

# UNOFFICIAL COPY

After recording return to:

Kim Johnston  
McGuire, Craddock & Strother, P.C.  
2501 N. Harwood, Suite 1800  
Dallas, Texas 75201

Property Address: ✓  
156 West Dundee Road  
Wheeling, Illinois 60090  
PINs: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Doc#: 1607622013 Fee: \$52.00  
RHSP Fee: \$9.00 RPRF Fee: \$1.00  
Karen A. Yarbrough  
Cook County Recorder of Deeds  
Date: 03/16/2016 09:47 AM Pg: 1 of 8

Property of Cook County Clerk's Office

(The Above Space for Recorder's Use Only)

## MODIFICATION AGREEMENT

**THIS MODIFICATION AGREEMENT** ("Agreement"), dated February 24, 2016, is by and between WHEELING ASSISTED LIVING, LLC, f/k/a Wheeling Memory Care, LLC, a Delaware limited liability company (the "Borrower"), and TEXAS CAPITAL BANK, NATIONAL ASSOCIATION, a national banking association (the "Lender").

### RECITALS:

WHEREAS, Borrower and Lender executed that certain Construction Loan Agreement dated December 11, 2014 (the "Loan Agreement"). Capitalized terms contained and not otherwise defined herein shall have the meanings ascribed to such terms in the Loan Agreement;

WHEREAS, Borrower executed and delivered that certain Mortgage, Assignment of Leases and Rents, Security Agreement and Financing Statement (the "Mortgage") dated December 11, 2014 for the benefit of Lender, which was filed in the Office of the Cook County Recorder of Deeds on January 9, 2015 and January 23, 2015 and recorded as Document # 1500922020 and Document # 1502322062 and covered the real property described in Exhibit A attached hereto and incorporated herein for all purposes (the "Land"), together with the other Mortgaged Property, to secure the payment of the Indebtedness and performance by Borrower of the Obligations; and

WHEREAS, Borrower has requested that Lender (a) change the Completion Date from January 9, 2017 to March 1, 2017 and (b) move the date upon which the payments of principal commences from January 15, 2018 to September 1, 2018; and

1401251  
Chicago Title Insurance Co.  
124 E. Jefferson St.  
Morris, IL 60450

COOK COUNTY RECORDER OF DEEDS  
KAREN A. YARBROUGH

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WHEREAS, Lender has agreed to make such modifications subject to the terms of this Agreement.

## AGREEMENT:

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and Lender hereby agree as follows:

1. Completion Date. The definition of Completion Date in Section 1.1 of the Loan Agreement is hereby amended and restated to read as follows:

“**Completion Date**” means March 1, 2017 subject to Force Majeure or as otherwise approved in writing by Lender, provided, however, in no event will any one or more acts of Force Majeure (a) extend the Completion Date by more than a total of ninety (90) days or (b) extend any Maturity Date or any date of payment for the Indebtedness.

2. Principal Payments. The date upon which combined principal and interest payments are to commence is to be extended to September 1, 2018. Accordingly, Section 2.1 of the Note is hereby amended by (a) deleting “December 15, 2017” and inserting, in lieu thereof, “August 15, 2018”, (b) deleting “January 15, 2018” and inserting, in lieu thereof, “September 15, 2018”, and (c) deleting “\$80,705.56” and inserting, in lieu thereof, “\$80,707.79”.

3. Title Insurance. If requested by Lender, contemporaneously with the execution and delivery hereof, Borrower shall cause Title Company to issue with respect to the Title Policy an endorsement, in form and content acceptable to Lender, confirming that the Title Policy is still in effect and unimpaired, notwithstanding the execution and delivery hereof and the terms and conditions contained herein.

