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STATE OF INDIANA
LAKE COUNTY
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2011 046346

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MICHELLE H. FAJMAN
RECORDER

**RECORDING REQUESTED BY AND WHEN
RECORDED RETURN TO:**

Duane Morris LLP
Attn: Jonathan A. Olick
1540 Broadway
New York, New York 10036

(Space Above For Recorder's Use)

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

**NAME OF
MORTGAGOR(S):**

CROWN POINT VA COMPANY, LLC
Additional names on Page 2 of this document.

**NAME OF
BORROWER(S):**

CROWN POINT VA COMPANY, LLC
Additional names on Page 2 of this document.

**NAME OF
LENDER:**

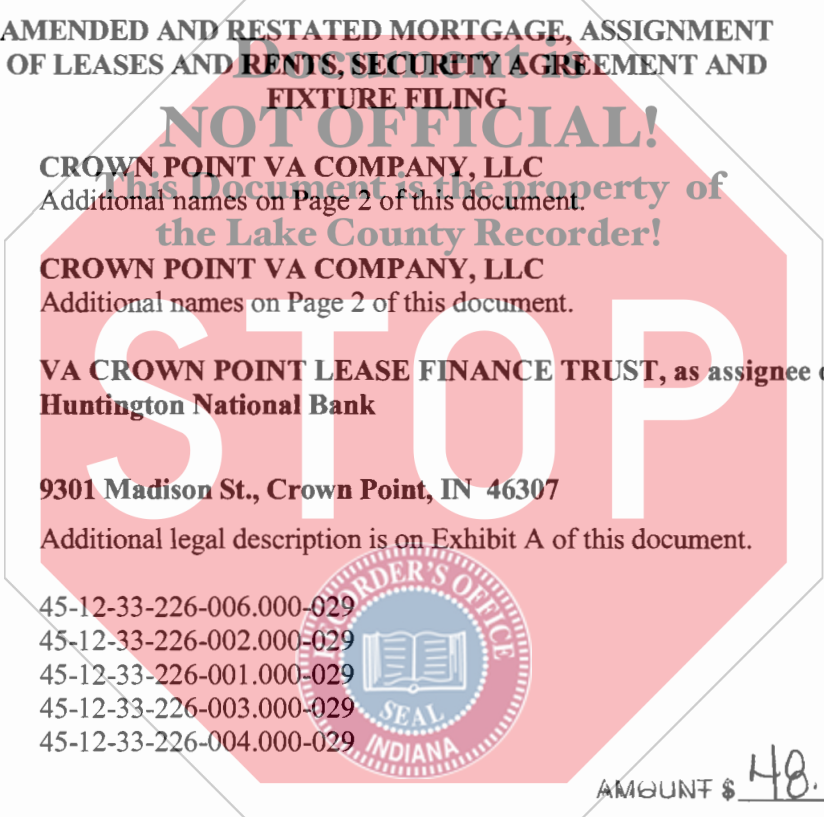
**VA CROWN POINT LEASE FINANCE TRUST, as assignee of The
Huntington National Bank**

**ABBREVIATED
LEGAL
DESCRIPTION:**

9301 Madison St., Crown Point, IN 46307
Additional legal description is on Exhibit A of this document.

**ASSESSOR'S
PROPERTY TAX
PARCEL
ACCOUNT
NUMBER(S):**

45-12-33-226-006.000-029
45-12-33-226-002.000-029
45-12-33-226-001.000-029
45-12-33-226-003.000-029
45-12-33-226-004.000-029



AMOUNT \$ 48.00
CASH _____ CHARGE _____
CHECK # 7928 _____
OVERAGE _____
COPY _____
NON-COM _____
CLERK 44 _____

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

THE PARTIES TO THIS AMENDED AND RESTATED MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (“**Mortgage**”), made as of August 16, 2011, are CROWN POINT VA COMPANY, LLC, an Ohio limited liability company, (“**Mortgagor**”) and VA CROWN POINT LEASE FINANCE TRUST (“**Mortgagee**” or “**Lender**”).

- A. Mortgagor granted to The Huntington National Bank (the “**Original Mortgagee**”) a Construction Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated June 17, 2010 (the “**Original Mortgage**”), which was recorded in the Lake County Records on June 18, 2010, as Document 2010-034926.
- B. Pursuant to an Assignment of Loan Documents, dated the date hereof, and presented for recordation immediately prior to the presentment of this instrument, the Original Mortgagee sold, transferred and assigned (the “**Assignment**”) the Original Mortgage and the indebtedness secured by the Original Mortgage to Mortgagee.
- C. Mortgagee has made a loan to Mortgagor, pursuant to a Loan Agreement, dated as of June 17, 2010, between Mortgagor and Mortgagee, as assignee of Federal Funding Group, LLC, in the original principal amount of \$14,333,000 (the “**Loan**”), the proceeds of which have been held in escrow by Mortgagor pending the disbursement thereof for the Assignment.
- D. Mortgagor and Mortgagee now desire to amend and restate the Original Mortgage in order to secure the Loan and the obligations of Mortgagor to Mortgagee thereunder and under the Loan Agreement.

