



Doc# 2213610078 Fee \$73.00

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

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 05/16/2022 02:56 PM PG: 1 OF 12

THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING MAIL TO:

Christyl Marsh
Cohen, Salk & Hoffman, P.C.
630 Dundee Road, Suite 120
Northbrook, Illinois 60062

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Wtm 101

MODIFICATION AGREEMENT

THIS MODIFICATION AGREEMENT (hereinafter referred to as this "Modification Agreement") made as of this 13th day of May, 2022, by and among **Winick Property Development, LLC Series (32) – 4808-12 N. Paulina, Chicago, Illinois**, an Illinois designated series of a Delaware limited liability company ("Borrower"), **Adam P. Winick** ("Winick") and **Winick Property Development, LLC**, a Delaware limited liability company ("Master LLC") (Winick and Master LLC are hereinafter sometimes individually referred to as a "Guarantor," and collectively referred to as the "Guarantors") (Borrower and Guarantors are hereinafter each sometimes individually referred to as an "Obligor," and are collectively referred to as the "Obligors"), and **Wintrust Bank, N.A.**, formerly known as Wintrust Bank ("Lender").

WITNESSETH:

WHEREAS, Lender has previously extended to Borrower a term loan in the original principal amount of \$3,220,000.00 (as modified, increased, decreased, restated or replaced from time to time, the "Loan"), and to evidence the Loan, Borrower has executed and delivered to Lender that certain promissory note dated December 27, 2017 in the original principal sum of Three Million Two Hundred Twenty Thousand and 00/100 Dollars (\$3,220,000.00) (as modified, restated or replaced from time to time, the "Note"), which Note is secured by the following documents (the following documents and any and all other instruments executed by any Obligor, as modified from time to time, are hereinafter collectively referred to as the "Loan Documents"):

- (i) mortgage, security agreement, assignment of leases and rents and fixture filing dated as of December 27, 2017, made by Borrower in favor of Lender, recorded in the Office of the Recorder of Deeds of Cook County, Illinois (the "Recorder's Office"), as Document No. 1800846060 (the "Mortgage") on property commonly known as 4808-12 N. Paulina, Chicago, Illinois and legally described on **Exhibit A** attached hereto and made a part hereof (the "Premises");
- (ii) assignment of rents and leases dated as of December 27, 2017 made by Borrower in favor of Lender, recorded in the Recorder's Office, as Document No. 1800845061 (the "Assignment of Rents");

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- (iii) guaranty of payment dated as of December 27, 2017 made by Guarantors in favor of Lender (the "Guaranty"); and
- (iv) environmental indemnity agreement dated as of December 27, 2017 made by Obligors in favor of Lender (the "Indemnity").

WHEREAS, Obligors are desirous of (i) extending the maturity date of the Note for an additional five (5) years, (ii) adjusting the interest rate charged on the Note, and (iii) making certain other changes hereto, and Lender is willing to consent to such changes subject to the terms and provisions hereinafter provided.

NOW THEREFORE, in consideration of the mutual promises of the parties hereto, and upon the express conditions that the lien of the Mortgage held by Lender is a valid, first and subsisting lien on the Premises and that the execution of this Modification Agreement will not impair the lien of said Mortgage and that there is no existing second mortgage or other liens subsequent to the lien of the Mortgage held by Lender that will not be paid in full and released concurrently herewith (for breach of which conditions, or either of them, this Modification Agreement shall not take effect and shall be void), **IT IS AGREED AS FOLLOWS:**

1. The parties represent and agree that the foregoing recitals are true and correct.
2. As of the date hereof, the total outstanding principal balance of the Note is \$3,063,237.89. Concurrent with the execution of this Modification Agreement, Borrower and Lender shall execute a note extension and modification agreement (the "Agreement") amending the maturity date, the interest rate, the repayment provisions and certain other terms of the Note. Each reference in the Loan Documents to the term "Note" shall hereafter be deemed to be a reference to the Note, as amended by the Agreement. Each reference in the Loan Documents to the term "Loan" shall hereafter mean that certain \$3,063,237.89 term loan made by Lender to Borrower and evidenced by the Note, as amended by the Agreement.
3. The Loan Documents are hereby amended to secure the obligations and liabilities evidenced by the Note, as modified by the Agreement.
4. The Mortgage is hereby modified as follows:
 - a. The phrase "December 31, 2022 ("Maturity Date")" as it appears in Recital paragraph A on page 1 is deleted and replaced with the phrase "May 13, 2027 ("Maturity Date")".
 - b. Subparagraph (iii) of Section 30 is amended and restated in its entirety to read as follows: "(iii) annual financial statements of each guarantor of the Note certified by such guarantor to be true, correct and complete, in each case, no later than thirty (30) days after the end of each year".
 - c. Section 37(a) is amended and restated in its entirety to read as follows:

