

STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

2000 027119

2000 APR 20 PM 2:29

MORRIS W. CARTER  
RECORDER

**ASSIGNMENT OF LEASES AND RENTS**

mtg # 2000 027118

THIS ASSIGNMENT OF LEASES AND RENTS is made the 14<sup>th</sup> day of April, 2000 by HOBART RETIREMENT L.L.C., an Indiana limited liability company, having a principal address of 2043 South Bend Avenue, PMB 288, South Bend, Indiana 46637 (hereinafter "Assignor") to NATIONAL CITY BANK OF INDIANA, a national banking association, having its principal offices at One National City Center, Indianapolis, Indiana 46255 (hereinafter referred to as "Assignee");

**WITNESSETH:**

FOR VALUE RECEIVED, Assignor hereby grants, transfers and assigns to Assignee the Assignor's entire right, title and interest in and to all leases and rents (the "Leases"), now or hereafter existing on that real estate (the "Leased Premises") legally described in Exhibit "A" attached hereto and made a part hereof, between Assignor as Lessors, and all tenants of the Leased Premises, as Lessee, and any and all renewals, extensions, amendments or replacements thereof. This Assignment includes, but is not limited to, all the rights, power and interest of Assignor under the Leases and the right to all rents, issues, income and profits of the Leased Premises. This Assignment is intended to be an absolute assignment from Assignor to Assignee and not merely the possessing of a security interest; provided that, Assignor shall have the license to manage and collect the rents, issues and income of the Leased Premises not more than thirty (30) days in advance, unless and until, Assignor defaults under the terms and conditions of Assignor's indebtedness to Assignee which is secured hereby.

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**This Assignment is made in consideration of, and for the purpose of:**

- A. Securing the payment of all present and future obligations of Assignor to Assignee, including but not limited to, a Construction Loan Promissory Note in the principal amount of Four Million Five Thousand and No/100 Dollars (\$4,005,000.00), of even date herewith, and all extensions, renewals, amendments or replacements thereof.**
- B. Securing performance and discharge of each and every obligation, covenant and agreement of the Assignor contained in this Assignment, in the Note, and in a Mortgage Security Agreement and Absolute Assignment of Rents and Leases (the "Mortgage") on the Leased Premises granted by Assignor to Assignee, of even date herewith.**

**This Assignment is made on the following terms, covenants and conditions:**

- 1. Assignor represents and warrants: that Assignor is the owner, absolutely and outright, of the Leased Premises and Lessor's interest in the Leases, which interest is herein assigned, and that no other person has any interest or right in or with respect thereto; that Assignor has the absolute right to make the assignment herein without the need for any consent or approval from any person whatsoever; that neither this Assignment nor the exercise of any rights by Assignor hereunder shall cause or create any default under the Leases and that the Leases are valid and unmodified and are in full force and effect.**
- 2. Assignor covenants and agrees as follows: to observe, perform, and discharge, duly and punctually, all and singular the obligations, terms, covenants, conditions and warranties of the Leases on the part of the Lessor thereunder to be kept, observed and performed and to give prompt notice to Assignee of any failure on the part of Assignor to observe, perform, and discharge same; to enforce or secure in the name of the Assignee the performance of each and every obligation, term, covenant, condition, and agreement to be performed by the Lessee under the Leases; to appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the said Leases or the obligations, duties or liabilities of the Assignor and Lessee thereunder; to pay all**

costs and expenses of the Assignee, including attorney fees, incurred in any action or proceeding in which the Assignee may appear, in connection with the Leased Premises or Leases.

3. Subject to the notice and cure periods set forth in the Note and the Mortgage, Assignor agrees that in the Event of Default under the terms and conditions of the Note or Mortgage, Assignee, at its option, shall have the complete right, power and authority then or at any time thereafter to exercise and enforce any or all of the following rights and remedies: (a) to terminate Assignor's rights as Lessor, and to exercise any and all rights of the Lessor under the Leases, including, but not limited to, the right to receive rents, issues, income and profits; (b) to exercise any and all rights and remedies available at law or in equity; and (c) to perform any obligation of Assignor under the Leases without further notice or demand and without releasing Assignor from any obligations herein or under the Leases, which remedies shall be in addition to and cumulative with, all other remedies available at law or in equity.

