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LISA SMITH, COUNTY RECORDER  
MADISON COUNTY IOWA

Prepared by Lynn Wickham Hartman, Simmons Perrine Moyer Bergman PLC  
and return to: 115 Third Street S.E., Suite 1200, Cedar Rapids, IA 52401-1266; 319/366-7641  
Lynn Wickham Hartman, ISBA No. LI0009204 **SPACE ABOVE THIS LINE FOR RECORDER**

*E/*  
*✓* US BANK, PO Box 3487, Oshkosh WI 54903-9948

**Legal Description: Lots One (1), Two (2), Seven (7), Eight (8) and the East Half of Lot Six (6), all in Block Ten (10), Laughridge and Cassidy's Addition to the Original Town of Winterset, Madison County, Iowa, AND the East 165 feet of the East-West alley located in said Block Ten (10)**

*62-22-754158*  
*2574216 DW*

**MORTGAGE, SECURITY AGREEMENT AND  
ASSIGNMENT OF RENTS**

This Mortgage, Security Agreement and Assignment of Rents ("**Mortgage**") is made and entered into by Midwest Memorials, LLC, 1014 5<sup>th</sup> Avenue S.E., Cedar Rapids, IA 52403 ("**Mortgagor**") in favor of U.S. Bank National Association, 400 City Center, Oshkosh, WI 54901 (the "**Bank**") as of October 31, 2019.

**NOTICE: THIS MORTGAGE SECURES CREDIT IN THE AMOUNT OF \$1,212,800.00. LOANS AND ADVANCES UP TO THIS AMOUNT, TOGETHER WITH INTEREST, ARE SENIOR TO INDEBTEDNESS TO OTHER CREDITORS UNDER SUBSEQUENTLY RECORDED OR FILED MORTGAGES AND LIENS.**

**ARTICLE I. MORTGAGE/SECURITY INTEREST**

**1.1 Grant of Mortgage/Security Interest.** For consideration received, the Mortgagor hereby sells, mortgages, conveys, grants a security interest and collaterally assigns to the Bank the Mortgaged Property (defined below) to secure all of the Obligations (defined below). The intent of the parties hereto is that the Mortgaged Property secures all Obligations, whether now or hereafter existing. The parties further intend that the Mortgage shall operate as a security agreement with respect to those portions of the Mortgaged Property which are subject to Revised Article 9 of the Uniform Commercial Code.

1.2 "**Mortgaged Property**" means all of the following whether now owned or existing or hereafter acquired by the Mortgagor, wherever located: all the real property legally described below (the "**Land**"), together with all buildings, structures, standing timber, timber to be cut, fixtures, furnishings, equipment, machinery, apparatus, appliances, and articles of personal property of every kind and nature whatsoever, (and all proceeds and products thereof) now or hereafter located on the Land, or any part thereof, and used in connection with the Land and improvements; all building materials, contracts, drawings, plans and specifications and other personal property relating to any construction on the Land; and all other improvements now or hereafter constructed, affixed or located thereon (the "**Improvements**") (the Land and the Improvements collectively the "**Premises**"); any and all easements, rights-of-way, licenses, privileges, and appurtenances thereto; any and all lease or other agreements for the use or occupancy of the Premises, and all the rents, issues, profits or any proceeds therefrom and all security deposits and any guaranty of a tenant's obligations thereunder (collectively the "**Rents**"); all awards as a result of condemnation, eminent domain or other decrease in value of the Premises and all insurance and other proceeds of the Premises; any interest of Mortgagor in and to the land lying within any street or roadway adjoining the Premises and any strips and gores adjoining the Premises or any part thereof; and any and all rights of Mortgagor in any and all accounts, rights to payment, contract rights, chattel paper, documents, instruments, licenses, contracts, agreements and general intangibles relating to any of the Mortgaged Property, including, without limitation, income and profits derived from the sale of the Mortgaged Property or the operation of any business on the Premises or attributable to services that occur or are provided on the Premises or generated from the use and operation of the Mortgaged Property.

