

UNOFFICIAL COPY

Doc#: 2223119022 Fee: \$98.00
Karen A. Yarbrough
Cook County Clerk
Date: 08/19/2022 10:24 AM Pg: 1 of 12

THIS DOCUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:

ARONBERG GOLDGEHN
330 North Wabash Ave. – Suite 1700
Chicago, Illinois 60611
Attention: Sharon S. Zaban

This space reserved for Recorder's use only

FIRST MODIFICATION AGREEMENT

THIS FIRST MODIFICATION AGREEMENT (this "Agreement") is dated as of August 15, 2022 (the "Effective Date"), by and between **WOLCOTT BUILDING II, LLC**, an Illinois limited liability company ("Borrower") and **THE NORTHERN TRUST COMPANY**, an Illinois banking corporation ("Lender").

RECITALS:

A. Lender has heretofore made a loan ("Loan") to Borrower in the maximum principal amount of \$4,635,000.00 as evidenced by that certain Adjustable Rate Commercial Mortgage Balloon Note dated as of July 14, 2015, in the principal amount of \$4,635,000.00 from Borrower payable to the order of Lender (the "Original Note"). The outstanding principal balance of the Original Note as of the Effective Date is \$4,081,580.00.

B. The Loan is secured by, among other things: (i) that certain Commercial Mortgage dated as of July 14, 2015 and recorded with the Cook County Recorder of Deeds (the "Recorder") on July 20, 2015 as Document No. 1520122031 (the "Mortgage") encumbering the real property commonly known as 4421-4427 North Wolcott Avenue, Chicago, Illinois 60640, and legally described on Exhibit A attached hereto (the "Property"); (ii) that certain Guaranty dated as of July 14, 2015, executed by William B. Silverstein, Thomas B. Silverstein, Master Holdings, LLC, a Delaware limited liability company, and CBA Investments, LLC, an Illinois limited liability company (collectively, the "Guarantors") in favor of Lender (the "Guaranty"); (iii) that certain Environmental Indemnity Agreement dated as of July 14, 2015, executed by Borrower and Guarantors in favor of Lender (the "Environmental Indemnity"), and (iv) certain other loan documents (the Original Note, as amended, restated and consolidated by the Note (as hereinafter defined), the Mortgage, the Guaranty, the Environmental Indemnity, and any other document evidencing, securing and guarantying the Loan, in their original form and as amended, replaced or restated from time to time, are sometimes collectively referred to herein as the "Loan Documents").

C. Borrower has requested that Lender modify the Loan Documents to, among other things: amend and restate the Original Note into a new Term Note, which (i) reflects the current outstanding amount of the Original Note of \$4,081,580.00, (ii) extends the maturity date of the

15WSA 398527MA

UNOFFICIAL COPY

Original Note from July 14, 2022 to August 15, 2029, and (iii) amends the interest rate and repayment terms under the Original Note, and Lender has agreed to do so, upon and subject to the terms and conditions hereinafter set forth, and provided that Guarantors execute and deliver to Lender the Reaffirmation of Guaranty and Environmental Indemnity attached hereto and made a part hereof.

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 and Borrower to modify the Loan Documents, as provided herein, (iii) Borrower's agreement to pay all of Lender's reasonable attorneys' fees and costs in connection with this Agreement, as more particularly set forth herein below, (iv) the covenants and agreements contained herein, and (v) for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Recitals; Capitalized Terms.** The foregoing Recitals are hereby incorporated herein as if fully set forth below. Capitalized terms used but not defined herein shall have the respective meanings ascribed thereto in the Loan Documents.

2. **New Note.** As a condition precedent to the effectiveness of this Agreement, Borrower shall execute and deliver to Lender an Amended and Restated Term Note in the stated principal amount of Four Million Eighty-One Thousand Five Hundred Eighty and 00/100 Dollars (\$4,081,580.00) made payable to the order of Lender, which note shall amend and restate the Original Note (the Original Note as so amended and restated is referred to herein as the "Note"). The definition of "Note" in the Mortgage, the Guaranty, the Environmental Indemnity and all other Loan Documents shall mean the Note. All references in the Mortgage, and any other Loan Documents to the maturity date of the Note or the "Schedule I Maturity Date" shall mean August 15, 2029 or such earlier date on which the entire principal amount evidenced by the Note, and all other amounts owing thereunder, shall be required to be paid in full. The definition of "Loan" in the Mortgage, the Guaranty and other Loan Documents shall mean the loan from Lender to Borrower in an amount not to exceed \$4,081,580.00 in the aggregate.

