

# UNOFFICIAL COPY

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Edward M. Moody  
Cook County Recorder of Deeds  
Date: 06/07/2019 01:47 PM Pg: 1 of 8

## AGREEMENT OF THIRD AMENDMENT TO LEASE

BETWEEN

635-47 W. ROOSEVELT VENTURE, LLC and BOB'S DISCOUNT FURNITURE, LLC

Property:  
635-637 W. Roosevelt Road, Chicago, IL

After Recording Return to:  
William S. Schwartz  
Levenfeld Pearlstein  
400 Skokie Blvd., Suite 800  
Northbrook, IL 60062

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## AGREEMENT OF THIRD AMENDMENT TO LEASE

**THIS AGREEMENT OF THIRD AMENDMENT TO LEASE** (“Amendment”) is dated effective May 21, 2019, by and between **635-47 W. Roosevelt Venture, LLC**, with an address of 450 N. Skokie Blvd., Suite 604, Northbrook, Illinois 60062 (“Landlord”), as successor to **635-647 W. Roosevelt Road, LLC**, an Illinois limited liability company (“Original Landlord”) and **Bob’s Discount Furniture, LLC**, a Massachusetts limited liability company with an address of 434 Tolland Turnpike, Manchester, Connecticut 06042 (“Tenant”).

### RECITALS:

**WHEREAS**, the Original Landlord and the Tenant entered into a certain Lease dated May 19, 2017, amended by an agreement of First Amendment to Lease dated July 10, 2018 with Original Landlord and amended by an agreement of Second Amendment of Lease dated January 1, 2019 with Landlord (collectively the “Lease”) wherein Original Landlord agreed to lease Tenant certain premises described in the Lease within a certain building to be constructed on real property known as 635-637 W. Roosevelt Road, Chicago, Illinois.

**WHEREAS** such duties and obligations of the Original Landlord under the Lease as then constituted were assumed by the Landlord after the date of the First Amendment to Lease but prior to the Second Amendment to Lease. The completed building referred to as the “Shopping Center” in the Lease is more particularly described therein; and

**WHEREAS**, the Landlord and the Tenant hereto agree to further amend the Lease with respect to certain terms as more fully contained herein.

**NOW THEREFORE**, in consideration of the mutual covenants hereafter set forth and other good and valuable consideration, subject to the bold recitation in the introductory paragraph, the receipt and sufficiency of which are hereby acknowledged, the Lease is hereby amended as follows:

1. Notwithstanding any provisions set forth in the Lease to the contrary, the Lease Commencement Date shall be May 13, 2019.
2. Notwithstanding any provisions set forth in the Lease to the contrary, the except as provided for below in Paragraph 3 of this Amendment, the Rent Commencement

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Date shall be the earlier of the date (i) Tenant opens for business to the general public and (ii) one hundred and fifty (150) days from May 20, 2019.

3. The one hundred and fifty (150) day period applied to determine the Rent Commencement Agreement in Paragraph 2 above shall be extended one day for each day (i) beyond June 30, 2019 that Landlord, after using commercially reasonable efforts, completes at its own cost and expense beyond June 30, 2019, the increased grading and leveling improvements to minimize the vertical angle of the ground from the adjacent street surface through the adjacent sidewalk and curbing into the loading dock area, and (ii) remove CMU cladding from the existing steel support to widen the entrance to Tenant's loading dock area to enable safe and efficient egress and ingress into and out of Tenant's loading dock area. The application of (i) and (ii) of this paragraph shall be mutually exclusive but nonetheless, not counted twice if overlapping at the same time towards the extension of the Rent Commencement Date.
4. Landlord, shall use commercially reasonable efforts to cause ComEd, at either ComEd's or its own cost and expense, to relocate the utility pole located outside Tenant's loading dock area to be located further away from the entrance of the loading dock area on or before August 31, 2019. Landlord cannot guaranty that ComEd will move the utility pole but as of the date of this Amendment, Landlord represents that ComEd has indicated that it is willing to move the utility pole.
5. As of the effective date of this Amendment, the parties agree that the earned credit for Tenant Base Rent as provided for in the Second Amendment to Lease is the sum of \$20,000.00 plus 100% of the per diem Base Rent for 27 days (\$80,343.09) totaling \$100,343.09 to be applied dollar for dollar against Base Rent commencing on the Rent Commencement Date.
6. As provided for in the Second Amendment of Lease, the first fifty percent (50%) portion of Landlord's Contribution equal to \$461,137.50 ("Initial Contribution") shall be paid by Landlord to Tenant on or by June 5, 2019, time being of the essence. Failure to make the timely payment of \$461,137.50 shall further delay the one hundred and fifty (150) day period of time utilized to calculate the Rent Commencement Date by the number of days payment is due and outstanding past June 5, 2019. The consequence for late payment shall be in addition to and not in lieu of any other remedy Tenant is entitled to under the Lease, as amended, or pursuant to law. Tenant shall provide Landlord (by e-mailing Elan Peretz at [eperetz@barnettcapital.com](mailto:eperetz@barnettcapital.com)) on a monthly basis, the necessary documentation (i.e. interim and final lien waivers, sworn statements, etc..) from its general contractor to enable Landlord to draw on Landlord's construction line of credit, as and when Tenant expends any part of the Initial Contribution for work at the Leased Premises.

