

# UNOFFICIAL COPY

Doc#: 1817947014 Fee: \$74.00  
Karen A. Yarbrough  
Cook County Recorder of Deeds  
Date: 06/28/2018 09:04 AM Pg: 1 of 14

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

Justin Newman  
Thompson Coburn LLP  
37<sup>th</sup> Floor  
Chicago, IL 60603

**ADDRESS OF PROPERTY:**

16000 South Wabash Avenue  
South Holland, IL 60473

**PERMANENT INDEX NO.:**

29-15-302-051-0000

## THIRD LOAN MODIFICATION AGREEMENT

THIS THIRD LOAN MODIFICATION AGREEMENT (this "Agreement") is made and entered into effective as of the 25<sup>th</sup> day of April, 2018 by and among **MB FINANCIAL BANK, N.A.** (herein called "Lender"), **16000 S. WABASH, L.L.C.**, an Illinois limited liability company (herein called "Borrower"), **WINDMILL NURSING PAVILION, LTD.**, an Illinois corporation ("LTD"), **MAURICE AARON** ("Aaron") and **MARSHALL A. MAUER** ("Mauer" and together with LTD and Aaron herein individually and collectively called "Guarantor").

### WITNESSETH:

WHEREAS, Borrower is the owner of that certain real estate commonly known as 16000 South Wabash Avenue, which is located in the Village of South Holland, County of Cook, State of Illinois and more particularly described on Exhibit A attached hereto and made a part hereof (herein called the "Premises"); and

WHEREAS, Lender has heretofore made a non-revolving construction loan (herein called the "Loan") to Borrower in the original stated principal sum of One Million Five Hundred Thousand Dollars and No Cents (\$1,500,000.00); and

WHEREAS, the Loan is evidenced and secured by, without limitation, 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") each of which is dated as of July 11, 2012, unless otherwise stated:

(a) Non-Revolving Line of Credit Note (herein called the "Note") made by Borrower to Lender in the stated principal sum of One Million Five Hundred Thousand Dollars and No Cents (\$1,500,000.00);

(b) Guaranty made by Guarantor in favor of Lender;

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(c) Second Mortgage (herein called the "Mortgage") made by Borrower to Lender encumbering the Premises and the improvements thereon and all other property, assets and collateral therein described, which Mortgage was recorded in the Office of the Recorder of Deeds of Cook County, Illinois (herein called the "Recorder's Office") on July 17, 2012 as Document No. 1219941047;

(d) Second Assignment of Rents and Leases made by Borrower, as assignor, to Lender, as assignee, which was recorded in the Recorder's Office on July 17, 2012 as Document No. 1219941048;

(e) Loan Agreement (herein called the "Loan Agreement") by and between Borrower and Lender;

(f) Security Agreement made by Borrower, as debtor, to Lender, as secured party;

(g) Environmental Indemnity Agreement made by Borrower and Guarantor in favor of Lender;

(h) Pledge Agreement (Construction Funds) made by Borrower in favor of Lender, dated October 30, 2015 (the "Pledge Agreement");

(i) Uniform Commercial Code Financing Statements listing Borrower as debtor and Lender as secured party, which were recorded in the Recorder's Office on July 17, 2012 as Document No. 121994109 and filed with the Illinois Secretary of State on July 13, 2012 as Document Nos. 17442341 and 17442430;

(j) Loan Modification Agreement by and among Borrower, Guarantor and Lender, dated October 3, 2012; and

(k) Second Loan Modification Agreement by and among Borrower, Guarantor, and Lender, dated October 30, 2015; and

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

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

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## 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 Note, Mortgage and in the other Loan Documents.

3. **Disbursement of Funds.** Upon disbursement of any amounts of the Loan, all amounts so disbursed shall be added to the then-current balance of the Loan.

4. **Amendment to Note.** In addition to any other modifications contained in this Agreement and notwithstanding anything to the contrary contained in the Note, the Note is hereby modified 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.

5. **Amendment to Mortgage.** The Mortgage is modified to secure the 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 Loan Documents effected hereby.

