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Doc#. 2328906090 Fee: \$107.00
Karen A. Yarbrough
Cook County Clerk
Date: 10/16/2023 10:34 AM Pg: 1 of 16

THIS DOCUMENT PREPARED
BY AND AFTER RECORDING
RETURN TO:

Holland & Knight, LLP
150 N. Riverside Plaza
Suite 2700
Chicago, Illinois 60606
Attention: Daniel T. Sylvester

Permanent Tax Index Number(s):
16-27-300-008-0000, 16-27-300-009-0000,
16-27-300-010-0000, 16-27-300-011-0000,
16-27-300-012-0000, 16-27-306-051-0000,
16-27-306-053-0000, 16-27-306-054-0000,
16-27-306-057-0000, 16-27-306-059-0000,
16-27-306-061-0000, 16-27-306-062-0000

This space reserved for Recorder's use only.

Property Address(es):

2601, 2625, 2803, 2823, 2827, 2903, 2925, 2945, 3003, 3017, 3027, 3029, 3031, 3035, 3037, and
3039 S. Cicero Ave
Cicero, IL

MODIFICATION AGREEMENT

This MODIFICATION AGREEMENT (this "Agreement") is entered into effective May 23, 2023 (the "Effective Date"), by and between CR CICERO, LLC, an Illinois limited liability company ("Mortgagor"), and AMERICAN NATIONAL INSURANCE COMPANY, a Texas insurance company, as administrative agent on behalf of Noteholder ("Mortgagee").

WITNESSETH

WHEREAS, AMERICAN NATIONAL INSURANCE COMPANY, a Texas insurance company, FARM FAMILY CASUALTY INSURANCE COMPANY, a New York insurance company ("Noteholders"), Mortgagor, CR ENGLISH VALLEY, LLC, an Illinois limited liability company, CR FOX RIVER, LLC, an Illinois limited liability company, CR GOLF

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PLAZA II, LLC, an Illinois limited liability company, and CR NORTHWEST, LLC, an Illinois limited liability company (collectively, "Co-Makers") entered into that certain Loan Agreement dated as of November 8, 2022 (the "Loan Agreement"), pursuant to which Noteholders made a loan to Mortgagor and Co-Makers in the original principal amount of \$74,487,616.00 (the "Loan"). The Loan is evidenced by one or more Promissory Notes of even date therewith in the aggregate original principal amount of \$74,487,616.00 (collectively, the "Note"), and is secured inter alia by (1) that certain Mortgage, Security Agreement and Financing Statement (And Fixture Filing) (the "Mortgage") from Mortgagor to and for the benefit of Mortgagee, recorded as Doc# 2232240014 in the office of the Cook County, Illinois Clerk (the "Official Records"), covering the property described therein (the "Mortgaged Property"); (2) that certain Assignment of Leases and Rents executed by Mortgagor in favor of Mortgagee, recorded as Doc# 2232240015 in the Official Records (the "Assignment of Rents"); and (3) that certain Certificate and Indemnity Regarding Hazardous Substances executed by Mortgagor and Co-Makers in favor of Mortgagee (the "Certificate"); and

WHEREAS, the Loan Agreement, the Note, the Mortgage, the Assignment of Rents, and the Certificate, collectively, together with all other documents executed in connection with or which relate to or secure the Note, being referred to herein, collectively, as the "Original Loan Documents"; and

WHEREAS, Mortgagor and Co-Makers have requested that Mortgagee and Noteholders revise the Loan Agreement and the Mortgage to provide, among other things, certain changes to the Loan Agreement and to add partial release rights of Mortgagor with respect to the Mortgage; and

WHEREAS, Noteholders have agreed to allow for the modifications of the Loan Agreement and the Mortgage, as requested by Mortgagor and Co-Makers, subject in all respects to the terms and conditions of this Agreement; and

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and agreements herein contained, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Incorporation of Recitals.** The recitals set forth above are hereby incorporated by this reference with the same force and effect as if fully set forth herein.
2. **Acknowledgment of Outstanding Balance.** Mortgagor acknowledges the aggregate outstanding principal balance of the Loan as of the Effective Date is \$62,741,730.00.
3. **Modification of Loan Agreement.**

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- (a) The parties hereto agree that, as of the Effective Date, the definition of “Minor Lease” in Article 1 of the Loan Agreement shall be deleted in its entirety and replaced with the following:

““Minor Lease” shall mean the loan evidenced by the Note means a Lease that meets all of the following criteria: the applicable Lease (i) is made in good faith and in the ordinary course of business with a non-residential tenant who is not an affiliate of Maker; (ii) has an initial lease term of not more than six (6) years; (iii) is in substantial accordance with a commercial lease form that was either approved by Administrative Agent prior to the date hereof or was subsequently approved by Administrative Agent; (iv) has an annual base rent that is not less than the prevailing market rate for the applicable Project at the time the Lease was signed; and (v) covers less than 7,500 square feet of space in the applicable Project.”

