

UNOFFICIAL COPY

96345578

DEPT-01 RECORDING \$57.50
 740008 TRAN 6792 05/07/96 13:48:00
 48691 = BJ = -96-345578
 COOK COUNTY RECORDER

PREPARED BY:

MORTGAGE AND SECURITY AGREEMENT

BY

GENERAL HEALTH CARE CORPORATION
 a Delaware Corporation,

As Mortgagor

In Favor of

JERSEY LIQUIDATORS L.I.C.
 AS
 Mortgagee

March 25, 1996

96345578

This Mortgage shall be deemed to constitute a fixture filing to be filed of record in the real estate records maintained by the Register, or Clerk of the County in which the real property is located.

Property:
 5527 North Maplewood Avenue
 Chicago, Illinois
 Parcel 1: Lots 11, 12, 13, 14, 15, 16 & 17
 Block 2
 Parcel 2: Lots 18 & 19 in Block 2

RECORD AND RETURN TO:
 DONALD A. RICHARD, ESQ.
 FEIN, SUCH, KAHN & SHEPARD, P.C.
 SUITE 201, 7 CENTURY DRIVE
 PARSIPPANY, NEW JERSEY 07054



57.50
 Jan

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

MORTGAGE AND SECURITY AGREEMENT

This Mortgage made this 26 day of March, 1996,
by and between:

GENERAL HEALTH CARE CORPORATION, a Delaware corporation having
an address at P. O. Box 4337, Warren, New Jersey 07059-0337
(hereinafter the "Mortgagor")

and

JERSEY LIQUIDATORS L.L.C., a New Jersey limited liability
company, having an address at 7 Partridge Run, Warren, New Jersey
07059 (hereinafter the "Mortgagee")

WITNESSETH:

WHEREAS the Mortgagor has executed and delivered to the
Mortgagee a note (the "Mortgage Note") of even date herewith in the
principal amount of FIVE HUNDRED THOUSAND (\$500,000.00) DOLLARS,
the terms of which Mortgage Note are incorporated herein by
reference; and

WHEREAS this Mortgage is being given to secure any and
all obligations, now existing or hereafter arising, of the
Mortgagor to the Mortgagee, whether under the Mortgage Note or
under any other agreement or instrument by and between the
Mortgagee and Mortgagor executed and delivered in connection with
the Mortgage Note.

NOW, THIS INDENTURE, WITNESSETH, that the Mortgagor to
secure any payment which may become due by the Mortgagor to the
Mortgagee pursuant to the Mortgage Note and the observance, payment
and performance by the Mortgagor of all of its obligations and
liabilities to the Mortgagee, direct or indirect, primary,
secondary, contingent, joint or several, now existing or which may
in the future be created, including but not limited to those
arising under the Mortgage Note and in consideration of the sum of
\$1.00 and other good and valuable consideration, the receipt
whereof before ensembling and delivery of these presents is hereby
acknowledged, has granted, bargained, sold, aliened, released,
conveyed and confirmed and by these presents does grant, bargain,
sell, alien, release, convey and confirm unto the Mortgagee and to
its successors and assigns forever, and grants a security interest
in, all the tracts or parcels of land and premises situate, lying
and being in the City of Chicago, County of Cook, State of Illinois
and more particularly described on Schedule A annexed hereto and
made a part hereof (herein the "Mortgaged Premises");

960315578

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

TOGETHER with all and singular the buildings, improvements, ways, woods, water, watercourses, rights, liberties, privileges, hereditaments, fixtures and articles of personal property including but not limited to machinery and equipment, all screens, awnings, shades, blinds, curtains, draperies, carpets, rugs, furniture and furnishings, heating, lighting, plumbing, ventilating, air conditioning, refrigerating, incinerating and elevator plants, stoves, ranges, vacuum cleaning systems, call systems, sprinkler systems and other fire prevention and extinguishing apparatus and materials, motors, machinery, pipes, appliances, equipment, fittings and fixtures, and the trade name, goodwill and books and records relating to the business operated on the Mortgaged Premises, attached or appurtenant to the Mortgaged Premises or in anywise thereunto appertaining and any and all additions thereto and replacements or extensions thereof; and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and of every part and parcel thereof. Without limiting the foregoing, the Mortgagor hereby grants to the Mortgagee a security interest in all of the Mortgagor's present and future "equipment" and "general intangibles" (as said quoted terms are defined in the Uniform Commercial Code of the State wherein the Mortgaged Premises is located) and the Mortgagee shall have, in addition to all rights and remedies provided herein, and in any other agreements, commitments and undertakings made by the Mortgagor to the Mortgagee, all of the rights and remedies of a "secured party" under the said Uniform Commercial Code. To the extent permitted under applicable law, this Mortgage shall be deemed to be a "security agreement" (as defined in the aforesaid Uniform Commercial Code). If the lien of this Mortgage is subject to a security interest covering any such personal property, then all of the right, title and interest of the Mortgagor in and to any and all such property is hereby assigned to the Mortgagee, together with the benefits of all deposits and payments now or hereafter made thereon by the Mortgagor;

TOGETHER with all right, title and interest, if any, of the Mortgagor in and to the streets and roads abutting the Mortgaged Premises to the center lines thereof, and strips and gores within or adjoining the Mortgaged Premises, the air space and right to use said air space above the Mortgaged Premises, all easements now or hereafter affecting the Mortgaged Premises, royalties and all rights appertaining to the use and enjoyment of the Mortgaged Premises, including, without limitation, alley, drainage, mineral, water, oil and gas rights;

