




CLERK, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

THE DATE OF ENTRY IS ON
THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed April 16, 2018


United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:)
) Chapter 11
SIGEL'S BEVERAGES, L.P.)
) Case No. 16-34118-11
)
Debtor.)

ORDER AUTHORIZING (I) THE DEBTOR'S ENTRY INTO AND PERFORMANCE OF ITS OBLIGATIONS UNDER THE ASSET PURCHASE AGREEMENT, (II) THE SALE OF THE DEBTOR'S ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, INTERESTS, AND ENCUMBRANCES, (III) THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES, AND (IV) GRANTING FURTHER RELIEF

Upon the motion [Docket No. 351] (the "Sale Motion")¹ of the above-captioned debtor and debtor in possession, Sigel's Beverages, L.P. (the "Debtor")² for entry of an order (this "Order"),

¹ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Sale Motion or the Asset Purchase Agreement (as defined herein), as applicable; *provided* that in the event of any conflict with respect to the meaning of a capitalized term, the meaning ascribed to such term in the Asset Purchase Agreement shall control.

² All references to the "Debtor" shall include the debtor and its bankruptcy estate.

among other things, (a) authorizing the sale (the “Sale”) of the Purchased Assets (as defined in the Asset Purchase Agreement (as defined below)) to Twin Liquors LP (or any affiliate transferee or transferees pursuant to the terms of the Asset Purchase Agreement, the “Buyer”), pursuant to the Amended and Restated Asset Purchase Agreement (as corrected) between the Debtor and the Buyer, dated as of April 5, 2018 (together with all other documents contemplated thereby, as such agreement may be amended, restated or supplemented in accordance with its terms, the “Asset Purchase Agreement”), a copy of which is attached hereto as **Exhibit 1**, free and clear of all Liens, Claims, and interests (as herein defined); (b) authorizing the assignment or, as applicable, the assumption and assignment of certain executory contracts and unexpired leases to the Buyer; and (c) granting related relief, all as more fully set forth in the Sale Motion and this Order; and the Court having found that the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Court having found that venue of this proceeding and the Sale Motion in this district is proper pursuant to 28 U.S.C. §§ 1408; and the Court having found that the relief requested in the Sale Motion is in the best interests of the Debtor, its estate, its creditors, and all other parties in interest; and the Court having found that the Debtor provided appropriate notice of the Sale Motion and the opportunity for a hearing on the Sale Motion under the circumstances; and the Court having reviewed the Sale Motion and having heard the statements and evidence in support of the relief requested therein at a hearing before the Court that commenced on April 6, 2018 (the “Sale Hearing”); and it appearing that proper and adequate notice of the Sale Motion has been given and that no other or further notice is necessary; and all parties in interest having been heard, or having had the opportunity to be heard, regarding the Transactions (as defined below), and the Court having determined that the legal and factual bases set forth in the Sale Motion and

at the Sale Hearing establish just cause for the relief granted herein; the relief requested in the Sale Motion, the consummation of the transactions contemplated by the Asset Purchase Agreement, including but not limited to the Sale (the “Transactions”), and the other relief granted herein is in the best interests of the Debtor, its estate, its creditors, and other parties in interest; and after due deliberation thereon, and good and sufficient cause appearing therefore, the Court finds that good cause exists to grant the relief requested in the Sale Motion; therefore, and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor, **IT IS HEREBY FOUND AND DETERMINED THAT:**

Findings of Fact and Conclusions of Law

A. The findings of fact and conclusions of law herein constitute the Court’s findings of fact and conclusions of law for the purposes of Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any findings of facts are conclusions of law, they are adopted as such. To the extent any conclusions of law are findings of fact, they are adopted as such.

B. All findings of fact and conclusions of law made or announced by the Court at the Sale Hearing are incorporated herein.

Jurisdiction and Venue

C. Pursuant to 28 U.S.C. §§ 157 and 1334 and the *General Order of Reference* from the United States District Court for the Northern District of Texas, dated August 3, 1984, this Court has jurisdiction over this matter and over the property of the Debtor’s estate, including the Purchased Assets and all other assets to be sold, transferred, or conveyed pursuant to the Transactions. Without limiting the generality of the foregoing, this Court has exclusive *in rem* jurisdiction over the Purchased Assets pursuant to 28 U.S.C. § 1334(e), as such Purchased Assets are property of the Debtor’s chapter 11 estate, and, as a result of such jurisdiction, this Court has

all necessary power and authority to grant the relief contained herein. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (N) and (O). Venue in this district is proper under 28 U.S.C. §§ 1408.

D. This Order is intended to be a final and appealable order as set forth in 28 U.S.C. § 158(a).

Statutory Predicates

E. The statutory and other legal bases for the relief requested in the Sale Motion are sections 105(a), 363(b), (f), and (m), 365 and 503 of the Bankruptcy Code, as supplemented by Bankruptcy Rules 2002, 6004, 6006, 9007, 9008, and 9014. The consummation of the Transactions contemplated by the Asset Purchase Agreement and this Order is legal, valid, and properly authorized under all applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules and the Debtor and the Buyer have complied with all applicable requirements of such provisions and rules in respect of such transactions.

Notice

F. As evidenced by the affidavits and/or certificates of service filed with the Court, proper, timely, adequate, and sufficient notice of the Sale Motion, the Transactions, the assumption and assignment to the Buyer of the certain executory contracts and unexpired leases specified as of the date hereof pursuant to the Asset Purchase Agreement, the Cure Costs (as defined below), the Sale Hearing, and all deadlines related thereto, has been provided, as relevant, in accordance with sections 102(1), 363, and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, 9007, 9008, and 9014 to all interested persons and entities, including, without limitation, the Notice Parties (as defined below).

G. The Debtor has served the *Notice of (I) Hearing to Consider Debtor's Motion to Sell Assets Free and Clear of All Liens, Claims, Interests and Encumbrances and (II) Deadlines*

to Object to Sale and Assumption and Assignment of Contracts, Including Proposed Cure Amounts [Docket No. 361] (the “Sale Hearing and Assumption Notice”), identifying, among other things, the Cure Costs, in respect of each of the Purchased Contracts and Purchased Real Property Leases (collectively, the “Assumed Contracts”). The service of the Sale Hearing and Assumption Notice is sufficient under these circumstances, and no further notice need be provided in respect of the Debtor’s assumption and assignment to the Buyer of the Assumed Contracts or the Cure Costs. All non-Debtor counterparties to the Assumed Contract have had an adequate opportunity to object to the assumption and assignment of the Assumed Contracts and the Cure Costs.

H. The notice described in the foregoing Paragraphs E–F is good, sufficient, and appropriate under the circumstances, and no other or further notice of the Sale Motion, the Transactions, the assumption and assignment to the Buyer of the Assumed Contracts, the Cure Costs, the Sale Hearing, or any deadlines related thereto is or shall be required.

Validity of Transfer and Corporate Authority

I. The Purchased Assets constitute property of the Debtor’s estate and title thereto is vested in the Debtor’s estate within the meaning of section 541 of the Bankruptcy Code. The Debtor (i) has full corporate power and authority to execute the Asset Purchase Agreement and all other documents contemplated thereby, and the Sale to the Buyer has been duly and validly authorized by all necessary corporate action, (ii) has all of the corporate power and authority necessary to consummate the Transactions, (iii) has taken all corporate action necessary to authorize and approve the Asset Purchase Agreement and the consummation by the Debtor of the Transactions, and (iv) requires no consents or approvals, other than those expressly provided for in the Asset Purchase Agreement, to consummate the Transactions. Subject to the terms of this Order, the Debtor has the right to transfer to the Buyer upon the Closing good title to the Purchased Assets, subject to the Assumed Liabilities and the Permitted Liens.

J. The consummation of the Closing of the Transactions, and the assumption and assignment of the Assumed Contracts to the Buyer outside of a plan of reorganization and/or liquidation pursuant to the Asset Purchase Agreement are valid exercises of the authority of the Debtor, as debtor in possession, and no such act impermissibly restructures the rights of the Debtor's creditors or impermissibly dictates the terms of a chapter 11 plan for the Debtor. The Transactions do not constitute a *sub rosa* chapter 11 plan. The Court notes that the Debtor has filed a chapter 11 plan and disclosure statement and that the proceeds of the sale will be used to fund the Debtor's chapter 11 plan and to permit the Debtor's chapter 11 plan to go effective contemporaneously with or shortly after the Closing of the Sale. Debtor's counsel has advised the Court that the Debtor intends to amend its Disclosure Statement to reflect the updated Asset Purchase Agreement and the results of the Sale Hearing. Notwithstanding the foregoing, the Debtor is authorized to effectuate Closing of the Sale irrespective of whether the Debtor's chapter 11 plan is confirmed.

Marketing and Sale Process

K. The Sale of the Purchased Assets to the Buyer was duly authorized pursuant to sections 363(b)(1) and 363(f) of the Bankruptcy Code, and Bankruptcy Rule 6004(f). As demonstrated by (i) testimony and other evidence proffered or adduced at the Sale Hearing and (ii) the representations of counsel made on the record at the Sale Hearing, the Debtor and its professionals, agents, and other representatives have diligently marketed the Purchased Assets and conducted all aspects of the sale process, including the solicitation of offers for the Purchased Assets, in good faith. The Purchased Assets have been exposed to the market for over one year. All interested potential buyers had a full, fair, and reasonable opportunity to make their highest or otherwise best offer to purchase the Purchased Assets. Accordingly, the marketing process undertaken by the Debtor and its professionals, agents, and other representatives with respect to

the Purchased Assets has been adequate, appropriate, and reasonably calculated to maximize value for the benefit of all stakeholders.

L. On March 5, 2018, the Debtor filed the Sale Hearing and Assumption Notice stating that the Debtor sought the Court's approval of the sale of the Purchased Assets, free and clear of all Claims, Liens, interests, and other encumbrances, under the Asset Purchase Agreement. Based on the record of this chapter 11 case and the Debtor's marketing efforts, and for the reasons stated at the Sale Hearing and herein, the Court is satisfied that the Transactions contemplated by the Asset Purchase Agreement are the highest or otherwise best offer available for the Purchased Assets.