- (b) The parties hereto agree that, as of the Effective Date, Section 2.2(b)(vii) is inserted in the Loan Agreement as follows:

“(vii) In the event of any release of a Project in accordance with Article XIII of each Security Instrument, the Future Disbursement Funds applicable to the released Project but not disbursed as of the date of said release shall be permanently terminated; provided, however, that the Future Disbursement Funds applicable to Cicero Marketplace shall instead be reduced by the percentage that bears the same ratio as (x) the Allocated Loan Amount calculated in accordance with the Security Instrument for Cicero Marketplace for the applicable Release Parcel divided by (y) \$30,528,928.00.”

4. **Modification of Mortgage.** The parties hereto agree that, as of the Effective Date, Article XIII of the Mortgage is amended and restated as follow:

XIII. PARTIAL RELEASE.

13.01. Subject to the terms and conditions below, the privilege is hereby reserved to Mortgagor to obtain the release of certain portions of the Mortgaged Property, as identified in Section 13.04 below (collectively the “Release Parcels”). The Mortgaged Property less the Release Parcels proposed to be or released hereunder is hereinafter referred to as the “Remaining Parcel”.

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13.02. To the extent required by applicable law, Mortgagor must undertake to obtain necessary governmental approval for subdivision of the Mortgaged Property in connection with any one or more of the Release Parcels. In such case, the Release Parcel(s) and the Remaining Parcel must comply with all land use, zoning, subdivision, building, and safety ordinances and regulations, including without limitation, parking capacity and what is reasonably necessary and desirable as reasonably determined by Mortgagee, in a manner that will permit the continued commercial use and operation of the Remaining Parcel for the same purposes and to the same extent as are permitted on the date of this Agreement.

13.03. Subject to the following conditions being satisfied, Mortgagee shall approve and join in such instruments as are reasonably necessary to effect a release of the applicable Release Parcel(s).

(a) the Release Parcel(s) and the Remaining Parcel, as applicable, shall conform with the requirements of Section 13.02 above;

(b) Mortgagor shall have given Mortgagee thirty (30) days prior written notice of its intent to convey the applicable Release Parcel(s);

(c) Mortgagor shall not be in default hereunder or under the Note, the Loan Agreement or any other Loan Document beyond applicable grace or cure periods;

(d) all reasonable costs incurred in connection with the subdivision (if applicable) and the release shall be paid by Mortgagor, including without limitation reasonable attorney's fees, survey fees, title endorsement fees and other expenses of Mortgagee incurred by Mortgagee in connection with the release;

(e) Mortgagor shall demonstrate to Mortgagee's reasonable satisfaction that the Release Parcel(s) and the Remaining Parcel, as applicable, will have adequate access to and from a dedicated public street or highway for purposes of vehicular and pedestrian ingress and egress, and for the purposes of installation, operation, maintenance

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and repair of all utilities serving the applicable Release Parcel(s) and the Remaining Parcel, as applicable; that the applicable Release Parcel(s) and the Remaining Parcel, as applicable, will be served by separately metered utilities and will be separately assessed for real estate taxing purposes; and that the applicable Release Parcel(s) and the Remaining Parcel can be foreclosed upon and later resold without creating an illegal subdivision and without the need to obtain subdivision or other governmental approvals;

(f) To the extent that the Mortgaged Property must be subdivided in connection with any one or more of the Release Parcels in accordance with applicable law, Mortgagee shall have reviewed and reasonably approved the form and substance of any and all agreements to be made in conjunction with the subdivision related to ingress and egress, emergency vehicle access, allocation of density, storm water management, and utilities service to the Release Parcel(s) and the Remaining Parcel, as applicable;

(g) To the extent that the Mortgaged Property must be subdivided in connection with any one or more of the Release Parcels in accordance with applicable law, appropriate instruments and plats required to effect the subdivision, with necessary governmental approvals and duly executed and by the Mortgagor and Mortgagee, shall have been recorded among the Cook County land records;