3. **Amendments to Mortgage.** The Mortgage is hereby amended as follows:

(a) All references in the Mortgage to the "Note" shall be deemed to refer to the Note (as defined herein). The Mortgage is amended to provide that it shall secure all obligations of Borrower under the Note.

(b) All references in the Mortgage to any of the Loan Documents, shall be to such Loan Documents, as added, amended or restated or as otherwise modified in connection with this Agreement.

(c) Section 5(i) of the Mortgage is hereby deleted and replaced with the following:

UNOFFICIAL COPY

“(i) Financial Information. Mortgagor shall provide to Mortgagee, at such times and in such form as Mortgagee shall from time to time require:

(i) annual operating statements and a rent roll of the Premises shall be provided within 120 days of each fiscal year end;

(ii) annual personal financial statements from each individual guarantor shall be provided within 120 days after the anniversary of the delivery of the current financial statements of such individuals;

(iii) annual personal tax returns from each individual guarantor shall be provided within 60 days after filing;

(iv) annual tax returns from each entity guarantor shall be provided within 60 days after filing;

(v) global real estate schedule of guarantors shall be provided within 120 days after each calendar year end; and

(vi) annual compliance certificate in a form required by Mortgagee shall be provided within 120 days of each fiscal year end demonstrating compliance with minimum annual Debt Service Coverage covenant herein.

Any and all such financial statements shall be fully audited, reviewed or compiled, as Mortgagee shall from time to time require.”

(d) Section 5(n) is deleted in its entirety. Lender previously waived the existing Guarantors’ liquidity covenant and it remains no longer of force or effect.

(e) Except as expressly provided herein, all representations and warranties, covenants, reporting requirements and other terms and requirements of the Mortgage shall remain in full force and effect.

4. **Lien Extension**. By this Agreement, all liens, security interest, assignments, superior titles, rights, remedies, powers, equities and priorities securing the Note (collectively, the “Liens”), including, but not limited to, those under the Mortgage and the other Loan Documents, are hereby ratified and confirmed as valid, subsisting and continuing to secure the Note. Nothing in this Agreement shall in any manner diminish, impair, or extinguish any of the Liens or the Loan Documents or the debt evidenced by the Note to be construed as a novation in any respect. The Liens are not waived and are continued and extended.

5. **Loan Fee and Costs**. Concurrently with the execution hereof, and as a condition precedent to the agreements contained herein and Lender’s obligations hereunder, Borrower shall pay to Lender a loan fee in the amount of \$14,285.00, together with all costs and expenses incurred by Lender in connection with this Agreement, including, without limitation, title and recording fees and reasonable fees and expenses of Lender’s attorneys.

UNOFFICIAL COPY

6. **Ratification and Reaffirmation by Borrower.** Borrower hereby ratifies and reaffirms its liabilities and obligations under the Note, the Mortgage, and the other Loan Documents, including the Environmental Indemnity, as may have been previously amended and/or modified and as amended or modified hereby including, without limitation, the validity and enforceability of each, and agrees to comply fully with all of the terms, conditions, provisions, agreements, representations, undertakings, warranties, guaranties, indemnities, grants, liens, security interests and covenants contained therein, and acknowledges that it has no defenses, claims or setoffs to the enforcement by Lender of its obligations and liabilities under the Note, the Mortgage and the other Loan Documents. The Note, the Mortgage, and the other Loan Documents are and shall remain unmodified and in full force and effect, except as previously amended and/or modified and except as otherwise provided herein.

7. **Representations and Warranties of Borrower.** Borrower hereby represents, covenants and warrants to Lender as follows:

(a) The representations and warranties in the Loan Documents are true and correct in all material respects as of the date hereof.

(b) There is currently no Event of Default (as defined in the Loan Documents) under the Note, the Mortgage, or the other Loan Documents, and Borrower 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 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 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, Borrower does not have any claims, counterclaims, defenses, or set-offs with respect to the Loan or the Loan Documents as modified herein.

(f) 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. The Loan Documents are the legal, valid and binding obligations of Borrower enforceable in accordance with their terms.