TOGETHER with all leases, lettings and licenses of the Mortgaged Premises or any part thereof now or hereafter entered into and all right, title and interest of the Mortgagor thereunder, including, without limitation, cash and securities deposited thereunder and the right to receive and collect the rents, issues and profits payable thereunder, bankruptcy awards and payments in lieu thereof or in lieu of rents;

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

TOGETHER with all unearned premiums, accrued, accruing or to accrue under insurance policies now or hereafter obtained by the Mortgagor and all proceeds of the conversion, voluntary or involuntary, of the Mortgaged Premises or any part thereof into cash or liquidated claims, including, without limitation, proceeds of hazard and title insurance and all awards to all subsequent owners of the Mortgaged Premises by any governmental or other lawful authorities for the taking by eminent domain, condemnation or otherwise, of all or any part of the Mortgaged Premises or any easement therein, including awards for any change of grade of streets; and

TOGETHER with all right, title and interest of the Mortgagor in and to all extensions, improvements, betterments, renewals, substitutes and replacements of, and all additions and appurtenances to the Mortgaged Premises, hereafter acquired by, or released to, the Mortgagor or constructed, assembled or placed by the Mortgagor on the Mortgaged Premises, and all conversions of the security constituted thereby, immediately upon such acquisition, release, construction, assembling, placement or conversion, as the case may be, and in each such case, without any further mortgage, conveyance, assignment or other act by the Mortgagor, shall become subject to the lien of this Mortgage as fully and completely, and with the same effect, as though now owned by the Mortgagor and specifically described herein.

AND ALSO all the estate, right, title, interest, use, possession, property, claim and demand whatsoever, of the said Mortgagor both in law and in equity, of, in and to the Mortgaged Premises herein described, and every part and parcel thereof, with the appurtenances;

TO HAVE AND TO HOLD all and singular, the Mortgaged Premises herein described, together with the appurtenances, unto the said Mortgagee and to the Mortgagee's proper use, benefit and behalf forever.

AND THE MORTGAGOR does covenant with the Mortgagee that it is seized of an indefeasible estate in fee simple in the Mortgaged Premises, as described herein, and will warrant and forever defend the title thereof unto the Mortgagee against all lawful claims whatsoever.

PROVIDED, ALWAYS, and these presents are upon the express condition, that if all obligations and liabilities secured hereby are satisfied and discharged when the same shall become due without deduction or credit of any amount payable for taxes, then these presents and the estate hereby granted shall cease, terminate and be void.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

THE MORTGAGOR HEREBY AGREES AS FOLLOWS:

1. Mortgagor's Covenants. The Mortgagor covenants with the Mortgagee as follows:

(a) (i) That the Mortgagor will pay when the same shall be due and payable, any and all taxes, assessments, water rents, or other governmental liens, charges or impositions hereafter levied or assessed against the Mortgaged Premises by any taxing authority and will not be entitled to or claim any credit or make any deduction from interest or principal hereby secured by reason of the payment of same.

(ii) That in addition to the monthly payments to be made to the Mortgagee pursuant to the Mortgage Note, Mortgagor shall upon demand of the Mortgagee through the term of this Mortgage, deposit each month with the Mortgagee, together with the regular monthly payments under the Mortgage Note a sum equal to one-twelfth (1/12) of the annual charges for the real estate taxes on the Mortgaged Premises, as the same are determined by the Mortgagee, in order that the Mortgagee shall have sufficient monies on deposit at least thirty (30) days prior to the date when said taxes are due and payable. If the said monthly deposits shall not be sufficient to pay the real estate taxes when the same are due, then the Mortgagor shall pay any amount necessary to make up such deficiency on or before the date when the payment of such taxes shall become due. In the absence of a default by the Mortgagor, the said deposits will be utilized for purposes that same have been deposited. However, upon any event of default under this Mortgage and provided an action or proceeding shall be commenced by the Mortgagee to enforce the terms of this Mortgage in any manner in connection with any such default on the part of the Mortgagor, the Mortgagee shall be and hereby is authorized and empowered to employ at the time of commencement of such action or proceeding, or at any time thereafter, the balance then remaining in the funds accumulated for real estate taxes as a credit against the amount of principal then remaining on this Mortgage.

(b) That the Mortgagor, within ten (10) days after written request by the holder of this Mortgage, shall furnish at no expense to the holder a written statement of the amount due on this Mortgage. The failure of the Mortgagor to furnish such statement within ten (10) days of the request therefor shall be deemed an acknowledgment by the Mortgagor that to the Mortgagor's best information and belief, no offsets or defenses exist against the Mortgagor's indebtedness under the Mortgage Note secured hereby and that all regular installments of principal thereon (and no other) have been made.

(c) That the Mortgagor will not commit or suffer waste of the Mortgaged Premises.

(d) That the Mortgagor will comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the Mortgaged Premises, and will not suffer or permit a violation thereof.

(e) The Mortgagor will keep the building on the Mortgaged Premises insured for the benefit of the Mortgagee by a

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

standard fire and extended coverage and vandalism and malicious mischief endorsement and such endorsements for other insurable hazards as Mortgagee shall from time to time require, by reputable insurers approved by the Mortgagee and in amounts approved by the Mortgagee. All insurance policies shall include a standard mortgagee clause in favor of and in form acceptable to Mortgagee.