6. **Amendment to Loan Agreement.** In addition to any other modifications contained in this Agreement, the Loan Agreement is hereby amended as follows:

(A) Sections 6.1(h) through 6.1(l) are hereby added to the Loan Agreement, as follows:

“(h) If Borrower’s or LTD’s management fee for operation of the Premises shall exceed five percent (5.0%) of the revenue generated by the Premises as determined by Lender in Lender’s sole discretion, tested annually during the term of the Loan; or

(i) If the ratio of (a) rental income collected at the Property within the applicable time period to (b) all interest payments and principal payments paid by Borrower for all debt within the applicable time period shall fail to exceed 1.1:1.0 as determined by Lender in Lender’s sole discretion, as tested quarterly during the term of the Loan; or

(j) If Borrower fails to provide to Lender, no later than forty five (45) days after the end of each calendar month during the term of the Loan,

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the company prepared business interim financial statement of Prairie Oasis, LLC, an Illinois limited liability company ("Tenant"), then it shall be a default and an Event of Default hereunder and under the other Loan Documents; or

(k). If Borrower fails to provide to Lender, no later than one hundred twenty (120) days after the end of each calendar year during the term of the Loan, the annual compiled business financial statement of Tenant, then it shall be a default and an Event of Default hereunder and under the other Loan Documents; or

(l). If Borrower fails to not pay off the Loan in full, including all amounts due to Lender pursuant to the Loan Documents on or before January 31, 2019, then it shall be a default and an Event of Default hereunder and under the other Loan Documents."

(B) The Loan Agreement is modified to secure the 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 Loan Documents effected hereby.

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

(A) Sections 19-23 of the Guaranty are deleted in their entirety and are hereby replaced with the following:

"19. If LTD fails to provide to Lender, no later than forty five (45) days after the end of each calendar month during the term of the Loan, the company prepared business interim financial statement of Prairie Oasis, LLC, an Illinois limited liability company ("Tenant"), and LTD, respectively, then it shall be a default and an Event of Default hereunder and under the other Loan Documents.

20. If LTD fails to provide to Lender, no later than one hundred twenty (120) days after the end of each calendar year during the term of the Loan, the annual compiled business financial statement of Tenant and LTD, respectively, then it shall be a default and an Event of Default hereunder and under the other Loan Documents.

21. If LTD fails to provide to Lender, no later than thirty (30) days after the end of each calendar month during the term of the Loan, the monthly accounts receivable agings reports of LTD, then it shall be a default and an Event of Default hereunder and under the other Loan Documents.

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22. If LTD fails to provide to Lender, no later than thirty (30) days after the end of each calendar month during the term of the Loan, the monthly borrowing base certificate of LTD, then it shall be a default and an Event of Default hereunder and under the other Loan Documents.

23. If the intercompany debt of LTD falls below One Million Six Hundred Thousand Dollars and No Cents (\$1,600,000.00) at any time during the term of the Loan as determined by Lender in Lender's sole discretion, as tested quarterly during the term of the Loan."

(B) Sections 30 and 31 are hereby added to the Guaranty, as follows:

"30. If LTD shall take any distributions during the term of the Loan as determined by Lender in Lender's sole discretion, tested annually during the term of the Loan.

31. If Borrower's or LTD's management fee for operation of the Premises shall exceed five percent (5.0%) of the revenue generated by the Premises as determined by Lender in Lender's sole discretion, tested annually during the term of the Loan."

(C) The Guaranty is modified to secure the 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 Loan Documents effected hereby.

8. **Amendment to Pledge Agreement.** In addition to any other modifications contained in this Agreement, the Pledge Agreement is hereby amended as follows:

(A) The first WHEREAS clause of the Pledge Agreement is deleted in its entirety and is hereby replaced with the following:

"WHEREAS, Pledgor is the owner and pledgor of the Demand Deposit Account at Lender described in Exhibit A attached hereto containing as of the date hereof the amount of Six Hundred Fifty Four Thousand Dollars and No Cents (\$654,000.00) (the "Account"); and"

(B) Sections 18 is hereby added to the Pledge Agreement, as follows:

**"SECTION 18  
PLEGDED COLLATERAL APPLIED TO LOAN**

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In the event Pledgor does not pay off the Loan in full, including all amounts due to Lender pursuant to the Loan Documents (as defined in the Note) on or before January 31, 2019, then the Pledged Collateral shall be applied to the then-outstanding balance of the Loan, in the order stated as follows:

- a. Taxes (as defined in the Mortgage) and insurance premiums;
- b. Indebtedness Hereby Secured (as defined in the Mortgage) other than principal and interest on the Note;
- c. Interest on the Note; and then
- d. Amortization of the principal balance of the Note."