8. **Release of Lender.** Borrower, on behalf of itself and its successors and assigns (collectively and individually, "Borrower Parties"), hereby fully, finally and completely RELEASES AND FOREVER DISCHARGE Lender and its successors, assigns, affiliates, subsidiaries, parents, officers, shareholders, directors, employees, attorneys, agents, lenders and

UNOFFICIAL COPY

properties, past, present and future and their respective heirs, successors and assigns (collectively and individually, "Lender 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 (collectively, "Claims"), known or unknown, 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, which Borrower Parties have as of the Effective Date or may claim to have against Lender Parties but only in respect of Claims arising out of or with respect to any and all transaction relating directly to the Loan or the Loan Documents occurring on or before the Effective Date and as of the date of the notaries evidencing execution by Borrower hereof, including 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 Lender Parties with respect to the Loan or the Loan Documents occurring on or before the Effective Date and as of the date of the notaries evidencing execution by Borrower hereof. The foregoing release is intended to be, and is, a full, complete and general release in favor of Lender Parties with respect to all Claims arising out of or with respect to any and all transactions relating directly to the Loan or the Loan Documents, including specifically, without limitation, any Claims based upon allegations of breach of fiduciary duty, breach of any alleged duty of fair dealing in good faith, economic coercion, usury or any other theory, cause of action, occurrence, matter or thing which might result in liability upon Lender Parties arising or occurring on or before the Effective Date and relating directly to the Loan or the Loan Documents. Borrower 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.

9. **Required Deliveries.** The modifications to the terms and conditions of the Loan and the Loan Documents as set forth in this Agreement shall not be effective until delivery to Lender of the following documents or other items:

(a) Borrower has executed and delivered to Lender this Agreement (and Lender has executed this Agreement), and Guarantors have executed and delivered to Lender the Reaffirmation of Guaranty and Environmental Indemnity attached hereto.

(b) Borrower has executed and delivered to Lender the Note

(c) Borrower has caused, at its sole cost and expense, Chicago Title Insurance Company to issue an endorsement to Lender's Title Insurance Policy No. 15WSA398527NA (the "Title Policy"), as of the date this Agreement is recorded, and confirming the Mortgage, as modified hereby, is a valid first lien against the Property, subject only to exceptions to title as may be specifically agreed to by Lender and with such endorsements and otherwise in form and substance satisfactory to Lender.

(d) Borrower and Guarantors have delivered to Lender such additional documents as Lender may reasonably require.

10. **Miscellaneous.**

UNOFFICIAL COPY

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

(b) This Agreement shall not be construed more strictly against Lender than against Borrower merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that Borrower and Lender have contributed substantially and materially to the preparation of this Agreement, and Borrower and Lender each acknowledge and waive 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 signatories hereto 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 nor shall privity of contract be presumed to have been established with any third party.

(d) Borrower 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 and Lender; and that all such prior understandings, agreements and representations are hereby modified as set forth in this Agreement. Except as expressly modified hereby, the terms of the Loan Documents are and remain unmodified and in full force and effect.

(e) This Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

(f) Any references to the "Note", the "Mortgage", or the "Loan Documents" contained in any of the Loan Documents shall be deemed to refer to such document and the other Loan Documents as amended hereby. The paragraph and section headings used herein are for convenience only and shall not limit the substantive provisions hereof. All words herein which are expressed in the neuter gender shall be deemed to include the masculine, feminine and neuter genders. Any word herein which is expressed in the singular or plural shall be deemed, 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, shall constitute one original Agreement. Receipt of an executed

UNOFFICIAL COPY

signature page to this Agreement by facsimile or other electronic transmission shall constitute effective delivery thereof. Electronic records of executed Loan Documents maintained by the Lender shall be deemed to be originals.

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

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGE FOLLOWS]

Property of Cook County Clerk's Office

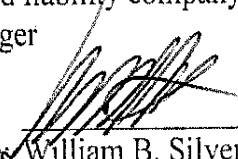
UNOFFICIAL COPY

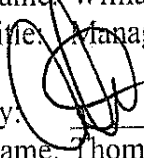
IN WITNESS WHEREOF, the parties hereto have executed this Agreement dated as of the day and year first above written.

BORROWER:

WOLCOTT BUILDING II, LLC, an Illinois limited liability company

By: Master Holdings, LLC, a Delaware limited liability company, its Manager

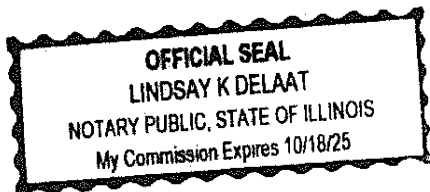
By: 
Name: William B. Silverstein
Title: Manager

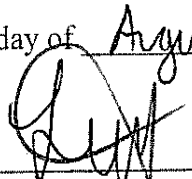
By: 
Name: Thomas B. Silverstein
Title: Manager

STATE OF ILLINOIS)
) SS.
COUNTY OF Cook)

The undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that William B. Silverstein and Thomas B. Silverstein, the Managers of Master Holdings, LLC, a Delaware limited liability company, the Manager of **WOLCOTT BUILDING II, LLC**, an Illinois limited liability company, known to me to be the same persons whose names are subscribed to the foregoing instrument as such Managers, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary acts, and as the free and voluntary act of such limited liability company, for the uses and purposes therein set forth

GIVEN under my hand and notarial seal this 12 day of August, 2022.