M. As established by the record of the Sale Hearing, the Debtor has satisfied all fiduciary duties with respect to the marketing of the Purchased Assets, and the negotiation and consummation of the Transactions. Further, the Court notes that the Transactions have overwhelming creditor support. Under the circumstances of this chapter 11 case, and these proceedings, the notices provided in connection with the Sale Motion and Sale Hearing were given in accordance with, and complied with the various applicable requirements of, the Bankruptcy Code, the Bankruptcy Rules and the Local Bankruptcy Rules.

Highest and Best Offer; Business Judgment

N. All objections to the sale were withdrawn or resolved at the Sale Hearing, except for one, the objection filed by Goody Goody. Goody Goody purchased a \$350.00 general unsecured proof of claim against the Debtor. At the Sale Hearing and in its objection, Goody Goody asked the Court to deny the Sale Motion and to direct the Debtor to conduct an auction so that Goody Goody could participate as a bidder and submit a topping bid. The Court overrules Goody Goody's objection under the unique facts presented in this case. The only motion before the Court is the Sale Motion to authorize a private sale to Buyer. Bankruptcy Code section 363

and Bankruptcy Rule 6004(f)(1) allow for sales outside the ordinary course of business to be done through either a public auction or a private sale. The Debtor presented credible evidence supporting its business justification for pursuing a private sale to Buyer and establishing that the private sale to Buyer is in the best interest of the Debtor, its creditors and its bankruptcy estate. First, the Buyer is providing significant consideration under the Asset Purchase Agreement for the benefit of the Debtor and its creditors. The uncontroverted evidence before the Court shows that the consideration under the Asset Purchase Agreement will (a) pay in full the Debtor's secured claims, (b) pay in full all allowed administrative claims (including large pre-bankruptcy unsecured claims of liquor distributors, which are afforded priority in payment under Bankruptcy Code 503(b)(9)), and (c) provide a distribution to general unsecured creditors.

O. Second, the private sale to Buyer has overwhelming creditor support. PNC Bank, the Debtor's secured bank lender, Southern Glazer's Wine & Spirits, the Debtor's largest distributor and holder of 503(b)(9) claims, and two of Debtor's largest unsecured creditors, the Thompson entities, that together hold over 94% of the Debtor's general unsecured claims in this case, appeared and announced their strong support for the private sale to Buyer and opposition to Goody Goody's bid and request for an auction. Other than Goody Goody, a holder of a \$350.00 general unsecured claim, no other creditor opposed the private sale to Buyer at the Sale Hearing. The Debtor's equity interests are held by Mr. Anthony Bandiera Jr., and he is a party to the Asset Purchase Agreement as a supporting stockholder.

P. Third, the Debtor (and its supporting creditors) established a strong and credible preference for the certainty of closing provided under the Asset Purchase Agreement over the Goody Goody bid and uncertainty an auction would present to the Debtor, its estate and its creditors. The Debtor's and its creditors' concerns over losing the Buyer if the Court directs an

auction are credible and persuasive. The Debtor and Buyer submitted credible and uncontroverted evidence that Buyer would terminate the Asset Purchase Agreement if the Court denied the Sale Motion and instead directed an auction. Moreover, this case has been pending since October 2016. The Purchased Assets have been exposed to the market for over a year. A prior potential purchaser negotiated a purchase agreement for the Debtor's assets, which the Debtor moved the Court to approve, but then the potential purchaser withdrew its contract late in the process. After the prior purchaser withdrew, and without any meaningful alternatives, the Debtor resolicited Buyer and encouraged Buyer to re-engage in negotiations. The Debtor and Buyer negotiated in good faith for over two months. Those negotiations culminated in an asset purchase agreement that was conditioned on a private sale. No person other than the Buyer has been willing to engage on a purchase of the Debtor's asset over the last five months, except that Goody Goody did submit a bid late in the process and only after Buyer had executed an asset purchase agreement conditioned on a private sale.

Q. The Court is also persuaded by the need to approve a transaction as soon as possible so that Buyer can start the process of obtaining regulatory approval and permits required by the Texas Alcoholic Beverage Commission. Starting the approval and permitting process now facilitates a timely closing under the Asset Purchase Agreement and a funding of the Debtor's chapter 11 plan and distributions to creditors. The Court believes it appropriate to also consider qualitative factors. Both Buyer and Goody Goody are reputable and experienced operators of retail and wholesale liquor sales in the State of Texas. The Buyer has 80 stores throughout central Texas, but no locations in the DFW market. Buyer is thus expanding into a new market; whereas, Goody Goody is based in Dallas. The evidence before the Court shows that Buyer is more likely to retain

a greater number of employees than Goody Goody because Buyer is expanding into a new market; whereas, Goody Goody is already in the DFW market.

R. All of these factors lead this Court to find that (a) the Debtor and its advisors diligently considered and analyzed all available options in connection with the disposition of the Purchased Assets, considered the reasonable views of its creditors, and determined that the terms and conditions set forth in the Asset Purchase Agreement, including the Aggregate Purchase Price, the certainty of closing provided thereby, and Buyer's assumption of the Assumed Liabilities, are all fair, reasonable, and constitute the highest or otherwise best value obtainable in exchange for the Purchased Assets; (b) the offer of the Buyer, upon the terms and conditions set forth in the Asset Purchase Agreement, including, without limitation, the total consideration to be realized by the Debtor thereunder, (i) is the highest or otherwise best offer received by the Debtor after extensive marketing, and no other entity has offered to purchase the Purchased Assets on terms more beneficial to the Debtor or its estate under the particular facts and circumstances of this case, (ii) is in the best interests of the Debtor, its creditors, its estate, and other parties in interest, (iii) constitutes full and adequate consideration, is fair and reasonable and constitutes reasonably equivalent value, fair consideration, and fair value for the Purchased Assets under the Bankruptcy Code, the Uniform Fraudulent Transfer Act, and under the laws of the United States, any state, territory, possession, or the District of Columbia; and (c) the Debtor has demonstrated a sufficient basis to and sound business justification for selling the Purchased Assets on the terms outlined in the Asset Purchase Agreement and assuming and assigning the Assumed Contracts to the Buyer under sections 363 and 365 of the Bankruptcy Code, prior to and outside of a plan of reorganization. All such actions are sound exercises of the Debtor's business judgment, consistent with its fiduciary duty, and in the best interests of the Debtor, its creditors, its estate, and other

parties in interest. Approval of the Transactions pursuant to the Asset Purchase Agreement at this time is in the best interests of the Debtor, its creditors, its estate, and all other parties in interest.

Opportunity to Object

S. A reasonable opportunity to object or be heard with respect to the Sale Motion, the Transactions, the assumption and assignment to the Buyer of the Assumed Contracts, the Cure Costs, the Sale Hearing, and all deadlines related thereto has been afforded to all interested persons and entities, including, without limitation: (i) the Office of the U.S. Trustee for the Northern District of Texas; (ii) the Internal Revenue Service and all federal, state, and local regulatory or taxing authorities or recording offices which have a reasonably known interest in the relief granted herein; (iii) all entities known to hold or to have asserted any Lien, Claim, or other interest with respect to any of the Purchased Assets or the Debtor's business; (iv) all parties entitled to notice pursuant to Local Rule 2002-l(b); (v) each governmental agency that is an interested party with respect to the Sale and Transactions proposed thereunder; (vi) all known creditors of the Debtor; (vii) the counterparties to each of the Assumed Contracts; and (viii) all entities known to the Debtor who have or may have asserted liens or secured claims against any of the Purchased Assets (the foregoing persons and entities, collectively, the "Notice Parties").

Good Faith Purchaser; Arm's Length Sale

T. The Asset Purchase Agreement was negotiated, proposed, and entered into by the Debtor and the Buyer without collusion, in good faith, and from arm's length bargaining positions, in a procedurally fair manner. Neither the Debtor, nor the Buyer, nor any affiliate of the Buyer has engaged in any conduct that would cause or permit the Asset Purchase Agreement, or any Transaction to be avoided under section 363(n) of the Bankruptcy Code.

U. The Buyer is a good-faith purchaser under section 363(m) of the Bankruptcy Code and, as such, is entitled to all protections afforded thereby.

V. Neither the Buyer nor any of its affiliates, members, officers, directors, shareholders, or any of its or their respective successors or assigns is an “insider” or “affiliate” of any of the Debtor, as those terms are defined in sections 101(31) and 101(2) of the Bankruptcy Code, and the Buyer’s professionals, agents, and other representatives have complied in all respects with all applicable orders of this Court in negotiating and entering into the Asset Purchase Agreement. The Asset Purchase Agreement complies with all applicable orders of this Court.

Free and Clear Transfer Required by Buyer

W. The Buyer would not have entered into the Asset Purchase Agreement and would not consummate the Transactions, thus adversely affecting the Debtor, its estate, and its creditors, if each of (i) the Sale and (ii) the assumption and assignment of the Assumed Contracts to the Buyer were not free and clear of all Liens, Claims, and interests of any kind or nature whatsoever (with the sole exception of the Permitted Liens and the Assumed Liabilities) as more fully set forth in this Order, or if the Buyer would, or in the future could, be liable for any of the Debtor’s Liabilities (other than the Assumed Liabilities). For the avoidance of doubt, the Buyer shall have no responsibility whatsoever with respect to the Debtor’s Liabilities (other than the Assumed Liabilities), which shall remain the responsibility of the Debtor before, on, and after the Closing.

