

# UNOFFICIAL COPY



\*1717913005\*

**THIS DOCUMENT WAS PREPARED  
BY AND AFTER RECORDING  
SHOULD BE RETURNED TO:**

Jay R. Goldberg  
Field and Goldberg, LLC  
10 South LaSalle Street  
Suite 2910  
Chicago, IL 60603

Doc# 1717913005 Fee \$62.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 06/28/2017 09:47 AM PG: 1 OF 13

**Address of Property:**  
6700 North Damen Avenue  
Chicago, IL 60645

**Permanent Index Nos:**  
11-31-302-008-0000  
11-31-302-043-0000

## FOURTH LOAN MODIFICATION AGREEMENT

THIS FOURTH LOAN MODIFICATION AGREEMENT (the "Agreement") is made and entered into as of the 30<sup>th</sup> day of April, 2017 by and among **MB FINANCIAL BANK, N.A.** (herein called "Lender"), **WARREN PARK PROPERTY, LLC**, an Illinois limited liability company (herein called "Borrower"), **WARREN PARK HEALTH AND LIVING CENTER, LLC**, an Illinois limited liability company (herein called "Warren Park Health and Living"), and **JONATHAN H. AARON** (herein called "Aaron"; Warren Park Health and Living and Aaron are individually called "Guarantor" and collectively called the "Guarantors").

### WITNESSETH

WHEREAS, Borrower is the owner of certain real estate commonly known as 6700 North Damen Avenue, which is located in the City of Chicago, County of Cook, State of Illinois and more particularly described on Exhibit A attached hereto (the "Premises"); and

WHEREAS, Lender has heretofore made a first mortgage loan (the "Loan") to Borrower in the stated principal sum of Four Million Eight Hundred Seventy Two Thousand Dollars and No Cents (\$4,872,000.00), which was subsequently increased to Six Million Nine Hundred Sixty Thousand Dollars and No Cents (\$6,960,000.00), and

WHEREAS, the Loan is evidenced and secured by the following documents in favor of Lender (hereinafter, together with all other documents evidencing, securing or otherwise governing the Loan, collectively referred to as the "Loan Documents"):

- a. Amended and Restated Note (the "Note") dated January 16, 2015 made by Borrower to Lender in the stated principal sum of Six Million Nine Hundred Sixty Thousand Dollars and No Cents (\$6,960,000.00), which replaced

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that certain Note dated November 21, 2012 made by Borrower to Lender in the stated principal sum of Four Million Eight Hundred Seventy Two Thousand Dollars and No Cents (\$4,872,000.00);

b. Amended and Restated Guaranty (herein called "Guaranty") dated January 16, 2015 made by Guarantors in favor of Lender, which replaced that certain Guaranty dated November 21, 2012 made by Guarantors in favor of Lender;

c. Mortgage (herein called the "Mortgage") dated November 21, 2012 made by Borrower encumbering the Premises and the improvements thereon and all other property, assets and collateral therein described, which was recorded in the Office of the Recorder of Deeds of Cook County, Illinois (herein called the "Recorder's Office") on December 6, 2012 as Document No. 1234133071;

d. Assignment of Rents and Leases dated November 21, 2012 made by Borrower, as assignor, to Lender, as assignee, which was recorded in the Recorder's Office on December 6, 2012 as Document No. 1234133072;

e. Security Agreement dated November 21, 2012 made by Borrower, as debtor, to Lender, as secured party;

f. Undated Uniform Commercial Code Financing Statements made by Borrower, as debtor, to Lender, as secured party, which were recorded in the Recorder's Office on December 6, 2012 as Document No. 1234133073 and filed with the Illinois Secretary of State (herein called the "Illinois SOS") on November 27, 2012 as Document No. 17787586;

g. Environmental Indemnity Agreement dated November 12, 2012 made by Borrower and Guarantors in favor of Lender;

h. Closing Certificate dated November 12, 2012 made by Borrower and Guarantors in favor of Lender;

i. Loan Modification Agreement dated January 16, 2015 by and among Lender, Borrower and Guarantors which was recorded in the Recorder's Office on February 20, 2015 as Document No. 1505135009;

j. Guaranty of Completion (herein called "Guaranty of Completion") dated January 16, 2015 made by Guarantors in favor of Lender;

k. Construction Loan Agreement dated January 16, 2015 by and between Lender and Borrower;

