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Karen A. Yarbrough
Cook County Clerk
Date: 07/08/2022 08:30 AM Pg: 1 of 12

**THIS DOCUMENT WAS PREPARED BY,
AND AFTER RECORDING, RETURN TO:**

Courtney E. Mayster
MUCH SHELIST
191 North Wacker Drive
Suite 1800
Chicago, Illinois 60606.1615

PERMANENT TAX INDEX NUMBER:

17-16-212-007-0000

PROPERTY ADDRESS:

73 West Monroe Street
Chicago, Illinois 60603

6715914 Howard

This space reserved for Recorder's use only.

THIRD MODIFICATION OF LOAN DOCUMENTS

THIS THIRD MODIFICATION OF LOAN DOCUMENTS (this "**Agreement**") is dated as of October 6, 2021, by and among **73 W. MONROE LLC**, an Illinois limited liability company ("**Borrower**"), **WILLIAM M. BENNETT** ("**Guarantor**"), and **FIRST MIDWEST BANK** (successor to Bridgeview Bank Group), its successors and assigns ("**Lender**").

RECITALS:

A. Lender has made a loan ("**Loan**") to Borrower in the original principal amount of **SEVEN MILLION TWO HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS** (\$7,250,000.00). The Loan is evidenced by a certain Promissory Note dated January 6, 2016 made by Borrower and payable to Lender in the original principal amount of **SEVEN MILLION TWO HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS** (\$7,250,000.00) as modified by that certain Note Modification Agreement dated as of January 6, 2021, and as modified by that certain Note Modification Agreement dated as of April 6, 2021 (collectively, the "**Note**").

B. The Note is secured by, among other things, (i) that certain Mortgage, Security Agreement, Assignment of Rents and Leases, and Fixture Filing dated January 6, 2016 from Borrower to Lender and recorded with the Cook County Recorder of Deeds (the "**Recorder's Office**") on January 8, 2016 as Document No. 1600849039 (the "**Mortgage**"), which Mortgage encumbers the real property and all improvements thereon legally described on Exhibit "A" hereto (the "**Property**" or "**Premises**"); (ii) that certain Assignment of Rents and Leases dated as of January 6, 2016 from the Borrower to the Lender and recorded in the Recorder's Office on January 8, 2016 as Document No. 1600849040 (the "**Assignment of Rents**"); (iii) that certain

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Modification of Loan Documents dated as of January 6, 2021 by and among Lender, Borrower and Guarantor (the “**First Modification**”); (iv) that certain Covid-19 Deferral Agreement dated as of July 14, 2020 by and between Lender and Borrower (the “**Deferral Agreement**”); (v) that certain Second Modification of Loan Documents dated as of April 6, 2021 (the “**Second Modification**”); and (vi) and certain other loan documents (the Note, the Mortgage, the Assignment of Rents, the First Modification, the Deferral Agreement, the Second Modification, the Guaranty (as hereinafter defined), and the other documents evidencing, securing and guarantying the Loan, in their original form and as amended, are sometimes collectively referred to in this Agreement as the “**Loan Documents**”).

C. The Loan is further secured by a Guaranty of Payment dated January 6, 2016 from the Guarantor (the “**Guaranty**”).

D. Guarantor is a member, and the manager of the manager, of the Borrower, and it is in the best interest of the Guarantor to execute this Modification

E. Borrower has requested that Lender amend the Loan in order to extend the Maturity Date and otherwise in accordance with the terms and conditions set forth below.

AGREEMENTS:

NOW, THEREFORE, in consideration of: (i) the facts set forth hereinabove (which are hereby incorporated into and made a part of this Agreement); (ii) the agreements by Lender to modify the Loan Documents, as provided herein; (iii) agreement to pay Lender’s reasonable expenses, including all of Lender’s reasonable attorneys’ fees and costs in connection with this Agreement; (iv) the covenants and agreements contained herein; (v) the Guarantor’s reaffirmation of the Guaranty with respect to the Loan as amended herein; and (vi) for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Recitals.** The Recitals set forth above are incorporated into and made part of this Agreement.

2. **Modification of Note.** Concurrently with the execution and delivery of this Agreement, Borrower shall execute and deliver to Lender a Third Note Modification Agreement (the “**Third Note Modification Agreement**”), which Third Note Modification Agreement shall, among other things, extend the Maturity Date of the Note to **October 6, 2022**.

3. **Modification of Loan Documents.** All references in the Loan Documents to the Maturity Date of the Note shall mean **October 6, 2022**.

4. **Debt Service Coverage Ratio.** Section 37 of the Mortgage is hereby deleted and replaced with the following:

“During any year and tested as of April 6, 2022 and as of October 6, 2022 of each year, the Mortgagor must not permit the ratio of Operating Cash Flow (as defined below) during such

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year to Debt Service (as defined below) during such year to be less than 0.75 to 1.00 for the test date on April 6, 2022 and 1.00 to 1.00 for the test date on October 6, 2022 (the “**Debt Service Coverage Ratio**”). Borrower shall provide financial statements to Lender within thirty (30) days after the foregoing test dates for purposes of calculating the Debt Service Coverage Ratio.