X. As of the closing of the Asset Purchase Agreement (the “Closing”), pursuant and subject to the terms of the Asset Purchase Agreement and this Order, the transfer of the Purchased Assets, the Sale, and the Transactions will effect a legal, valid, enforceable, and effective transfer of the Purchased Assets and will fully and irrevocably vest the Buyer with all of the Debtor’s rights, title, and interests in the Purchased Assets free and clear of all Liens, Claims, and interests of any kind or nature whatsoever (with the sole exception of the Permitted Liens and the Assumed Liabilities), including, without limitation, (i) all debts, Liabilities, obligations, contractual rights, mortgages, deeds of trust, pledges, charges, security interests, rights of first refusal,

hypothecations, encumbrances, easements, servitudes, leases or subleases, rights-of-way, encroachments, restrictive covenants, restrictions on transferability or other similar restrictions, rights of offset or recoupment, rights under any operating agreement not assumed by or assigned to the Buyer, right of use or possession, subleases, leases, conditional sale arrangements, or any rights that purport to give any party a right of first refusal or consent with respect to the Debtor's interest in the Purchased Assets or any similar rights; (ii) all Claims, as defined in section 101(5) of the Bankruptcy Code and including, without limitation, all rights, claims (including any cross-claim or counterclaim, labor, employment, or pension claims), causes of action, charges, assessments, suits, investigations, litigation, third party actions, arbitral proceedings or proceedings by or before any Governmental Body or any other person, defenses, debts, demands, damages, judgments, sanctions, penalties, costs, expenses (including reasonable, actual, out-of-pocket legal fees and expenses), losses, Liabilities, setoff rights, recoupment rights, obligations, and liabilities of any kind or nature under contract, agreement, understanding, or at Law, in equity, or otherwise, whatsoever, whether or not reduced to judgment, whether known or unknown, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, perfected or unperfected, allowed or disallowed, contingent or non-contingent, secured or unsecured, fixed, matured or unmatured, disputed or undisputed, liquidated or unliquidated, material or immaterial, whether arising prior to or subsequent to the commencement of the Bankruptcy Case, whether under any theory of successor or transfer liability and whether imposed by agreement, understanding, law or otherwise, and all rights and remedies with respect thereto; (iii) any rights based on any successor or transferee liability; (iv) any rights that purport to give any party a right or option to effect any forfeiture, modification, right of first offer or first refusal, or consents, or termination of the Debtor's or the Buyer's interest in the Purchased Assets,

or any similar rights; (v) any rights under labor or employment agreements; (vi) any rights under mortgages, deeds of trust, and security interests; (vii) any rights related to intercompany loans and receivables between the Debtor and any non-Debtor subsidiary or affiliate; (viii) any rights under pension, multiemployer plan (as such term is defined in Section 3(37) or Section 4001(a)(3) of the Employee Retirement Income Security Act of 1974 (as amended, "ERISA"), health or welfare, compensation or other employee benefit plans, agreements, practices, and programs, including, without limitation, any pension plans of the Debtor or any multiemployer plan to which the Debtor has at any time contributed to or had any liability or potential liability; (ix) any other employee claims related to worker's compensation, occupational disease, or unemployment or temporary disability, including, without limitation, claims that might otherwise arise under or pursuant to (a) ERISA, (b) the Fair Labor Standards Act, (c) Title VII of the Civil Rights Act of 1964, (d) the Federal Rehabilitation Act of 1973, (e) the National Labor Relations Act, (f) the Age Discrimination and Employment Act of 1967 and Age Discrimination in Employment Act, as amended, (g) the Americans with Disabilities Act of 1990, (h) the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, including, without limitation, the requirements of Part 6 of Subtitle B of Title I of ERISA and Section 4980B of the Internal Revenue Code and of any similar state law (collectively, "COBRA"), (i) state discrimination laws, (j) state unemployment compensation laws or any other similar state laws, (k) any other state or federal benefits or claims relating to any employment with the Debtor or any of its predecessors, or (l) the WARN Act (29 U.S.C. §§2101 et seq.); (x) any bulk sales or similar law; (xi) any tax statutes or ordinances, including, without limitation, the Internal Revenue Code of 1986, as amended, and any Taxes arising under or out of, in connection with, or in any way relating to the operation of the Purchased Assets prior to the Closing, including, without limitation, any ad valorem taxes assessed by any

applicable taxing authority for time periods prior to Closing with the exception of the liens that secure all amounts ultimately owed to Dallas County and Rockwall CAD for year 2018 ad valorem property taxes (the “Year 2018 Ad Valorem Tax Liens”) which shall remain attached to the Purchased Assets and become the responsibility of the Buyer; and (xii) any unexpired or executory contract or unexpired lease to which a Debtor is a party that is not an Assumed Contract; and (xiii) any other Retained Liability as provided in the Asset Purchase Agreement.

Satisfaction of Section 363(f)

Y. The Debtor may sell the Purchased Assets free and clear of any and all Liens, Claims, and interests of any kind or nature whatsoever, including any rights or claims based on any putative successor or transferee liability, as set forth herein, because, in each case, one or more of the standards set forth in section 363(f)(1)–(5) of the Bankruptcy Code has been satisfied. All parties in interest, including, without limitation, any holders of Liens, Claims, and/or interests, and any non-Debtor counterparties to Assumed Contracts, who did not object, or who withdrew their objection, to the Sale, the Sale Motion, the assumption and assignment of the applicable Assumed Contract, or the associated Cure Cost are deemed to have consented to the relief granted herein pursuant to section 363(f)(2) of the Bankruptcy Code. Those (i) holders of Liens, Claims, or interests and (ii) non-Debtor parties to Assumed Contracts that did object fall within one or more of the other subsections of section 363(f) of the Bankruptcy Code or are adequately protected by having their Liens, Claims, or interests, if any, attach to the portion of the proceeds of the Sale ultimately attributable to the Purchased Assets against or in which they claim an interest, in the order of their priority, with the same validity, force and effect, if any, which they now have against such Purchased Assets, subject to any claims and defenses the Debtor or its estate may possess with respect thereto.

Z. If the Debtor did not sell the Purchased Assets free and clear of all Liens, Claims, and/or interests (other than the Assumed Liabilities and the Permitted Liens), such a sale would have yielded substantially lower value for the Debtor's estate, with less certainty than the Sale and Transactions. The Buyer would not have submitted an offer to purchase the Purchased Assets and would not consummate the Transactions, thus adversely affecting the Debtor, its estate, its creditors, and other parties in interest, if the Sale and Transactions were not free and clear of all Liens, Claims, and/or interests (other than the Assumed Liabilities and the Permitted Liens), or if the Buyer would, or in the future could, be liable for any of the Liens, Claims, and/or interests.

AA. The Buyer is providing significant consideration under the Asset Purchase Agreement for the benefit of the Debtor and its creditors. Such consideration shall constitute valid and valuable consideration for the releases of any potential Liens, Claims, and/or interests against the Purchased Assets (except for and subject to Year 2018 Ad Valorem Tax Liens, the Assumed Liabilities and the Permitted Liens) pursuant to this Order, which releases shall be deemed to have been given in favor of the Buyer by all holders of Liens, Claims, and/or interests against the Purchased Assets (except for and subject to the Assumed Liabilities and the Permitted Liens).

No Successorship

BB. Neither the Buyer nor any of its affiliates are successors to the Debtor or its estate by reason of any theory of law or equity, and neither the Buyer nor any of its affiliates shall assume or in any way be responsible for any Liability or obligation of the Debtor and/or its estate, except as otherwise expressly provided in the Asset Purchase Agreement or this Order.

Assumed Contracts

CC. The Debtor has demonstrated: (i) that it is an exercise of its sound business judgment to assume and assign the Assumed Contracts to the Buyer in each case in connection with the consummation of the Transactions and (ii) that the assumption and assignment of the

Assumed Contracts to the Buyer is in the best interests of the Debtor, its estate, its creditors, and other parties in interest.

DD. Pursuant to 11 U.S.C. § 365(f), the Assumed Contracts to be assumed and assigned under the Asset Purchase Agreement shall be assigned and transferred to, and remain in full force and effect for the benefit of, the Buyer notwithstanding any provision in any contract or agreement, or other restrictions prohibiting the Assumed Contracts assignment or transfer.

EE. The Assumed Contracts being assigned to the Buyer are an integral part of the Purchased Assets being purchased by the Buyer and, accordingly, such assumption, assignment, and cure of any defaults under the Assumed Contracts are reasonable and enhance the value of the Debtor's estate. Any non-Debtor counterparty to an Assumed Contract that has not actually filed with the Court an objection to such assumption and assignment in accordance with the terms of the Sale Motion is deemed to have consented to such assumption and assignment.

Cure Costs and Adequate Assurance

FF. The Debtor has, including by way of entering into the Asset Purchase Agreement, and agreeing to the provisions relating to the Assumed Contracts therein, (i) cured, or provided adequate assurance of cure, of any default existing prior to the date hereof under any of the Assumed Contracts within the meaning of section 365(b)(1)(A) of the Bankruptcy Code and (ii) provided compensation or adequate assurance of compensation to any party for any actual pecuniary loss to such party resulting from a default prior to the date hereof under any of the Assumed Contracts within the meaning of section 365(b)(1)(B) of the Bankruptcy Code and the Buyer has, based upon the record of these proceedings, including the evidence proffered by the Debtor at the Sale Hearing, provided adequate assurance of its future performance of and under the Assumed Contracts pursuant to sections 365(b)(1) and 365(f)(2) of the Bankruptcy Code. The Buyer's promise under the Asset Purchase Agreement to perform the obligations under the

Assumed Contracts after the Closing shall constitute adequate assurance of future performance under the Assumed Contracts being assigned to the Buyer within the meaning of sections 365(b)(1)(C) and 365(f)(2)(B) of the Bankruptcy Code. The Cure Costs are hereby deemed to be the sole amounts necessary to cure any and all defaults under the Assumed Contract under section 365(b) of the Bankruptcy Code.

Time Is of the Essence; Waiver of Stay

GG. Time is of the essence in consummating the Sale. In order to maximize the value of the Purchased Assets, it is essential that the sale and assignment of the Purchased Assets occur within the time constraints set forth in the Asset Purchase Agreement. Accordingly, there is cause to waive the stays contemplated by Bankruptcy Rules 6004(h) and 6006(d)

**NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED
THAT:**

Sale Motion is Granted

1. The relief requested by the Sale Motion is GRANTED and the Sale and the Transactions are APPROVED as set forth herein.

Objections Overruled

2. All objections to the entry of this Order or to the relief granted herein, whether filed, stated on the record before this Court, or otherwise, which have not been withdrawn, waived, or settled, and all reservations of rights included therein, are denied and overruled on the merits, with prejudice. All objections to the Sale Motion, the Cure Costs, or the assignment of any Assumed Contract, or the entry of this Order or to the relief granted herein in any other regard, that were not timely filed are hereby forever barred any all persons and entities that failed to timely file such an objection are each deemed to have consented to the relief granted herein. Any entity having the right to consent to the assumption or assignment of any Assumed Contract that failed to object to

such assumption or assignment is deemed to have consented to such assumption and assignment as required by section 365(c) of the Bankruptcy Code.

3. Notice of the Sale Motion, the Sale, the Transactions, the assumption and assignment to the Buyer of the Assumed Contracts, the Cure Costs, the Sale Hearing, and all deadlines related thereto was fair and equitable under the circumstances and complied in all respects with Bankruptcy Code section 102(1) and Bankruptcy Rules 2002, 6004, and 6006.

