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STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

2007 051823

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MICHAEL A. BROWN  
RECORDER

AGREEMENT REGARDING LEASEHOLD MORTGAGEE RIGHTS

cm620066876

THIS AGREEMENT is made to be effective as of the 30<sup>th</sup> day of APRIL, 2007, by and among DYER MEDICAL PARTNERS, LLC, an Indiana limited liability company (hereinafter referred to as "**Borrower**"), SISTERS OF ST. FRANCIS HEALTH SERVICES, INC., AN INDIANA CORPORATION d/b/a ST. MARGARET MERCY HEALTHCARE CENTERS (hereinafter referred to as the "**Landlord**"), and GENEVA LEASING ASSOCIATES, INC., an Illinois corporation, (hereinafter referred to as "**Lender**").

RECITALS

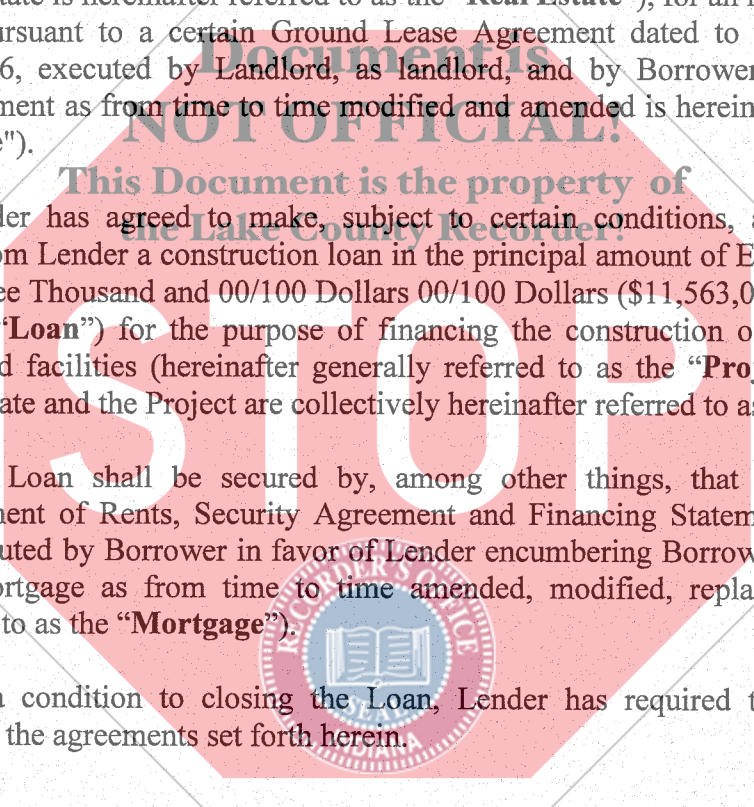
A. Landlord has leased to Borrower certain real estate located in Lake County, Indiana, which real estate is more fully described in Exhibit "A" attached hereto and made a part hereof (such real estate is hereinafter referred to as the "**Real Estate**"), for an initial term of fifty-five (55) years, pursuant to a certain Ground Lease Agreement dated to be effective as of December 12, 2006, executed by Landlord, as landlord, and by Borrower, as tenant, (such ground lease agreement as from time to time modified and amended is hereinafter referred to as the "**Ground Lease**").

B. Lender has agreed to make, subject to certain conditions, and Borrower has agreed to accept from Lender a construction loan in the principal amount of Eleven Million Five Hundred Sixty-Three Thousand and 00/100 Dollars (\$11,563,000.00) (hereinafter referred to as the "**Loan**") for the purpose of financing the construction of a medical office building and related facilities (hereinafter generally referred to as the "**Project**") on the Real Estate (the Real Estate and the Project are collectively hereinafter referred to as the "**Premises**").

C. The Loan shall be secured by, among other things, that certain Leasehold Mortgage, Assignment of Rents, Security Agreement and Financing Statement dated of even date herewith, executed by Borrower in favor of Lender encumbering Borrower's interest in the Premises (such mortgage as from time to time amended, modified, replaced or restated is hereinafter referred to as the "**Mortgage**").

D. As a condition to closing the Loan, Lender has required that Landlord and Borrower enter into the agreements set forth herein.

