



1734941087

Doc# 1734941087 Fee \$58.00

This Document was prepared by and should be returned to: First Eagle Bank 1040 E. Lake St. Hanover Park, IL. 60133

RHSP FEE:\$9.00 RPRF FEE: \$1.00 KAREN A. YARBROUGH COOK COUNTY RECORDER OF DEEDS DATE: 12/15/2017 11:38 AM PG: 1 OF 11

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FIRST AMENDMENT TO LOAN DOCUMENTS

This First Amendment to Loan Documents ("First Amendment") is dated as of the 3rd day of NOVEMBER, 2017 and made by and among DSSG 12, LLC, an Illinois limited liability company ("Borrower"); Phillip Ciaccio, Steven Ciaccio, and Boris Genken (individually and collectively referred to herein as "Guarantor"); and First Eagle Bank ("Lender").

A. On MAY 3, 2016 Lender made a loan (the "Loan") to Borrower in the amount of ONE MILLION EIGHT HUNDRED THOUSAND AND NO/100 (\$1,800,000.00). The Loan is evidenced by the Promissory Note of Borrower dated in the principal amount of \$1,800,000.00 ("Note").

B. The Note is secured by a Mortgage and Assignment of Rents (collectively referred to herein as "Mortgage") dated MAY 3, 2016 and recorded as Document Nos. 1616004006 and 1616004007 with the Recorder of Deeds of COOK County, Illinois which was executed by DSSG 12 LLC in favor of Lender and which created a first lien on the property ("Property") known as 847 N LARABEE ST, CHICAGO IL 60610 which is legally described on Exhibit "A" attached hereto and made a part hereof.

C. The Note is further secured by the Commercial Guaranty ("Guaranty") of Guarantor dated MAY 3, 2016. The Note, Mortgage, Assignment, and any and all other documents executed pursuant to or in connection with the Loan by Borrower, Grantor, or Guarantor, as amended, modified, assumed or replaced from time to time are hereinafter collectively referred to as the "Loan Documents".

D. Borrower, Grantor, and Guarantor wishes to extend the Maturity Date of the Loan to MAY 3, 2018 and increase the amount of the Loan by \$80,000 to \$1,880,000.00. Lender has agreed to extend the Maturity Date and increase the loan amount as aforesaid, subject to the following covenants, agreements, representations and warranties.

Box 400

Prepared by: BD
Officer Review
Initial Review BD Date 11/23/17
Final Review BD Date 11/23/17
Loan #104702

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NOW THEREFORE, for and in consideration of the covenants, agreements, representations and warranties set forth herein, the parties hereto agree as follows:

1. **Recitals.** The recitals set forth above shall be incorporated herein, as if set forth in their entirety.
2. **Amount of Loan, Maturity Date, and Schedule of Payment:** The amount of the Loan is hereby increased by EIGHTY THOUSAND AND NO/100 Dollars (\$80,000.00) from ONE MILLION EIGHT HUNDRED THOUSAND AND NO/100 Dollars (\$1,800,000.00) to ONE MILLION EIGHT HUNDRED EIGHTY THOUSAND AND NO/100 Dollars (\$810,000.00) and its Maturity Date is hereby extended to NOVEMBER 3, 2018. Borrower will pay the Loan, which has a current principal balance of \$620,285.58, together with interest on the unpaid principal balance from the date hereof until paid in full. Borrower will pay this loan in one principal payment of \$1,880,000.00 plus interest on NOVEMBER 3, 2018. This payment due on NOVEMBER 3, 2018 will be for all principal and all accrued interest not yet paid, together with any other unpaid amounts under this Loan. In addition, Borrower will pay regular monthly payments of all accrued unpaid interest as of each payment date, beginning DECEMBER 3, 2017, with all subsequent interest payments to be due on the same day of each month after that. Payments will be applied first to any unpaid collection costs, then to any late charges; then to any accrued unpaid interest, and then to principal.
3. **Modification of Documents.** The Mortgage, Guaranty, and other Loan Documents are hereby amended to secure the obligations and liabilities evidenced by the Note, as hereby modified and amended. Each reference in the Mortgage and other Loan Documents to "maturity" or "Maturity Date" shall hereafter be deemed a reference to NOVEMBER 3, 2018 and each reference the Mortgage, Guaranty, and other Loan Documents to "principal" or "Principal Amount" shall hereafter be deemed a reference to \$1,880,000.00.
4. **Guarantor Not Released.** Guarantor acknowledges and consents to the amendments and modifications set forth in this FIRST Amendment. As additional consideration for Lender to amend the Note, Guarantor shall execute and deliver to Lender, concurrent with the execution of this FIRST Amendment, an Amended and Restated Commercial Guaranty of even date herewith in the original principal amount of \$1,880,000.00 (the "Amended Guaranty"). All references in the Loan Documents to the "Guaranty" shall hereafter be deemed to be a reference to the "Amended Guaranty".
5. **Restatement of Representations.** Borrower and Guarantor hereby restate and reaffirm each and every representation, warranty, covenant and agreement made by them in the Amended Note, Mortgage, Assignment, Amended Guaranty, and other Loan Documents.
6. **Defined Terms.** All capitalized terms which are not defined herein shall have the definitions ascribed to them in the Note, Mortgage, Guaranty and other Loan Documents.

