

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-2(c)

DINO S. MANTZAS

DM6590

701 ROUTE 73 N., SUITE 1
MARLTON, NEW JERSEY 08053
(856) 988-0033

In Re:

KOSTAS ROUSTAS and STELLA ROUSTAS

Case No. 17-22778

Judge: Jerold N. Poslusny, Jr.

Chapter: 11

**TO: ALL CREDITORS AND ATTORNEYS
HAVING FILED A NOTICE OF APPEARANCE**

PLEASE TAKE NOTICE that on April 24 2018 at 10:00 a.m., or as soon thereafter as counsel may be heard, Debtor, will move before the United States Bankruptcy Court, 401 Market Street, Camden, New Jersey, 08102, before United States Bankruptcy Court Judge Jerold N. Poslusny, Jr., for an Order granting the following relief:

Approving the Agreement of Sale dated January 16, 2018 between Debtor and 1170 ROUTE 73 LLC for the Private Sale of the Estate's real property located at 1170 Route 73, Mount Laurel, New Jersey, Block 1306.01, Lots 15, 16-19 and 28-32 and 1148 Route 73, Mount Laurel, New Jersey Block 1306.01, Lots 14, 1170 ROUTE 73 LLC, for the sum of Two Million Nine Hundred Fifty Thousand Dollars (\$2,950,000.00), free and clear of all liens pursuant to 11 U.S.C. Section 363;

In support of Movant's motion, Movant will rely upon the Certification of Kostas Roustas and Stella Roustas, the Debtors and the documents attached to their Certification.

A copy of a proposed form of Order is submitted herewith.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to enter the enclosed Proposed Order or if you want the Court to consider your views on the Motion, then on or before April 17, 2018, you or your attorney must file with the Court a written request for a hearing or response or answer explaining your position at the:

United States Bankruptcy Court
USPO & Courthouse Building
PO Box 2067, 401 Market Street
Camden, NJ 08101-2067

If you mail your request/response to the Court for filing, you must mail it early enough so the Court will receive it on or before the date stated above.

You must also mail a copy to: Dino S. Mantzas, Esquire, at 701 Route 73 N. Suite 1, Marlton, New Jersey 08053 as well as to all parties set forth on the attached Service List.

If you are opposing the relief sought from the Court, you must attend the hearing scheduled to be held on April 24, 2018 at 10:00 a.m. before The Honorable Jerrold N. Poslusny, Jr., in the Mitchell H. Cohen U.S. Courthouse, 400 Cooper Street, Court Room 4 C, Camden, New Jersey

If you do not take these steps, the Court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

DATED: March 26, 2018

BY: /s/ Dino S. Mantzas
DINO S. MANTZAS
Attorney for Debtors
Kostas Roustas and Stella Roustas

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MARLTON, NEW JERSEY 08053
(856) 988-0033

Case No. 17-22778

Judge: Jerrold N. Poslunsny Jr.

Chapter: 11

Hearing Date: January 12, 2017

In Re:

KOSTAS ROUSTAS and STELLA ROUSTAS

**CERTIFICATION OF DEBTORS IN SUPPORT OF MOTION BY DEBTORS
TO SELL THE REAL PROPERTY LOCATED AT 1170 ROUTE 73,
MOUNT LAUREL, NEW JERSEY AND 1148 ROUTE 73, MOUNT LAUREL,
NEW JERSEY PURSUANT TO 11 U.S.C §363 AND FOR OTHER RELIEF**

Kostas Roustas and Stella Roustas, being of legal age, do hereby certify:

1. We are the Debtor in the above-caption case, and have personal knowledge of the facts stated herein.

2. This matter is presently before the Court upon our Motion to sell, pursuant to 11 U.S.C §363, free and clear of liens, with liens to attach to proceeds, the real property located at 1170 Route 73, Mount Laurel, New Jersey, Block 1306.01, Lots 15, 16-19 and 28-32 and 1148 Route 73, Mount Laurel, New Jersey Block 1306.01, Lots 14 (Subject Property) and a determination that the transfer is not subject to the New Jersey Realty Transfer Tax.

3. The Bankruptcy Court dockets indicate that on June 22, 2018, the Debtor, Kostas Roustas and Stella Roustas (“Roustas”) filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code.

4.. One of our assets is the Subject Property located at 1170 Route 73, Mount Laurel, Burlington County New Jersey and the adjacent lot located at 1148 Route 73, Mount Laurel, New Jersey.

5. Tax Sale Certificates - The following Tax Sale Certificates have been filed.

a. Tax Sale Certificate: Maureen P. Mitchell, Collector of Taxes, to US Bank Customer for PC 4 & Creditors, dated June 25, 2015, recorded September 2, 2015, Book 13187, Page 7251, Amount \$15,684.92, Assessed to Kostas Roustas, Certificate No. 15-00052. Based on a conversation with the Township of Mount Laurel this morning, the approximate amount due under this tax lien is \$203,914.98.

b. Tax Sale Certificate: Maureen P. Mitchell, Collector of Taxes, to MTAG Customer FIG CAP INV NJ13, dated June 16, 2016, recorded October 13, 2016, Book 13244, Page 4214, Amount \$3,747.61, Assessed to Stella Roustas, Certificate No. 16-00052. Based on a conversation with the Township of Mount Laurel this morning, the approximate amount due under this tax lien is \$12,452.02.

c. Tax Sale Certificate: Margaret Bleam Odell, Collector of Taxes, to Harry Pilalis, dated May 31, 1991, recorded June 12, 1991, Book 4251, Page 189, Amount \$739.37, Assessed to The Estate of Mary T. Wippert, Certificate No. 91-55. It is believed that this Tax Sale Certificate was satisfied, however it was not discharged.

d. The total outstanding sum due to the Township of Mount Laurel, in addition to the tax sale certificates is approximately \$60,000.00.

6. Lien Holder #1- On or about July 19, 2007 the Debtors borrowed the sum of \$1,300,000.00 from The First National Bank of Elmer and executed a mortgage upon the Subject

Property. The mortgage was recorded in the Burlington County Clerk's office on September 10, 2007 in Mortgage Book 11569, Page 992. The First National Bank of Elmer has provided a payoff statement which represents that as of March 29, 2018 the outstanding balance due to The First National Bank of Elmer is \$1,039,553.03. A true and correct copy of the payoff letter is attached hereto and marked "Exhibit A".

On November 15, 2017 The First National Bank of Elmer was granted Relief from the automatic stay and is pursuing a mortgage foreclosure of the Subject Property.

7. Lien Holder #2 - On or about January 21, 2013 Republic Bank loaned to 2602 Route 130, LLC, an entity wholly owned by Debtor Kostas Roustas the principal sum of \$1,050,000.00. The loan was secured by a first mortgage on the real property located at 2602 Route 130, Cinnaminson, New Jersey. The loan was further secured by a first mortgage our home located at 49 Oak Ridge Drive, Voorhees, New Jersey.

As additional collateral, Debtors Kostas Roustas and Stella Roustas executed and delivered to Republic Bank a second mortgage on the Subject Property. The mortgage dated January 21, 2013 was recorded in the Burlington County Clerk's Office on February 15, 2013 in mortgage book OR-13054, page 866, in the principal amount of \$1,050,000.00. Most recent modification recorded on August 13, 2013 in book OR-13089, page 4960. By letter from Richard M. Berman, Esquire, attorney for Republic Bank, dated March 26, 2018, the payoff as of March 22, 2018 is \$995,925.72, with a per diem of \$135.55. A true and correct copy of Mr. Berman's letter is attached hereto and marked "Exhibit B".