Chicago Title Insurance Company



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E. Lender is closing the Loan and disbursing the Loan proceeds in reliance upon the agreements contained in this Agreement, but for which it would not close and disburse the Loan.

NOW, THEREFORE, in consideration of the mutual agreements hereinafter contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. The above and foregoing Recitals are true and correct and incorporated herein and form a part of this Agreement.

2. Landlord acknowledges the making of the Loan by Lender and consents to the collateral assignment by Borrower to Lender of all of Borrower's rights, title and interests in, to and under the Ground Lease and in any other agreements now or hereafter entered into by Borrower or Landlord in connection with the Ground Lease, including without limitation any easement agreements executed by Landlord in favor of Borrower, (hereinafter collectively referred to as the "Project Documents") as security for the Loan, but by giving such consent, Landlord acknowledges and agrees that, by such assignment, Lender has not assumed any obligation of Borrower under the Project Documents. Nothing contained herein shall be construed to constitute a subordination by Landlord of its fee simple title in the Real Estate to the liens of the documents and agreements, which secure the Loan.

3. Landlord and Borrower each represent and warrant to Lender that the Ground Lease is currently in full force and effect without modification and that no default or event which, with the giving of notice or lapse of time, would constitute a default has occurred thereunder.

4. Landlord agrees that it will not modify, amend or terminate the Project Documents without the prior written consent of Lender, which consent Lender agrees shall not be unreasonably withheld. In the event Landlord provides written request to Lender for any amendment or modification of any of the Project Documents, if Lender fails to provide to Landlord written notice of its disapproval of any such amendment or modification within twenty (20) days after receiving Landlord's written request, then Lender shall be deemed to have consented to such written request for amendment or modification of the Project Documents. Tenant agrees that it will not surrender or voluntarily cancel or terminate the Lease without the prior written consent of Lender and Landlord agrees that it will not accept or permit a surrender or a voluntary cancellation or termination of the Lease from Tenant without the prior written consent of Lender.

5. Landlord and Borrower each represent and warrant to Lender that all of the conditions and contingencies contained in Section 5.1 of the Ground Lease have been fully satisfied or waived, and Landlord has no further right to terminate the Ground Lease under the provisions of Section 5.1 of the Ground Lease. Landlord further acknowledges

and confirms that it has approved the Preliminary Plans (as that term is defined in the Ground Lease).

6. Upon the occurrence of an event of default under the Loan, Landlord consents to the acquisition of any rights, title and interests of Borrower in, to and under the Project Documents by Lender, and the transfer of such rights, title and interests to a successor or designee of Lender provided that no such transfer shall impair or affect Landlord's right to expect full compliance by any such successor or designee with the terms and conditions of the Project Documents thereafter.

7. In the event that Lender exercises its rights as collateral assignee and acquires Borrower's rights, title and interests in the Ground Lease, then Lender shall be recognized as the tenant under the Ground Lease and Lender shall be vested with all rights and benefits of Borrower under the Project Documents and shall be permitted to transfer such rights, title and interests to a successor or designee of Lender provided that no such transfer shall impair or affect Landlord's right to expect full compliance by any such successor or designee with the terms and conditions of the Project Documents thereafter. Notwithstanding the foregoing, Landlord agrees and acknowledges that so long as Lender has not entered into possession of the Real Estate for purposes of operating the Project, Lender shall not be liable for any rent or other obligations of Borrower under the Project Documents notwithstanding any provision in the Project Documents to the contrary. In the event Lender exercises its rights as collateral assignee and acquires Borrower's rights, title and interests in the Project Documents and enters into possession of the Real Estate for purposes of operating the Project, then Lender shall perform the obligations of Borrower under the Project Documents except that Lender shall not be: (a) liable for any act or omission of Borrower under the Project Documents whenever incurred or occurring, provided however, such exclusion of liability for Lender shall not be deemed to relieve Lender for any obligation to cure any event of default under the Project Documents which is not a personal default described in Paragraph 10 of this Agreement, in the event Lender desires to succeed to the interests of Borrower under the Project Documents; (b) subject to any claims for damages that Landlord had, or may have, against Borrower under or in connection with the Project Documents whenever incurred or occurring, provided however, such exclusion of liability for Lender shall not be deemed to relieve Lender for any obligation to cure any event of default under the Project Documents which is not a personal default described in Paragraph 10 of this Agreement, in the event Lender desires to succeed to the interests of Borrower under the Project Documents; or (c) bound by any amendment or modification of the Project Documents made without Lender's written consent.