NOW, THEREFOR, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortgagor and Mortgagee hereby amend and restate the Original Mortgage as follows:

ARTICLE 1. GRANT IN TRUST

- 1.1 **GRANT.** For the purposes of and upon the terms and conditions in this Mortgage, Mortgagor irrevocably grants, conveys and assigns to Lender, with power of sale and right of entry and possession, all of that real property located in the City of Crown Point, County of Lake, State of Indiana, described on Exhibit A attached hereto, together with all buildings and other improvements, fixtures and equipment now or hereafter located on the real property, all right, title, interest, and privileges of Mortgagor in and to all streets, roads, and alleys used in connection with or pertaining to such real property, all water and water rights, minerals, oil and gas, and other hydrocarbon substances in, on or under the real property, all appurtenances, easements, rights and rights of way appurtenant or related thereto, and all air rights, development rights and credits, licenses and permits related to the real property. All interest or estate which Mortgagor may hereafter acquire in the property described above, and all additions and accretions thereto, and the

proceeds of any of the foregoing are collectively referred to herein as the “**Property**”. The listing of specific rights or property shall not be interpreted as a limit of general terms.

- 1.2 **USE OF PROPERTY.** Mortgagor warrants that the Property is not used principally for agricultural or farming purposes.

ARTICLE 2. OBLIGATIONS SECURED

- 2.1 **OBLIGATIONS SECURED.** Mortgagor makes this Mortgage for the purpose of securing: (a) the performance of the obligations contained herein and in that certain Loan Agreement, dated as of June 17, 2010 to which CROWN POINT VA COMPANY, LLC (“**Borrower**”) and Lender are parties (“**Loan Agreement**”); (b) the payment of FOURTEEN MILLION THREE HUNDRED THIRTY-THREE THOUSAND AND NO/100THS DOLLARS (\$14,333,000.00) with interest thereon, according to the terms of that certain Promissory Note (“**Note**”) dated June 17, 2010, executed by Borrower, and payable to Lender, as Lender; (c) any and all extensions, renewals, or modifications of the Note and Loan Agreement, whether the same be in greater or lesser amounts; and (d) payment and performance of any future advances and other obligations that the then record owner of all or part of the Property may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Lender, when such future advance or obligation is evidenced by a writing which recites that it is secured by the Mortgage (collectively the “**Secured Obligations**”).
- 2.2 **INCORPORATION.** The term “obligations” is used herein in its broadest and most comprehensive sense and shall be deemed to include, without limitation, all interest and charges, prepayment charges (if any), late charges and loan fees at any time accruing or assessed on any of the Secured Obligations, together with all costs of collecting the Secured Obligations. All terms of the Secured Obligations and the documents evidencing such obligations are incorporated herein by this reference. All persons who may have or acquire an interest in the Property shall be deemed to have notice of the terms of the Secured Obligations and the rate of interest on one or more Secured Obligations may vary from time to time.
- 2.3 **DEFINED TERMS.** Capitalized terms used herein and not otherwise defined herein have the meanings set forth in Appendix A to the Loan Agreement, and the rules of usage therein set forth apply hereto.

ARTICLE 3. ASSIGNMENT OF LEASES AND RENTS

- 3.1 **ASSIGNMENT.** Mortgagor hereby irrevocably assigns to Lender all of Mortgagor’s right, title and interest in, to and under: (a) all present and future leases of the Property or any portion thereof, all licenses and agreements relating to the management, leasing or operation of the Property, whether such leases, licenses and agreements are now existing or entered into after the date hereof (“**Leases**”) and (b) the rents, issues, deposits and profits of the Property, including, without limitation, all amounts payable and all rights and benefits accruing to Mortgagor under the Leases

(“**Payments**”). The term “**Leases**” shall also include all guarantees of and security for the tenant’s performance thereunder, and all amendments, extensions, renewals or modifications thereto which are permitted hereunder. Lender’s right to the Leases and Payments is not contingent upon and may be exercised without possession of the Property.

3.2 **GRANT OF LICENSE.** Subject to the Assignment of Claims and Notice of Assignment, Lender confers upon Mortgagor a revocable license (“**License**”) to collect and retain the Payments as they become due and payable, until the occurrence of a Default (as hereinafter defined). Upon a Default, the License shall be automatically revoked and Lender may collect and apply the Payments pursuant to the terms hereof without notice and without taking possession of the Property. All payments thereafter collected by Mortgagor shall be held by Mortgagor as trustee under a constructive trust for the benefit of Lender. Mortgagor hereby irrevocably authorizes and directs the tenants under the Leases to rely upon and comply with any notice or demand by Lender for the payment to Lender of any rental or other sums which may at any time become due under the Leases, or for the performance of any of the tenants’ undertakings under the Leases, and the tenants shall have no duty to inquire as to whether any Default has actually occurred or is then existing. Mortgagor hereby relieves the tenants from any liability to Mortgagor by reason of relying upon and complying with any such notice or demand by Lender. Lender may apply, in its sole discretion, any Payments so collected by Lender against any Secured Obligation under the Loan Documents (as defined in the Loan Agreement), whether existing on the date hereof or hereafter arising. Collection of any Payments by Lender shall not cure or waive any Default or notice of Default or invalidate any acts done pursuant to such notice.

3.3 **EFFECT OF ASSIGNMENT.** The foregoing irrevocable assignment shall not cause Lender to be: (a) a mortgagee in possession; (b) responsible or liable for the control, care, management or repair of the Property or for performing any of the terms, agreements, undertakings, obligations, representations, warranties, covenants and conditions of the Leases; (c) responsible or liable for any waste committed on the Property by the tenants under any of the Leases or any other parties, for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee, invitee or other person; (d) responsible for or under any duty to produce rents or profits; (e) directly or indirectly liable to Mortgagor or any other person as a consequence of the exercise or failure to exercise any of the rights, remedies or powers granted to Lender hereunder or to perform or discharge any obligation, duty or liability of Mortgagor arising under the Leases.