(h) Mortgagor shall reduce the principal balance of the Note by 115% of (i) the Allocated Loan Amount set forth in Section 13.04 below with respect to such Release Parcel plus (ii) the amount of Future Disbursement Funds (as defined in the Loan Agreement) actually advanced for the applicable Release Parcel in accordance with Section 2.2(b) of the Loan Agreement (the "Partial Release Price");

(i) Mortgagor shall pay Mortgagee all accrued, unpaid interest on the Partial Release Price;

(j) Mortgagor shall pay Mortgagee any prepayment fee (including that due in the event of a prepayment prior to December 1, 2024) provided in the Note;

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(k) Mortgagor shall have delivered to Mortgagee an updated as-built survey of the Mortgaged Property dated not more than sixty (60) days prior to the date of such conveyance and reasonably satisfactory to Mortgagee and the title company insuring Mortgagee's title to the Mortgaged Property, identifying the Remaining Parcel and verifying the legal description thereof; and

(l) Mortgagor shall deliver to Mortgagee an endorsement to Mortgagee's loan title insurance policy insuring that the Remaining Parcels are free and clear from any and all liens and encumbrances except those which Mortgagee shall have approved previously.

13.04. The "Allocated Loan Amount" for each portion of the Mortgaged Property is as set forth below:

<u>Release Parcel</u>	<u>Allocated Loan Amount</u>
16-27-300-008-0000 (Sam's Club)	\$8,824,648.00
16-27-300-009-0000 (Home Depot)	\$6,392,760.00
16-27-300-010-0000 (Multi-Tenant Outlot)	\$3,022,105.00
16-27-300-011-0000 (KFC)	\$697,864.00
16-27-300-012-0000 (McDonalds)	\$773,217.00
16-27-306-051-0000 (Harris Bank)	\$773,450.00
16-27-306-059-0000 (GameStop/Five Below)	\$406,402.00
16-27-306-060-0000 (Ross Dress for Less)	\$406,402.00
16-27-306-061-0000 (Five Below)	\$406,402.00
16-27-306-053-0000 (Burger King)	\$756,959.00
16-27-306-054-0000 (IHOP)	\$794,756.00
16-27-306-055-0000 (Food 4 Less (Store))	\$6,200,799.00
16-27-306-057-0000 (Food 4 Less (Fuel Center))	\$666,753.00
16-27-306-062-0000 (dd's Discounts)	\$406,402.00
TOTAL	<u>\$30,528,928.00</u>

5. Payment of Other Fees. As a condition precedent to the effectiveness of the modification described herein, Mortgagor shall pay all of Mortgagee's reasonable out-of-pocket costs and fees associated with this Agreement, including, but not limited to all of Mortgagee's reasonable attorney's fees.

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6. **General Release.** FOR THE CONSIDERATION RECITED ABOVE, THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OF MORTGAGOR AND GUARANTOR RELEASE, ACQUIT AND FOREVER DISCHARGE MORTGAGEE, TOGETHER WITH ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS, (ALL OF THE FOREGOING, INDIVIDUALLY AND COLLECTIVELY, THE "RELEASED PARTIES"), FROM ANY AND ALL ACTIONS AND CAUSES OF ACTION, JUDGMENTS, EXECUTIONS, SUITS, DEBTS, CLAIMS, DEMANDS, LIABILITIES, OBLIGATIONS, DAMAGES AND EXPENSES OF ANY AND EVERY CHARACTER, KNOWN OR UNKNOWN, DIRECT AND/OR INDIRECT, AT LAW OR IN EQUITY, OF WHATSOEVER KIND OR NATURE, WHETHER HERETOFORE OR HEREAFTER ACCRUING, FOR OR BECAUSE OF ANY MATTER OR THINGS DONE, OMITTED OR SUFFERED TO BE DONE BY ANY OF THE RELEASED PARTIES AT ANY TIME ON OR PRIOR TO THE ACTUAL DATE OF MORTGAGOR'S EXECUTION HEREOF AND IN ANY WAY DIRECTLY OR INDIRECTLY ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT OR THE LOAN DOCUMENTS, OR ANY OF THE TRANSACTIONS ASSOCIATED THEREWITH, OR THE MORTGAGED PROPERTY (ALL OF THE FOREGOING HEREINAFTER, THE "RELEASED MATTERS"). NOTWITHSTANDING THE TERMS, CONDITIONS, AND PROVISIONS OF THIS SECTION TO THE CONTRARY, THE DEFINITION OF "RELEASED MATTERS" SHALL NOT INCLUDE ANY OBLIGATIONS OF THE RELEASED PARTIES UNDER THE LOAN DOCUMENTS WHICH ARE TO BE PERFORMED BY ANY OF THE RELEASED PARTIES AFTER THE DATE OF THE EXECUTION OF THIS AGREEMENT.