Such insurance policies shall provide for the payment of losses to the Mortgagee and a certificate of such insurance coverage shall be delivered to the Mortgagee concurrently with the execution hereof and at least ten (10) days prior to each subsequent expiration date of such policy or policies during the term of this Mortgage. Said policy or policies shall also contain a clause requiring the insurer to give the Mortgagee thirty (30) days written notice prior to any cancellation of the policy.

(f) The Mortgagee shall have the authority to demand and receive all moneys payable under any of said policies of insurance, and to settle or compromise all claims thereunder, and all monies so received may be applied on account of the indebtedness secured hereby or used to repair or replace the Mortgaged Premises, as the Mortgagee shall elect.

(g) Mortgagor shall keep the sidewalks, alley-ways and buildings on the Mortgaged Premises in good repair and condition satisfactory to the Mortgagee and will cure any failure to do so within ten (10) days after written notice by the Mortgagee to do so.

(h) In the event all or any part of the Mortgaged Premises shall be taken and condemned for public purposes by the proper authorities, the Mortgagor shall have no claim against the award for damages, or be entitled to any portion of the award until all obligations being secured by this Mortgage shall be satisfied, and all rights to damages of the Mortgagor are hereby assigned to the Mortgagee to the extent of the obligations as shall remain unsatisfied.

(i) No building on the Mortgaged Premises shall be removed, demolished or substantially altered without the prior written consent of the Mortgagee.

(j) There shall not be any change in the ownership of the Mortgaged Premises, or any part thereof, and there shall not be a grant of any easements or other rights to the Mortgaged Premises without the prior written consent of the Mortgagee.

(k) The Mortgagor shall not encumber, mortgage or give a security interest in the Mortgaged Premises or in any fixtures on the Mortgaged Premises and shall not remove or replace any fixtures except with the prior written consent of the Mortgagee.

(l) In addition to any other notice required of Mortgagor under this Mortgage the Mortgagor shall notify Mortgagee promptly of the occurrence of any of the following:

(i) A fire or other casualty causing material damage to the Mortgaged Premises;

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

(ii) Receipt of notice of taking or threatened taking by eminent domain of the Mortgaged Premises or any part thereof;

(iii) Receipt of written notice from any governmental authority relating to the structure, use or occupancy of the Mortgaged Premises or any part thereof;

(iv) Substantial change in the occupancy of the Mortgaged Premises;

(v) Receipt of any written notice of any nature from any tenant of the Mortgaged Premises;

(vi) Receipt of any written notice of any nature from any holder of any other mortgage on the Mortgaged Premises;

(vii) Commencement of any litigation or governmental or administrative proceeding affecting the Mortgaged Premises, or any part thereof or the use or enjoyment thereof; and

(viii) Any further information which Mortgagee shall request with respect to the foregoing.

2. Mortgagee's Right to Cure Non-Payment of Taxes, etc.

Should thirty (30) days default be made in the payment of any such tax, assessment, water rents, sewerage or governmental charge, or in the payment of a premium for such insurance or should any default be made in the obligation to keep the Mortgaged Premises in satisfactory repair and condition, then the Mortgagee may pay any such tax, assessment, water rents, governmental charge, insurance premium or the cost of placing the Mortgaged Premises in satisfactory repair and condition, and the amount so paid together with any interest or penalties for late payment included therein shall be payable by the Mortgagor on demand together with interest at the rate of _____ (%) percent per annum, and any such sum and the interest thereon shall be secured by this Mortgage.

3. Proof of Tax Payments. The Mortgagor shall deliver to the Mortgagee true copies of receipts evidencing payments of taxes, assessments, water rents and other governmental charges within thirty (30) days after payment thereof. If such receipts are not so delivered within thirty (30) days after such taxes and other charges shall become due and payable, then in addition to any and all remedies which the Mortgagee shall have for a default under this Mortgage the Mortgagee shall have the right to procure an official tax search, the cost of which shall be added to the moneys owing by the Mortgagor and shall be due and payable upon demand.

4. Expenses of Mortgagee to Uphold Lien of This Mortgage.

If any action or proceeding be commenced (except an action to foreclose this Mortgage or to collect the debt secured hereby), in which action or proceeding the holder of this Mortgage is required to defend or uphold the lien of this Mortgage, all sums paid by the holder of this Mortgage for the expense of any litigation to prosecute or defend the rights and lien created by this Mortgage (including reasonable counsel fees), shall be payable by the

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Mortgagor on demand, together with interest thereon at the rate of _____ (%) percent per annum, and any such sum and the interest thereon shall be secured by this Mortgage.

5. Assignment of Rents. The Mortgagor hereby assigns to the Mortgagee the rents, issues and profits of the Mortgaged Premises as further security for the payment of the Mortgage Note, and the Mortgagor grants to the Mortgagee the right to enter upon and to take possession of the Mortgaged Premises for the purpose of collecting the same and to let the Mortgaged Premises or any part thereof, and to apply the rents, issues and profits, after payment of all necessary charges and expenses, including reasonable attorney's fees on account of said indebtedness. This assignment and grant shall continue in effect until the Mortgage Note is paid in full. The Mortgagee hereby waives the right to enter upon and to take possession of the Mortgaged Premises for the purpose of collecting said rents, issues and profits, and the Mortgagor shall be entitled to collect and receive said rents, issues and profits until default under any of the covenants, conditions or agreements contained in this Mortgage, and agrees to use to the extent necessary such rents, issues and profits in payment of principal and interest becoming due on this Mortgage and in payment of taxes, assessments, sewer rents, water rates and carrying charges becoming due against the Mortgaged Premises, but such right of the Mortgagor may be revoked by the Mortgagee upon any default, on five (5) days' written notice. The Mortgagor will not, without the written consent of the Mortgagee, receive or collect rent from any tenant of the Mortgaged Premises or any part thereof for a period of more than one (1) month in advance, and in the event of any default under this Mortgage, the Mortgagor will pay monthly in advance to the Mortgagee, or any receiver appointed to collect said rents, issues and profits, the fair and reasonable rental value for use and occupation of the Mortgaged Premises or of such part thereof as may be in the possession of the Mortgagor, and upon default in any such payment will vacate and surrender the possession of the Mortgaged Premises to the Mortgagee or to such receiver, and in default thereof may be evicted by summary proceedings.