The Land is described as follows: **Lots One (1), Two (2), Seven (7), Eight (8) and the East Half of Lot Six (6), all in Block Ten (10), Laughridge and Cassiday's Addition to the Original Town of Winterset, Madison County, Iowa, AND the East 165 feet of the East-West alley located in said Block Ten (10),**

locally known as 723 E. Green, Winterset, Madison County, Iowa.

1.3 "**Obligations**" means the loans by Bank listed in the Master Loan and Security Agreement between Mortgagor, Bank, and other parties identified therein, dated October 31, 2019, and any extensions, renewals, restatements and modifications thereof and all principal, interest, fees and expenses relating thereto, and if a revolving credit, such amounts as may be advanced, paid down and readvanced from time to time thereunder (collectively, the "**Notes**"); all of the debts, liabilities, obligations, covenants, warranties, and duties of Mortgagor to Bank under the Loan Documents; all other debts, liabilities, obligations, covenants, warranties, and duties of Mortgagor to Bank (but specifically excluding any type of consumer credit), however arising and whether now or hereafter existing or incurred, whether liquidated or unliquidated, whether absolute or contingent, and regardless of whether such Obligations arise out of existing or future credit granted by Bank to Mortgagor, to Mortgagor and others, to others guaranteed, endorsed or otherwise secured by Mortgagor or to any debtor-in-possession/successor-in-interest of Mortgagor ("**Future Obligations**"), **provided, that any such Future Obligations will be secured only when the promissory note, loan agreement, credit agreement or other evidence of indebtedness of such Future Obligations, or any amendment thereto, specifically provides that the obligations**

**thereunder are secured by the Mortgage;** all of Mortgagor's obligations under the Mortgage; and principal, interest, fees, expenses and charges relating to any of the foregoing, including without limitation, costs and expenses of collection and enforcement of the Mortgage, attorneys' fees of both inside and outside counsel and environmental assessment or remediation costs.

1.4 "**Loan Documents**" means, together and individually the Notes, the Mortgage and any promissory note, loan agreement, security or pledge agreement, assignment, financing statement, lease, mortgage, deed of trust or other pledge of an interest in real or personal property, any guaranty, subordination, letter of credit and letter of credit reimbursement agreement, banker's acceptance, and any other agreement, document or instrument previously, concurrently or hereafter executed or delivered by any party to or in favor of Bank evidencing, creating, securing, guaranteeing or otherwise related to any of the Obligations or the pledge of the Mortgaged Property as security for repayment of the indebtedness evidenced by the Notes, whether or not specifically enumerated therein or in the Mortgage (the "**Loan Documents**").

1.5 **Homestead.** The Premises are not the homestead of the Mortgagor.

## ARTICLE II. WARRANTIES AND COVENANTS

In addition to all other warranties and covenants of the Mortgagor under the Loan Documents which are expressly incorporated herein as part of this Mortgage, including the covenants to pay and perform all Obligations, and while any part of the credit granted the Mortgagor under the Loan Documents is available or any Obligations of the Mortgagor to the Bank are unpaid or outstanding, the Mortgagor continuously warrants and agrees as follows:

2.1 **Warranty of Title/Possession.** The Mortgagor has sole and exclusive title to and possession of the Premises, excepting only the following "**Permitted Encumbrances**": restrictions and utility easements of record and zoning ordinances (the terms of which are and will be complied with, and in the case of easements, are and will be kept free of encroachments); taxes and assessments not yet due and payable. The lien of this Mortgage, subject only to Permitted Encumbrances, is and will continue to be a valid first and only lien upon all of the Mortgaged Property.

2.2 **Maintenance; Waste; Alteration.** The Mortgagor will maintain the Premises in good and tenantable condition and will restore or replace damaged or destroyed Improvements with items of at least equal utility and value. The Mortgagor will not commit or permit waste to be committed on the Premises. The Mortgagor will not remove, demolish or materially alter any part of the Premises without the Bank's prior written consent, except the Mortgagor may remove a fixture, provided the fixture is promptly replaced with another fixture of at least equal utility. The replacement fixture will be subject to the priority lien and security interest of this Mortgage.