8. Lien Holder #3 - On or about April 11, 2014, New Jersey Business Finance Corp. loaned to 2602 Route 130, LLC, an entity wholly owned by Debtor Kostas Roustas the principal sum

of \$1,107,000.00. The loan was secured by a second mortgage on the real property located at 2602 Route 130, Cinnaminson, New Jersey. The loan was also secured by a second mortgage on our home located at 49 Oak Ridge Drive, Voorhees, New Jersey.

As additional collateral, we executed and delivered to New Jersey Business Finance Corp a third mortgage on the Subject Property. The mortgage was dated on April 11, 2014 and it was recorded in the Office of the Burlington County Clerk on June 26, 2014 in Mortgage Book OR-13130, page 2169, in the principal amount of \$1,107,000.00. The loan and mortgage was subsequently assigned pursuant to an Assignment of Mortgage to the U.S. Small Business Administration, dated April 17, 2014, was recorded June 26, 2014, in Book 13130, Page 2180.

No Proof of Claim has been filed on behalf of the U.S. Small Business Administration, however the lien was listed at \$1,107,000.00 on our Petition for Relief.

9. On or about January 16, 2018 we entered into an Agreement of Sale whereby Debtor agreed to sell the properties located at 1170 Route 73, Mount Laurel, New Jersey and 1148 Route 73, Mount Laurel, New Jersey to 1170 Route 73 LLC for the sum of Two Million Nine Hundred Fifty Thousand Dollars (\$2,950,000.00). A true and correct copy of the Agreement of Sale is attached hereto and marked "Exhibit C". The sale is to be free and clear of all liens and encumbrances, with proven liens to attach to proceeds.

10. Pursuant to the contract, our attorney received a copy of an email verification from Search Tec Abstract, Inc., Buyer's title agent, confirming that the \$40,000 down payment had been deposited into their escrow account.

11. The Agreement of Sale does not provide for a mortgage contingency.

12. The property is not being sold to an insider as defined by the Bankruptcy Code and

we had no prior relationship with the proposed Buyer prior to the execution of the Agreement.

13. We have marketed the property through Rose Commercial Real Estate and the highest offer received was \$2,950,000. That listing agreement ended in July, 2017.

14. In October, 2017 we entered into a contract for sale of real estate with a purchase price of \$3,100,000.00.

15. That contract was canceled by the proposed buyer during the initial due diligence period. The reason given for the termination was that the diner would need approximately \$1,000,000.00 to remodel the diner and there were questions as to the Department of Transportation plans to eliminate one of the entrances.

16. The property has been marketed through a commercial real estate broker and within the restaurant industry and no higher offers have been received. All other offers received by us have been for less money.

17. The proceeds of this sale shall be paid to the Township of Mount Laurel for outstanding real estate taxes, the Tax Sale Certificate Holders, First Elmer Bank of New Jersey and Republic Bank, the holders of valid note and mortgage. The lien of the U.S. Small Business Administration would not be paid from the sale of this property, however its lien status is improved overall because it will now hold a first mortgage on the property located at 2602 Route 130, Cinnaminson, New Jersey and a first mortgage on our home located at 49 Oak Ridge Drive, Voorhees, New Jersey. The value of those two properties is approximately \$2,500,000.00.

18. The proposed Order provides that the closing expenses will be reviewed and approved by the United States Trustee's Office prior to the closing .

19. There is one leasehold interest in the property, a lease between the Debtors and KLB

Sage, Inc which operates the Sage Diner at this location. KLB Sage, Inc. is wholly owned by us.

20. We seek the approval of this Court for this sale of this Property. We are proposing to sell the Property free and clear of any interest of others, including the liens of record. The proposed consideration is less than the aggregate value of all liens on the Property, however the lien position of the

21. We further submit that the terms and conditions of the sale have been negotiated at arm's length and in good faith and represents a fair value.

22. The proposed sale is "AS IS" and "WHERE IS". As Trustee, I am making no representations or promises regarding the Property and giving no warranties, express or implied. The Buyer and its principals are neither relatives nor business partners of mine.

23.. All of our books and records will be maintained by us and our accountants Markovitz and Starkman.

24. The property is not being sold to an insider as defined by the Bankruptcy Code and we had no prior relationship with the proposed Buyer prior to the execution of the Agreement.

25. Trustee Commissions - 11 U.S.C. §326 provides for Trustee's commissions. The estimated Trustee commissions on the anticipated \$2,950,000.00 sale has been calculated at \$9,750.00.

26. It is anticipated that there will be additional interest expense incurred depending on the actual closing date.

27. Pursuant to New Jersey statute, transfers by Trustees are not subject to the realty transfer tax. I ask that this Court authorize the exemption of this sale from the Realty Transfer Tax (N.J.S.A. 46:15-10).

28. In summary, we respectfully request that the Court enter an Order granting the following relief:

a) Authorize the sale of the real property located at 1170 Route 73, Mount Laurel, New Jersey and 1148 Route 73, Mount Laurel, New Jersey to **1170 Route 73 LLC** for the total consideration of sum of Two Million Nine Hundred Fifty Thousand Dollars (\$2,950,000.00) to **1170 Route 73 LLC or its nominee**, free and clear of liens, with liens, if proven, to attach to proceeds, pursuant to 11 U.S.C. §363;

b) Determining that the consideration provided by the Purchasers for the Property is fair and reasonable and that the sale was negotiated, proposed and entered into by the Debtors without collusion, in good faith, and from an arm's length bargaining position;

c) Determining that the notice of the proposed sale satisfies the requirements of procedural due process and Fed. R. Bankr. P. 2002(a)(2);

d) Determining that the transfer of the property to the Purchasers constitutes a legal, valid, and effective transfer of the property, and shall vest the Purchasers with all right, title, and interest of the Seller in and to the property, free and clear of all liens and encumbrances and that the sale is made "as is" and "where is" and no representations or warranties are made as to the title, condition, or fitness for the purpose for which it is intended;

e) Determining that we are authorized to execute all necessary documentation and take all appropriate action to consummate the sale in order to comply with the Order issued by this Court;

f) Determining that we are authorized to pay from the proceeds of sale the funds necessary to satisfy the Estate's share of all necessary and customary closing costs with respect to the sale;

- g) Determining that I am authorized to pay valid liens and mortgages at closing;
- h) Determining that the sale is exempt from the New Jersey Realty Transfer Tax

pursuant to N.J.S.A. 46:15-10 and

- i) Authorizing the payment of the Trustee's commission earned from the sale of the Subject Property .

29. This Certification is made in support of our Motion to sell, pursuant to 11 U.S.C §363, free and clear of liens, with liens to attach to proceeds, the real property 1170 Route 73, Mount Laurel, New Jersey and 1148 Route 73, Mount Laurel, New Jersey and a determination that the transfer is not subject to the New Jersey Realty Transfer Tax.

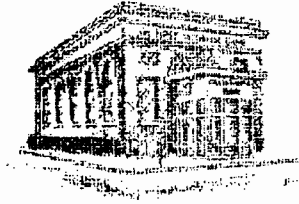
We certify under penalty of perjury that the foregoing is true and correct.