Approval of the Asset Purchase Agreement

4. The Asset Purchase Agreement, including all terms and conditions thereof, is hereby approved. Pursuant to sections 105, 363, 365 and 503 of the Bankruptcy Code, the Debtor is authorized and directed to take all actions necessary to fulfill its obligations under, and comply with the terms of, the Asset Purchase Agreement and to consummate the Sale and the Transactions pursuant to and in accordance with the terms and conditions of the Asset Purchase Agreement and this Order, without further leave of the Court. The Debtor is further authorized to pay, without further order of this Court, whether before, at, or after the Closing, any expenses or costs that are required to be paid in order to consummate the transactions contemplated by the Asset Purchase Agreement or perform its obligations under the Asset Purchase Agreement.

5. The Debtor is authorized to execute and deliver, and empowered to perform under, consummate, and implement, the Asset Purchase Agreement, together with all additional instruments, documents, and other agreements that may be reasonably necessary or desirable to implement the Asset Purchase Agreement, and to take all further actions as may be reasonably requested by the Buyer for the purpose of assigning, transferring, granting, conveying, and conferring to the Buyer, or reducing to possession, the Purchased Assets, or to take all further actions as may be reasonably necessary or appropriate to the performance of the obligations as contemplated by the Asset Purchase Agreement.

Binding Effect of Order

6. This Order and the Asset Purchase Agreement shall be binding upon, and specifically enforceable against, the Debtor, all of its creditors, each holder of equity in the Debtor, and each of the Debtor's successors and assigns, each of the Debtor's subsidiaries and affiliates, and any and all other parties in interest, including, without limitation, any and all holders of Liens, Claims, and interests (including holders of any rights or claims based on any putative successor or transferee liability) of any kind or nature whatsoever, all non-Debtor parties to the Assumed Contracts, the Buyer, all successors and assigns of the Buyer, and its affiliates and subsidiaries, and any trustee or successor trustee appointed in the Debtor's chapter 11 case or upon a conversion of such case to chapter 7 under the Bankruptcy Code. For the Avoidance of doubt, the Asset Purchase Agreement is not subject to (A) rejection or avoidance by Debtor, its estate, or any chapter 7 or chapter 11 trustee of Debtor or its estate, or any other person or entity, or (B) impairment or discharge under any chapter 11 plan or any subsequent order of the Bankruptcy Court entered in the Debtor's bankruptcy case. Nothing contained in any chapter 11 (or other) plan confirmed in these bankruptcy cases or the confirmation order confirming any such plan shall conflict with or derogate from the provisions of the Asset Purchase Agreement or this Order. To the extent of any such conflict or derogation, the terms of this Order shall govern.

Amendments to the Asset Purchase Agreement

7. The Asset Purchase Agreement and any related agreements, documents, or other instruments may be modified, amended, supplemented, or restated by the parties thereto in a writing signed by both parties and in accordance with the terms thereof, without further order of this Court, provided that any such modification, amendment, supplement or restatement does not have a material and adverse effect on the Debtor's estate. The Asset Purchase Agreement shall

not be altered, amended, rejected, discharged, or otherwise affected by any chapter 11 plan proposed or confirmed in these bankruptcy cases without the prior written consent of the Buyer.

Transfer of the Purchased Assets Free and Clear

8. The Buyer shall assume and be liable for only the Assumed Liabilities expressly assumed pursuant to the Asset Purchase Agreement. Pursuant to sections 105(a), 363(b), 363(f), and 365(b) of the Bankruptcy Code, upon the Closing, the Purchased Assets shall be transferred to the Buyer free and clear of all Liens, Claims, and interests of any kind or nature whatsoever (with the sole exception of the Permitted Liens and the Assumed Liabilities). For purposes of this Order, “Liens, Claims and interests” shall mean:

- all liens, whether consensual or statutory (including mechanic’s, materialman’s, carrier’s, repairer’s, contractor’s and other similar liens arising under applicable law), replacement liens, adequate protection liens or other liens granted under Sections 361, 363 or 364 of the Bankruptcy Code, mortgages, deeds of trust, hypothecations, pledges, security interests, charges, consents, leases, options, rights of setoff, netting or deduction, restrictions, and encumbrances of any nature, including without limitation, rights of first refusal or first offer, licenses, defect or objection liens, conditional and installment sales agreements, voting trusts or agreements, transfer restrictions, easements, encroachments, servitudes, or restrictions of any kind and other title or interest retention arrangements, reservations, or limitations of any nature whatsoever, and including without limitation those charges or interests in property within the meaning of “lien” under Bankruptcy Code § 101(37) or any other limitation, restriction or interest that constitutes an “interest” for the purposes of Bankruptcy Code § 363(f) and including all liens and other encumbrances and restrictions on use set forth in Paragraph V above. For the avoidance of doubt, the definition of lien includes all Liens arising under or in connection with that certain Revolving Credit, Term Loan and Security Agreement with PNC Bank, as agent for the lenders, as amended, supplemented or modified from time to time;
- all claims (as that term is defined in section 101(5) the Bankruptcy Code and jurisprudence interpreting the Bankruptcy Code), including, without limitation, all rights, claims (including any cross-claim or counterclaim), causes of action, charges, demands, judgments, indebtedness, Liabilities, assessments, suits, investigations, litigation, third party claims or actions, arbitral proceedings or proceedings by or before any Governmental Body or any other person, defenses, debts, demands, damages, judgments, sanctions, Taxes, penalties, costs, expenses (including professional fees, costs and expenses), losses, offset rights, setoff rights, guarantees, commitments, recoupment rights, responsibilities, restrictions, claims

for reimbursement, contribution claims, subrogation, indemnity claims, exoneration claims, alter-ego claims, environmental claims (including claims that may be secured or entitled to priority under the Bankruptcy Code), reclamation claims, administrative expenses, any pending or threatened litigation claims, rights of first refusal, and liabilities of any kind or nature under contract, at Law or in equity, including Retained Liabilities, and all claims set forth in Paragraph V above;

- all debts (as that term is defined in section 101(12) of the Bankruptcy Code and jurisprudence interpreting the Bankruptcy Code) or obligations in any way related to the Debtor, its operations, its Business, the Purchased Assets, or in connection with any agreements, acts, or failures to act of the Debtor or any of the Debtor's officers, directors, managers, partners, agents, employees, predecessors, successors, assigns, affiliates (as that term is defined in section 101(2) of the Bankruptcy Code and jurisprudence interpreting the Bankruptcy Code), and any of their respective officers, directors, managers, partners, agents, employees, successors, predecessors and assigns; and
- all equity or other interests of any kind or nature with respect to Debtor or its affiliates, together with it or their predecessors, successors and assigns, including all interests set forth in Paragraph V above,

in each instance for all of the foregoing, whether known or unknown, choate or inchoate, filed or unfiled, scheduled or unscheduled, noticed or unnoticed, recorded or unrecorded, perfected or unperfected, allowed or disallowed, contingent or noncontingent, liquidated or unliquidated, matured or unmatured, material or nonmaterial, disputed or undisputed, and whether occurring or arising before, on or after the Petition Date, and whether imposed by agreement, understanding, law, equity or otherwise, and all rights and remedies with respect thereto. On the Closing, the Buyer shall take title to and possession of the Purchased Assets subject only to Year 2018 Ad Valorem Tax Liens, the Permitted Liens and the Assumed Liabilities.

Vesting of Purchased Assets in the Buyer

9. The transfer of the Purchased Assets to the Buyer pursuant to the Asset Purchase Agreement shall constitute a legal, valid, and effective transfer of the Purchased Assets on the Closing, and shall fully and irrevocably vest the Buyer with all of the Debtor's rights, title, and interests in the Purchased Assets, including each Assumed Contract, free and clear of all Liens,

Claims, and interests of any kind or nature whatsoever (with the sole exception of Year 2018 Ad Valorem Tax Liens, the Permitted Liens and the Assumed Liabilities).

10. The Buyer is hereby authorized in connection with the consummation of the Sale to allocate the Purchased Assets, including the Assumed Contracts, among its affiliates, agents, designees, assigns, and/or successors, in a manner as it in its sole discretion deems appropriate, and to assign, lease, sublease, license, sublicense, transfer, or otherwise dispose of any of the Purchased Assets, including the Assumed Contracts, to its affiliates, designees, assignees, and/or successors with all of the rights and protections accorded to the Buyer under this Order and the Asset Purchase Agreement with respect thereto, and the Debtor shall cooperate with and take all actions reasonably requested by the Buyer to effectuate any of the foregoing.

Police and Regulatory Power of Governmental Units

11. Nothing in this Order or the Asset Purchase Agreement releases, nullifies, precludes, or enjoins the enforcement of any police power by any governmental unit on the part of any entity as the owner or operator of property after the Closing. To the extent provided by section 525 of the Bankruptcy Code, no governmental unit may deny, revoke, suspend, or refuse to renew any permit, license, trademark, or other permission relating to the use or operation of the Purchased Assets on account of the filing or pendency of these chapter 11 cases or, to the extent provided by section 525 of the Bankruptcy Code, the consummation of the transactions contemplated by the Asset Purchase Agreement, including, without limitation, the Transactions, the Sale, and the Debtor's assumption and assignment of the Assumed Contracts to the Buyer. To the greatest extent available under applicable law, the Buyer shall be authorized, as of the Closing, to operate under any license, permit, registration, and governmental authorization or approval of the Debtor with respect to the Purchased Assets, and all such licenses, permits, registrations, and governmental authorizations and approvals are deemed to have been, and hereby are, transferred to the Buyer as

of the Closing; *provided, however*, that nothing in this Order authorizes the transfer or assignment of any governmental (a) license, (b) permit, (c) registration, (d) authorization, or (e) approval, or the discontinuation of any obligation thereunder, without compliance with all applicable legal requirements.

Assumption and Assignment of Assumed Contracts

12. Pursuant to sections 105(a), 363 and 365 of the Bankruptcy Code, and subject to and conditioned upon the Closing, the Debtor's assumption and assignment to the Buyer of the Assumed Contracts is hereby approved in its entirety, and all requirements of sections 363 and 365 of the Bankruptcy Code with respect thereto are hereby deemed satisfied.

13. The Buyer has provided adequate assurance of future performance within the meaning of section 365 of the Bankruptcy Code with respect to each of the Assumed Contracts.