2.3 **Due on Sale.** To the fullest extent permitted by applicable law, if all or any part of the Mortgagor's interest in the Premises is sold, conveyed, assigned, leased, mortgaged, encumbered,

hypothecated or transferred without the Bank's prior written consent, the Bank may, at the Bank's sole option, declare all sums secured hereby immediately due and payable.

**2.4 Escrow.** After written request from the Bank, the Mortgagor shall pay to the Bank funds in such amounts and at such times as the Bank designates, to pay when due (a) the annual real estate taxes and assessments on the Premises; (b) all property or hazard insurance premiums on the Premises; and (c) flood insurance premiums, if any, on the Premises. Such payments shall be in addition to any other amounts which may be payable hereunder or under any other Loan Document, and the amount of such payments shall be based upon Bank's estimate, in Bank's sole discretion, of such charges. Upon demand by Bank, Mortgagor shall pay to Bank such additional sums as may be required by Bank to make up any deficiency in the amount necessary to enable Bank to fully pay when due the actual amount of any of such charges. Unless required by Iowa law, interest will not be paid by the Bank on any escrowed funds. Escrowed funds may be commingled with other funds of the Bank. All escrowed funds are hereby pledged as additional security for the Obligations.

**2.5 Taxes, Assessments, and Charges.** To the extent not paid to the Bank under Section 2.4 above, the Mortgagor will pay before they become delinquent all taxes, assessments, fines and other charges now or hereafter levied or assessed against the Premises, against the Bank based upon this Mortgage or the Obligations secured by this Mortgage, or upon the Bank's interest in the Premises, and will deliver to the Bank receipts showing timely payment.

**2.6 Insurance.** The Mortgagor will continually insure the Premises, with insurers acceptable to the Bank, against such perils or hazards as the Bank may require, in amounts not less than the unpaid balance of the Obligations or the full replacement value of the Improvements, whichever is less, with acceptable co-insurance provisions. The policies will contain an agreement by each insurer that the policy will not be terminated or modified without at least thirty (30) days' prior written notice to the Bank and will contain a mortgage clause acceptable to the Bank; and the Mortgagor will take such other action as the Bank may reasonably request to ensure that the Bank will receive (subject to no other interests) the insurance proceeds from the Improvements. The Mortgagor hereby assigns all insurance proceeds to and irrevocably directs, while any Obligations remain unpaid, any insurer to pay to the Bank the proceeds of all such insurance and any premium refund; and authorizes the Bank to endorse the Mortgagor's name to effect the same, to make, adjust or settle, in the Mortgagor's name, any claim on any insurance policy relating to the Premises. The proceeds and refunds will be applied in such manner as the Bank, in its sole and absolute discretion, determines to rebuilding of the Premises or to payment of the Obligations, whether or not then due and payable. In the event of foreclosure of this Mortgage or other transfer of title to the Mortgaged Property in extinguishment of the debt secured hereby, all right, title, and interest of the Mortgagor in and to the proceeds for any loss and to any insurance policies then in force shall pass to the purchaser or grantee, regardless of whether or not there is a deficiency judgment after foreclosure sale or nonjudicial foreclosure.

**2.7 Condemnation.** Any compensation received or receivable for the taking of the Premises, or any part thereof, by a condemnation proceeding (including payments in compromise of condemnation proceedings), and all compensation received or receivable as damages for injury to

the Premises, or any part thereof shall be applied in such manner as the Bank, in its sole and absolute discretion, determines to rebuilding of the Premises or to payment of the Obligations, whether or not then due and payable. Mortgagor hereby assigns any claims for compensation for and shall pay to Bank all proceeds received from a taking by eminent domain of all or a part of the Mortgaged Property.