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l. Pledge Agreement (Sinking Fund) (herein called "Pledge Agreement") dated January 16, 2015 by and between Borrower and Lender;

m. Undated Uniform Commercial Code Financing Statement which was filed with the Illinois SOS on January 16, 2015 as Document No. 19983501;

n. Loan Modification Agreement dated August 3, 2015 by and among Lender, Borrower and Guarantors which was recorded in the Recorder's Office on September 25, 2015 as Document No. 1526813016; and

o. Loan Modification Agreement (herein called the "December 2015 Modification") dated December 15, 2015 by and among Lender, Borrower and Guarantors which was recorded in the Recorder's Office on January 13, 2016 as Document No. 1601316047; and

WHEREAS, Lender and Borrower have agreed to certain modifications to the Loan Documents; and

WHEREAS, the agreements of the parties are set forth herein and limited to this Agreement.

## AGREEMENT

NOW, THEREFORE, for valuable considerations, the receipt and sufficiency of which are hereby acknowledged, it is agreed, as of the date hereof, as follows:

1. **Preambles**. The preambles hereto are incorporated herein by reference as fully and with the same force and effect as if each and every term, provision and condition thereof was specifically recited herein at length.

2. **Definitions**. All capitalized terms herein not otherwise defined shall have the same meanings as in the Second Amended and Restated Note, the Mortgage and in the other Loan Documents.

3. **Covenant Waiver**. Notwithstanding anything to the contrary contained in the Loan Documents, Lender hereby waives Borrower's violation of the requirement to maintain a debt service coverage ratio greater than 1.2:1.0 throughout the term of the Loan. This waiver is a waiver of the December 31, 2015 quarterly test of the covenant only and shall not act as a waiver of any future covenant violations.

4. **Notice to Lender**. Notwithstanding anything to the contrary contained in the Loan Documents, notices to Lender shall be sent to the following address:

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MB Financial Bank, N.A.  
6111 North River Road  
Rosemont, IL 60018

with a copy to:

Matt Duntemann  
MB Financial Bank, N.A.  
6401 North Lincoln Avenue  
Lincolnwood, IL 60712  
Fax: (847) 745-3435

and a copy to:

Jay R. Goldberg  
Field and Goldberg, LLC  
10 South LaSalle Street  
Suite 2910  
Chicago, IL 60603  
Fax: (312) 408-7201

5. **Second Amended and Restated Note.** Concurrently herewith, Borrower shall execute and deliver to Lender a Second Amended and Restated Note (herein called the "Second Amended and Restated Note") in the amount of Six Million Nine Hundred Sixty Thousand Dollars and No Cents (\$6,960,000.00). Any reference to the Note or Amended and Restated Note in any of the Loan Documents shall mean and refer to the Second Amended and Restated Note.

6. **Amendment to Mortgage.** In addition to any other modifications contained in this Agreement, the terms of the Mortgage are hereby amended as follows:

(a) Section 46 is deleted in its entirety and is hereby replaced with the following:

46. **Cross-Collateralization and Cross-Default.** The Note is cross-collateralized with (i) that certain Amended and Restated Note made by Mortgagor to Mortgagee in the stated principal sum of One Million Seven Hundred Forty Thousand Dollars and No Cents (\$1,740,000.00) dated April 30, 2017 (the "\$1,740,000 Note"), as amended from time to time, (ii) that certain Revolving Line of Credit Note made by **WARREN PARK HEALTH AND LIVING CENTER, LLC, an Illinois limited liability company**, to Mortgagee in the stated principal sum of Two Million Dollars and No Cents (\$2,000,000.00) dated December 15, 2015 (the "\$2,000,000 Note"), as amended from time to time, and (iii) that certain