14. The Debtor is hereby authorized to, and may, in accordance with the Asset Purchase Agreement, and in accordance with sections 105(a), 363, and 365 of the Bankruptcy Code: (i) assume and assign to the Buyer the Assumed Contracts, effective upon and subject to the occurrence of the Closing, free and clear of all Liens, Claims, and interests of any kind or nature whatsoever (with the sole exception of the Permitted Liens and the Assumed Liabilities), which Assumed Contracts, by operation of this Order, shall be deemed assumed and assigned to the Buyer effective as of the Closing, and (ii) execute and deliver to the Buyer such documents or other instruments as the Buyer may deem necessary to assign and transfer the Assumed Contracts to the Buyer.

15. Subject to Paragraph 17 hereof:

- a. Upon the Closing, the Assumed Contracts shall be transferred and assigned to, and remain in full force and effect for the benefit of, the Buyer in accordance with their respective terms, notwithstanding any provision in any such Assumed Contract (including those of the type described in sections 365(b)(2), 365(e)(1) and 365(f) of the Bankruptcy Code) that

prohibits, restricts, limits, or conditions such assignment or transfer pursuant to section 365(k) of the Bankruptcy Code.

- b. Any provisions in any Assumed Contract that prohibit or condition the assignment of such Assumed Contract on the consent of the counterparty thereto or allow the non-Debtor party to such Assumed Contract to terminate, recapture, impose any penalty, condition, renewal or extension, or modify any term or condition upon the assignment of such Assumed Contract, shall constitute unenforceable anti-assignment provisions which are expressly preempted under section 365 of the Bankruptcy Code and void and of no force and effect.
- c. All counterparties to the Assumed Contracts shall cooperate and expeditiously execute and deliver, upon the reasonable request of the Buyer, and shall not charge the Debtor or the Buyer for, any instruments, applications, consents, or other documents that may be required or requested by any public or quasi-public authority or other party or entity to effectuate the applicable transfers in connection with the Transactions.
- d. The failure of the Debtor or Buyer to enforce at any time one or more terms or conditions of any Assumed Contract shall not be a waiver of such terms or conditions, or of the Debtor's and Buyer's rights to enforce every term and condition of such Assumed Contract.
- e. Any portion of any Purchased Real Property Lease which purports to permit a landlord thereunder to cancel the remaining term of such Purchased Real Property Lease if the Debtor discontinues its use or operation of the leased premises is void and of no force and effect, and shall not be enforceable against the Buyer, or its assignees and sublessees; and the landlords under any such Purchased Real Property Lease shall not have the right to cancel or otherwise modify the Purchased Real Property Lease or increase the rent, assert any claim or impose any penalty by reason of such discontinuation, the Debtor's cessation of operations, the assignment of such Purchased Real Property Lease to the Buyer, or the interruption of business activities at any of the leased premises.
- f. Neither the Buyer nor any of its successors shall be responsible for any obligations arising out of any of the contracts, agreements, or understandings that are not Assumed Contracts or Assumed Liabilities.

16. All defaults and all other obligations of the Debtor under the Assumed Contracts occurring, arising, or accruing prior to the assignment thereof to the Buyer at Closing (without giving effect to any acceleration clauses or any default provisions of the kind specified in section 365(b)(2) of the Bankruptcy Code) are deemed to have been cured or satisfied by the payment of

the proposed amount necessary, if any, to cure all monetary defaults, if any, under each Assumed Contract in the amounts set forth in the Sale Hearing and Assumption Notice (or any other cure cost reached by agreement after an objection to the proposed cure cost by a counterparty to an Assumed Contract), as reflected on the schedule attached hereto as **Exhibit 2** (the “Cure Costs”), and which Cure Costs were satisfied, or shall be satisfied as soon as practicable, by the Debtor as provided in the Asset Purchase Agreement. The Debtor is authorized and directed to pay all Cure Costs required to be paid in accordance with the Asset Purchase Agreement upon the later of (a) the Closing and (b) for any Assumed Contract for which an objection to the assumption and assignment of such agreement or the Cure Costs relating thereto has been filed and such objection remains pending as of the date of this Order, the resolution of such objection by settlement or order of this Court.

17. Pursuant to section 365(k) of the Bankruptcy Code, the Debtor and its estate shall be relieved from any liability for any breach for any Assumed Contract that occurs after the effectiveness of such assignment to the Buyer. The Debtor shall retain any rights under and be subject to any claims based on Excluded Contracts or representing Retained Liabilities.

18. Should the Buyer decide to have Debtor assume and assign to the Buyer the Debtor’s Leases³ with Ally Financial, Inc. (“Ally”), such assignment shall be conditioned upon the Buyer completing all proper credit and regulatory approval required by Ally at Ally’s sole discretion. Should the Buyer fail to procure approval as required by Ally and stated above prior to the Closing Date, then the Ally Leases shall be deemed rejected as of the Closing Date and Ally shall have the right to immediately recover its property covered by the Ally Leases.

³ As such term is defined in the Limited Objection [Docket No. 376] filed by Ally Financial, Inc.

Modification of the Automatic Stay

19. The automatic stay provisions of section 362 of the Bankruptcy Code are lifted and modified to the extent necessary to implement the terms and conditions of the Asset Purchase Agreement and the provisions of this Order.

Release of Liens by Creditors; Collection of Purchased Assets

20. Except as otherwise provided herein, the holder of any Lien, Claim, or interest in or against the Debtor or the Purchased Assets shall, as of the Closing, be deemed to have waived and released such Lien, Claim, or interest, without regard to whether such holder has executed or filed any applicable release, and such Lien, Claim, or interest shall automatically, and with no further action by any party, attach to the portion of the proceeds of the Sale ultimately attributable to the Purchased Assets against or in which they claim an interest, in the order of their priority, with the same validity, force, and effect, if any, which they now have against such Purchased Assets, subject to any claims, defenses, and objections, if any, that the Debtor or its estate may possess with respect thereto. Notwithstanding the foregoing, any such holder of such a Lien, Claim, or interest is authorized and directed to execute and deliver any waivers, releases, or other related documentation, as reasonably requested by the Debtor or Buyer.

21. As of the Closing, the Buyer and its successors and assigns shall be, without any underlying obligation, designated, and appointed as the Debtor's true and lawful attorney with full power of substitution in the Debtor's name and stead on behalf of and for the benefit of the Buyer, and its successors and assigns, for the following sole and limited purposes: to have the power to demand and receive any and all of the Purchased Assets and to give receipts and releases for and in respect of the Purchased Assets, or any part thereof, and from time to time to institute and prosecute against third parties for the benefit of the Buyer, its successors and assigns, proceedings

at law, in equity or otherwise, which the Buyer, and its successors and assigns, may deem proper for the collection or reduction to possession of any Purchased Asset.

Effect of Recordation of Order

22. This Order, once filed, registered, or otherwise recorded, (a) shall be effective as a conclusive determination that, upon the Closing, all Liens, Claims, and interests of any kind or nature whatsoever (with the sole exception of Year 2018 Ad Valorem Tax Liens, the Permitted Liens and the Assumed Liabilities) existing as to the Purchased Assets prior to the Closing have been unconditionally released, discharged, and terminated and that the conveyances described herein have been effected, and (b) shall be binding upon and shall govern the acts of all persons and entities including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies or units, governmental departments, secretaries of state, federal, state, local officials, notaries, protonotaries, and all other persons, institutions, agencies, and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register, or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to, the Purchased Assets. Each and every federal, state, and local governmental agency or department is hereby authorized and ordered to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Asset Purchase Agreement, including, without limitation, recordation of this Order.

23. If any person or entity that has filed liens, financing statements, mortgages, mechanics' liens, *lis pendens* or other documents or agreements evidencing Liens, Claims, and/or interests against or in the Purchased Assets (other than Year 2018 Ad Valorem Tax Liens, the Assumed Liabilities and the Permitted Liens) shall not have delivered to the Debtor prior to the Closing, in proper form for filing and executed by the appropriate parties, termination statements,

instruments of satisfaction, unconditional releases of all Liens, Claims, and/or interests that the person or entity has with respect to the Purchased Assets, or otherwise, the Buyer is hereby authorized to and may file, register, or record a certified copy of this Order in any place where such instruments would or could be filed, and such filing shall constitute conclusive evidence of the release of Liens, Claims, and/or interests on or in the Purchased Assets as of the Closing.

Other Administrative Priority Claims Under Asset Purchase Agreement

24. Any amounts which may become payable from Debtor to Buyer pursuant to Section 3.5 of the Asset Purchase Agreement shall constitute allowed super-priority administrative expenses under Section 364(c)(1) of the Bankruptcy Code with priority over all administrative expenses of the kind specified in Sections 503(b) and 507(a) of the Bankruptcy Code.

25. Excluding amounts referenced in Paragraph 25 above, any other amounts that may become payable by the Debtor to the Buyer pursuant to the Asset Purchase Agreement and any related agreements executed in connection therewith shall (a) be entitled to administrative expense claim status under sections 503(b)(1)(A) and 507(a)(2) of the Bankruptcy Code; (b) not be subordinate to any other administrative expense claim against the Debtor other than allowed claims entitled to priority under section 507(b) of the Bankruptcy Code, (c) not be altered, amended, discharged, or affected by any chapter 11 plan proposed or confirmed in this bankruptcy case without the prior written consent of the Buyer, and (d) be paid by the Debtor in the time and manner provided for in the Asset Purchase Agreement without further order of this Court.

26. The Debtor shall pay Dallas County's and Rockwall CAD's prepetition claims for ad valorem property taxes with interest that has accrued from the Petition Date through the date of payment at the statutory rate of 1% per month pursuant to 11 U.S.C. Sections 506(b) and 511, at Closing.