6. Events of Default. If the Mortgagor shall at any time:

(a) Fail to make any payment of interest and/or principal on the Mortgage Note or any required escrow payment under this Mortgage within ten (10) days after the due date thereof; or

(b) Fail to pay any tax or deficiency on any annual tax, assessment, municipal or governmental rate, charge, imposition, lien, water or sewer rent, or any part thereof, heretofore or hereafter imposed upon the Mortgaged Premises, on or before the last day upon which the same is payable without interest, and should such default continue for a period of ten (10) days; or

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

(c) Fail after notice and demand by the Mortgagee to observe and perform and covenant to pay all or any part of any assessment for local improvements heretofore or hereafter paid and which may or may not become payable in installments, and which has affected, now affects or hereafter may affect said Mortgaged Premises notwithstanding that the same shall not be due and payable at the time of such notice and demand; or

(d) Should the Mortgagor make an assignment for the benefit of creditors or file a petition in bankruptcy; or be adjudicated insolvent or bankrupt; or petition or apply to any tribunal for the appointment of a receiver or a trustee of itself or any substantial part of any of its property; or commence any proceeding relating to its own financial condition under any reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction whether now or hereafter in effect; or should there be commenced against the Mortgagor any such proceeding which remains undismissed for a period of thirty (30) days; or should the Mortgagor by any act indicate its consent to, approval of, or acquiescence in any such proceeding or to the appointment of any receiver or any trustee for itself of any substantial part of its property; or should the Mortgagor suffer any such receivership or trusteeship to continue undischarged for a period of thirty (30) days; or

(e) Fail to observe or perform, or commit a breach of any other term, covenant or condition contained in this Mortgage or the Mortgage Note; or

(f) Should default be made in any term, condition or covenant contained in any mortgage, encumbrance or other charge constituting a lien upon the Mortgaged Premises, whether prior and superior or subsequent and junior to the lien hereof and such default not be cured within any applicable grace period, or should any action be commenced to foreclose any such prior or subsequent mortgage.

THEN, upon the occurrence of any of the aforesaid Events of Default, this Mortgage and the Mortgage Note shall be in default and the principal balance of the Mortgage Note, with all arrearages of interest charges and all advancements, at the option of the Mortgagee, shall become and be due immediately thereafter.

7. Remedies of Mortgagee. Should default be made in any of the terms hereof after notice of the same to the Mortgagor, then:

(a) The Mortgagee and its agents, servants or employees may enter upon and take possession of the Mortgaged Premises and rent the same, either in its name or in the name of the owner of such property, and receive the rents, issues and profits thereof, and apply the same, after the payments of the necessary charges and expenses, including management commissions, on account of the moneys hereby secured, being accountable only for such rents and profits as are collected by it while in possession;

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

(b) The rents, issues and profits of the Mortgaged Premises, including those which shall have accrued prior to any default and those which may thereafter accrue, shall be assigned to the Mortgagee and such assignment shall be effective upon the occurrence of such a default without any further action on the part of the Mortgagee in such event; and

(c) The Mortgagee shall be entitled to the appointment of a receiver of the rents of the Mortgaged Premises without the necessity of proving either inadequacy of the security or insolvency of the Mortgagor or of any person who may be legally or equitably liable to pay moneys secured hereby, and the Mortgagor and each such person waive such proof and consent to the appointment of such receiver.

8. Default Interest. In the event of a default by the Mortgagor in making payment of the said indebtedness then due pursuant to the terms hereof, the Mortgagee shall be entitled to receive interest on the entire unpaid principal sum thereof at the rate of (%) percent per annum, to be computed from the date that the indebtedness secured by this Mortgage becomes due and payable in full and until the actual receipt and collection of the entire indebtedness. This charge shall be added to and shall be deemed secured by this Mortgage. The provisions of this paragraph shall not be construed as an agreement or privilege to extend this Mortgage or the indebtedness secured thereby, or a waiver of any right or remedy accruing to the Mortgagee by reason of any such default.

9. Attorney's Fees. If the indebtedness secured hereby or this Mortgage is referred to attorneys for collection or foreclosure or by reason of the default of the Mortgagor for any reason hereunder, the Mortgagor shall pay all sums, including reasonable legal fees, incurred by or in respect to this Mortgage, together with all statutory costs, disbursements and allowances. All such sums with interest thereon at the rate set forth herein shall be deemed to be secured by this Mortgage and collectible out of the Mortgaged Premises.