(a) As used herein, “**Operating Cash Flow**” during any calculation period shall mean all rental income (including minimum rent, additional rent, escalation and pass through payments) per the in-place rent roll in such calculation period (annualized as necessary) arising from the ownership and operation of the Premises (excluding tenant security deposits, and rent paid during such year by any tenant for more than twelve (12) months of rental obligations) less the sum of all costs, taxes, expenses and disbursements of every kind, nature or description actually paid or due and payable during such year, in connection with the leasing, management, operation, maintenance and repair of the Premises and of the personal property, fixtures, machinery, equipment, systems and apparatus located therein or used in connection therewith, but excluding (i) non-cash expenses, such as depreciation and amortization costs, (ii) state and federal income taxes, (iii) the non-current portion of capital expenditures determined in accordance with sound accounting principles consistently applied, (iv) debt service payable on the Loan, and (v) principal and interest payments on other loans expressly permitted by the Lender. In determining Operating Cash Flow, extraordinary items of income, such as those resulting from casualty or condemnation or lease termination payments of tenants, shall be deducted from income (to the extent included in income).

(b) As used herein, “**Debt Service**” for any year shall equal the sum of all scheduled principal and interest payments on the Loan and any other indebtedness of the Mortgagor that is due and payable during such year.

(c) Operating Cash Flow and Debt Service shall be calculated by the Lender based on the financial information provided to the Lender by the Mortgagor and independently verified by the Lender and the calculations so verified shall be final and binding upon the Mortgagor and the Lender.

(d) (i) If the Debt Service Coverage Ratio shall be less than 0.75 to 1.00 as of April 6, 2022, then an Event of Default shall be deemed to exist upon Mortgagor’s receipt of written notice of such Event of Default from Lender unless Mortgagor, within ten (10) days after receipt of such notice from Lender, has made a principal reduction payment in the amount of \$270,000.00 to Lender, and (ii) if the Debt Service Coverage Ratio shall be less than 1.00 to 1.00 as of October 6, 2022, then an Event of Default shall be deemed to exist upon Mortgagor’s receipt of written notice of such Event of Default from Lender unless Mortgagor, within ten (10) days after receipt of such notice from Lender, has made a principal reduction payment in the amount of \$270,000.00 to Lender.”

5. **Representations and Warranties of Borrower and Guarantor.** Borrower and Guarantor hereby represent, covenant and warrant to Lender as follows:

(a) The representations and warranties in the Note, the Mortgage and the other Loan Documents are true and correct in all material respect as of the date hereof.

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(b) Except for the Debt Service Coverage Ratio covenant waiver as set forth in the Second Note Modification Agreement, there is currently no Event of Default (as defined in the Mortgage) under the Note, the Mortgage or the other Loan Documents, and Borrower or Guarantor does not know of any event or circumstance which with the giving of notice or passing of time, or both, would constitute an Event of Default under the Note, the Mortgage or the other Loan Documents.

(c) The Loan Documents are in full force and effect and, following the execution and delivery of this Agreement, they continue to be the legal, valid and binding obligations of Borrower and Guarantor enforceable in accordance with their respective terms, subject to limitations imposed by general principles of equity.

(d) There has been no material adverse change in the financial condition of Borrower, Guarantor or any other party whose financial statement has been delivered to Lender in connection with the Loan from the date of the most recent financial statement received by Lender.

(e) As of the date hereof, neither Borrower nor Guarantor has any claims, counterclaims, defenses, or set-offs with respect to the Loan or the Loan Documents as modified herein.

(f) Borrower is validly existing under the laws of the State of its formation or organization and has the requisite power and authority to execute and deliver this Agreement and to perform the Loan Documents as modified herein. The execution and delivery of this Agreement and the performance of the Loan Documents as modified herein have been duly authorized by all requisite action by or on behalf of Borrower. This Agreement has been duly executed and delivered on behalf of Borrower.

6. **Reaffirmation of Guaranty.** Guarantor hereby ratifies and affirms the Guaranty and agrees that the Guaranty is in full force and effect following the execution and delivery of this Agreement. The representations and warranties of Guarantor in the Guaranty are, as of this date, true and correct and Guarantor does not know of any default thereunder. The Guaranty, as amended, continues to be the valid and binding obligation of Guarantor, enforceable in accordance with its terms and Guarantor has no claims or defenses to the enforcement of the rights and remedies of Lender thereunder, except as provided in the Guaranty.

7. **Expenses.** As a condition precedent to the agreements contained herein, Borrower shall pay all costs and expenses incurred by Lender in connection with this Agreement, including, without limitation, title charges, recording fees, appraisal fees and reasonable attorneys' fees and expenses.