ARTICLE 4. SECURITY AGREEMENT AND FIXTURE FILING

4.1 **SECURITY INTEREST.** Mortgagor hereby grants and assigns to Lender a security interest, to secure payment and performance of all of the Secured Obligations, in all of the following described personal property in which Mortgagor now or at any time hereafter has any interest (collectively, the “**Collateral**”):

All goods, building and other materials, supplies, inventory, work in process, equipment, machinery, fixtures, furniture, furnishings, signs and other personal property and embedded software included therein and supporting information, wherever situated, which are or are to be incorporated into, used in connection with, or appropriated for use on the Property; together with all Payments and other rents and security deposits derived from the Property; all inventory, accounts, cash receipts, deposit accounts, accounts receivable, contract rights, licenses, agreements, general intangibles, payment intangibles, software, chattel paper (whether electronic or tangible), instruments, documents, promissory notes, drafts, letters of credit, letter of credit rights, supporting obligations, insurance policies, insurance and condemnation awards and proceeds, proceeds of the sale of promissory notes, any other rights to the payment of money, trade names, trademarks and service marks arising from or related to the ownership, management, leasing, operation, sale or disposition of the Property or any business now or hereafter conducted thereon by Mortgagor; all development rights and credits, and any and all permits, consents, approvals, licenses, authorizations and other rights granted by, given by or obtained from, any governmental entity with respect to the Property; all water and water rights, wells and well rights, canals and canal rights, ditches and ditch rights, springs and spring rights, and reservoirs and reservoir rights appurtenant to or associated with the Property, whether decreed or undecreed, tributary, non-tributary or not non-tributary, surface or underground or appropriated or unappropriated, and all shares of stock in water, ditch, lateral and canal companies, well permits and all other evidences of any of such rights, all deposits or other security now or hereafter made with or given to utility companies by Mortgagor with respect to the Property; all advance payments of insurance premiums made by Mortgagor with respect to the Property; all plans, drawings and specifications relating to the Property; all loan funds held by Mortgagee, whether or not disbursed; all funds deposited with Mortgagee pursuant to any loan agreement; all reserves, deferred payments, deposits, accounts, refunds, cost savings and payments of any kind related to the Property or any portion thereof; all of Mortgagor's right, title and interest, now or hereafter acquired, to the payment of money from Mortgagee to Mortgagor under any swap, derivative, foreign exchange or hedge transaction or arrangement (or similar transaction or arrangement howsoever described or defined) at any time entered into between Mortgagor and Mortgagee in connection with the Note; together with all replacements and proceeds of, and additions and accessions to, any of the foregoing; together with all books, records and files relating to any of the foregoing.

As to all of the above described personal property which is or which hereafter becomes a "fixture" under applicable law, this Mortgage is intended to constitute a fixture filing within the Uniform Commercial Code, as amended or recodified from time to time, for the state wherein the Property is located ("UCC"), and it is acknowledged and agreed that this Mortgage is a "construction mortgage" under such laws and under the applicable UCC for such state, which secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land.

- 4.2 **RIGHTS OF LENDER.** Upon the occurrence of a Default (as hereinafter defined) Lender shall have all the rights of a "Secured Party" under the UCC. In addition to such rights, Lender may, but shall not be obligated to, at any time without notice and at the expense of Mortgagor: (a) give notice to any person of Lender's rights hereunder and enforce such rights at law or in equity;

(b) insure, protect, defend and preserve the Collateral or any rights or interests of Lender therein; (c) inspect the Collateral; and (d) endorse, collect and receive any right to payment of money owing to Mortgagor under or from the Collateral. Lender may: (i) upon written notice, require Mortgagor to assemble any or all of the Collateral and make it available to Lender at a place designated by Lender; (ii) without prior notice, enter upon the Property or other place where any of the Collateral may be located and take possession of, collect, sell, and dispose of any or all of the Collateral, and store the same at locations acceptable to Lender at Mortgagor's expense; and/or (iii) sell, assign and deliver at any place or in any lawful manner all or any part of the Collateral and bid and become the purchaser at any such sales. Notwithstanding the above, in no event shall Lender be deemed to have accepted any property other than cash in satisfaction of any obligation of Mortgagor to Lender unless Lender shall make an express written election of said remedy under the UCC or other applicable law.

Mortgagor acknowledges and agrees that a disposition of the Collateral in accordance with Lender's rights and remedies as heretofore provided is a disposition thereof in a commercially reasonable manner and that five days prior notice of such disposition is commercially reasonable notice. Mortgagor further agrees that any sale or other disposition of all or any portion of the Collateral may be applied by Lender first to the reasonable expenses in connection therewith, including reasonable attorneys' fees and disbursements, and then to the payment of the Secured Obligations.

