

Law Offices of Scott E. Kaplan, LLC.
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Attorney for Debtor

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re: : **CHAPTER 11**
:
MARIA ROSA SPERA, : **Case No. 16-14254-CMG**
:
Debtor :

**NOTICE OF MOTION
FOR AUTHORIZATION TO SELL REAL ESTATE**

PLEASE TAKE NOTICE that on December 6, 2016 at 10:00 a.m. or as soon thereafter as counsel can be heard, the undersigned shall move before the Honorable Christine M. Gravelle, Bankruptcy Judge presiding at the United States Bankruptcy Court House, Courtroom #3, 402 East State Street, Trenton, New Jersey 08608 for an Order authorizing the sale of the property known as 3440 South Broad Street, Hamilton Township, New Jersey, free and clear of all liens and encumbrances except real estate tax liens and short payoff of Investors Bank mortgages/liens and; granting movant such further relief as the Court deems equitable and just.

PLEASE TAKE FURTHER NOTICE that if you contest this motion, you must appear in Court on the date noted and you are further required to file with the Court and serve on the undersigned a written response no later than seven (7) days prior to the hearing date set forth herein.

PLEASE TAKE FURTHER NOTICE, in the event that no objection or responsive pleading is filed to the Motion, the Motion shall be deemed uncontested on the return date and the relief sought herein may be granted in the Court's discretion.

PLEASE TAKE FURTHER NOTICE that in support of this motion counsel will rely upon the attached Certification and supporting documents.

PLEASE TAKE FURTHER NOTICE, that oral argument is not requested unless the motion is contested.

PLEASE TAKE FURTHER NOTICE that pursuant to Local Rule 3, no brief is necessary.

Law Offices of Scott E. Kaplan, LLC

By: /s/ Scott E. Kaplan
Scott E. Kaplan, Esquire

Dated: November 3, 2016

CONTRACT FOR SALE OF REAL ESTATE

This Contract for Sale is made on August , 2016

BETWEEN Rosa Spera whose address is 5 Cullien Way, Trenton, New Jersey 08620-9795 referred to as the Seller,

AND PV Broad Street, LLC whose address is 172 Bordentown Georgetown Road, Chesterfield, New Jersey 08515 referred to as the Buyer.

The words "Buyer" and "Seller" include all Buyers and all Sellers listed above.

1. Purchase Agreement. The Seller agrees to sell and the Buyer agrees to buy the property described in this contract.

2. Property. The property to be sold consists of: (a) the land and all the buildings, other improvements and fixtures on the land; (b) all of the Seller's rights relating to the land; and (c) all personal property specifically included in this contract. The real property to be sold is commonly known as 3440 South Broad Street in the Township of Hamilton, in the County of Mercer and State of New Jersey. It is shown on the municipal tax map as Block 2542 Lot 31 this property is more fully delineated on the attached Schedule A.

3. Purchase Price. The purchase price is (Four Hundred Thirty Five Thousand Dollars and No Cents)

\$ 435,000.00

4. Payment of Purchase price. The Buyer will pay the purchase price as follows:

Previously paid by the Buyer (initial deposit)	\$ 1,000.00
Upon signing of this contract	\$ 42,000.00
Amount of mortgage (paragraph 6)	\$ 325,000.00
Balance to be paid at closing of title, in cash or by certified or bank cashier's check (subject to adjustment at closing)	\$ 67,000.00

5. Deposit Monies. All deposit monies will be held in trust by the attorney for the Seller until closing.

6. Mortgage Contingency. The Buyer agrees to make a good faith effort to obtain a first mortgage loan upon the terms listed below. The Buyer has until September 16, 2016 to obtain a commitment from a lender for this mortgage loan or to agree to buy the property without this loan. If this is not done before this deadline, and any agreed upon extensions, either party may cancel this contract.

Type of Mortgage:	Conventional
Amount of Loan:	\$325,000.00
Interest Rate:	Prevailing
Length of Mortgage:	Prevailing

7. Time and Place of Closing. The closing date cannot be made final at this time. The Buyer and Seller agree to make October 31, 2016 the date for the closing. Both parties will fully cooperate so the closing can take place on or before the estimated date. The closing will be held at the office of the Buyers attorney or any place that is mutually agreed upon.

8. Transfer of Ownership. At the closing, the Seller will transfer ownership of the property to the Buyer. The Seller will give the Buyer a properly executed deed and an adequate Affidavit of Title. If the Seller is a corporation, it will also deliver a corporate resolution authorizing the sale.

9. **Type of Deed.** A deed is a written document used to transfer ownership of property. In this sale, the Seller agrees to provide and the Buyer agrees to accept a deed known as bargain and sale with covenants against grantors' acts.

10. **Personal Property and Fixtures.** Many items of property become so attached to a building or other real property that they become a part of it. These items are called fixtures. They include such items as built-in shelving. All fixtures are INCLUDED in this sale unless they are listed below as being EXCLUDED.

(a) The following items are INCLUDED in this sale: gas and electric fixtures, lighting fixtures, screens, shades, awnings, storm windows and doors, sinks, existing ansil hood systems (2), walk in refrigerator/freezer, counters, seating booths, menu boards, and pizza oven.

(b) The following items are EXCLUDED from this sale:

11. **Physical Condition of the Property.** This property is being sold "as is". The Seller does not make any claims or promises about the condition or value of any of the property included in this sale. The Buyer has inspected the property and relies on this inspection and any rights which may be provided for elsewhere in this contract. The Seller agrees to maintain the grounds, buildings and improvements subject to ordinary wear and tear.