DATED: March 27, 2018


KOSTAS ROUSTAS


STELLA ROUSTAS

EXHIBIT "A"
FIRST NATIONAL BANK OF ELMER PAYOFF



THE FIRST NATIONAL
BANK OF ELMER
Since 1903

10 S Main Street, Elmer, NJ 08318
856-358-8141

To:

Borrower: **Kostas Roustas
Stella Roustas
49 Oak Ridge Dr
Voorhees, NJ 08043-1537**

Property: **1170 Route 73 Mount Laurel Twp
Burlington Co NJ 08054 Block 1306.01
Lots 14, 15, 16-19, 28-32**

Loan No: **200061333**

PAYOFF STATEMENT

These payoffs are good through: March 29, 2018

Principal Due	\$963,616.02
Interest Due	\$47,567.71
Late Fees	\$3,812.80
Attorney Fees	\$22,278.50
Appraisal Fees	\$2,200.00
Release Fee	\$20.00
Loan Ret Ck Fee	\$58.00
Total	<u>\$1,039,553.03</u>

Funds received after the date listed above will require the additional **\$224.40 per diem shown above** per loan.

Payoff funds must be remitted directly to the above captioned address attention Loan Department. These figures are subject to final verification by The First National Bank of Elmer. Checks received for less than the total required to fully satisfy the loan will not allow the collateral to be released.

Issuance of this statement does not suspend the contract requirement to make the loan payments when due. Should the loan presently be on automatic drafting, the account will continue to draft, unless written notification requesting cancellation is received by the bank at least ten days prior to the drafting date.

IMPORTANT NOTE: PLEASE VERIFY FIGURES BEFORE PAYING THE ABOVE STATED PAYOFF. AMOUNT IS BASED ON THE KNOWLEDGE THE FIRST NATIONAL BANK OF ELMER HAS AS OF THIS DATE AND IS NOT A GUARANTEED PAYOFF AMOUNT. THE FINAL PAYOFF AMOUNT WILL BE CALCULATED AT THE TIME THE FUNDS ARE RECEIVED.

EXHIBIT "B"
LETTER FROM REPUBLIC BANK'S ATTORNEY

STEVENS & LEE
LAWYERS & CONSULTANTS

1818 Market Street, 29th Floor
Philadelphia, PA 19103
(215) 575-0100 Fax (215) 851-0214
www.stevenslee.com

Direct Dial: (215) 751-2872
Email: rmb@stevenslee.com
Direct Fax: (610) 371-7962

March 26, 2018

Via email only
Dino Mantzas, Esq.
701 Route 73 North, Suite 1
Marlton, NJ 08053

Re: Republic First Bank d/b/a Republic Bank – Roustas. Loan 4127161

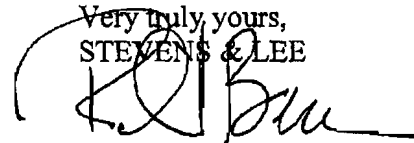
Dear Dino:

Per our discussion and your request, the following is the amount due to Republic First Bank d/b/a Republic Bank as of March 22, 2018 with regard to the above reference loan.

Principal	\$975,952.13
Interest	\$ 2,849.89
Late fees	\$ 7,364.18
Prepayment Premium	\$ <u>9,759.52</u>
Total (as of March 22, 2018)	\$995,925.72

The current *per diem* is \$135.55. Please note that attorneys' fees have not been included in this statement. Republic Bank is amenable to waiving attorneys' fees in connection with a sale of the "Sage" diner pursuant to the pending agreement of sale, for which you indicated you are seeking bankruptcy court approval and for which this statement is provided.

Please feel free to contact me should you have any questions or wish to discuss the matter.

Very truly yours,
STEVENS & LEE

RICHARD M. BERMAN

RMB
c. Louis P. Chiarlanza, SVP, Republic Bank

Philadelphia • Reading • Valley Forge • Allentown • Harrisburg • Lancaster • Scranton
Wilkes-Barre • Princeton • Charleston • New York • Wilmington
A PROFESSIONAL CORPORATION

EXHIBIT "C"
AGREEMENT OF SALE

AGREEMENT OF SALE- REAL ESTATE

THIS AGREEMENT, made this 16th day of January 2018 ("Effective Date"), by and between **KOSTAS ROUSTAS and STELLA ROUSTAS**, as Debtors in Possession, having a place of business at 1170 Route 73 Mt Laurel, NJ 08054, hereinafter jointly referred to as "Seller" and 1170 ROUTE 73 LLC having an address at c/o 491 Old York Road, Suite 200, Jenkintown PA 19046, hereinafter referred to as "Buyer".

RECITALS

WHEREAS, Seller is the owner of certain real property commonly known as 1170 Route 73, Mount Laurel, New Jersey Block 1306.01, Lots 15, 16-19 and 28-32 and 1148 Route 73, Mount Laurel, New Jersey Block 1306.01, Lots 14 on the tax map of the Township of Mount Laurel, County of Burlington, in the State of New Jersey all as more particularly described on Exhibit "A" attached hereto, hereinafter referred to as "Land"; and

WHEREAS, Owners have filed a Petition under Chapter 11 of the United States Bankruptcy Code at case # 17-22778-JNP, are currently Debtors in Possession and are, therefore, required to give notice to creditors, and others, of the proposed sale. Additionally, Owners have identified Seller as a co-debtor. The parties further recognize that the date upon which creditors, or others, may object to said sale, there will also be an opportunity for other prospective purchasers to submit offers for the purchase of the Property; and

WHEREAS, Seller wishes to sell and Buyer wishes to buy the aforementioned Property.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth and intending to be legally bound hereby, the parties hereto agree as follows:

1. Agreement to Sell and Purchase.

A. Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, subject to the terms and conditions of this Agreement, the Property (hereafter defined) free and clear of all liens and encumbrances except as hereinafter set forth.

B. The sale shall include the following (a) all Seller's right, title and interest in and to the Land; and (b) all of the tangible and intangible assets of the Seller affecting, or used in connection with and in the conduct and operation of the Land, including without limitation equipment, appliances, and supplies, all guarantees and warranties issued with respect to the Land and any personal property, all plans and specifications, drawings and prints pertaining to the Land, and all licenses, permits, approvals, certificates of occupancy, dedications, subdivision maps, entitlements, right, title and interest, if any, of Seller in and to any land lying in the bed of any street, road or avenue, open or proposed, in front of or adjoining the Land to the center line thereof, all easements appurtenant to the Land, and all rights of use, air, mineral and subsurface rights, servitudes, licenses, tenements, hereditaments and appurtenances now or hereafter belonging to or hereinafter issued, approved or granted by any governmental authority in connection with the Land and (c) any and all buildings, structures and improvements now or hereafter erected on the

Land, and all fixtures attached to, a part of, or used in connection with such improvements, structures and buildings, and the parking areas, facilities, walkways, ramps and other appurtenances relating to the Land (all of which is collectively referred to as the "Property").

2. Purchase Price.

The purchase price for the Property shall be Two Million Nine Hundred Fifty Thousand Dollars (\$2,950,000.00), said price to paid as follows:

A. An initial deposit for the sum of Forty Thousand Dollars (\$40,000.00) shall be paid upon the execution of this Agreement. The deposit shall be held by Buyer's Title Agency in a non-interest bearing trust account.