Prohibition on Actions Against the Buyer

27. Except for Assumed Liabilities, the Buyer and its affiliates shall have no liability or responsibility for any Liability or other obligation of the Debtor arising under or related to the Purchased Assets or otherwise. Without limiting the generality of the foregoing, and except as otherwise specifically provided herein and in the Asset Purchase Agreement, the Buyer and its affiliates shall not be liable for any Claims against the Debtor or any of its predecessors or affiliates, and the Buyer and its affiliates shall have no successor, transferee, or vicarious liabilities of any kind or character including, without limitation, to any theory of warranty, product liability, labor law, ERISA, *de facto* merger, mere continuation, or substantial continuity, whether known or unknown as of the Closing, now existing or hereafter arising, whether fixed or contingent, with respect to the Debtor or any obligations of the Debtor, including, without limitation, liabilities on account of any taxes arising, accruing, or payable under, out of, in connection with, or in any way relating to the operation of the Debtor's business prior to the Closing, or any claims under the WARN Act, or any claims related to wages, benefits (including, without limitation, contributions or payments on account of any under-funding with respect to any and all pension plans), severance, or vacation pay owed to employees or former employees of the Debtor, except as set forth in the Asset Purchase Agreement or as the Buyer may separately agree to expressly in writing. For the avoidance of doubt, except for the Assumed Liabilities, the Buyer and its affiliates shall have no liability for employee welfare or retention, benefit and/or incentive plan to which the Debtor is a party, and the Buyer and its affiliates shall in no way be deemed a party to or assignee of any such agreement. Notwithstanding any other provision in this Order, Dallas County and Rockwall CAD shall retain all state law collection and lien enforcement rights with respect to 2018 ad valorem property taxes and are not enjoined from pursuing collection of all amounts owed for tax year 2018

against the Buyer in the event the 2018 ad valorem property taxes are not paid prior to the state law delinquency date.

28. The Debtor's execution, delivery, and performance of the Asset Purchase Agreement shall not result in any liability to the Buyer based on any claim by a third party against Buyer, including claims asserting tortious interference, based upon any pre-petition agreement with the Debtor.

29. Effective upon the Closing, with the sole exception of any enforcement of rights related to the Year 2018 Ad Valorem Tax Liens, Permitted Liens and the Assumed Liabilities, all persons and entities shall be, and hereby are, forever barred and estopped from (a) taking any action that would adversely affect or interfere with the ability of the Debtor to transfer the Purchased Assets to the Buyer in accordance with the terms of this Order and the Asset Purchase Agreement and (b) asserting, prosecuting, or otherwise pursuing, whether in law or in equity, in any judicial, administrative, arbitral, or other proceeding, any Liens, Claims, or interests of any kind or nature whatsoever against the Buyer and its successors, designees, assigns, or property, or the Purchased Assets conveyed under this Order in accordance with the Asset Purchase Agreement.

No Interference

30. Following the Closing, no holder of a Lien, Claim and/or interest in or against the Debtor or the Purchased Assets shall interfere with the Buyer's title to or use and enjoyment of the Purchased Assets based on or related to such Lien, Claim, and/or interest or any actions that the Debtor may take in its bankruptcy cases or any successor cases.

Retention of Jurisdiction

31. This Court retains jurisdiction to, among other things, interpret, enforce, and implement the terms and provisions of this Order and the Asset Purchase Agreement, all

amendments thereto, any waivers and consents thereunder, and each of the agreements executed in connection therewith in all respects, including, without limitation, retaining jurisdiction to: (a) compel delivery of the Purchased Assets or performance of other obligations owed to the Buyer; (b) compel delivery of the proceeds of the Sale or performance of other obligations owed to the Debtor; (c) resolve any disputes arising under or related to the Asset Purchase Agreement, except as otherwise provided therein; (d) interpret, implement, and enforce the provisions of this Order; and (e) protect the Buyer and its affiliates against (i) any Liens, Claims, or interests in or against the Debtor or the Purchased Assets of any kind or nature whatsoever and (ii) any creditors or other parties in interest regarding the turnover of the Purchased Assets that may be in their possession.

No Stay of Order

32. Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), this Order shall be effective and enforceable immediately upon entry and its provisions shall be self-executing. In the absence of any person or entity obtaining a stay pending appeal, the Debtor and the Buyer are free to close the Sale and the Transactions under the Asset Purchase Agreement at any time pursuant to the terms thereof.

Good Faith Purchaser

33. The Sale contemplated by the Asset Purchase Agreement is undertaken by the Buyer in good faith, as that term is used in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale shall not affect the validity of the Sale to the Buyer (including the assumption and assignment by the Debtor of any of the Assumed Contracts), unless such authorization is duly stayed pending such appeal. The Buyer is a buyer in good faith of the Purchased Assets, and is entitled to all protections afforded by section 363(m) of the Bankruptcy Code.

Inconsistencies with Prior Orders, Pleadings, or Agreements

34. To the extent of any conflict between the Asset Purchase Agreement and this Order, the terms of this Order shall govern. To the extent this Order is inconsistent or conflicts with any prior order or pleading in these chapter 11 cases, the terms of this Order shall govern, and any prior orders shall be deemed amended or otherwise modified to the extent required to permit consummation of the Sale.

Failure to Specify Provisions

35. The failure to specifically reference any particular provisions of the Asset Purchase Agreement or other related documents in this Order shall not diminish or impair the effectiveness of such provisions, it being the intent of the Court that the Asset Purchase Agreement and other related documents be authorized and approved.

END OF ORDER

**AMENDED AND RESTATED
ASSET PURCHASE AGREEMENT
(AS CORRECTED)**

BY AND BETWEEN

**SIGEL'S BEVERAGES, L.P.,
AS SELLER,**

**TWIN LIQUORS LP,
AS PURCHASER,**

AND FOR THE LIMITED PURPOSES SET FORTH HEREIN,

**ANTHONY J. BANDIERA, JR.,
AS STOCKHOLDER**

Dated as of April 5, 2018

EXHIBIT

1

exhibitstickler.com

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AMENDED AND RESTATED
ASSET PURCHASE AGREEMENT

THIS AMENDED AND RESTATED ASSET PURCHASE AGREEMENT (this “Agreement”) is made and entered into as of April 5, 2018 (the “Execution Date”), by and between Sigel’s Beverages, L.P., a Texas limited partnership, on behalf of itself and its bankruptcy estate (“Seller”), Twin Liquors LP, a Texas limited partnership (“Purchaser”), and solely for the purposes of **Section 6.15**, Anthony J. Bandiera, Jr., an individual resident of the State of Texas, in his capacity as the sole holder, directly or indirectly, of all of the general partner and limited partner interests in Seller (the “Stockholder”).

WHEREAS, Seller is engaged in the business of selling wine and spirits at the retail and wholesale level (the “Business”);

WHEREAS, on October 20, 2016 (the “Petition Date”), Seller filed a voluntary petition for relief, Case No. 16-34118-BJH-11 (the “Bankruptcy Case”), under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§101, *et seq.* (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Northern District of Texas (the “Bankruptcy Court”);

WHEREAS, on the terms and subject to the conditions set forth in this Agreement, Purchaser desires to purchase from Seller, and Seller desires to sell to Purchaser, the Purchased Assets, all in accordance with Sections 363 and 365 of the Bankruptcy Code, free and clear of all Claims and Liens (other than Permitted Liens);

WHEREAS, Seller, Purchaser and Stockholder previously entered into that certain Asset Purchase Agreement, dated March 5, 2018, pursuant to which Purchaser agreed to purchase from Seller, and Seller agreed to sell to Purchaser, the Purchased Assets (the “Existing Agreement”); and

WHEREAS, Seller, Purchaser and Stockholder desire to amend and restate the Existing Agreement in its entirety to, among other things, increase the Aggregate Purchase Price and remove certain conditions to Closing.

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

ARTICLE I
DEFINITIONS

Section 1.1 Defined Terms. As used in this Agreement, the following terms have the meanings set forth below or in the Sections referred to below:

“Additional Contract” has the meaning set forth in **Section 6.10(b)**.

“Aggregate Purchase Price” has the meaning set forth in **Section 3.1**.

“Agreement” has the meaning set forth in the Preamble.

“Alternative Transaction” has the meaning set forth in **Section 6.3(b)(ii)**.

“Ancillary Agreements” has the meaning set forth in **Section 4.2**.

“Assumed Liabilities” has the meaning set forth in **Section 2.4**.

“Assumed Plans” has the meaning set forth **Section 6.13(g)**.

“Balance Sheet” has the meaning set forth in **Section 4.10**.

“Balance Sheet Date” has the meaning set forth in **Section 4.10**.

“Bankruptcy Avoidance Action” has the meaning set forth in **Section 2.3(f)**.

“Bankruptcy Case” has the meaning set forth in the Recitals.

“Bankruptcy Code” has the meaning set forth in the Recitals.

“Bankruptcy Court” has the meaning set forth in the Recitals.

“Bankruptcy Expenses” has the meaning set forth in **Section 2.5(h)**.

“Business” has the meaning set forth in the Recitals.

“Business Day” has the meaning set forth in **Section 10.4(b)**.

“Claims” has the meaning ascribed by Section 101(5) of the Bankruptcy Code and includes, without limitation, all rights, claims (including any cross-claim or counterclaim), causes of action, charges, assessments, suits, investigations, litigation, third party actions, arbitral proceedings or proceedings by or before any Governmental Body or any other person, defenses, debts, demands, damages, judgments, sanctions, penalties, costs, expenses (including reasonable, actual, out-of-pocket legal fees and expenses), losses, liabilities, offset rights, setoff rights, recoupment rights, obligations, and liabilities of any kind or nature under contract, at Law or in equity, whatsoever, whether or not reduced to judgment, whether known or unknown, secured, unsecured, fixed, contingent, matured, unmatured, disputed, undisputed, liquidated or unliquidated, whether arising prior to or subsequent to the commencement of the Bankruptcy Case, whether under any theory of successor or transfer liability and whether imposed by agreement, understanding, law or otherwise, and all rights and remedies with respect thereto.

“Closing” has the meaning set forth in **Section 8.1**.

“Closing Date” has the meaning set forth in **Section 8.1**.

“Code” has the meaning set forth in **Section 4.12**.

“Contracts” means all purchase orders, sales agreements, supply agreements, distribution agreements, employee or consulting agreements, leases, subleases, licenses (including, for the

avoidance of doubt, third-party software licenses), product warranty or service agreements and other binding commitments, agreements, contracts, arrangements, obligations and undertakings of any nature (whether written or oral, and whether express or implied).

“Cure Amounts” means all Liabilities that must be paid and obligations that otherwise must be satisfied, whether under Sections 365(b)(1)(A) and (B) of the Bankruptcy Code or otherwise, in connection with the assumption by Seller or assignment to Purchaser of any Purchased Contract, Purchased Real Property Lease or Permit, including any assignment or transfer charges, fees or costs, including as provided in **Section 1.6(c)**.

“Deposit” has the meaning set forth in **Section 3.2**.

“Effective Time” has the meaning set forth in **Section 8.1**.

“Employee” has the meaning set forth in **Section 6.13(j)**.