12. **Inspection of the Property.** The Seller agrees to permit the Buyer to inspect the property at any reasonable time before the closing. The Seller will permit access for all inspections provided for in this contract.

13. **Building and Zoning Laws.** The Buyer intends to use the property for a Pizzeria/Restaurant. The Seller, to the best of their knowledge, represents that the continued use of the property as a Pizzeria, Restaurant, and Catering facility is a legally non-conforming use and is not in violation of the Hamilton Township land use ordinance. The Buyer will obtain and pay for all inspections and correct any and all violations if required by the governing municipality. This includes any "Certificate of Occupancy".

14. **Flood Area.** The federal and state governments have designated certain areas as "flood areas". This means they are more likely to have floods than other areas. If property is in a "flood area" the Buyer may cancel this contract within thirty (30) days of signing of this contract by all parties.

15. **Property Lines.** The Seller states that all buildings, driveways and other improvements on the property are within its boundary lines. Also, no improvements on adjoining properties extend across the boundary lines of this property.

16. **Ownership.** 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:

(a) 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;

(b) recorded agreements which limit the use of the property, unless the agreements: (1) are presently violated; (2) provide that the property would be forfeited if they were violated, or (3) unreasonably limit the normal use of the property; and

In addition to the above, the ownership of the Buyer must be insurable at regular rates by any title insurance company authorized to do business in New Jersey subject only to the above exceptions.

17. **Correcting Defects.** If the property does not comply with paragraphs 15 or 16 of this contract, the Seller will be notified and given thirty (30) days to make it comply. If the property still does not comply after that date, the Buyer may cancel this contract or give the Seller more time to comply.

- 18. Risk of Loss.** The Seller is responsible for any damage to the property, except for normal wear and tear, until the closing. If there is damage, the Buyer can proceed with the closing and either:
- (a) require that the Seller repair the damage before the closing; or
 - (b) deduct from the purchase price a fair and reasonable estimate of the cost to repair the property.

In addition, either party may cancel this contract if the cost of repair is more than 10% of the purchase price.

- 19. Cancellations of Contract.** If this contract is legally and rightfully canceled, the Buyer can get back the deposit and the parties will be free of liability to each other. However, if the contract is canceled in accordance with paragraphs 14, 17 or 18 of this contract, the Seller will pay the Buyer for all title and survey costs.

- 20. Assessments for Municipal Improvements.** 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 before the closing, then only the Buyer will be responsible. If the improvement is completed, but the amount of the charge (assessment) is determined, the Seller will pay an estimated amount at the closing. When the amount of the charge 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).

- 21. Adjustments at Closing.** The Buyer and Seller agrees to adjust the following expenses as of the closing date: rents, municipal water charges, sewer charges, taxes, interest on any mortgage to be assumed and insurance premiums. If the property is heated by fuel oil, the Buyer will buy the fuel oil in the tank at the closing date. The price will be the current price at that time as calculated by the supplier. 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.

- 22. Possession.** At the closing the Buyer will be given possession of the property.

- 23. Complete Agreement.** This contract is the entire and only agreement 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.

- 24. Parties Liable.** This contract is binding upon all parties who sign it and all who succeed to their rights and responsibilities.

- 25. Notices.** All notices under this contract must be in writing. The notices must be delivered personally or mailed by certified mail, return receipt requested, to the other party at the address written in this contract, or to that party's attorney.

- 26. Real Estate Brokers' Commission.** The Seller agrees to pay the Real Estate Broker a commission for services rendered in procuring this sale as follows:

<u>NAME OF REAL ESTATE BROKERS</u>	<u>COMMISSION</u>
Richardson Commercial, LLC Realtors 52 State Highway #33 Hamilton, NJ 08619-2538	6% of the gross sales price

This commission will not be earned until the title is transferred and the purchase price is paid. This commission will be paid at the closing.

27. **Feasibility/Due Diligence Period.** Buyer shall have a period of thirty (30) days from the date of execution of this Agreement to make such zoning, structural, mechanical, legal, engineering, environmental, soil, geological tests and studies, and such other tests, investigations, estimates, takeoffs and inquiries as it shall deem necessary and appropriate, all at its own cost and expense, in order to determine whether to proceed with the acquisition of the Premises. Buyer shall, on or before the expiration of the Feasibility/Due Diligence Period, notify the Seller in writing if it determines it shall terminate this Agreement as described below. Seller agrees to turn over title policy, building plans and building warranties, if available.


In the event that Buyer determines, in the sole exercise of its discretion, that as a result of the tests and studies performed during the Feasibility/Due Diligence Period that Buyer shall not proceed with the acquisition and development of the Premises, Buyer shall have the right, at its option, upon written notice to Seller to cancel this Agreement. There shall be no further liability or obligation on either of the parties hereto and this Agreement shall become **NULL AND VOID**. In the event that the Buyer executes the Right of Cancellation under this paragraph, the Buyer agrees to turn over to the Seller at that time all engineering studies and any materials related to the site.

