

Claudia M. Peeler, Register  
Tipton County Tennessee  
Rec #: 102484 Instrument #: 144472  
Rec'd: 65.00 Recorded  
State: 0.00 1/25/2011 at 8:25 AM  
Clerk: 0.00 in Record Book  
Other: 2.00 1502  
Total: 67.00 Pgs 775-787

Prepared by and return to:

Robert C. Liddon *Em.*

*l* Baker, Donelson, Bearman, Caldwell & Berkowitz, PC

165 Madison Avenue, Suite 2000

Memphis, Tennessee 38103

901-526-2000

**CROSS-DEFAULT AND CROSS-PLEDGE AGREEMENT**

**DATED DECEMBER 20<sup>th</sup>, 2010**

**BY AND AMONG**

**FIRST TENNESSEE BANK NATIONAL ASSOCIATION, AS LENDER,**

**THE WEST CLINIC, P.C.,**

**WEST UNION PARTNERS, LLC,**

**WEST DESOTO PARTNERS, LLC, AND**

**WEST PARTNERS, LLC, AS BORROWERS**

Prepared by and return to:  
 Robert C. Liddon  
 Baker, Donelson, Bearman, Caldwell & Berkowitz, PC  
 165 Madison Avenue, Suite 2000  
 Memphis, Tennessee 38103

**Maximum Principal Indebtedness for Tennessee Recording Tax Purposes Is \$-0-. Tax paid on \$15,956,289.49 to Tennessee Secretary of State under Filing No. 209022487. Tax paid on \$7,500,000.00 to Shelby County Register under Instrument No. 07001930. Tax paid on \$2,000,000.00 to Tipton County Register at Book 1379, Pgs. 638-644.**

**CROSS-DEFAULT AND CROSS-PLEDGE AGREEMENT**

THIS AGREEMENT is made and entered into as of the 20<sup>th</sup> day of December, 2010, by and between **FIRST TENNESSEE BANK NATIONAL ASSOCIATION**, a national banking association whose address is 165 Madison Avenue, Memphis, Tennessee 38103, Attn: Corporate Banking ("Lender"); **THE WEST CLINIC, P.C.** ("West Clinic"), a Tennessee professional corporation; **WEST UNION PARTNERS, LLC** ("West Union"), a Tennessee limited liability company; **WEST DESOTO PARTNERS, LLC** ("West DeSoto"), a Tennessee limited liability company; and **WEST PARTNERS, LLC** ("West Partners"), a Tennessee limited liability company, all with an address for purposes of notice at 100 North Humphreys Blvd., Memphis, Tennessee 38120, Attention: Chief Manager.

WITNESSETH:

WHEREAS, on April 16, 2009, the Lender advanced loans to West Clinic, West DeSoto, West Partners and West Union (collectively, the "Borrowers" or "Obligors"), pursuant to two (2) new promissory notes and by purchasing two (2) prior loans to one or more of the Borrowers from Commercial Bank and Trust Company, a Tennessee banking corporation ("CB&TC"), which loans are

evidenced by various notes and secured by various deeds of trust, security agreements, and UCC-1 financing statements, including without limitation those described more particularly on **Exhibit "A"**, attached hereto and incorporated herein by this reference (collectively, the "Security Documents");

WHEREAS, such loans were cross-defaulted and cross-collateralized pursuant to a Cross-Default and Cross-Pledge Agreement dated April 16, 2009, recorded at Instrument No. 09070928 in the Register's Office of Shelby County, Tennessee, at Record Book 1442, Pgs 503-511 in the Register's Office of Tipton County, Tennessee, and at DK P BK 132, Pg 562, in the Office of the Chancery Clerk of DeSoto County, Mississippi;

WHEREAS, on December 15, 2009, Lender agreed to make additional loan advances, not to exceed, \$8,000,000.00 to West Clinic (the "\$8 Million Bridge Loan");

WHEREAS, such loans were cross-defaulted and cross-collateralized pursuant to a Cross-Default and Cross-Pledge Agreement dated December 15, 2009, recorded at Instrument No. 10001735 in the Register's Office of Shelby County, Tennessee, at Record Book 1464, Pgs 462 - 469 in the Register's Office of Tipton County, Tennessee, and at DK T Bk 3,128, Pg 562 and DK P Bk 135, Pg 773, in the Office of the Chancery Clerk of DeSoto County, Mississippi;