(C) The Pledge Agreement is modified to secure the 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 Loan Documents effected hereby.

9. **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.

10. **Title Insurance.** Upon the request of Lender at any time including after the date of this Agreement, Obligors agree to provide Lender with an endorsement to its mortgagee's policy of title insurance ("Title Policy"), which endorsement shall be acceptable to Lender and shall guarantee as of the date hereof that:

(A) there are no objections to title except (a) the objections to title other than real estate taxes reflected on the Title Policy, and (b) general real estate taxes for the year 2017 and subsequent years;

(B) reflects the recording of this Agreement; and

(C) re-dates the effective date of the Title Policy to the date of recording of this Agreement;

together with such other endorsements as may be required by Lender, if any.

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11. **Lender Expenses.** Borrower agrees to pay all costs, fees and expenses (including but not limited to legal fees) incurred by Lender in connection with the preparation of this Agreement and/or the implementation of the additional disbursements contemplated hereunder. The foregoing and all other fees, costs and expenses incurred by Lender in connection herewith shall be paid within five (5) business days after notice from Lender of the amount due and the reason therefor.

12. **Ratification.** The Loan Documents are hereby ratified, confirmed and approved and are and shall remain in full force and effect. 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. Except to the extent otherwise specifically modified and amended hereby, the Loan Documents shall remain in full force and effect pursuant to the terms and conditions set forth therein.

13. **Patriot Act.** Lender hereby notifies Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56) (the "Patriot Act"), Lender is required to obtain, verify and record information that identifies Borrower and the other credit parties. Borrower agrees to provide to Lender, promptly upon Lender's request, such information as Lender shall require for purposes of complying with the requirements of the Patriot Act, the federal regulations issued pursuant to the Patriot Act and any customer identification program established by Lender in accordance therewith.

14. **Release.** Borrower, Guarantor and any other obligor under the Loan, 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 Loan or the Loan Documents occurring on or before the date of this Agreement, 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. 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

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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.

15. **Joinder of Guarantor.** Notwithstanding anything to the contrary contained herein, Guarantor has entered into this Agreement for the purpose of ratifying and confirming Guarantor's obligations under the Guaranty, as modified hereby, and to acknowledge that the Guaranty, as modified hereby remains in full force and effect.

16. **Counterpart.** This Agreement may be executed in separate counterparts and such counterparts, taken together, shall constitute a fully executed and enforceable Agreement.

(Signature Page Follows)

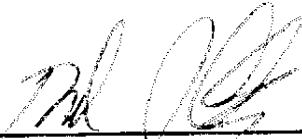


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IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the day, month and year first written above.

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

**16000 S. WABASH, L.L.C., an Illinois limited liability company**

By:   
Name: DONALD J. CLARK  
Title: Senior Vice President

By: 16000 S. WABASH BUILDING CORPORATION, an Illinois corporation, its Manager

By: \_\_\_\_\_  
Susan L. Stern, Officer

\_\_\_\_\_  
**MAURICE AARON**

\_\_\_\_\_  
**MARSHALL A. MAUER**

**WINDMILL NURSING PAVILION, LTD., an Illinois corporation**

By: \_\_\_\_\_  
Maurice I. Aaron, Designated Person

Property of Cook County Clerk's Office

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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.

