

Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



Report Mortgage Fraud  
844-768-1713



\*2315922052\*

Doc# 2315922052 Fee \$88.00

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

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 06/08/2023 02:52 PM PG: 1 OF 35

The property identified as: **PIN:** 06-36-407-021-0000

**Address:**

**Street:** 2000 W. LAKE ST.

**Street line 2:**

**City:** HANOVER PARK

**State:** IL

**ZIP Code:** 60133

**Lender:** LTC PROPERTIES, INC.

**Borrower:** IGNITE HANOVER PARK PROPERTY, LLC AND IGNITE MEDICAL HANOVER PARK, LLC

**Loan / Mortgage Amount:** \$16,500,000.00

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

**Certificate number:** 909EA337-128A-4993-B273-F2002D0F6417

**Execution date:** 6/2/2023

Record and return to:  
Madison Title Agency, LLC  
1125 Ocean Avenue  
Lakewood, NJ 08701  
MTA 186508A

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This Instrument Prepared By and Return to:  
Law Offices of Thomas K. Slattery, P.L.L.C.  
2101 L Street NW  
Suite 300  
Washington, DC 20037

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

**IGNITE HANOVER PARK PROPERTY, LLC**, an Illinois limited liability company, and  
**IGNITE MEDICAL HANOVER PARK, LLC**, an Illinois limited liability company  
individually and collectively,

as Borrower,

having an office at  
c/o Ignite Hanover Park Property, LLC  
1550 North Northwest Highway, Suite 430  
Park Ridge, Illinois 60068  
Attn: Corry Keilin, General Counsel

to

**LTC PROPERTIES, INC.**, a Maryland corporation,  
as Lender,

having an office at  
2829 Townsgate Rd #350, Westlake Village, California 91361

Principal Loan Amount: \$16,500,000.00

Premises: 2000 W. Lake Street, Hanover Park, Illinois 60133

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

This MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this “Mortgage”) dated June 1<sup>st</sup>, 2023, is by IGNITE HANOVER PARK PROPERTY, LLC, an Illinois limited liability company (“Owner”), and IGNITE MEDICAL RESORT HANOVER PARK, LLC, an Illinois limited liability company (“Operator”, and together with Owner, individually and collectively, “Borrower”), to LTC PROPERTIES, INC., INC., a Maryland corporation (“Lender”).

This Mortgage is entered into pursuant to the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101 et. seq. (the “Act”). It secures, inter alia, all existing and future advances under the Loan Documents all of which shall be entitled to the lien priority and benefits of a senior mortgage. Without limiting anything contained in any provision of this Mortgage, this Mortgage secures the Loan Obligations to repay all advances of principal under the Loan Agreement or the other Loan Documents made at closing or thereafter and all interest, late charges, fees, and other amounts due, or to become due under the Loan Documents, and in addition thereto: collection costs, sums advanced for the payment of taxes, assessments, maintenance and repair charges, insurance premiums and any other costs incurred to protect the security encumbered hereby or the lien hereof, and expenses incurred by the Lender by reason of any Event of Default by the Borrower under the terms hereof, together with interest thereon.

### WITNESSETH:

For and in consideration of the sum of Ten Dollars, and other valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, and in order to secure the indebtedness and other obligations of Borrower hereinafter set forth, Borrower does hereby irrevocably grant, bargain, sell, transfer, mortgage, warrant, convey, assign, pledge and set over to the Lender and its successors and assigns forever, and grants to Lender a security interest in and lien upon all of Borrower’s right, title and interest in and to all of the following described land and interests in land, estates, easements, rights, improvements, fixtures, appurtenances, and other property whether now owned or hereafter acquired and including replacements and additions thereto (hereinafter referred to collectively as the “Collateral”):

(a) The Borrower’s estate in the tract(s) or parcel(s) of land located in the city of Hanover Park, Cook County (such county the “County”), Illinois (such state the “State”), as are more particularly described in Exhibit A attached hereto and by this reference made a part hereof, together with such greater rights, if any, as Borrower may hereafter acquire (referred to individually and collectively as (the “Property”));

(b) The Borrower’s estate and other rights, if any (including rights hereinafter acquired) in all Improvements and Equipment, all of which are hereby declared and shall be deemed to be fixtures and accessions to the Property and a part of the Property as between the parties hereto and all persons claiming by, through or under them, and which shall be deemed to

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be a portion of the security for the Loan Obligations herein described to be secured by this Mortgage;

(c) All building materials, equipment, Fixtures, fittings, and personal property of every kind or character now owned or hereafter acquired by Borrower for the purpose of being used or useful in connection with the Improvements, whether such materials, equipment, fixtures, fittings, and personal property are actually located on or adjacent to the Property or not, whether attached or wherever located, and whether in storage or otherwise, wheresoever the same may be located, including, but not limited to, all lumber and lumber products, bricks, building stones, and building blocks, sand and cement, roofing material, paint, doors, windows, hardware, nails, wires and wiring, plumbing and plumbing fixtures, heating and air conditioning equipment and appliances, electrical and gas equipment and appliances, pipes and piping, pumps, tanks, motors, conduits, switchboards, lifting, cleaning, fire prevention, fire extinguishing, refrigerating, ventilating, and communications and public address apparatus, ornamental and decorative fixtures, furniture, and in general all materials and equipment of every kind and character used or useful in connection with said Improvements;

(d) The Borrower's estate and other rights, if any (including rights hereafter acquired) in all Appurtenant Rights;

(e) The Lease;

(f) All Rents; and

(g) All Goods, Equipment, Accounts, Chattel Paper, Commercial Tort Claims, Deposit Accounts, Documents, General Intangibles, Instruments, Inventory, Money, Investment Property, Letter-of-Credit-Rights, Reimbursement Contracts, Supporting Obligations, Permits (to the full extent assignable), all other personal and fixture property of every nature whatsoever, whether governed by Article 9 of the Uniform Commercial Code of the State of Illinois (the "**Uniform Commercial Code**" or the "**UCC**") or other law, wherever located, whether now owned by Borrower or hereafter acquired or arising or used in connection with the Property or the Improvements, and all Proceeds thereof; together with all of the books and records pertaining to any of the foregoing property, including, but not limited to any computer readable memory and any computer hardware or software (all of the foregoing, collectively, the "**Personal Property Collateral**").

THIS MORTGAGE SHALL ALSO CONSTITUTE A UNIFORM COMMERCIAL CODE FINANCING STATEMENT WHICH IS BEING FILED AS A FIXTURE FILING IN ACCORDANCE WITH THE STATE UNIFORM COMMERCIAL CODE. THE RECORD OWNER OF THE REAL ESTATE DESCRIBED HEREIN IS THE OWNER. THE COLLATERAL IS DESCRIBED IN THIS MORTGAGE AND SOME OF THE COLLATERAL DESCRIBED HEREIN IS OR IS TO BECOME FIXTURES ON THE REAL ESTATE DESCRIBED HEREIN.

**TO HAVE AND TO HOLD** the Collateral, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining unto the said Lender and its successors and assigns, in fee simple forever, and the said Borrower does hereby covenant and warrant with Lender and its successors and assigns, that Borrower, either collectively or individually, is lawfully seized in fee of the Collateral; that Borrower, either collectively or

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individually, has a good right to sell and convey the same; that the same is unencumbered; and that the title and quiet possession thereto Borrower will and Borrower's successors shall warrant and forever defend against the lawful claims of all persons, all of the foregoing being subject only to the Permitted Encumbrances.

This Mortgage is intended to constitute a mortgage and a security agreement under the Uniform Commercial Code as enacted in the State and all rights, remedies, powers, privileges, and benefits and all titles, interests, liens, and security interests created hereby or arising by virtue hereof, are given to secure the Loan Obligations including, without limitation, payment and performance of the following indebtedness, obligations, loans, advances, and liabilities:

(a) To secure the loan (the "**Loan**") evidenced by or arising under that certain Promissory Note of even date herewith as the same may hereafter be renewed, extended, amended and modified (together with all renewals, extensions, amendments, and modifications thereof hereafter made, the "**Note**"), executed by Borrower, which Note is payable to the order of Lender in the stated principal amount of up to Sixteen Million Five Hundred Thousand AND NO/100 Dollars (\$16,500,000.00), bearing interest and being payable in installments as therein stated, which is due and payable in full on the Maturity Date.

(b) To secure all sums advanced by Lender to Borrower or expended by Lender for Borrower's account, including but not limited to advances for taxes and insurance, or for Borrower's benefit pursuant to the terms of this Mortgage and the faithful performance by Borrower of all terms and conditions contained herein;

(c) To secure the payment of all court costs, expenses and costs of whatever kind incident to the collection of any indebtedness secured hereby and the enforcement or protection of the lien of this conveyance and the enforcement of one or more of the Loan Documents, including attorneys' fees, whether at trial, on appeal or review or other proceedings, or in any bankruptcy case or proceedings and including issues particular to bankruptcy; and

(d) To secure all fees (including late fees, exit fees, accruals of interest, default interest), premiums (including prepayment fees and prepayment premiums), charges, expenses and other amounts from time to time due to Lender pursuant to the Loan Documents and all other Loan Obligations.

