE.

(a) This Security Instrument, and any Loan Document which does not itself expressly identify the law that is to apply to it, shall be governed by the laws of the jurisdiction in which the Mortgaged Property is located (the "Property Jurisdiction").

(b) Each of Grantor, Agent and Lenders consents to the exclusive jurisdiction of any and all state and federal courts with jurisdiction in the Property Jurisdiction over Grantor and Grantor's assets. Grantor agrees, to the extent permitted by law, that its assets shall be used first to satisfy all claims of creditors organized or domiciled in the United States and that no assets of Grantor in the United States shall be considered part of any foreign bankruptcy estate.

(c) Each of Grantor, Agent and Lenders agrees that any controversy arising under or in relation to the Note, this Security Instrument, or any other Loan Document shall be litigated exclusively in the Property Jurisdiction. The state and federal courts and authorities with jurisdiction in the Property Jurisdiction shall have exclusive jurisdiction over all controversies which shall arise under or in relation to the Note, any security for Loan Obligations, or any other Loan Document. Grantor irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise.

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

If to Grantor: c/o Alden Management Services, Inc.
4200 Peterson Avenue, Suite 140
Chicago, Illinois 60646
Attn: Joan Carl
Fax No. 773-286-2150

with a copy to: Gutnicki LLP
4711 Gold Road, Suite 200
Skokie, Illinois 60076
Attention: Jeremy J. Meisel

If to Lender: Capital Funding, LLC
1422 Clarkview Road
Baltimore, MD 21209
Attention: Account Manager - Alden Heather

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with a copy to: Seyfarth Shaw LLP
560 Mission Street, Suite 3100
San Francisco, California 94123
Attention: Robin S. Freeman

Any party may change its or its attorney address to another single address by notice given as herein provided, except any change of address notice must be actually received in order to be effective.

25. **SINGLE PURPOSE ENTITY.** Until Loan Obligations are paid in full, Grantor shall maintain its status as a Single Purpose Entity and comply with all those covenants with respect to its status as a Single Purpose Entity as set forth in the Loan Agreement.

26. **JOINT AND SEVERAL LIABILITY.** If more than one Person signs this Security Instrument as Grantor, the obligations of such Persons shall be joint and several.

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

28. **SEVERABILITY; AMENDMENTS.** The invalidity or unenforceability of any provision of this Security Instrument shall not affect the validity or enforceability of any other provision, and all other provisions shall remain in full force and effect. This Security Instrument contains the entire agreement among the parties as to the rights granted and the obligations assumed in this Security Instrument. Subject to the provisions of Section 17 herein, this Security Instrument may not be amended or modified except by a writing signed by the party against whom enforcement is sought.

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

30. **WAIVER OF TRIAL BY JURY. EACH OF GRANTOR, LENDERS AND AGENT (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY**

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JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL, AND THIS WAIVER IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A JURY TRIAL WOULD OTHERWISE EXIST. GRANTOR AND LENDER ARE AUTHORIZED TO SUBMIT THIS SECURITY INSTRUMENT TO ANY COURT HAVING JURISDICTION OVER THE SUBJECT MATTER AND THE PARTIES TO ANY LOAN DOCUMENT, SO AS TO SERVE AS CONCLUSIVE EVIDENCE OF GRANTOR'S, AGENT'S AND LENDERS' WAIVER OF THE RIGHT TO JURY TRIAL. FURTHER, EACH OF GRANTOR, LENDERS AND AGENT CERTIFIES THAT NONE OF GRANTOR'S, AGENT'S OR LENDERS' REPRESENTATIVES OR AGENTS HAVE REPRESENTED, EXPRESSLY OR OTHERWISE, THAT ENFORCEMENT OF THIS WAIVER WILL NOT BE SOUGHT.

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

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RIGHTS AND REMEDIES OTHERWISE AVAILABLE TO AGENT AND LENDERS AS PROVIDED IN THE LOAN DOCUMENTS, AND AS OTHERWISE PROVIDED BY LAW, AND GRANTOR HEREBY IRREVOCABLY WAIVES ITS RIGHTS TO OBJECT TO SUCH RELIEF.

32. **SUCCESSORS AND ASSIGNS BOUND.** This Security Instrument shall bind, and the rights granted by this Security Instrument shall inure to, the respective successors and assigns of Lenders and Agent and Grantor.