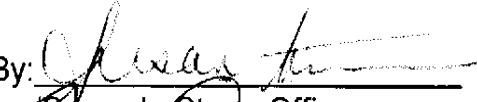
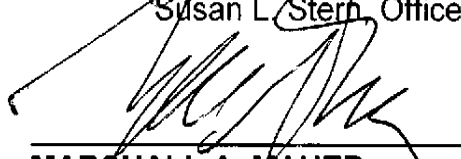
**MB FINANCIAL BANK, N.A.**

**16000 S. WABASH, L.L.C., an Illinois limited liability company**

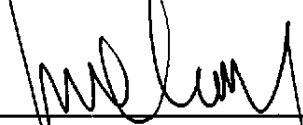
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: 16000 S. WABASH BUILDING CORPORATION, an Illinois corporation, its Manager

  
\_\_\_\_\_  
**MAURICE AARON**

By:   
\_\_\_\_\_  
Susan L. Stern, Officer  
  
\_\_\_\_\_  
**MARSHALL A. MAUER**

**WINDMILL NURSING PAVILION, LTD., an Illinois corporation**

By:   
\_\_\_\_\_  
Maurice I. Aaron, Designated Person

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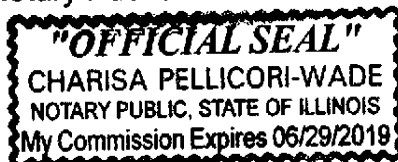
STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK     )

I, the undersigned, a Notary Public in and for the county and state aforesaid, do hereby certify that Donald J. Clark, the SVP of **MB Financial Bank, N.A.**, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such \_\_\_\_\_, 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 the **MB Financial Bank, N.A.**, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 19<sup>th</sup> day of June, 2018.

Charisa Pellicori-Wade

Notary Public



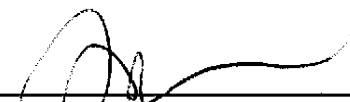
Property of Cook County Clerk's Office

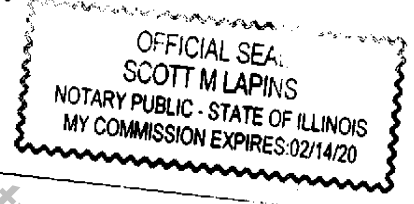
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STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for the county and state aforesaid, do hereby certify that **SUSAN L. STERN**, an Officer of **16000 S. WABASH BUILDING CORPORATION, an Illinois corporation**, being the Manager of **16000 S. WABASH, L.L.C., 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 she signed, sealed and delivered the said instrument as her free and voluntary act and as the free and voluntary act of **16000 S. WABASH, L.L.C.**, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 5th day of June, 2018.

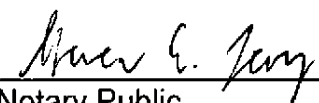
  
\_\_\_\_\_  
Notary Public



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 **MAURICE 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 4th day of June, 2018.

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



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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 **MARSHALL A. MAUER**, 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 4th day of June, 2018.

Steven E Levy  
Notary Public

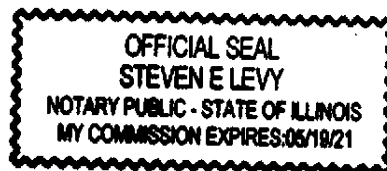


STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK     )

I, the undersigned, a Notary Public in and for the County and State aforesaid, hereby certify that **MAURICE I. AARON**, the Designated Person of **WINDMILL NURSING PAVILION, LTD., an Illinois corporation**, 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 **WINDMILL NURSING PAVILION, LTD.** for the uses and purposes therein set forth.

Given under my hand and notarial seal this 4th day of June, 2018.

Steven E Levy  
Notary Public



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## EXHIBIT A

### LEGAL DESCRIPTION

Out-Lot 'A' in South Shore Rest Home Subdivision, a subdivision of Lots 11 to 14 (except that part of Lot 13 described as follows: The North 73.46 feet of the South 84.32 feet of the East 215.95 feet) all in Henry De Young's Resubdivision of Lots 35 and 38 in County Clerk's Division of unsubdivided lands South of the Calumet River in the Southwest  $\frac{1}{4}$  of Section 15; also of Lot 19 in School Trustees' Subdivision of Section 16, Township 36 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

**Address of Property:**

16000 South Wabash Avenue  
South Holland, IL 60473

**Permanent Index No.:**

29-15-302-051-0000

Property of Cook County Clerk's Office