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“During any calendar year ending on December 31 (a “Year”), commencing with Year 2022, Mortgagor shall not permit the ratio of Operating Cash Flow (as defined below) during such Year to Debt Service (as defined below) during such Year to be less than **1.10 to 1.00** (calculated based upon trailing twelve month income and expenses and debt service based upon the annual required principal and interest payments, inclusive of a 5.0% management fee and a \$250 per unit capital reserve) (the “Debt Service Ratio”).”

5. The Premises has been issued a new, consolidated PIN. Exhibit A attached to the Mortgage, Assignment of Rents and the Indemnity is deleted and replaced with **Exhibit B** attached hereto.

6. The Guaranty is hereby modified by amending and restating in its entirety subparagraph (ii) of Section 8 to read as follows: “(ii) no later than thirty (30) days after the end of each year, the current financial statement of Guarantor, certified by Guarantor as true, complete and correct and as to the financial statements, otherwise in a form substantially similar to the form of financial statements previously submitted by Guarantor to Lender, unless otherwise approved in writing by Lender”.

7. Except for the modifications stated herein and in the Agreement, the Note and Loan Documents are not otherwise changed, modified or amended. Except as expressly provided herein and in the Agreement, the Note and other Loan Documents and each other instrument or agreement delivered by any Obligor to or for the benefit of Lender in connection with the Loan shall remain in full force and effect in accordance with their respective terms and the execution and delivery of the Agreement and this Modification Agreement shall not operate to waive any rights or remedies that Lender may have with respect to the Note and other Loan Documents, to forgive or waive any violation, default or breach under the Note or any other Loan Document, or to obligate Lender in any manner to make any further extensions of credit other than as expressly set forth herein.

8. Contemporaneously with the execution of this Modification Agreement by Lender, Obligors shall pay to Lender a non-refundable modification fee in the amount set forth in the Agreement, plus all of Lender’s attorneys’ fees incurred in connection with the negotiation and documentation of the agreements contained in this Modification Agreement, all recording fees and charges, title insurance charges and premiums, appraisal fees, and all other expenses, charges, costs and fees necessitated by or otherwise relating to this Modification Agreement (the “Additional Fees”). If any of the Additional Fees are not paid at the time this Modification Agreement is executed by Lender, such Additional Fees shall be paid by Obligors within five days after written demand therefor by Lender, and if not timely paid, they shall bear interest from the date so incurred until paid at an annual rate equal to the Default Rate (as defined in the Note).

9. The Premises described in the Mortgage shall remain in all events subject to the lien, charge or encumbrance of the Mortgage, and nothing herein contained, and nothing done pursuant hereto, shall affect or be construed to affect the lien, charge or encumbrance of the Mortgage, or the priority thereof over any other liens, charges, or encumbrances or conveyances, or, except as

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expressly provided herein, to release or affect the liability of any party or parties whomsoever may now or hereafter be liable under or on account of the Note, the Mortgage and/or the other Loan Documents, nor shall anything herein contained or done in pursuance thereof affect or be construed to affect any other security or instrument, if any, held by Lender as security for or evidence of the aforesaid indebtedness.

10. This Modification Agreement shall extend to and be binding upon each of the Obligors and their heirs, legatees, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

11. Each Obligor hereby ratifies and confirms his or its respective obligations and liabilities under the Note, the Guaranty and other Loan Documents, as amended by the Agreement and as hereby amended, and the liens and security interest created thereby, and acknowledge that he or it have no defenses, claims or set-offs against the enforcement by Lender of their respective obligations and liabilities under the Note, the Guaranty and other Loan Documents, as so amended.