4. The acceptance by Assignee of this Assignment, with all the rights, powers, privileges and authorities so created, shall not be deemed or construed to constitute Assignee as Lessor or in any event obligate Assignee to appear in or defend any action or proceeding relating to the Leases or the Leased Premises, or take any action hereunder, or to expend any money or incur any expense or perform or discharge any obligation, duty or liability under the Leases nor shall Assignee be liable in any way for any injury or damage to person or property sustained by any person or persons, firm or corporation in or about the Leased Premises.

5. Subject to the notice and cure periods in the Note and Mortgage, Assignor does hereby consent and appoint Assignee the true and lawful attorney, coupled with an interest, of Assignor and in the name, place and stead of Assignors, to demand, sue for or otherwise pursue or exercise any and all rights and remedies of the Lessor under the Leases, including, but not limited to, the right to collect rents, the right to change, modify, release, waive, terminate, alter or amend the Leases, all to the same extent as Assignor might do on its own behalf. The within appointment is irrevocable and continuing and such rights, powers and privileges shall be exclusive to Assignee, its successors and assigns.

6. The failure of Assignee to avail itself of any of the terms, covenants, and conditions of this Assignment for any period of time or at any time or times shall not be construed or deemed to be a waiver of any such right, and nothing herein contained, nor anything done or omitted to be done by Assignee pursuant hereto shall be deemed a waiver by Assignee of any of its rights and remedies hereunder or under the laws of the state in which the Leased Premises are located.

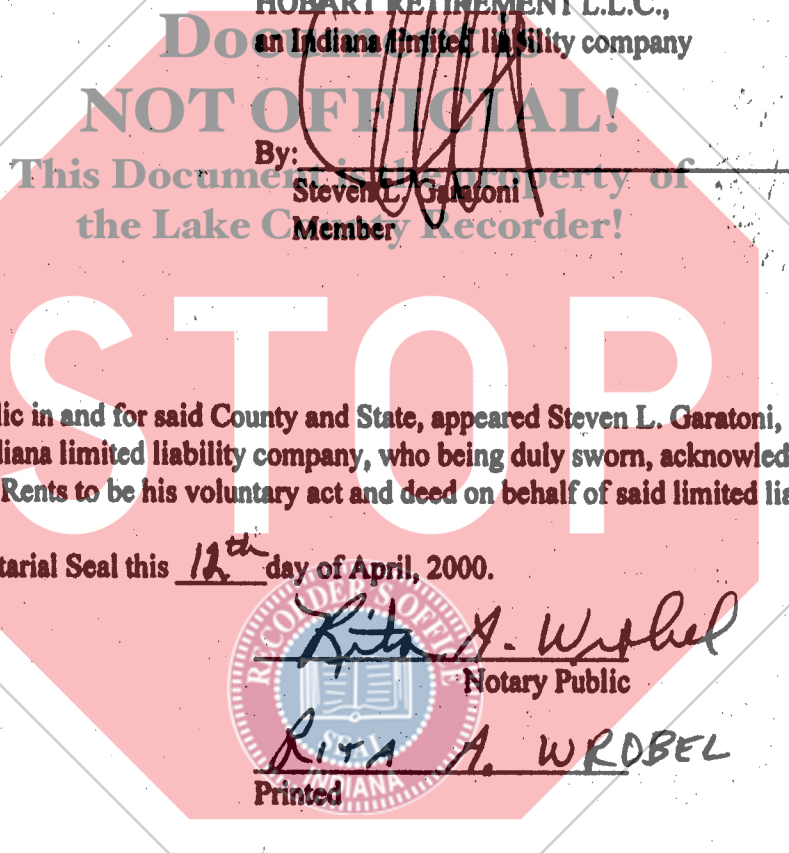
7. The terms, covenants, conditions, and warranties herein contained and powers herein granted shall inure to the benefit of and be binding upon all parties hereto and their respective heirs, personal representatives, administrators, successors, and assigns. Notice of the acceptance of this Assignment is hereby waived. This Assignment is executed in, and shall be governed by and construed under the laws of the State of Indiana.



