

GUARANTY AGREEMENT

BETWEEN

**CIAC, LLC
A KANSAS LIMITED LIABILITY COMPANY**

AND

**MICHAEL J. WAWRZEWSKI, III and
DR. ELIZABETH WAWRZEWSKI**

AS GUARANTORS

AND

**SECURITY BANK OF KANSAS CITY
KANSAS CITY, KANSAS
AS FISCAL AND PAYING AGENT**

October 1, 2021

GUARANTY AGREEMENT

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GUARANTY AGREEMENT

THIS GUARANTY AGREEMENT made and entered into as of October 1, 2021 (the "Guaranty"), between CIAC, LLC, a Kansas limited liability company (the "Tenant"), as guarantor, and Michael Wawrzewski and Dr. Elizabeth Wawrzewski, as individual guarantors (hereinafter collectively referred to as the "Guarantors" and individually as a "Guarantor"), and Security Bank of Kansas City, Kansas City, Kansas (the "Paying Agent") under a Bond Agreement dated as of October 1, 2021 (the "Bond Agreement") between the City of Bel Aire, Kansas, as Issuer (the "Issuer"), the Paying Agent and the Guarantors, as authorized by Resolution of the Issuer (the "Resolution").

WITNESSETH:

WHEREAS, the Issuer, a municipal corporation incorporated as a city of the second class under the laws of the State of Kansas (the "State"), intends to issue its Taxable Industrial Revenue Bonds, Series 2021A (Clinic In A Can, LLC), dated October 1, 2021, in an aggregate principal amount of \$1,800,000 (the "Series 2021A Bonds"); and

WHEREAS, the Series 2021A Bonds are to be issued under and pursuant to the Resolution and the Bond Agreement; and

WHEREAS, the proceeds derived from the issuance of the Series 2021A Bonds are to be applied to the costs of the acquisition, construction and equipping of a warehouse and office facility (the "Project") to be leased by Issuer to the Tenant, pursuant to a Project Lease dated as of October 1, 2021 (the "Project Lease"); and

WHEREAS, the individual Guarantors own or control a majority of the outstanding membership interests of the Tenant; and

WHEREAS, the Guarantors (i) desire that Issuer issue the Series 2021A Bonds and apply the proceeds for the purposes described above and (ii) as an inducement to the purchase of the Series 2021A Bonds by all who shall at any time become owners of the Series 2021A Bonds are willing to enter into this Guaranty in order to enhance the marketability of the Series 2021A Bonds and thereby achieve interest cost savings to the Tenant;

NOW, THEREFORE, in consideration of the foregoing, the Guarantors do hereby covenant and agree with the Paying Agent as follows:

ARTICLE I

REPRESENTATIONS OF GUARANTORS

Section 1.01. Representations and Warranties. Each Guarantor does hereby represent that:

(a) CIAC, LLC, is a Kansas limited liability company, duly organized and existing under the laws of said State, and is qualified to do business and in good standing under the laws of the State, is not in material violation of any provision of its Articles of Organization or its Operating Agreement, has not received notice and has no reasonable grounds to believe that it is in material violation of any of the laws of the State, has power to enter into this Guaranty, has duly authorized the execution and delivery of this

Guaranty by proper corporate action, and neither this Guaranty nor the agreements herein contained contravene or constitute a material default under any agreement, instrument or indenture by which it is bound or any provision of its Articles of Organization; and

(b) The assumption by each Guarantor of Tenant's obligations hereunder will result in direct financial benefits to Tenant.

ARTICLE II

THE GUARANTY

Section 2.01. Undertaking by Guarantors. The Guarantors, jointly and severally, and each as principal, hereby unconditionally guarantee to the Paying Agent for the benefit of the owners from time to time of the Series 2021A Bonds:

(a) The full and prompt payment of the principal of and premium, if any, on each of the Series 2021A Bonds when and as the same shall become due in accordance with the terms and provisions of each such Bond and the Bond Agreement, whether at the stated maturity of any Bond, by acceleration, call for redemption or otherwise; and

(b) The full and prompt payment of the interest on each of the Series 2021A Bonds when and as the same shall become due in accordance with the terms and provisions of each such Bond and the Bond Agreement; and

(c) The full and prompt payment of all sums to be paid by Tenant under the Project Lease; and

(d) The performance of all other obligations of Tenant under the Project Lease.