8. In the event the Ground Lease is terminated or cancelled for any reason, including without limitation as a result of the rejection of the lease in a bankruptcy proceeding involving Borrower, other than the failure of Lender to cure a default of Borrower pursuant to Paragraph 10 of this Agreement, prior to the payment in full of the Loan, then if requested by Lender within sixty (60) days after the effective date of such termination, Landlord shall enter into a new ground lease with Lender containing substantially the same terms and conditions as the Ground Lease. Landlord further

agrees and acknowledges that it shall not terminate the Ground Lease without providing prior written notice to Lender and further agrees that in the event of such termination, that Landlord shall not take title to the Project unless and until Lender consents to such termination.

9. Landlord recognizes, acknowledges and consents to the liens and security interests of Lender in the assets of Borrower, including without limitation, the Project and the interest of Borrower in the Project Documents and waives any lien or security interest in and to any assets in which Lender has a lien or security interest and further agrees that in the event that Landlord acquires any of the assets of Borrower, including without limitation, the Project, such acquisition shall be subject to the liens and security interests of Lender.

10. Landlord agrees to provide Lender with written notice of any default by Borrower under the Project Documents. Lender shall have the right, but not the obligation, to cure any default of Borrower under the Project Documents within sixty (60) days after receipt of written notice of such default from Landlord. Notwithstanding anything expressed or implied herein or in the Project Documents to the contrary, with regard to any default by Borrower under the Project Documents which Lender has begun action to cure but has not completed such cure during such sixty (60) day period, Landlord will extend Lender's right to cure for such reasonable period of time as may be necessary to cure such default provided Lender is diligently pursuing action to cure any such default. The extended cure period provided to Lender shall include without limitation any period of time (i) during which Lender is diligently pursuing acquisition of Borrower's title and interest in the Premises through foreclosure proceedings or otherwise, (ii) during which Lender's acquisition of Borrower's title and interest in the Premises is stayed by any proceeding in bankruptcy, any injunction or other judicial process, and (iii) after acquisition of Borrower's title and interest in the Premises by Lender during any period in which Borrower or any other party is contesting the validity of the acquisition of Lender's title to the Premises. With respect to those defaults under the Project Documents which are personal to Borrower (herein, "**Personal Defaults**") and are not reasonably capable of being cured by Lender, or with respect to defaults which are not capable of being cured by Lender without possession or ownership of the Premises, Lender shall be deemed to be diligently pursuing a cure of such default if, within the above-described sixty (60) day initial cure period, Lender commences and thereafter pursues (subject to any judicial stays, injunctions or other delays) foreclosure proceedings for Borrower's title and interest in the Premises. Furthermore, in the case of Personal Defaults, Lender shall be deemed to have cured such defaults upon acquiring Borrower's title and interest in the Premises through foreclosure or otherwise. In addition, upon acquiring Borrower's title and interest in the Premises through foreclosure or otherwise Lender shall be granted such additional time under the Project Documents as may be necessary for the substantial completion of the construction of the Improvements (as that term is defined in the Ground Lease) and for the opening of the Premises for operation. Lender shall be subrogated to any claim Landlord may have against Borrower which arises in connection with any default by Borrower under the Project Documents which is cured by any action of Lender, and Borrower agrees that all costs and expenses

incurred by Lender in connection with any such cure, including but not limited to reasonable attorneys fees, shall be payable by Borrower upon demand with interest on all sums not paid upon demand at the rate of interest equal to the sum of the rate of interest provided for under the Loan plus four percent (4%).

11. Landlord and Borrower acknowledge that Lender has not made any representation or warranty to Landlord or Borrower with respect to the value or adequacy of Lender's collateral or otherwise. Without notice to Landlord, Lender reserves the right to (a) increase, renew, extend, compromise or modify the Loan, (b) exercise, fail to exercise, waive or amend any of its rights under any instrument evidencing, securing or delivered in connection with the Loan, (c) release collateral and any obligor of the Loan and (d) apply any amounts paid to Lender in such order of application as Lender in its sole discretion, deems appropriate.