**AND** the Borrower covenants and agrees and represents and warrants unto Lender as follows:

## ARTICLE I DEFINITIONS

The following terms will have the following meanings:

"**Accounts**" means all accounts arising from the business of the Borrower, and all rights to payment from patients, residents, private insurers, and others arising from the business of the Borrower, including rights to payment pursuant to Reimbursement Contracts, including rights to payment from Medicare and Medicaid programs or similar state or federal programs, boards, bureaus or agencies. "Accounts" shall also include the proceeds thereof (whether cash or

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noncash, moveable or immovable, tangible or intangible) received from the sale, exchange, transfer, collection or other disposition or substitution thereof and any amounts deposited with Lender pursuant to the Loan Agreement and any reserve account required thereunder.

“**Applicable Environmental Law**” shall mean Environmental Laws, as defined in the Environmental Indemnity Agreement of even date herewith by and among Borrower and certain of Borrower’s Affiliates in favor of Lender.

“**Appurtenant Rights**” means all easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, stormwater drainage rights, drainage rights, waters, water courses, potable water rights, water rights and powers, oil, gas, mineral and riparian and littoral rights, flowers, shrubs, crops, trees, timber and other emblements and other rights of any nature whatsoever, now or hereafter appurtenant to, or used or useful in connection with, or located on, under or above the Property, 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 Property or any other Collateral, or any part thereof, whether now existing or hereafter arising.

“**Bankruptcy Default**” means an Event of Default pursuant to Section 6.1(e) or 6.1(f) of the Loan Agreement.

“**Chattel Paper**” mean all chattel paper, as that term is defined in Article 9 of the UCC, and includes, without limitation, a record or records (including, without limitation, electronic chattel paper) which evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, or a lease of specific goods; all Supporting Obligations (as defined below) with respect thereto; any returned, rejected or repossessed goods and software covered by any such record or records and all proceeds (in any form including, without limitation, accounts, contract rights, documents, chattel paper, instruments and general intangibles) of such returned, rejected or repossessed goods; and all proceeds (Cash proceeds and non-cash proceeds) of the foregoing, whether now or hereafter held by Borrower.

“**Commercial Tort Claims**” means commercial tort claims (as defined in the UCC) assertable by Borrower arising from or in connection with the Property, the Facility, or the operation thereof.

“**Default**” means the occurrence or existence of any event which, but for the giving of notice or expiration of any applicable cure period or both, would constitute an Event of Default.

“**Default Rate**” shall have the meaning given that term in the Loan Agreement.

“**Deposit Accounts**” means deposit accounts, as that term is defined in the UCC.

“**Documents**” means any document of title or warehouse receipt.

“**Equipment**” means all of Borrower’s fixtures and equipment located on, attached to or used or useful in connection with the Property or Facility, including but not limited to beds,



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linen, televisions, carpeting, telephones, cash registers, computers, lamps, glassware, rehabilitation equipment, restaurant and kitchen equipment, and other fixtures and equipment of Borrower located on, attached to or used or useful in connection with any Property or Facility and all renewals and replacements thereof and substitutions therefor; provided, however, that with respect to any items which are leased for the benefit of the Facility and not owned by any Borrower, the Equipment shall include the leasehold interest only of such Borrower together with any options to purchase any of said items and any additional or greater rights with respect to such items which any such Borrower 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.

“**Event of Default**” shall have the meaning set forth in Section 3.1.

“**Facility**” means Ignite Medical Hanover Park, a 150-bed licensed skilled nursing facility located at 2000 W. Lake Street, Hanover Park, Illinois 60133, together with any other general or specialized care facilities, if any, now or hereafter located at the Property.

“**Fixtures**” means fixtures (as defined in the UCC) located at, used in or useful in connection with the Facility or the operation thereof and includes, without limitation, the following: 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.

“**General Intangibles**” means all intangible personal property of Borrower arising out of or connected with the Property or the Facility and all renewals and replacements thereof and substitutions therefor (other than Accounts, Rents, Instruments, Inventory, Money, Permits, and Reimbursement Contracts), including, without limitation, things in action, contract rights and other rights to payment of money.

“**Goods**” means goods (as defined in the UCC) that are located at, used in or useful in connection with the Facility or the operation thereof.

“**Improvements**” means all buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Property, including, but not limited to, all gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, elevators and motors, plumbing and heating fixtures, air conditioning equipment, carpeting and other floor coverings, water heaters, awnings and storm sashes, cleaning apparatus, signs, landscaping and parking areas, which are or shall be attached to the Property or said buildings, structures or improvements.

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**“Instruments”** means all instruments, Chattel Paper, documents or other writings obtained from or in connection with the operation and ownership of the Property or the Facility (including, without limitation, all ledger sheets, computer records and printouts, data bases, programs, books of account, trademarks or trade names, utility contracts, maintenance and service contracts, and files relating thereto).

**“Inventory”** means all inventories of food, beverages and other consumables held by any Borrower for sale or use at or from the Property or the Facility, and soap, paper supplies, medical supplies, drugs and all other such goods, wares and merchandise held by any Borrower for sale to or for consumption by guests, patients or residents of the Property or the Facility and all such other goods returned to or repossessed by any Borrower.

**“Investment Property”** means investment property (as defined in the UCC) arising from, in connection with or related to the Facility or the operation thereof.

**“Lease Agreement”** means the agreement by that name dated the date hereof, between Owner and Operator.

**“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 Property, the Facility and/or Improvements, or any portions of the Property, the Facility and/or Improvements and all modifications, extensions or renewals thereof, including, without limitation, the Lease Agreement.

**“Letter-of-Credit Rights”** means letter-of-credit rights (as defined in the UCC) arising from, in connection with or relating to the Facility or the operation thereof.

**“Loan Agreement”** means the certain Loan Agreement dated of even date herewith among the Borrower and Lender, as the same may be modified, amended or restated from time to time.

**“Loan Documents”** means, collectively, the Loan Agreement, the Note, this Mortgage and all other Loan Documents, each as defined in the Loan Agreement, together with any and all other documents executed by any Borrower or others, evidencing, securing, or otherwise relating to the Loan, as the same may be modified, amended or restated from time to time.

**“Loan Obligations”** shall have the meaning set forth in the Loan Agreement.

**“Money”** means all of Borrower’s monies, cash, rights to deposit or savings accounts or other items of legal tender obtained from or for use in connection with the operation of the Facility.

**“Note”** has the meaning heretofore set forth in this Mortgage.

**“Permits”** means all of Borrower’s licenses, permits and certificates used or necessary in connection with the ownership, operation, construction, 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 and all such other



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permits, licenses and rights, obtained from any governmental, quasi-governmental or private person or entity whatsoever concerning ownership, construction, operation, use or occupancy, whether now owned or hereafter arising.

“**Permitted Encumbrances**” means all matters set forth in Exhibit B attached hereto and made a part hereof, provided that to the extent any of the same are listed as subordinate, such matters are permitted only so long as they are in fact subordinate to this Mortgage.

“**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) that are used now or in the future in connection with the ownership, management or operation of the Property or the Improvements or are located on the Property or in the Improvements, and any operating agreements relating to the Property or the Improvements, and any surveys, plans and specifications and contracts for architectural, engineering and construction services relating to the Property or the Improvements.

“**Proceeds**” means all awards, payments, earnings, royalties, issues, profits, liquidated claims, and proceeds (whether cash or non-cash, moveable or immovable, tangible or intangible, 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.

“**Reimbursement Contracts**” shall mean, to the extent Borrower has any rights therein, all of Borrower’s contracts and rights pursuant to reimbursement or third party payor programs and contracts for the Facility which are now or hereafter in effect with respect to residents qualifying for coverage under the same, including, but not limited to, Medicare, Medicaid, any successor program or other similar reimbursement program (whether operated by a governmental or quasi-governmental agency or by a private Person) and private insurance agreements.

“**Rents**” means all of Borrower’s rights to rent and other payments of whatever nature from time to time payable pursuant to any lease of whatsoever kind or nature, licenses, franchises, concessions or other uses, operation or occupancy agreements for the Property or the Facility or any part thereof, including, but not limited to, the Lease Agreement, leases of individual units to residents, and leases of retail space or other space at the Property for businesses, including, but not limited to, newsstands, barbershops, beauty shops, physicians’ offices, pharmacies and specialty shops.

“**Supporting Obligations**” shall mean all supporting obligations, as such term is defined in the UCC, and in any event shall include, without limitation, a Letter-of-Credit Right, secondary obligation, or obligation of a secondary obligor, or secondary obligation that supports the payment or performance of an Account, Chattel Paper, a Document, a General Intangible, an Instrument, or Investment Property.

Singular terms shall include the plural forms and vice versa, as applicable, of the terms defined.

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All references to other documents or instruments shall be deemed to refer to such documents or instruments as they may hereafter be extended, renewed, modified, or amended, and all replacements and substitutions therefor.

All other capitalized terms not otherwise defined in this Mortgage shall have the meanings set forth in the Loan Agreement.