“Employee Benefit Plans” means each plan, fund, program, agreement, arrangement or scheme that is at any time sponsored or maintained by Seller or to which Seller makes or has an obligation to make, contributions providing benefits to the current or former employees, directors, managers, officers, consultants, independent contractors, contingent workers or leased employees of Seller or the dependents of any of them (whether written or oral), or in respect of which Seller has any liability or obligation, including (i) each deferred compensation, bonus, incentive compensation, pension, retirement, employee stock ownership, stock purchase, stock option, profit sharing or deferred profit sharing, stock appreciation, phantom stock plan and other equity compensation plan, “welfare” plan (within the meaning of Section 3(1) of ERISA, determined without regard to whether such plan is subject to ERISA), (ii) each “pension” plan (within the meaning of Section 3(2) of ERISA, determined without regard to whether such plan is either subject to ERISA or is tax-qualified under the Code), (iii) each severance plan or agreement, and each other plan providing health, vacation, supplemental unemployment benefit, hospitalization insurance, medical, dental, disability, life insurance, death or survivor benefits, fringe benefits or legal benefits and (iv) each other employee benefit plan, fund, program, agreement or arrangement; provided, that, for the avoidance of doubt, in no event shall “Employee Benefit Plans” be deemed to include any ordinary compensation payable to any Employees of Seller.

“Environmental Laws” means all Laws relating to pollution or protection of human health, safety or the environment, including the Federal Water Pollution Control Act (33 U.S.C. §1251 *et seq.*), Resource Conservation and Recovery Act (42 U.S.C. §6901 *et seq.*), Safe Drinking Water Act (42 U.S.C. §3000(f) *et seq.*), Toxic Substances Control Act (15 U.S.C. §2601 *et seq.*), Clean Air Act (42 U.S.C. §7401 *et seq.*), the United States Comprehensive Environmental Response, Compensation and Liability Act and other similar federal, state and local Laws.

“ERISA” means the United States Employee Retirement Income Security Act of 1974, as amended.

“ERISA Affiliate” means a corporation which is or was at any time a member of a controlled group of corporations with Seller within the meaning of Section 414(b) of the Code,

or a trade or business which is under common control with Seller within the meaning of Section 414(c) of the Code.

“Escrow Agent” has the meaning set forth in **Section 3.2**.

“Estimated Closing Statement” has the meaning set forth in **Section 3.4**.

“Estimated Cure Amount” has the meaning set forth in **Section 6.10(a)**.

“Excluded Assets” has the meaning set forth in **Section 2.3**.

“Excluded Contracts” has the meaning set forth in **Section 2.3(b)**.

“Excluded Insurance Policies” has the meaning set forth in **Section 2.3(h)**.

“Execution Date” has the meaning set forth in the preamble.

“Executory Contract” means an executory Contract or unexpired lease of real or personal property.

“Final Closing Statement” has the meaning set forth in **Section 3.5(a)**.

“Final Inventory” has the meaning set forth in **Section 3.2**.

“Final A/R” has the meaning set forth in **Section 3.2**.

“Financial Statements” has the meaning set forth in **Section 4.10**.

“GAAP” has the meaning set forth in **Section 4.10**.

“Governmental Body” has the meaning set forth in **Section 2.2(h)**.

“Hazardous Material” means (A) any petroleum, waste oil, crude oil, asbestos, urea formaldehyde or polychlorinated biphenyl, (B) any waste, gas or other substance or material that is explosive or radioactive, (C) any “hazardous substance,” “pollutant,” “contaminant,” “hazardous waste,” “regulated substance,” “hazardous chemical” or “toxic chemical” as designated, listed or defined (whether expressly or by reference) in any statute, regulation or other Law (including the Comprehensive Environmental Response, Compensation and Liability Act and any other so-called “superfund” or “superlien” law and the respective regulations promulgated thereunder), (D) any other substance or material (regardless of physical form) or form of energy that is subject to any Law which regulates or establishes standards of conduct in connection with, or which otherwise relates to, the protection of human health, plant life, animal life, natural resources, property or the enjoyment of life or property from the presence in the environment of any solid, liquid, gas, odor, noise or form of energy and (E) any compound, mixture, solution, product or other substance or material that contains any substance or material referred to in clause “(A),” “(B),” “(C),” or “(D)” above.

“Inactive Employees” has the meaning set forth in **Section 6.13(j)**.

“Initial Cure Notice” has the meaning set forth in **Section 6.10(b)**.

“Inventory” has the meaning set forth in **Section 2.2(d)**.

“Inventory Escrow Amount” has the meaning set forth in **Section 3.3(a)**.

“Law” has the meaning set forth in **Section 4.3**.

“Leased Real Property” has the meaning set forth in **Section 2.2(c)**.

“Legacy Lease” means that certain Shopping Center Lease, dated July 31, 2014, by and between the Company and United Legacy Ltd., a Texas limited partnership.

“Legacy Leased Real Property” means the real property leased by the Company pursuant to the Legacy lease and located at 3020 Legacy Drive, Suite 280, Plano, Texas 75023.

“Legal Proceeding” has the meaning set forth in **Section 4.5**.

“Liabilities” means any and all debts, indebtedness, Claims, Liens, losses, damages, assessments, commitments, deficiencies, fines, fees, guaranties, adverse claims, liabilities (including civil fines), causes of action, penalties, sanctions of every kind and character (including reasonable fees and expenses of attorneys, technical experts and expert witnesses), judgments, proceedings, duties, responsibilities and obligations of any nature whatsoever, whether accrued or unaccrued, fixed, vested, absolute or contingent, known or unknown, disputed or undisputed, liquidated or unliquidated, direct or indirect, asserted or unasserted, matured or unmatured, due or to become due, or determined or determinable or otherwise, and whenever and however arising, including those arising under any Law, including any Environmental Law, equity, contract, tort, strict liability or voluntary settlement or otherwise and including all costs and expenses relating thereto (including all fees, disbursements and expenses of legal counsel, experts, engineers and consultants and costs of investigation). For the avoidance of doubt, the definition of Liabilities includes all obligations arising under or in connection with that certain Revolving Credit, Term Loan and Security Agreement with PNC Bank, as agent for the lenders, as amended, supplemented or modified from time to time, or any debtor-in-possession financing facility and related debtor-in-possession financing loan documents.

“Liens” means all liens, whether consensual or statutory (including mechanic’s, materialman’s, carrier’s, repairer’s, contractor’s and other similar liens arising under applicable law), replacement liens, adequate protection liens or other liens granted under Sections 361, 363 or 364 of the Bankruptcy Code, claims, mortgages, deeds of trust, hypothecations, pledges, security interests, charges, leases, options, rights of setoff, netting or deduction, restrictions, and encumbrances of any nature, including without limitation, rights of first refusal or first offer, licenses, defect or objection liens, conditional and installment sales agreements, voting trusts or agreements, transfer restrictions, easements, encroachments, servitudes, or restrictions of any kind and other title or interest retention arrangements, reservations, or limitations of any nature whatsoever, and including without limitation those charges or interests in property within the meaning of “lien” under Bankruptcy Code § 101(37) or any other limitation, restriction or interest that constitutes an “interest” for the purposes of Bankruptcy Code § 363(f). For the

avoidance of doubt, the definition of Lien includes all Liens arising under or in connection with that certain Revolving Credit, Term Loan and Security Agreement with PNC Bank, as agent for the lenders, as amended, supplemented or modified from time to time.

“Material Contracts” has the meaning set forth in **Section 4.15**.

“Necessary Consent” has the meaning set forth in **Section 2.6**.

“Non-Assignable Asset” has the meaning set forth in **Section 2.6**.

“Non-Competition Period” has the meaning set forth in **Section 6.15(a)**.

“Notice of Intent to Reject” has the meaning set forth in **Section 6.10(b)**.

“Offered Employees” has the meaning set forth in **Section 6.13(b)**.

“Option Period” has the meaning set forth in **Section 6.10(b)**.

“Order” has the meaning set forth in **Section 4.3**.

“Owned Real Property” has the meaning set forth in **Section 2.2(b)**.

“Periodic Non-Income Taxes” has the meaning set forth in **Section 6.14(b)(ii)**.

“Permits” has the meaning set forth in **Section 2.2(h)**.

“Permitted Liens” means Liens for Taxes that are not due and payable so long as all such Liens for Taxes arising prior to Closing shall have been extinguished through payment by Seller on or prior to Closing or the Seller’s funding of the Tax Escrow with cash sufficient to extinguish through payment all such Liens for Taxes in accordance with **Section 3.3(b)**.

“Personal Property” has the meaning set forth in **Section 2.2(e)**.

“Petition Date” has the meaning set forth in the preamble.

“Post-Closing Straddle Period” has the meaning set forth in **Section 6.14(b)(iii)**.

“PNC Bank” means PNC Bank, National Association.

“Pre-Closing Straddle Period” has the meaning set forth in **Section 6.14(b)(iii)**.

“Prepaid Items” has the meaning set forth in **Section 2.2(k)**.

“Prepaid Wine” means wine that has been prepaid, in whole or in part, by a customer for future delivery under a wine future, but which delivery to such customer has not occurred as of Closing.

“Purchased Assets” has the meaning set forth in **Section 2.2**.

“Purchased Contracts” has the meaning set forth in **Section 2.2(g)**.

“Purchased Intellectual Property” has the meaning set forth in **Section 2.2(f)**.

“Purchased Real Property Leases” has the meaning set forth in **Section 2.2(c)**.

“Purchased Real Property Purchase Price” means \$1,850,000.

“Purchaser” has the meaning set forth in the preamble.

“Purchaser Material Adverse Effect” means any effect, event, change, condition, state of facts, occurrence or circumstance (regardless of whether such effect, event, change, condition, state of facts, occurrence or circumstance constitutes a breach of any representation, warranty or covenant of Purchaser hereunder) that has had or would reasonably be expected to have, individually or when considered together with any other effect, event, change, condition, state of facts, occurrence or circumstance, a material and adverse effect on the ability of Purchaser to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is a party or to perform its obligations hereunder or thereunder.

“Real Property Leases” means all leases, subleases and licenses of real property or interests in real property by Seller listed on Section 1.1(a) of Seller’s Disclosure Schedule.

“Receivables” has the meaning set forth in **Section 2.2(a)**.

“Retained Liabilities” has the meaning set forth in **Section 2.5**.

“Retained Receivables” has the meaning set forth in **Section 2.3(k)**.