All payments by the Guarantors shall be paid in lawful money of the United States of America. Each and every default in the payment of the principal of, premium, if any, or interest on any Bond, and each and every other default hereunder, shall give rise to a separate cause of action hereunder, and separate suits may be brought hereunder as each cause of action arises.

Section 2.02. Guarantors' Obligations Absolute. The joint and several obligations of the Guarantors under this Guaranty shall be absolute and unconditional and shall remain in full force and effect until released and discharged as herein provided, and such obligations shall not be affected, modified or impaired upon the happening from time to time of any event, including without limitation any of the following, whether or not with notice to, or the consent of, the Guarantors:

(a) The compromise, settlement, release or termination of any or all of the obligations, covenants or agreements of Issuer under the Bond Agreement or Tenant under the Project Lease;

(b) The failure to give notice to any one or more of the Guarantors of the occurrence of an event of default under the terms and provisions of this Guaranty, the Bond Agreement or the Project Lease;

(c) The assignment or mortgaging or the purported assignment or mortgaging of all or any part of the interest of Issuer or Tenant in the Project or any failure of title with respect to Issuer's or Tenant's interests in the Project;

(d) Except as provided in *Section 4.04* hereof, the waiver of the payment, performance or observance by Issuer, Tenant or any one or more of the Guarantors of any of the obligations, covenants or agreements of any of them contained in the Bond Agreement, the Project Lease or this Guaranty;

(e) The extension of the time for payment of any principal of, premium, if any, or interest on any Bond or under this Guaranty or of the time for performance of any other obligations, covenants or agreements under or arising out of the Bond Agreement, the Project Lease or this Guaranty or the extension or the renewal thereof;

(f) The modification or amendment (whether material or otherwise) of any obligation, covenant or agreement set forth in the Bond Agreement or the Project Lease, provided that the obligations of the Guarantors are not thereby increased or expanded without the prior written consent of the Guarantors;

(g) The taking or the omission of any of the actions referred to in the Bond Agreement, the Project Lease or any actions under this Guaranty;

(h) Any failure, omission, delay or lack on the part of Issuer or the Paying Agent to enforce, assert or exercise any right, power or remedy conferred on the Issuer or the Paying Agent in this Guaranty, the Project Lease or the Bond Agreement, or any other act or acts on the part of the Issuer, the Paying Agent or any of the owners from time to time of the Series 2021A Bonds;

(i) The voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition with creditors or readjustment of, or other similar proceedings affecting Issuer, Tenant or any one or more of the Guarantors or any of the assets of any of them, or any contest of the validity of the Bond Agreement, the Project Lease or this Guaranty or the interest of the Paying Agent in the rentals under the Project Lease in any such proceeding;

(j) To the extent permitted by law, the release or discharge of any one or more of the Guarantors from the performance or observance of any obligation, covenant or agreement contained in this Guaranty by operation of law;

(k) The default or failure of Issuer, Tenant or any one or more of the Guarantors to perform fully any of their respective obligations set forth in the Bond Agreement, the Project Lease or this Guaranty;

(l) Any invalidity or irregularity in any statutory or other proceedings relating to the performance or existence of Issuer, to the issuance of the Series 2021A Bonds or the execution or delivery of the Bond Agreement or the Project Lease;

(m) Any impossibility or illegality of performance on the part of Issuer or Tenant of any of their respective obligations under or in connection with the Series 2021A Bonds, the Bond Agreement or the Project Lease; or

(n) Any other circumstances, occurrence or condition, whether similar or dissimilar to any of the foregoing, that might be raised in avoidance of or in defense against any action to enforce the obligations of the Guarantors under the provisions hereof.