## ARTICLE II BORROWER'S COVENANTS, AGREEMENTS, AND REPRESENTATIONS

2.1 **Performance of Loan Documents.** The Borrower will perform, observe and comply with the provisions hereof and of each of the other Loan Documents executed by Borrower when due, and duly and punctually will pay to the Lender when due the sum of money expressed in the Note with interest thereon and all other sums required to be paid by the Borrower pursuant to the provisions of this Mortgage, all without any deduction or credit for taxes or other similar charges paid by the Borrower.

2.2 **Warranty of Title.** Borrower covenants and warrants that Borrower is the owner of and lawfully seized of its estate in fee simple in the Property, Improvements, and Appurtenant Rights hereby mortgaged and has good and absolute title to all other Collateral in which a security interest is herein granted, and Borrower has good right, full power and lawful authority to sell, convey, mortgage, and grant a security interest in the same in the manner and form aforesaid, subject to any limitations which may be imposed under applicable law on the granting of a security interest in or assignment of certain of the Collateral, and, except for Permitted Encumbrances and the Liens permitted by the Loan Agreement, the same are free and clear of all liens, charges, and encumbrances whatsoever, including, as to the Equipment, conditional sales contracts, chattel mortgages, security agreements, financing statements, and anything of a similar nature. Borrower shall and will warrant and forever defend the title thereto unto the Lender, its successors and assigns, against the lawful claims of all persons whomsoever.

2.3 **Taxes, Liens and Other Charges.**

(a) Borrower shall pay, on or prior to delinquency, all taxes, assessments, levies, license fees, permit fees, water, sewer, and utility fees, rents, rates and charges and all other charges (in each case whether general or special, ordinary or extraordinary, or foreseen or unforeseen) of every character whatsoever (including all penalties and interest thereon) now or hereafter levied, assessed, confirmed or imposed on, or in respect of, or which may be a lien upon the Collateral, or any part thereof, or any estate, right or interest therein, or upon the rents, issues, income or profits thereof, and shall submit to Lender upon request such evidence of the due and punctual payment of all such taxes, assessments and other fees and charges as may be required by law. Without limiting the generality of the foregoing, if, by the laws of the United States of America, or of any state having jurisdiction over Borrower, any stamp tax or similar tax is due or becomes due in respect of any of the Loan Obligations or the recording of this Mortgage, Borrower covenants and agrees to pay such tax in the manner required by any such law. Borrower further covenants to hold harmless and agrees to indemnify Lender, its successors or assigns, against any liability incurred by reason of the imposition of any stamp tax or similar tax on the issuance of the Loan Obligations or the recording of this Mortgage.

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(b) Borrower shall pay, on or prior to delinquency, all taxes, assessments, charges, expenses, costs and fees which may now or hereafter be levied upon, or assessed or charged against, or incurred in connection with, the Note, this Mortgage or any other Loan Documents.

(c) Borrower shall pay, on or prior to delinquency, all premiums on policies of insurance covering, affecting or relating to the Collateral, as required by the Loan Agreement, all ground rents, if any, and other payments; and all utility charges with respect to the Collateral, or which may become a charge or lien against the Collateral, for gas, electricity, water and sewer services and the like furnished to the Collateral, and all other public or private assessments or charges of a similar nature affecting the Collateral or any portion thereof, whether or not the nonpayment of same may result in a lien thereon.

(d) Borrower shall not suffer any construction, mechanic's, materialman's, laborer's, statutory or other lien (except as expressly permitted by the Loan Agreement) to be created or remain outstanding against the Collateral. Lender has not consented and will not consent to the performance of any work or the furnishing of any materials which might be deemed to create a lien or liens superior to the lien hereof.

(e) In the event of the passage of any state, federal, municipal or other governmental law, order, rule or regulation, subsequent to the date hereof, in any manner changing or modifying the laws now in force governing the taxation of mortgages or security agreements or debts secured thereby or the manner of collecting such taxes so as to adversely affect Lender, Borrower will pay any such tax on or before the due date thereof. If Borrower fails to make such prompt payment or if, in the opinion of Lender, any such state, federal, municipal, or other governmental law, order, rule or regulation prohibits Borrower from making such payment or would penalize Lender if Borrower makes such payment or if, in the opinion of Lender, the making of such payment might result in the imposition of interest beyond the maximum amount permitted by applicable law, then the entire balance of the Loan Obligations shall, at the option of Lender, become immediately due and payable.

(f) Borrower hereby indemnifies, agrees to reimburse Lender, and holds Lender harmless for, from and against any sales or use tax that may be imposed on the Lender by virtue of Lender's Loan to Borrower; provided, however, nothing herein shall be construed as requiring Borrower to pay any of Lender's income or gross receipts taxes.

2.4 **Monthly Deposits.** Borrower shall comply faithfully and fully with the terms and conditions of any tax and insurance escrow requirement of Lender, if any, as provided for in the Loan Agreement.

## 2.5 **Condemnation.**

(a) If all or any part of the Collateral shall be damaged or taken through condemnation (which term when used in this Mortgage shall include any damage or taking by any Governmental Authority, and any transfer by private sale in lieu thereof), either temporarily or permanently, other than a taking of a part of the Collateral which does not in Lender's opinion adversely affect access to or use of the Collateral or operation of the Facility, the entire Loan

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Obligations secured hereby shall, at the option of the Lender, become immediately due and payable as provided for in the Loan Agreement.

(b) Borrower, immediately upon obtaining knowledge of any institution, or any proposed, contemplated or threatened institution of any action or proceeding for the taking through condemnation of the Collateral or any part thereof, will notify Lender, and Lender is hereby authorized, at its option to commence, appear in and prosecute, through counsel selected by Lender, in its own or in Borrower's name, any action or proceeding relating to any such condemnation. Any compromise or settlement by Borrower of any claim for compensation shall be in accordance with the Loan Agreement. Any compensation, awards, damages, claims, rights of action and proceeds therefrom and the right thereto are hereby assigned by Borrower to Lender and Lender is authorized, at its option, to collect and receive all such compensation, awards or damages and to give proper receipts and acquittances therefor without any obligation to question the amount of any such compensation, awards or damages and to apply and release any moneys so received by it in accordance with the Loan Agreement.

## 2.6 Care of Collateral.

(a) Borrower will keep the Improvements in good condition and repair, allowing for use in the ordinary course of business, will not commit or suffer any waste and will not do or suffer to be done anything which would or could increase the risk of fire or other hazard to the Collateral or any other part thereof or which would or could result in the cancellation of any insurance policy carried with respect to the Collateral.

(b) Except in connection with the repair or replacement of the Facility after damage thereto or destruction or condemnation thereof, Borrower will not remove, demolish or alter the structural character of any Improvements in any material respect without the written consent of Lender, nor will Borrower make or permit use of the Collateral for any purpose other than that for which the same are now used.

(c) Borrower will maintain or cause any other Borrower to maintain the insurance relating to any Borrower or the Collateral as required by the Loan Agreement. If the Collateral or any part thereof is damaged by fire or any other cause, Borrower will give immediate written notice thereof to Lender.

(d) Lender or its representative is hereby authorized to enter upon and inspect the Collateral in accordance with the Loan Agreement.

(e) Borrower will promptly comply with all present and future laws, ordinances, rules and regulations of any Governmental Authority affecting the Collateral or any part thereof; provided, however, Borrower shall have the right to contest the application of such laws, ordinances, rules and regulations so long as such contest preserves or improves Lender's security interest in the Collateral.

(f) If all or any part of the Collateral shall be damaged by fire or other casualty or if a part of the Collateral shall be taken or damaged through condemnation, the disposition of insurance and/or condemnation proceeds shall be pursuant to the Loan Agreement.



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2.7 **Further Assurances; After-Acquired Property.** At any time and from time to time, upon request by Lender, Borrower will make, execute and deliver or cause to be made, executed and delivered to Lender and, where appropriate, cause to be recorded and/or filed and from time to time thereafter to be rerecorded and/or refiled at such time and in such offices and places as shall be requested by Lender such certificates, documents, statements, amendments and other instruments and/or filings (i) to perfect and protect the security interest created or purported to be created hereby; (ii) to enable the Lender to exercise and enforce its rights and remedies hereunder in respect of the Collateral; or (iii) to effect otherwise the purposes of this Mortgage, including, without limitation: (A) executing and filing such financing or continuation statements or amendments thereto as may be necessary or desirable or that the Lender may request in order to perfect and preserve the security interest created by this Mortgage as a first and prior security interest upon and security title in and to all of the Collateral, whether now owned or hereafter acquired by Borrower; provided, however, Borrower authorizes Lender to file any financing statements describing the Collateral in such jurisdictions and filing offices as Lender deems appropriate without the necessity of Borrower's signature; (B) if certificates of title are now or hereafter issued or outstanding with respect to any of the Collateral, by immediately causing the interest of Lender to be properly noted thereon at Borrower's expense; and (C) furnishing to the Lender from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as the Lender may reasonably request. Upon any failure by Borrower so to do, Lender may make, execute, record, file, re-record and/or refile any and all such financing statements, continuation statements, or amendments thereto, certificates, and documents for and in the name of Borrower, and Borrower hereby irrevocably appoints Lender the agent and attorney-in-fact of Borrower so to do. The lien of this Mortgage will automatically attach, without further act, to all after-acquired property attached to and/or used in the operation of the Collateral or any part thereof.

