

Dubois County Bank
P.O. Box 550
Jasper, IN
47547-0550

COMMERCIAL REAL ESTATE MORTGAGE AND
ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT

92008518

This Agreement is made on this 20th day of September, 1991, between 21st Century Health Systems, an Indiana partnership composed of Wayne Seufert and Robert A. Heuel, of 2109 Green Valley Rd., New Albany, Indiana, 47150, Wayne Seufert, of 2109 Green Valley Rd., New Albany, Indiana, 47150, and Robert A. Heuel of 2109 Green Valley Rd., New Albany, Indiana, 47150, hereinafter collectively referred to as "Mortgagor", and Dubois County Bank, One DCB Plaza, Jasper, Indiana, 47546, hereinafter referred to as "Mortgagee" or "Lender". The Mortgagor in consideration of the principal amount shown below and for other valuable consideration, the receipt of which is acknowledged, hereby mortgages and warrants to the Lender, its successors and assigns, forever, all of its/his/their interest in the following land, leases relating to such land, and other property described below, together with all privileges, improvements, licenses and permits, rents and profits, easements, hereditaments, appurtenances, equipment, and other tangible and intangible property of whatsoever description which may now or hereafter be located, situated or affixed on and used in connection therewith (hereinafter called the Property):

Document is

The Northwest Quarter of the Northeast Quarter of Section 9, Township 35 North, Range 8 West, of the 2nd P.M., except the North 733.33 feet thereof, in Lake County, Indiana.

the Lake County Recorder!

The East 210 feet of the West 726 feet of the North 733.33 feet of the Northwest Quarter of the Northeast Quarter of Section 9, Township 35 North, Range 8 West, of the 2nd P.M., in Lake County, Indiana, except the North 50 feet taken for road purposes.

This land is not currently owned by Mortgagor or any one of them, but 21st Century Health System holds leases, together with options to purchase, against such land: (1) Lease agreements entered into December 17, 1985 by and between RWB Medical Income Properties 1 Limited Partnership, as Landlord, and H. Walsh, Inc., as Tenant, which was subsequently assigned by H. Walsh, Inc. to 21st Century Health Systems, as more particularly set forth in Affidavit dated the ___ day of ___ and recorded on the ___ day of ___ as Document No. ___, in Record Book ___, page ___, and (2) Sublease agreements entered into on September 1, 1989, by and between 21st Century Health Systems, as Sublandlord, and Paico Enterprises, Inc., as Subtenant, as more particularly set forth in Affidavit dated the ___ day of ___ and recorded on the ___ day of ___ as Document No. ___, in Record Book ___, page ___,

This Property is currently known as Merrillville Convalescent Center.

The within mortgage is to secure the indebtedness owed by Mortgagor or any one of them to Mortgagee, which is currently in the approximate sum of _____, (hereinafter included in the term "Indebtedness") together with interest at the rate set forth in the loan documents evidencing such indebtedness. All advances made pursuant to such loan documents shall be secured on the date of this Mortgage.

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Notwithstanding any provision to the contrary Mortgagor's covenants and agreements set forth herein are limited to that right, title and interest in the Property held by Mortgagor and to be held by Mortgagor (which at this time is that of a tenant and sublandlord, of the Land) and are limited to the terms, conditions and agreements creating such right, title and interest and of any other agreements which have priority under the law to the covenants and agreements set forth herein, and to the extent that such terms are in conflict the covenants and agreements herein shall be modified.

The Mortgagor Covenants and Agrees With the Lender as Follows:

1. This mortgage secures the indebtedness referred to above as may be evidenced by a promissory note or notes of even, prior or subsequent date hereto and every other indebtedness of any and every kind now or hereafter owing from Mortgagor to Lender howsoever created or arising, whether primary, secondary or contingent, together with any interest or charges provided in or arising out of such indebtedness, as well as the agreements and covenants of this mortgage, any promissory note or of any other mortgage, assignment of leases or rents, security agreement, loan agreement, guarantee, or any other agreement of whatsoever nature, whether written or oral, now existing or hereafter arising between the Mortgagor or any one of them and the Lender (such indebtedness being hereinafter all referred to as the "Indebtedness" and such documents being herein all referred to as "loan documents").