Buyer shall have the right to enter upon the Premises for the purpose of making, at its sole cost and expense, surveys and site engineering studies, including, without limitation, soil analysis, hazardous waste or other environmental testing, ground test, load bearing tests and verifying test boring data. Prior to entering the Premises, Buyer shall provide to Seller a certificate evidencing that Buyer has comprehensive general liability insurance with a combined single limit for bodily injury and property damage of not less than One Million Dollars (\$1,000,000.00) per occurrence. Buyer shall indemnify, defend and hold harmless Seller from and against any claims, damage or loss caused by Buyer's entry, including reasonable counsel fees for defending against any actions or threatened actions, upon the Premises to perform the tests herein above stated. Immediately after completion of the Buyer's Feasibility/Due Diligence studies, Buyer will restore the Property to its condition prior to the Buyer's entry onto the Property.

28. The parties are made aware that the Seller or the entity owned by the Seller has filed for protection under the Bankruptcy Court. This Contract is subject to the approval of the United States Bankruptcy Court.

We agree to the above terms and conditions.


SIGNED AND AGREED TO BY:
Witnessed or Attested by:



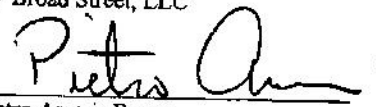
As to Seller
10/24/16
Date



Rosa Spera- Seller



As to Buyer
10/24/16
Date

PV Broad Street, LLC
By: 

Pietro Amari- Buyer
Managing Member

SUBJECT TO ADDENDUM TO CONTRACT DATED 10/24/2016 RS

ADDENDUM

Re: PROPERTY: 3440 South Broad Street, Hamilton Twp., Mercer County, NJ
SELLER: Rosa Spera
BUYER: PV Broad Street, LLC

This Addendum amends and modifies the Agreement of Sale. In the event of a conflict between the provisions of this Addendum and the provisions of the main body of the Agreement of Sale, this Addendum shall supersede the Agreement of Sale.

Contract shall be amended as follows:

1. Paragraph 10, a complete list of fixtures and equipment is attached as Exhibit "A".
2. Paragraph 25, as to notices, add: "email" The parties attorneys are to be sent notice:

As to Buyer: Angelo S. Ferrante, Esq., 795 Parkway Ave. A-3, Trenton, NJ 08618j

As to Seller: Scott Eric Kaplan, Esq., 12 No. Main St., P.O. Box 15, Allentown, NJ 08501

3. Add: Governmental and Regulatory Approvals. As a condition precedent to the Buyer's obligation to close title, the Buyer shall have the right to obtain at the Buyer's cost and expense any and all governmental and regulatory approvals required to use the premises as a restaurant/pizzeria and catering facility and to confirm that same is still a viable legally nonconforming use that is not in violation of the Hamilton Township Land Use Ordinance or any other Ordinances issues by the Township including health.
4. Add: Seller Representations: (a) Seller's Authority For Binding Agreement. The Seller has full power, right and authority to own the Property and to enter into and fulfill his obligations under this Agreement. This Agreement is the valid and legally binding obligation of the Seller, enforceable against the Seller in accordance with its terms.
 - (b) Condemnation. The Seller has not received any notice of condemnation or eminent domain proceeding pending with regard to any part of the Property, and to the best of the Seller's knowledge, no such proceedings are proposed. The Seller has not received any notice of proceedings to change the zoning of the Property. The Seller has not received any notice that the Property has been designated for redevelopment by the governing body of the City of Trenton.
 - (c) No Lawsuits. There are no claims, lawsuits or proceedings pending, or to the best of the Seller's knowledge, threatened against or relating to the Seller or the Property.

(d) No Tax Assessments. To the Seller's best knowledge, there are no public improvements in the nature of off-site improvements, or otherwise, which have been ordered to be made and/or which have not heretofore been assessed, and to the Seller's best knowledge, there are no special or general assessments currently affecting or pending against the Property, and the Seller has not filed or caused to be filed any notice of protest against, nor have any actions been commenced by the Seller to review real property tax assessments in respect of the Property.

(e) Leases. There are no oral or written leases or rights of occupancy or grants or claims of right, title or interest in any portion of the Property.

(f) Rights to Purchase. There are no outstanding agreements, options, rights of first refusal, conditional sales agreements or other agreements or arrangements, whether oral or written, regarding the purchase and sale of the Property, or which otherwise affect any portion of or all the Property.

(g) Environmental. The Seller acknowledges that the Buyer will be seeking "Innocent Purchaser" status as provided at N.J.S.A. 58:10-23.11g(d). This Agreement and the Buyer's obligation to close title hereunder is subject to and contingent upon the Buyer obtaining, at the Buyer's sole cost and expense, receipt of a Preliminary Assessment Report ("PAR") in form and substance reasonably satisfactory to the Buyer, prepared by a licensed professional engineer or other qualified environmental consultant ("Expert") for the Property. To the best of the Seller's knowledge, no Hazardous Substances (defined below) and no Hazardous Wastes (defined below) are present on the Property. For purposes of this Agreement, "Hazardous Substances" means those elements and compounds which are designated as such in Section 101(14) of the Comprehensive Response, Compensation and Liability Act (CERCLA), 42 U.S.C. Section 9601 (14), as amended, all petroleum products and by-products, and any other hazardous substances as that term may be further defined in any and all applicable federal, state and local laws; and "Hazardous Wastes" means any hazardous waste, residential or household waste, solid waste, or other waste as defined in applicable federal, state and local laws. To the best of the Seller's knowledge, neither the Property nor any portion thereof, has been identified on the federal CERCLA National Priorities List (40 C.F.R. Part 300, App. B) or any state or local list of potential hazardous waste disposal sites or as an industrial establishment.