ARTICLE 5. RIGHTS AND DUTIES OF THE PARTIES

- Document is NOT OFFICIAL! This Document is the property of the Cook County Recorder.**
- STOP**
- 5.1 **PERFORMANCE OF SECURED OBLIGATIONS.** Mortgagor and Borrower shall promptly pay and perform each Secured Obligation when due.
- 5.2 **LOAN AGREEMENT COVENANTS.** The covenants and agreements of Mortgagor set forth in the Loan Agreement and the other Loan Documents are incorporated herein by reference.
- 5.3 **DUE ON SALE OR ENCUMBRANCE.** If there shall occur a Sale, as defined in Section 4.22 of the Loan Agreement, in violation of the Loan Agreement, **THEN** Lender, in its sole discretion, may at anytime thereafter declare all Secured Obligations immediately due and payable.
- 5.4 **RELEASES, EXTENSIONS, MODIFICATIONS AND ADDITIONAL SECURITY.** Without notice to or the consent, approval or agreement of any persons or entities having any interest at any time in the Property or in any manner obligated under the Secured Obligations ("**Interested Parties**"), Mortgagee may, from time to time, release any person or entity from liability for the payment or performance of any Secured Obligation, take any action or make any agreement extending the maturity or otherwise altering the terms or increasing the amount of any Secured Obligation, or accept additional security or release all or a portion of the Property and other security for the Secured Obligations. None of the foregoing actions shall release or reduce the personal liability of any of said Interested Parties, or release or impair the priority of the lien of and security interests created by this Mortgagee upon the Property and Collateral.

- 5.5 **SUBROGATION**. Mortgagee shall be subrogated to the lien of all encumbrances, whether released of record or not, paid in whole or in part by Mortgagee pursuant to the Loan Documents or by the proceeds of any loan secured by this Mortgage.
- 5.6 **RIGHT OF INSPECTION**. Lender, its agents and employees, may enter the Property at any reasonable time for the purpose of inspecting the Property and Collateral and ascertaining Mortgagor's compliance with the terms hereof.

ARTICLE 6. DEFAULT PROVISIONS

- 6.1 **DEFAULT**. For all purposes hereof, the term "**Default**" shall mean any default under the Note, the Loan Agreement, or any of the other Loan Documents, including this Mortgage.
- 6.2 **RIGHTS AND REMEDIES**. At any time after Default, Lender shall have all the following rights and remedies:
- a. With or without notice, to declare all Secured Obligations immediately due and payable;
 - b. With or without notice, and without releasing Mortgagor or Borrower from any Secured Obligation, and without becoming a mortgagee in possession, to cure any breach or Default of Mortgagor or Borrower and, in connection therewith, to enter upon the Property and do such acts and things as Lender deems necessary or desirable to protect the security hereof, including, without limitation: (i) to appear in and defend any action or proceeding purporting to affect the security of this Mortgage or the rights or powers of Lender under this Mortgage; (ii) to pay, purchase, contest or compromise any encumbrance, charge, lien or claim of lien which, in the sole judgment of Lender, is or may be senior in priority to this Mortgage, the judgment of Lender being conclusive as between the parties hereto; (iii) to obtain insurance and to pay any premiums or charges with respect to insurance required to be carried under this Mortgage; or (iv) to employ counsel, accountants, contractors and other appropriate persons;
 - c. To commence and maintain an action or actions in any court of competent jurisdiction to foreclose this instrument or to obtain specific enforcement of the covenants of Mortgagor hereunder, and Mortgagor agrees that such covenants shall be specifically enforceable by injunction or any other appropriate equitable remedy and that for the purposes of any suit brought under this subparagraph, Mortgagor waives the defense of laches and any applicable statute of limitations;
 - d. To apply to a court of competent jurisdiction for and to obtain appointment of a receiver of the Property as a matter of strict right and without regard to the adequacy of the security for the repayment of the Secured Obligations, the existence of a declaration that the Secured Obligations are immediately due and payable, or the filing of a notice of default, and Mortgagor hereby consents to such appointment;

- e. To enter upon, possess, manage and operate the Property or any part thereof; and/or
- f. To resort to and realize upon the security hereunder and any other security now or later held by Lender concurrently or successively and in one or several consolidated or independent judicial actions or lawfully taken non-judicial proceedings, or both.

Upon sale of the Property at any judicial foreclosure, Lender may credit bid (as determined by Lender in its sole and absolute discretion) all or any portion of the Secured Obligations. In determining such credit bid, Lender may, but is not obligated to, take into account all or any of the following: (i) appraisals of the Property as such appraisals may be discounted or adjusted by Lender in its sole and absolute underwriting discretion; (ii) expenses and costs incurred by Lender with respect to the Property prior to foreclosure; (iii) expenses and costs which Lender anticipates will be incurred with respect to the Property after foreclosure, but prior to resale, including, without limitation, the costs of any structural reports, hazardous waste reports or any remediation costs related thereto; (iv) anticipated discounts upon resale of the Property as a distressed or foreclosed property; and (v) such other factors or matters that Lender deems appropriate. In regard to the above, Mortgagor acknowledges and agrees that: (w) Lender is not required to use any or all of the foregoing factors to determine the amount of its credit bid; (x) this Section does not impose upon Lender any additional obligations that are not imposed by law at the time the credit bid is made; (y) the amount of Lender's credit bid need not have any relation to any loan-to-value ratios specified in the Loan Documents or previously discussed between Mortgagor, Borrower and Lender; and (z) Lender's credit bid may be higher or lower than any appraised value of the Property.