B. The balance of Two Million Nine Hundred Ten Thousand Dollars (\$2,910,000.00) shall be paid at the time of Closing by wire transfer or certified check.

3. Deposit.

A. The Deposit, in the form of cash, certified check or letter of credit, shall be paid to Buyer's Title Agency ("Escrow Agent") and shall be placed by Escrow Agent in a non-interest bearing escrow account pending Closing (as hereinafter defined). Upon receipt of the Deposit, Escrow Agent shall notify Seller and Buyer. If Closing does not occur hereunder, the Deposit shall be paid to the party entitled thereto in accordance with this Agreement.

B. The duties of Escrow Agent are only as herein specifically provided, and are purely ministerial in nature, and Escrow Agent shall incur no liability whatever except for willful misconduct or gross negligence, as long as Escrow Agent has acted in good faith.

C. Escrow Agent shall release the Deposit in accordance with the provisions of this Agreement, or otherwise upon the joint written instructions of Seller and Buyer. Except as aforesaid, Escrow Agent shall have no responsibility to determine the authenticity or validity of any such notice, direction, instruction, instrument, document or other item delivered by either party, and shall be fully protected in acting in accordance with any joint written notice, direction, or instruction given hereunder and reasonably believed to be authentic. Escrow Agent shall have the right, at any time after the occurrence of a dispute, to place the Deposit and interest thereon with a court of competent jurisdiction. The parties agree that they shall submit any such matters to the exclusive jurisdiction of the courts (federal or state) having situs in the State of New Jersey. Escrow Agent shall give written notice of such deposit to Seller and Buyer and thereafter, Escrow Agent shall be relieved of all further obligations and responsibilities hereunder.

D. The parties acknowledge that Escrow Agent is acting solely as an Agent at their request and for their convenience, that Escrow Agent shall not be deemed to be the agent of either of the parties, and that Escrow Agent shall not be liable to either of the parties for any act or omission on its part unless taken or suffered in bad faith, in willful disregard of this contract, or involving gross negligence. Seller and Buyer shall jointly and severally indemnify and hold

Escrow Agent harmless from and against all costs, claims and expenses, including reasonable attorneys' fees, incurred in connection with the performance of Escrow Agent's duties hereunder, except with respect to actions or omissions taken or suffered by Escrow Agent in bad faith, in willful disregard of this contract, or involving gross negligence on the part of Escrow Agent.

4. **Time and Place of Closing.** Provided Buyer has not terminated this Agreement as otherwise set forth herein, the closing of this transaction will take place within thirty (30) days following the successful completion of Buyer's due diligence inspections (as described in Section 9 hereof) at the law office of Dino S. Mantzas, Esquire, located at 701 Route 73 N., Suite 1, Marlton, New Jersey, or at such other date and time as the parties may agree.

5. **Commercial Zoning.** Seller warrants that Property is zoned Highway Commercial.

6. **Omitted**

7. **Bankruptcy Contingency**

A. Notice of Sale; Bid Protection Break-Up Fee:

(i) The parties acknowledge that the Seller has filed a Petition under Chapter 11 of the United States Bankruptcy Code at case # 17-22778-JNP, are currently Debtors in Possession of the Property and are, therefore, required to give notice to creditors, and others, of the proposed sale. The parties further recognize that the date upon which creditors, or others, may object to said sale, there will also be an opportunity for other prospective purchasers to submit offers for the purchase of the Property.

(ii) Concurrent with the execution of this Agreement, the Seller shall file the necessary Motion or other papers necessary for Bankruptcy Court approval of these contracts and to schedule a hearing to approve the sale of the Property to Buyer free and clear of all liens, claims and interests, with such papers to be in form and substance reasonably satisfactory to the Buyer.

(iii) In the event that Seller conducts a sale or auction process in which the prevailing bidder is a party other than Buyer, Buyer shall receive a break-up fee (Break-Up Fee) payable as an administrative expense of the Seller's estate, in an amount of up to \$5,000.00 upon presentation of invoices, as reimbursement for Buyer's expenses, including, without limitation, legal.

B. Approval of Bankruptcy Court

The parties further acknowledge that the sale of the Property and this Agreement in favor of the Buyer is subject to the approval by and continuing jurisdiction of the United States Bankruptcy Court ("Bankruptcy Approval Date"). If such approval is denied or revoked or the Order is reasonable unsatisfactory to Buyer, the Buyer shall be entitled to the return of the Deposit and, if applicable, any Break Up Fee approved by the Bankruptcy Court as provided herein and the parties shall be mutually released from all their obligations under this contract.

8. Quality and Insurability of Title.

A. Title to Property shall be (a) good and marketable and free and clear of all liens, restrictions, easements, encumbrances including municipal liens and assessments and liability for assessments for improvements now constructed (except as herein stated), leases, tenancies and other title objections; and (b) insurable as aforesaid at its usual and customary rates by any reputable title insurance company doing business in New Jersey. Title shall be conveyed by Seller on the date of closing by a Bargain and Sale Deed with Covenants Against Grantor's Acts, duly executed and acknowledged.

B. The Seller agrees to transfer, and the Buyer agrees to accept, ownership of the Property free of all claims and rights of others, except for: (1) the rights of utility companies to maintain pipes, poles, cables and wires over, on and under the street, the part of the Property next to the street, or running to any house or other improvement on the Property; and (2) recorded easements, conditions and restrictions which limit the use of the Property, unless the easements, conditions and restrictions: (a) are presently violated; or (b) provide that the Property would be forfeited if they were violated; (c) or unreasonably limit the use of the Property for Buyer's intended use as a convenience store, with accompanying fuel pumps and car wash.

C. If title to the Property cannot be conveyed to Buyer at the time of Settlement in accordance with the requirements of this Agreement or if any condition set forth below has not been fulfilled, then Buyer shall have the option of (1) taking such title as Seller can convey and waiving the unfulfilled condition, with abatement of the purchase price only to the extent of monetary liens of as ascertainable sum or (2) terminating Buyer's obligations under this Agreement, having any monies paid on account, if any, returned to them, together with reasonable expenses of obtaining use variance, legal fees, examining the title and making the survey.

9. Due Diligence.

A. The parties agree that for a period forty-five (45) days commencing on the Bankruptcy Approval Date (the "Inspection Period"), Buyer may have the Property inspected by appropriate professionals and contractors at the Buyer's expense. The inspection shall be limited to the environmental and geotechnical condition of the Property, the condition of title and survey. Upon written notice to Seller, Buyer may extend the Inspection Period by an additional 15-days ("Extended Inspection Period").

B. If at any time during the Inspection Period (or Extended Inspection Period, as the case may be), Buyer is not satisfied with the results of Buyer's inspections as aforesaid, Buyer may, at any time on or before the end of the Due Diligence Period (or Extended Inspection Period, as the case may be), terminate this Agreement by giving Seller written notification of such election, and the Deposit shall be paid to Buyer and this Agreement shall become null and void and of no force and effect (except for provisions of this Agreement which by their express terms survive the termination of this Agreement). In the event that Buyer has not notified Seller of its intention to cancel this Agreement, in writing, during the Inspection Period (or Extended Inspection Period, as the case may be), then Buyer will have waived its right to do so.

