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04/05/2023 03:29 PM
TOTAL FEES: 55.00
BY: JAS
PG #: 25

STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD
GINA PIMENTEL
RECORDER

Prepared By and When
Recorded Mail To:

Chapman and Cutler
LLP
320 South Canal
Chicago, Illinois
60606
Attn: Sean T. Maloney,
Esq.

SPACE ABOVE THIS LINE RESERVED FOR
RECORDER'S USE ONLY

MAXIMUM INDEBTEDNESS NOT TO EXCEED \$54,877,567.18

**Mortgage, Assignment of Rents,
Security Agreement and Fixture Filing**

Made by

PARK PLACE CHRISTIAN COMMUNITY OF ST. JOHN, INC.,
as Mortgagor

to

FIFTH THIRD BANK, NATIONAL ASSOCIATION,
as Administrative Agent

Dated as of: April 5, 2023

CR NW2300295 1/4

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MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING

Commonly Known As

"10700, 10810, 10830, 10840, 10850 & 10860 Park Place, St. John, Indiana 46373"

THIS MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "*Mortgage*") is made as April 5, 2023, by PARK PLACE CHRISTIAN COMMUNITY OF ST. JOHN, INC., an Indiana non-profit corporation ("*Mortgagor*") whose address is 18601 North Creek Drive, Suite A, Tinley Park, Illinois 60477, in favor of FIFTH TH RD BANK, NATIONAL ASSOCIATION, as administrative agent for the Lenders party to the hereinafter defined Credit Agreement (together with its successors and assigns, "*Mortgagee*"), whose address is 222 South Riverside Plaza, Chicago, Illinois 60606.

THIS INSTRUMENT IS A MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND LEASES AND FIXTURE FILING AS DEFINED IN IC 26-1-9.1-102(a)(40) OF THE UNIFORM COMMERCIAL CODE (REVISED) AS IN EFFECT IN INDIANA, COVERING BOTH REAL AND PERSONAL PROPERTY, INCLUDING GOODS THAT ARE OR ARE TO BECOME FIXTURES. IT IS TO BE FILED IN THE REAL ESTATE RECORDS OF LAKE COUNTY, INDIANA, AND UPON SUCH FILING IS EFFECTIVE AS A FIXTURE FILING UNDER THE CODE. THE FIXTURES OR GOODS THAT ARE OR ARE TO BECOME FIXTURES WILL BE SITUATED ON THE REAL PROPERTY DESCRIBED IN EXHIBIT A.

Mortgagor's (Debtor's)

Jurisdiction of Incorporation: IN DIANA

1. GRANT AND SECURED OBLIGATIONS.

1.1 *Grant*. For the purpose of securing payment and performance of the Secured Obligations defined and described in Section 1.2 below and for consideration paid, Mortgagor hereby irrevocably and unconditionally grants, bargains, sells, conveys, mortgages and warrants to Mortgagee, with MORTGAGE COVENANTS, with right of entry and possession, all estate, right, title and interest which Mortgagor now has or may later acquire in and to the following property (all or any part of such property, or any interest in all or any part of it, as the context may require, the "*Property*"):

(a) The real property located in the County of Lake, State of Indiana, as described in *Exhibit A*, together with all existing and future easements and rights affording access to it (the "*Premises*"); together with

(b) All buildings, structures and improvements now located or later to be constructed on the Premises (the "*Improvements*"); together with

(c) All existing and future appurtenances, privileges, easements, franchises and tenements of the Premises, including all minerals, oil, gas, other hydrocarbons and associated substances, sulphur, nitrogen, carbon dioxide, helium and other commercially valuable substances which may be in, under or produced from any part of the Premises, all development rights and credits, air rights, water, water rights (whether riparian,

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appropriative or otherwise, and whether or not appurtenant) and water stock, and any Premises lying in the streets, roads or avenues, open or proposed, in front of or adjoining the Premises and Improvements; together with

(d) All existing and future leases, subleases, subtenancies, licenses, occupancy agreements and concessions ("leases") relating to the use and enjoyment of all or any part of the Premises and Improvements, and any and all guaranties and other agreements relating to or made in connection with any of such leases; together with

(e) All real property and improvements on it, and all appurtenances and other property and interests of any kind or character, whether described in *Exhibit A* or not, which may be reasonably necessary or desirable to promote the present and any reasonable future beneficial use and enjoyment of the Premises and Improvements; together with

(f) All goods, materials, supplies, chattels, furniture, fixtures, equipment and machinery now or later to be attached to, placed in or on, or used in connection with the use, enjoyment, occupancy or operation of all or any part of the Premises and Improvements, whether stored on the Premises or elsewhere, including all pumping plants, engines, pipes, ditches and flumes, and also all gas, electric, cooking, heating, cooling, air conditioning, lighting, refrigeration and plumbing fixtures and equipment, all of which shall be considered to the fullest extent of the law to be real property for purposes of this Mortgage and any manufacturer's warranties with respect thereto; together with

(g) All building materials, equipment, work in process or other personal property of any kind, whether stored on the Premises or elsewhere, which have been or later will be acquired for the purpose of being delivered to, incorporated into or installed in or about the Premises or Improvements. The items of property encumbered by subparagraph (f) and by this subparagraph (g) are jointly and severally called the "*Tangible Property*" in this Mortgage; together with

(h) All rights to the payment of money, accounts, accounts receivable, reserves, deferred payments, refunds, cost savings, payments and deposits, whether now or later to be received from third parties (including all earnest money sales deposits) or deposited by Mortgagor with third parties (including all utility deposits), contract rights, development and use rights, governmental permits and licenses, applications, architectural and engineering plans, specifications and drawings, as-built drawings, chattel paper, instruments, documents, notes, drafts and letters of credit (other than letters of credit in favor of Mortgagee), which arise from or relate to construction on the Premises or to any business now or later to be conducted on it, or to the Premises and Improvements generally and any builder's or manufacturer's warranties with respect thereto; together with

(i) All insurance policies pertaining to the Premises and all proceeds, including all claims to and demands for them, of the voluntary or involuntary conversion of any of the Premises, Improvements or the other property described above into cash or liquidated claims, including proceeds of all present and future fire, hazard or casualty insurance policies and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any

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condemnation or eminent domain proceeding, and all causes of action and their proceeds for any damage or injury to the Premises, Improvements or the other property described above or any part of them, or breach of warranty in connection with the construction of any Improvements, including causes of action arising in tort, contract, fraud or concealment of a material fact; together with

(j) All books and records pertaining to any and all of the property described above, including computer-readable memory and any computer hardware or software necessary to access and process such memory ("*Books and Records*"); together with

(k) All rights reserved to or granted to the developer or declarant under the provisions of any (i) declaration of restrictive covenants and easements affecting the Premises or the Property, or (ii) declaration of condominium ownership for the institution of a regime of condominium ownership affecting the Premises or the Property or otherwise granted to the developer pursuant to the provisions of the Indiana Condominium Act, IC 32-25, *et. seq.* (the "*Condominium Act*") in effect from time to time or (iii) homeowners' declaration or other declarations affecting the Premises or the Property; together with

(l) All proceeds of, additions and accretions to, substitutions and replacements for, and changes in any of the property described above.