Without limiting the generality of the foregoing paragraph, each Guarantor hereby further represents and warrants to the Lender with the intent that the Lender rely thereon, as follows with regard to the Guaranty, as hereby modified: (a) the Guaranty is in full force and effect and is binding and enforceable against the Guarantor in accordance with its terms; (b) the Guarantor irrevocably consents and agrees to the Borrower's execution and delivery of this Modification Agreement; (c) the liability of the Guarantor to the Lender under the Guaranty shall in no way be affected, modified, altered, or discharged in any fashion by the Borrower's execution, delivery or performance of this Modification Agreement; (d) the Guarantor hereby restates and reaffirms to Lender all terms and provisions of the Guaranty as if set forth in full herein; and (e) the Guarantor does not possess any claims, defenses, offsets, or counterclaims against the enforcement of the Guaranty as of the date hereof, and any and all such claims, defenses, offsets and counterclaims, whether known or unknown, are forever waived and released, and the Guarantor is unconditionally liable under the Guaranty, for the payment and performance of all present and future indebtedness and all other obligations described therein.

12. This Modification Agreement shall, in all respects, be governed by and construed in accordance with the laws of the State of Illinois (exclusive of choice of law principles), including all matters of construction, validity and performance.

13. This Modification Agreement, together with the Agreement, constitute the entire agreements between the parties with respect to the aforesaid modifications and shall not be amended or modified in any way except by a document in writing executed by all of the parties thereto.

14. This Modification Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall be one agreement.

15. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR HEREBY AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS MODIFICATION AGREEMENT SHALL BE TRIED AND DETERMINED ONLY IN THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF COOK, STATE

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OF ILLINOIS, OR, AT THE SOLE OPTION OF LENDER IN ANY OTHER COURT IN WHICH LENDER SHALL INITIATE LEGAL OR EQUITABLE PROCEEDINGS AND WHICH HAS SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR HEREBY EXPRESSLY WAIVES ANY RIGHT IT MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS PARAGRAPH.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR AND LENDER HEREBY EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY ACTION, CAUSE OF ACTION, CLAIM, DEMAND, OR PROCEEDING ARISING UNDER OR WITH RESPECT TO THIS MODIFICATION AGREEMENT, OR IN ANY WAY CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE DEALINGS OF OBLIGORS AND LENDER WITH RESPECT TO THIS MODIFICATION AGREEMENT, OR THE TRANSACTION RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR AND LENDER HEREBY AGREE THAT ANY SUCH ACTION, CAUSE OF ACTION, CLAIM, DEMAND OR PROCEEDING SHALL BE DECIDED BY A COURT TRIAL WITHOUT A JURY AND THAT ANY OBLIGOR OR LENDER MAY FILE A COPY OF THIS EXECUTED MODIFICATION AGREEMENT WITH ANY COURT OR OTHER TRIBUNAL AS WRITTEN EVIDENCE OF THE CONSENT OF EACH OBLIGOR AND LENDER TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

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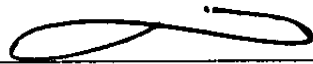
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IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed as of the date first above written.


BORROWER:

Winick Property Development, LLC Series (32) – 4808-12 N. Paulina, Chicago, Illinois, an Illinois designated series of a Delaware limited liability company

By: ICM Properties, Inc., an Illinois corporation, its Manager


By: 
Name: Adam P. Winick
Title: Vice President

GUARANTORS:


Adam P. Winick, individually

Winick Property Development, LLC, a Delaware limited liability company

By: ICM Properties, Inc., an Illinois corporation, its Manager

By: 
Name: Adam P. Winick
Title: Vice President

LENDER:

Wintrust Bank, N.A.

By: _____
Name: Kimberly Bowman
Its: Vice President, Commercial Real Estate

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IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed as of the date first above written.

BORROWER:

Winick Property Development, LLC Series (32) – 4808-12 N. Paulina, Chicago, Illinois, an Illinois designated series of a Delaware limited liability company

By: ICM Properties, Inc., an Illinois corporation, its Manager

By: _____
Name: Adam P. Winick
Title: Vice President

GUARANTORS:

Adam P. Winick, individually

Winick Property Development, LLC, a Delaware limited liability company

By: ICM Properties, Inc., an Illinois corporation, its Manager

By: _____
Name: Adam P. Winick
Title: Vice President

LENDER:

Wintrust Bank, N.A.


By: Kimberly Bowman
Name: Kimberly Bowman
Its: Vice President, Commercial Real Estate

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STATE OF ILLINOIS)
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) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in the State and County aforesaid, DO HEREBY CERTIFY that Adam P. Winick, the Vice President of ICM Properties, Inc., an Illinois corporation (the "Manager"), the manager of **Winick Property Development, LLC Series (32) – 4808-12 N. Paulina, Chicago, Illinois**, an Illinois designated series of a Delaware limited liability company ("LLC Series"), personally appeared before me this day and subscribed his name to the foregoing instrument, as his free and voluntary act, and as the free and voluntary act of the Manager on behalf of the LLC Series, for the uses and purposes therein stated.