2.8 **Indemnity; Expenses.** Borrower will pay or reimburse Lender, as applicable, for all attorney's fees, costs and expenses incurred by Lender in any suit, action, trial, appeal, review, bankruptcy (including issues particular to bankruptcy) or other legal proceeding or dispute of any kind in which Lender is made a party or appears as party plaintiff or defendant, affecting the Loan Obligations, this Mortgage or the interest created herein, or the Collateral, or any appeal thereof, including, but not limited to, any foreclosure action, any condemnation action involving the Collateral or any action to protect the security hereof, any bankruptcy or other insolvency proceeding commenced by or against the Borrower, any lessee of the Collateral (or any part thereof), or any guarantor of any of the Loan Obligations, and including, without limitation, costs of title searches, appraisals, environmental reports and expert witness fees, and any such amounts paid by Lender shall be added to the Loan Obligations and shall be secured by this Mortgage. Borrower will indemnify, reimburse and hold Lender harmless for, from and against all proceedings, claims, suits, judgments, awards, liabilities (including but not limited to strict liabilities), obligations, debts, diminutions in value, fines, amounts paid in settlement, charges, damages, losses, expenses, penalties and costs (whether initiated or sought by any Governmental Authority or private parties), including actual fees and out of pocket expenses of attorneys and expert witnesses, investigatory fees, and remediation costs, of whatever kind or nature, whether incurred in connection with any judicial or administrative process or otherwise related to or resulting from any action against Lender relating to this Mortgage or any interest created herein, or the Collateral, including, but not limited to, any action or proceeding claiming

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loss, damage or injury to person or property, or any action or proceeding claiming a violation of any national, state or local law, rule or regulation, including any Applicable Environmental Law.

2.9 **Assignment of Rents.** Borrower hereby sells, assigns and transfers all Rents to Lender to be applied against the Loan Obligations secured by this Mortgage in such order as Lender may elect; provided, however, that permission and revocable license is hereby given to Borrower (subject to the requirement that Lender approve any lease other than leases with residents of the Improvements), unless and until the breach of any covenant or condition of this Mortgage which is not cured within any applicable cure period or the occurrence of any Event of Default, to collect and use such Rents as they become due and payable, but not in advance thereof. This Mortgage constitutes an absolute and present assignment of the Rents as additional Collateral for the Loan Obligations subject, however, to the conditional and revocable license given to Borrower to collect and use the same as provided hereinabove. The foregoing assignment shall be fully operative without any further action on the part of either party, and specifically, Lender shall be entitled, at its option upon the breach of any covenant or condition of this Mortgage which is not cured within any applicable cure period or the occurrence of any Event of Default hereunder, to collect all such Rents whether or not Lender takes possession of the Property law. Exercise by Lender of its rights under this Section, and the application of any such Rents to such Loan Obligations shall not cure or waive any Event of Default or notice of Event of Default hereunder or invalidate any act done pursuant hereto or any such notice but shall be cumulative of all other rights and remedies. Borrower shall not, without the prior written consent of Lender, further assign the Rents that are assigned to Lender herein, and any such assignment without the express written consent of Lender shall be void as against Lender.

2.10 **Estoppel Affidavits.** Borrower, upon ten (10) business days prior written notice from Lender, shall furnish Lender a written statement, duly acknowledged, based upon its records, setting forth the unpaid principal of, and interest on, the Loan Obligations, stating whether or not to its knowledge any offsets or defenses exist against the Loan Obligations, or any portion thereof, and, if such offsets or defenses exist, stating in detail the specific facts relating to each such offset or defense.

2.11 **Limit of Validity.** If, from any circumstances whatsoever, fulfillment of any provision of this Mortgage, the Note or any other Loan Document, at the time performance of such provision shall be due, shall involve transcending the limit of validity presently prescribed by any applicable usury statute or any other applicable law, with regard to obligations of like character and amount, then, ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity, so that in no event shall any exaction be possible under this Mortgage, the Note, or any other Loan Document that is in excess of the current limit of such validity, but such obligation shall be fulfilled to the limit of such validity. The provisions of this Section shall control every other provision of this Mortgage.

2.12 **Leases.** Borrower shall not, without the prior written consent and approval of Lender, enter into any lease or permit any tenancy (except for the Lease Agreement and tenancy or residency agreements with patients or residents of individual units at the Facility), or enter into or permit any management agreement (except for the Consulting Agreement of Operator), or affecting the Collateral, including any amendments or modifications thereto, except as expressly permitted in the Loan Agreement.



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2.13 **Compliance with Other and Prior Mortgages.** To the extent there at any time exists any other deed of trust, mortgage or security agreement encumbering all or any part of the Collateral (a) the same is expressly permitted so long as but only if it is shown as a Permitted Encumbrance on Exhibit B or is otherwise expressly permitted by the Loan Agreement, and (b) Borrower will perform, observe and comply with the same and with all related documents and instruments and will maintain the same free from default and not obtain additional advances or increase the principal amount secured thereby without Lender's prior written consent. If a default thereunder should occur or any Event of Default exist, Lender shall have the right, but not the obligation, to cure the same or to advance such additional amounts as are necessary to protect the Lender's interest in the Collateral, including, without limitation, payment in full of all debts and other obligations if and to the extent Lender deems necessary to prevent foreclosure or sale of all or any part of the Collateral or purchase any other mortgage debt encumbering the Property. All amounts so advanced by Lender shall constitute Loan Obligations and shall bear interest at the Default Rate from the date advanced until repaid in full, such advance and interest shall be secured by this Mortgage, and such advance and interest shall be immediately due and payable.

2.14 **Legal Actions.** In the event that Lender is made a party, either voluntarily or involuntarily, in any action or proceeding affecting the Collateral, the Note, the Loan Obligations or the validity or priority of this Mortgage, Borrower shall immediately, upon demand, reimburse Lender for all costs, expenses and liabilities incurred by Lender by reason of any such action or proceeding, including attorney's fees, and any such amounts paid by Lender shall be secured hereby.

2.15 **Prohibited Person Compliance.** Borrower warrants, represents and covenants that neither Borrower, any guarantor, nor any of their respective affiliated entities is or will be a Person (a) that is listed in the Annex to or is otherwise subject to the provisions of Executive Order 13224 issued on September 24, 2001 ("EO13224"), (b) whose name appears on the United States Treasury Department's Office of Foreign Assets Control ("OFAC") most current list of "Specifically Designated Nationals and Blocked Persons," (which list may be published from time to time in various mediums including, but not limited to, the OFAC website, <http://www.treas.gov/ofac/t11sdn.pdf>), (c) who commits, threatens to commit or supports "terrorism", as that term is defined in EO 13224, or (d) who is otherwise affiliated with any person listed above. Any and all Persons described in subparts (a) – (d) above are herein referred to as a "Prohibited Person." Borrower covenants and agrees that neither Borrower, any guarantor, nor any of their respective affiliated entities will (i) conduct any business, or engage in any transaction or dealing, with any Prohibited Person, including, but not limited to the making or receiving of any contribution of funds, goods, or services, to or for the benefit of a Prohibited Person, or (ii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in EO13224. Borrower further covenants and agrees to deliver (from time to time) to Lender any such certification or other evidence as may be requested by Lender in its sole and absolute discretion, confirming that (i) neither Borrower nor any guarantor is a Prohibited Person and (ii) neither Borrower nor any guarantor has engaged in any business, transaction or dealing with a Prohibited Person, including, but not limited to, the making or receiving of any contributions of funds, goods, or services, to or for the benefit of a Prohibited Person.

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## ARTICLE III EVENTS OF DEFAULT; REMEDIES

3.1 **Events of Default.** The terms “Event of Default” or “Events of Default,” wherever used in this Mortgage shall mean any one or more of the following events:

(a) The occurrence of any Event of Default (as therein defined) under any Loan Document, subject to applicable grace and cure periods contained therein; or

(b) The sale, transfer, lease, assignment, or other disposition, voluntarily or involuntarily, of the Collateral, or any part thereof or any interest therein, including a sale or transfer in lieu of condemnation, or, except for Permitted Encumbrances, any further encumbrance of the Collateral, unless (i) expressly permitted by the Loan Agreement, (ii) the prior written consent of Lender is obtained (which consent may be withheld, conditioned or granted with or without cause in Lender’s sole and unfettered discretion) or (iii) such disposition is of any of the Equipment which has become worn out or obsolete, provided the same is replaced with property of similar value and of a similar quality if and to the extent such worn out or obsolete Equipment is required for the continued lawful operation of the Facility.

3.2 **Acceleration of Maturity.** If an Event of Default shall exist, then the entire Loan Obligations shall, at the option of Lender, immediately become due and payable without notice or demand, time being of the essence of this Mortgage, and no omission on the part of Lender to exercise such option when entitled to do so shall be construed as a waiver of such right; provided however, if a Bankruptcy Default occurs, then all such amounts shall become immediately due and payable automatically without any election by the Lender.