33. **ILLINOIS STATE SPECIFIC PROVISIONS.**

(a) ***Inconsistencies.*** In the event of any inconsistencies between the terms and conditions of this Section 33 and any other terms of this Instrument, the terms and conditions of this Section 33 shall control and be binding.

(b) ***Additonal Remedies.*** In addition to the remedies set forth in Article 15 hereof, Lender, at Lender's option, may foreclose this Instrument by judicial proceeding and may invoke any other remedies permitted by applicable law or provided herein. Lender shall be entitled to collect all costs actually incurred in pursuing such remedies.

(c) ***Illinois Mortgage Foreclosure Law.*** Lender shall be entitled to the following benefits, among others, pursuant to the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1101 *et seq.*) (the "Act"):

(1) **Benefits to Act.** Borrower and Lender shall have the benefit of all of the provisions of the Act, including all amendments thereto which may become effective from time to time after the date hereof. If any provision of the Act which is specifically referred to herein may be repealed, Lender shall have the benefit of such provision as most recently existing prior to such repeal, as though the same were incorporated herein by express reference.

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

(3) **Protective Advances.** All advances, disbursements and expenditures made by Lender before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings authorized by this Instrument, by the Loan Agreement, or by the Act (collectively, "Protective Advances"), shall have the benefit of all applicable provisions of the Act. All Protective Advances shall be so much additional indebtedness secured by this Security Instrument, and shall become immediately due and payable without notice and with interest

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thereon from the date of the Protective Advance is made until paid at the Default Rate. This Instrument shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Instrument is recorded pursuant to Subsection (b)(1) of Section 5/15-1302 of the Act. All Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the Act, apply to and be included in determination of the amount of indebtedness secured by this Instrument at any time;

(i) the indebtedness found due and owing to Lender in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;

(ii) if right of redemption has not been waived by Borrower in this Security Instrument or the Loan Agreement, computation of amount required to redeem, pursuant to Subsections (d)(2) and (e) of Section 5/15-1603 of the Act;

(iii) determination of amount deductible from sale proceeds pursuant to Section 5/15-1512 of the Act;

(iv) application of income in the hands of any receiver or Lender in possession of the Property; and

(v) computation of any deficiency judgment pursuant to Subsections (b)(2) and (e) of Section 5/15-1508 and Section 5/15-1511 of the Act.

(4) Lender in Possession. In addition to any provision of this Security Instrument or the other Loan Documents authorizing Lender to take or be placed in possession of the Property, or for the appointment of a receiver of the Property, Lender shall have the right, in accordance with Sections 5/15-1701 and 5/15-1702 of the Act, to be placed in possession of the Property or at its request to have a receiver appointed, and such receiver, or Lender, if and when placed in possession, shall have, in addition to any other powers provided in this Instrument, all powers, immunities and duties as provided for in Sections 5/15-1701, 5/15-1703 and 5/15-1704 of the Act.

(5) Conflicts with the Act. In the event that any provision in this Security Instrument shall be inconsistent with any provision of the Act, the provisions of the Act shall take precedence over the provisions of this Security Instrument but shall not invalidate or render unenforceable any other provision of this Security Instrument that can be construed in a manner consistent with the Act. If any provision of this Security Instrument shall grant to Lender any rights or remedies upon and during the continuance of an Event of Default which are more limited than the rights that would otherwise be vested in Lender under the Act in the absence of said provision, Lender shall be vested with the rights granted in the Act to the full extent permitted by Laws. Without limiting the generality of the foregoing, all costs of Lender to the extent reimbursable under Sections 5/15-1510 and 5/15-1512 of the Act, whether incurred before or after

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any decree or judgment of foreclosure, and whether or not enumerated in this Security Instrument, shall be added to the Loan Obligations.

(6) Single or Multiple Judicial Sales. Lender may elect to dispose of the Property, or any portion thereof, including lots, parcels, or items through a single consolidated sale or disposition to be held or made under the power of sale or in connection with judicial proceedings, or by virtue of a judgment and decree of foreclosure and sale; or through two or more such sales or dispositions; or in any other manner Lender may deem to be in its best interests. If the Property consists of more than one lot, parcel or item of property, Lender may designate the order in which the lots, parcels and items shall be sold or disposed of or offered for sale or disposition. If Lender chooses to have more than one judicial sale, Lender at its option may cause the judicial sales to be held simultaneously or successively, on the same day, or on such different days and at such different times and in such order as Lender may deem to be in its best interests. No judicial sale shall terminate or affect the lien and security title of this Instrument on any part of the Property which has not been sold, until all of the Loan Obligations have been paid and performed in full.