Capitalized terms used above and elsewhere in this Mortgage without definition have the meanings given them in the Credit Agreement referred to in Subsection 1.2(a)(iii) below.

1.2 Secured Obligations.

(a) Mortgagor makes the grant, conveyance, and mortgage set forth in Section 1.1 above, and grants the security interest set forth in Section 3 below for the purpose of securing the following obligations (the "*Secured Obligations*") in any order of priority that Mortgagee may choose:

(i) Payment of all obligations at any time owing under the Term Notes bearing even date herewith and/or subsequently executed pursuant to the Credit Agreement, payable by Mortgagor and each of the other Borrowers (as hereinafter defined) in the aggregate principal amount of Fifty-Four Million Eight Hundred Seventy-Seven Thousand Five Hundred Sixty-Seven Dollars and 18/100 (\$54,877,567.18) to the order of any one or more Lenders (as defined in the Credit Agreement), and all allonges, modifications, renewals, amendments, replacements and extensions thereto, and

(ii) Payment and performance of all obligations of Mortgagor under this Mortgage; and

(iii) Payment and performance of all obligations of Borrowers under that certain Credit Agreement bearing even date herewith (as amended, restated, supplemented, extended, replaced or otherwise modified from time to time, the "*Credit Agreement*"), among the Mortgagor, Rest Haven Illiana Christian Convalescent Home (the "*Corporation*"), and together with the Mortgagor, the

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"Borrowers"), the Lenders (as defined in the Credit Agreement) from time to time party thereto and Mortgagee, as administrative agent for the Lenders, including without limitation the Term Loans made by the Lenders thereunder, which Term Loans bear interest at a variable rate; and

(iv) Payment and performance of any obligations of Borrowers under the other Loan Documents (including any Hedging Agreements); and

(v) Payment and performance of all future advances and other obligations that Mortgageor or any successor in ownership of all or part of the Property may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Mortgagee, when a writing evidences the parties' agreement that the advance or obligation be secured by this Mortgage; and

(vi) All Bank Product Liability and Hedging Liability; and

(vii) Payment and performance of all modifications, amendments, extensions, and renewals, however evidenced, of any of the Secured Obligations.

(b) All persons who may have or acquire an interest in all or any part of the Property will be considered to have notice of, and will be bound by, the terms of the Secured Obligations and each other agreement or instrument made or entered into in connection with each of the Secured Obligations. Such terms include any provisions in the Term Notes or the Credit Agreement which permit borrowing, repayment and reborrowing, or which provide that the interest rate on one or more of the Secured Obligations may vary from time to time.

2. ASSIGNMENT OF RENTS.

2.1 *Assignment.* Mortgageor hereby irrevocably, absolutely, presently and unconditionally assigns to Mortgagee all rents, royalties, issues, profits, revenue, income, accounts, proceeds and other benefits of the Property, whether now due, past due or to become due, including all prepaid rents and security deposits (some or all collectively, as the context may require, "Rents"). This is an absolute assignment, not an assignment for security only.

2.2 *Grant of License.* Mortgagee hereby confers upon Mortgageor a license ("License") to collect and retain the Rents as they become due and payable, so long as no Event of Default, as defined in Section 6.2 below, shall exist and be continuing. If an Event of Default has occurred and is continuing, Mortgagee shall have the right, which it may choose to exercise in its sole discretion, to terminate this License without notice to or demand upon Mortgageor, and without regard to the adequacy of Mortgagee's security under this Mortgage.

2.3 *Collection and Application of Rents.* Subject to the License granted to Mortgageor under Section 2.2 above, Mortgagee has the right, power and authority to collect any and all Rents. Mortgageor hereby appoints Mortgagee its attorney-in-fact to perform any and all of the following acts, during the continuance of an Event of Default and if and at the times when Mortgagee in its sole discretion may so choose:

(a) Demand, receive and enforce payment of any and all Rents; or

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- (b) Give receipts, releases and satisfactions for any and all Rents; or
- (c) Sue either in the name of Mortgagor or in the name of Mortgagee for any and all Rents.

Mortgagee and Mortgagor agree that the mere recordation of the assignment granted herein entitles Mortgagee immediately to collect and receive rents upon the occurrence and during the continuance of an Event of Default, as defined in Section 6.2, without first taking any acts of enforcement under applicable law, such as, but not limited to, providing notice to Mortgagor, filing foreclosure proceedings, or seeking and/or obtaining the appointment of a receiver. Further, Mortgagee's right to the Rents does not depend on whether or not Mortgagee takes possession of the Property as permitted under Subsection 6.3(c). In Mortgagee's sole discretion, Mortgagee may choose to collect Rents either with or without taking possession of the Property. Mortgagee shall apply all Rents collected by it in the manner provided under Section 6.6. If an Event of Default occurs while Mortgagee is in possession of all or part of the Property and is collecting and applying Rents as permitted under this Mortgage, Mortgagee and any receiver shall nevertheless be entitled to exercise and invoke every right and remedy afforded any of them under this Mortgage and at law or in equity.

2.4 Mortgagee Not Responsible. Under no circumstances shall Mortgagee have any duty to produce Rents from the Property. Regardless of whether or not Mortgagee, in person or by agent, takes actual possession of the Premises and Improvements, unless Mortgagee agrees in writing to the contrary, Mortgagee is not and shall not be deemed to be:

- (a) A "mortgagee in possession" for any purpose; or
- (b) Responsible for performing any of the obligations of the lessor under any lease; or
- (c) Responsible for any waste committed by lessees or any other parties, any dangerous or defective condition of the Property, or any negligence in the management, upkeep, repair or control of the Property, except as may be set forth in Section 5.9(b); or
- (d) Liable in any manner for the Property or the use, occupancy, enjoyment or operation of all or any part of it.

2.5 Leasing. Mortgagor shall not accept any deposit or prepayment of rents under the leases for any rental period exceeding one (1) month without Mortgagee's prior written consent. Mortgagor shall not lease the Property or any part of it except strictly in accordance with the Credit Agreement.

3. GRANT OF SECURITY INTEREST.

3.1 Security Agreement. The parties intend for this Mortgage to create a lien on the Property, and an absolute assignment of the Rents, all in favor of Mortgagee. The parties acknowledge that some of the Property and some or all of the Rents may be determined under applicable law to be personal property or fixtures. To the extent that any Property or Rents may be or be determined to be personal property, Mortgagor as debtor hereby grants Mortgagee as secured party a security interest in all such Property and Rents, to secure payment and performance of the Secured

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Obligations. This Mortgage constitutes a security agreement under the Uniform Commercial Code of the State in which the Property is located, covering all such Property and Rents.