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7. **Documents Unmodified.** Except as modified hereby, the Note, Mortgage, Guaranty and other Loan Documents shall remain unmodified and in full force and effect. Borrower and Guarantor each hereby ratify and confirm their respective obligations and liabilities under the Amended Note, Mortgage, Amended Guaranty, and other Loan Documents. They each hereby acknowledge that they have no defenses, claims, or setoffs against the enforcement by Lender of their respective obligations and liabilities under the Amended Note, Mortgage, Amended Guaranty, and other Loan Documents, as so amended.

8. **Fee.** In consideration of Lender's agreement to amend the Loan, as aforesaid, Borrower has agreed and shall pay Lender upon execution hereof, a fee in the amount of FOUR THOUSAND SEVEN HUNDRED and NO/100 Dollar (\$4,700.00) plus all out-of-pocket costs and expenses incurred by Lender in connection with this Agreement, including, without limitation, title charges, recording fees, appraisal fees and attorneys' fees and expenses.

9. **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 as of the date hereof.
- (b) There is currently no Event of Default (as defined in the 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 FIRST Amendment, 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, Guarantor(s) 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 has no claims, counterclaims, defenses, or set-offs with respect to the Loan or the Loan Documents as modified herein.

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- (f) Borrower validly exists under the laws of the State of its formation or organization and has the requisite power and authority to execute and deliver this FIRST Amendment and to perform the Loan Documents as modified herein. The execution and delivery of this FIRST Amendment 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 FIRST Amendment has been duly executed and delivered on behalf of Borrower.

10. **Binding Agreement.** This FIRST Amendment shall not be construed more strictly against Lender than against Borrower or Guarantor(s) merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that Borrower, Guarantor(s) and Lender have contributed substantially and materially to the preparation of this Amendment, and Borrower, Guarantor(s) 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 FIRST Amendment. Each of the parties to this FIRST Amendment represents that it has been advised by its respective counsel of the legal and practical effect of this FIRST Amendment, and recognizes that it is executing and delivering this FIRST Amendment, 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 FIRST Amendment, 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.