3.3 **Right to Enter and Take Possession.** If an Event of Default shall have occurred and be continuing:

(a) Borrower, upon demand of Lender, shall forthwith surrender to Lender the actual possession of the Collateral and, if and to the extent permitted by law, Lender itself, or by such officers or agents as it may appoint, may enter and take possession of all or any part of the Collateral without the appointment of a receiver or an application therefor, and may exclude Borrower and its agents and employees wholly therefrom, and take possession of the books, papers and accounts of Borrower to the extent permitted by applicable law.

(b) If Borrower shall for any reason fail to surrender or deliver the Collateral or any part thereof after such demand by Lender, Lender may obtain a judgment or decree conferring upon Lender the right to immediate possession or requiring Borrower to deliver immediate possession of the Collateral to Lender. Borrower will pay to Lender, upon demand, all expenses of obtaining such judgment or decree, including compensation to Lender, its attorneys and agents, and all such expenses and compensation shall, until paid, become part of the Loan Obligations and shall be secured by this Mortgage.

(c) Upon every such entering upon or taking of possession, Lender may hold, store, use, operate, manage and control the Collateral 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

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additional fixtures, personalty and other property; (ii) insure or keep the Collateral insured; (iii) manage and operate the Collateral and exercise all of the rights and powers of Borrower to the same extent as Borrower could in its own name or otherwise act with respect to the same; and (iv) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted to Lender, all as Lender from time to time may determine to be in its best interest. Lender may collect and receive all the rents, issues, profits and revenues from the Collateral, including those past due as well as those accruing thereafter, and, after deducting (A) all expenses of taking, holding, managing and operating the Collateral (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; (D) such taxes, assessments and other similar charges as Lender may at its option pay; (E) other proper charges upon the Collateral or any part thereof; and (F) the compensation, expenses and disbursements of the attorneys and agents of Lender, Lender shall apply the remainder of the monies and proceeds so received by Lender, first, to the payment of accrued interest; second, to the payment of deposits for taxes and insurance required in this Mortgage and to other sums required to be paid hereunder; and third, to the payment of overdue installments of principal and any other unpaid Loan Obligations then due. Anything in this Section to the contrary notwithstanding, Lender shall not be obligated to discharge or perform the duties of a landlord to any tenant or incur any liability as a result of any exercise by Lender of its rights under this Mortgage, and Lender shall be liable to account only for the rents, incomes, issues and profits actually received by Lender.

(d) If an Event of Default shall exist, Lender may require that Borrower cause all of its Accounts and Rents to be paid to one or more deposit accounts with Lender, or at Lender's option, with another financial institution approved by Lender. To the extent allowed by applicable law, Borrower assigns and grants to Lender a security interest in, pledge of and right of setoff against all moneys from time to time held in such deposit accounts to secure the Loan Obligations. Borrower agrees to promptly notify all of its account debtors and tenants, including all third-party payors pursuant to any Reimbursement Contracts then in effect, to make payments to one or more such deposit accounts upon Lender's request and as designated by Lender, and Borrower 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. Lender may require that the deposit accounts be established so as to comply with any applicable Reimbursement Contracts and other legal requirements, if any, applicable to payments of any accounts receivable. Lender may cause moneys to be withdrawn from such deposit accounts and applied to the Loan Obligations in such order as Lender may elect, whether or not then due subject to applicable law and the applicable Reimbursement Contract. Borrower appoints Lender as its attorney-in-fact, with full power of substitution, 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 Borrower agrees to take in this Section. Lender shall not be liable for failure to collect any Accounts or Rents, or to enforce the contracts or leases pursuant to which such Accounts or Rents are payable, or for any action or omission on the part of Lender, its officers, agents and employees in collecting or enforcing such Accounts, Rents, contracts or leases.

(e) Whenever all the Loan Obligations shall have been indefeasibly paid in full and all Events of Default shall have been cured, Lender shall surrender possession of the Collateral to

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Borrower and its successors or assigns. The same right of taking possession provided for under this Section, however, shall exist if any subsequent Event of Default shall occur and be continuing.

3.4 **Performance by Lender.** Upon the occurrence and during the continuance of an Event of Default in the payment, performance or observance of any term, covenant or condition of this Mortgage, Lender may, at its option, pay, perform or observe the same, and all payments made or costs or expenses incurred by Lender in connection therewith, with interest thereon at the Default Rate or at the maximum rate from time to time allowed by applicable law, whichever is less, shall be secured hereby and shall be, without demand, immediately repaid by Borrower to Lender. The necessity for any such actions and of the amounts to be paid shall be in Lender's sole discretion. Lender is hereby empowered and authorized to enter and to authorize others to enter upon the Collateral or any part thereof for the purpose of performing or observing any such defaulted term, covenant or condition without thereby becoming liable to Borrower or any person in possession holding under Borrower. Notwithstanding anything to the contrary herein, Lender shall have no obligation, explicit or implied to pay, perform, or observe any such term, covenant, or condition.

3.5 **Receiver.** In addition to the remedies set forth in this Mortgage, Lender may apply for, and Lender as a matter of right, without consideration of the value of the Property as security for the amount due Lender, or of the solvency of any person, firm, or corporation obligated for the payment of such amount, shall be entitled to, the appointment by any competent court or tribunal, without prior demand or notice to any party, of a receiver of rents and profits and rental value of the Property, with power to take possession of the Property, including possession from Borrower if in possession and occupying any portion of the Property, and in the latter case to require Borrower as a condition of remaining in possession and occupation, to pay the reasonable rental value for the use and occupation thereof, with further power to lease and repair the Property and to make the same ready to rent to new lessees and with such other powers as may be deemed necessary, and such receiver after deducting all charges and expenses attending the execution of the said trust as receiver, shall each month pay over to Lender the residue of the said rents and profits and rental value, to be applied by Lender to the payment of the amount remaining secured hereby, or to any deficiency (whether or not any judgment therefor may be entered and irrespective of the market value of the Property) that may exist in the event of foreclosure and sale after applying the proceeds of the sale of the Property to the payment of the amount due, including interest, costs and expenses of such foreclosure and sale, or in the event of foreclosure to the payment of any deficiency existing thereunder. Borrower irrevocably consents to such an appointment. A receiver, while in possession of the Property, shall have the right to make repairs and to make improvements necessary or advisable in its or his opinion to preserve the Property, or to make and keep them rentable to the best advantage, and Lender may advance monies to a receiver for such purposes. Any monies so expended or advanced by Lender or by a receiver shall be repaid so far as possible out of the Rents collected after payment of other expenses properly chargeable against said Rents, and any unpaid balance of monies so advanced or expended shall be added to and become a part of the debt secured by the Mortgage. Without limiting the foregoing, the remedies described in this Section shall be available to Lender without regard to the value of the Property or the solvency of any person or persons primarily or contingently liable for the payment of the indebtedness hereby secured, whether or not Lender has an adequate remedy at law. Possession by a court-appointed receiver



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will not be considered possession by Lender. Nothing herein contained shall be construed as constituting Lender a “mortgagee in possession” in the absence of the taking of actual possession of the Property by Lender.

3.6 **Lender’s Power of Enforcement.** If an Event of Default shall exist, the Lender may, either with or without entry or taking possession as hereinabove provided or otherwise, proceed by suit or suits at law or in equity or any other appropriate proceeding or remedy (a) to enforce payment of the Note or the performance of any term thereof or any other right, and (b) to pursue any other remedy available to it, all as the Lender shall deem most effectual for such purposes. The Lender shall take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, as the Lender may determine.

3.7 **Foreclosure.**

(a) If an Event of Default shall exist, including, without limitation, a failure to pay the Loan Obligations secured hereby in full as and when the same shall become due, whether by acceleration or otherwise, Lender, at its option, may proceed by suit or suits at law or in equity or by any other appropriate proceeding or remedy (i) to enforce payment of the Note or the performance of any term, covenant, condition or agreement of this Mortgage or any other right, (ii) to foreclose this Mortgage and the lien hereof and to sell the Collateral by judicial action as an entirety or otherwise, as Lender may determine, and (iii) to pursue any and all other remedies available to it, including, without limitation, any and all remedies available to Lender under applicable law or under any of the Loan Documents, all as Lender shall deem most effectual for such purposes. Lender may take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, as Lender may determine. Lender may elect to pursue any one or more or all of the foregoing. In any suit to foreclose the lien hereof or in any other action to enforce any other remedy of Lender under this Mortgage or with respect to any of the other Loan Obligations, there shall be allowed and included as additional indebtedness in the decree for sale, judgment of foreclosure or other judgment or decree all Future Advances and all expenditures and expenses which may be paid or incurred by or on behalf of Borrower for attorneys’ fees, paralegals’ fees, appraisers’ fees, environmental consultants’ fees, other third-party fees and expenses, and outlays for documentary and expert evidence, stenographers’ charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies and similar data and assurances with respect to title and value as Lender may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale pursuant to such decree the true condition of the title to or the value of the Collateral. All expenditures and expenses of the nature in this Section mentioned and such expenses and fees as may be incurred in the protection of the Collateral and the maintenance of the lien of this Mortgage, including but not limited to, the fees of any attorney employed by Lender in any litigation or proceeding affecting this Mortgage, the Loan Obligations or the Collateral, including bankruptcy proceedings, or in the preparation for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by Borrower, with interest thereon at the Default Rate, and shall be secured by this Mortgage. Upon any sale made under or by virtue of this Section or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Lender may bid for and acquire the Collateral or any part thereof, and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon

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the indebtedness of Borrower secured by this Mortgage the sale price, after deducting therefrom the expenses of the sale and the cost of the action and any other sums which Borrower is required to pay or that Lender is authorized to deduct under this Mortgage.