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Promissory Note made Mortgagor to Mortgagee in the stated principal sum of One Hundred Seventy Five Thousand Nine Hundred Thirty Seven Dollars and Seventy Five Cents (\$175,937.75) dated November 5, 2016 (the CAPEX Note"), as amended from time to time. A default under the \$1,740,000 Note, the \$2,000,000 Note, the CAPEX Note or under any document which secures the \$1,740,000 Note, the \$2,000,000 Note or the CAPEX Note shall, without notice, constitute an immediate default under the Note, entitling Mortgagee under the Loan Documents to exercise all rights and remedies as may be available to Mortgagee in the case of a default or Event of Default under the Loan Documents.

(b) The Mortgage is modified to secure the Second Amended and Restated Note and is deemed amended to conform to the terms and provisions hereof and the amendments and modifications to the Loan and Loan Documents effected hereby.

7. **Amendment to Guaranty.** In addition to any other modifications contained in this Agreement, the terms of the Guaranty are hereby amended as follows:

(a) Subsections 21.B, 21.F, 21.G and 21.H are deleted in their entirety and are hereby replaced with the following:

B. If Borrower and Warren Park Health and Living fail to maintain a minimum Debt Service Coverage Ratio of at least 1.20:1.00 on a trailing twelve (12) month basis during the entire term of the Loan, tested quarterly, as determined by Obligees in Obligees' sole discretion; notwithstanding the foregoing, if Borrower and Warren Park Health and Living failed to maintain a Debt Service Coverage Ratio of not less than 1.20:1.00 during 2016, as follows: (i) the quarterly test ending March 31, 2016 shall be calculated on a trailing three (3) month basis, (ii) the quarterly test ending June 30, 2016 shall be calculated on a trailing six (6) month basis, and (iii) the quarterly test ending September 30, 2016 shall be calculated on a trailing nine (9) month basis; or

F. If Warren Park Health and Living fails to provide to Obligees, no later than one hundred twenty (120) days after the end of each calendar year during the term of the Loan, the reviewed business financial statement of Warren Park Health and Living; or

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G. If Aaron fails to provide to Obligees, no later than ninety (90) days after the end of each calendar year during the term of the Loan, the personal financial statement of Aaron; or

H. If Aaron fails to provide to Obligees the personal tax return of Aaron no later than thirty (30) days after filing during each calendar year during the term of the Loan.

(b) The Guaranty is modified to secure the Second Amended and Restated Note and is deemed amended to conform to the terms and provisions hereof and the amendments and modifications to the Loan and the Loan Documents effected hereby.

8. **Amendment to December 2015 Modification.** In addition to any other modifications contained in this Agreement, the terms of the Guaranty are hereby amended as follows:

(a) Section 9 of the December 2015 Modification entitled "Subordination" is deleted in its entirety.

(b) The December 2015 Modification is modified to secure the Second Amended and Restated Note as hereby modified and is deemed amended to conform to the terms and provisions hereof and the amendments and modifications to the Loan and the Loan Documents effected hereby.

9. **Termination of Pledge Agreement and Sinking Fund Account.** As of the date hereof the Pledge Agreement is hereby terminated and of no further force and effect. In connection therewith, funds held pursuant to the Pledge Agreement will be deposited into a new account at Lender, with such funds to be held for the duration of the Loan. Borrower acknowledges and agrees that it shall not have access to said held funds until the Loan has been paid in full.

10. **Amendment to Loan Documents.** The Loan Documents are modified to secure the Second Amended and Restated Note and are deemed amended to conform to the terms and provisions hereof and the amendments and modifications to the Loan and the Loan Documents effected hereby.