12. Landlord and Tenant acknowledge that (i) Lender is a "Leasehold Mortgagee" under and as defined in the Ground Lease, (ii) the Mortgage constitutes a "Leasehold Security Instrument" under and as defined in the Ground Lease and (iii) Lender is an intended third party beneficiary of all provisions of the Ground Lease relating to a "Leasehold Mortgagee" and/or a "Leasehold Security Instrument", including but not limited to the provisions of Section 11 of the Ground Lease. This Agreement shall serve as Lender's notice to Landlord of Lender's address for notices in accordance with Section 13.4 of the Ground Lease and, notwithstanding any requirements in the Ground Lease to the contrary, Lender shall have been deemed to have satisfied the conditions required in such section for the delivery of such address notice to Landlord.

13. Landlord certifies to Lender that there are no mortgages, deeds of trust, security interests or other liens encumbering Landlord's fee simple interest in the Premises. Landlord agrees that it shall not grant any mortgage, deed of trust, security interest or other lien which encumbers the title of Landlord in the Premises without the prior consent of Lender.

14. Any options or rights in favor of Landlord contained in the Ground Lease to acquire title to the leasehold interest, and other interests, of Borrower in the Premises, including without limitation the right of first offer set forth in Section 13.17 of the Ground Lease, are hereby made subject and subordinate to the rights of Lender under the Mortgage, and such rights shall not apply or extend with respect to any sale or transfer of the leasehold interest, and other interests, of Borrower in the Premises pursuant to (i) a judicial or non-judicial foreclosure sale or (ii) a conveyance in lieu of a judicial or non-judicial foreclosure sale.

15. [This paragraph is intentionally left blank]

16. If requested by Lender from time to time during the term of the Loan, Landlord shall provide to Lender an estoppel certificate regarding Borrower's compliance with the terms of the Ground Lease and such other matters regarding the status of the Ground Lease as Lender may reasonably request.

17. Notwithstanding anything contained herein or in the Project Documents to the contrary, prior to the payment in full of the Loan, all insurance proceeds payable in connection with any casualty, damage or destruction to any portion of the Premises shall be paid to Lender to be applied as provided for herein. In the event (i) there exists an event of default under the Loan or (ii) Lender determines, in its reasonable discretion, that restoration of the Project cannot be completed to Lender's reasonable satisfaction prior to the maturity date of the Loan, or (iii) the Ground Lease or this Agreement will not continue in full force and effect, then all insurance proceeds shall be applied as provided for under the provisions contained in the Mortgage and in such event Landlord hereby subordinates any right that it may have to such insurance proceeds, whether under the Project Documents or otherwise, to the rights and liens of Lender in and to such insurance proceeds. If none of the conditions in the preceding sentence exists, then all insurance proceeds shall be applied as provided for under the provisions contained in the Ground Lease. If at any time any insurance proceeds are being applied as provided for under the provisions contained in the Ground Lease, if requested in writing by Lender to the parties hereto, Lender may elect at any time and from time to time to be designated as the depository for the insurance proceeds which is contemplated under the Ground Lease. In the event Lender is designated as the depository for the insurance proceeds, then, notwithstanding anything contained in the Ground Lease to the contrary, the disbursement by Lender of all net insurance proceeds shall be done in accordance with the construction loan terms, conditions and procedures used for advancing the Loan.

18. Notwithstanding anything contained herein or in the Project Documents to the contrary, prior to the payment in full of the Loan, in the event any portion of the Premises is taken in any proceedings by public authorities (by condemnation or otherwise) or is acquired for public or quasi-public purposes by sale in lieu thereof, then all such awards or sales proceeds which are attributable to any improvements located upon the Real Estate shall be paid to Lender to be applied as provided for in the Mortgage. If any portion of such awards or sales proceeds remain after the payment in full of all sums due and owing to Lender in connection with the Loan, then any remaining sums shall be paid first to Landlord to the extent necessary to give full effect to the terms of the Ground Lease which provide for a different application between Landlord and Borrower.