Section 2.03. Waiver of Defenses. The Guarantors waive (1) all defenses based on suretyship or impairment of collateral and (2) any defenses that Tenant may assert on the underlying debt.

Section 2.04. Enforcement of Guaranty; Counterclaims. The rights of the Paying Agent to enforce the obligations of the Guarantors under this Guaranty by any proceedings, whether by action at law, suit in equity or otherwise, shall not be impaired by any right, counterclaim or defense of any character whatsoever. This Guaranty and the joint and several obligations of the Guarantors hereunder are separate and independent of Tenant's obligations under the Project Lease and the Bond Agreement, and it is specifically understood and agreed by the Guarantors that any payment now or hereafter made by or on behalf of Tenant under or pursuant to the Project Lease or the Bond Agreement shall not, except to the extent paid to the owners of the Series 2021A Bonds directly by Issuer or Tenant, or by the Paying Agent as paying agent, affect, impair or diminish, in any manner whatsoever, the joint and several obligations of the Guarantors hereunder. Further, the Guarantors specifically understand and agree that payment by Tenant under the Project Lease or the Bond Agreement (whether voluntary or involuntary, or pursuant to court order or otherwise) shall not, except to the extent received by the owners of the Series 2021A Bonds directly, or by the Issuer, or by the Paying Agent, under any circumstances or in any manner, constitute a defense against the Guarantors' joint and several obligations hereunder. Nothing contained herein shall prohibit the Guarantors from asserting any separate or related claim against either Issuer or the Paying Agent in a separate proceeding, which proceeding shall in no way delay the prompt performance by the Guarantors of their obligations hereunder. Nothing contained herein shall prohibit Guarantors from asserting any claim against the Paying Agent related to the Series 2021A Bonds provided that:

- (a) such claim is based on the negligence or willful misconduct of the Paying Agent; and
- (b) such claim is brought before the earlier of (1) payment being made by Guarantors under this Guaranty or (2) final judgment being rendered against Guarantors in the legal proceeding in which the Paying Agent seeks to enforce this Guaranty against Guarantors, it being agreed by Guarantors that any such claim against the Paying Agent can be raised only in such legal proceeding.

In the event that Tenant or any successor tenant or assignee under the Project Lease should fail to perform any such agreement on its part, Guarantors may institute such action as it deems necessary to compel performance so long as such action does not abrogate the Guarantors' obligations herein.

ARTICLE III

REMEDIES ON DEFAULT

Section 3.01. Payment Default; Exercise of Remedies. In the event of a default in the payment of principal or premium, if any, on any Bond when and as the same shall become due, whether at the stated maturity thereof, by acceleration, call for redemption or otherwise, or in the event of a default in the payment of any interest on any Bond when and as the same shall become due, the Paying Agent may, and if requested so to do by the owners of at least 25% in aggregate principal amount of the Series 2021A Bonds then outstanding and upon provision being made for its fees and expenses and indemnification as hereinafter provided, shall be obligated to proceed hereunder, and the Paying Agent, in its sole discretion, shall have the right to proceed first and directly against any one or more of the Guarantors under this Guaranty to the extent of their respective obligations hereunder without proceeding against or exhausting any other remedies which it may have and without resorting to any other security held by Issuer or the Paying Agent. Before taking any action hereunder, the Paying Agent may require that indemnity

satisfactory to it be furnished for the reimbursement of all expenses it may incur and to protect it against all liability which is adjudicated to have resulted from its negligence or willful default, by reason of any action so taken.

Section 3.02. Waiver of Condition of Exercise of Remedies; Attorneys' Fees. Each Guarantor hereby expressly waives notice from the Paying Agent or the owners from time to time of any of the Series 2021A Bonds of their acceptance and reliance on this Guaranty. The Guarantors agree to pay all reasonable costs, expenses and fees, including all reasonable attorneys' fees, to the extent permitted by law, which may be incurred by the Paying Agent in enforcing or attempting to enforce this Guaranty following any default hereunder, whether the same be enforced by suit or otherwise.