(7) Real Estate. Borrower acknowledges that the transaction of which this Security Instrument is a part is a transaction which does not include either agricultural real estate (as defined in Section 5/15-1201 of the Act) or residential real estate (as defined in Section 5/15-1219 of the Act).

(8) Other Amounts Secured; Maximum Indebtedness. Borrower acknowledges and agrees that this Instrument secures the entire principal amount of the 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 or are future advances made at a later date, any and all litigation and other costs and any other amounts as provided herein or in any of the other Loan Documents, including, without limitation, the payment of any and all loan commissions, service charges, liquidated damages, costs and advances due to or paid or incurred by Lender in connection with the Loan, all in accordance with the Loan commitment issued in connection with this transaction and the Loan Documents. Under no circumstances, however, shall the total indebtedness secured hereby exceed \$12,361,296.00. It is agreed that any future advances made by Lender for the benefit of Borrower from time to time under this Security Instrument or the other Loan Documents and whether or not such advances are obligatory or are made at the option of Lender, made at any time from and after the date of this Security Instrument, and all interest accruing thereon, shall be equally secured by this Security Instrument and shall have the same priority as all amounts, if any, advanced as of the date hereof and shall be subject to all of the terms and provisions of this Security Instrument. This Security Instrument shall be valid and have priority to the extent of the full amount of the indebtedness secured hereby over all subsequent liens and encumbrances, including statutory liens, excepting solely taxes and assessments levied on the Property given priority by law.

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(9) Collateral Protection Act. The following notice is provided pursuant to Subsection (3) of Section 180/10 of Chapter 815 of the Illinois Compiled Statutes, as amended. As used herein, "you" means Borrower and "we" and "us" means Lender:

Unless you provide evidence of the insurance coverage required by the Loan Agreement, we may purchase insurance at your expense to protect our interests in your collateral. This insurance may, but need not, protect your interests. The coverage that we purchase may not pay any claim that you make or any claim that is made against you in connection with the collateral. You may later cancel any insurance purchased by us, but only after providing evidence that you have obtained insurance as required by our agreement. If we purchase insurance for the collateral, you will be responsible for the costs of that insurance, including the insurance premium, interest and any other charges we 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 your total outstanding balance or obligation. The costs of the insurance may be more than the cost of insurance you may be able to obtain on your own.

(10) Maturity Date. The Maturity Date of the Loan is March 1, 2025, subject to the Extension Options.

(d) *Release*. Upon payment of all sums secured by this Security Instrument, Lender shall cancel this Security Instrument. Borrower shall pay Lender's costs incurred in canceling this Security Instrument.

(e) *Attorneys' Fees*. As used herein and in the Loan Agreement, "attorneys' fees" shall mean "reasonable attorneys' fees".

(f) *Future Advances*. Upon request of Borrower, Lender, at Lender's sole option within twenty (20) years from the date of this Security Instrument, may make future advances to Borrower ("**Future Advances**"). Such Future Advances, with interest thereon, shall be secured by this Security Instrument when evidenced by promissory notes stating that said notes are secured hereby. At no time shall the principal amount of the indebtedness secured by this Security Instrument, not including sums advanced in accordance herewith to protect the security of this Security Instrument, exceed two hundred percent (200%) of the original amount of the Note plus interest thereon and any disbursements made for the payment of taxes, levies or insurance on the Property with interest on such disbursements at the Default Rate.

(g) *Waiver of Rights of Redemption and Reinstatement*. Borrower shall not and will not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws", now existing or hereafter enacted, in order to prevent or hinder the enforcement of any rights or remedies of Lender under this Security Instrument or the Loan Agreement, but hereby waives the benefit of such laws and the benefit of any homestead or other exemptions which it may now or hereafter from time to time have with respect to the Property or the Loan Obligations hereby secured. Borrower for itself and all creditors, mortgagees, trustees, lienholders and other persons or entities who may claim through or under it waives any