(b) Should the Collateral be involved in any insolvency, receivership, bankruptcy, either voluntary or involuntary, or other proceedings affecting any rights thereto or the possession thereof, it is further covenanted and agreed that the Lender shall be entitled to all of the rents, issues and profits realized from any such proceedings, whether there be an Event of Default under this Mortgage as above provided, or not.

(c) Without limiting the generality or efficacy of any other right or remedy of Lender, Borrower further agrees that in case of any sale hereunder, it will at once surrender possession of the Collateral.

(d) Lender and any of its affiliates may be a purchaser of the Collateral or of any interest therein at any public sale thereof, whether pursuant to foreclosure or otherwise hereunder, without forfeiting its right to collect any deficiency; and Lender may apply upon the purchase price the entire amount of the Loan Obligations. Lender, upon any such purchase, shall acquire good title to the properties so purchased, free of the lien of this Mortgage, free of all rights and equities of redemption in Borrower, and free of all liens and encumbrances subordinate to this Mortgage.

(e) With respect to any personal property or fixtures included as part of the Collateral, Lender may, at its option, sell or otherwise dispose of the same by public or private proceedings, separate from the sale of the real property, in accordance with the provisions of the Uniform Commercial Code as enacted in the state where the Property is located, and Lender may with respect to such personal property and fixtures exercise any other rights or remedies of a secured party under the Uniform Commercial Code as enacted in such state.

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

3.9 **Waiver of Appraisal, Valuation, Etc.** Borrower agrees, to the full extent permitted by law, that in case of a default on the part of Borrower hereunder, neither Borrower nor anyone claiming through or under Borrower will set up, claim or seek to take advantage of any appraisal, valuation, stay, moratorium, reinstatement, extension, homestead, or exemption laws now or hereafter in force in order to prevent or hinder the enforcement or foreclosure of this Mortgage or the absolute sale of the Collateral, or the delivery of possession thereof immediately after such sale to the purchaser at such sale of the Collateral, and Borrower, for itself and all who may at any time claim through or under it, hereby waives to the full extent



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that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets subject to the security interest of this Mortgage marshaled upon any foreclosure or sale under the power herein granted and any and all statutory and other rights of reinstatement. Borrower waives and relinquishes the statutory right of redemption, all equities of redemption and all other rights and exemptions of every kind in, to and with respect to the real and personal property described herein. All waivers by Borrower in this Mortgage have been made voluntarily, intentionally 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 Mortgage shall be conclusive evidence of the making of such waivers and that such waivers have been voluntarily, intentionally and knowingly made.

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

3.11 **Remedies Cumulative.** No right, power or remedy conferred upon or reserved to Lender by this Mortgage is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law, in equity or by statute.

3.12 **No Waiver.**

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

(b) No act or omission by Lender shall release, discharge, modify, change or otherwise affect the original liability under the Note or this Mortgage or any other obligation of Borrower or any subsequent purchaser of the Collateral or any part thereof, or any maker, cosigner, endorser, surety or guarantor, nor preclude Lender from exercising any right, power or privilege herein granted or intended to be granted in the event of any default then existing or of any subsequent default, nor alter the lien of this Mortgage, except as expressly provided in an instrument or instruments executed by Lender. Without limiting the generality of the foregoing, Lender may: (i) grant forbearance or an extension of time for the payment of all or any portion of

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the Loan Obligations; (ii) take other or additional security for the payment of any of the Loan Obligations; (iii) waive or fail to exercise any right granted herein or in the Note; (iv) release any part of the Collateral from the security interest or lien of this Mortgage or otherwise change any of the terms, covenants, conditions or agreements of the Note or this Mortgage; (v) consent to the filing of any map, plat or replat affecting the Collateral; (vi) consent to the granting of any easement or other right affecting the Collateral; (vii) make or consent to any agreement subordinating the security title or lien hereof, or (viii) take or omit to take any action whatsoever with respect to the Note, this Mortgage, the Collateral or any document or instrument evidencing, securing or in any way related to the Loan Obligations, all without releasing, discharging, modifying, changing or affecting any such liability, or precluding Lender from exercising any such right, power or privilege or affecting the lien of this Mortgage (except for any subordination of the lien expressly granted pursuant to (vii) above). In the event of the sale or transfer by operation of law or otherwise of all or any part of the Collateral, Lender, without notice, is hereby authorized and empowered to deal with any such vendee or transferee with reference to the Collateral or the Loan Obligations, or with reference to any of the terms, covenants, conditions or agreements hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any liabilities, obligations or undertakings.

3.13 **Suits to Protect the Collateral.** Lender shall have the power to institute and maintain such suits and proceedings as it may reasonably deem expedient (a) to prevent any impairment of the Collateral by any acts which may be unlawful or constitute a default under this Mortgage (b) to preserve or protect its interest in the Collateral and in the rents, issues, profits and revenues arising therefrom; and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would materially impair the security hereunder or be prejudicial to the interest of Lender.

3.14 **Proofs of Claim.** In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Borrower, its creditors or its property, Lender, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Lender allowed in such proceedings for the entire amount due and payable by Borrower under this Mortgage at the date of the institution of such proceedings and for any additional amount which may become due and payable by Borrower hereunder after such date.

3.15 **Tradenames, etc.** During the exercise of any right in the Collateral pursuant to this Article III, Lender shall not be liable to Borrower for any inadvertent violation or infringement upon any trade name, trademark, service mark, or logo relating to the Collateral, and Borrower waives any claim for any such violation or infringement that occurs prior to written notice of such infringement by Borrower to Lender.

3.16 **Compliance with State Law.**

(a) Without limiting the generality or efficacy of this Article III or any other provision benefiting Lender, Borrower and Lender intend and believe that each provision in this Mortgage comports with the requirements of applicable State law. If, however, any provision in

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this Mortgage or any other Loan Document shall be inconsistent with and unenforceable under any provision of State law, the provisions of State law shall take precedence over the provisions of this Mortgage or any other Loan Document, but shall not limit, waive, invalidate or render unenforceable any other provision of this Mortgage or any other Loan Document that can be construed in a manner consistent with State law.

(b) If any provision of this Mortgage shall grant to Lender (including Lender acting as a mortgagee-in-possession) or a receiver appointed pursuant to the provisions of Section 3.5 of this Mortgage any powers, rights or remedies prior to, upon or following the occurrence of an Event of Default which are more limited than the powers, rights or remedies that would otherwise be vested in Lender or in such receiver under the Act in the absence of said provision, Lender and such receiver shall be vested with the powers, rights and remedies granted in the Act to the full extent permitted by law.

3.17 **Obligations Survive Judgment.** All of the obligations of Borrower shall survive the entry of any judgment for foreclosure of this Mortgage and shall also survive the entry of any judgment on the Note or the Loan Agreement or with respect to any of the Loan Obligations. Without limiting the generality of the foregoing, despite the entry of any such judgment, (i) Borrower shall continue to be bound by all of Borrower's covenants and promises contained in this Mortgage, the Note and Loan Agreement, (ii) this Mortgage shall continue to secure all of Borrower's obligations under such promises and covenants, and (iii) any sums advanced by Lender pursuant to the provisions of the Note or this Mortgage or the Loan Agreement (including but not limited to any payments by Lender of taxes, expenses of maintenance, repair or preservation of the Collateral, costs of insurance incurred by Lender, and any other expenses and advances of Lender whatsoever, the reimbursement of which by Borrower is provided for herein or in the Note or the Loan Agreement, whether such sums are advanced before or after the entry of any such judgment, shall be secured by this Mortgage and be deemed to be Loan Obligations as defined herein. Notwithstanding the entry of any judgment, interest shall continue to accrue after the entry of any such judgment on all of the Loan Obligations at the rate or rates provided for in the Note or Loan Agreement (including any applicable default rate or post maturity rate) despite any statutory provision with respect to interest rates on judgments and all such interest shall continue to be secured by this Mortgage.

## ARTICLE IV MISCELLANEOUS

4.1 **Security Agreement and Fixture Filing.** This Mortgage creates a lien on and a security interest in that part of the Personal Property Collateral and shall constitute a security agreement under the applicable enactment of the Uniform Commercial Code or any other law applicable to the creation of liens on personal property. This Mortgage shall constitute a financing statement under the applicable enactment of the Uniform Commercial Code, filed as a fixture filing in the public records of the County with respect to any fixtures comprising Collateral, with Borrower as the "debtor" and Lender as the "secured party." The collateral for such fixture filing is described in the granting clause of this Mortgage and the addresses of the "debtor" and "secured party" are the addresses stated on the initial page of this Mortgage. Borrower hereby irrevocably authorizes Lender, as the secured party, at any time and from time to time to file in any Uniform Commercial Code jurisdiction financing statement (including

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amendments and continuations thereto) that: indicate the Personal Property Collateral (i) as all assets of Borrower, or as all of Borrower's personal property or words of similar effect, regardless of whether any particular asset comprised in the Personal Property Collateral falls within the scope of Article 9 of the Uniform Commercial Code of the State or such jurisdiction, or (ii) as being of an equal or lesser scope or with greater detail. If an Event of Default occurs, the Lender shall have all rights and remedies of a secured party under the applicable enactment of the Uniform Commercial Code.