- 6.3 **APPLICATION OF FORECLOSURE SALE PROCEEDS.** After deducting all costs, fees and expenses of Lender, including, without limitation, cost of evidence of title and attorneys' fees in connection with sale and costs and expenses of sale and of any judicial proceeding wherein such sale may be made, Lender shall apply all proceeds of any foreclosure sale: (a) to payment of all sums expended by Lender under the terms hereof and not then repaid, with accrued interest at the rate of interest specified in the Note to be applicable on or after maturity or acceleration of the Note; (b) to payment of all other Secured Obligations, as provided in the Loan Agreement; and (c) the remainder, if any, to the person or persons legally entitled thereto.
- 6.4 **APPLICATION OF OTHER SUMS.** All sums received by Lender under this Mortgage, less all costs and expenses incurred by Lender or any receiver, including, without limitation, attorneys' fees, shall be applied in payment of the Secured Obligations in such order as Lender shall determine in its sole discretion; provided, however, Lender shall have no liability for funds not actually received by Lender.
- 6.5 **NO CURE OR WAIVER.** Neither Lender's nor any receiver's entry upon and taking possession of all or any part of the Property and Collateral, nor any collection of rents, issues, profits, insurance proceeds, condemnation proceeds or damages, other security or proceeds of other security, or other sums, nor the application of any collected sum to any Secured Obligation, nor the

exercise or failure to exercise of any other right or remedy by Lender or any receiver shall cure or waive any breach, Default or notice of default under this Mortgage, or nullify the effect of any notice of default or sale (unless all Secured Obligations then due have been paid and performed and Mortgagor has cured all other defaults), or impair the status of the security, or prejudice Lender in the exercise of any right or remedy, or be construed as an affirmation by Lender of any tenancy, lease or option or a subordination of the lien of or security interests created by this Mortgage.

- 6.6 **PAYMENT OF COSTS, EXPENSES AND ATTORNEYS' FEES.** Mortgagor agrees to pay to Lender immediately and without demand all costs and expenses incurred by Lender pursuant to this Article 6 (including, without limitation, court costs and attorneys' fees, whether incurred in litigation, including, without limitation, at trial, on appeal or in any bankruptcy or other proceeding, or not and the costs of any appraisals obtained in connection with a determination of the fair value of the Property).
- 6.7 **POWER TO FILE NOTICES AND CURE DEFAULTS.** Mortgagor hereby irrevocably appoints Lender and its successors and assigns, as its attorney-in-fact, which agency is coupled with an interest, to prepare, execute and file or record any document necessary to create, perfect or preserve Lender's security interests and rights in or to any of the Property and Collateral, and upon the occurrence of an event, act or omission which, with notice or passage of time or both, would constitute a Default, Lender may perform any obligation of Mortgagor hereunder.

ARTICLE 7. MISCELLANEOUS PROVISIONS

- 7.1 **ADDITIONAL PROVISIONS.** The Loan Documents contain or incorporate by reference the entire agreement of the parties with respect to matters contemplated herein and supersede all prior negotiations. The Loan Documents grant further rights to Lender and contain further agreements and affirmative and negative covenants by Mortgagor which apply to this Mortgage and to the Property and Collateral and such further rights and agreements are incorporated herein by this reference. Where Mortgagor and Borrower are not the same, "Mortgagor" means the owner of the Property in any provision dealing with the Property, "Borrower" means the obligor in any provision dealing with the Secured Obligations, and both where the context so requires.
- 7.2 **ATTORNEYS' FEES.** If the Note is placed with an attorney for collection or if an attorney is engaged by Lender to exercise rights or remedies or otherwise take actions to collect thereunder or under any other Loan Document, as defined in the Loan Agreement, or if suit be instituted for collection, enforcement of rights and remedies, then in all events, Mortgagor agree(s) to pay all reasonable costs of collection, exercise of remedies or rights or other assertion of claims, including, but not limited to, reasonable attorneys' fees, whether or not court proceedings are instituted, and, where instituted, whether in district court, appellate court, or bankruptcy court.
- 7.3 **NO WAIVER.** No previous waiver and no failure or delay by Lender in acting with respect to the terms of the Note or the Mortgage shall constitute a waiver of any breach, default, or failure of condition under the Note, the Mortgage or the obligations secured thereby. A waiver of any term of

the Note, the Mortgage or of any of the obligations secured thereby must be made in writing and shall be limited to the express written terms of such waiver. In the event of any inconsistencies between the terms of the Note and the terms of any other document related to the loan evidenced by the Note, the terms of the Note shall prevail.

- 7.4 **MERGER.** No merger shall occur as a result of Lender's acquiring any other estate in, or any other lien on, the Property unless Lender consents to a merger in writing.
- 7.5 **SUCCESSORS IN INTEREST.** The terms, covenants, and conditions herein contained shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties hereto; provided, however, that this Section does not waive or modify the provisions of the Section above titled "Due on Sale or Encumbrance".
- 7.6 **GOVERNING LAW.** This Mortgage shall be construed in accordance with the laws of the state where the Property is located, except to the extent that federal laws preempt the laws of such state.
- 7.7 **EXHIBITS INCORPORATED.** All exhibits, schedules or other items attached hereto are incorporated into this Mortgage by such attachment for all purposes.
- 7.8 **NOTICES.** All notices, demands or other communications required or permitted to be given pursuant to the provisions of this Mortgage shall be in writing and shall be considered as properly given if delivered personally or sent by first class United States Postal Service mail, postage prepaid, except that notice of Default may be sent by certified mail, return receipt requested, or by Overnight Express Mail or by overnight commercial courier service, charges prepaid. Notices so sent shall be effective 3 days after mailing, if mailed by first class mail, and otherwise upon receipt at the address set forth below; provided, however, that non-receipt of any communication as the result of any change of address of which the sending party was not notified or as the result of a refusal to accept delivery shall be deemed receipt of such communication. For purposes of notice, the address of the parties shall be:

Mortgagor:

Crown Point VA Company, LLC
c/o Carnegie Management and Development Corp.
27500 Detroit Road, Suite 300
Westlake, Ohio 44145

Lender:

VA Crown Point Lease Finance Trust
c/o The Bank of New York Mellon
101 Barclay Street, Floor 7W
New York, New York 10286
Attn: Miriam Moraca

Any party shall have the right to change its address for notice hereunder to any other location within the United States by the giving of 30 days notice to the other party in the manner set forth hereinabove. Mortgagor shall forward to Lender, without delay, any notices, letters or other communications delivered to the Property or to Mortgagor naming Lender or the "Lender" or any similar designation as addressee, or which could reasonably be deemed to affect the construction of the Improvements or the ability of Mortgagor to perform its obligations to Lender under the Note or the Loan Agreement.