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7. In the event that by the later of the Rent Commencement Date and October 31, 2019, Tenant is unable to obtain a certificate of occupancy or its equivalent to operate from the Leased Premises as a result of the condition or conditions of Tenant's loading dock area and adjacent sidewalk, and curbing, the Rent Commencement Date shall toll and Landlord shall be in default of this Lease and Tenant shall be entitled to all damages incurred, including but not limited to unrecoverable construction costs and expenses, lost profits, employment expenses for idle employees, whether such damages are direct or consequential in nature, and upon the expiration of a sixty (60) day cure period, time being of the essence.
8. The Landlord hereby represents and warrants that as of the date of this Amendment, the representations, warranties and covenants in Section 2.1 of the Lease are hereby ratified and affirmed. Landlord further represents and warrants to Tenant that the Shopping Center been built to date in accordance with the Applicable Laws. Upon completion of the Shopping Center, Landlord shall provide Tenant with a set of as-built plans for the Shopping Center.
9. Except as set forth herein, or as a necessary corollary to the provisions set forth herein, all terms, conditions and provisions of the Lease as previously amended not inconsistent with the terms, conditions and provisions of this Amendment shall continue in full force and effect throughout the term as extended hereby and the same are hereby reaffirmed by the parties hereto.
10. All capitalized terms set forth herein shall be defined in accordance with the applicable definition set forth in the Lease unless modified by this Amendment.
11. The parties hereto warrant and represent to each other that each entity is legally existing, authorized to do business in the State of Illinois, has the legal right, power and authority to enter into this Amendment and to perform all of their obligations hereunder, and the execution and delivery of this Amendment and the performance by the each party of its obligations hereunder shall not conflict with or result in a breach of any law or regulation, or order, judgment, writ, injunction or decree of any court or governmental instrumentality or any agreement or instrument to which each is a party or by which the each is bound, or to which the Leased Premises is subject, including Landlord's present lender and mortgagee of the Shopping Center. Landlord further represents the existing mortgagee has been noticed of this Amendment and Landlord shall provide Tenant written evidence of its lender's consent to this Amendment at the time a signed counterpart is delivered to Tenant.

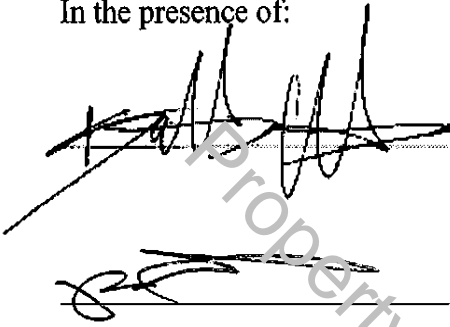
SIGNATURE PAGES TO FOLLOW

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IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and affixed their seals on the day and year first above written.


Signed, sealed and delivered

In the presence of:



**LANDLORD:**

635-47 W. Roosevelt Venture, LLC

By:   
Elan Peretz  
Its: Authorized Signer

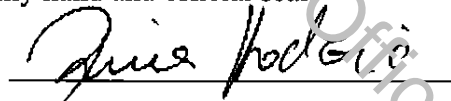
STATE OF ILLINOIS )

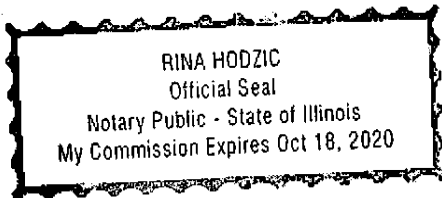
) ss:

COUNTY OF )

On this 3 day of June, 2019, before me, Rina Hodzic, the undersigned officer, personally appeared Elan Peretz, who acknowledged himself to be a of 635-47 W. Roosevelt Venture, LLC, an Illinois Limited Liability Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself as.