2. The Mortgagor promises to pay the Indebtedness in accordance with the terms thereof and to perform all of the terms and conditions from which the Indebtedness arise. A charge for damages incurred equal to the default rate will be paid in addition to the rate of interest otherwise accruing upon any of the indebtedness secured hereby from the date of default in the terms of such Indebtedness until such default is cured or redemption from sale under foreclosure of the Property occurs, whichever event shall first occur.

3. The Mortgagor promises at all times to preserve and to maintain the Property and every part hereof in good repair, working order, and condition, and will from time to time, make all needful and proper repairs so that the value of the Property shall not in any way be impaired. As to that Property which are licenses, permits, contracts, leases and other intangible property, Mortgagor promises to keep such Property in full force and effect during the term thereof. The Lender shall have the right and access to inspect the Property at all reasonable times and if the Property, or any part thereof, shall require inspection, repair, or maintenance which the Mortgagor has failed to provide, the Lender, after reasonable notice, may enter upon the Property to effect such obligation; and the cost thereof shall be added to the Indebtedness and paid on the Lender's demand by the Mortgagor.

4. The Mortgagor promises to pay and to discharge liens, encumbrances, taxes, assessments, and governmental charges at any time levied or assessed against the Mortgagor or the Property, or when due and the Mortgagor will not do or permit to be done any act of whatsoever nature which would impair the lien of this mortgage; provided, however, that the Mortgagor shall not be required to pay any tax, assessment, or governmental charge so long as the Mortgagor in good faith disputes the validity thereof and provides for payment of such taxes in a manner satisfactory to Lender or bonds over any mechanic's lien at 125% of the stated amount of the lien or causes the title insurance company insuring Lender to insure over such lien, in the event the Mortgagor fails in the dispute.

5. The Mortgagor promises to keep the Property insured against such risks, in such form and with such carriers as are provided in the Promissory Note(s) which this Mortgage secures. The Mortgagor hereby directs each and every insurer of the Property to make

payment of loss to the Lender as provided in the Promissory Note(s).

6. The Mortgagor hereby assigns to the Lender all judgments, decrees, and awards for injury, damage, or condemnation of or to the Property and authorizes the Lender, at its sole option, to apply the proceeds thereof to the payment of the Indebtedness in such manner as the Lender may elect.

7. The Mortgagor promises to abstain from the commission of any waste on the Property and to comply with all present and future statutes, regulations, and rules of any governmental authority governing the Property or in any way concerning the use and occupancy thereof.

8. The Mortgagor promises not to remove any part of the Property from its present location, except for replacement, maintenance and relocation in the ordinary course of business, nor to attempt to sell or otherwise dispose of, except as herein provided, any or all of its interest in any part of or all of the Property without first obtaining the written consent of the Lender.

9. As for hazardous substances:

(a) Mortgagor hereby represents that neither the Mortgagor nor any other person within Mortgagor's knowledge, based upon reasonable investigation, has ever caused or permitted any Hazardous Substances to be placed, held, located or disposed of on, under or at the premises or any part thereof and neither the premises or any part thereof, has ever been used (whether by the Mortgagor or by any other person) as a dump site or storage site (whether permanent or temporary) for any Hazardous Substances.

(b) Mortgagor hereby agrees to indemnify the Mortgagee and hold the Mortgagee harmless from and against any and all losses, liabilities, including strict liability, damages, injuries, expenses, including reasonable attorneys' fees, claims for damage to the environment, claims for owed penalties, costs of any settlement or judgment and claims of any and every kind whatsoever paid and incurred or suffered by, or asserted against, the Mortgagee by any person or entity or governmental agency for, with respect to, or as a direct or indirect result of, the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission, discharging or release from, the premises of any Hazardous Substance (including, without limitation, any losses, liabilities, including strict liability, damages, injuries, expenses, including reasonable attorneys' fees, costs of any settlement or judgment or claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act, any so called federal, state or local "Superfund" "Superlien" law, statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability, including strict liability, substances or standards of conduct concerning any Hazardous Substance), regardless of whether or not caused by, or within the control of Mortgagor.