**2.8 Environmental Matters.** Except as specifically disclosed by Mortgagor to Bank in writing prior to the execution of this Mortgage, Mortgagor represents and warrants as follows. There exists no uncorrected violation by the Mortgagor of any federal, state or local laws (including statutes, regulations, ordinances or other governmental restrictions and requirements) relating to the discharge of air pollutants, water pollutants or process waste water or otherwise relating to the environment or Hazardous Substances as hereinafter defined, whether such laws currently exist or are enacted in the future (collectively "**Environmental Laws**"). The term "**Hazardous Substances**" will mean any hazardous or toxic wastes, chemicals or other substances, the generation, possession or existence of which is prohibited or governed by any Environmental Laws. The Mortgagor is not subject to any judgment, decree, order or citation, or a party to (or threatened with) any litigation or administrative proceeding, which asserts that the Mortgagor (a) has violated any Environmental Laws; (b) is required to clean up, remove or take remedial or other action with respect to any Hazardous Substances (collectively "**Remedial Action**"); or (c) is required to pay all or a portion of the cost of any Remedial Action, as a potentially responsible party. Except as disclosed on the Mortgagor's environmental questionnaire or audit provided to the Bank, there are not now, nor to the Mortgagor's knowledge after reasonable investigation have there ever been, any Hazardous Substances (or tanks or other facilities for the storage of Hazardous Substances) stored, deposited, recycled or disposed of on, under or at any real estate owned or occupied by the Mortgagor during the periods that the Mortgagor owned or occupied such real estate, which if present on the real estate or in soils or ground water, could require Remedial Action. To the Mortgagor's knowledge, there are no proposed or pending changes in Environmental Laws which would adversely affect the Mortgagor or its business, and there are no conditions existing currently or likely to exist while the Loan Documents are in effect which would subject the Mortgagor to Remedial Action or other liability. The Mortgagor currently complies with and will continue to timely comply with all applicable Environmental Laws; and will provide the Bank, immediately upon receipt, copies of any correspondence, notice, complaint, order or other document from any source asserting or alleging any circumstance or condition which requires or may require a financial contribution by the Mortgagor or Remedial Action or other response by or on the part of the Mortgagor under Environmental Laws, or which seeks damages or civil, criminal or punitive penalties from the Mortgagor for an alleged violation of Environmental Laws. In the event of any such circumstance or condition or in the event of default, the Mortgagor agrees, at its expense and at the request of the Bank, to permit such environmental audits and/or investigations, which may at Bank's option include invasive environmental testing, solely for the benefit of the Bank, to be conducted by the Bank or an independent agent selected by the Bank and which may not be relied on by the Mortgagor for any purpose. This provision shall not relieve the Mortgagor from conducting its own environmental audits or taking any other steps necessary to comply with Environmental Laws or to take Remedial Action at its own expense.

**2.9 Assignments.** The Mortgagor will not assign, in whole or in part, to anyone other than the Bank, the rents, issues or profits arising from the Premises, without the Bank's prior written consent.

**2.10 Right of Inspection.** Bank or its agent may at all reasonable times enter and inspect the Premises.

**2.11 Waivers by Mortgagor.** To the greatest extent that such rights may then be lawfully waived, Mortgagor hereby agrees for itself and any persons claiming by, through or under Mortgagor that it will waive and will not, at any time, insist upon or plead or in any manner whatsoever claim or take any benefit or advantage of (a) any exemption, stay, extension or moratorium law now or at any time hereafter in force; (b) any law now or hereafter in force providing for the valuation or appraisal of the Premises or any part thereof prior to any sale or sales thereof to be made pursuant to any provision herein contained or pursuant to the decree, judgment or order of any court of competent jurisdiction; (c) any statute of limitations now or at any time hereafter in force; or (d) any right to require marshalling of assets by Bank; or (e) any law now or at any time hereafter made or enacted granting a right to redeem the Premises so sold or any part thereof or any rights of redemption from sale under any order or decree of foreclosure of the Mortgage.