4.2 **Assembly of Collateral.** Upon the occurrence of an Event of Default, Borrower shall, if requested by the Lender, assemble, at Borrower's expense, all of the Personal Property Collateral and the documents evidencing such Personal Property Collateral, and the books and records applicable thereto and make them available to Lender at a place to be designated by Lender.

4.3 **Successors and Assigns.** This Mortgage shall inure to the benefit of and be binding upon Borrower and Lender and their respective heirs, executors, legal representatives, participants, successors, successors-in-title, and assigns. Whenever a reference is made in this Mortgage to "Borrower" or "Lender," such reference shall be deemed to include a reference to the heirs, executors, legal representatives, successors, successors-in-title and assigns of Borrower or Lender, as the case may be, but such reference shall not imply any permission to make or permit any transfer which is otherwise prohibited.

4.4 **Terminology.** All personal pronouns used in this Mortgage whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles and Articles are for convenience only and neither limit nor amplify the provisions of this Mortgage, and all references herein to Articles, Sections or subsections shall refer to the corresponding Articles, Sections or subsections of this Mortgage unless specific reference is made to Articles, Sections or subsections of another document or instrument.

4.5 **Severability; Complete Agreement.** If any provisions of this Mortgage or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Mortgage and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law. This Mortgage, the Note and the instruments executed in connection herewith constitute the full and complete agreement of the parties and supersede all prior negotiations, correspondence, and memoranda relating to the subject matter hereof. This Mortgage may not be amended except by a writing signed by the parties hereto.

4.6 **Applicable Law.** This Mortgage shall be interpreted, construed and enforced according to the laws of the state wherein the Property is situated. If, for any reason or to any extent any word, term, provision, or clause of this Mortgage or any of the other Loan Documents, or its application to any person or situation, shall be found by a court or other adjudicating authority to be invalid or unenforceable, the remaining words, terms, provisions or clauses shall be enforced, and the affected word, term, clause or provision shall be applied, to the fullest extent permitted by law.



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4.7 **Limitation of Interest.** It is the intent of Borrower and Lender in the execution of this Mortgage and all other Loan Documents to contract in strict compliance with the usury laws governing the Loan Obligations. In furtherance thereof, Lender and Borrower stipulate and agree that none of the terms and provisions contained in the Loan Documents shall ever be construed to create a contract for the use, forbearance, or detention of money requiring payment of interest at a rate in excess of the maximum interest rate permitted to be charged by the laws governing the Loan. Borrower or any guarantor, endorser or other party now or hereafter becoming liable for the payment of the Loan or other amounts due to Lender shall never be liable for unearned interest on the Loan and shall never be required to pay interest on the Loan or other amounts due to Lender at a rate in excess of the maximum interest that may be lawfully charged under the laws governing the Loan, and the provisions of this paragraph shall control over all other provisions of the Note and any other instrument executed in connection therewith which may be in apparent conflict herewith. In the event any holder of the Note shall collect monies that are deemed to constitute interest and that would otherwise increase the effective interest rate on the Loan or other amounts due to Lender to a rate in excess of that permitted to be charged by the laws governing the Loan, all such sums deemed to constitute interest in excess of the legal rate shall be applied to the unpaid principal balance of the Loan and any of such sum in excess of such balance shall be immediately returned to Borrower upon such determination.

4.8 **Notices, etc.** All notices and other communications provided for hereunder shall be in writing and be given and deemed received in accordance with the provisions of the Loan Agreement.

4.9 **Joint and Several.** The obligations of each person or entity constituting Borrower under this Mortgage are joint and several.

4.10 **Assignment.** This Mortgage is assignable by Lender, including as collateral for a loan to Lender, and any assignment hereof by Lender shall operate to vest in the assignee all rights and powers herein conferred upon and granted to Lender.

4.11 **Time of the Essence.** Time is of the essence with respect to each and every covenant, agreement and obligation of Borrower under this Mortgage, the Note and any and all other instruments now or hereafter evidencing, securing or otherwise relating to the Loan Obligations.

4.12 **Waiver of Jury Trial.** BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT THAT IT MAY HAVE TO A TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING OUT OF OR IN ANY WAY RELATED TO THIS MORTGAGE OR THE LOAN, OR (B) IN ANY WAY CONNECTED WITH OR PERTAINING OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF LENDER AND/OR BORROWER WITH RESPECT TO THE LOAN DOCUMENTS OR IN CONNECTION WITH THIS MORTGAGE OR THE EXERCISE OF ANY PARTY'S RIGHTS AND REMEDIES UNDER THIS MORTGAGE OR OTHERWISE, OR THE CONDUCT OR THE RELATIONSHIP OF THE PARTIES HERETO, IN ALL OF THE FOREGOING CASES WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER SOUNDING IN CONTRACT, TORT OR

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OTHERWISE. BORROWER AGREES THAT LENDER MAY FILE A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY, AND BARGAINED AGREEMENT OF BORROWER IRREVOCABLY TO WAIVE ITS RIGHTS TO TRIAL BY JURY AS AN INDUCEMENT OF LENDER TO MAKE THE LOAN, AND THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY DISPUTE OR CONTROVERSY WHATSOEVER BETWEEN BORROWER AND LENDER SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY. BORROWER ACKNOWLEDGES THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THE LOAN DOCUMENTS AND IN THE MAKING OF THIS WAIVER AND ALL OTHER WAIVERS IN THE LOAN DOCUMENTS BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS DISCUSSED THIS WAIVER AND ALL SUCH OTHER WAIVERS WITH SUCH LEGAL COUNSEL. BORROWER FURTHER ACKNOWLEDGES THAT (I) IT HAS READ AND UNDERSTANDS THE MEANING AND RAMIFICATIONS OF THIS WAIVER, (II) THIS WAIVER HAS BEEN REVIEWED BY BORROWER AND BORROWER'S COUNSEL AND IS A MATERIAL INDUCEMENT FOR LENDER TO ACCEPT THIS MORTGAGE AND ENTER INTO THE LOAN AGREEMENT AND THE OTHER LOAN DOCUMENTS (III) THIS WAIVER SHALL BE EFFECTIVE AS TO EACH OF SUCH OTHER LOAN DOCUMENTS AS IF FULLY INCORPORATED THEREIN.

4.13 **Release upon Payment and Discharge of Borrower's Loan Obligations.** If Borrower shall indefeasibly pay in full and satisfy all of the indebtedness secured hereby and fully comply with, satisfy and discharge all of the other terms and provisions hereof and all other Loan Obligations to be paid, satisfied, performed and complied with by Borrower, in Lender's sole discretion, then Lender shall execute and deliver to Borrower a release of this Mortgage in recordable form.

4.14 **Lender Not a Joint Venturer.** Lender, by entering into this Mortgage or any of the other Loan Documents, or by any action taken pursuant thereto, will not be deemed a partner or joint venturer with Borrower. Borrower acknowledges and agrees that the sole relationship created between Borrower and Lender under this Mortgage and the other Loan Documents is that of borrower and lender.

4.15 **Leasing and Management Agreements.** Borrower covenants and agrees that all agreements to pay leasing commissions with respect to the Property (a) shall provide that the obligation to pay such commissions will not be enforceable against any party other than the party who entered into such agreement; (b) shall be expressly subordinate to the lien of this Mortgage, and (c) shall not be enforceable against Lender. Borrower shall furnish Lender with evidence of the foregoing which is, in all respects, satisfactory to Lender. Borrower further covenants and agrees that all agreements to manage the Property and Improvements (i) shall provide that the obligation to pay any amount thereunder will not be enforceable against any party other than the party who entered into such agreement; (ii) shall provide that such agreement, together with any and all liens and claims for lien that any manager or other person or entity performing the duties of a manager thereunder has, or may thereafter have thereunder, or for managing the Property and Improvements or any part thereof, shall be, in all respects, subordinate to the lien of this



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Mortgage, and (iii) shall not be enforceable against Lender. Borrower shall furnish Lender with evidence of the foregoing which is, in all respects, satisfactory to Lender.