IN WITNESS WHEREOF, this Assignment has been duly executed by the parties hereto on the day and year first above written.

"ASSIGNOR"  
HOBART RETIREMENT L.L.C.,  
an Indiana limited liability company

By: Steven L. Garatoni  
Member



STATE OF INDIANA )  
                                  ) SS:  
COUNTY OF St. Joseph

Before me, a Notary Public in and for said County and State, appeared Steven L. Garatoni, as a Member of Hobart Retirement L.L.C., an Indiana limited liability company, who being duly sworn, acknowledged the execution of the Assignment of Leases and Rents to be his voluntary act and deed on behalf of said limited liability company.

Witness my hand and Notarial Seal this 12<sup>th</sup> day of April, 2000.

My commission expires:  
7-8-07

Residing in said county:  
St. Joseph

Rita A. Wrobel  
Notary Public  
RITA A. WROBEL  
Printed

This instrument prepared by Brandt N. Hardy, Attorney-at-Law.

Please return to: John J. Thullen, Vice President, National City Bank of Indiana, One National City Center, Suite 200E, Indianapolis, IN 46255.

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## EXHIBIT 'A'

### LEGAL DESCRIPTION:

#### Parcel One:

Lot 33 in Second Amended Final Development Plan of St. Mary Medical Center Campus, as per plat thereof, recorded in Plat Book 86, Page 21, in the Office of the Recorder of Lake County, Indiana.

#### Parcel Two:

A non-exclusive, perpetual storm water drainage easement created in the Drainage Easement Agreement for the benefit of Parcel One, over, under, through and across the Easement Parcel therein described (being the Drainage Pond, being Outlot A in the Second Amended Final Development Plan of St. Mary Medical Center Campus, as per plat thereof, recorded in Plat Book 86, Page 21, in the Office of the Recorder of Lake County, Indiana; the Detention Area and the Connector Pipe Area; said Detention Area being more particularly described as a parcel of land in the Southeast 1/4 of Section 6, Township 35 North, Range 7 West of the Second Principal Meridian, Lake County, Indiana, being a part of the Second Amended Final Development Plan, St. Mary Medical Center Campus, as per plat thereof recorded in Plat Book 86, Page 21, in the Office of the Recorder, Lake County, Indiana, being more particularly described as follows: Commencing at the Northwest corner of the Southeast 1/4 of said Section 6; thence South 85 degrees 48 minutes 49 seconds East (basis of bearings being the East line of the Southeast 1/4 of said Section 6 bearing North 0 degrees 00 minutes 00 seconds East, an assumed bearing) 100.27 feet along the North line of the Southeast 1/4 of said Section 6, said North line also being the North right of way line of 14th Street, as presently laid out, to a point on the East right of way line of Wisconsin Street, as presently laid out; thence South 0 degrees 03 minutes 29 seconds East 60.16 feet along the East right of way line of Wisconsin Street to the South right of way line of 14th Street and the point of beginning; thence South 85 degrees 48 minutes 49 seconds East 399.39 feet along the North right of way line of 14th Street to the beginning of a 25.0 foot radius curve, the center of which bears South 4 degrees 11 minutes 11 seconds West; thence Southeasterly and South 37.41 feet along the arc of said curve through a central angle of 85 degrees 44 minutes 08 seconds to a point on the West line of a 60.0 foot wide ingress/egress and utility easement labeled Washington Street, a private road, as shown on said Development Plan; thence South 0 degrees 04 minutes 41 seconds East 138.31 feet along the West line of said easement; thence South 89 degrees 56 minutes 31 seconds West 259.38 feet; thence North 46 degrees 56 minutes 30 seconds West 222.09 feet to a point on the East right of way line of Wisconsin Street; thence North 0 degrees 03 minutes 29 seconds West 41.0 feet along the East right of way line of Wisconsin Street to the point of beginning, the aforesaid Drainage Pond, Detention Area and Connector Pipe Area collectively referred to as the "Easement Area"), executed by and among St. Mary Medical Center, Inc., an Indiana nonprofit corporation, Grantor, and Hobart Retirement L.L.C., an Indiana limited liability company, Grantee, dated July 22, 1999, and recorded February 9, 2000, as Document Number 2000-009266, and the terms and conditions thereof.