19. Landlord waives notice of (a) the creation, renewal, amendment, modification, increase, decrease, extension, accrual or assignment of the Loan and (b) the reliance of Lender or its successors and assigns upon this Agreement. Without limiting any of the waivers and consents of Landlord set forth herein, Landlord hereby consents to the execution and delivery by Borrower of such supplements and amendments to the Mortgage and other documents evidencing the Loan as Lender may require in connection with maintaining and confirming the lien of the Mortgage with respect to any future interest, rights and estates of Borrower in any easements and other estates and rights from time to time hereafter created or established which benefit Borrower or the Premises. Such supplements and amendments to the Mortgage and other documents evidencing the Loan shall not affect, modify or impair the obligations of Landlord hereunder.

20. All notices, demands or other communications of a material nature (but excluding all routine correspondence between Landlord to Borrower) to or among the parties hereto relating hereto or to the Project Documents and/or required or permitted to be given hereunder or under the Project Documents shall be in writing and shall be effective (a) upon the third (3<sup>rd</sup>) day after being mailed by certified United States mail, postage prepaid with return receipt requested or (b) upon the following day after being sent by an overnight carrier which provides for a return receipt, to the applicable address specified below:

If to Landlord: Sisters of St. Francis Health Services, Inc.  
d/b/a St. Margaret Mercy Healthcare Centers  
1515 Dragoon Trail  
P.O. Box 1290  
Mishawaka, Indiana 46546  
Attention:

If to Borrower: Dyer Medical Partners, LLC  
c/o Lauth Property Group, LLC  
401 Pennsylvania Parkway  
Indianapolis, IN 46280  
Attn: President

With a copy to Lauth Property Group, LLC  
c/o Vernon Back  
401 Pennsylvania Parkway  
Indianapolis, Indiana 46280  
Attn: General Counsel

If to Lender: Geneva Leasing Associates, Inc.  
1525 Kautz Road  
Suite 600  
West Chicago, Illinois 60185  
Attention: A. Wayne Massey

or to such other addresses as either Landlord, Borrower or Lender may from time to time specify for itself by notice hereunder. Any notice may be given on behalf of Landlord, Borrower or Lender by such party's legal counsel.

21. The agreements of Landlord, Borrower and Lender set forth herein may not be revoked or amended except by written agreement by and among the parties hereto.

22. Notwithstanding anything expressed or implied herein to the contrary, Landlord, Borrower and Lender covenant and agree that in the event any litigation is brought to enforce or defend any right, obligation or remedy of any party hereunder, the prevailing party in any such litigation shall be entitled to recover from the nonprevailing

parties as part of the judgment in such action all legal costs and expenses, including counsel fees, lawfully and reasonably incurred in connection with such litigation.

23. This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana.

24. In the event of a conflict between the terms of either of the Project Documents and this Agreement, the terms of this Agreement shall govern to the extent of such conflict with respect to the rights of Lender as against Landlord.

25. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Notwithstanding anything expressed or implied herein to the contrary, this Agreement is being made in favor of Lender for itself and as agent for any parties which might obtain any participating or syndicated interest in the Loan. All references to "Lender" herein shall be construed to mean Lender for itself and as agent for any parties which might obtain any participating or syndicated interest in the Loan. All rights of Lender in, to and under this Agreement shall pass to, and may be exercised by, any assignee of such rights of Lender, including without limitation all holders from time to time of the Loan.

26. This Agreement may be executed in counterparts, each of which taken together shall constitute one and the same instrument and any party hereto may execute this Agreement by executing any such counterpart. Any party hereto may execute this Agreement by executing any such counterpart. The signature page(s) of any counterpart may be detached from a counterpart [without impairing the legal effect of the signature(s) thereon] and attached to any other counterpart identical thereto except for the signature page attached to it.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals to be effective as of the day, month and year first above written.