C. During the Inspection Period (or Extended Inspection Period, as the case may be), Buyer and its consultants shall have the right to enter upon the Property at all reasonable times, and upon reasonable notice, to perform such studies. Buyer defends, indemnifies and holds Seller harmless from any loss or claim, including reasonable attorney's fees, which may result from the performance of such studies, and in the event that the Property is in any way damaged or disturbed as a result of such studies, then in the event of a cancellation of this Agreement for any reason, Buyer shall restore the Property to its prior condition. Seller agrees that the indemnity set forth in this Section C shall not apply to any loss or claim arising out of Buyer's discovery of or obligation to submit any reportable environmental condition discovered on the Property to the applicable governmental authorities.

D. To the extent in Seller's possession, within ten (10) days from the full execution of this Agreement, Seller shall deliver to Buyer a copy of the survey of the Property (the "Survey") and any environmental reports, engineering and architectural plans, title commitments and policies, and other information relating to the Property, if any, and Seller shall make all records relating to the Property available to Buyer for inspection, copying, and auditing by Buyer's designated accountants, and shall cooperate with Buyer in obtaining any and all permits, licenses, authorizations and other governmental approvals necessary for the operation of the Property. In the event Closing does not occur hereunder, Buyer agrees to return all materials delivered to it by Seller.

10. Adjustments at Closing.

A. The Buyer and Seller agree to adjust the following expenses as of the closing date: rents, municipal water charges, sewer charges, taxes, and any other items customarily adjusted at closing. The Buyer or the Seller may require that any person with a claim or right affecting the Property be paid off from the proceeds of this sale. Seller will pay one-half of the title company settlement fee, all liens and discharge fees.

B. All realty transfer fees assessed against the Seller shall be paid by the Seller and the Mansion Tax assessed against the Buyer shall be paid by the Buyer.

C. If there are any clerical or computational errors at the time of closing, the parties will cooperate in correcting those errors as soon as they are discovered.

11. Representations of Seller.

Seller, to induce Buyer to enter into this Agreement and to purchase the Property represents and warrants to Buyer as follows:

A. **No Breach.** The execution and delivery of this Agreement and the other documents necessary or appropriate to the consummation of this sale does not constitute a violation or breach by Seller or any agreement to which Seller is a party. Nor will such execution, deliver and performance create any lien or encumbrance on the assets or properties of Seller, or accelerate the payment on any debt, liability or obligation of Seller.

B. Judgments, etc. Seller has no knowledge of any judgments, liens, or actions pending or threatened against Seller, its assets except for a lien for outstanding real estate taxes.

C. Litigation. There is no action, suit or proceeding pending or, to the knowledge of Seller, threatened against or affecting Seller or the Property or any portion thereof or relating to or arising out of the ownership, management or operation of the Property, in any Court or before or by any federal, state, county or municipal department, commission, board, bureau or agency or other governmental instrumentality that shall not be discharged on or prior to the Closing Date. There is no proceeding pending for the reduction or increase of the assessed valuation of the Property.

D. Other than Seller's lease with KLB SAGE, INC. (a Seller affiliate), which shall be terminated at Closing, there are no leases, tenancies, licenses or other rights of occupancy or use for any portion of the Property.

E. No person other than Buyer has any right or option to acquire the Property or any portion thereof.

F. Zoning. The current zoning classification of the Property is commercial and the existing use as a restaurant diner is permissible under the current zoning and to the best of Sellers' no violations have been issued which remain uncured.

G. Flood Zone. No portion of the Property is located within an area designated as a flood hazard area or an area which will require the purchase of flood insurance for the obtaining of any federally insured or federally related loan.

H. Water and Sewer. The Property is serviced by public water and sewer.

I. Property Lines. The Seller states that, to the best of Seller's knowledge: (a) all buildings, driveways and other improvements on the Property are within its boundary lines; and (b) no improvements on adjoining properties extend across the boundary lines of this Property.

J. Borrowing and Liens. Seller shall not mortgage, pledge, or subject to any lien or encumbrance any Asset or the Property or any of its assets, tangible or intangible, or waive any right of any substantial value.

K. Additional Contracts - Seller has not entered into any contracts with any person or entity which may not be canceled, without cause, on thirty (30) days' notice.

L. Eminent Domain. Seller covenants and warrants that it has not heretofore received any notice of any condemnation proceeding or other proceedings in the nature of eminent domain in connection with the Property. In the event of the taking or threatened taking of any part of the Property by eminent domain proceedings or the commencement of such proceedings, and such taking materially decreases the value of the Property, the Buyer shall have the option of declaring this Agreement null and void, and in such event, all money paid by Buyer on account of the Purchase Price together with all interest accrued thereon shall be returned to Buyer forthwith, and

C. Seller shall furnish Buyer with updated information in the event that Seller becomes aware of a material change in any of the items previously furnished Buyer or in any of Seller's representations and warranties.

D. Seller will maintain existing insurance coverage until Closing, and shall advise Buyer of any material change in coverage.

E. As a condition precedent to Buyer's obligations at Closing, Seller shall have duly performed, in all material respects, all covenants and other obligations to be performed by it under this Agreement.

13. **United States Person.** Seller is a "United States Person" within the meaning of Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended, and shall execute and deliver an "Entity Transferor" certification at Closing.

14. **Additional Conditions of Buyer's Obligation.**

The obligation of Buyer under this Agreement to purchase the Property from Seller is subject to the satisfaction at the time of Settlement of each of the following conditions (any one of which may be waived, in whole or in part, by Buyer at or prior to Settlement):

A. All of the representations and warranties by Seller set forth in this Agreement shall be true and correct at and as of the date of Settlement in all respects as though such representations and warranties were made at and as of the date of Settlement.

B. No representation, statement or warranty by Seller contained in this Agreement or in any exhibit attached hereto contains or will contain any untrue statement or omits or will omit a material fact necessary to make the statement of fact therein recited not misleading.

C. Seller shall have performed, observed and complied with all covenants, agreements and conditions required by this Agreement to be performed, observed and complied with prior to or as of the date of Settlement.

D. Except as may have been caused by Buyer, on the Closing Date there shall have been no material adverse change in the improvements on the Property from the date of execution of this Agreement by all parties, including but expressly not limited to, loss or damage by fire, theft, condemnation or other casualty.

15. **Seller's Warranties.**

A. Buyer acknowledges that Buyer has inspected the property or will have the property inspected by another and will accept the property "AS IS," subject to reasonable wear and tear. Seller makes no promises with respect to the condition of the property and assumes no responsibility or liability on account of any physical condition of the property, except that Seller represents that the roof is free from leaks and the electrical, plumbing and HVAC systems shall be maintained in good working condition through the date of closing.

B. Subject to the foregoing, Buyer acknowledges and confirms that Buyer is not relying on any representation or inducement which was or may have been made or implied by Seller or any other party acting on behalf of Seller with respect to the Real Estate or any circumstances of conditions affecting the Real Estate. Buyer is purchasing the Real Estate in an "AS IS" condition and with "ALL FAULTS" as of the date of this Agreement.

C. Seller warrants that they have no knowledge of any violation of any federal, state or local law and that Seller has not received any notice from any government authority, with respect to the Property which is the subject matter of this Agreement.

16. Environmental Laws.

A. Seller represents that he has received no written notification from any governmental authority that all or some portion of the Property violates any Environmental Laws (as hereinafter defined); or that any Hazardous Substances (as hereinafter defined) have been stored or generated at, released or discharged from or are present upon the Land and the Improvements, except in the ordinary course of business and in accordance with all Environmental Laws.