Given under my hand and notarial seal this 9 day of May, 2022.



Notary Public

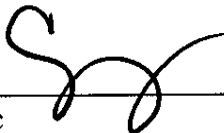
My Commission Expires: 7/23/2025



STATE OF ILLINOIS)
)
) SS
COUNTY OF COOK)

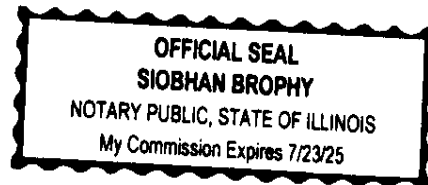
I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that **Adam P. Winick** personally appeared before me this day and subscribed his name to the foregoing instrument for the uses and purposes therein stated.

Given under my hand and notarial seal this 9 day of May, 2022.



Notary Public

My Commission Expires: 7/23/2025




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STATE OF ILLINOIS)
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) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in the State and County aforesaid, DO HEREBY CERTIFY that Adam P. Winick, the Vice President of ICM Properties, Inc., an Illinois corporation (the "Manager"), the manager of **Winick Property Development, LLC**, a Delaware limited liability company ("LLC"), personally appeared before me this day and subscribed his name to the foregoing instrument, as his free and voluntary act, and as the free and voluntary act of the Manager on behalf of the LLC for the uses and purposes therein stated.

Given under my hand and notarial seal this 9 day of May, 2022.



Notary Public

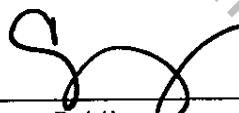
My Commission Expires: 7/23/2025



STATE OF ILLINOIS)
)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, do hereby certify that Kimberly Bowman, a Vice President of Commercial Real Estate for **Wintrust Bank, N.A.**, known to me to be the same person whose name is subscribed to the foregoing instrument as such officer appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her own free and voluntary act, and as the free and voluntary act of said bank.

Given under my hand and notarial seal this 9 day of May, 2022.



Notary Public

My Commission Expires: 7/23/2025



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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in the State and County aforesaid, DO HEREBY CERTIFY that Adam P. Winick, the Vice President of ICM Properties, Inc., an Illinois corporation (the "Manager"), the manager of **Winick Property Development, LLC**, a Delaware limited liability company ("LLC"), personally appeared before me this day and subscribed his name to the foregoing instrument, as his free and voluntary act, and as the free and voluntary act of the Manager on behalf of the LLC, for the uses and purposes therein stated.

Given under my hand and notarial seal this _____ day of _____, 2022.

Notary Public

My Commission Expires: _____

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, do hereby certify that Kimberly Bowman, a Vice President of Commercial Real Estate for **Wintrust Bank, N.A.**, known to me to be the same person whose name is subscribed to the foregoing instrument as such officer appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her own free and voluntary act, and as the free and voluntary act of said bank.

Given under my hand and notarial seal this 13 day of May, 2022.

Nilda Flores
Notary Public

My Commission Expires: 4-12-2026



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EXHIBIT A

Original Legal Description and PINS

PINS:	14-07-422-054-1001	14-07-422-054-1010
	14-07-422-054-1002	14-07-422-054-1011
	14-07-422-054-1003	14-07-422-054-1012
	14-07-422-054-1004	14-07-422-054-1013
	14-07-422-054-1005	14-07-422-054-1014
	14-07-422-054-1006	14-07-422-054-1015
	14-07-422-054-1007	14-07-422-054-1016
	14-07-422-054-1008	14-07-422-054-1017
	14-07-422-054-1009	

Address: 4808-12 N. Paulina, Chicago, Illinois 60640

LOT 9 IN BLOCK 3 IN KEENEY'S ADDITION TO RAVENSWOOD, A SUBDIVISION IN SECTIONS 7 AND 8, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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EXHIBIT B

Current Legal Description and PIN

PIN: 14-07-422-072-0000

Address: 4808-12 N. Paulina, Chicago, Illinois 60640

LOT 9 IN BLOCK 3 IN KEENEY'S ADDITION TO RAVENSWOOD, A SUBDIVISION IN SECTIONS 7 AND 8, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.