**2.12 Enforcement of Rents and Leases.** Upon default under this Mortgage or any of the Loan Documents or any Obligation (notwithstanding any cure period), the Bank shall be immediately entitled to collect all Rents, and the Bank, at its option, without notice and without seeking or obtaining the appointment of a receiver or taking actual possession of the Premises may (a) give notice to any tenant(s) that the tenant(s) should begin making payments under their lease agreement(s) directly to the Bank or its designee; (b) commence a foreclosure action and file a motion for appointment of a receiver; or (c) give notice to the Mortgagor that the Mortgagor should collect all Rents arising from the Premises and remit them to the Bank upon collection and that the Mortgagor should enforce the terms of the lease(s) to ensure prompt payment by tenant(s) under the lease(s). All Rents received by the Mortgagor shall be held in trust by the Mortgagor for the Bank. All such payments received by the Bank shall be applied, first, in such manner and order as may be prescribed by applicable law, and, second, in any manner and order of payment as the Bank determines to payments required under this Mortgage, the Loan Documents and the Obligations. The Mortgagor agrees to hold each tenant harmless from actions relating to tenant's payments of Rents to the Bank. By virtue of the conveyance of Rents to the Bank, the Bank is not assuming any liability under any leases or tenancy agreements.

**2.13 Fixture Filing.** From the date of its recording, this Mortgage shall be effective as a financing statement filed as a fixture filing under the Uniform Commercial Code with respect to the Improvements and for this purpose the name and address of the debtor is the name and address of the Mortgagor as set forth in this Mortgage and the name and address of the secured party is the name and address of the Bank as set forth in this Mortgage. The Mortgaged Property includes goods which are or may become so affixed to real property as to become fixtures.

**2.14 Compliance with Leases.** Mortgagor will comply with all terms, covenants and

conditions of any lease(s) affecting the Premises. Mortgagor will not accept any prepayment of rent for more than one month in advance, without the prior written consent of the Bank.

**2.15 Redemption.** It is agreed that if this Mortgage covers less than ten (10) acres of land, and in the event of the foreclosure of this Mortgage and sale of the property by sheriff's sale in such foreclosure proceedings, the time of one year for redemption from said sale provided by the statutes of the State of Iowa shall be reduced to six (6) months or reduced to three (3) months if the property is not used for an agricultural purpose as defined in section 535.13, provided in all cases under this section the Bank, in such action files an election to waive any deficiency judgment against Mortgagor which may arise out of the foreclosure proceedings; all to be consistent with the provisions of Chapter 628 of the Iowa Code. If the redemption period is so reduced, for the first two (2) months after sale such right of redemption shall be exclusive to the Mortgagor, and the time periods in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to three (3) months.

It is further agreed that the period of redemption after a foreclosure of this Mortgage may at the sole option of the Bank be reduced to sixty (60) days if all of the three following contingencies develop: (1) The Land is less than ten (10) acres in size; (2) the Court finds affirmatively that the Premises have been abandoned by the owners and those persons personally liable under this Mortgage at the time of such foreclosure; and (3) Bank in such action files an election to waive any deficiency judgment against Mortgagor or its successors in interest in such action. If the redemption period is so reduced, Mortgagor or its successors in interest or the owner shall have the exclusive right to redeem for the first thirty (30) days after such sale, and the time provided for redemption by creditors as provided in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to forty (40) days. Entry of appearance by pleading or docket entry by or on behalf of Mortgagor shall be a presumption that the premises are not abandoned. Any such redemption period shall be consistent with all of the provisions of Chapter 628 of the Iowa Code. This paragraph shall not be construed to limit or otherwise affect any other redemption provisions contained in Chapter 628 of the Iowa Code.

**2.16 Business Purpose.** The loans represented by the Notes do not constitute a consumer credit transaction as defined in Iowa Code Section 537.1301(12). The loans are for a business or agricultural purpose as defined in Iowa Code Section 535.2(2) (a) (5).