B. Seller represents and warrants, that to the best of Seller's knowledge

(1) The Property has never been used for the generation, manufacture, storage, treatment or discharge or disposal of hazardous materials.

(2) The Property has never been any release, discharge or spillage of hazardous materials upon in or under the Property.

(3) There is no underground storage tank nor any asbestos located on the Property.

17. Waiver of Condition.

A. Buyer and Seller each retain the right to waive any of the terms or conditions of this contract which are strictly for their respective benefits and to complete the closing in accordance with the remaining terms and conditions of this contract. Unless otherwise specifically provided in this contract, any such waiver shall be effective and binding only if made in writing and delivered at or prior to the closing.

B. No waiver by either party or any failure or refusal by the other party to comply with its obligations hereunder shall be deemed a waiver of any other or subsequent failure or refusal by the other party to so comply.

18. Indemnifications

A. Seller agrees to indemnify, defend and hold harmless the Buyer from, and to reimburse the Buyer for any loss, cost, expense, liability or damage (including reasonable counsel fees) which the Buyer may suffer or incur by virtue of (a) any material inaccuracy of any

representation of Seller or Owners in this Agreement; (b) any material breach of warranty of Seller in this Agreement; (c) the non-fulfillment of any covenant, undertaking, agreement or other obligation of Seller under this Agreement, unless due to Buyer's act or omission; (d) any noncompliance by Seller with bulk sales laws or similar laws which may be applicable to the sale or transfer of the Property; (e) any tax arising out of any event or state of facts occurring or existing prior to the Closing Date; and (f) any claim, litigation or other action of any nature whether civil, criminal, administrative, or investigative arising out of any act performed, transaction entered into or state of facts suffered to exist by Seller prior to the Closing Date.

B. Buyer agrees to indemnify, defend and hold harmless the Seller from, and to reimburse the Seller for any loss, cost, expense, liability or damage (including reasonable counsel fees) which the Seller may suffer or incur by virtue of (a) any inaccuracy of any representation of Buyer in this Agreement; (b) the breach of any warranty of Buyer in this Agreement; (c) the non-fulfillment of any covenant, the going-forward undertaking, agreement or other obligation of Buyer under this Agreement and (d) any claim, litigation, or other action of any nature whether civil, criminal, administrative, or investigative arising out of any act performed, transaction entered into, or state of facts suffered to exist by Buyer on or subsequent to the Closing Date.

19. **Bulk Sales Laws.** The transaction provided for herein is, or may be, subject to the Bulk Sales Taxation statutes and regulations as promulgated by the State of New Jersey. Buyer shall file a notice of proposed sale (e9600) with the New Jersey Division of Taxation. In the event that the New Jersey Division of Taxation requires the creation of an escrow for current or future tax liabilities on the Seller to the State of New Jersey, then Seller hereby agrees to escrow that amount with the Buyer's attorney, to be held in trust until such time as the New Jersey Division of Taxation, Bulk Sale Section issues its letter authorizing the release to Seller.

20. **Real Estate Brokerage Fees.** The parties to the within Agreement represent and warrant, each to the other, that all negotiations relative to this Agreement have been carried on by them directly and without the intervention of any person, and they shall indemnify and hold each other harmless against and in respect of any claim for brokerage or other commissions relative to this Agreement, or to the transactions contemplated hereby.

21. **Failure of Parties to Settle**

A. If title to the Property cannot be conveyed to Buyer at the time of Settlement in accordance with the requirements of this Agreement, Buyer shall have the option of terminating Buyer's obligations under this Agreement, having any monies paid on account returned to them and in the event that the Agreement is terminated due to a breach of this Agreement or other default by Seller, Buyer shall be entitled to recover all of its actual out of pocket expenses, including reasonable attorney's fees incurred pursuant to this Agreement, in an amount not to exceed \$10,000.00 and Buyer may pursue specific performance.

B. In the event of default by Buyer, Seller may retain all sums paid on account of the purchase price as liquidated damages for such failure to carry out this Agreement. The parties agree that such damages are to be the sole remedy for such breach, and that, at the time of the

execution of this Agreement, it would be impractical and extremely difficult to fix the actual damages that would result from Buyer's default. Upon payment of the deposit monies to Seller as above provided, Buyer shall be released from all liability under this Agreement and this Agreement shall become null and void.

C. Notwithstanding the above, an event of default shall not be deemed to have occurred unless a party shall default in their obligations under this Agreement and fails to cure such default within ten (10) days after written notice from the other party.

22. Risk of Loss

A. The Seller assumes all risks of destruction, loss or damage due to fire or other casualty up to the date of closing.

B. Seller shall maintain (or cause to be maintained) in effect until the Closing Date all insurance policies now in effect with respect to the Property.

C. If, at any time prior to the Closing Date, all or any portion of the Property is destroyed or materially damaged as a result of fire or any other casualty whatsoever, Seller shall promptly give written notice thereof to Buyer and Buyer shall have the right, at its sole option, either (i) to terminate this Agreement and receive a refund of the Deposit, or (ii) to complete Closing hereunder and take possession of the Property in its damaged condition.

D. If Buyer does not terminate this Agreement, the proceeds of any insurance paid between the date of this Agreement and the Closing Date shall be paid or assigned by Seller to Buyer on the Closing Date and all unpaid claims and rights in connection with losses shall be assigned to Buyer at the Closing without in any manner affecting the Purchase Price.

E. Notwithstanding anything herein to the contrary, in the event the destruction, loss or damage due to fire or other casualty is less than \$50,000.00 Seller shall have the right to repair the damage, at Seller's cost. The closing date shall be extended for a reasonable period of time to permit the completion of the repairs.

23. Municipal Certificates. At or prior to settlement, Seller shall furnish to Buyer all required Mt Laurel Township municipal certificates, including but not limited to a Certificate of Occupancy and a Certificate of Fire Code status certifying compliance with fire codes for the Property, if either is required under municipal law, and shall, at his own cost, make all repairs and improvements required to obtain such Certificates, unless the areas of repairs are scheduled to be demolished by Buyer and the Township waives the repair in writing.

24. Conditions Precedent to Buyer's Obligations.

In addition to the conditions precedent set forth elsewhere in this Agreement, the obligations of Buyer hereunder shall be conditioned upon the fulfillment of the following conditions (unless waived in the discretion of Buyer or as otherwise provided herein):

A. Receipt of a Court Order by the United States Bankruptcy Court approving the sale of the Property under this contract in accordance with the provisions of Sections 7 A and B, free and clear of all liens and encumbrances.

B. The performance by Seller at or prior to the Closing Date of all duties required of it by this Agreement.

C. Not less than five (5) business days prior to Closing, delivery of the items required to be delivered by Seller.

D. At Closing, Seller not being in default in any material respect under this Agreement, including without limitation, the failure in any material respect of any representation, warranty or covenant by Seller and all of Seller's representations, warranties and covenants shall be true in all material respects.

E. Omitted

F. At Closing, Buyer's receipt of an owner's title insurance policy, or "marked-up" title commitment with policy to follow, at customary rates in accordance with the Title Commitment, without exceptions other than Permitted Exceptions; provided, however, that the foregoing condition shall be deemed waived by Buyer if Buyer's inability to obtain such title insurance policy is caused by Buyer.