(c) For purposes of this mortgage, "Hazardous Substances" shall have the meaning ascribed in and shall include those substances listed in 42 U.S.C. 9601 et seq. and the regulations promulgated thereunder (as amended from time to time) and includes oil and oil waste as those terms are defined in the Clean Water Act, 33 U.S.C. 1251 et seq. and regulations promulgated thereunder as amended from time to time and the Resource, Conservation and Recovery Act, 42 U.S.C. 6901 et seq. and shall include any other elements or compounds which are contained in the list of hazardous substances adopted by the United States Environmental Protection Agency (EPA) and the list of toxic pollutants designated by Congress or the EPA or defined by any other Federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of

conduct concerning, any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect.

(d) If Mortgagor receives any notice (i) of the happening of any event involving the use, spill, release, leak, seepage, discharge or cleanup of any Hazardous Substance, or (ii) of any complaint, inspection by any governmental agency which lists any noncompliance, order citation or notice with regard to air emissions, water discharges, or any other environmental, health or safety matter affecting Mortgagor (an "Environmental Complaint") from any person or entity (including without limitation the EPA) then Mortgagor shall immediately notify Mortgagee orally and in writing of said notice.

(e) Mortgagee shall have the right but not the obligation and without limitation of Mortgagee's rights under this Mortgage, to enter onto the premises or to take such other actions as it deems necessary or advisable to cleanup, remove, resolve, or minimize the impact of, or otherwise deal with, any such Hazardous Substance or Environmental Complaint following receipt of any notice from any person or entity (including without limitation the EPA) asserting the existence of any Hazardous Substance or an Environmental Complaint pertaining to the premises or any part thereof which, if true, could result in an order, suit or other action against Mortgagor and/or which, in the sole opinion of the Mortgagee, could jeopardize its security under this Mortgage. All reasonable costs and expenses incurred by Mortgagee in the exercise of any such rights shall be secured by this Mortgage and shall be payable by Mortgagor upon demand.

(f) If Mortgagor or Lender receives any notice of the happening of any event involving the use, spill, release, leak, seepage, discharge, or clean up of any Hazardous Substance, or of any complaint, inspection by any governmental agency which lists any noncompliance, order, citation, or notice with regard to air emissions, water discharges, or any other environmental, health, or safety matter affecting Mortgagor or the premises, or if Mortgagor receives information that Hazardous Substances have been placed, held, located or disposed of on, under, or at the premises or any part thereof or that the premises or any part thereof has been used as a dump site or storage for any Hazardous Substances, Mortgagee shall have the right, in its sole discretion, to require Mortgagor to perform (at the Mortgagor's expense) an environmental audit and, if deemed necessary by Mortgagee, an environmental risk assessment, each of which must be satisfactory to Mortgagee, of Mortgagor's premises, hazardous waste management practices and/or hazardous waste disposal sites used by Mortgagor. Said audit and/or risk assessment must be by an environmental consultant satisfactory to Mortgagee. Should Mortgagor fail to perform said environmental audit or risk assessment within 30 days of the Mortgagee's written request, Mortgagee shall have the right but not the obligation to retain an environmental consultant to perform said environmental audit or risk assessment. All costs and expenses incurred by Mortgagee in the exercise of such rights shall be secured by this Mortgage and shall be payable by Mortgagor upon demand or charged to Mortgagor's loan balance at the discretion of Mortgagee.