3.2 *Financing Statements.* Mortgagor hereby authorizes Mortgagee to file one or more financing statements. In addition, Mortgagor shall execute such other documents as Mortgagee may from time to time require to perfect or continue the perfection of Mortgagee's security interest in any Property or Rents. As provided in Section 5.9 below, Mortgagor shall pay all fees and costs that Mortgagee may incur in filing such documents in public offices and in obtaining such record searches as Mortgagee may reasonably require. In case Mortgagor fails to execute any financing statements or other documents for the perfection or continuation of any security interest, Mortgagor hereby appoints Mortgagee as its true and lawful attorney-in-fact to execute any such documents on its behalf. If any financing statement or other document is filed in the records normally pertaining to personal property, that filing shall never be construed as in any way derogating from or impairing this Mortgage or the rights or obligations of the parties hereunder.

4. FIXTURE FILING.

This Mortgage constitutes a financing statement filed as a fixture filing under Article 9 of the Uniform Commercial Code in the State in which the Property is located, as amended or recodified from time to time, covering any Property which now is or later may become fixtures attached to the Premises or Improvements. For this purpose, the respective addresses of Mortgagor, as debtor, and Mortgagee, as secured party, are as set forth in the preamble of this Mortgage.

5. RIGHTS AND DUTIES OF THE PARTIES.

5.1 *Representations and Warranties.* Mortgagor represents and warrants that:

- (a) Mortgagor lawfully possesses and holds fee simple title to all of the Premises and Improvements;
- (b) Mortgagor has or will have good title to all Property other than the Premises and Improvements;
- (c) Mortgagor has the full and unlimited power, right and authority to encumber the Property and assign the Rents;
- (d) This Mortgage creates a first and prior lien on the Property;
- (e) The Property includes all property and rights which may be reasonably necessary or desirable to promote the present and any reasonable future beneficial use and enjoyment of the Premises and Improvements subject to all matters of record and all applicable laws;
- (f) Mortgagor owns any Property which is personal property free and clear of any security agreements, reservations of title or conditional sales contracts, and there is no financing statement affecting such personal property on file in any public office that will not be removed in connection with the Term Loans; and

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(g) Mortgagor's place of business, or its chief executive office if it has more than one place of business, is located at the address specified below.

5.2 Taxes, and Assessments. Mortgagor shall pay prior to delinquency all taxes, levies, charges and assessments, in accordance with Sections 6.6 and 10.01 of the Credit Agreement.

5.3 Performance of Secured Obligations. Mortgagor shall promptly pay and perform each Secured Obligation in accordance with its terms.

5.4 Liens, Charges and Encumbrances. Mortgagor shall immediately discharge any lien on the Property that is not a Permitted Lien which Mortgagee has not consented to in writing in accordance with the terms of Section 6.12 of the Credit Agreement.

5.5 Damages, and Insurance and Condemnation Proceeds. In the event of any Event of Loss with respect to the Property, the provisions of Section 2.4(b) of the Credit Agreement shall govern.

5.6 Maintenance and Preservation of Property.

(a) Mortgagor shall insure the Property as required by the Credit Agreement and keep the Property in good condition and repair (ordinary wear and tear excepted).

(b) Mortgagor shall not remove or demolish the Property or any part of it, or materially alter, restore or add to the Property, or initiate or allow any change or variance in any zoning or other Premises use classification which affects the Property or any part of it, except as permitted or required by the Credit Agreement or with Mortgagee's express prior written consent in each instance.

(c) If all or part of the Property becomes damaged or destroyed, Mortgagor shall promptly and completely repair and/or restore the Property in a good and workmanlike manner in accordance with sound building practices; *provided, however*, if any such damage or destruction resulting in an Event of Loss with respect to the Property, which results in Net Cash Proceeds in excess of \$150,000, the Mortgagor and the other Borrowers shall prepay the Term Loans and all other Obligations under the Credit Agreement in an aggregate amount equal to 100% of the amount of all such Net Cash Proceeds in excess of \$150,000, as more fully set forth in Section 2.4(b) of the Credit Agreement.

(d) Mortgagor shall not commit or allow any act upon or use of the Property which would violate (i) any applicable laws or order of any Governmental Authority, whether now existing or later to be enacted and whether foreseen or unforeseen; or (ii) any public or private covenant, condition, restriction or equitable servitude affecting the Property. Mortgagor shall not bring or keep any article on the Property or cause or allow any condition to exist on it, if that could invalidate or would be prohibited by any insurance coverage required to be maintained by Mortgagor on the Property or any part of it under the Credit Agreement.

(e) Mortgagor shall not commit or allow waste of the Property, including those acts or omissions characterized under the Credit Agreement as waste which arises out of Hazardous Material.

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(f) Mortgagor shall perform all other acts which from the character or use of the Property may be reasonably necessary to maintain and preserve its value.

5.7 Releases, Extensions, Modifications and Additional Security. From time to time, Mortgagee may perform any of the following acts without incurring any liability or giving notice to any person:

- (a) Release any person liable for payment of any Secured Obligation;
- (b) Extend the time for payment, or otherwise alter the terms of payment, of any Secured Obligation;
- (c) Accept additional real or personal property of any kind as security for any Secured Obligation, whether evidenced by deeds of trust, mortgages, security agreements or any other instruments of security;
- (d) Alter, substitute or release any property securing the Secured Obligations;
- (e) Consent to the making of any plat or map of the Property or any part of it;
- (f) Join in granting any easement or creating any restriction affecting the Property; or
- (g) Join in any subordination or other agreement affecting this Mortgage or the lien of it, or
- (h) Release the Property or any part of it.

5.8 Release. When the Secured Obligations have been paid in full and all fees and other sums owed by Mortgagor under Section 5.9 of this Mortgage and Borrowers under the other Loan Documents have been received, Mortgagee shall release this Mortgage, the lien created thereby, and all notes and instruments evidencing the Secured Obligations. Mortgagor shall pay any costs of preparation and recordation of such release.