8. **Title Policy.** Borrower shall, at its sole cost and expense, cause Freedom Title Corporation to issue an endorsement to Chicago Title Insurance Company loan policy no. 72307-95642840 (the "**Title Policy**") as of the date this Agreement is recorded, reflecting the recording of this Agreement, and insuring the first priority of the lien of the Mortgage, subject only to the exceptions set forth in the Title Policy as of its date of issuance and any other encumbrances expressly agreed to by Lender.

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9. Miscellaneous.

(a) This Agreement is governed by and should be construed in accordance with the laws of the State of Illinois.

(b) This Agreement may not be construed more strictly against Lender than against Borrower or Guarantor merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that Borrower, Guarantor and Lender have contributed substantially and materially to the preparation of this Agreement, and Borrower, Guarantor and Lender each acknowledges and waives any claim contesting the existence and the adequacy of the consideration given by the other in entering into this Agreement. Each of the parties to this Agreement represents that it has been advised by its respective counsel of the legal and practical effect of this Agreement, and recognizes that it is executing and delivering this Agreement, intending thereby to be legally bound by the terms and provisions thereof, of its own free will, without promises or threats or the exertion of duress upon it. The parties state that they have read and understand this Agreement, that they intend to be legally bound by it and that they expressly warrant and represent that they are duly authorized and empowered to execute it.

(c) Notwithstanding the execution of this Agreement by Lender, the same shall not be deemed to constitute Lender a venturer or partner of or in any way associated with Borrower or Guarantor, nor will privity of contract be presumed to have been established with any third party.

(d) Borrower, Guarantor and Lender each acknowledges that there are no other understandings, agreements or representations, either oral or written, express or implied, that are not embodied in the Loan Documents and this Agreement, which collectively represent a complete integration of all prior and contemporaneous agreements and understandings of Borrower, Guarantor and Lender; and that all such prior understandings, agreements and representations are modified as set forth in this Agreement. Except as expressly modified, the terms of the Loan Documents are and remain unmodified and in full force and effect.

(e) This Agreement binds and inures to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

(f) Any references to the "Note," the "Mortgage," the "Assignment of Rents," the "Guaranty", or the "Loan Documents" contained in any of the Loan Documents should be considered to refer to the Note, the Mortgage, the Assignment of Rents, the Guaranty, and the other Loan Documents as amended from time to time. The paragraph and section headings used in this Agreement are for convenience only and shall not limit the substantive provisions hereof. All words in this Agreement that are expressed in the neuter gender should be considered to include the masculine, feminine and neuter genders. Any word in this Agreement that is expressed in the singular or plural should be considered, whenever appropriate in the context, to include the plural and the singular.

(g) This Agreement may be executed in one or more counterparts, all of which, when taken together, constitute one original Agreement.

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(h) Time is of the essence of each of Borrower's and Guarantor's obligations under this Agreement.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK –
SIGNATURES APPEAR ON FOLLOWING PAGE]**

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IN WITNESS WHEREOF, this **THIRD MODIFICATION OF LOAN DOCUMENTS** was executed as of the date first set forth above.

LENDER:

FIRST MIDWEST BANK

By: [Signature]
Name: Josh Reth
Its: SVP

BORROWER:

73 W. MONROE LLC, an Illinois limited liability company

By: **Iconic Investors, LLC, a Delaware limited liability company**
Its: **Manager**
By: [Signature]
Name: **William M. Bennett**
Title: **Manager**

GUARANTOR:

[Signature]
WILLIAM M. BENNETT

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IN WITNESS WHEREOF, this **THIRD MODIFICATION OF LOAN DOCUMENTS** was executed as of the date first set forth above.

LENDER:

FIRST MIDWEST BANK

By: _____
Name: _____
Its: _____

BORROWER:

73 W. MONROE LLC, an Illinois limited liability company

By: **Iconic Investors, LLC**, a Delaware limited liability company
Its: **Manager**

By: William M. Bennett
Name: William M. Bennett
Title: Manager

GUARANTOR:

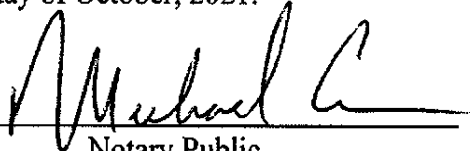
William M. Bennett
WILLIAM M. BENNETT

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STATE OF ILLINOIS)
) ss
COUNTY OF Lake)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **WILLIAM M. BENNETT**, individually, is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 13th day of October, 2021.



Notary Public

My Commission Expires: _____



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EXHIBIT A

THE WEST 1/2 OF LOT 2 IN BLOCK 120 IN SCHOOL SECTION ADDITION TO CHICAGO IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ALSO KNOWN AS LOT 6 IN COUNTY CLERK'S DIVISION OF BLOCK 120 AFORESAID, IN COOK COUNTY, ILLINOIS.

PROPERTY ADDRESS OF REAL ESTATE:

73 WEST MONROE STREET
CHICAGO, ILLINOIS 60603

PERMANENT TAX INDEX NUMBER:

17-16-212-007-0000

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