10. At any time, upon a request of the Lender, the Mortgagor will execute and deliver to the Lender, and if appropriate, cause to be recorded, such further mortgages, assignments, assignments of leases and rents, security agreements, pledges, financing statements, or such other document as the Lender may be required, in the Lender's sole discretion, to effectuate, complete, and to perfect as well as to continue to preserve the Indebtedness, or the lien or security interest created by this mortgage. In the event the Mortgagor shall fail or refuse to execute and deliver any such document to the Lender, the Mortgagor hereby constitutes and appoints the Lender, or any of its officers or employees, as the Mortgagor's true and lawful attorney in fact to do so, and the expenses thereof shall be added to the Indebtedness and paid by the Mortgagor upon demand by the Lender.

11. As additional security for the Indebtedness and the performance of all of the Mortgagor's covenants hereunder, the Mortgagor and each one of them:

(a) hereby grants to the Lender a security interest in any personal property or fixtures in which the Mortgagor or any one of them has an interest which may now or hereafter constitute any part of the Property, in all personal property in possession of the Lender but belonging to the Mortgagor, and in any balance of deposit account with the Lender which may be applied by the Lender upon the Indebtedness in the event of default hereunder; and

(b) hereby sells, assigns, transfers and sets over to the Lender all of the rents, profits and income under any lease or leases of the Property (including but not limited to those leases specifically described as part of the Property), including any extensions, amendments, or renewals thereof, whether due or to become due, including all such leases in existence or coming into existence during the period this mortgage is in effect. This assignment of rents shall run with the land and be good and valid from the date of the recording of this instrument. This assignment shall continue to be operative during the period of any foreclosure or other action to enforce this mortgage, during any receivership created hereunder, and during the period of redemption, including the period of deficiency in the repayment of the Indebtedness. The Mortgagor acknowledges that this assignment is given as collateral security only and shall not be construed as obligating the Lender to perform any of the covenants or undertakings required to be performed by the Mortgagor contained in any such assigned leases. In the event of Mortgagor's default, the Lender or receiver upon the Mortgagor's default, the Lender or receiver (whichever is applicable) may thereafter collect the rents and income therefrom, rent or lease the Property or any portion thereof upon such terms as the Lender or receiver (whichever is applicable) may deem, in its sole discretion, advisable, and apply all proceeds derived therefrom to: (i) preservation of the Property; (ii) payment of taxes; (iii) payment of insurance premiums; (iv) payment of interest or principal due on the Indebtedness.

In furtherance of the foregoing assignment, the Mortgagor and each of them hereby irrevocably authorizes and empowers the Lender in its own name, or in the name of its nominees, or in the name of the Mortgagor, or as its attorney, to ask, demand, sue for, collect and receive any and all rentals and security deposits to which the Lender is or may become entitled under the Leases, and to enforce compliance with all the terms and provisions of the Leases.

Mortgagor agrees that it will not collect rents due on the Leases more than one (1) month in advance of the scheduled date for payment. Mortgagor covenants and agrees that it will perform all of the obligations to be performed under the terms of the Leases, and hereby irrevocably authorizes and empowers the Lender, in its own name or in the name of its nominee, or in the name of the Mortgagor or its attorney on the happening of any failure by the Mortgagor to perform, or cause to be performed, any such obligation, all at the Mortgagor's expense.

Mortgagor covenants and agrees with the Lender that in the event of any suit, proceeding or action brought by the Lender under the Leases for any installment of, or interest on, any rental payment or other sum owing thereunder, or to enforce any provisions of such Leases, the Mortgagor will save, indemnify and keep the Lender harmless from and against all expense, loss or damage suffered by reason of this assignment or any defense, setoff, counterclaim or recoupment whatsoever of the lessees thereunder or their successors, arising out of a breach by the Mortgagor or any obligation under the Leases or arising out of any other indebtedness or liability at any time owing to the lessee of their successors from the Mortgagor.

Mortgagor will, from time to time, execute all such financing statements and supplemental instruments reasonably requested by the Assignee in order to confirm or further assure the assignment made hereby and the provisions hereof.