(h) Contractors. All contractors, laborers, materialmen, and engineers that have performed work upon or furnished labor or materials for or on behalf of the Seller, or the Seller's agents, contractors, subcontractors or employees, to improve or benefit the Property have been or will within the time periods required under their respective contracts with the Seller or the Seller's contractors be paid in full.

5. Add: The Buyer is permitted to have the Property inspected by a reputable termite inspection company to determine if there is any damage or infestation caused by termites or other wood-destroying insects. If the Buyer chooses to have this inspection, the inspection must be completed and the Seller notified of the results within 14 days of the signing of this contract by all parties. The Buyer will pay for this inspection. If infestation or damage is found, the Seller will be given 30 days to agree to exterminate all infestation and repair all damage before the closing or the Buyer may cancel this contract.

6. Add: The Buyer is permitted to have the Property inspected by an engineer, builder or home inspector to determine the presence of any structural defects, any urea-formaldehyde foam insulation or radon gas, and to determine that all electrical, plumbing, heating, well (including potability) and septic systems, roof and flashings, and in ground pool, if applicable, are in working order and need no major replacements or repairs. If Buyer chooses to have the inspection(s), the inspection(s) must be completed and the Seller notified of the results within 30 calendar days of the signing of this contract by all parties. The Buyer will pay for this inspection. If any structural defect, urea-formaldehyde foam insulation, or radon gas are found, or if all or any of the aforementioned systems or structures are not in working order or are in need of replacement or repair, Seller will be given 10 working days to notify the Buyer whether or not the Seller agrees at Seller's cost and expense to correct the structural defects, remove the urea-formaldehyde insulation, rectify the radon problem, put the aforementioned systems in working order and make all needed replacements or repairs, or the Buyer may cancel this contract. The Buyer, however, at Buyer's option, may, at any time waive the results of this inspection, by notifying the Seller in writing, and this contract will become binding.
7. Add: This Agreement may not be changed or terminated orally. Any amendments to this Agreement shall be made in writing and executed by the Seller and the Buyer.
8. Add: This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their successors, heirs and assigns.
9. Add: This Agreement shall be construed, interpreted and applied in accordance with the laws of the State of New Jersey.
10. Add: This Agreement shall be construed without regard to any presumption or the rule requiring construction against the party causing this Agreement to be drafted. All terms and words used in the Agreement, regardless of the number or gender in which they are used, shall be deemed to include any other number and any other gender as the context may require.
11. Add: This Agreement contains the entire agreement between the Seller and the Buyer, and there are no other terms, obligations, covenants, representations or conditions of any kind concerning the sale/purchase of the Property.
12. Add: This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.
13. Add: Sellers certify to the best of their knowledge that there are no abandoned oil tanks on the property. If an inspection shows the presence of an abandoned oil tank and the Seller is unable to provide satisfactory documentation that the tank was properly decommissioned in accordance with the applicable law and regulation, and the Seller will not agree to have the tank removed or decommissioned by filling with sand in accordance with applicable law and regulation prior to closing at the Sellers' cost by an approved removal tank abandonment company, and provide a letter of "no further action" by the DEP if contamination is found, the Buyer may cancel this Contract with all deposit money being returned. Buyer will be allowed to examine the paperwork for the tank ten days prior to closing.

The terms and conditions of the original contract are hereby reaffirmed and ratified and in full force and effect.

SIGNED AND AGREED TO BY:

BUYER:
PV BROAD STREET, LLC

BY: Pietro Amari 10/24/16
PIETRO AMARI, Managing Member

Dated:

Rosa Spira Spira
ROSA SPERA, SELLER

SUBJECT TO ADDENDUM TO CONTRACT DATED 10/24/2016
MRS

ADDENDUM TO CONTRACT FOR SALE OF REAL ESTATE

Between: MARIA ROSA SPERA,
And: PV BROAD STREET, LLC,
Subject Property: 3440 South Broad Street, Hamilton Township, New Jersey
Lot 31, Block 2542 on the Hamilton Township Tax Map
Dated: October 24, 2016

Seller
Purchaser

THIS ADDENDUM amends and/or modifies the Agreement of Sale and any previous Addendums. In the event of a conflict between the provisions of this Addendum, the provisions of the Agreement of Sale and any other, prior Addendums, the terms and conditions of this Addendum shall supersede, govern and prevail in the event of a conflict.

1. State of Title:

The Premises are sold subject to the following (collectively the "**Permitted Exceptions**"):

- (a) All present and future building, zoning and other restrictions, regulations, requirements, laws, ordinances, resolutions and orders of any State, municipal, Federal or other governmental authority, including without limitation all boards, bureaus, commissions, departments and bodies thereof, now or hereafter having or acquired jurisdiction over the Premises or the use or improvement thereof. This sale includes all rights of Seller to challenge the existence or application of the foregoing.
- (b) Covenants, restrictions, easements and agreements affecting the Premises, if any, and any other covenants, restrictions, easements and agreements of record provided such other covenants, restrictions, easements and agreements do not prohibit the maintenance of the structure or structures now on the Premises.
- (c) The state of facts which would be shown by a current, accurate survey and/or inspection of the Premises.
- (d) The rights, if any, relating to construction, maintenance and operation of public utility lines, wires, poles, cables, pipes, distribution boxes and other equipment and installations on, over and under the Premises.
- (e) Immaterial encroachments and immaterial variations between the record lot lines of the Premises and those shown on the tax map, if any.

