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Doc#: 1913357135 Fee: \$58.00
Edward M. Moody
Cook County Recorder of Deeds
Date: 05/13/2019 11:39 AM Pg: 1 of 6

WHEN RECORDED RETURN TO:

Thompson & Knight LLP
One Arts Plaza
1722 Routh Street, Suite 1500
Dallas, Texas 75201
Attention: Adam Hill

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

MEMORANDUM OF MODIFICATION AGREEMENT

This MEMORANDUM MODIFICATION AGREEMENT (this "**Memorandum**") dated effective as of May 10, 2019 by and among (i) **CH RETAIL FUND I/CHICAGO SIENA, L.L.C.**, a Delaware limited liability company ("**Borrower**"), and (ii) **COMPASS BANK**, an Alabama banking corporation ("**Lender**");

WITNESSETH:

WHEREAS, the following documents have previously been executed and delivered by Borrower and certain Affiliates of Borrower (collectively, the "**Borrower Parties**") to Lender relating to a loan (the "**Loan**") to Borrower Parties in the original principal amount of \$45,123,000.00, each dated May 5, 2016, unless otherwise noted:

- A. Loan Agreement (the "**Loan Agreement**");
- B. Promissory Note (the "**Note**") in the stated principal sum of the Loan;
- C. Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing, recorded as Document No. 1612715061 with the Recorder of Deeds of Cook County, Illinois (the "**Security Instrument**") covering certain real and personal property described therein (the "**Property**"), including the real property described on Exhibit A attached hereto;
- D. Certain other deeds of trust and mortgages described in the Modification Agreement (defined below);
- E. Environmental Indemnity Agreement;

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the instruments described above and all other documents evidencing, securing or otherwise executed in connection with the Loan, including the Guaranty and the Note Pledge described below, being herein collectively called the "**Loan Documents**";

WHEREAS, CH Retail Financial, L.L.C., a Delaware limited liability company ("**Guarantor**") has guaranteed certain obligations of Borrower pursuant to the Guaranty (the "**Guaranty**") of even date with the Note in favor of Lender;

WHEREAS, Guarantor's obligations under the Guaranty are secured by the Note Pledge and Security Agreement (the "**Note Pledge**") of even date with the Note in favor of Lender;

WHEREAS, the Note is currently due and payable on May 10, 2019;

WHEREAS, Borrower Parties, Guarantor and Lender have this date entered into that certain Modification Agreement (the "**Modification Agreement**"), whereby, among other things, the parties agreed to extend the maturity date of the Loan and modify certain other provisions of the Loan Documents; and

WHEREAS, the parties are executing and filing this Memorandum to put of record certain of the agreements made in the Modification Agreement;

WHEREAS, Borrower Parties have requested that Lender extend the maturity date of the Note to May 10, 2021, and Lender is willing to do so on the terms and conditions hereinafter set forth;

WHEREAS, Lender is the owner and holder of the Note, and Borrower is the owner of the Property;

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

1. **Defined Terms.** Capitalized terms not otherwise defined herein shall have the same definition as set forth in the Modification Agreement. This Memorandum constitutes a "Loan Document" as such term is defined in the Loan Agreement.

2. **Extension of Maturity Date.** Pursuant to the Modification Agreement, the term of the Note is extended to May 10, 2021, or such earlier date on which the entire Loan is required to be paid in full, whether at maturity, by acceleration or otherwise, under the Loan Agreement or any of the other Loan Documents. The liens, security interests, assignments and other rights evidenced by the Security Instrument and other Loan Documents are hereby renewed and extended to secure payment of the Indebtedness secured thereby. The definition of "Maturity Date" and all references to the maturity of the Loan which appear in the Loan Documents shall hereafter refer to May 10, 2021. The extension provided herein shall constitute the Extension Period (as defined in the Note), and Borrower acknowledges that Borrower Parties have no further right to extend the maturity of the Loan.

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3. **Waiver.** The execution of this Memorandum by Lender is not intended nor shall it be construed as (i) an actual or implied waiver of any subsequent Event of Default under the Loan Documents or (ii) an actual or implied waiver of any condition or obligation imposed upon Borrower pursuant to the Loan Documents, except to the extent expressly set forth herein.

4. **Recordation; Endorsement of Loan Title Policy.** Contemporaneously herewith, Lender will deliver this Memorandum for recording in the appropriate records of the counties where the Property is located at Borrower's expense and Borrower will, at its sole cost and expense, obtain and deliver to Lender an endorsement to each of Lender's existing loan policies of title insurance insuring the lien of the applicable Security Instrument as modified hereby, and otherwise in form and content acceptable to Lender.