4. Ratifications. The terms and provisions set forth in this Agreement shall modify and supersede all inconsistent terms and provisions set forth in the Loan Agreement and the other Loan Documents and, except as expressly modified and superseded by this Agreement, the terms and provisions of the Loan Agreement and the other Loan Documents are ratified and confirmed and shall continue in full force and effect. The Loan Agreement, as amended, and the other Loan Documents, as amended, shall continue to be legal, valid, binding and enforceable in accordance with their respective terms.

5. Representations and Warranties. Borrower hereby represents and warrants to Lender as follows:

(a) the execution, delivery and performance of this Agreement and any and all other Loan Documents executed and/or delivered in connection herewith have been authorized by all requisite action on the part of Borrower and do not and will not conflict with or violate any provision of any applicable law, the organizational documents of, or any agreement, document, judgment, license, order or permit applicable to or binding upon the Borrower; and no consent, approval, authorization or order of and no notice to or filing with, any court or governmental authority or third person is required in connection with the execution, delivery or performance of this Agreement or to consummate the transactions contemplated hereby;

(b) the representations and warranties contained in the Loan Agreement, as amended, and in each of the other Loan Documents, as amended, are true and correct on and as of the date

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hereof as though made on and as of the date hereof, except to the extent such representations and warranties relate to an earlier date;

(c) After giving effect to this Agreement, Borrower is in full compliance with all covenants and agreements contained in the Loan Agreement, as amended, and in each of the other Loan Documents, as amended; and

(d) Borrower acknowledges and agrees that Lender is in full compliance with all covenants and agreements contained in the Loan Agreement, as amended, and in each of the other Loan Documents, as amended.

6. Renewal and Extension of Security Interests and Liens. Borrower hereby acknowledges, ratifies, reaffirms and renews the liens and security interests created by and granted in the Mortgaged Property. Borrower agrees that this Agreement shall in no manner affect or impair the liens and security interests securing the Indebtedness and Obligations, and that such liens and security interests shall not in any manner be waived, the purposes of this Agreement being to modify the Loan Agreement as herein provided, and to carry forward all liens and security interest securing same, which are acknowledged by Borrower to be valid and subsisting, perfected in favor of Lender and prior in right and interest over any other liens or security interests existing on the Mortgaged Property. Borrower covenants and agrees that, except as expressly permitted under the Loan Agreement and Mortgage, no security interests or liens exist on the Mortgaged Property, except in favor of Lender.

7. Modification. Borrower acknowledges and agrees that (a) this Agreement shall not constitute a novation or otherwise extinguish the Indebtedness and Obligations evidenced by the Loan Agreement, as amended, or the other Loan Documents, as amended; (b) the Indebtedness shall be paid in accordance with the terms and conditions of the Loan Agreement, as amended, and the other Loan Documents, as amended; and (c) Borrower has no right of offset, defense, or counterclaim to the payment and performance of the Note or any of the other Indebtedness and Obligations under the Loan Agreement, as amended, or any other Loan Document, as amended. Lender has made no commitment, either express or implied, to extend the maturity date of the Note, or to provide Borrower with any financing, beyond the maturity date of the Note, it being expressly acknowledged and agreed to by Borrower that the Indebtedness shall be due and payable in full as set forth in the Loan Documents.

8. Costs and Expenses. Contemporaneously with the execution and delivery hereof, Borrower shall pay, or cause to be paid, all costs and expenses incident to the preparation, execution and recordation hereof and the consummation of the transaction contemplated hereby, including, but not limited to, recording fees, title insurance policy or endorsement premiums or other charges of Title Company, and reasonable fees and expenses, if applicable, of legal counsel to Lender.

9. Reference to Loan Agreement and the Other Loan Documents. Each of the Loan Documents, including the Loan Agreement and any and all other agreements, documents or instruments now or hereafter executed and delivered pursuant to the terms hereof or pursuant to the terms of the Loan Agreement and the other Loan Documents, as amended hereby, are hereby amended so that any reference in such Loan Documents to the Loan Agreement or any other Loan Document shall mean a reference to the Loan Agreement and the other Loan Documents as amended hereby or of even date herewith, and as may be further amended from time to time.