5.9 Compensation, Exculpation, Indemnification.

Mortgagor agrees to pay fees in the maximum amounts legally permitted, or reasonable fees as may be charged by Mortgagee when the law provides no maximum limit, for any services that Mortgagee may render in connection with this Mortgage, including Mortgagee's providing a statement of the Secured Obligations or providing the release pursuant to Section 5.8 above. Mortgagor shall also pay or reimburse all of Mortgagee's reasonable out-of-pocket costs and expenses which may be incurred in rendering any such services. Mortgagor further agrees to pay or reimburse Mortgagee for all costs, expenses and other advances which may be incurred or made by Mortgagee in any efforts to enforce any terms of this Mortgage, including any rights or remedies afforded to Mortgagee under Section 6.3, whether any lawsuit is filed or not, or in defending any action or proceeding arising under or relating to this Mortgage, including attorneys' fees and other legal costs, actual costs of any consolidated sale or disposition to be held or made under or in connection with judicial proceedings, or by virtue of a judgment and decree of foreclosure

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and sale or any deed in lieu of such sale or disposition; or through two or more such sales or dispositions; or in any other manner Mortgagee may deem to be in its best interests (any such sale or disposition, a "Foreclosure Sale," and any two or more, "Foreclosure Sales") and any cost of evidence of title. If Mortgagee chooses to dispose of Property through more than one Foreclosure Sale, Mortgagor shall pay all costs, expenses or other advances that may be incurred or made by Mortgagee in each of such Foreclosure Sales. In any suit to foreclose the lien hereof or enforce any other remedy of Mortgagee under this Mortgage, the Credit Agreement or the Term Notes, there shall be allowed and included as additional indebtedness in the decree for sale or other judgment or decree all expenditures and expenses authorized under the foreclosure laws of the State of Indiana, as from time to time amended (the "Foreclosure Laws"), which may be paid or incurred by or on behalf of Mortgagee for attorneys' fees, survey charges, appraiser's fees, inspecting engineer's and/or architect's fees, fees for environmental studies and assessments and all additional expenses incurred by Mortgagee with respect to environmental matters, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies and similar data and assurances with respect to title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to, the value of or the environmental condition of the Property. All expenditures and expenses of the nature in this Subsection mentioned, and such expenses and fees as may be incurred in the protection of the Property and maintenance of the lien of this Mortgage, including the attorneys' fees incurred by Mortgagee in any litigation or proceeding affecting this Mortgage, the Credit Agreement, the Term Notes or the Property, including probate and bankruptcy proceedings, or in preparation for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by Mortgagor, with interest thereon at the Default Rate and shall be secured by this Mortgage.

(a) Mortgagee shall not be directly or indirectly liable to Mortgagor or any other person as a consequence of any of the following:

- (i) Mortgagee's exercise of or failure to exercise any rights, remedies or powers granted to Mortgagee in this Mortgage;
- (ii) Mortgagee's failure or refusal to perform or discharge any obligation or liability of Mortgagor under any agreement related to the Property or under this Mortgage or the other Loan Documents; or
- (iii) Any loss sustained by Mortgagor or any third party resulting from Mortgagee's failure to lease the Property, or from any other act or omission of Mortgagee in managing the Property, during the continuance of an Event of Default, unless the loss is caused by the gross negligence or willful misconduct of Mortgagee.

Mortgagor hereby expressly waives and releases all liability of the types described above, and agrees that no such liability shall be asserted against or imposed upon Mortgagee.

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(b) Mortgagor agrees to indemnify Mortgagee (subject to the terms and conditions of Section 10.12 of the Credit Agreement) against and hold it harmless from all actual losses, damages, liabilities, claims, causes of action, judgments, court costs, attorneys' fees and other legal expenses, cost of evidence of title, cost of evidence of value, and other costs and expenses which it may suffer or incur:

(i) In performing any act required or permitted by this Mortgage or any of the other Loan Documents or by law;

(ii) Because of any failure of Mortgagor to perform any of its obligations; or

(iii) Because of any alleged obligation of or undertaking by Mortgagee to perform or discharge any of the representations, warranties, conditions, covenants or other obligations in any document relating to the Property other than the Loan Documents.

This agreement by Mortgagor to indemnify Mortgagee shall survive the release and cancellation of any or all of the Secured Obligations and the full or partial release of this Mortgage.

(c) Mortgagor shall pay all obligations to pay money arising under this Section 5.9 promptly upon demand by Mortgagee. Each such obligation shall be added to, and considered to be part of, the aggregate principal of the Term Notes, and shall bear interest from the date the obligation arises at the Default Rate.

5.10 *Defense and Notice of Claims and Actions.* At Mortgagor's sole expense, Mortgagor shall protect, preserve and defend the Property and title to and right of possession of the Property, and the security of this Mortgage and the rights and powers of Mortgagee created under it, against all adverse claims. Mortgagor shall give Mortgagee prompt notice in writing if any claim is asserted which does or could materially affect any such matters, or if any action or proceeding is commenced which alleges or relates to any such claim.

5.11 *Subrogation.* Mortgagee shall be subrogated to the liens of all encumbrances, whether released of record or not, which are discharged in whole or in part by Mortgagee in accordance with this Mortgage or with the proceeds of any loan (including, without limitation, the Term Loans) secured by this Mortgage.

5.12 *Site Visits, Observation and Testing.* Mortgagee and its agents and representatives shall have the right at any reasonable time (and, prior to any Default, with reasonable prior notice) to enter and visit the Property for the purpose of performing appraisals, observing the Property, taking and removing soil or groundwater samples, and conducting tests on any part of the Property (subject to the same terms of entry set forth in Section 6.2 of the Credit Agreement). Mortgagee has no duty, however, to visit or observe the Property or to conduct tests, and no site visit, observation or testing by Mortgagee, its agents or representatives shall impose any liability on any of Mortgagee, its agents or representatives. In no event shall any site visit, observation or testing by Mortgagee, its agents or representatives be a representation that Hazardous Material are or are not present in, on or under the Property, or that there has been or shall be compliance with any

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law, regulation or ordinance pertaining to Hazardous Material or any other applicable governmental law. Neither Mortgagor nor any other party is entitled to rely on any site visit, observation or testing by any of Mortgagee, its agents or representatives. Neither Mortgagee, its agents or representatives owe any duty of care to protect Mortgagor or any other party against, or to inform Mortgagor or any other party of, any Hazardous Material or any other adverse condition affecting the Property. Mortgagee shall give Mortgagor reasonable advance notice before entering the Property. Mortgagee shall make reasonable efforts to avoid interfering with Mortgagor's (and its tenant's, invitees', patients', guests' and licensees') use of the Property in exercising any rights provided in this Section 5.12.

5.13 *Notice of Change.* Mortgagor shall give Mortgagee prior written notice of any change in: (a) the location of its place of business or its chief executive office if it has more than one place of business; (b) the location of any of the Property, including the Books and Records; and (c) Mortgagor's name, business structure or jurisdiction of organization. Unless otherwise approved by Mortgagee in writing, all Property that consists of personal property (other than the Books and Records) will be located on the Premises and all Books and Records will be located at Mortgagor's place of business or chief executive office if Mortgagor has more than one place of business.