## ARTICLE V LOCAL LAW PROVISIONS.

5.1 Illinois Mortgage Foreclosure Law. It is the intention of Borrower and Lender that the enforcement of the terms and provisions of this Mortgage shall be accomplished in accordance with the Act, and with respect to such Act, Borrower agrees and covenants that:

(i) 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 in this Mortgage shall be inconsistent with any provision of the Act, provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act. If any provision of this Mortgage shall grant to Lender (including Lender acting as a mortgagee-in-possession) or a receiver appointed pursuant to the provisions of this Mortgage any powers, rights or remedies prior to, upon or following the occurrence of an Event of Default which are more limited than the powers, rights or remedies that would otherwise be vested in Lender or in such receiver under the Act in the absence of said provision, Lender and such receiver shall be vested with the powers, rights and remedies granted in the Act to the full extent permitted by law. In the event 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;

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

(iii) All advances, disbursements and expenditures made or incurred 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, for the following purposes, in addition to those otherwise authorized by the Mortgage, or by the Act (collectively "Protective Advances"), shall have the benefit of all applicable provisions of the Act, including those provisions of the Act hereinbelow referred to:

(1) all advances by Lender in accordance with the terms of the Mortgage to: (i) preserve, maintain, repair, restore or rebuild the Improvements upon the Land; (ii) preserve the lien of the Mortgage or the priority thereof; or

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(iii) enforce the Mortgage, as referred to in Subsection (b) (5) of Section 5/15-1302 of the Act;

(2) payments by Lender of (i) principal, interest or other obligations in accordance with the terms of any senior mortgage or other prior lien or encumbrances; (ii) real estate taxes and assessments, general and special, and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the Property or any part thereof; (iii) other obligations authorized by the Mortgage; or (iv) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 5/15-1505 of the Act;

(3) advances by Lender in settlement or compromise of any claims asserted by claimants under senior mortgages or any other prior liens;

(4) attorneys' fees and other costs incurred: (i) in connection with the foreclosure of the Mortgage as referred to in Section 5/15-1504(d)(2) and 5/15-1510 of the Act; (ii) in connection with any action, suit or proceeding brought by or against the Lender for the enforcement of the Mortgage or arising from the interest of the Lender hereunder; or (iii) in preparation for or in connection with the commencement, prosecution or defense of any other action related to the Mortgage or the Property;

(5) Lender's fees and costs, including attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearings as referred to in Section 5/15-1508 (b) (1) of the Act;

(6) expenses deductible from proceeds of sale as referred to in Section 5/15-1512 (a) and (b) of the Act;

(7) expenses incurred and expenditures made by Lender for any one or more of the following: (i) premiums for casualty and liability insurance paid by Lender whether or not Lender or a receiver is in possession, if reasonably required in reasonable amounts, and all renewals thereof, without regard to the limitation to maintaining of existing insurance in effect at the time any receiver or mortgagee takes possession of the Property imposed by Section 5/15-1704 (c) (1) of the Act; (ii) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (iii) payments deemed by Lender to be required for the benefit of the Property or required to be made by the owner of the Property under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Property; (iv) shared or common expense assessments payable to any association or corporation in which the owner of the Property is a member in any way affecting the Property; (v) payments required to be paid by Borrower or Lender pursuant to any lease or other agreement for occupancy of the Property; and (vi) if the Mortgage is insured,

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payment of FHA or private mortgage insurance required to keep such insurance in force;

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

(v) This Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Mortgage is recorded pursuant to Subsection (b) (5) of Section 5/15-1302 of the Act. All Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the Act, apply to and be included in: (i) the determination of the amount of indebtedness secured by this Mortgage at any time; (ii) the indebtedness found due and owing to the Lender in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudication or findings by the court of any additional indebtedness becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose; (iii) if right of redemption is deemed not to be waived by this Mortgage, computation of amount required to redeem, pursuant to subsections (d) (2) and (e) of Section 15-1603 of the Act; (iv) determination of amounts deductible from sale proceeds pursuant to Section 15-1512 of the Act; (v) application of income in the hands of any receiver or mortgagee in possession; and (vi) computation of any deficiency judgment pursuant to subsections (b)(2) and (e) of Sections 15-1508 and Section 15-1511 of the Act.

(vi) In addition to any provision of this Mortgage authorizing the Lender to take or be placed in possession of the Property or for the appointment of a receiver, Lender shall have the right, in accordance with Sections 5/15-1701 and 5/15-1702 of the Act, to be placed in possession of the 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 Mortgage, all rights, powers, immunities and duties, as provided for in Sections 5/15-1701 and 5/15-1703 of the Act; and

(vii) Borrower acknowledges that the Property does not constitute agricultural real estate, as said term is defined in Section 5/15-1201 of the Act, or residential real estate, as defined in Section 5/15-1219 of the Act.

(viii) Without limiting the generality of Section 4.17 of the Mortgage, the waiver of its rights of redemption and reinstatement in such Section include the waiver of such rights as provided under Sections 15-1601 and 15-1602 of the Act.

5.2 Future Advances. Borrower covenants and agrees that this Mortgage shall secure the payment of all loans and advances made pursuant to the terms of the Loan Documents, whether such loans and advances are made as of the date hereof, or at any time in the future, and whether such future advances are obligatory, or are to be made at the option of Lender or otherwise (but not advances or loans made more than twenty (20) years after the date hereof), to the same extent as if such future advances were made on the date of the execution of this

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Mortgage and, although there may be no advances made at the time of the execution of this Mortgage and, although there may be no other indebtedness outstanding at the time any advance is made. The lien of this Mortgage shall be valid as to all Loan Indebtedness, including future advances, from the time of its filing of record in the office of the Recorder of Deeds of the County in which the Property is located. The total unpaid principal balance of the Loan Indebtedness (including disbursements which Lender may make under this Mortgage, or any other document or instrument evidencing or securing the Loan Indebtedness), at any time outstanding, shall not exceed the amount referred to in the Granting Clauses of this Mortgage. This Mortgage shall be valid and shall have priority over all subsequent liens and encumbrances, including statutory liens, except taxes and assessments levied on the Property, to the extent of the amount secured hereby; provided, however, that the maximum amount secured hereby shall not exceed two hundred percent (200%) of the face amount of the Note.

5.3 Business Loan. The proceeds of the Loan shall be used solely for business purposes and in furtherance of the regular business affairs of Borrower in each case, in conformance with Section 4(1) of the Illinois Interest Act (815 ILCS 205/0.01, et seq.), and the entire principal obligation secured hereby constitutes (a) a "business loan" as that term is defined in 815 ILCS 205/4 (1) (c); and (b) a "loan secured by a mortgage on real estate" within the purview and operation of 815 ILCS 205/4 (1) (1).

5.4 Truth-In-Lending Act Exemption. Borrower acknowledges and agrees that the secured Indebtedness is an exempted transaction under the Truth-In-Lending Act, 15 U.S.C. Sec. 1601 et seq. and has been entered into solely for business purposes of Borrower and Borrower's investment or profit, as contemplated by said section.

5.5 Maturity Date. The Indebtedness shall be due and payable in full on or before June 1, 2028.

5.6 Variable Rate. This Mortgage secures the full and timely payment of Indebtedness, including, among other things, the obligation to pay interest on the unpaid principal balance at a variable rate of interest to the extent provided in the Note.

5.7 Sealed Instrument. Borrower intends for this Mortgage to be executed and delivered by Borrower, and accepted by Lender, as a sealed instrument.

5.8 Venue. Any action to enforce this Mortgage or to pursue any of the remedies set forth herein shall be brought in the courts of the State of Illinois, in the county in which the Property is located.

5.9 Collateral Protection Insurance. Pursuant to the requirements of the Illinois Collateral Protection Act, 815 ILCS 180/1 et seq., Borrower is hereby notified as follows: If at any time Borrower fails to provide Lender with evidence of the insurance coverage required by the Loan Agreement, Lender may purchase insurance at Borrower's expense to protect Lender's interest in the Property. This insurance may, but need not, protect Borrower's interests. The coverage that Lender purchases may not pay any claim that Borrower may make or any claim that is made against Borrower in connection with the Property. Borrower may later cancel any insurance purchased by Lender, but only after providing Lender with evidence that Borrower has

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obtained insurance as required by the Loan Agreement. If Lender purchases insurance for the Property, Borrower will be responsible for the costs of that insurance, including interest and any other charges that Lender imposes 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 Borrower's total outstanding balance or obligation secured hereby. The costs of the insurance may be more than the costs of insurance that Borrower may be able to obtain through Borrower's own efforts.

SIGNATURES FOLLOW

Property of Cook County Clerk's Office







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## EXHIBIT A

### Legal Description

Lots 2 and 3 in Virons Subdivision, Hanover Park, Illinois, being a subdivision of the south half of Section 36, Township 41 North, Range 9, East of the Third Principal Meridian, according to the plat thereof recorded June 15, 2009, as Document Number 0916610047, in Cook County, Illinois.

NOTE: Being Parcel No. 06-36-407-021-0000 and 06-36-309-033, of the City of Hanover Park, County of Cook.

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RECORDING DIVISION  
118 N. CLARK ST. ROOM 120  
CHICAGO, IL 60602-1387

COOK COUNTY CLERK OFFICE  
RECORDING DIVISION  
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## EXHIBIT B

### PERMITTED ENCUMBRANCES

1. Permitted Encumbrances as defined in the Loan Agreement.

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RECORDING DIVISION  
118 N. CLARK ST. ROOM 120  
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COOK COUNTY CLERK OFFICE  
RECORDING DIVISION  
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