IN WITNESS WHEREOF, I hereunto set my hand and official seal





Notary

My Commission Expires: 10-18-20

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Jayne M. Bascetta

TENANT:

Bob's Discount Furniture, LLC

By: J. Aguilar

Jeremy Aguilar  
Chief Financial Officer &  
Executive Vice President

Michael Margolis

STATE OF CONNECTICUT )

) ss: Manchester

COUNTY OF HARTFORD )

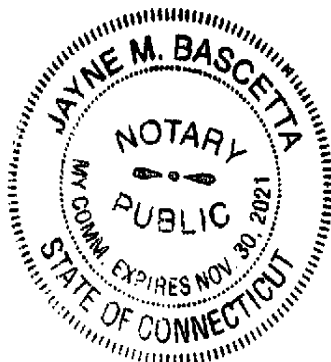
On this the 20<sup>th</sup> day of May, 2019, before me, Jayne Bascetta, the undersigned officer, personally appeared Jeremy Aguilar, who acknowledged himself to be the Chief Financial Officer and Executive Vice President of Bob's Discount Furniture, LLC, a Massachusetts limited liability company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the same of the limited liability company by himself as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Jayne M. Bascetta

Commissioner of the Superior Court/  
Notary Public

My Commission Expires: 11/30/20



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Agreed, acknowledged and accepted.

Jay M. Basceta

**GUARANTOR:**  
BDF Acquisition Corp.

By: [Signature]  
Jeremy Aguilar  
Chief Financial Officer &  
Executive Vice President

[Signature]  
Michael Tronzo

STATE OF CONNECTICUT )

) ss: Manchester

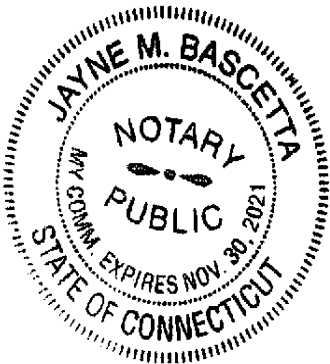
COUNTY OF HARTFORD )

On this the 20<sup>th</sup> day of <sup>May</sup> 2019, before me, Jayne Bascetta, the undersigned officer, personally appeared Jeremy Aguilar, who acknowledged himself to be the Chief Financial Officer and Executive Vice President of BDF Acquisition Corp., a Delaware Corporation, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the same of the limited liability company by himself as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Jayne M. Bascetta

Commissioner of the Superior Court  
Notary Public  
My Commission Expires: 11/30/21



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## EXHIBIT A-1

### Legal Description

**Parcel 1:**

Lot 3 (except the North 42.00 feet thereof taken for street) and Lot 6 in Shoup's Subdivision of Lot 4 in Block 67 in Canal Trustees' Subdivision of Blocks and Lots in the Northwest 1/4 of Section 21, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

**Parcel 2:**

A parcel of land in the Northwest 1/4 of Section 21, Township 39 North, Range 14, East of the Third Principal Meridian, consisting of a part of Lot 2 and all of Lot 7 in the Subdivision of Lot 4 in Block 67 in Canal Trustees' Subdivision in the Northwest 1/4 of Section 21, Township 39 North, Range 14, East of the Third Principal Meridian, (except Blocks 57 and 58) said parcel of land being more particularly described as follows: Beginning at the point of intersection of the South line of West Roosevelt Road as widened, with the East line of said Lot 2 in the subdivision of Lot 4 and running thence South along said East line of Lot 2 and along the East line of said Lot 7, a distance of 131.32 feet to the Southeast corner of said Lot 7; thence West along the South line of said Lot 7, a distance of 25.07 feet to the Southwest corner of Lot 7; thence North along the West line of said Lot 7 and along the West line of said Lot 2, a distance of 131.32 feet to the South line of said West Roosevelt Road as widened; and thence East along said South line of West Roosevelt Road as widened, a distance of 25.07 feet to the point of beginning, all in Cook County, Illinois.

**Parcel 3:**

Sublot 4 (except the North 42.00 feet) and Sublot 5 of Lot 4; also, The East 59.00 feet of Lot 5 (except the North 42.00 feet) in Block 67 in Canal Trustees' New Subdivision of Blocks in the Northwest 1/4 of Section 21, Township 39 North, Range 14, East of the Third Principal Meridian, excepting therefrom: That part of the North 1/2 of vacated West 12th Place (described by Order passed by the City Council of Chicago on January 20, 1984, page 4653), lying South of the adjoining South line of Sublot 5 of Lot 4 and the East 59.00 feet of Lot 5 in Block 67 in Canal Trustees' New Subdivision of Blocks in the Northwest 1/4 of Section 21, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

**Parcel 4:**

Easement for ingress and egress for the benefit of Parcels 1, 2, and 3 pursuant to Grant of Easement recorded November 15, 1984 as Document Number 27338040 over that part of the vacated 12th Place per Vacation Ordinance recorded November 14, 1984 as Document Number 27336633

Permanent Index Number: 17-21-101-041-0000

Permanent Index Number: 17-21-101-014-0000

Permanent Index Number: 17-21-101-042-0000

Permanent Index Number: 17-21-101-011-0000

Permanent Index Number: 17-21-101-040-0000

Permanent Index Number: 17-21-101-039-0000