6. ACCELERATING TRANSFERS, DEFAULT AND REMEDIES.

6.1 *Accelerating Transfers.*

(a) "*Accelerating Transfer*" means any conveyance, sale, lease, or other disposition by any Borrower of all or any part of its Property not expressly permitted under Section 6.13 of the Credit Agreement.

(b) Mortgagor acknowledges that Lenders are making the Term Loans under the Credit Agreement in reliance on the expertise, skill and experience of Mortgagor; thus, the Secured Obligations include material elements similar in nature to a personal service contract. In consideration of Mortgagee's reliance, Mortgagor agrees that Mortgagor shall not make any Accelerating Transfer, unless the transfer is preceded by Mortgagee's express written consent to the particular transaction and transferee. Mortgagee may withhold such consent in its sole discretion. If any Accelerating Transfer occurs, Mortgagee in its sole discretion may declare all of the Secured Obligations to be immediately due and payable, and Mortgagee may invoke any rights and remedies provided by Section 6.3 of this Mortgage.

6.2 *Events of Default.* Mortgagor will be in default under this Mortgage upon the occurrence of any "Event of Default" under the Credit Agreement or any other Loan Document.

6.3 *Remedies.* At any time after an Event of Default, Mortgagee shall be entitled to invoke any and all of the rights and remedies described below, in addition to all other rights and remedies available to Mortgagee at law or in equity. All of such rights and remedies shall be cumulative, and the exercise of any one or more of them shall not constitute an election of remedies.

(a) Mortgagee, with or without entry, personally or by its agents or attorneys, insofar as applicable may: (i) institute proceedings for the complete foreclosure of this

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Mortgage; or (ii) institute proceedings to collect any delinquent installment or installments of Secured Obligations without accelerating the due date of the entire Secured Obligations by proceeding with foreclosure of this Mortgage with respect to any delinquent installment or installments of the Secured Obligations only and any sale of the Property under a foreclosure proceeding under this subparagraph shall be subject to and shall not affect the unmaturing part of the Secured Obligations and this Mortgage shall be and continue as a Lien on the Property securing the unmaturing Secured Obligations; or (iii) take such steps to protect and enforce its rights whether by action, suit or proceeding in equity or at law for the specific performance of any obligation, covenant, condition or agreement in the Loan Documents, or in aid of the execution of any power herein granted, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy or otherwise as Mortgagee shall elect; or (iv) enforce this Mortgage in any other manner permitted under the laws of state in which the Property is located. Mortgagor hereby consents to the entry of such an order upon the sworn, ex parte motion of Mortgagee that an Event of Default has occurred hereunder. Unless Mortgagor and Mortgagee agree otherwise in writing, any application of rents, income, issues or profits to any Secured Obligation secured hereby shall not extend or postpone the due date of the installment payments as provided in the Credit Agreement or the other Loan Documents or change the amount of such installments. The entering upon, the taking possession of the Property, the collection of such rents, income, issues and profits, and the application thereof as described herein, shall not waive or cure any default or notice of default hereunder, or invalidate any act done pursuant to such notice. Mortgagor also assigns to Mortgagee, as further security for the performance of the obligations secured hereby, all prepaid rents and all monies which may have been or may hereafter be deposited with Mortgagor by a lease of the Property, to secure the payment of any rent, and upon default in the performance of any of the provisions hereof, Mortgagor agrees to deliver such rents and deposits to Mortgagee. Delivery of written notice of Mortgagee's exercise of rights granted herein, to any tenant occupying the Property shall be sufficient to require said tenant to pay said rent to Mortgagee until further notice.

(b) Mortgagee shall be entitled to have a receiver appointed to enter upon and take possession of the Property, collect the rents and profits therefrom and apply the same as the court may direct, such receiver to have all the rights and powers permitted under the laws of Indiana.

(c) In either case, Mortgagee or the receiver may also take possession of, and for these purposes, use any Tangible Property which is a part of the Property and used and owned by Mortgagor in the rental or leasing thereof or any part thereof. The expense (including receiver's fees, attorneys' fees, costs and agent's compensation) incurred pursuant to the powers herein contained shall be secured hereby. Mortgagee shall (after payment of all costs and expenses incurred) apply such rents, issues and profits received by it on the Secured Obligations secured hereby in such order as Mortgagee determines. The right to enter and take possession of the Property, to manage and operate the same, and to collect the rents, issues and profits thereof, whether by receiver or otherwise, shall be cumulative to any other right or remedy hereunder or afforded by law, and may be exercised concurrently therewith or independently thereof. Mortgagee shall be liable to account only for such rents, issues and profits actually received by Mortgagee.

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(d) Mortgagee may exercise any or all of its rights and remedies under the Uniform Commercial Code or other applicable law of the state in which the Property is located as well as all other rights and remedies possessed by Mortgagee, all of which shall be cumulative. Mortgagee hereby is authorized and empowered to enter the Property or other place where the Tangible Property may be located without legal process, and take possession of the Tangible Property without notice or demand which hereby are waived. Whenever Mortgagor is in default hereunder, and upon demand by Mortgagee, Mortgagee shall make the Tangible Property available to Mortgagee at a place reasonably convenient to Mortgagee. Mortgagee may waive any Event of Default before or after that Event of Default has been declared, without impairing its right to declare a subsequent Event of Default hereunder, this right being a continuing one. Mortgagee, with notice may sell at one or more public or private sales, any and all of the Tangible Property secured by this Mortgage, and any other security or property held by Mortgagee. Mortgagee may be the purchaser of any or all of the Tangible Property and may hold the Tangible Property thereafter in its own right absolutely, free from any claims of Mortgagor or right of redemption. It is expressly agreed in accordance with the provisions of the Uniform Commercial Code (of the state in which the Property is located), ten (10) days' notice by Mortgagee to Mortgagor shall be deemed to be reasonable notice under any provision of such Uniform Commercial Code requiring such notice; provided, that Mortgagee may at its option dispose of the collateral in accordance with Mortgagee's rights and remedies in respect to the real property pursuant to the provision of this Mortgage, in lieu of proceeding under such Uniform Commercial Code.