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and all right to have the property and estates comprising the Property, or any part thereof, marshalled upon any foreclosure or other disposition (whether or not the entire Property be sold as a unit, and whether or not any parcels thereof be sold as a unit or separately) of any kind or nature of the Property, or any part thereof, or interest therein, and agrees that any court having jurisdiction to foreclose or otherwise enforce the liens granted and security interests created by this Security Instrument and the other Loan Documents may order the Property sold as an entirety. On behalf of Borrower, and each and every person acquiring any interest in, or title to the Property described herein subsequent to the date of this Instrument, and on behalf of all other persons to the maximum extent permitted by applicable Laws, Borrower hereby waives any and all rights to (x) reinstatement and redemption as allowed under Section 5/15-1601 of the Act, and to the fullest extent permitted by Laws, and the benefits of all present and future valuation, appraisal, homestead, exemption, stay, extension or redemption (including the equity of redemption) and moratorium laws under any state or federal law, and (y) reinstatement of the indebtedness hereby secured, including, without limitation, any right to reverse any acceleration of such indebtedness pursuant to Section 5/15-1602 of the Act. Borrower further waives and releases (a) all errors, defects, and imperfections in any proceedings instituted by Lender under the Note, the Loan Agreement, this Security Instrument or any of the other Loan Documents, (b) all benefits that might accrue to Borrower by virtue of any present or future laws exempting the Property, or any part of the proceeds arising from any sale thereof, from attachment, levy or sale under civil process or extension, exemption from civil process or extension of time for payment, and (c) all notices not specifically required by this Security Instrument or the Loan Agreement of default, or of Lender's exercise, or election to exercise, any option under this Security Instrument, the Loan Agreement or any of the other Loan Documents. All waivers by Borrower in this Security Instrument, the Loan Agreement or any of the other Loan Documents have been made voluntarily, intelligently and knowingly by Borrower after Borrower has been afforded an opportunity to be informed by counsel of Borrower's choice as to possible alternative rights. Borrower's execution of this Security Instrument shall be conclusive evidence of the making of such waivers and that such waivers have been voluntarily, intelligently and knowingly made.

(h) **Costs.** In the event it should become necessary for Lender to employ legal counsel to collect the Loan Obligations, or to enforce Lender's rights under this Security Instrument or the Loan Agreement, Borrower agrees to pay all reasonable fees and expenses of Lender including, without limitation, reasonable attorneys' fees for the services of such counsel whether or not suit be brought.

(i) **Business Loan.** Borrower represents and warrants that the loans or other financial accommodations included as Loan Obligations secured by this Security Instrument were obtained solely for the purpose of carrying on or acquiring a business or commercial investment and not for residential, consumer or household purposes, and will constitute a "business loan" within the purview of Section 205/4 of Chapter 815 of the Illinois Compiled Statutes.

[SIGNATURE PAGE FOLLOWS]

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IN WITNESS WHEREOF, Grantor has caused this Security Instrument to be executed under seal as of the day and year first written above.

GRANTOR:

HEATHER HEALTH CARE CENTER II, L.L.C.,
an Illinois limited liability company

By: 
Joan Carl, Manager

NOTARY ACKNOWLEDGMENT

STATE OF ILLINOIS

COUNTY OF Cook

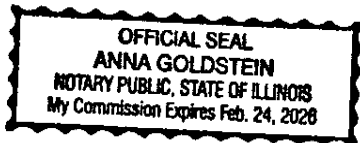
This instrument was acknowledged before me on 21st 9 FEBRUARY, 2023 (date) by Joan Carl (name of person), as Manager (title) of Heather Health Care Center II, L.L.C. (entity), who is personally known to me or has produced a driver's license as identification and did not make an oath.



Signature of Notary Public

Printed Name of Notary: ANNA GOLDSTEIN

(Seal)



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EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

LOTS 1 THROUGH 15 BOTH INCLUSIVE AND THE NORTH HALF OF LOT 16 IN BLOCK 3 IN BOULEVARD ADDITION TO HARVEY, A SUBDIVISION OF THE EAST HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS. ✓

PARCEL 2:

THAT PART OF THE WEST HALF OF VACATED HONORE AVENUE LYING EASTERLY OF AND ADJOINING LOTS 1 TO 14, BOTH INCLUSIVE AND ALSO THAT PART OF THE EAST HALF OF THE VACATED NORTH AND SOUTH 16 FOOT WIDE PUBLIC ALLEY LYING WESTERLY OF AND ADJOINING LOTS 1 TO 15, BOTH INCLUSIVE AND THE NORTH HALF OF LOT 16 (EXCEPT FOR THE EASEMENTS RESERVED FOR PUBLIC UTILITIES) IN COOK COUNTY, ILLINOIS. ✓

29-18-410-063-0000

29-18-410-054-0000

15600 S. HONORE AVENUE, HARVEY, IL