10. Mortgagee's Right To Sue From Time to Time. The Mortgagee shall have the right from time to time to sue for any sums whether interest, damages for failure to pay principal, or any installment thereof, taxes, or any other sums required to be paid under the terms of this Mortgage as the same become due, without regard to whether or not the entire unpaid principal balance secured or any other sums secured by the Mortgage Note and Mortgage shall be due and without prejudice to the right of the Mortgagee thereafter to bring an action of foreclosure, or any other action, for a default or defaults by the Mortgagor existing at the time such earlier action was commenced.

11. Mortgagor's Environmental Representations and Warranties. (a) To the best of Mortgagor's knowledge, after due

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

inquiry and investigation, none of the real property owned and/or occupied by Mortgagor and located in the State of New Jersey, including, but not limited to, the Mortgaged Premises, has ever been used by previous owners and/or operators to refine, produce, store, handle, transfer, process or transport "Hazardous Substances," as such term is defined in N.J.S.A. 58:10-23.11b(k) of the New Jersey Spill Compensation and Control Act (N.J.S.A. 58:10-23.11 et seq.) and Mortgagor has not in the past, nor does Mortgagor intend in the future, to use said real property, including, but not limited to, the Mortgaged Premises, for the purpose of refining, producing, storing, handling, transferring, processing or transporting said "Hazardous Substances."

(b) None of the real property owned and/or occupied by Mortgagor and located in the State of New Jersey, including, but not limited to, the Mortgaged Premises, has been or is now being used as a "Major Facility," as such term is defined in N.J.S.A. 58:10-23.11b(1), and said real property, including, but not limited to, the Mortgaged Premises, will not be used as a "Major Facility" after completion of the construction, renovation, restoration and other developmental work which Mortgagor intends to undertake thereon.

(c) To the best of Mortgagor's knowledge, after due inquiry and investigation, no lien has been attached to any revenues or any real or personal property owned by Mortgagor and located in the State of New Jersey, including, but not limited to, the Mortgaged Premises, as a result of the chief executive of the New Jersey Spill Compensation Fund expending monies from said fund to pay for "Damages," as such term is defined in N.J.S.A. 58:10-23.11(g) and/or "Cleanup and Removal Costs," as such term is defined in N.J.S.A. 58:10-23.11b(d), arising from an intentional or unintentional action or omission of Mortgagor or any previous owner and/or operator of said real property, including, but not limited to, the Mortgaged Premises, resulting in the releasing, spilling, pumping, pouring, emitting, emptying or dumping of "Hazardous Substances," as such term is defined in N.J.S.A. 58:10-23.11b(k), into the waters of the State of New Jersey or onto lands from which it might flow or drain into said waters or into waters outside the jurisdiction of the State of New Jersey where drainage may have resulted to the lands, waters, fish, shellfish, wildlife, biota, air and other resources owned, managed, held in trust or otherwise controlled by the State of New Jersey.

(d) Mortgagor has furnished the New Jersey Department of Environmental Protection with all the information required by N.J.S.A. 58:10-23.11d, with respect to the Mortgaged Premises and any other real property owned and/or operated by Mortgagor and located in New Jersey, which is used as a "Major Facility," as such term is defined in N.J.S.A. 58:10-23.11b(1).

(e) Mortgagor has not received a summons, citation, directive, letter or other communication, written or oral, from the New Jersey Department of Environmental Protection concerning any intentional or unintentional action or omission on Mortgagor's part resulting in the releasing, spilling, leaking, pumping, pouring,

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

emitting, emptying or dumping of "Hazardous Substances," as such term is defined in N.J.S.A. 58:10-23.11b(k), into the waters or onto the lands of the State of New Jersey, or into the waters outside the jurisdiction of the State of New Jersey resulting in damage to the lands, waters, fish, shellfish, wildlife, biota, air and other resources owned, managed, held in trust or otherwise controlled by the State of New Jersey.

(f) To the best of Mortgagor's knowledge, after due inquiry and investigation, none of the real property owned and/or occupied by Mortgagor and located in the State of New Jersey, including, but not limited to, the Mortgaged Premises, has ever been used by previous owners and/or operators to generate, manufacture, refine, transport, treat, store, handle or dispose of "Hazardous Substances," or "Hazardous Wastes," as such terms are defined in N.J.A.C. 7:1-3.3, and Mortgagor does not intend to use any of its real property, including, but not limited to, the Mortgaged Premises, for such purposes.

(g) To the best of Mortgagor's knowledge, Mortgagor knows of no evidence of the presence of said "Hazardous Substances" or "Hazardous Wastes" as such terms are defined in N.J.A.C. 7:1-3.3, on or in the Mortgaged Premises.

(h) In connection with the purchase of the Mortgaged Premises and any other real property acquired by Mortgagor on or after January 1, 1984, Mortgagor required that the seller of said real property including the Mortgaged Premises, comply with the provisions of the New Jersey Environmental Cleanup Responsibility Act (N.J.S.A. 13:1K-6 et seq.), and the seller did comply therewith.

12. Mortgagor's Environmental Covenants. (a) If Mortgagor is presently an owner or operator of a "Major Facility" in the State of New Jersey, as such term is defined in N.J.S.A. 58:10-23.11b(1), or if Mortgagor ever becomes such an owner or operator, then Mortgagor shall furnish the New Jersey Department of Environmental Protection with all the information required by N.J.S.A. 58:10-23.11d.