(e) To the maximum extent permitted under the laws of the state in which the Property is situated, Mortgagee shall have the right, but not the duty, to enter into possession of the Property and perform or engage others to perform any and all work and labor, supply materials and incur any costs and expenses, including attorneys' fees, necessary to protect or secure the improvements and employ watchmen to protect the Property. If Mortgagee undertakes any, some or all of its rights in the first sentence of this subparagraph, Mortgagor agrees that on account thereof Mortgagee may make additional further advances (the "*Additional Future Advances*") in such manner and for such purposes as Mortgagee deems advisable, even if such advances are in excess of the original aggregate principal amount of the Term Notes. The Additional Future Advances shall bear interest at the Default Rate from the date of disbursement of the Additional Future Advances and interest thereof shall be payable in accordance with the terms of the Term Notes, this Mortgage and the other Loan Documents. Mortgagor agrees that all of the advances made under the provisions of the second sentence of this subparagraph shall be deemed to have been advanced by Mortgagee to Mortgagor and all such advances shall be a portion of the Secured Obligations and shall be secured by the lien of this Mortgage. For the purpose of exercising its rights under the first sentence of this subparagraph, Mortgagor hereby constitutes and appoints Mortgagee as its true and lawful attorney-in-fact with full power of substitution and empowers said attorney as follows: to use any funds of Mortgagor, including any balance of Mortgagor's funds which may be held in escrow and any funds which Mortgagee has the right to advance as provided in the second sentence of this subparagraph, on account of any, some of or all of the rights of Mortgagee under the first sentence of this subparagraph; to employ such attorneys, contractors, sub-contractors, agents, architects and inspectors as shall be required for the exercise of said rights by

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Mortgagee; to pay, settle or compromise all existing bills and claims which are, may, or appear to be liens against the Property, or the payment of which may be necessary or desirable in the opinion of Mortgagee for the completion of the work, the protection of the Improvements or the clearance of title, without inquiring into the accuracy or validity of any thereof; to execute in the name of Mortgagor all applications and certificates which may be required by any construction contract. It is understood and agreed that this power of attorney shall be deemed to be a power coupled with an interest which cannot be revoked. Said attorney-in-fact shall also have the power, but not the duty, to prosecute and defend all actions or proceedings in connection with the construction of the Improvements and to take such action and require such performance as it deems necessary. Mortgagee hereby assigns and transfers to Mortgagee all sums advances hereunder and all sums in escrow, subject to the condition that said sums, if any, be used in connection with any, some or all of the rights of Mortgagee set forth in the first sentence of this subparagraph and provided however that this sentence shall in no way restrict the use or rights of Mortgagee in or of any other collateral (whether cash or otherwise) held by Mortgagee under any other agreements with Mortgagee or others in conjunction with or as security for the Secured Obligations. The Event of Default giving rise to the rights of Mortgagee under this subparagraph shall be a continuing Event of Default and even though Mortgagee has elected to exercise its rights under this subparagraph, such Event of Default and any other Events of Default thereafter occurring shall continue to exist and Mortgagee, at its option and without notice to Mortgagor, may at any time cease exercising its rights under this subparagraph and may exercise any other remedy under this Mortgage by reason of such continuing Event of Default or Events of Default.

(f) *Protective Advances.*

(i) Advances, disbursements and expenditures made by Mortgagee for the following purposes, whether before and during a foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, shall, in addition to those otherwise authorized by this Mortgage, constitute "*Protective Advances*":

(A) all advances by Mortgagee in accordance with the terms of this Mortgage to: (1) register, preserve or maintain, repair, restore or rebuild the Improvements upon the Property; (2) preserve the lien of this Mortgage or the priority thereof; or (C) enforce this Mortgage;

(B) payments by Mortgagee of: (1) when due, installments of principal, interest or other obligations in accordance with the terms of any prior lien or encumbrance; (2) when due, installments of Taxes and assessments, general and special and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the Property or any part thereof; (3) other obligations authorized by this Mortgage; or (4) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title to the Property;

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(C) advances by Mortgagee in settlement or compromise of any claims asserted by claimants under any prior liens;

(D) attorneys' fees and other costs incurred: (1) in connection with the foreclosure of this Mortgage; (2) in connection with any action, suit or proceeding brought by or against Mortgagee for the enforcement of this Mortgage or arising from the interest of Mortgagee hereunder or under any of the other Loan Documents; or (3) in the preparation for the commencement or defense of any such foreclosure or other action;

(E) Mortgagee's fees and costs, including reasonable attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearing;

(F) advances of any amount required to make up a deficiency in deposits for installments of Taxes and assessments and insurance premiums as may be authorized by this Mortgage;

(G) expenses properly deductible from proceeds of sale; and

(H) expenses incurred and expenditures made by Mortgagee for any one or more of the following: (A) premiums for casualty and liability insurance paid by Mortgagee whether or not Mortgagee or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals thereof; (B) repair or restoration of damage or destruction in excess of available insurance proceeds or awards; (C) payments required or deemed by Mortgagee to be for the benefit of the Property under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Property; (D) shared or common expense assessments payable to any association or corporation in which the owner of the mortgaged real estate is a member in any way affecting the Property; or (E) pursuant to any Lease or other agreement for occupancy of the Property.

(ii) All Protective Advances shall be additional Obligations, and shall become immediately due and payable without notice and with interest thereon from the date of the advance until paid at the Default Rate.

(iii) This Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Mortgage is recorded.

(iv) All Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the Foreclosure Laws, apply to and be included in the:

(A) determination of the amount of Obligations at any time;

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(B) indebtedness found due and owing to Mortgagee in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;

(C) determination of amounts deductible from sale proceeds pursuant to the Foreclosure Laws;

(D) application of income in the hands of any receiver or Mortgagee in possession; and

(E) computation of any deficiency judgment.

6.4 Credit Bids. At any Foreclosure Sale, any person, including Mortgagor or Mortgagee, may bid for and acquire the Property or any part of it to the extent permitted by then applicable law. Instead of paying cash for such property, Mortgagee may settle for the purchase price by crediting the sales price of the property against the following obligations:

(a) First, the portion of the Secured Obligations attributable to the expenses of sale, costs of any action and any other sums for which Mortgagor is obligated to pay or reimburse Mortgagee under Section 5.9 of this Mortgage; and

(b) Second, all other Secured Obligations in any order and proportions as Mortgagee in its sole discretion may choose.

6.5 Application of Foreclosure Sale Proceeds. Mortgagee shall apply the proceeds of any Foreclosure Sale in the following manner:

(a) First, to pay the portion of the Secured Obligations attributable to the actual expenses of sale, costs of any action and any other sums for which Mortgagor is obligated to reimburse Mortgagee under Section 5.9 of this Mortgage;

(b) Second, to pay the portion of the Secured Obligations attributable to any actual sums expended or advanced by Mortgagee pursuant to the terms of this Mortgage which then remain unpaid;

(c) Third, to pay all other Secured Obligations in any order and proportions as Mortgagee in its sole discretion may choose; and

(d) Fourth, to remit the remainder, if any, to the person or persons entitled to it, including, without limitation, Mortgagor.

6.6 Application of Rents and Other Sums. Mortgagee shall apply any and all Rents collected by it, and any and all sums other than proceeds of a Foreclosure Sale which Mortgagee may receive or collect under Section 6.3 above, in the following manner:

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- (a) First, to pay the portion of the Secured Obligations attributable to the costs and expenses of operation and collection that may be incurred by Mortgagee or any receiver;
- (b) Second, to pay all other Secured Obligations in any order and proportions as Mortgagee in its sole discretion may choose; and
- (c) Third, to remit the remainder, if any, to the person or persons entitled to it.