### **ARTICLE III. RIGHTS AND DUTIES OF THE BANK**

In addition to all other rights (including setoff) and duties of the Bank under the Loan Documents which are expressly incorporated herein as a part of this Mortgage, the following provisions will also apply:

**3.1 Bank Authorized to Perform for Mortgagor.** If the Mortgagor fails to perform any of the Mortgagor's duties or covenants set forth in this Mortgage, the Bank may perform the duties or cause them to be performed, including without limitation signing the Mortgagor's name or paying any amount so required, and the cost, with interest at the default rate set forth in the Loan Documents, will immediately be due from the Mortgagor to the Bank from the date of expenditure by the Bank to date of payment by the Mortgagor, and will be one of the Obligations secured by

this Mortgage. All acts by the Bank are hereby ratified and approved, and the Bank will not be liable for any acts of commission or omission, nor for any errors of judgment or mistakes of fact or law.

#### ARTICLE IV. DEFAULTS AND REMEDIES

After notice of right to cure and mediation if required by Iowa law, the Bank may enforce its rights and remedies under this Mortgage upon default. The following shall constitute a default under the Mortgage: (a) Mortgagor (i) fails to comply with the terms of the Mortgage or any other Loan Document to which Mortgagor is a party; (ii) fails to comply with or defaults under the terms of any other mortgage or trust deed affecting the Land; or (iii) dies, ceases to exist or becomes the subject of incompetency, bankruptcy or insolvency proceedings; (b) a default occurs under any other Loan Document or under any Obligation; (c) a demand for payment is made under any demand loan secured by the Mortgage; or (d) any other obligor fails to comply with the terms of any Loan Documents for which the Mortgagor has given the Bank a guaranty or pledge, or if any other default occurs under the Loan Documents. Upon the occurrence of a default, without limitation of Bank's other remedies, the Bank may declare the Obligations to be immediately due and payable.

**4.1 Cumulative Remedies; Waiver.** In addition to the remedies for default set forth below and in the other Loan Documents, including acceleration, the Bank upon default will have all other rights and remedies for default available by law or equity including foreclosure of this Mortgage. The rights and remedies specified herein are cumulative and are not exclusive of any rights or remedies which the Bank would otherwise have. With respect to such rights and remedies:

**a. Foreclosure; Receiver.**

(1) The Bank may (and is hereby authorized and empowered to) foreclose the Mortgage in accordance with the law of the State of Iowa.

(2) To the greatest extent permitted by and without limitation of any rights of Bank under applicable law, Bank will be entitled as a matter of right without notice or demand and without giving bond or other security, and without regard to the solvency or insolvency of Mortgagor or to the value of the Premises, to have a receiver appointed for all or any part of the Premises, which receiver will be authorized (i) to collect the rents, issues and profits of the Premises, and (ii) to take any other action permitted by law. Mortgagor agrees that the Mortgage gives to Bank the right to possession before sale and termination of the right of redemption, pledges the rents and profits, creates in favor of Bank a lien upon and interest in the right of possession given by Iowa and federal law, and upon the revenue which arises from it, and waives the right to challenge the appointment of a receiver.

**b. Waiver by Bank.** Bank may permit Mortgagor to attempt to remedy any default without waiving its rights and remedies hereunder, and Bank may waive any default without waiving any other subsequent or prior default by Mortgagor. Furthermore, delay on the



part of Bank in exercising any right, power or privilege hereunder or at law will not operate as a waiver thereof, nor will any single or partial exercise of such right, power or privilege preclude other exercise thereof or the exercise of any other right, power or privilege. **No waiver or suspension will be deemed to have occurred unless Bank has expressly agreed in writing specifying such waiver or suspension.**

c. **Uniform Commercial Code.** Bank shall have all additional rights and remedies as provided under the Uniform Commercial Code, as amended and as applicable.

d. **Nonjudicial Foreclosure.** Bank may at its option elect to foreclose the Mortgage by nonjudicial procedures allowed by Iowa law.

## ARTICLE V. ADDITIONAL TERMS

The warranties, covenants, conditions and other terms described in this Section are incorporated into the Mortgage.