G. The absence of any material claim or liability of the Property to which the Buyer may be subject if Buyer acquires the Property (other than Permitted Exceptions).

H. From and after the date hereof, there shall have been no material adverse change in the Property.

25. Closing Deliveries.

In connection with the Closing, Seller shall deliver the following:

A. Bargain and Sale Deed, with Covenants Against Grantor's Acts in customary form (the "Deed"), duly executed and acknowledged in recordable form.

B. Seller's Residency Certification and Affidavit of Consideration.

C. Settlement statement in a form approved by Seller and Buyer (the "Settlement Statement").

D. Certificate which confirms Seller's United States Taxpayer Identification Number, and (ii) states that Seller is not a "foreign person" within the meaning of Section 1445 of the United States Internal Revenue Code of 1986, as amended (the "FIRPTA Certificate").

neither party shall have any further obligations hereunder or Buyer may elect to proceed with the purchase, without abatement of the purchase price, but with an assignment of all Seller's right, title and interest in and to any condemnation award.

M. Seller is the sole owner of the Property with full power and authority to enter into and carry out this Agreement and the transactions contemplated hereby, subject only to the Bankruptcy Court's approval.

N. To the best of Sellers' actual knowledge, there are no known material, mechanical or structural defects affecting the buildings located upon the Property nor do any conditions exist which, if disclosed to the Township of Mt Laurel, or any other governmental agencies or to any insurance carrier presently insuring the Real Estate or to the Bureau of Fire Underwriters having jurisdiction in Burlington County, New Jersey, would cause any or all of the foregoing to require correction or change to such condition.

O. Certificates of Occupancy and all other licenses, permits, authorizations and approvals required by all governmental authorities having jurisdiction haven been issued and paid for.

P. Materiality of Representation. Seller acknowledges that all of the representations and warranties set forth in this Agreement are material, and that the inaccuracy or breach of any representation or warranty is sufficient grounds for the cancellation of this Agreement and the exercise by Buyer of whatever remedies may be available.

Q. Survival. Except for the representation set forth in Section 11 (D) which shall survive Closing, Seller's representations and warranties shall not survive the Closing hereunder.

12. Seller's Obligation Pending Closing.

Through the Closing Date, unless this Agreement is earlier terminated as herein provided, Seller covenants to perform the following obligations:

A. Seller shall continue to operate and maintain the Property consistent with its operation and maintenance at the time of execution of this Agreement and in as good order and repair as of the date hereof. In this respect, Seller shall not knowingly violate any lawful order or directive of a federal, state or local governmental entity or agency with respect to the Property:

B. Seller will not sell, assign or convey any right, title, or interest whatever in the Property to any third party other than as provided herein or in the tenant leases entered into in the normal course of business. Seller will not create (or agree to create or allow to be created) any exception to title or any covenant, restriction, easement or other lien on, affecting or encumbering the Property or the Seller without Buyer's prior written consent (which consent shall not be unreasonably withheld).

E. Title Affidavit in a standard form necessary to permit the Buyer's title insurer to delete, among other things, mechanic's lien exceptions, parties in possession exceptions, and the standard gap exception.

F. Such other documents reasonably request by the Buyer.

G. The Mt Laurel Township Continued Certificate of Occupancy and fire inspection certificate, if required.

H. The Division of Taxation's escrow instruction letter

26. **Assessments.** Certain municipal improvements such as sidewalks and sewers may result in the municipality charging Property owners to pay for the improvement. All unpaid charges (assessments) against the Property for work completed before the Closing will be paid by the Seller at or before the closing. If the improvement is not completed at or before closing, then only the Buyer will be responsible. If the improvement is completed, but the amount of the charge (assessment) is not determined, the Seller will pay an estimated amount at the closing. When the amount is finally determined, the Seller will pay any deficiency to the Buyer (if the estimate proves to have been too low), or the Buyer will return any excess to the Seller (if the estimate proves to have been too high).

27. **Integration.** This Agreement contains the entire understanding between the parties, and there are no representations, warranty, covenant, or undertaking, other than those expressly set forth herein and therein. A modification or waiver of any of the provisions of this Agreement shall be effective only if made in writing and executed with the same formality as this Agreement. The failure of either party to insist upon strict performance of any of the provisions of this Agreement shall not be construed as a waived of any subsequent default of the same or similar nature.

28. **Parties Bound.** This Agreement shall be binding upon and inure to the benefit of the contracting parties and all who succeed to their rights and responsibilities, including their respective heir, executors, administrators, legal representative, successors and assigns, where permitted by this Agreement.

29. **Notices**

A. All notices under this Agreement must be in writing. The notices must be delivered personally, sent by certified mail return receipt requested to the other party at the address set forth above or via email or by fax to the other party, or to that party's attorney. All mailed notices shall be deemed to have been given when sent to the other parties. For purposes of notice the addresses of the parties shall be as follows until changed by notice.

Upon Seller:
Kostas Roustas and Stella Roustas
c/o Sage Diner
1170 Route 73
Mount Laurel, New Jersey 08054

Copy to:
Dino Mantzas, Esquire
701 Route 73 N., Suite 1
Marlton, New Jersey 08053

Upon Buyer:
1170 ROUTE 73 LLC
491 Old York Road, Suite 200
Jenkintown PA 19046

Copy to:
Anthony J Beldecos, Esquire
Lundy Beldecos & Milby PA
450 N Narberth Ave Ste 200
Narberth PA 19072
abeldecos@LBMLaw.com

and

Peter J. Soloff, Esquire
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103-6998
Soloff@BlankRome.com

B. **Electronic Transmission.** The facsimile transmission (FAX) or e-mail transmission (.pdf) of a signed copy of this Agreement, any counter offer, addendum or amendment to the other party or their attorney followed by an acknowledgment of receipt, shall constitute delivery of the signed document. The Seller and Buyer agree to confirm the transmission to the other party or their agent

30. **Survival of Terms of Contract.** Unless otherwise indicated in this Agreement, the warranties, covenants and promises herein contained shall not survive closing and shall continue in full force and effect.

31. **Choice of Law and Venue, Consent to Jurisdiction, Waiver of Jury Trial.** This Agreement has been made and entered into in the State of New Jersey, and the laws of the State of New Jersey shall govern the validity and interpretation of it and the performance under it. In

the event that any suit is brought on any claim arising from or relating to this Agreement it shall be venued in Burlington County. All parties hereby consent to jurisdiction in that venue and hereby agree to waive their right to trial by jury for any and all claims arising from or relating to this Agreement.

32. **Assignment.** Except as set forth herein, Buyer expressly agrees not to assign, sell or in any manner transfer this contract or any right, title or interest therein or place any sign upon the said Property without first obtaining the written consent of the Seller thereto. Notwithstanding anything herein to the contrary, Buyer shall have the right to assign this contract to its corporate or limited liability nominee without the permission of Seller.

33. **No Construction Against Drafter.** It is acknowledged and agreed by the parties that each has equal bargaining power with respect to the transactions contemplated by this Agreement and that each has participated equally in the negotiation and drafting of this Agreement and the other Closing Documents and, therefore, no presumptions shall arise favoring either party by virtue of its authorship of any of the provisions of this Agreement or the other Closing Documents or the modification, addition or deletion of such provisions herein, therein, or in prior drafts hereof or thereof.