10. Counterparts; Electronic Transmission. This Agreement may be executed in one or more counterparts, each of which when so executed shall be deemed to be an original, but all of which when taken together shall constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile or other electronic transmission shall be equally as effective as delivery of an

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executed original counterpart and shall constitute a covenant to deliver an executed original counterpart, but the failure to do so shall not affect the validity, enforceability and binding effect of this Agreement.

11. Final Agreement. THIS AGREEMENT, THE LOAN AGREEMENT, THE NOTE, AND THE OTHER LOAN DOCUMENTS, EACH AS AMENDED, REPRESENT THE ENTIRE AGREEMENT AMONG THE PARTIES RELATED TO THE SUBJECT MATTER HEREOF AND THEREOF AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

[Remainder of page intentionally blank; signature page follows.]

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EXECUTED as of the date first above written.

**BORROWER:**

WHEELING ASSISTED LIVING, LLC,  
f/k/a Wheeling Memory Care, LLC,  
a Delaware limited liability company

By: LaSalle Wheeling Management, LLC,  
an Illinois limited liability company,  
its Managing Member

By: The LaSalle Group, Inc.,  
a Texas corporation,  
its Sole Member

By: [Signature]  
Randal P. Brown,  
Interim Chief Financial Officer and  
Vice President

STATE OF TEXAS           §  
  §  
COUNTY OF Dallas       §

The foregoing instrument was ACKNOWLEDGED before me this 25 day of February, 2016, by Randal P. Brown, the Interim Chief Financial Officer and Vice President of The LaSalle Group, Inc., a Texas corporation and sole member of LaSalle Wheeling Management, LLC, an Illinois limited liability company and the managing member of Wheeling Memory Care, LLC, a Delaware limited liability company, on behalf of said entities.

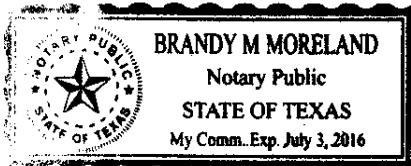
[SEAL]

My Commission Expires:

July 3, 2016

[Signature]  
Notary Public, State of Texas

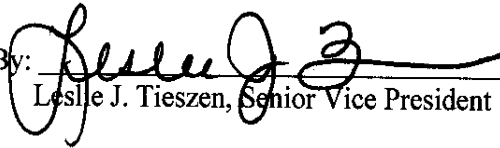
Brandy Moreland  
Printed Name of Notary Public



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**LENDER:**

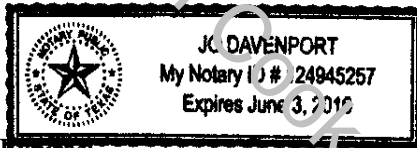
TEXAS CAPITAL BANK, NATIONAL ASSOCIATION

By:   
Leslie J. Tieszen, Senior Vice President

STATE OF TEXAS           §  
   §  
COUNTY OF Dallas       §


The foregoing instrument was ACKNOWLEDGED before me this 29<sup>th</sup> day of February, 2016, by Leslie J. Tieszen, a Senior Vice President of Texas Capital Bank, National Association, on behalf of said entity.

[SEAL]



My Commission Expires:

6/3/2016

  
Notary Public, State of Texas

J. Davenport  
Printed Name of Notary Public

**UNOFFICIAL COPY****EXHIBIT A****Description of the Land****Order No.: 5257-1400895****For APN/Parcel ID(s): 03-02-316-034, 03-02-316-033 and 03-02-316-020****PARCEL 1:**