WHEREAS, of even date herewith, Lender is agreeing to amend and restate the \$8 Million Bridge Loan to convert it into a revolving loan (the "\$8 Million Revolving Loan"); and

WHEREAS, the parties hereto desire to evidence their mutual agreement that all of the aforesaid loans, notes, deed of trust, security agreements, and UCC-1 financing statements, and any and all other

Obligations (hereinafter defined) and any and all of the collateral securing any and all of such Obligations, are hereby cross-pledged and cross-defaulted with each other;

NOW, THEREFORE, in consideration of the premises, One and No/100 Dollar (\$1.00) cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Agreements:

1. Any and all of the following shall be cross-defaulted with each other so that the occurrence of an event of default in any individual item shall constitute the occurrence of an event of default in all of such items, thereby entitling the Lender to any and all rights and remedies provided for in the respective documents: (a) the due performance, and observance, by any one or more of the Borrowers of each and all of their respective covenants, agreements, representations, liabilities, obligations, and undertakings in that certain Loan Agreement by and among the Lender and the Obligors dated April 16, 2009 (as the same may be modified renewed or extended from time to time, including without limitation pursuant to that certain First Amendment to Loan Agreement dated as of December 15, 2009 and that certain Second Amendment to Loan Agreement dated of even date herewith), or in any other instrument or document which now or at any time hereafter evidences, secures, or guarantees all or any part of the debts, liabilities, guarantees, and obligations described therein; and (b) the prompt payment and performance of any and all other present and future indebtednesses, debts, and obligations of any of such Obligors to Bank of every kind, character, and description, including without limitation any and all obligations of the Borrowers under any of the following transactions previously, now or hereafter entered

into between any of such parties and Bank and the documents evidencing such transactions, including without limitation any prepayment penalty or payment upon early termination due thereunder: an interest rate swap transaction, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option (swaption), foreign exchange transaction, interest rate cap transaction, interest rate floor transaction, interest rate collar transaction, currency swap transaction, currency option, or any other similar transaction, and any obligations under ACH agreements entered into between any of the Borrowers and the Bank (collectively, the "Obligations").

2. Any and all collateral pledged to secure any Obligation shall also secure all of the other Obligations, thereby entitling the Lender to any and all rights and remedies provided for in the respective Security Documents and other loan documents respecting the Obligations.

3. In addition to the debts, indebtedness, liabilities, and obligations secured by the various Security Documents described as items 1 – 16 on **Exhibit "A"**, attached hereto and incorporated herein by this reference, Lender and any other applicable party or parties to such Security Documents hereby amend the description of the debts, indebtedness, liabilities, and obligations secured by such Security Documents to specifically include all of West Clinic's obligations under the \$8 Million Revolving Loan, the \$8 Million Revolving Note, and all of the Obligor's obligations under the Loan Agreement as amended hereby.

IN WITNESS WHEREOF, the parties hereto have made and delivered this Agreement on the day and year first above written.

- 5 -

THE WEST CLINIC, P.C.

By: Lee Schwartzberg  
Print Name: Lee Schwartzberg  
Title: President

FIRST TENNESSEE BANK NATIONAL ASSOCIATION

By: George H. Slade  
Print Name: George H. Slade  
Title: Senior Vice-President

WEST DESOTO PARTNERS, LLC

By: Lee Schwartzberg  
Print Name: Lee Schwartzberg  
Title: Chief Manager

WEST PARTNERS, LLC

By: Lee Schwartzberg  
Print Name: Lee Schwartzberg  
Title: Chief Manager

WEST UNION PARTNERS, LLC

By: Lee Schwartzberg  
Print Name: Lee Schwartzberg  
Title: Chief Manager

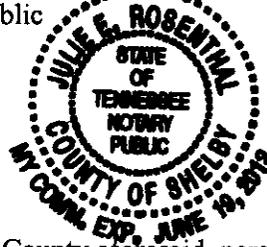
STATE OF TENNESSEE  
COUNTY OF SHELBY

Before me, the undersigned Notary Public in the State and County aforesaid, personally appeared George H. Slade, with whom I am personally acquainted and who, upon oath, acknowledged himself to be a Senior Vice-President of First Tennessee Bank National Association, the within named bargainor, a national banking association, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the association by himself as such officer.

WITNESS my hand and Notarial Seal at office this 21<sup>ST</sup> day of December, 2010.