11. **Continued Priority.** In the event that, by virtue of any of the terms, conditions and provisions of this Agreement, a lien or other property interest in the Premises otherwise junior in priority to the liens created by the Loan Documents shall gain superiority over the liens created by the Loan Documents, this Agreement shall, nunc pro tunc, be null and void without further action of the parties hereto to the fullest extent as if it had never been executed, to the end that the priority of the Loan Documents shall not be impaired.

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12. **Lender Expenses.** Borrower agrees to pay all costs, fees and expenses (including but not limited to reasonable legal fees) incurred by Lender in connection with the preparation of this Agreement. Such of the foregoing as are incurred prior to the execution and delivery of this Agreement shall be paid concurrent with such execution and delivery. All other fees, costs and expenses shall be paid within five (5) business days after notice from Lender of the amount due and the reason therefor.

13. **Non-Waiver.** In the event Lender shall at any time or from time to time disburse portions of the Loans without Borrower first satisfying all conditions precedent set forth herein or in the Loan Documents, Lender shall not thereby be deemed to have waived its right to require such satisfaction of the same or other condition as a condition precedent to its obligations to make further disbursement of the Loans.

14. **Ratification.** The Loan Documents are hereby ratified, confirmed and approved and are and shall remain in full force and effect pursuant to the terms and conditions set forth therein, except to the extent otherwise expressly modified hereby. Each of the Loan Documents is hereby modified and amended so that all reference to such documents shall be deemed to be a reference to the Loan Documents as hereby modified and amended.

15. **Joinder of Guarantors.** Notwithstanding anything to the contrary contained herein, Guarantors have entered into this Agreement for the purpose of ratifying and confirming Guarantors' obligations under the Amended and Restated Guaranty and Guaranty of Completion and to acknowledge that the Amended and Restated Guaranty and the other Loan Documents, as amended hereby, remain in full force and effect.

16. **Release.** Borrower, Guarantors and any other obligor under the Loans, on behalf of themselves and their respective successors and assigns (collectively and individually, the "Mortgagor Parties"), hereby fully, finally and completely release, remise, acquit and forever discharge, and agree to hold harmless Lender and its respective successors, assigns, affiliates, subsidiaries, parents, officers, shareholders, directors, employees, fiduciaries, attorneys, agents and properties, past, present and future, and their respective heirs, successors and assigns (collectively and individually, the "Mortgagee Parties"), of and from any and all claims, controversies, disputes, liabilities, obligations, demands, damages, debts, liens, actions, and causes of action of any and every nature whatsoever, known or unknown, direct or indirect, whether at law, by statute or in equity, in contract or in tort, under state or federal jurisdiction, and whether or not the economic effects of such alleged matters arise or are discovered in the future (collectively, the "claims"), which the Mortgagor Parties have as of the date of this agreement or may claim to have against the Mortgagee Parties, including but not limited to, any claims arising out of or with respect to any and all transactions relating to the Loans or the Loan Documents occurring on or before the date of this Agreement,

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including but not limited to, any loss, cost or damage of any kind or character arising out of or in any way connected with or in any way resulting from the acts, actions or omissions of the Mortgagee Parties occurring on or before the date of this Agreement (except in the event of gross negligence or willful misconduct on the part of the Mortgagee Parties). The foregoing release is intended to be, and is, a full, complete and general release in favor of the Mortgagee Parties with respect to all claims, demands, actions, causes of action and other matters described therein, or any other theory, cause of action, occurrence, matter or thing which might result in liability upon the Mortgagee Parties arising or occurring on or before the date of this Agreement. The Mortgagor Parties understand and agree that the foregoing general release is in consideration for the agreements of Lender contained herein and that they will receive no further consideration for such release. Furthermore, each of the Mortgagor Parties represents and warrants to Lender that she, he or it: (i) read this agreement, including without limitation, the release set forth in this section (the "Release Provision"), and understands all of the terms and conditions hereof, and (ii) executes this Agreement voluntarily with full knowledge of the significance of this Release Provision and the releases contained herein and execution hereof. The Mortgagor Parties agree to assume the risk of any and all unknown, unanticipated, or misunderstood claims that are released by this Agreement.