The Mortgagor covenants with the Lender to observe and perform all of the obligations imposed upon it under the Leases; and, unless prior written consent is given or unless required under the terms of the Leases by Lender, (i) not to do or permit to be done anything to impair the security of the Leases; (ii) not to execute any other assignment of Lessor's interest in the Leases or any other assignment of Rents; (iii) not to subordinate any Leases or right to receive Rents to any encumbrance, or permit, consent or agree to such subordination; (iv) not to alter, modify or change the terms of the Lease having an unexpired term of more than one (1) year, or cancel or terminate any such Lease, or accept a surrender thereof; (v) not to convey or transfer, or suffer or permit a conveyance or transfer of the premises demised under any Lease, or of any interest therein; (vi) not to alter, modify or change the terms of any guaranty of any Lease having an unexpired term of more than one (1) year or cancel or terminate such guaranty; (vii) if an Event of Default has occurred not to make any settlement for damages for termination of any of the Leases under the Federal Bankruptcy Code, or under any other federal, state or local statute, and if such consent is given, any check in payment of such damages shall be made payable to both Mortgagor and Lender and Mortgagor hereby assigns any such payment to Lender, to be applied to the Indebtedness as Lender may elect, and agrees to endorse any check for such payment to the order of Lender; and (viii) at the time of transfer to the Assignee any and all subsequent Leases.

12. The following shall constitute default of this mortgage:

(a) Default in any payment of interest or principal upon the Indebtedness when due without notice, if no notice is required under the Loan Documents, and, if notice is required under the Loan Documents, after such default continues for a period therein provided;

(b) Default of any other covenant, term or condition or agreement contained in this Mortgage after such default continues for ten days after written notice, or a default of any covenant, term or condition or agreement contained in any Loan Document, out of which the Indebtedness arises or which governs any of the terms of the Indebtedness without notice, if no notice is required therein, and, if notice is required therein, after such default continues for a period therein provided;

(c) The insolvency of Mortgagor;

(d) The filing by or against the Mortgagor or any one of them of any insolvency, bankruptcy or receivership proceeding;

(e) The nonpayment of any taxes or insurance when due, which shall constitute waste or entitle the Lender to the appointment of a receiver under applicable law, which failure continues for a period of ten (10) days after written notice;

(f) The sale or transfer by Mortgagor or any one of them of any interest in the Property, whether by deed, land contract, contract of sale of the like (except for the sale or transfer by one of the Mortgagors to the other) which is not set aside after ten (10) days written notice;

(g) The Lender shall in good faith believe that the prospect of due and punctual payment of any or all of the obligations impaired; and

(h) The Lender deems itself insecure for any reason

whatsoever after five days written notice of the reason for Lender's insecurity.

13. In the event of default, the Lender may, without demand or notice, pay any taxes, assessments, premiums or liens required to be paid by the Mortgagor, effect any insurance provided for herein, make such repairs, cause the abstracts of title or title insurance policy and tax histories of said premises to be certified to date, or procure new abstracts of title or title insurance and tax histories in case none were furnished to it, and procure title reports covering said premises, including surveys. The sums paid for any such purposes shall be added to the Indebtedness and shall bear interest at the default rate specified above until paid. In the event of foreclosure, the abstracts of title or title insurance shall become the property of the Lender. All abstracts of title, title insurance, tax histories, surveys, and other documents pertaining to the Indebtedness shall remain in the Lender's possession until the Indebtedness is paid in full.