Julie E Rosenthal  
Notary Public

My Commission Expires: June 19, 2013



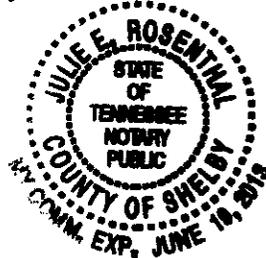
STATE OF TENNESSEE  
COUNTY OF SHELBY

Before me, the undersigned Notary Public in the State and County aforesaid, personally appeared Lee Schwartzberg, with whom I am personally acquainted and who, upon oath, acknowledged himself to be the President of The West Clinic, P.C., the within named bargainor, a Tennessee professional corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as such officer.

WITNESS my hand and Notarial Seal at office this 21<sup>ST</sup> day of December, 2010.

Julie E Rosenthal  
Notary Public

My Commission Expires: June 19, 2013



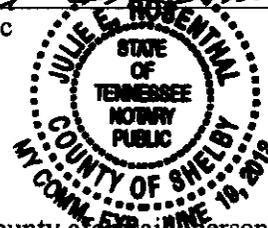
STATE OF TENNESSEE  
COUNTY OF SHELBY

Before me, the undersigned Notary Public in the State and County aforesaid, personally appeared Lee Schwartzberg, with whom I am personally acquainted and who, upon oath, acknowledged himself to be the Chief Manager of West Union Partners, LLC, the within named bargainer, a Tennessee limited liability company, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself as such officer.

WITNESS my hand and Notarial Seal at office this 21<sup>ST</sup> day of December, 2010.

Julie E. Rosenthal  
Notary Public

My Commission Expires: June 19, 2013



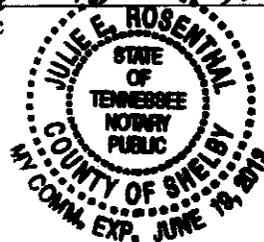
STATE OF TENNESSEE  
COUNTY OF SHELBY

Before me, the undersigned Notary Public in the State and County aforesaid, personally appeared Lee Schwartzberg, with whom I am personally acquainted and who, upon oath, acknowledged himself to be the Chief Manager of West DeSoto Partners, LLC, the within named bargainer, a Tennessee limited liability company, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself as such officer.

WITNESS my hand and Notarial Seal at office this 21<sup>ST</sup> day of December, 2010.

Julie E. Rosenthal  
Notary Public

My Commission Expires: June 19, 2013



STATE OF TENNESSEE  
COUNTY OF SHELBY

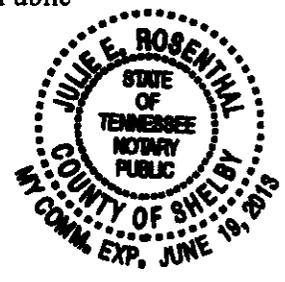
Before me, the undersigned Notary Public in the State and County aforesaid, personally appeared Lee Schwartzberg, with whom I am personally acquainted and who, upon oath,

acknowledged himself to be the Chief Manager of West Partners, LLC, the within named bargainer, a Tennessee limited liability company, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself as such officer.

WITNESS my hand and Notarial Seal at office this 21<sup>ST</sup> day of December, 2010.

Julie E Rosenthal  
Notary Public

My Commission Expires: June 19, 2013



**EXHIBIT "A"****SECURITY DOCUMENTS**

1. Security Agreement of The West Clinic, P.C., of even date herewith;
2. Security Agreement of West Union Partners, LLC, of even date herewith;
3. Security Agreement of West Desoto Partners, LLC, of even date herewith;
4. Security Agreement of West Partners, LLC, of even date herewith;
5. Assignment of Rents and Leases of West Union Partners, of even date herewith, recorded at Record Book 1434, Pages 927 - 934, Register's Office of Tipton County, Tennessee;
6. Deed of Trust from West Union Partners, LLC of record at Instrument No. 07001930, Register's Office of Shelby County, Tennessee, as assigned to Lender at Instrument No. 09045934;
7. Assignment of Rents and Leases from West Union Partners, LLC of record at Instrument No. 07001931, Register's Office of Shelby County, Tennessee, as assigned to Lender at Instrument No. 09045934;
8. Leasehold Deed of Trust from West Partners, LLC of record at Instrument No. 07001932, Register's Office of Shelby County, Tennessee, as assigned to Lender at Instrument No. 09045935;
9. Assignment of Rents and Leases from West Partners, LLC of record at Instrument No. 07001933, Register's Office of Shelby County, Tennessee, as assigned to Lender at Instrument No. 09045935;
10. Deed of Trust from West Desoto Partners, LLC, of record at Book 2,637, Page 22, Office of the Chancery Court Clerk, Desoto County, Mississippi, as assigned to Lender at Book 3,021, Page 629;
11. Assignment of Rents and Leases from West Desoto Partners, LLC, of record at Book 118, Page 6, Office of the Chancery Court Clerk of Desoto County, Mississippi, as assigned to Lender at Book 131, Page 506;
12. Cross-Default and Cross-Pledge Agreement, of record at Instrument No. 07007273, Register's Office of Shelby County, Tennessee, and Book 2,647, Page 182, Office of the Chancery Court Clerk of Desoto County, Mississippi, as assigned to Lender at Instrument No. 09059781, Register's Office of