34. **Counterpart Execution.** This contract may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

35. **Waiver.** Failure to insist upon strict compliance of any of the terms, covenants, or conditions hereof shall not be deemed a waiver, and relinquishment of any right or power hereunder at any one time or more times shall not be deemed a waiver or relinquishment of such right or power at any other time.

36. **Severability.** If any one or more of the provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality or unenforceability of the remaining provisions of this Agreement shall not be affected thereby.

37. **Headings.** The headings preceding the text of the several sections of this Agreement are inserted for convenience and shall not affect the meaning, construction, scope, or effect of this Agreement.


38. **Gender and Number.** In all references herein to any parties, persons, entities or corporations the use of any particular gender or the plural or singular number is intended to include the appropriate gender or number as the text of the within instrument may require.



39. **Cancellation of Contract.** If this contract is legally and rightfully cancelled by either party pursuant to any of the paragraphs in this contract providing for such cancellation, all deposit monies shall be returned to the Buyer and neither party shall have any further obligation to the other.

40. **Possession.** At the closing, the Buyer will be given possession of the Property unless otherwise agreed in this contract.

41. **Complete Agreement.** This Agreement is the entire and only agreement between the Buyer and the Seller with respect to the subject matter hereof. This contract replaces and cancels any previous agreements between the Buyer and the Seller. This contract can only be changed by an agreement in writing signed by both Buyer and Seller. The Seller states that the Seller has not made any other contract to sell the Property to anyone else.

IN WITNESS WHEREOF, the parties have subscribed their names the day and year first above-mentioned.

WITNESS OR ATTEST



KOSTAS ROUSTAS, Seller

STELLA ROUSTAS, Seller

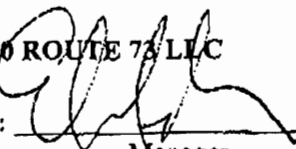
1176 ROUTE 78 LLC
BY: 
Manager

Exhibit "A"
Legal Description

LEGAL DESCRIPTION OF THE ORIGINAL LOT PURCHASED

ALL THAT CERTAIN TRACT OR PARCEL OF LAND AND PREMISES SITUATE, LYING AND BEING IN THE TOWNSHIP OF MT. LAUREL, COUNTY OF BURLINGTON AND STATE OF NEW JERSEY. THE LEGAL DESCRIPTION IS;

BEGINNING AT A POINT ON THE NORTHERLY LINE OF CHURCH ROAD (50 FEET WIDE) SAID POINT BEING 349.74 FEET NORTHWESTWARDLY OF THE SOUTHERLY LINE OF NEW JERSEY ROUTE 73; THENCE

(1) NORTH 79 DEGREES 08 MINUTES 00 SECONDS WEST ALONG SAID NORTHERLY LINE OF CHURCH ROAD, 208.18 FEET TO ~ POINT CORNER TO LOT 28; THENCE

(2) NORTH 10 DEGREES 52 MINUTES 00 SECONDS EAST ALONG SAID LOT 28, 149.65 FEET TO A POINT; THENCE

(3) SOUTH 58 DEGREES 59 MINUTES 00 SECONDS EAST ALONG THE LINE OF LOT 14, 57.59 FEET TO A POINT CORNER; THENCE

(4) NORTH 43 DEGREES 00 MINUTES 00 SECONDS EAST ALONG LINE OR LOT 14, 69.97 FEET TO A POINT FOR A CORNER; THENCE

(5) SOUTH 46 DEGREES 00 MINUTES 00 SECONDS EAST STILL ALONG THE LINE OF LOT 14" 1.00 FOOT TO A POINT; THENCE

(6) NORTH 43 DEGREES 00 MINUTES 00 SECONDS EAST STILL ALONG LOT 14, 26 FEET TO A POINT; THENCE

(7) NORTH 46 DEGREES 00 MINUTES 00 SECONDS WEST STILL ALONG LOT 14, 1.00 FOOT TO A POINT; THENCE

(8) NORTH 43 DEGREES 00 MINUTES 00 SECONDS EAST ALONG LOT 14, 41 FEET TO A POINT IN THE SOUTHWESTERLY LINE OF NEW JERSEY ROUTE 73; THENCE

(9) SOUTH 46 DEGREES 00 MINUTES 00 SECONDS EAST ALONG SAID NEW JERSEY ROUTE 73 t 190 FEET t'0 A POINT CORNER TO LOT 20 j THENCE

(10) SOUTH 43 DEGREES 00 MINUTES 00 SECONDS WEST ALONG LOT 20; 102.56 FEET TO A POINT; THENCE

(11) SOUTH 33 DEGREES 47 MINUTES 00 SECONDS WEST STILL ALONG LOT 20, 59.82 FEET TO THE POINT AND PLACE OF BEGINNING.

BEING LOTS 15, 16, 17, 18, 19, 28, 29, 30 & 32 BLOCK 1306.01 ON THE TAX MAP.

LEGAL DESCRIPTION OF PARKING LOT ON THE SIDE

ALL THAT CERTAIN LOT, tract or parcel of land and premises situate, lying and being in the Township of Mount Laurel, County of Burlington and State of New Jersey, bounded and described as follows:

BEGINNING at a pipe in the Southwesterly line of New Jersey Highway Route S-41, distant 545.1 feet Northwestwardly from the intersection of the middle line of Church Road with the Southwesterly line of New Jersey State Highway Route S-41, said point being also in the dividing line between lots Nos. 18 and 19, on plan of lots hereinbefore mentioned; thence

(1) North 46 degrees West along the Southwesterly line of said New Jersey State Highway Route S-41, the distance of 50 feet to a stake in the dividing line between lots Nos. 17 and 18, on said plan; thence

(2) South 43 degrees West along the dividing line between lots Nos. 17 and 18, said plan, the distance of 159.45 feet to a point in the rear dividing line between lots Nos. 18 and 28, said plan; thence

(3) Along the rear dividing line between lots Nos. 18 and Lots 28 and 29, said plan, South 59 degrees 14 minutes East, the distance of 5\12 feet to a point in the dividing line between lots Nos. 18 and 19, said plan; thence

(4) Along said dividing line between lots 18 and 19, said plan., North 43 degrees East, the distance of 147.97 feet to the place of beginning.

BEING Lot 18, Block 1306.1, on plan of Lots of Good Fellowship Improvement developed by Tony Tommarelli; and

Tract No.2 - BEGINNING at a point in land now of Elmer Latham and Margaret, his wife, 52 feet from the Southwesterly line of New Jersey State Highway Route S-41 distant 544.1 feet Northwestwardly from the Intersection of the middle line of Church Road with the Southwesterly line of said New Jersey State Highway Route S-41 said beginning point being the Southeasterly wall of a certain garage erected on lands of Holland K. Magee and Marie D. Magee, his wife; thence

(1) Southwestwardly along the outside line of said garage 26 feet to a point at the rear line of said garage, thence

(2) Northwestwardly to a line of lands now of the said Holland K. Magee and Marie D. Magee, his wife, 1 foot more or less; thence

(3) Northeastwardly at right angles to the aforesaid New Jersey State Highway Route S--41 and along the Easterly line of said lands 26 feet; thence

(4) Southeastwardly 1 foot more or less to the place of beginning.

BEING known as Lot 14, Block 1306.01 on the tax map of Mount Laurel Township and as to both tracts being known as 1148 Route 73 Mount Laurel New Jersey.