(b) Mortgagor shall not cause or permit to exist, as a result of an intentional or unintentional action or omission on its part, a releasing, spilling, leaking, pumping, emitting, pouring, emptying or dumping of a "Hazardous Substance," as such term is defined in N.J.S.A. 58:10-23.11b(k), into waters of the State of New Jersey or onto the lands from which it might flow or drain into said waters, or into waters outside the jurisdiction of the State of New Jersey where damage may result to the lands, waters, fish, shellfish, wildlife, biota, air and other resources owned, managed, held, in trust or otherwise controlled by the State of New Jersey, unless said release, spill, leak, pumping, emission, paving, emptying and dumping is pursuant to and in compliance with the conditions of a permit issued by the appropriate federal or state governmental authorities.

(c) So long as Mortgagor shall own or operate any real property located in the State of New Jersey which is used as

UNOFFICIAL COPY

Property of Cook County Clerk's Office



UNOFFICIAL COPY

a "Major Facility," as such term is defined in N.J.S.A. 58:10-23.11b(1), Mortgagor shall duly file or cause to be duly filed with the Director of the Division of Taxation in the New Jersey Department of the Treasury, a tax report or return and shall pay or make provision for the payment of all taxes due therewith, all in accordance with and pursuant to N.J.S.A. 58:10-23.11h.

(d) In the event that there shall be filed a lien against the Mortgaged Premises by the New Jersey Department of Environmental Protection, pursuant to and in accordance with the provisions of N.J.S.A. 58:10-23.11f(f), as a result of the chief executive of the New Jersey Spill Compensation Fund having expended monies from said fund to pay for "Damages," as such term is defined in N.J.S.A. 58:10-23.11g, and/or "Cleanup and Removal Costs," as such term is defined in N.J.S.A. 58:10-23.11b(d), arising from an intentional or unintentional action or omission of Mortgagor, resulting in the releasing, spilling, pumping, pouring, emitting, emptying or dumping of "Hazardous Substances," as such term is defined in N.J.S.A. 58:10-23.11b(k), into the waters of the State of New Jersey or onto lands from which it might flow or drain into said waters, then Mortgagor shall, within thirty (30) days from the date that Mortgagor is given notice that the lien has been placed against the Mortgaged Premises, or within such shorter period of time in the event that the State of New Jersey has commenced steps to cause the Mortgaged Premises to be sold pursuant to the lien, either (a) pay the claim and remove the lien from the Mortgaged Premises, or (b) furnish (i) a bond satisfactory to the Title Insurance Company and Mortgagee in the amount of the claim out of which the lien arises, (ii) a cash deposit in the amount of the claim out of which the lien arises, or (iii) other security reasonably satisfactory to Mortgagee in an amount sufficient to discharge the claim out of which the lien arises (subject to Mortgagee's agreement, which agreement shall not be unreasonably withheld or delayed, that the commitment of the Title Insurance Company to affirmatively insure over or omit such claim shall constitute such reasonably satisfactory security).

(e) Should Mortgagor cause or permit any intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of "Hazardous Substances," as such term is defined in N.J.S.A. 58:10-23.11b(k), into the waters or onto the lands of the State of New Jersey, or into the waters outside the jurisdiction of the State of New Jersey, resulting in damage to the lands, waters, fish, shellfish, wildlife, biota, air or other resources owned, managed or held in trust or otherwise controlled by the State of New Jersey, without having obtained a permit issued by the appropriate governmental authorities, Mortgagor shall promptly clean up same in accordance with the provisions of the New Jersey Spill Compensation and Control Act.

13. Additional Remedies of Mortgage. In the event of the failure of Mortgagor to comply with any of the requirements of N.J.S.A. 13:1K-6 et seq., and/or N.J.S.A. 58:10-23.11 et seq.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

and/or any related regulations, or in the event of any default by Mortgagor under any provisions of Article 11 or 12 of this Mortgage, Mortgagee shall have the right, at the sole option of Mortgagee, to comply with such statutory or regulatory requirements, and/or to cure any such default, and the costs and expenses of such compliance and/or cure shall be added to the indebtedness secured by the Mortgage and shall be due and payable upon demand with interest computed from the date(s) on which said costs and expenses were incurred by Mortgagee at the default interest rate set forth in the Mortgage or, in lieu of any such default interest rate, at a rate of interest which shall be five (5) percentage points per annum above the interest rate set forth in the Note which the Mortgage secures. The provisions of Article 11, 12 and 13 shall survive any payment of the Mortgage Note and cancellation of the Mortgage.

14. Non-Release of Mortgagor. Any failure by the Mortgagee to insist upon the strict performance by the Mortgagor of any of the terms and provisions hereof shall not be deemed to be a waiver of any of the terms and provisions hereof, and the Mortgagee, notwithstanding any such failure, shall have the right thereafter to insist upon the strict performance by the Mortgagor of any and all of the terms and provisions of the Mortgage to be performed by the Mortgagor. Neither the Mortgagor nor any other person now or hereafter obligated for the payment of the whole or any part of the sums now or hereafter secured by this Mortgage shall be relieved of such obligation by reason of the failure of the Mortgagee to comply with any request of the Mortgagor or of any other person so obligated to take action to foreclose this Mortgage or otherwise enforce any of the provisions of this Mortgage or of any obligations secured by this Mortgage, or by reason of the release, regardless of consideration, of the whole or any part of the security held for the indebtedness secured by this Mortgage, or by reason of any agreement or stipulation between any sequent owner or owners of the Mortgaged Premises and the Mortgagee extending the time and payment or modifying the terms of the Mortgage Note or Mortgage without first having obtained the consent of the Mortgagor or such other person, and in the latter event, the Mortgagor and all such other persons shall continue liable to make such payments according to the terms of any such agreement of extension or modification unless expressly provided for to the contrary herein or released and discharged in writing by the Mortgagee. Regardless of consideration, and without the necessity for any notice to or consent by the holder of any subordinate lien on the Mortgaged Premises, the Mortgagee may release the obligation of anyone at any time liable for any of the indebtedness secured by the Mortgage or any part of the security held for the indebtedness and may extend the time of payment or otherwise modify the terms of the Mortgage Note and/or the Mortgage without, as to the security or the remainder thereof, in anywise impairing or affecting the lien of the Mortgage or the priority of such lien, as security for the payment of the indebtedness as it may be so