[the remainder of this page is intentionally left blank,  
see following separate signature pages for signatures of parties]






**SIGNATURE PAGE FOR BORROWER FOR AGREEMENT REGARDING  
LEASEHOLD MORTGAGEE**

BORROWER:

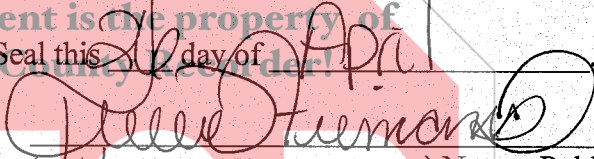
Dyer Medical Partners, LLC

By:   
Printed: Michael S. Curless  
Title: Manager

STATE OF INDIANA            )  
  ) SS:  
COUNTY OF Hamilton    )

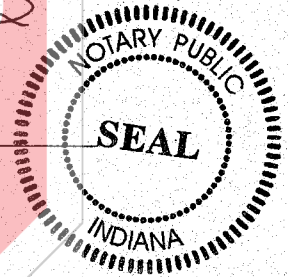
Before me, a Notary Public in and for said County and State, personally appeared Michael S. Curless, a Manager of Dyer Medical Partners, LLC, who, after having been duly sworn, acknowledged the execution of the foregoing Agreement Regarding Leasehold Mortgagee Rights for and on behalf of such limited liability company.

WITNESS, my hand and Notarial Seal this 12 day of April, 2007.

  
Hollie Freeman Notary Public

My Commission Expires:  
5/7/2011

My County of Residence:  
Marion



**SIGNATURE PAGE FOR LANDLORD FOR AGREEMENT REGARDING  
LEASEHOLD MORTGAGEE**

LANDLORD:

Sisters of St. Francis Health Services, Inc.  
d/b/a St. Margaret Mercy Healthcare Centers

By: Kevin D. Leahy  
Printed: Kevin D. Leahy  
Title: President/CEO

ILLINOIS  
STATE OF INDIANA )  
                                  ) SS:  
COUNTY OF COOK )

Before me, a Notary Public in and for said County and State, personally appeared KEVIN D. LEAHY, the PRESIDENT of Sisters of St. Francis Health Services, Inc. d/b/a St. Margaret Mercy Healthcare Centers, who, after having been duly sworn, acknowledged the execution of the foregoing Agreement Regarding Leasehold Mortgagee Rights for and on behalf of such corporation.

WITNESS, my hand and Notarial Seal this 26<sup>th</sup> day of April, 2007.

Ritamarie Leonard  
) Notary Public

My Commission Expires:

12-16-2010

My County of Residence:

Cook

"OFFICIAL SEAL"  
RITAMARIE LEONARD  
NOTARY PUBLIC, STATE OF ILLINOIS  
MY COMMISSION EXPIRES 12/16/2010





**EXHIBIT "A"**

**LEGAL DESCRIPTION**

PARCEL 1 (Office Building Parcel) : That part of the North Half of the Northwest Quarter of Section 13, Township 35 North, Range 10 West of the Second Principal Meridian described as follows: Commencing at the Southwest corner of the North Half of the Northwest Quarter of said Section 13; thence North 00 degrees 01 minutes 20 seconds West, along the West line of the Northwest Quarter of said Section 13, said line being the state line between Illinois and Indiana, a distance of 309.42 feet; thence North 89 degrees 58 minutes 40 seconds East, a distance of 17.94 feet to the point of beginning; thence North 00 degrees 09 minutes 18 seconds West, a distance of 192.33 feet; thence North 89 degrees 50 minutes 42 seconds East, a distance of 102.33 feet; thence South 00 degrees 09 minutes 18 seconds East, a distance of 192.33 feet; thence South 89 degrees 50 minutes 42 seconds West, a distance of 102.33 feet to the point of beginning, also known as Part of Lot 1, Mount Mercy Subdivision, as per plat thereof, recorded in Plat Book 55, page 33, in the Office of the Recorder of Lake County, Indiana.

PARCEL 2 (Easement Parcel): Easements only in favor of the insured and not others indicated as set out in the Access, Parking and Utility Easement Agreement by and between Sisters of St. Francis Health Services, Inc., an Indiana corporation d/b/a St. Margaret Mercy Healthcare Centers and Dyer Medical Partners, LLC, an Indiana limited liability company dated April 30, 2007 and recorded June 7, 2007 as Document Number 2007 046298 in the Office of the Recorder of Lake County, Indiana.