- (f) Subject to the terms and conditions of any order(s) issued by the U.S. Bankruptcy Court relative to the sale of the subject Premises to Purchaser provided the Title Company will insure same.

2. Objections to Title and Survey

Purchaser agrees promptly to apply for and procure a title insurance commitment and shall cause title applicable to the Premises to be promptly searched and the title commitment to be promptly prepared by the title company and to deliver to Seller and Seller's attorney, copies of the title company's title report or commitment and any tax search, departmental searches survey and survey reading and zoning search and copies of all easements, covenants, conditions and ordinances of record (collectively referred to hereinafter as the "Title Commitment") as soon as received but in any event within not more than thirty (30) days after the date of this Addendum, together with a written statement by Purchaser of any and all objections to or defects in Seller's title within ten (10) days after receipt of the Title Commitment. Purchaser agrees promptly to order an ALTA survey (the "Survey") from a licensed surveyor located in the geographic area of the Premises which cost shall be paid exclusively by the Purchaser. Purchaser shall give notice to Seller of any survey defects within ten (10) days after receipt of the Survey.

The title delivered to the Purchaser must be good and marketable title at the time of closing, insurable at regular rates by a reputable title company licensed to do business in New Jersey. If the Seller fails to deliver good and marketable title to the Purchaser at the time of closing, the Purchaser's sole remedy and option is to cancel the Agreement and obtain a refund of the Deposit.

Seller shall have the right to attempt to remedy any objection to or defect in title, or survey and for such purpose shall be entitled to one or more adjournments of the Closing Date, not to exceed thirty (30) days. Notwithstanding any other provisions of the Agreement, Seller shall not be obligated to spend any money or bring any action or proceeding to remove any objection to or defect in title or to enable Seller otherwise to comply with the provisions of such Agreement. If for any reason Seller is unable (without expending money) to remove any objection to or defect in title, or otherwise to comply, Purchaser may elect to accept such title as Seller may be able to convey subject to such objections, defects and noncompliance without any credit or liability on the part of Seller or reduction of the Purchase Price. If Purchaser shall not elect to accept title subject to such objections, defects and noncompliance, Seller's only obligation shall be to direct the refund of any payments made by Purchaser on account of the Purchase Price, whereupon the Agreement between the parties and all rights of Purchaser hereunder shall terminate, and neither Seller nor Purchaser shall have any further claim against the other pertaining hereto.

3. Due Diligence

Under no circumstances shall Seller have any obligation to make any repairs or to cure any violations at the premises, if any. Purchaser shall perform all investigations,

including zoning, engineering and environmental inspections and investigations, to the Premises as Purchaser may desire within sixty (60) days after the date of the full execution hereof by the parties hereto ("Due Diligence Period"). At all times during the Due Diligence Period, and upon reasonable notice to the Seller, shall permit Purchaser, and such persons as Purchaser may designate, to enter upon the Land to undertake such environmental investigations and engineering and other inspections to the Premises as Purchaser may desire. Purchaser, as a condition precedent to entering upon the Land, shall provide Seller with proof that Purchaser or Purchaser's consultants, agents, or contractors have appropriate liability and, if necessary, workmen's compensation insurance and further shall indemnify, defend and hold harmless Seller and its constituent partners from and against any and all claims or liabilities incurred by or asserted against Seller or the Premises arising out of Purchaser's exercise of its rights under this paragraph and the following Environmental Matters paragraph. Purchaser shall restore the Premises to its prior condition. Purchaser shall not store, treat or dispose of any substances, whether hazardous or non hazardous, on the Premises generated during the due diligence investigation. In its sole discretion, Seller shall have the right to approve, and reject if necessary, any intrusive sampling, boring or well location. Seller has been advised by Purchaser that Purchaser may need to obtain municipal/ governmental approvals for the Premises for its continued intended use and agrees to cooperate with Purchaser including the execution of all documents which are necessary for any such required applications. In no event, however, shall Seller be required to pay any monies whatsoever, in connection with or as a condition precedent to enabling the Purchaser to obtain such approval(s).

During the Due Diligence Period, Purchaser shall determine whether in Purchase's estimation the condition of the Premises, the state of title, the Survey, and any other factors regarding the Premises are satisfactory for ownership in the manner and on the basis contemplated by Purchaser. If Purchaser, during the Due Diligence Period, determines in Purchaser's sole opinion, that the Premises is not satisfactory for Purchaser's intended use thereof, then Purchaser shall so notify Seller on or before the termination of the Due Diligence Period, and upon delivery of such notice, this Agreement shall terminate.

If this Agreement terminates pursuant to this Paragraph during the Due Diligence Period, the Escrow Holder shall refund the Deposit to Purchaser, and neither party shall thereafter have any further rights or obligations hereunder except pursuant to the provisions which expressly survive termination of this Agreement, if any.

All costs of such investigation and inspection are to be borne by Purchaser and Purchaser hereby indemnifies and holds Seller harmless from and against all costs, expenses, liabilities and/or damages, including reasonable attorneys' fees and the cost of enforcing this indemnification, suffered or incurred by Seller on account of Purchaser's inspection, investigation or tests. Seller shall not have any obligation to take any actions based on any information disclosed in any inspection, investigation or test performed by Purchaser. The indemnification in this paragraph shall survive the Closing or the termination of this Agreement, as the case may be.