Mortgagor requests a copy of any statutory notice of default and a copy of any statutory notice of sale be mailed to Mortgagor at the address set forth above.

- 7.9 **WAIVER OF MARSHALING RIGHTS.** Mortgagor, for itself and for all parties claiming through or under Mortgagor, and for all parties who may acquire a lien on or interest in the Property hereby waives all rights to have the Property and/or any other property marshaled upon any foreclosure of the lien of this Mortgage or on a foreclosure of any other lien securing the Secured Obligations. Lender shall have the right to sell the Property and any or all of said other property as a whole or in separate parcels, in any order that Lender may designate.

ARTICLE 8. INDIANA PROVISIONS

In the event of any inconsistency or disagreement between the terms and provisions set forth in this Article 8 and the other terms and provisions of this Mortgage, the terms and provisions of this Article 8 shall govern, control and supersede such other terms and provisions to the extent of such inconsistency or disagreement.

- 8.1 **FUTURE ADVANCES.** Mortgagor hereby acknowledges and agrees that the Secured Obligations may include, and that this Mortgage is given to secure, advances that may be made by Lender to Borrower and/or obligations to Lender that may be incurred by Borrower after the execution of this Mortgage (collectively, "**Future Advances**"), and that this Mortgage shall secure all future advances of every kind and whenever occurring; provided, however, that (a) the maximum amount of unpaid Future Advances outstanding at any one time shall not exceed **\$15,925,554.00**, such maximum amount being stated herein pursuant to and in accordance with Ind. Code § 32-29-1-10 and not being a commitment by Lender to make any Future Advances, and (b) the maximum amount of the Secured Obligations secured by this Mortgage at any one time in all events shall not exceed **\$31,851,108.00**.
- 8.2 **RESPONSIBLE PROPERTY TRANSFER LAW.** Mortgagor hereby represents and warrants to Lender that the Property: (a) does not contain any facility that is subject to reporting under Section 312 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11022); (b) is not the site of one (1) or more underground storage tanks for which notification is required under 42 U.S.C. 6991a and/or IC 13-23-1-2(c)(8)(A); and (c) is not listed on the Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS) in accordance with Section 116 of CERCLA (42 U.S.C. 9616). Mortgagor hereby covenants and

agrees that in executing and delivering this Mortgage in favor of Lender, and in granting in favor Lender all liens and security interests in and with respect to the Property, Mortgagor has complied and shall comply in all respects with the Indiana Responsible Property Transfer Law (Ind. Code § 13-25-3 et seq.).

8.3 **FIXTURE FILING.** Mortgagor and Lender agree that, as provided in the Uniform Commercial Code of Indiana, this Mortgage shall be effective from the date of its recording as a fixture filing with respect to all goods constituting part of the Property and/or Collateral which are or are to become fixtures related to the real estate described herein. For this purpose, the following information is set forth:

a. Name and Address of Debtor:

Crown Point VA Company, LLC
c/o Carnegie Management and Development Corp.
27500 Detroit Road, Suite 300
Westlake, Ohio 44145

b. Name and Address of Secured Party:

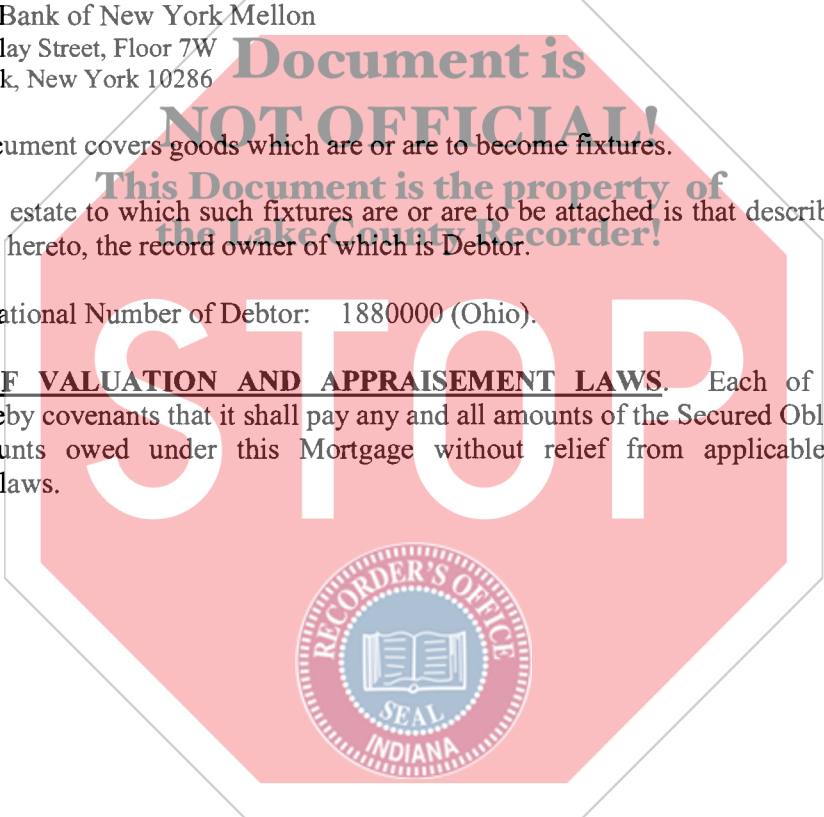
VA Crown Point Lease Finance Trust
c/o The Bank of New York Mellon
101 Barclay Street, Floor 7W
New York, New York 10286

c. This document covers goods which are or are to become fixtures.