THAT PART OF LOT 2 IN CHRYSLER REALTY CORPORATION'S RESUBDIVISION OF LOT 4 IN WHEELING HEIGHTS, BEING A SUBDIVISION OF THE EAST 50.01 ACRES OF THE SKINNER FARM, IN THE SOUTHWEST QUARTER OF SECTION 2 TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 2, 1972 AS DOCUMENT NUMBER 22070178, AND THAT PART OF LOT 79 IN HOLLAND'S RESUBDIVISION RECORDED SEPTEMBER 16, 1955 AS DOCUMENT T1621040, IN THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTH 00 DEGREES 29 MINUTES 33 SECONDS EAST ALONG THE WEST LINE OF SAID LOT 2 A DISTANCE OF 224.44 FEET; THENCE NORTH 61 DEGREES 53 MINUTES 23 SECONDS EAST 214.02 FEET; THENCE NORTH 88 DEGREES 16 MINUTES 18 SECONDS EAST 259.05 FEET TO A POINT ON THE EAST LINE OF SAID LOT 79; THENCE SOUTH 43 DEGREES 15 MINUTES 12 SECONDS EAST ALONG THE EAST LINE OF SAID LOT 79 A DISTANCE OF 268.18 FEET TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY 68.41 FEET ALONG THE ARC OF A TANGENT CIRCLE TO THE RIGHT (ALSO BEING THE EAST LINE OF SAID LOT 79) HAVING A RADIUS OF 254.94 FEET AND WHOSE CHORD BEARS SOUTH 40 DEGREES 33 MINUTES 59 SECONDS EAST 68.20 FEET TO A POINT ON THE WEST LINE OF THE PARCEL DEEDED TO THE STATE OF ILLINOIS DECEMBER 06, 2010 AS DOCUMENT NUMBER 1034046041; THENCE SOUTH 01 DEGREES 43 MINUTES 31 SECONDS EAST ALONG THE WEST LINE OF LAST DESCRIBED PARCEL 31.77 FEET TO A POINT ON THE NORTH OF LAST DESCRIBED PARCEL; THENCE SOUTH 88 DEGREES 18 MINUTES 36 SECONDS WEST ALONG THE NORTH LINE OF SAID PARCEL 45.00 FEET TO A POINT ON THE WEST LINE OF SAID PARCEL; THENCE SOUTH 01 DEGREES 43 MINUTES 33 SECONDS EAST ALONG THE WEST LINE OF SAID PARCEL 20.00 FEET TO THE NORTH LINE OF DUNDEE ROAD; THENCE SOUTH 88 DEGREES 16 MINUTES 36 SECONDS WEST 651.86 FEET, TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

**PARCEL 2:**

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY ACCESS EASEMENT AND CONSTRUCTION AND MAINTENANCE AGREEMENT FOR THE COMMUNITY GARDEN FROM SHIR HADASH RECONSTRUCTIONIST SYNAGOGUE-CONGREGATION, SHIR HADASH TO WHEELING MEMORY CARE, LLC DATED DECEMBER 11, 2014 AND RECORDED JANUARY 9, 2015 AS DOCUMENT NO. 1500922025 FOR USE AND ENJOYMENT OF THE COMMUNITY GARDEN, TOGETHER WITH INGRESS AND EGRESS OVER THE LAND CONTAINED IN EXHIBIT F OF SAID AGREEMENT.

**PARCEL 3:**

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY CROSS ACCESS AND ENTRY DRIVEWAY EASEMENT AND MAINTENANCE AND SHARED PARKING AGREEMENT DATED DECEMBER 11, 2014 AND RECORDED JANUARY 9, 2015 AS DOCUMENT NO. 1500922024

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FROM SHIR HADASH RECONSTRUCTIONIST SYNAGOGUE-CONGREGATION SHIR HADASH TO WHEELING MEMORY CARE, LLC FOR ACCESS AND ENTRY FOR VEHICULAR AND PEDESTRIAN USE ON, OVER AND ACROSS THAT PORTION OF THE SHARED ACCESS AND ENTRY DRIVEWAY CONTAINED IN EXHIBIT C-1 OF SAID AGREEMENT.

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