Mortgagee shall have no liability for any funds which it does not actually receive.

6.7 *Compliance with Foreclosure Laws.*

(a) In the event that any provision in this Mortgage shall be inconsistent with any provision of the Foreclosure Laws, the provisions of the Foreclosure Laws shall take precedence over the inconsistent provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Foreclosure Laws.

(b) If any provision of this Mortgage shall grant to Mortgagee any rights or remedies upon the occurrence of an Event of Default which are more limited than the rights that would otherwise be vested in Mortgagee under the Foreclosure Laws in the absence of said provision, Mortgagee shall be vested with the rights granted in the Foreclosure Laws to the full extent permitted by law.

7. **MISCELLANEOUS PROVISIONS.**

7.1 *Additional Provisions.* The Loan Documents fully state all of the terms and conditions of the parties' agreement regarding the matters mentioned in or incidental to this Mortgage. The Loan Documents also grant further rights to Mortgagee and contain further agreements and affirmative and negative covenants by Mortgagor which apply to this Mortgage and to the Property.

7.2 *No Waiver or Cure.*

(a) Each waiver by Mortgagee must be in writing, and no waiver shall be construed as a continuing waiver. No waiver shall be implied from any delay or failure by Mortgagee to take action on account of any default of Mortgagor. Consent by Mortgagee to any act or omission by Mortgagor shall not be construed as a consent to any other or subsequent act or omission or to waive the requirement for Mortgagee's consent to be obtained in any future or other instance.

(b) If any of the events described below occurs, that event alone shall not: cure or waive any breach, Event of Default or notice of default under this Mortgage or invalidate any act performed pursuant to any such default or notice; or nullify the effect of any notice of default or sale (unless all Secured Obligations then due have been paid and performed and all other defaults under the Loan Documents have been cured); or impair the security of this Mortgage; or prejudice Mortgagee or any receiver in the exercise of any right or remedy afforded any of them under this Mortgage; or be construed as an affirmation by Mortgagee of any tenancy, lease or option, or a subordination of the lien of this Mortgage.

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- (i) Mortgagee, its agent or a receiver takes possession of all or any part of the Property in the manner provided in Subsection 6.3(c).
- (ii) Mortgagee collects and applies Rents as permitted under Sections 2.3 and 6.6 above, either with or without taking possession of all or any part of the Property.
- (iii) Mortgagee receives and applies to any Secured Obligation any proceeds of any Property, including any proceeds of insurance policies, condemnation awards, or other claims, property or rights assigned to Mortgagee under Section 1.1 above.
- (iv) Mortgagee makes a site visit, observes the Property and/or conducts tests as permitted under Section 5.12 above.
- (v) Mortgagee receives any sums under this Mortgage or any proceeds of any collateral held for any of the Secured Obligations, and applies them to one or more Secured Obligations.
- (vi) Mortgagee or any receiver invokes any right or remedy provided under this Mortgage.

7.3 Powers of Mortgagee.

- (a) If Mortgagee performs any act which it is empowered or authorized to perform under this Mortgage, including any act permitted by Section 5.7 or Subsection 6.3(d) of this Mortgage, that act alone shall not release or change the personal liability of any person for the payment and performance of the Secured Obligations then outstanding, or the lien of this Mortgage on all or the remainder of the Property for full payment and performance of all outstanding Secured Obligations. The liability of the original Mortgagor shall not be released or changed if Mortgagee grants any successor in interest to Mortgagor any extension of time for payment, or modification of the terms of payment, of any Secured Obligation. Mortgagee shall not be required to comply with any demand by the original Mortgagor that Mortgagee refuse to grant such an extension or modification to, or commence proceedings against, any such successor in interest.
- (b) Mortgagee may take any of the actions permitted under Subsections 6.3(b) and/or 6.3(c) regardless of the adequacy of the security for the Secured Obligations, or whether any or all of the Secured Obligations have been declared to be immediately due and payable, or whether notice of default and election to sell has been given under this Mortgage.
- (c) From time to time, Mortgagee may apply to any court of competent jurisdiction for aid and direction in executing and enforcing the rights and remedies created under this Mortgage. Mortgagee may from time to time obtain orders or decrees directing, confirming or approving acts in executing and enforcing these rights and remedies.

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7.4 Merger. No merger shall occur as a result of Mortgagee's acquiring any other estate in or any other lien on the Property unless Mortgagee consents to a merger in writing.

7.5 Liability. The personal responsibility and personal liability of Mortgagor's principals, directors, officers, employees and members, including, without limitation, any direct or indirect owner of any interest in any member of Mortgagor, under this Mortgage and all other Loan Documents shall be governed by Section 10.12 of the Credit Agreement.

7.6 Applicable Law. The creation, perfection and enforcement of the lien of this Mortgage shall be governed by the law of the State of Indiana, without regard to principles of conflict of law, and for purposes of consistency, Mortgagor agrees that in any *in personam* proceeding related to this Mortgage the rights of the parties to this Mortgage shall also be governed by and construed in accordance with the laws of the State of Indiana governing contracts made and to be performed in that State, without regard to principles of conflict of law. Subject to the foregoing, in all other respects, this Mortgage shall be governed by the internal laws of the State of Illinois applicable to contracts made and to be performed entirely within such State, without regard to conflict of laws principles.

7.7 Successors in Interest. The terms, covenants and conditions of this Mortgage shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties. However, this Section 7.7 does not waive the provisions of Section 6.1 above.

7.8 Interpretation.

(a) Whenever the context requires, all words used in the singular will be construed to have been used in the plural, and vice versa, and each gender will include any other gender. The captions of the sections of this Mortgage are for convenience only and do not define or limit any terms or provisions. The word "*include(s)*" means "include(s), without limitation," and the word "including" means "including, but not limited to."

(b) The word "*obligations*" is used in its broadest and most comprehensive sense, and includes all primary, secondary, direct, indirect, fixed and contingent obligations. It further includes all principal, interest, prepayment charges, late charges, loan fees and any other fees and charges accruing or assessed at any time, as well as all obligations to perform acts or satisfy conditions.

(c) No listing of specific instances, items or matters in any way limits the scope or generality of any language of this Mortgage. The Exhibits to this Mortgage are hereby incorporated in this Mortgage.

7.9 Waiver of Statutory Rights. To the extent permitted by law, Mortgagor hereby agrees that it shall not and will not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws. Mortgagor for itself and all who may claim through or under it waives any and all right to have the property and estates comprising the Property marshalled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Property sold as an entirety. Mortgagor hereby waives any and all rights of redemption from sale

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under any judgment of foreclosure of this Mortgage on behalf of Mortgagor and on behalf of each and every person acquiring any interest in or title to the Property of any nature whatsoever, subsequent to the date of this Mortgage. The foregoing waiver of right of redemption is made pursuant to the provisions of applicable law.