d. The real estate to which such fixtures are or are to be attached is that described in Exhibit A attached hereto, the record owner of which is Debtor.

e. Organizational Number of Debtor: 1880000 (Ohio).

8.4 **WAIVER OF VALUATION AND APPRAISEMENT LAWS.** Each of Mortgagor and Borrower hereby covenants that it shall pay any and all amounts of the Secured Obligations and any and all amounts owed under this Mortgage without relief from applicable valuation and appraisal laws.

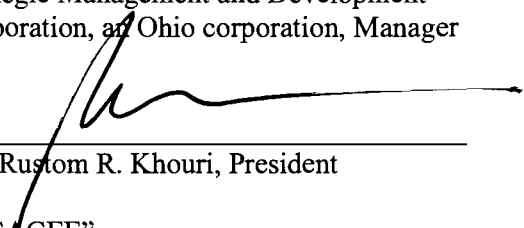


IN WITNESS WHEREOF, Mortgagor and Mortgagee have executed this Amended and Restated Mortgage as of the day and year set forth above.

“MORTGAGOR”

Crown Point VA Company, LLC, an Ohio limited liability company

By: Carnegie Management and Development Corporation, an Ohio corporation, Manager

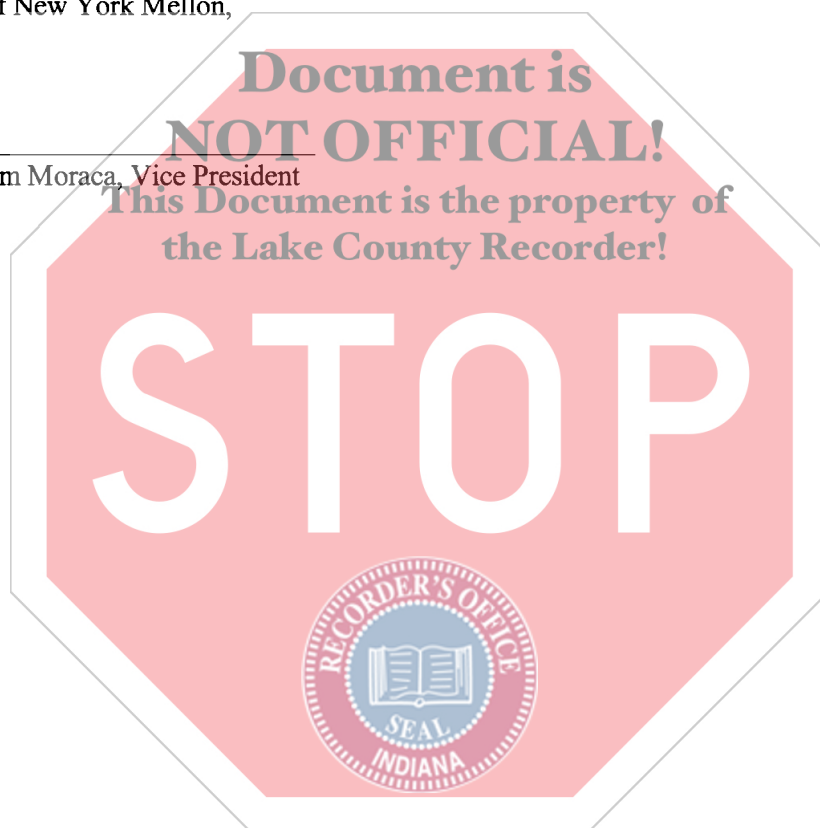
By: 
Rustom R. Khouri, President

“MORTGAGEE”

VA Crown Point Lease Finance Trust, a New York common law trust

By: The Bank of New York Mellon, its trustee

By: 
Miriam Moraca, Vice President



IN WITNESS WHEREOF, Mortgagor and Mortgagee have executed this Amended and Restated Mortgage as of the day and year set forth above.

“MORTGAGOR”

Crown Point VA Company, LLC, an Ohio limited liability company

By: Carnegie Management and Development Corporation, an Ohio corporation, Manager

By: _____
Rustom R. Khouri, President

“MORTGAGEE”

VA Crown Point Lease Finance Trust, a New York common law trust

By: The Bank of New York Mellon, its trustee

By: 
Name: Vincent Jhangoor
Title: Senior Associate



STATE OF OHIO)
)
COUNTY OF CUYAHOGA)

Before me, a Notary Public in and for the State of Ohio, personally appeared Rustom R. Khouri, President of Carnegie Management and Development Corporation, Manager of Crown Point VA Company, LLC, who, being first duly sworn, acknowledged the execution of the foregoing instrument for and on behalf of said limited liability company.