Notary Public

My Commission Expires: 10/18/25

[SIGNATURES CONTINUE ON NEXT PAGE]

UNOFFICIAL COPY

LENDER:

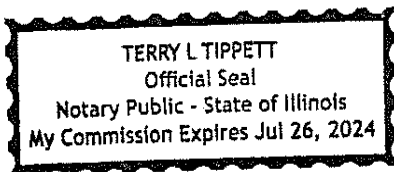
THE NORTHERN TRUST COMPANY

By: *A. Holub*
 Name: *ANNA HOLUB*
 Title: *2ND VICE PRESIDENT*

STATE OF ILLINOIS)
) SS.
 COUNTY OF COOK)

The undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that *ANNA HOLUB, 2ND VICE PRESIDENT* of THE NORTHERN TRUST COMPANY, 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 he/she signed and delivered the said instrument as his/her own free and voluntary acts, and as the free and voluntary act of such bank, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this *15* day of *August*, 2022.




Terry L Tippett
 Notary Public
 My Commission Expires: *7/26/24*

UNOFFICIAL COPY

REAFFIRMATION OF GUARANTY AND ENVIRONMENTAL INDEMNITY

The undersigned hereby consent to the modifications provided in the foregoing Agreement and hereby expressly ratify and reaffirm their respective liabilities and obligations as Guarantors under the Guaranty and the Environmental Indemnity, and agree to comply fully with all of the terms, conditions, provisions, agreements, representations, undertakings, warranties, guaranties, indemnities, grants and security interests and covenants contained in the Guaranty and Environmental Indemnity, notwithstanding that such obligations may be increased, modified or amended by the foregoing Agreement. Guarantors acknowledge that they have no defenses, claims or set offs to the enforcement of the Guaranty or the Environmental Indemnity, as amended by the foregoing Agreement. Guarantors also acknowledge that they have guaranteed payment of the Note, which amends and restates and replaces the Original Note in its entirety. Any and all references to the Original Note in the Guaranty or the Environmental Indemnity shall refer to the Note.





WILLIAM B. SILVERSTEIN



THOMAS B. SILVERSTEIN

MASTER HOLDINGS, LLC, a
Delaware limited liability company

By: 
Name: William B. Silverstein
Title: Manager

By: 
Name: Thomas B. Silverstein
Title: Manager

[SIGNATURES CONTINUE ON NEXT PAGE]

UNOFFICIAL COPY

CBA INVESTMENTS, LLC, an Illinois limited liability company

By: [Signature]
Name: William B. Silverstein
Title: Member

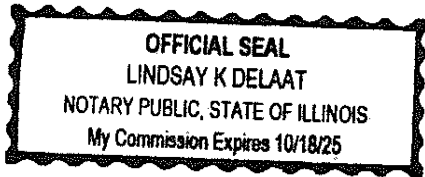
By: [Signature]
Name: Thomas B. Silverstein
Title: Member

STATE OF ILLINOIS)
COUNTY OF Cook) SS.

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that WILLIAM B. SILVERSTEIN and THOMAS B. SILVERSTEIN, individually and in their respective capacities as Managers and Members, respectively, of MASTER HOLDINGS, LLC, a Delaware limited liability company, and CBA INVESTMENTS, LLC, an Illinois limited liability company, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said limited liability companies, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 12 day of August, 202.

[Signature]
Notary Public



My Commission Expires:
10/18/25

UNOFFICIAL COPY

EXHIBIT A

Legal Description of the Property

LOTS 17 AND 18 IN BLOCK 18 IN RAVENSWOOD, A SUBDIVISION OF PART OF THE NORTHEAST ¼ AND THE NORTHEAST ¼ OF THE SOUTHEAST ¼ OF SECTION 18 AND THAT PART OF SECTION 17, ALL IN TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN(S): 14-18-220-007-0000

ADDRESS: 4421-4425 North Wolcott Avenue, Chicago, Illinois 60640

4859-3862-9675, v. 2

Property of Cook County Clerk's Office