Section 3.03. Remedies Cumulative; Delay; Waiver of Breach. No remedy herein conferred upon or reserved to the Paying Agent is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Guaranty or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default, omission or failure of performance hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Paying Agent to exercise any remedy reserved to it in this Guaranty, it shall not be necessary to give any notice, other than such notice as may expressly be required herein or in the Project Lease or Bond Agreement. In the event any provision contained in this Guaranty should be breached by a Guarantor and thereafter duly waived by the Paying Agent, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver, amendment, release or modification of this Guaranty shall be established by conduct, custom or course of dealing, but solely by an instrument in writing duly executed by the Paying Agent.

ARTICLE IV

GENERAL COVENANTS AND AGREEMENTS

Section 4.01. Agreement to Benefit Paying Agent and Bondowners. This Guaranty is entered into by the Guarantors for the benefit of the Paying Agent and the owner(s) from time to time of the Series 2021A Bonds, and any owner of Bonds and any successor shall be entitled to enforce performance and observance of this Guaranty to the same extent as if it was a signatory hereto.

Section 4.02. Discharge of Guarantors' Obligations. Guarantors shall be discharged of their obligations hereunder upon (1) the payment of the principal of, premium, if any, and interest on the Series 2021A Bonds to the Paying Agent, or (2) upon satisfaction of all obligations of Tenant under the Project Lease, or (3) the Tenant shall have been released pursuant to the provisions of *Sections 9.3 or 9.4* of the Project Lease (relating to assignment of its interest in the Project or merger with another entity). Notwithstanding the foregoing, any payment which is required under bankruptcy or similar law to be repaid by the Paying Agent or owners of the Series 2021A Bonds as a preference or similar item shall automatically become an undischarged obligation of the Guarantors under this Guaranty.

Section 4.03. Guarantors' Obligations Upon Delivery of Bonds. The joint and several obligations of the Guarantors hereunder shall arise absolutely and unconditionally when the Series 2021A Bonds shall have been issued, sold and delivered by Issuer and the proceeds thereof paid to the Paying Agent.

Section 4.04. Maintenance of Legal Existence; Merger. The Tenant will maintain its legal existence, will continue to be a limited liability company in good standing under the laws of the State, will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into another entity or permit one or more other entities to consolidate with or merge into it, provided, that the Tenant may, without violating the agreement contained in this subsection, consolidate with or merge into another domestic corporation or limited liability company (that is, a corporation or limited liability company organized and existing under the laws of one of the states of the United States of America), or permit one or more corporations or limited liability companies to consolidate with or merge into it, or sell or otherwise transfer to another entity all or substantially all of its assets as an entirety and thereafter dissolve, provided that the surviving, resulting or transferee entity, as the case may be, (i) shall be a corporation, limited liability company or partnership organized and existing under the laws of one of the states of the United States of America, as aforesaid, (ii) shall be qualified to do business in the State, if applicable (iii) shall assume in writing all of Tenant's obligations under this Guaranty and (iv) shall have a net worth as of the consummation of the consolidation, merger, sale or transfer, at least equal to that of the Tenant immediately prior to such consolidation, merger, sale or transfer, determined in accordance with generally accepted accounting principles consistently applied.

Section 4.05. Collateral for Guarantors' Obligations. The obligations of the Tenant are further secured by a mortgage dated September 10, 2020, from the Tenant, as mortgagor, to Intrust Bank, N.A., as mortgagee, which mortgage is recorded at Doc.#/Flm-Pg: 29989329 in the office of the Sedgwick County Register of Deeds, and by an Assignment of Rents dated September 10, 2020 between the Tenant and Intrust Bank, N.A., which is recorded at Doc.#/Flm-Pg: 29989330 in the office of the Sedgwick County Register of Deeds.