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

extended or modified, over any subordinate lien. The holder of any subordinate lien shall have no right to terminate any lease affecting the Mortgaged Premises whether or not such lease be subordinate to the Mortgage. The Mortgagee may resort for the payment of the indebtedness secured hereby to any other security therefor held by the Mortgagee in such order and manner as the Mortgagee may elect.

15. Security Agreement. This Mortgage shall also be deemed to be a security agreement and Uniform Commercial Code Financing Statement and the Mortgagor does hereby grant to the Mortgagee a security interest in all of the real estate fixtures and building equipment including but not limited to machinery and equipment attached to and appurtenant to the Mortgaged Premises and in any replacements therefor or additions thereto. The Mortgagor, from time to time when reasonably requested by the Mortgagee will execute and deliver such documents as the Mortgagee may request to preserve and maintain the priority of the lien created by this Mortgage, and the Mortgagor shall pay to the Mortgagee on demand any expenses incurred by the Mortgagee in connection with the filing of such documents and of such renewals thereof as may be required to perfect and maintain the security interest granted herein.

16. Cumulative Rights. The rights of the Mortgagee arising under the terms, covenants and conditions contained herein or in the Mortgage Note, shall be separate, distinct and cumulative and none of them shall be an exclusion of the others and may be exercised singly or concurrently. No act of the Mortgagee shall be construed as an election to proceed under any one provision of this Mortgage or of the Mortgage Note to the exclusion of any other provision, anything herein or otherwise to the contrary notwithstanding.

17. Non-Waiver; Waiver of Jury Trial. No action, delay or failure on the part of the Mortgagee to exercise any right to remedy hereunder shall operate as a waiver thereof and such rights and remedies shall be deemed continuous, nor shall a partial exercise preclude full exercise thereof; and no such right or remedy shall be deemed abridged or modified by any course of conduct and no waiver thereof shall be predicated thereon, nor shall failure to exercise any such right or remedy subject the Mortgagee to any liability. All rights and remedies of the Mortgagee shall be cumulative and may be exercised singly or concurrently. Notwithstanding anything to the contrary herein contained, the Mortgagor hereby waives trial by jury, and agrees to pay all costs and expenses of any action or preparation for any action to enforce this Mortgage and the Mortgage Note which it secures (whether or not the same be actually commenced) including reasonable attorneys' fees, and said amount shall be a lien upon the Mortgaged Premises above described in the same manner and with

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

the same force and effect as if such additional expenses and fees were part of the original principal sum of this Mortgage.

18. Sale of Mortgaged Premises. In case of a foreclosure sale or other sale of the Mortgaged Premises, pursuant to the terms of this Mortgage the Premises may at the option of the Mortgagee be sold in one (1) parcel and Mortgagor hereby waives any right to demand or request a sale in more than one (1) parcel, or at the option of the Mortgagee the same may be sold in more than one (1) parcel and Mortgagor hereby waives any right to demand or request that the Premises be sold in only one (1) parcel.

19. Access to Mortgaged Premises. Mortgagee may upon reasonable notice to the owner and during normal business hours except in the case of emergencies, enter upon the Mortgaged Premises and inspect the same but Mortgagee shall not be obligated to make any such entry or inspection.

20. Lien Not Impaired. The lien of this Mortgage shall remain in full force and effect during and shall not be diminished or impaired by any postponement or extension of the time for payment of the interest or principal indebtedness, or any part thereof.

21. Partial Foreclosure. The obligations of the Mortgagor under this Mortgage and under the Mortgage Note secured by this Mortgage, shall continue until the entire debt is paid, notwithstanding any action or actions of partial foreclosure which may be brought to recover any amount or amounts for installments of principal, interest, taxes, assessments, water rates or fire or other insurance premiums due and payable under the provisions of the Mortgage.

22. Situs. This Mortgage and all of the rights, remedies and obligations hereunder shall be governed by the laws of the State of New Jersey and all terms, covenants and agreements herein and in the Mortgage Note secured by this Mortgage shall be construed as giving the Mortgagee rights additional to and not exclusive of those conferred under such laws.

23. Attorney-In-Fact. The Mortgagor agrees to execute, and hereby irrevocably appoints the Mortgagee as its attorney-in-fact to execute and file on its behalf any financing statements, or other statements (other than financing statements) requested by Mortgagee, with the appropriate public office in connection with any of the personal property or fixtures covered by this Mortgage, and said power of attorney shall be deemed coupled with an interest and shall be irrevocable.

24. Purchase Money Mortgage. This Mortgage is a purchase money Mortgage given to secure a portion of the purchase money or consideration for which the Mortgaged Premises were conveyed by

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Mortgagee to Mortgagor and is intended to be recorded simultaneously with the Deed to the Mortgaged Premises to Mortgagor.