7. **Jury Trial Waiver.** MORTGAGOR, GUARANTOR, AND MORTGAGEE RECOGNIZE THAT DISPUTES ARISING OUT OF THE AGREEMENT AND THE LOAN TRANSACTION SECURED BY THE MORTGAGE ARE LIKELY TO BE COMPLEX AND WISH TO STREAMLINE AND MINIMIZE THE COST OF THE DISPUTE RESOLUTION PROCESS BY AGREEING TO WAIVE THEIR RIGHT TO JURY TRIAL. MORTGAGOR, GUARANTOR, AND MORTGAGEE HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING, OR COUNTERCLAIM THAT RELATES TO OR ARISES OUT OF THIS AGREEMENT OR THE NOTE, MORTGAGE OR ANY OF THE OTHER LOAN DOCUMENTS OR THE ACTS OR FAILURE TO ACT OF OR BY MORTGAGEE IN THE ENFORCEMENT OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT, THE NOTE, THE MORTGAGE OR THE OTHER LOAN DOCUMENTS.

8. **Applicable Law.** This Agreement and the rights and duties of the parties hereunder shall be governed for all purposes by the internal laws of the State of Illinois, without regard to conflict or law provisions.

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9. **Joinder of Co-Makers and Noteholders.** Co-Makers and Noteholders have joined in this Agreement to evidence their consent to the terms, covenants and conditions contained herein. Co-Makers acknowledge and agree that they are, and following execution of this Agreement remain, fully liable for all indebtedness to Noteholders arising under the Note.

10. **Miscellaneous.**

(a) Any and all of the remaining terms and conditions of the Mortgage not otherwise modified or amended hereby shall remain in full force and effect. Unless otherwise defined, any and all capitalized terms utilized herein shall have the same meaning as provided for in the Mortgage.

(b) In the event any provision of this Agreement conflicts in whole or in part with any of the terms of the Mortgage, the provisions of this Agreement will control and govern. Any and all terms and conditions of the Mortgage that are not amended by this Agreement shall remain in full force and effect.

(c) This Agreement may be executed in multiple counterparts, which, when taken together, shall constitute one and the same instrument. The parties contemplate that they may be executing counterparts of this Agreement by facsimile or email and agree and intend that a signature by facsimile or email shall bind the party so signing with the same effect as though the signature were an original signature.

[REMAINDER OF THIS PAGE IS INTENTIONALLY RESERVED]

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MORTGAGEE:

AMERICAN NATIONAL INSURANCE COMPANY,
a Texas insurance company

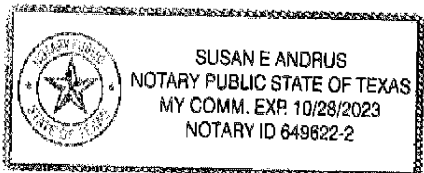
By: [Signature]
Name: Scott F. Brast
Title: SVP & Chief ML&RE
Investment Officer MO

STATE OF TEXAS §
 §
COUNTY OF GALVESTON §

Before me, the undersigned authority, a Notary Public, on this day personally appeared Scott F. Brast SVP & Chief ML&RE Investment Officer of AMERICAN NATIONAL INSURANCE COMPANY, a Texas insurance company, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he/she executed and delivered the foregoing instrument for the purposes and consideration therein expressed, and as the act of said company.

Given under my hand and notarial seal this May 5, 2023.

[Signature]
Notary Public, State of Texas



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CO-MAKER:

CR ENGLISH VALLEY, LLC,
an Illinois limited liability company

By: [Signature]
Name: Stephen M. Roenick
Its: Authorized Signatory

STATE OF Maryland §
 §
COUNTY OF Baltimore §

The foregoing instrument was executed and acknowledged before me by means of physical presence or online notarization before me this 23rd day of May 2023, by Stephen M. Roenick, as Authorized Signatory of CR ENGLISH VALLEY, LLC, an Illinois limited liability company, on behalf of the limited liability company. The above-named person is personally known to me or has produced _____ as identification. If no type of identification is indicated, the above-named person is personally known to me.