17. **Counterpart.** This Agreement may be executed in separate counterparts and such counterparts, taken together, shall constitute a fully executed and enforceable Agreement. Receipt of an executed signature page to this Agreement by facsimile or other electronic transmission shall constitute effective delivery thereof. Electronic records of executed Loan Documents maintained by Lender shall be deemed to be originals.

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

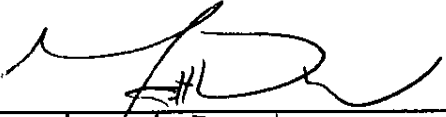


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IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the day, month and year first written above.

**LENDER:**

**MB FINANCIAL BANK, N.A.**

By:   
Name: Matt Dorkemann  
Title: Vice President


**BORROWER:**

**WARREN PARK PROPERTY, LLC, an Illinois limited liability company**

By:   
Jonathan H. Aaron, Manager

**GUARANTORS:**

**WARREN PARK HEALTH AND LIVING CENTER, LLC, an Illinois limited liability company**

By:   
Jonathan H. Aaron, Manager

  
JONATHAN H. AARON

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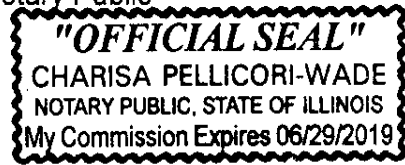
STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK     )

I, the undersigned, a Notary Public in and for the county and state aforesaid, do hereby certify that Matt Duntemann the Vice President of **MB FINANCIAL BANK, N.A.**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that he/she signed, sealed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of **MB FINANCIAL BANK, N.A.**, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 30<sup>th</sup> day of April, 2017.

Charisa Pellicori Wade

Notary Public



Property of Cook County Clerk's Office

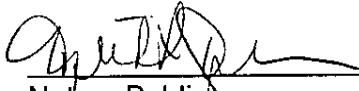
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STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK     )

I, the undersigned, a Notary Public in and for the County and State aforesaid, hereby certify that **JONATHAN H. AARON**, the Manager of **WARREN PARK PROPERTY, LLC**, an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of **WARREN PARK PROPERTY, LLC** for the uses and purposes therein set forth.

Given under my hand and notarial seal this 22 day of <sup>may</sup> ~~April~~, 2017.




  
\_\_\_\_\_  
Notary Public

STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK     )

I, the undersigned, a Notary Public in and for the County and State aforesaid, hereby certify that **JONATHAN H. AARON**, the Manager of **WARREN PARK HEALTH AND LIVING CENTER, LLC**, an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of **WARREN PARK HEALTH AND LIVING CENTER, LLC** for the uses and purposes therein set forth.

Given under my hand and notarial seal this 22 day of <sup>may</sup> ~~April~~, 2017.



  
\_\_\_\_\_  
Notary Public

# UNOFFICIAL COPY

STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK     )

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that **JONATHAN H. AARON**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 22 <sup>MAY</sup> day of ~~April~~, 2017.



*[Handwritten Signature]*  
\_\_\_\_\_  
Notary Public

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## EXHIBIT A

### LEGAL DESCRIPTION

#### Parcel 1:

The North 118 feet of the East 122.5 feet of Lot 1, lying West of the West line of Robey Street (now known as Damen Avenue), in Fortman's Second Addition to Rogers Park, being a subdivision of part of the South 9/16ths of the North 1/2 of the Southwest 1/4 of Section 31, Township 41 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

#### Parcel 2:

Lot 3 in Robey Edgewater Golf Club Addition to Rogers Park, being a subdivision of that part of the East 490 feet of the North 1/2 of the Southwest 1/4 of Section 31, Township 41 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

**Address of Property:**  
6700 North Damen Avenue  
Chicago, IL 60645

**Permanent Index Nos:**  
11-31-302-008-0000  
11-31-302-043-0000

PROPERTY OF COOK COUNTY CLERK'S OFFICE