5.1 **Compliance with Laws & Restrictions.** All existing Improvements and any Improvements hereafter placed on the Land are and will be located within the boundary lines of the Land. All appurtenant easement areas are and shall remain free from encroachments. The Mortgaged Property complies with, and will continue to comply with, all laws applicable to the Mortgaged Property, including without limitation all applicable building, zoning, subdivision and land use statutes, ordinances, codes, rules, regulations and orders and all covenants and agreements of record. Mortgagor will not, and will not permit any tenant or other occupant of the Mortgaged Property to, use the Mortgaged Property in any manner that violates any state or federal law. No further permits, licenses, approvals, variances, public hearings or governmental orders or consents are necessary for the operation of the Mortgaged Property for its intended purposes or for the construction of any planned Improvements.

5.2 **Accuracy of Information.** All information, certificates or statements given to Bank by or on behalf of Mortgagor in connection with or pursuant to any of the Loan Documents or the loan facility evidenced thereby will be true and complete when given.

## ARTICLE VI. MISCELLANEOUS

In addition to all other miscellaneous provisions under the Loan Documents which are expressly incorporated as a part of this Mortgage, the following provisions will also apply:

6.1 **Term of Mortgage.** The Bank's rights under this Mortgage will continue until the Bank's commitment to lend has been terminated or expired, and until all Obligations have been paid in full and performed.

**6.2 Time of the Essence.** Time is of the essence with respect to payment of the Obligations, the performance of all covenants of the Mortgagor and the payment of taxes, assessments, and similar charges and insurance premiums.

**6.3 Subrogation.** The Bank will be subrogated to the lien of any mortgage, deed of trust or other lien discharged, in whole or in part, by the proceeds of the Notes.

**6.4 Choice of Law.** Creation, perfection, priority, enforcement and foreclosure of the Mortgage and the liens and remedies hereunder, at law or in equity, will be governed by the laws of the state in which the Mortgaged Property is located. For all other purposes, the choice of law specified in the Loan Documents will govern.

**6.5 Severability.** Invalidity or unenforceability of any provision of this Mortgage shall not affect the validity or enforceability of any other provision.

**6.6 Copies; Modification; Demand Obligations.** Mortgagor hereby acknowledges the receipt of a copy of the Mortgage, together with a copy of each promissory note secured hereby, and all other documents executed by Mortgagor in connection herewith. The Mortgage is intended by the Mortgagor and Bank as a final expression of this Mortgage and as a complete and exclusive statement of its terms, there being no conditions to the full effectiveness of this Mortgage. No parol evidence of any nature shall be used to supplement or modify any terms.

**6.7 Joint Liability; Successors and Assigns.** If there is more than one Mortgagor, the liability of the Mortgagors will be joint and several, and the reference to "Mortgagor" shall be deemed to refer to each Mortgagor and to all Mortgagors. The rights, options, powers and remedies granted in this Mortgage and the other Loan Documents shall extend to the Bank and to its successors and assigns, shall be binding upon the Mortgagor and its successors and assigns, and shall be applicable hereto and to all renewals, amendments and/or extensions hereof.

**6.8 Indemnification.** Except for harm arising from the Bank's willful misconduct, the Mortgagor hereby indemnifies and agrees to defend and hold the Bank harmless from any and all losses, costs, damages, claims and expenses (including, without limitation, attorneys' fees and expenses) of any kind suffered by or asserted against the Bank relating to claims by third parties arising out of the financing provided under the Loan Documents or related to the Mortgaged Property (including, without limitation, the Mortgagor's failure to perform its obligations relating to Environmental Matters described in Section 2.8 above or the exercise by Bank of any of its powers, rights and remedies under the Mortgage). This indemnification and hold harmless provision will survive the termination of the Loan Documents and the satisfaction of this Mortgage and Obligations due the Bank.

**6.9 Notices.** Notice of any record shall be deemed delivered when the record has been (a) deposited in the United States Mail, postage pre-paid, (b) received by overnight delivery service, (c) received by telex, (d) received by telecopy, (e) received through the internet, or (f) when personally delivered.