5. **Notice.** Any notice or communication to Lender shall hereafter be delivered to the following address:

Compass Bank
8080 North Central Expressway
Dallas, TX 75206
Attention: Daniel Heffelfinger

6. **Miscellaneous.** If any covenant, condition, or provision herein contained is held to be invalid by final judgment of any court of competent jurisdiction, the invalidity of such covenant, condition, or provision shall not in any way affect any other covenant, condition or provision herein contained. It is expressly agreed by the parties hereto that time is of the essence with respect to this Memorandum. This Memorandum may be executed in any number of counterparts with the same effect as if all parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart. The terms and provisions hereof shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns. No modification of this Memorandum or any waiver of rights hereunder shall be effective unless made by supplemental agreement, in writing, executed by Lender and Loan Parties.

7. **APPLICABLE LAW.** THIS MEMORANDUM AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF TEXAS (WITHOUT GIVING EFFECT TO TEXAS' PRINCIPLES OF CONFLICTS OF LAW) AND THE LAW OF THE UNITED STATES APPLICABLE TO TRANSACTIONS IN THE STATE OF TEXAS, EXCEPT FOR THOSE PROVISIONS IN THIS MEMORANDUM PERTAINING TO THE CREATION, PERFECTION OR VALIDITY OF OR EXECUTION ON LIENS OR SECURITY INTERESTS ON PROPERTY LOCATED IN THE STATE WHERE THE PROPERTY IS LOCATED, WHICH PROVISIONS SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE WHERE THE PROPERTY IS LOCATED AND APPLICABLE LAW OF THE UNITED STATES.

IN WITNESS WHEREOF, Loan Parties and Lender have executed this Memorandum on the respective dates of acknowledgement to be effective as of the date first above written.

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SIGNATURE PAGE OF BORROWER TO MEMORANDUM OF MODIFICATION AGREEMENT

**CH RETAIL FUND I/CHICAGO SIENA,
L.L.C.**, a Delaware limited liability company

By: Retail Managers I, L.L.C., a Texas limited liability company, its Manager

By: [Signature]
Name: Samuel E. Peck
Title: Vice President

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

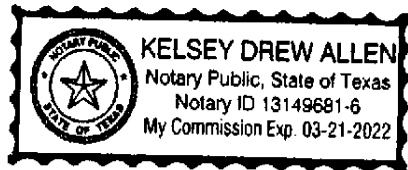
On May 10, 2019, before me, Kelsey Allen, Notary Public (here insert name of **notary**), personally appeared Samuel Peck (here insert name of **person signing document**) who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Texas that the foregoing paragraph is true and correct

WITNESS my hand and official seal.

Signature [Signature] (Seal)

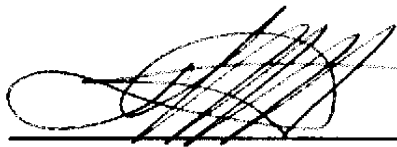
My Commission Expires: 03.21.2022



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SIGNATURE PAGE OF LENDER TO MEMORANDUM OF MODIFICATION AGREEMENT

COMPASS BANK, an Alabama banking corporation

By: 

Name: Daniel Heffelfinger
Title: Senior Vice President

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of the document.

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

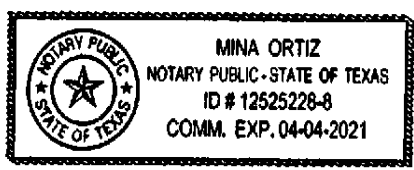
On MAY 9, 2019, before me, MINA ORTIZ, Notary Public (here insert name of notary), personally appeared DANIEL HEFFELFINGER (here insert name of person signing document) who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Texas that the foregoing paragraph is true and correct

WITNESS my hand and official seal.

Signature _____ (Seal)

My Commission Expires: April 4, 2021



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EXHIBIT A

THE PROPERTY

Parcel 1:

Lot 4 in the Gentax Subdivision of part of the Northeast 1/4 of Section 16, Township 41 North, Range 13, East of The Third Principal Meridian in Cook County, Illinois.

Parcel 2:

Non-exclusive easement for the benefit of Parcel 1, as created by Second Restatement of Declaration of Easements and Operating Agreement dated December 15, 2003 and recorded June 23, 2004 as Document 0417511192 for the purpose of ingress and egress by vehicular and pedestrian traffic upon, over and across (i) the access drive, (ii) the common area, and (iii) any easement appurtenant benefiting the parcel. As affected by Document No. 04236472308 and Document No. 050210302 and Declaration of Covenants, Conditions, Easement and Restrictions recorded on or about the date hereof.

Parcel 3:

Non-exclusive easement for the benefit of Parcel 1, as created by Easement Agreement recorded as Document 0335132202 the purpose of ingress and egress by vehicular and pedestrian traffic and emergency vehicles over portions of the Gateway, Panko and Fashion Square Parcels more particularly described therein.

Property Address:

9400 & 9402-9408 Skokie Boulevard
Skokie, IL

Permanent Index Numbers (PIN):

10-16-222-030-0000

10-16-222-031-0000

10-16-222-032-0000