4. Environmental Matters

Except as otherwise expressly provided, Seller does not make, has not made and specifically disclaims any representation or warranty, express or implied, regarding compliance or non-compliance of the Premises with Environmental Laws (hereinafter defined). For purposes of this Agreement "Environmental Laws" shall mean the Comprehensive Environmental Response, Compensation and Liability Act, the Superfund Amendment and Reauthorization Act, the Resource Conservation Recovery Act, the Federal Water Pollution Act ("ISRA"), the New Jersey Spill Compensation and Control Act, the New Jersey Solid Waste Management Act, the New Jersey Freshwater Wetlands Protection Act, the New Jersey Coastal Wetlands Protection Act, the New Jersey Coastal Area Facilities Review Act including any administrative or judicial interpretation of any of the foregoing and/or any and all other applicable federal, state and local statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, codes, plans, injunctions, permits, concessions, grants, franchises, licenses, agreements or other governmental restrictions regulating, relating to or imposing liability (including strict liability) or standards of conduct in regard to the environment or to emissions, discharges, releases or the presence of any pollutants, contaminants, oils, petroleum or petroleum products, asbestos, lead paint, chemicals or other industrial, toxic or hazardous substances or wastes (collectively, "Hazardous Substances") into the environment, including, without limitation, ambient air, surface water, ground water or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, oils, petroleum or petroleum products, asbestos, lead paint, chemicals or other industrial, toxic or Hazardous Substances or wastes or the cleanup or other remediation thereof.

Seller hereby warrants that it has received no written notice of any violation (that has not been corrected) of any law (including without limitation Environmental Laws), ordinance, order, regulation or requirement having jurisdiction over the Premises and that Seller has no knowledge of a material release or discharge of hazardous substances at the Premises in violation of any Environmental Laws which occurred during Seller's period of ownership of the Premises.

Seller agrees to co-operate with Purchaser to obtain any desired approvals and/or letters of non-applicability and shall cooperate with Purchaser to obtain such approvals and shall promptly execute any and/or all documents which are necessary to obtain the same, after written requests for same have been provided to Seller; provided that, Seller shall not be required to expend any funds or incur any costs or fees in connection with Purchaser's efforts to secure such desired approval(s).

(a) Purchaser's Testing. If Purchaser elects to do so, Purchaser may conduct any environmental testing during the Due Diligence Period as set forth above, and shall have the opportunity to perform such testing, examinations or investigations as Purchaser deems necessary or advisable in order to assess the environmental condition of the Premises without relying on any express or implied representations or warranties of

Seller or any third party representing Seller. Purchaser agrees that Seller shall have no liability for the disclosure or non-disclosure of Seller's own analysis and conclusions, if any, regarding the environmental condition of the Premises. Under no circumstances shall Seller have any obligation to make any environmental repairs or remediation or cure any violations at the premises.

(b) Purchaser's Right to Complete Environmental Remediation Using Institutional and Engineering Controls. Should Purchaser or Seller conduct a remediation of the Premises for any reason, both shall have the right to complete the remediation using engineering and/or institutional controls, including but not limited to the placement of deed notice on the Premises and the establishment of a Classification Exception Area ("CEA") Release. Purchaser, on behalf of itself and its successors and assigns, hereby fully and forever release Seller from, and agrees not to sue Seller with respect to, any claims, actions, costs, damages, liabilities and expenses, whether known or unknown, either asserted or unasserted, fixed or contingent, arising out of, or in any way related to Environmental Laws. This Section shall survive the Closing, the execution and delivery of any certificates or instruments of conveyance and the delivery of the Deed.

5. Damage and Destruction

With regard to the risk of loss or damage to the Premises by fire or other casualty until the closing, it is understood that Seller shall not be obligated to repair or replace any such loss or damage and that the Premises are being purchased in "AS IS" condition. If any improvement is destroyed or damaged by fire or other casualty before Closing, then Purchaser may elect to terminate this Agreement in which event the Deposit shall be refunded to Purchaser and neither party shall thereafter have any further rights or obligations hereunder except pursuant to the provisions which expressly survive termination of this Agreement or elect to proceed to close the sale.

The parties acknowledge and agree that the Property shall be conveyed to the Purchaser **"AS IS, WHERE IS, WITH ALL DEFECTS AND WITHOUT ANY WRITTEN OR ORAL REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED OR ARISING BY OPERATION OF LAW"** and Seller makes no representations or warranties with respect to the Property or any Personal Property except as specifically set forth herein. Without limiting the foregoing, it is the intention of the parties hereto that following the Closing, Purchaser shall assume all of the liabilities associated with, related to, incurred in connection with or otherwise affecting the ownership or use of the Property or any Personal Property therein, except as otherwise set forth herein.

The parties acknowledge and agree that Seller is not required to repair or upgrade the Property in any way, as the Purchase Price was determined based on Purchaser assuming responsibility for any and/or all necessary and/or required repairs.

6. Closing Date

The closing of title pursuant to this Agreement (the "Closing") shall be held at the office of the Title Company or such other location as is mutually agreeable to the parties hereto, thirty (30) days after the end of the Due Diligence Period, or such earlier time if the parties mutually agree.

7. Default

If Purchaser defaults under this Agreement, Seller as its sole remedy shall be entitled to receive and retain \$25,000.00 of the deposits paid by Purchaser hereunder as liquidated damages, whereupon this Agreement shall terminate and neither Seller nor Purchaser shall have any further claim against the other. The parties acknowledge that the actual damages of Seller in the event of such default are difficult, if not impossible, to ascertain and the parties agree that \$25,000.00, is a fair and reasonable estimate of the damages incurred by Seller. Purchaser may not assert a claim against the Premises or file a Notice of Pendency ("Lis pendens") or similar instrument, or otherwise take any action to cloud title on the Premises if Purchaser seeks, in any dispute, to receive back the Deposit.