7.10 *Severability.* If any provision of this Mortgage should be held unenforceable or void, that provision shall be deemed severable from the remaining provisions and shall in no way affect the validity of this Mortgage except that if such provision relates to the payment of any monetary sum, then Mortgagee may, at its option, declare all Secured Obligations immediately due and payable.

7.11 *Notices.* Any notice, demand, request or other communication which any party hereto may be required or may desire to give hereunder shall be in writing and shall be deemed to have been properly given (a) if hand delivered, when delivered; (b) if mailed by United States Certified Mail (postage prepaid, return receipt requested), three Business Days after mailing (c) if by Federal Express or other reliable overnight courier service, on the next Business Day after delivered to such courier service or (d) if by telecopier on the day of transmission so long as copy is sent on the same day by overnight courier as set forth below:

Mortgagor: Park Place Christian Community of St. John, Inc.
c/o Providence Life Services
18601 North Creek Drive, Suite A
Tinley Park, Illinois 60477
Attention: Chief Financial Officer
Telephone: (708) 342-3100
Facsimile: (847) 342-8000

With a copy to: Ruff Breems LLP
8102 W. 119th Street, Suite 150
Palos Park, Illinois 60464
Attention: Timothy S. Breems, Sr.
Telephone: (312) 602-4888
Email: tbreems@ruffbreems.com

Mortgagee: Fifth Third Bank, National Association
1225 17th Street #2850
Denver, Colorado 80202
Attention: Jennifer Camp
Email: Jennifer.Camp@53.com
Telephone: (303) 524-3514

With a copy to: Chapman and Cutler LLP
320 South Canal Street, 27th Floor
Chicago, Illinois 60606
Attention: Sean T. Maloney
Telephone: (312) 845-3844
Facsimile: (312) 638-8156

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or at such other address as the party to be served with notice may have furnished in writing to the party seeking or desiring to serve notice as a place for the service of notice.

Any notice or demand delivered to the person or entity named above to accept notices and demands for Mortgagor shall constitute notice or demand duly delivered to Mortgagor, even if delivery is refused.

7.12 Future Advances. The total amount of indebtedness secured hereby may increase or decrease from time to time, but the total unpaid principal balance of indebtedness secured hereby (including disbursements that the Lenders may, but shall not be obligated to, make under this Mortgage, the Loan Documents or any other document with respect thereto) at any one time outstanding may be substantially less but shall not exceed Fifty-Four Million Eight Hundred Seventy-Seven Thousand Five Hundred Sixty-Seven Dollars and 18/100 (\$54,877,567.18), plus interest thereon, and any disbursements made for the enforcement of this Mortgage and the other Loan Documents and any remedies hereunder, payment of taxes, special assessments, utilities or insurance on the Property or any other Mortgaged Property and interest on such disbursements and all disbursements by Mortgagee pursuant to applicable law (all such indebtedness being hereinafter referred to as the maximum amount secured hereby). This Mortgage shall be valid and have priority to the extent of the maximum amount secured hereby over all subsequent liens and encumbrances, including statutory liens, excepting solely taxes and assessments levied on the Property given priority by law.

7.13 Mortgagee's Lien for Service Charge and Expenses. At all times, regardless of whether any Term Loan proceeds have been disbursed, this Mortgage secures (in addition to any Term Loan proceeds disbursed from time to time) the payment of any and all loan commissions, service charges, liquidated damages, expenses and advances due to or incurred by Mortgagee not to exceed the maximum amount secured hereby. For purposes hereof, all obligations of Mortgagor to Mortgagee under all Hedging Agreements and any indebtedness or obligation contained therein or evidenced thereby shall be considered an obligation of Mortgagor secured hereby.

7.14 WAIVER OF TRIAL BY JURY. MORTGAGOR HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT THAT IT MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION ARISING IN ANY WAY IN CONNECTION WITH THIS MORTGAGE, THE CREDIT AGREEMENT, THE TERM NOTES, OR ANY OF THE OTHER LOAN DOCUMENTS, THE TERM LOANS OR ANY OTHER STATEMENTS OR ACTIONS OF MORTGAGOR OR MORTGAGEE. MORTGAGOR ACKNOWLEDGES THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS MORTGAGE AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS DISCUSSED THIS WAIVER WITH SUCH LEGAL COUNSEL. MORTGAGOR FURTHER ACKNOWLEDGES THAT (i) IT HAS READ AND UNDERSTANDS THE MEANING AND RAMIFICATIONS OF THIS WAIVER, (ii) THIS WAIVER IS A MATERIAL INDUCEMENT FOR MORTGAGEE AND THE OTHER LENDERS TO MAKE THE TERM LOANS, ENTER INTO THIS MORTGAGE AND EACH OF THE OTHER LOAN DOCUMENTS, AND (iii) THIS WAIVER SHALL BE EFFECTIVE AS TO EACH OF SUCH OTHER LOAN DOCUMENTS AS IF FULLY INCORPORATED THEREIN.

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7.15 *Inconsistencies.* In the event of any inconsistency between this Mortgage and the Credit Agreement, the terms hereof shall be controlling as necessary to create, preserve and/or maintain a valid security interest upon the Property, otherwise the provisions of the Credit Agreement shall be controlling.

7.16 *UCC Financing Statements.* Mortgagor hereby authorizes Mortgagee to file UCC financing statements to perfect Mortgagee's security interest in any part of the Property. In addition, Mortgagor agrees to sign any and all other documents that Mortgagee deems necessary in its sole discretion to perfect, protect, and continue Mortgagee's lien and security interest on the Property.

[SIGNATURE PAGE FOLLOWS]

Property of Lake County Recorder

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EXHIBIT A

Description of Premises

Parcel 1:

Lots 1417 and 1443 in Park Place of St. John to the Town of St. John, Lake County, Indiana, as per plat thereof, recorded in Plat Book 107, Page 59 as Document No. 2014-067638, dated October 24, 2014 in the Office of the Recorder of Lake County, Indiana.

Parcel 2 (Easement):

Together with the benefit of non-exclusive easements to Common Area; installation and maintenance of drainage facilities; and utility easements as contained in Declaration of Covenants, Conditions, Restrictions and Easements dated April 6, 2009, recorded April 9, 2009 as Document No. 2009-022855.

Parcel Numbers:

45-15-03-378-001.000-015 (Lot 1443)

45-15-03-378-002.000-015 (Lot 1417)

Address:

10700, 10810, 10830, 10840, 10850 & 10860 Park Place, St. John, Indiana 46373