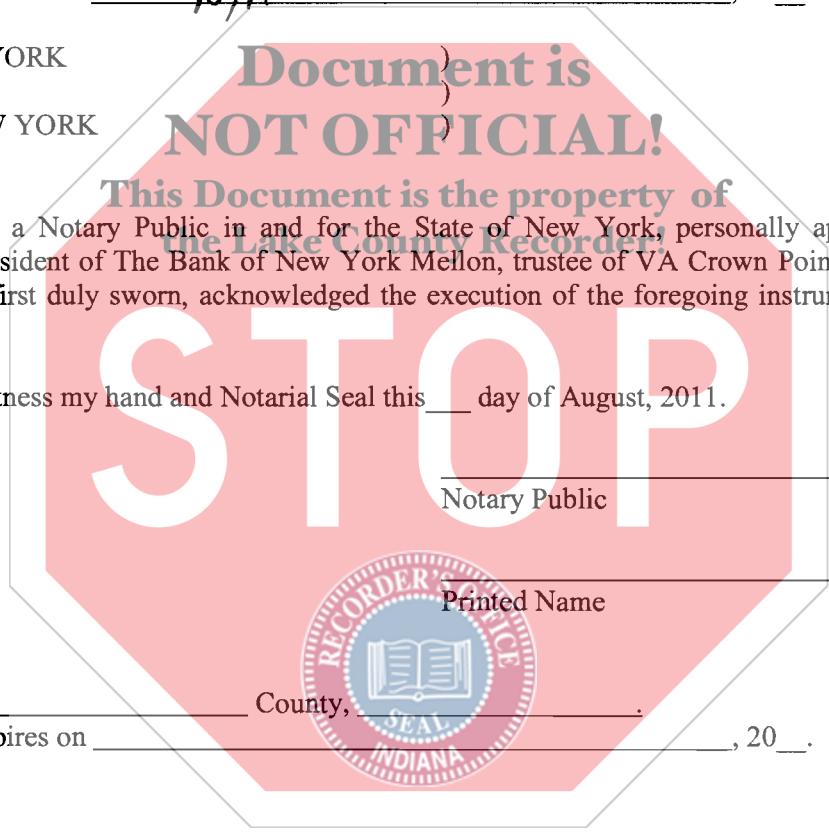
Witness my hand and Notarial Seal this 12th day of August, 2011.

Dale A. Bradford
Notary Public
DALE A. BRADFORD
Printed Name

DALE A. BRADFORD, Attorney
Notary Public, State of Ohio
My commission has no expiration date.
Section 147.09 R.C.

I am a resident of CUYAHOGA County, OHIO
My commission expires on N/A

STATE OF NEW YORK
COUNTY OF NEW YORK



Before me, a Notary Public in and for the State of New York, personally appeared Miriam Moraca, a Vice President of The Bank of New York Mellon, trustee of VA Crown Point Lease Finance Trust, who, being first duly sworn, acknowledged the execution of the foregoing instrument for and on behalf of said trust.

Witness my hand and Notarial Seal this ___ day of August, 2011.

Notary Public

Printed Name

I am a resident of _____ County, _____
My commission expires on _____, 20__.

STATE OF OHIO)
)
COUNTY OF CUYAHOGA)

Before me, a Notary Public in and for the State of Ohio, personally appeared Rustom R. Khouri, President of Carnegie Management and Development Corporation, Manager of Crown Point VA Company, LLC, who, being first duly sworn, acknowledged the execution of the foregoing instrument for and on behalf of said limited liability company.

Witness my hand and Notarial Seal this ___ day of August, 2011.

Notary Public

Printed Name

I am a resident of _____ County, _____.
My commission expires on _____, 20__.

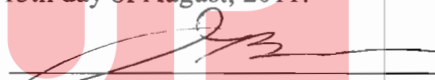
STATE OF NEW YORK
COUNTY OF NEW YORK

Document is NOT OFFICIAL!

This Document is the property of

Before me, a Notary Public in and for the State of New York, personally appeared Vincent Jhingoor, a Senior Associate of The Bank of New York Mellon, trustee of VA Crown Point Lease Finance Trust, who, being first duly sworn, acknowledged the execution of the foregoing instrument for and on behalf of said trust.

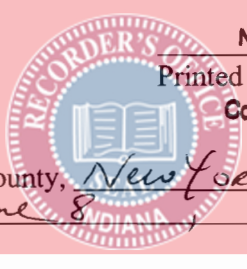
Witness my hand and Notarial Seal this 15th day of August, 2011.



Notary Public

JOANN LABARBERA
Notary Public, State of New York
Printed Name: No. 01LA6023752
Qualified in New York County
Commission Expires June 8, 2014

I am a resident of New York County, New York.
My commission expires on June 8, 2014.



THIS INSTRUMENT WAS PREPARED BY:

Duane Morris LLP
1540 Broadway
New York, New York 10036

"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Jonathan A. Olick, Esq. "



EXHIBIT A

DESCRIPTION OF PROPERTY

All the certain real property located in the County of Lake, State of Indiana, described as follows:

Lot Number 1 in VA Clinic, a Resubdivision of Lots 5, 6, 7, 8 and 9 of Crownhurst Centre, Unit 2, an Addition to the City of Crown Point, as recorded in Plat Book 104, Page 33, Doc Number 2010-012645, and as previously recorded in Plat Book 94, Page 3, in the Office of the Recorder of Lake County, Indiana.

Permanent Parcel ID's:

45-12-33-226-006.000-029;

45-12-33-226-002.000-029;

45-12-33-226-001.000-029;

45-12-33-226-003.000-029 and

45-12-33-226-004.000-029