If Seller defaults under this Agreement, Purchaser shall give Seller notice in advance of exercising any remedies hereunder specifying the alleged default and shall give Seller an opportunity for thirty (30) days to cure such default and, as Purchaser's sole and mutually exclusive remedies hereunder if such default is not so cured, shall be entitled to either (i) demand a refund of the Deposit and a simultaneous termination of this Agreement with no further liability from either party hereto to the other; or (ii) seek specific performance of this Agreement.

8. Representations

None of the representations, warranties, covenants, indemnities or other obligations of Seller hereunder shall survive the closing, except as expressly set forth herein. Acceptance of the deed by Purchaser shall be deemed full and complete performance and discharge of every agreement and obligation of Seller hereunder, except as otherwise noted herein.

9. Brokerage Commission

The parties represent and warrant that they have not dealt with any broker in connection with this sale other than Richardson Commercial, LLC Realtors. It is understood and agreed between Purchaser and Seller that Richardson Commercial, LLC Realtors shall be due a commission upon successful closing of title hereunder equal to five and one-half (5.5%) of the Purchase Price, which shall be paid by Seller upon approval of said payment by the U.S. Bankruptcy Court. The parties agree to indemnify and hold each other harmless from any and all liability, claim, loss, damage or expense,

including reasonable attorney fees, with respect to any other broker they may have dealt with.

10. Items Included

All property presently housed on the Premises, if any, shall be included in the sale in "AS IS" condition.

11. Bankruptcy Court Approval and Short Sale Approval

Seller's performance hereunder is conditioned and contingent upon receipt of an Order approving of the present Agreement between the parties by the U.S. Bankruptcy Court, free and clear of all liens and encumbrances other than real estate taxes and/or municipal liens and the cancellation of the liens of Seller's mortgagee, Investors Bank. Further, Seller must obtain written approval from Investors Bank to accept short payoffs of its mortgage and/or other liens of record against the subject property. Seller agrees to make immediate application to the Bankruptcy Court and Investors Bank for said Orders and/or permissions, upon receipt of a fully executed copy of the Agreement by all parties hereto and Purchaser's documents required hereunder.

12. Deposits

All Purchaser's deposits paid and/or to be paid hereunder and/or in accordance herewith shall be held in escrow by Richardson Commercial, LLC Realtors until successful closing of this Agreement or are to be disbursed and/or disposed of as otherwise required in accordance with the terms and conditions of the Agreement between the parties hereto.

13. Other Contract Terms and Provisions

All other terms and provisions of the Contract for Sale of Real Estate dated August, 2016 and the purchase order prepared by Purchaser's attorney shall remain in full force and effect.

IN WITNESS WHEREOF, Seller and Purchaser have duly executed this Addendum on the date first above written. The undersigned represent and warrant that they have the power and authority to enter into this Agreement of Sale and to bind the parties to its terms and conditions.

PV Broad Street, LLC

By: Pietro Amari 10/24/16
Pietro Amari, Managing Member, Purchaser
Maria Rosa Spera 10/24/16
Maria Rosa Spera Seller

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Law Offices of Scott E. Kaplan, LLC
12 N. Main Street, P. O. Box 157
Allentown, New Jersey 08501
(609) 259-1112
Attorney for Debtor

In re:

MARIA ROSA SPERA,

Debtor

Case No.: 16-14254-CMG

Chapter 11

**CERTIFICATION OF DEBTOR'S COUNSEL IN SUPPORT OF MOTION FOR
AUTHORIZATION TO SELL REAL ESTATE**

SCOTT E. KAPLAN, of full age, hereby certifies to this Court as follows:

1. I am the attorney for the Debtor and am fully familiar with the facts set forth herein.
2. The Debtor filed a voluntary petition for relief under Chapter 13 of the United States Bankruptcy Code (hereinafter referred to as the "Bankruptcy Code") on March 7, 2016;
3. On July 25, 2016, Debtor's case was converted to a Chapter 11;
4. Since July 25, 2016, the Debtor has been a Debtor-in-possession pursuant to §§1107 and 1108 of the Bankruptcy code;
5. The Debtor is an individual whose assets include one (1) parcel of commercial real estate known as Block 2542, Lot 31 on the Township of Hamilton Tax Map in Mercer County, New Jersey, commonly referred to as 3440 South Broad Street. Said parcel contains a block building utilized as a restaurant.
6. Debtor listed said property for sale on or about May 4, 2016 with Richard Commercial LLC, Realtors, a commercial real estate broker. An application for retention of Steven Marusky,

Realtor with said broker was filed with the Court on April 15, 2016 and granted May 4, 2016. Thereafter, the subject property was actively marketed for sale for the listing price of \$450,000.00.