Shelby County, Tennessee, and Book 3,037, Page 138, Office of the Chancery Court Clerk of Desoto County, Mississippi;

13. Real Estate Deed of Trust of record at Record Book 1379, Page 638, Register's Office of Tipton County, Tennessee, as assigned to Lender at Record Book 1434, Pages 30 - 32, Register's Office of Tipton County, Tennessee;
14. Real Estate Deed of Trust of record at Instrument No. 08013178, Register's Office of Shelby County, Tennessee, as assigned to Lender at Instrument No. 09045933, Register's Office of Shelby County, Tennessee;
15. Cross-Default and Cross-Pledge Agreement, of record at Instrument No. 09070928, Register's Office of Shelby County, Tennessee, at Record Book 1442, Pgs 503-511, Register's Office of Tipton County, Tennessee, and at DK P BK 132, Pg 562, Office of the Chancery Clerk of DeSoto County, Mississippi;
16. Cross-Default and Cross-Pledge Agreement, of record at Instrument No. 10001735, Register's Office of Shelby County, Tennessee, at Record Book 1464, Pgs 462 - 469, Register's Office of Tipton County, Tennessee, and at DK T Bk 3,128, Pg 562 and DK P Bk 135, Pg 773, Office of the Chancery Clerk of DeSoto County, Mississippi;
17. UCC-1 Financing Statement against The West Clinic, P.C., filed at No. 209-022487 with the Tennessee Secretary of State;
18. UCC-1 Financing Statement against West Union Partners, LLC, filed at No. 309-021345 with the Tennessee Secretary of State;
19. UCC-1 Financing Statement against West Desoto Partners, LLC, filed at No. 309-021347 with the Tennessee Secretary of State;
20. UCC-1 Financing Statement against West Partners, LLC, filed at No. 309-021346 with the Tennessee Secretary of State;
21. UCC-1 Financing Statement filed at No. 108012593 in the Tennessee Secretary of State's Office, as assigned to Lender at No. 309021348;
22. UCC-1 Financing Statement filed at No. 307100555 in the Tennessee Secretary of State's Office, as assigned to Lender at No. 309021352;

23. UCC-1 Financing Statement filed at No. 307100840 in the Tennessee Secretary of State's Office, as assigned to Lender at No. 309021353;
24. Fixture Filing of record at Instrument No. 07001934, Register's Office of Shelby County, Tennessee, as assigned to Lender at Instrument No. 09045936; and
25. Fixture Filing of record at Book 2,637, Page 41, Office of the Chancery Court Clerk of Desoto County, Mississippi, as assigned to Lender at Book 3,026, Page 714.



# Tom Leatherwood

Shelby County Register

As evidenced by the instrument number shown below, this document has been recorded as a permanent record in the archives of the Office of the Shelby County Register.

 <b>11004796</b>	
<b>01/12/2011 - 03:49 PM</b>	
12 PGS	
KATHY 810564-11004796	
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	60.00
DP FEE	2.00
REGISTER'S FEE	0.00
WALK THRU FEE	12.00
<b>TOTAL AMOUNT</b>	<b>74.00</b>
<b>TOM LEATHERWOOD</b>	
REGISTER OF DEEDS SHELBY COUNTY TENNESSEE	

1075 Mullins Station, Suite W165 ~ Memphis, Tennessee 38134 ~ (901) 379-7500  
 Website: <http://register.shelby.tn.us> ~ Email: [Tom.L Leatherwood@shelbycountyttn.gov](mailto:Tom.L Leatherwood@shelbycountyttn.gov)