25. Successors and Assigns. All of the covenants and conditions hereinabove set forth shall inure to the benefit of and shall apply to and bind the parties and their respective heirs, executors, administrators, successors and assigns.

26. Article Headings. The article headings in this Agreement are for convenience of reference only and shall not be deemed to define, limit, or describe the scope and intent of this Agreement, or alter or affect any provisions.

27. Notices. All notices to be given hereunder shall be in writing and shall be deemed to be duly given when mailed by certified mail, postage prepaid, return receipt requested and addressed to the parties at the following addresses (or to such other address as to which any party may notify the other):

If to the Mortgagor:

General Health Care Corporation
P. O. Box 4337
Warren, New Jersey 07059-0337

If to the Mortgagee:

Jersey Liquidators L.L.C.
c/o Robert L. Hurd, Manager
7 Partridge Run
Warren, New Jersey 07059


28. Modifications. This Mortgage is subject to Modification as such term is specifically defined in P.L. 1985, Chapter 353. Any Modification must be in writing and consented to in all respects by the Mortgagor and Mortgagee.

IN WITNESS WHEREOF, the Mortgagor has duly executed and delivered this Mortgage the day and year first above written.

THE MORTGAGOR HEREBY DECLARES AND ACKNOWLEDGES THAT THE MORTGAGOR HAS RECEIVED, WITHOUT CHARGE, A TRUE COPY OF THIS MORTGAGE AND THE UNDERLYING OBLIGATION SECURED THEREBY.

ATTEST:

GENERAL HEALTH CARE CORPORATION



Carol Siciliano, Secretary

by: 

Robert L. Hurd, President

96315578

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPYCHICAGO TITLE INSURANCE COMPANY
COMMITMENT FOR TITLE INSURANCE

SCHEDULE A (CONTINUED)

ORDER NO.: 1401 007545969 D2

5. THE LAND REFERRED TO IN THIS COMMITMENT IS DESCRIBED AS FOLLOWS:

PARCEL 1:

LOTS 11, 12, 13, 14, 15, 16 AND 17 IN BLOCK 2 IN FRED W. BRUMMELL AND COMPANY'S LINCOLN BRYN-MAWR WESTERN SUBDIVISION, BEING A SUBDIVISION OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 12 AND THAT PART EASTERLY OF LINCOLN AVENUE OF THE WEST 1/2 OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 12 (EXCEPTING THEREFROM THAT PART THEREOF LYING SOUTH OF A LINE 200.0 FEET NORTH OF THE NORTH LINE OF BERWYN AVENUE) ALL IN TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT STREETS AND ALLEYS) ACCORDING TO THE PLAT OF SAID SUBDIVISION FILED FOR RECORD IN THE RECORDER'S OFFICE OF COOK COUNTY, ILLINOIS ON THE 12TH DAY OF APRIL 1923, AS DOCUMENT NO. 7879542 AS CORRECTED BY CERTIFICATE FILED FOR RECORD IN THE RECORDER'S OFFICE OF COOK COUNTY, ILLINOIS ON APRIL 30, 1923 AS DOCUMENT NO. 7905451

PARCEL 2:

LOT 18 AND LOT 19 (EXCEPT THAT PART THEREOF, LYING WEST OF A LINE DRAWN FROM THE NORTHWEST CORNER OF SAID LOT 19 TO A POINT IN THE SOUTH LINE OF SAID LOT, 60 FEET WEST SAID LOT) IN BLOCK 2 IN FRED W. BRUMMELL AND CO'S LINCOLN BRYN MAWR WESTERN SUBDIVISION, OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 12, AND THAT PART EASTERLY OF LINCOLN AVENUE, OF THE WEST 1/2 OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 12 (EXCEPTING THEREFROM THAT PART THEREOF LYING SOUTH OF A LINE 200.0 FEET NORTH OF THE NORTH LINE OF BERWYN AVENUE) ALL IN TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT STREETS AND ALLEYS) ACCORDING TO THE PLAT OF SAID SUBDIVISION FILED FOR RECORD IN THE RECORDER'S OFFICE OF COOK COUNTY, ILLINOIS ON THE 12TH DAY OF APRIL 1923, AS DOCUMENT NO. 7879542 AS CORRECTED BY CERTIFICATE FILED FOR RECORD IN THE RECORDER'S OFFICE OF COOK COUNTY, ILLINOIS ON APRIL 30, 1923, AS DOCUMENT NO. 7905451

96345578

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

STATE OF NEW JERSEY, COUNTY OF *SOMERSET*

SS.:

I CERTIFY that on *MARCH 26*, 1996

Carol Siciliano personally came before me and acknowledged under oath, to my satisfaction, that:

- (a) this person is the secretary of General Health Care Corporation, the corporation named in this document;
- (b) this person is the attesting witness to the signing of this document by the proper corporate officer who is Robert L. Hurd, President of the corporation;
- (c) this document was signed and delivered by the corporation as its voluntary act duly authorized by a proper resolution of its Board of Directors;
- (d) this person knows the proper seal of the corporation which was affixed to this document; and
- (e) this person signed this proof to attest to the trust of these facts.

Carol Siciliano

Carol Siciliano

Signed and sworn to before me
on *MARCH 26*, 1996.

Pat G. Collins

PAT G. COLLINS
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Aug. 16, 1998

Q:\WP50\PERM\H\209-3MAP.MTG
March 21, 1996

96345578

UNOFFICIAL COPY

Property of Cook County Clerk's Office