7. In or about October 24, 2016, the Debtor negotiated and entered into an arms-length Purchase and Sale Agreement (hereinafter referred to as the "Agreement") for the sale of the subject property to an unrelated third-party, PV Broad Street, LLC, the purchaser, for the consideration of \$435,000.00. Accordingly, said amount represents the aggregate, current value of this parcel of real estate. Said Agreement is attached hereto and made a part hereof and marked as Exhibit "A;" other offers received for the property were for less consideration. Pursuant to said Contract, the Buyer has submitted a good faith deposit of \$43,000.00 to be held in escrow pursuant to Contract terms and closing of the sale is conditioned and contingent upon:

- A. Seller obtaining Bankruptcy Court approval of the transaction and short sale approval from Investors Bank, the first mortgagee (which has been preliminarily obtained);
- B. Successful completion of Purchaser's due diligence within sixty (60) days of the date the Contract was fully signed by the parties;
- C. Purchaser obtaining financing;
- D. Closing to take place on or before the date that is thirty (30) after the expiration of the due diligence period.

8. Debtor seeks an Order of this Court authorizing it to sell the property, which is the subject of the aforesaid contract, free and clear of all liens and encumbrances except the tax lien of U.S. Bank-Custodian /BV002 Trst & Crdtrs (set forth in filed Claim #9), any other real estate tax and/or municipal liens of Hamilton Township, Mercer County, New Jersey, the short sale payoff

to Investors Bank (which lenders' secured claims relating to the subject property are set forth in filed Claims #2 and #3) and payment of the allowed costs of sale.

9. Approval of the present application will enable Debtor to payoff the secured obligations secured by the subject property thereby significantly reducing Debtor's overall indebtedness and enhancing Debtor's ability to propose a viable, Chapter 11 plan of reorganization which will benefit the Debtor's estate and its other creditors which have interests in this and other estate property, including a number of secured creditors and the municipal taxing authority in which the subject estate property is located. Further, granting the present application will allow the Seller to satisfy Contract conditions precedent to sale and the Purchaser to obtain the benefit of its bargain while permitting the Debtor to utilize sale proceeds in the best interests of the estate and its creditors.
10. The safeguards provided to Chapter 11 debtors by the Bankruptcy Code during the course of Chapter 11 are sufficient protection to both the parties to the Agreement and parties in interest such that the relief requested herein is not in derogation of the purpose of the Bankruptcy Code.
11. U.S. Bank-Cust/ BV002 Trst & Crdtrs holds a tax sale certificate that constitutes a valid lien upon the property and the Hamilton Township Tax Collector has a valid lien against the property for real estate taxes and sewer/water charges all totaling approximating \$42,843.16 plus interest. Investors Bank has secured first and second mortgages constituting valid liens against the property totaling \$626,412.61 and \$8,547.73 respectively which it has preliminarily agreed to cancel of record in consideration of its receipt of the balance of the sale proceeds. The interests of any remaining creditors alleging pre-petition secured interests against Debtor and the subject property including but not necessarily limited to the State of New Jersey Division of Taxation, are actually unsecured in consideration of the fact that the subject property lacks equity to serve

as security for same.

12. Sale of this estate property for the price set forth in the contract is in the best interest of the estate and good cause exists for approving the Debtor's application; although the sale price is less than the aggregate value of the amount required to satisfy mortgages and property/tax liens on such property, such action will terminate the accrual of interest on real estate taxes and tax liens, will produce funds for payment of the secured claims against the subject estate property ; Debtor is attempting to maximize the value of its estate by liquidating this asset to pay the aforesaid creditors at the earliest possible juncture in the bankruptcy case.
13. The granting of the requested relief will enable the Debtor to payoff the secured obligations secured by the subject property and the significant reduction of Debtor's overall indebtedness thereby enhancing Debtor's ability to propose a viable, Chapter 11 plan of reorganization which will benefit the Debtor's estate and its other creditors which have interests in this and other estate property. In addition, granting the present application will allow the Seller to satisfy Contract conditions precedent to sale and the Purchaser to obtain the benefit of its bargain while permitting the Debtor to utilize sale proceeds in the best interests of the estate and its creditors.
14. To the best of Debtor's knowledge, information and belief, there will not be any income taxes due from Debtor as a result of this sale.
15. The Debtor seeks to convey the property covered by the subject Agreement following the entry of this Court's order and as soon as possible in accordance with said Purchase and Sale Agreement, free and clear of all liens and encumbrances except as aforesaid.
16. The Debtor proposes to distribute the proceeds of sale as follows:
 - A. First, the amount needed to satisfy in full any municipal taxes, water and/or sewer charges, if any, and tax liens due to the Township of Hamilton;

- B. Second, the amount necessary to satisfy the U.S. Bank-Cust/ BV002 Trst & Crdtrs tax sale certificates plus accrued interest, that constitutes a valid lien upon the property;
 - C. Third, the balance of sale proceeds to Investors Bank for release and discharge of all its liens against the property subject to the Agreement;
 - D. Fourth, the costs of sale and expenses commonly associated with the sale of real property in New Jersey, including, but not necessarily limited to, realty transfer fees, statutory lien cancellation fees, real estate broker's commissions and special counsel attorney fees in accordance with the Notice of Private Sale;
17. Pursuant to an exclusive listing agreement, a real estate commission in the amount of \$23,925.00 (5.5% of the selling price) is due to Richardson Commercial LLC Realtors, pursuant to 16 D above and in accordance with the Notice of Private Sale being filed with the Court.
18. Notice of the present application is being given pursuant to applicable Bankruptcy Court Rules. Further and simultaneously herewith, a Notice of Information for Private Sale is being filed with the Clerk of the Court.

I certify that the above statements made by me are true. I understand that if any of the above statements made by me are willfully false, I am subject to punishment.

Dated: November 3, 2016

/s/Scott E. Kaplan
Scott E. Kaplan