14. In the event of default, the Lender may, without notice, and at its option, declare the entire Indebtedness due and payable, as it may elect, regardless of the date or dates of maturity thereof and, foreclose this mortgage and sell the Property, pursuant to the statute in such case made and provided, and out of the proceeds of the sale to retain the sums then due hereunder and all costs and charges of the sale, including attorneys fees, rendering any surplus monies to the party or parties entitled to the excess. In the event of default or the commission of waste, the Lender shall forthwith be entitled to the appointment of a receiver of the property and of the earnings, income, issue, and profits hereof, with such powers as the court making such appointments shall confer. **Document is NOT OFFICIAL**
This Document is the property of the Lake County Recorder!
The Mortgagor hereby irrevocably consents to such appointment and waives notice of any application therefor. **IN THE EVENT OF THE SALE OF THIS PROPERTY UNDER THE PROCEDURE FOR FORECLOSURE OF A MORTGAGE BY ADVERTISEMENT, AS PROVIDED BY APPLICABLE LAW, OR IN THE EVENT THE LENDER EXERCISES ITS RIGHTS UNDER THE ASSIGNMENT OF RENTS AND LEASES, THE MORTGAGOR HEREBY WAIVES ANY RIGHT TO ANY NOTICE OTHER THAN THAT PROVIDED FOR SPECIFICALLY BY STATUTE.**

15. The Mortgagor expressly acknowledges that it is the intent of both itself and the Lender to have a default of any of the provisions of this mortgage constitute a default of any other agreement which may now exist or hereafter arise between them and that, likewise, a breach of any such agreement shall constitute a breach and default of this mortgage. It is the expressed intent of the Mortgagor to cross collateralize all of its Indebtedness and Obligations to the Lender **however arising, and whensoever incurred.**

16. It is further agreed that:

(a) no forbearance on the part of the Lender and no extension of the time payment of any of the Indebtedness given by the Lender shall operate to release, discharge, modify, or change or affect the original liability of the Mortgagor herein or of its continued performance of the covenants herein contained or in the covenants and terms of any portion of the liabilities;

(b) any reference to the Lender herein shall also include the Lender's successors and assigns;

(c) the covenants and conditions hereof shall bind and the benefits and advantages hereof shall inure to the respective heirs, executors, administrators, assigns and successors of the parties hereto;

(d) after Mortgagor fails to pay taxes, assessments, or insurance on one occasion, or if Lender in good faith believes that the prospect of due and punctual payment of taxes, assessments, or

insurance is impaired, the Mortgagor agrees to commence paying the Lender, in addition to the payment of indebtedness, a pro rata portion of the taxes, assessments, mortgage guarantee insurance premiums (so long as this mortgage is insured by a mortgage guarantee insurance policy), hazard insurance premiums next to become due, as estimated by the Lender so the Lender will have sufficient funds on hand to pay taxes, assessments and insurance premiums within thirty (30) days before the due date thereof, and to pay the Lender, immediately, any deficit thereon, the monies so held not to bear any interest and, upon default, to be applied by the Lender on account of the Indebtedness; and that

(e) all rights and remedies granted to the Lender hereunder shall be cumulative and not exclusive of one or the other or of any other remedy provided for by law or agreement, and may be exercised either successively or concurrently.

(f) if any provision of this mortgage shall be prohibited by state law, such prohibitions shall apply only to that provision and all other provisions of the mortgage shall remain in full force and effect.

IN WITNESS WHEREOF, said Mortgagor has executed this mortgage the day and year first noted above.

"MORTGAGOR"
21ST CENTURY HEALTH SYSTEMS

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the Lake County Recorder!

By: Wayne Seufert, General Partner Wayne Seufert

By: Robert A. Heuel, General Partner Robert A. Heuel



STATE OF INDIANA, COUNTY OF DUBOIS, SS:

The foregoing instrument was acknowledged before me this 20th day of September, 1991, by Robert A. Heuel and Wayne Seufert, general partners on behalf of 21st Century Health Systems, a limited partnership, and individually.

SUBSCRIBED AND SWORN to before me this 20th day of September, 1991.

My Commission Expires:

5-12-92

Steven C. Bradley
Notary Public

Residing in Spencer County

This instrument prepared by Steven C. Bradley, NOFFSINGER, PRICE, BRADLEY & SHIVELY, 4201-N Mannheim Road, Der Buro Komplex, Jasper, IN 47546