**6.10 Expenses and Attorney's Fees.** To the extent permitted by applicable law and in addition to those costs and expenses payable under the Loan Documents, all costs, receiver, trustee and attorneys' fees and other disbursements (including, without limitation, costs of procuring title commitments, title insurance, title searches, appraisals, environmental tests, reports and audits) incurred in connection with the preparation, administration, execution, defense, collection (pre and post judgment) and foreclosure of the Mortgage, whether incurred before or after commencement of litigation or at trial, on appeal or in any other proceeding, may be recovered by Bank and included in any sale made hereunder or by judgment of foreclosure.

**6.11 Release of Rights of Dower, Homestead and Distributive Share.** Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share in and to the Mortgaged Property and waives all rights of exemption as to any of the Mortgaged Property.

**6.12 Nonstatutory Liens.** Mortgagor hereby represents, warrants and agrees that the liens granted hereby are not the type of lien referred to in Chapter 575 of the Iowa Code, as now enacted or hereafter modified, amended or replaced. Mortgagor, for itself and all persons claiming by, through or under Mortgagor, agrees that it claims no lien or right to a lien of the type contemplated by Chapter 575 or any other chapter of the Code of Iowa and further waives all notices and rights pursuant to said law with respect to the liens hereby granted, and represents and warrants that it is the sole party entitled to do so and agrees to indemnify and hold harmless Bank from any loss, damage, and costs, including reasonable attorney fees, threatened or suffered by Bank arising either directly or indirectly as a result of any claim of the applicability of said law to the liens hereby granted.

**6.13 Waiver of Jury Trial.** **TO THE EXTENT PERMITTED BY LAW, MORTGAGOR AND BANK HEREBY JOINTLY AND SEVERALLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING RELATING TO ANY OF THE LOAN DOCUMENTS, THE MORTGAGE, THE OBLIGATIONS THEREUNDER, THE MORTGAGED PROPERTY OR ANY TRANSACTION ARISING THEREFROM OR CONNECTED THERETO. MORTGAGOR AND BANK EACH REPRESENTS TO THE OTHER THAT THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY GIVEN.**

**IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS MORTGAGE SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING AND SIGNED BY THE PARTIES ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN CONTRACT MAY BE LEGALLY ENFORCED. THE TERMS OF THIS MORTGAGE MAY ONLY BE CHANGED BY ANOTHER WRITTEN AGREEMENT. THIS NOTICE SHALL ALSO BE EFFECTIVE WITH RESPECT TO ALL OTHER LOAN DOCUMENTS NOW IN EFFECT BETWEEN MORTGAGOR AND BANK. A MODIFICATION OF ANY LOAN DOCUMENT NOW IN EFFECT BETWEEN MORTGAGOR AND BANK, WHICH OCCURS AFTER RECEIPT BY MORTGAGOR OF THIS NOTICE, MAY BE MADE ONLY BY ANOTHER WRITTEN INSTRUMENT. ORAL OR IMPLIED MODIFICATIONS TO SUCH LOAN DOCUMENTS ARE NOT ENFORCEABLE AND SHOULD NOT BE RELIED UPON.**

IN THE EVENT ANY OF THE OBLIGATIONS SECURED HEREBY IS PAYABLE UPON DEMAND, NEITHER THE MORTGAGE NOR ANYTHING CONTAINED HEREIN SHALL BE DEEMED TO ALTER, LIMIT, OR OTHERWISE IMPINGE UPON THE DEMAND CHARACTER OF SUCH OBLIGATIONS.

IN WITNESS WHEREOF, the undersigned has executed the Mortgage on the date shown in the notarial acknowledgment, effective as of October 31, 2019.

Mortgagor:

MIDWEST MEMORIALS, LLC  
An Iowa limited liability company

By: Michelle Jensen  
Michelle Jensen, Manager

By: Brent Bormann  
Brent Bormann, Manager

STATE OF IOWA )  
 ) ss:  
COUNTY OF LINN )

This instrument was acknowledged before me on October 31, 2019, by Michelle Jensen and Brent Bormann, each a Manager of Midwest Memorials, LLC.

Lorene L. Buerger  
Printed Name: Lorene L Buerger  
Notary Public, State of Iowa  
My Commission Expires: March 11, 2022