[Signature]
Signature of Notary Public

(Notary Seal)

Lesam Walls
Print Name of Notary Public
I am a Notary Public of the State of Maryland
and my commission expires on 10/16/2026

LESA M WALLS
NOTARY PUBLIC
BALTIMORE COUNTY
MARYLAND
My Commission Expires Oct. 16, 2026

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CO-MAKER:

CR FOX RIVER, LLC,
an Illinois limited liability company

By: *[Signature]*
 Name: Stephen M. Roenick
 Its: Authorized Signatory

STATE OF Maryland §
 COUNTY OF Baltimore §

The foregoing instrument was executed and acknowledged before me by means of physical presence or online notarization before me this 23rd day of May, 2023, by Stephen M. Roenick, as Authorized Signatory of CR FOX RIVER, LLC, an Illinois limited liability company, on behalf of the limited liability company. The above-named person is personally known to me or has produced _____ as identification. If no type of identification is indicated, the above-named person is personally known to me.

[Signature]
 Signature of Notary Public

(Notary Seal)
LESA M WALLS
NOTARY PUBLIC
BALTIMORE COUNTY
MARYLAND
 My Commission Expires Oct. 16, 2026

Lesia M. Walls
 Print Name of Notary Public
 I am a Notary Public of the State of Maryland
 and my commission expires on 10/16/2026

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CO-MAKER:

CR NORTHWEST, LLC,
an Illinois limited liability company

By: [Signature]
Name: Stephen M. Roenick
Its: Authorized Signatory

STATE OF Maryland §
 §
COUNTY OF Baltimore §

The foregoing instrument was executed and acknowledged before me by means of physical presence or online notarization before me this 23rd day of May 2023, by Stephen M. Roenick, as Authorized Signatory of CR NORTHWEST, LLC, an Illinois limited liability company, on behalf of the limited liability company. The above-named person is personally known to me or has produced _____ as identification. If no type of identification is indicated, the above-named person is personally known to me.

[Signature]

Signature of Notary Public

(Notary Seal)

LESA M WALLS
NOTARY PUBLIC
BALTIMORE COUNTY
MARYLAND
My Commission Expires Oct. 16, 2026

Leslie M. Walls

Print Name of Notary Public
I am a Notary Public of the State of Maryland
and my commission expires on 10/16/2026

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NOTEHOLDER:

AMERICAN NATIONAL INSURANCE COMPANY,
a Texas insurance company

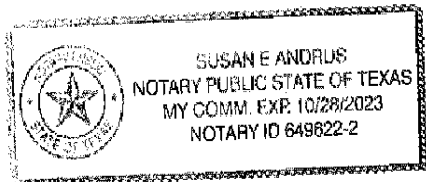
By: [Signature]
Name: Scott F. Brast
Title: SVP & Chief ML&RE Investment Officer NB

STATE OF TEXAS §
 §
COUNTY OF GALVESTON §

Before me, the undersigned authority, a Notary Public, on this day personally appeared Scott F. Brast SVP & Chief ML&RE Investment Officer of AMERICAN NATIONAL INSURANCE COMPANY, a Texas insurance company, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he/she executed and delivered the foregoing instrument for the purposes and consideration therein expressed, and as the act of said company.

Given under my hand and notarial seal this May 5, 2023.

[Signature]
Notary Public, State of Texas



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NOTEHOLDER:

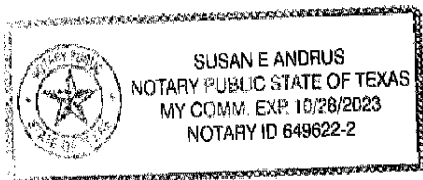
FARM FAMILY CASUALTY INSURANCE COMPANY,
a New York insurance company

By: [Signature]
Name: Scott F. Brast
Title: SVP & Chief ML&RE (AB)
Investment Officer

STATE OF TEXAS §
 §
COUNTY OF GALVESTON §

Before me, the undersigned authority, a Notary Public, on this day personally appeared Scott F. Brast, SVP & Chief ML&RE Investment Officer of FARM FAMILY CASUALTY INSURANCE COMPANY, a New York insurance company, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he/she executed and delivered the foregoing instrument for the purposes and consideration therein expressed, and as the act of said company.

Given under my hand and notarial seal this May 5, 2023.



[Signature]
Notary Public, State of Texas