11. **Other Modifications.** Anything contained in the Mortgage to the contrary notwithstanding, the Mortgage also secures all loans, advances, debts, liabilities, obligations, covenants and duties owing to the Lender by the Borrower and/or any Related Party (as hereinafter defined), whether now existing, or hereafter created or arising, including, without limitation: (i) the Note, (ii) the Indebtedness, and (iii) any and all other loans, advances, overdrafts, indebtedness, liabilities and obligations now or hereafter owed by Borrower or any Related Party to Lender, of every kind and nature, howsoever created, arising or evidenced, and howsoever owned, held or acquired, whether now due or to become due, whether direct or indirect, or absolute or contingent, whether several, joint or joint and several, whether liquidated or unliquidated, whether legal or equitable, whether disputed or undisputed, whether secured or unsecured, or whether arising under the Mortgage or any other document or instrument. For purposes of this paragraph, "Related Party" shall mean (i) Grantor, (ii) each beneficiary of Grantor, if Grantor is a land trust, (iii) the maker of the Note, if other than Grantor, and if more than one maker, each co-borrower of the Note other than Grantor, and (iv) each guarantor of the Note.

A sale or transfer referred to in the Mortgage shall also mean and include the granting of any mortgage, deed of trust or other encumbrance of any kind on all or any portion of the Real Property, whether or not it is junior to the lien of this Mortgage.

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This FIRST Amendment shall extend to and be binding upon each Borrower, Grantor, and Guarantor and their heirs, legatees, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

This FIRST Amendment shall, in all respects, be governed by and construed in accordance with the laws of the State of Illinois, including all matters of construction, validity and performance.

This FIRST Amendment constitutes the entire agreement between the parties with respect to the aforesaid Amendment and shall not be amended or modified in any way except by a document in writing executed by all of the parties thereto.

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

Borrower, Grantor and Guarantor and any other obligor under the Loan, on behalf of themselves and their respective successors and assigns (collectively and individually, the "Mortgagor Parties"), hereby fully, finally and completely release, remise, acquit and forever discharge, and agree to hold harmless Lender and its respective successors, assigns, affiliates, subsidiaries, parents, officers, shareholders, directors, employees, fiduciaries, attorneys, agents and properties, past, present and future, and their respective heirs, successors and assigns (collectively and individually, the "Mortgagee 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, known or unknown, direct or indirect, 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 (collectively, the "claims"), which the Mortgagor Parties have as of the date of this FIRST Amendment or may claim to have against the Mortgagee Parties, including but not limited to, any claims arising out of or with respect to any and all transactions relating to the Loan or the Loan Documents occurring on or before the date of this FIRST Amendment, including but not limited to, 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 the Mortgagee Parties occurring on or before the date of this FIRST Amendment. The foregoing release is intended to be, and is, a full, complete and general release in favor of the Mortgagee Parties with respect to all claims, demands, actions, causes of action and other matters described therein, or any other theory, cause of action, occurrence, matter or thing which might result in liability upon the Mortgagee Parties arising or occurring on or before the date of this FIRST Amendment. The Mortgagor 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. Furthermore, each of the Mortgagor Parties represents and warrants to Lender that she, he or it: (i) read this agreement, including without limitation, the release set forth in this section (the "Release Provision"), and understands all of the terms and conditions hereof, and (ii) executes

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this FIRST Amendment voluntarily with full knowledge of the significance of the Release Provision and the releases contained herein and execution hereof. The Mortgagor Parties agree to assume the risk of any and all unknown, unanticipated, or misunderstood claims that are released by this FIRST Amendment.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH BORROWER, EACH GRANTOR, AND EACH GUARANTOR (EACH AN "OBLIGOR") HEREBY AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS FIRST AMENDMENT SHALL BE TRIED AND DETERMINED ONLY IN THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF COOK, STATE 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 FIRST AMENDMENT, OR IN ANY WAY CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE DEALINGS OF OBLIGORS AND LENDER WITH RESPECT TO THIS FIRST AMENDMENT, 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 FIRST AMENDMENT 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.

IN WITNESS WHEREOF, this FIRST Amendment was executed by the undersigned as of the date and year first set forth above.