ARTICLE V

FINANCIAL COVENANTS AND INFORMATION

Section 5.01. Financial Statements. The Tenant shall deliver to the Paying Agent and the Series 2021A Owner:

(a) *Annual Financial Statements* -- as soon as practicable after the end of each fiscal year and in any event within 120 days thereafter, internally prepared copies of the financial statements of the Tenant and the personal financial statements of each individual Guarantor.

(b) Annual Federal Tax Return - as soon as practicable after the end of each fiscal year and in any event within 60 days after filing the returns, copies of the Federal Tax Returns of the Tenant and each individual Guarantor.

(c) *Requested Information* -- with reasonable promptness, such other financial and business information as from time to time may be reasonably requested.

Section 5.02. Financial Covenants. The Tenant agrees to maintain a Debt Service Coverage (as defined herein) ratio of not less than 1.25:1 to be measured annually as of December 31. "Debt Service Coverage" is defined as (a) the sum of EBITDA minus (i) dividends to members and (ii) increases or decreases in the amount of promissory notes or other accounts receivable from members, divided by (b) the sum of the current portion of long term debt plus interest outstanding during the calendar year.

The Tenant further agrees to not pay any dividends or other distributions to its members nor to borrow any additional funds without the prior consent of the Series 2021A Owner.

ARTICLE VI

MISCELLANEOUS PROVISIONS

Section 6.01. Binding Effect. The agreements contained herein on the part of the Guarantors shall inure to and be binding upon their respective heirs, successors, assigns and legal representatives including without limitation any successor or assign in any transaction expressly permitted by this Guaranty.

Section 6.02. Integration. This Guaranty constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, between the Guarantors and the Paying Agent with respect to the subject matter hereof (other than the Bond Agreement and the Project Lease) and may be executed simultaneously in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

Section 6.03. Severability. The invalidity or unenforceability of any one or more phrases, sentences, clauses or Sections in this Guaranty shall not affect the validity or enforceability of the remaining portions of this Guaranty, or any part thereof.

Section 6.04. Governing Law. This Guaranty shall be governed by and construed and interpreted in accordance with the laws of the State.

Section 6.05. Service of Process. The Tenant represents that as a limited liability company organized under the laws of the State of Kansas, it is subject to service of process in the state of organization according to the laws of such state, and it agrees to remain subject to such service of process for as long as it has any obligations under this Guaranty. If for any reason such Guarantor is no longer subject to such service of process, it hereby appoints any of the following as its agent upon whom may be served all process, pleadings, notices or other papers which may or must be served upon it as a result of any of its obligations under this Guaranty:

- (a) its registered agent in the State of Kansas, if any; or
- (b) the Secretary of State of the State of Kansas.

A copy of any process, pleadings, notices or other papers served on any of the foregoing must also be served on the Tenant's notice address as defined in the Project Lease. If personal service of any such process, pleadings, notices or other papers cannot be had upon any of the individual Guarantors, then service of process may be made in the same manner as permitted for the Tenant.

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IN WITNESS WHEREOF, each entity Guarantor has caused this Guaranty Agreement to be signed by an authorized officer, and each individual Guarantor has signed this Guaranty Agreement as of the date first above written.

CIAC, LLC

By: _____
Michael J. Wawrzewski, III, Manager

Michael J. Wawrzewski, III

Dr. Elizabeth Wawrzewski

"GUARANTORS"

ACCEPTANCE OF PAYING AGENT

This Guaranty Agreement and the obligations undertaken in it by the several Guarantors are hereby accepted by the Paying Agent as of the date first above written.

IN WITNESS WHEREOF, the Paying Agent has caused this Guaranty Agreement to be signed in its name and behalf by its duly authorized officer, all as of the date first above written.

SECURITY BANK OF KANSAS CITY
Kansas City, Kansas

By: _____
Name: Bonnie Mosher
Title: Vice President