BORROWER: DSSG 12, LLC, an Illinois Limited Liability Company

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LARRABEE HOLDINGS LLC, an Illinois Limited Liability Company, MANAGER OF DSSG 12 LLC, an Illinois Limited Liability Company



By: STEVEN E. CIACCIO, MANAGER OF LARRABEE HOLDINGS LLC, an Illinois Limited Liability Company



By: PHILLIP J. CIACCIO, MANAGER OF LARRABEE HOLDINGS LLC, an Illinois Limited Liability Company

YMTB HOLDINGS LLC, an Illinois Limited Liability Company, MANAGER OF DSSG 12 LLC, an Illinois Limited Liability Company



By: BORIS GENKEN, MANAGER OF YMTB HOLDINGS LLC, an Illinois Limited Liability Company

GUARANTOR:



STEVEN E. CIACCIO



PHILLIP J. CIACCIO



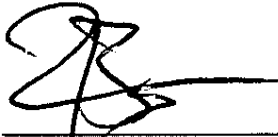
BORIS GENKEN

LENDER:

First Eagle Bank

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By: Zachary A. Braun, Senior Vice President

COOK COUNTY
RECORDER OF DEEDS

COOK COUNTY
RECORDER OF DEEDS

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BORROWER'S ACKNOWLEDGMENT

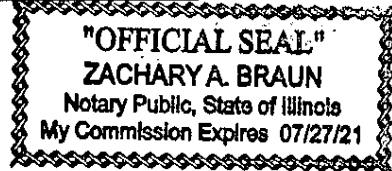
STATE OF ILLINOIS) SS.
COUNTY OF)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that STEVEN E. CIACCIO, Manager of LARRABEE HOLDINGS LLC, Manager of DSSG 12 LLC, an Illinois limited liability company; PHILLIP J. CIACCIO, Manager of LARRABEE HOLDINGS LLC, Manager of DSSG 12 LLC, an Illinois limited liability company; and BORIS GENKEN, Manager of YMTB HOLDINGS LLC, Manager of DSSG 12 LLC, an Illinois limited liability company, 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, sealed and delivered said instrument as his free and voluntary act and deed as well as that of the company he represents, for the uses and purposes therein set forth.

Given under my hand and Official Seal this 30 day of November, 2017.



Notary Public



GUARANTOR'S ACKNOWLEDGMENT

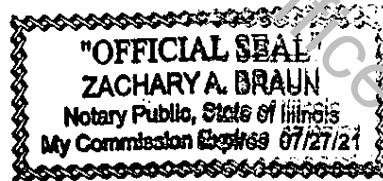
STATE OF ILLINOIS) SS.
COUNTY OF)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that STEVEN E. CIACCIO, PHILLIP J. CIACCIO, and BORIS GENKEN, 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, sealed and delivered said instrument as their free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and Official Seal this 30 day of November, 2017.



Notary Public



LENDER'S ACKNOWLEDGMENT

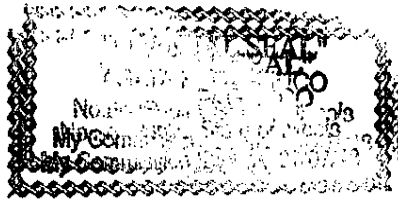
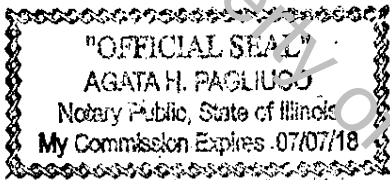
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STATE OF ILLINOIS) SS.
COUNTY OF (Cook)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Zachary A. Braun, Senior Vice President of FIRST EAGLE BANK, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered said instrument as his/her free and voluntary act and deed as well as that of the bank she represents, for the uses and purposes therein set forth.

Given under my hand and Official Seal this 30th day of November, 2017.


Notary Public



Office of Cook County Clerk's Office

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EXHIBIT "A"

LEGAL DESCRIPTION:

THE SOUTH 25 FEET OF LOT 14 (EXCEPT THAT PART OF SAID LOT TAKEN AND USED FOR ALLEY) IN THE SUBDIVISION OF PETER HUGEL AND OTHERS OF PART OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Address: 847 N. LARRABEE STREET, CHICAGO IL 60610

P.I.N.: 17-04-324-028-0000

Property of Cook County Clerk's Office