“Retained Records” has the meaning set forth in **Section 2.3(d)**.

“Sale Motion” has the meaning set forth in **Section 6.1(a)**.

“Sale Order” As used herein, the term “Sale Order” means an Order entered by the Bankruptcy Court that: (i) was on appropriate notice to all parties entitled to notice of the motion to approve the sale of the Purchased Assets, this Agreement and the transactions contemplated hereby; (ii) is not subject to a stay pending appeal; (iii) is in form and substance acceptable to Purchaser; and (iv) provides, at least, the following: (A) approval of this Agreement; (B) authorization of the sale of the Purchased Assets to Purchaser pursuant to this Agreement and Sections 105, 363 and 365 of the Bankruptcy Code; (C) the sale of the Purchased Assets to Purchaser on the terms and conditions set forth in this Agreement shall be free and clear of all Claims, Liens and all Liabilities of any kind or nature whatsoever, whether at law or in equity, including, free and clear of any rights or claims based on theories of transferee or successor liability under any applicable Law, whether arising before or after the filing of the petition for relief under Chapter 11 of the Bankruptcy Code on the Petition Date, and any rights or claims based on Excluded Contracts or representing Retained Liabilities, save and excepting only those Liabilities expressly assumed by Purchaser in writing under this Agreement and Permitted Liens; (D) Purchaser has acted in “good faith” within the meaning of and is entitled to the protections of Section 363(m) of the Bankruptcy Code; (E) this Agreement was negotiated, proposed and

entered into by the parties without collusion, in good faith and from arm's length bargaining positions; (F) authorization of the assumption and/or assignment of all of the Purchased Contracts and Purchased Real Property Leases, whether pursuant to Sections 363 and 365 of the Bankruptcy Code or otherwise, and Seller's payment of all Cure Amounts; (G) reasonable and customary exculpation and release language for the benefit of Purchaser; (H) this Agreement and the transactions contemplated hereby may, subject to the terms set forth herein, be enforced specifically against and binding upon, and not subject to rejection or avoidance by Seller or its estate or any Chapter 7 or Chapter 11 trustee of Seller or its estate; (I) the transactions contemplated hereby are not subject to avoidance pursuant to Section 363(n) of the Bankruptcy Code; and (J) containing findings and conclusions that (i) notice of the hearing concerning approval of this Agreement and of the transactions contemplated hereby was given in accordance with the Bankruptcy Code, and constitutes such notice as is appropriate under the particular circumstances, (ii) the marketing process undertaken by Seller and its professionals, agents and other representatives with respect to the Purchased Assets has been adequate, appropriate and reasonably calculated to maximize value for the benefit of all stakeholders; (iii) this Agreement constitutes the best and highest offer for the Purchased Assets and the transactions contemplated hereby are in the best interests of Seller, its estates and stakeholders; (iv) the Purchase Price constitutes full and adequate consideration, is fair and reasonable and constitutes reasonably equivalent value, fair consideration, and fair value for the Purchased Assets under the Bankruptcy Code, the Uniform Fraudulent Transfer Act, and under the laws of the United States, any state, territory, possession, or the District of Columbia; and (v) this Agreement and the transactions contemplated hereby are not subject to rejection or avoidance by Sellers, any chapter 7 or chapter 11 trustee or Sellers' bankruptcy estate or any other person or entity or impairment or discharge under any chapter 11 plan or any subsequent order of the Bankruptcy Court entered in the Bankruptcy Cases.

“Seller” has the meaning set forth in the preamble.

“Seller Material Adverse Effect” means any effect, event, change, condition, state of facts, occurrence or circumstance (regardless of whether such effect, event, change, condition, state of facts, occurrence or circumstance constitutes a breach of any representation, warranty or covenant of Seller hereunder) that has had or would reasonably be expected to have, individually or when considered together with any other effect, event, change, condition, state of facts, occurrence or circumstance (i) a material adverse effect on or a material adverse change in or to the Business (including its results of operations or financial condition or prospects) or the Purchased Assets, taken as a whole; (ii) a material adverse effect on or a material adverse change in or to the ability of Seller to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is a party or to perform its obligations hereunder or thereunder; or (iii) the effect of preventing or delaying the transactions contemplated hereby.

“Seller Permits” has the meaning set forth in **Section 4.16**.

“Seller Policies” has the meaning set forth in **Section 6.13(a)**.

“Service Provider” has the meaning set forth in **Section 6.13(j)**.

“Stockholder” has the meaning set forth in the preamble.

“Straddle Period” has the meaning set forth in **Section 6.14(b)(iii)**.

“Subsidiary” means, with respect to any person, any corporation, partnership, limited liability company, trust, unincorporated organization, association or other entity of which such person, directly or indirectly, owns equity interests that (i) represent more than 50% of the total number of outstanding common or other residual equity interests (however denominated) of such person, (ii) represent more than 50% of the total voting power of all outstanding equity interests of such person which are entitled to vote in the election of directors, managers or other persons performing similar functions for and on behalf of such Person, (iii) are entitled to more than 50% of the dividends paid and other distributions made by such person prior to liquidation or (iv) are entitled to more than 50% of the assets of such person or proceeds from the sale thereof upon liquidation.

“TABC” has the meaning set forth in **Section 4.4**.

“Tax Escrow” has the meaning set forth in **Section 3.3(b)**.

“Tax Escrow Amount” has the meaning set forth in **Section 3.3(b)**.

“Tax Return” any return, report or statement required to be filed in respect of any Tax (including any attachments thereto, and any amendment thereof) including, any information return, claim for refund, amended return or declaration of estimated Tax, and including, where permitted or required, combined, consolidated or unitary returns for any group of entities that includes Seller, any of its Subsidiaries, or any of their respective affiliates.

“Tax Statement” has the meaning set forth in **Section 8.3(i)**.

“Taxes” means (A) any and all federal, state, local or foreign taxes, charges, fees, imposts, levies or other assessments, including, all net income, gross receipts, capital, sales, use, ad valorem, value added, transfer, franchise, profits, inventory, capital stock, license, withholding, payroll, employment, social security, unemployment, excise, severance, stamp, occupation, property and estimated taxes, customs duties, fees, assessments and charges of any kind whatsoever, (B) all interest, penalties, fines, additions to tax or additional amounts imposed by any taxing authority in connection with any item described in clause (A), and (C) any liability in respect of any items described in clause (A) or (B) payable by reason of contract, assumption, transferee liability, operation of law, Section 1.1502-6(a) of the United States Treasury regulations promulgated under the Code (or any predecessor or successor thereof or any analogous or similar provision under law) or otherwise.

“Termination Date” has the meaning set forth in **Section 9.1(b)**.

“Transfer Taxes” has the meaning set forth in **Section 6.14(a)**.

“Transferred Employees” has the meaning set forth in **Section 6.13(b)**.

“Transferred Real Property” has the meaning set forth in **Section 2.2(c)**.

“Valuation Date” has the meaning set forth in **Section 3.4**.

“WARN Act” has the meaning set forth in **Section 6.13(a)**.

Section 1.2 Other Interpretive Provisions. As used in this Agreement the following words or phrases have the following meanings: (i) “affiliate” means, in respect of any specified person, any other person that, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, such specified person; (ii) “business day” means any day other than Saturday, Sunday or any day on which The Federal Reserve Bank of Dallas is closed for business; (iii) for purposes of the definition of “affiliate,” “control” when used in respect of any person means the power to direct the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise (and “controlling” and “controlled” have meanings correlative thereto); (iv) “day” means a calendar day; (v) “dollar” or “\$” means lawful currency of the United States; (vi) “hereby,” “herein,” “hereof,” “hereto,” “hereunder,” “herewith” and words of similar import refer to this Agreement as a whole and not to any particular provision hereof; (vii) “include,” “including” or derivatives thereof means “including without limitation”; (viii) “knowledge of Seller” means the actual knowledge of Tony J. Bandiera, Jr., John A. Rector, Lawrence Gordon Schmuck and Denise Fawks after due inquiry; (ix) “or” means “and/or”; (x) “person” means any individual, corporation, joint venture, partnership, limited partnership, limited liability company, trust, unincorporated association or other form of business or legal entity or Governmental Body; and (xi) “U.S.” means the United States of America.

ARTICLE II **PURCHASE AND SALE**

Section 2.1 Purchase and Sale of Assets. On the terms and subject to the conditions hereof, at the Closing, Purchaser shall (a) purchase, acquire and accept from Seller, and Seller shall sell, assign, transfer, convey, and deliver to Purchaser, free and clear of all Claims, Liens (other than Permitted Liens) and any other interests, the Purchased Assets.

Section 2.2 Purchased Assets. The “Purchased Assets” shall consist of all of Seller’s right, title and interest in, to and under all assets, properties, rights and interests of every kind and description, tangible and intangible, of Seller used or held for use in the conduct of the Business, including:

(a) all accounts and notes receivable and other such Claims for money due to Seller, including the full benefit of all security for such accounts, notes and Claims, however arising, including arising from the rendering of services or the sale of goods or materials, together with any unpaid interest accrued thereon from the respective obligors and any security or collateral therefor, but specifically excluding the Retained Receivables (collectively the “Receivables”);

(b) subject to **Section 3.8**, all real property owned in fee by Seller on the Closing Date, and listed on Section 2.2(b) of Seller’s Disclosure Schedule, together with all appurtenant easements thereunto and all buildings, structures, fixtures, and improvements located thereon (the “Owned Real Property”);

(c) subject to **Section 2.6**, the leases, subleases and licenses of real property or interests in real property by Seller listed on Section 2.2(c) of Seller's Disclosure Schedule (the "Purchased Real Property Leases") (as such Section 2.2(c) of Seller's Disclosure Schedule may be updated by Purchaser in its discretion to remove the Legacy Lease after the Execution Date), and all of Seller's right, title and interest in and to the buildings, structures, fixtures and improvements located on the real property subject to such Purchased Real Property Leases (the "Leased Real Property" and, together with the Owned Real Property, the "Transferred Real Property");

(d) all inventories of goods, raw materials, components, packaging materials, stores and supplies, and samples related thereto that are used or held for use in the conduct of the Business (collectively, "Inventory"), wherever located, including any of the foregoing in the possession of manufacturers, suppliers, customers, dealers or others and any of the foregoing in transit or that is classified as returned goods;

(e) all machinery, equipment (including test equipment and material handling equipment), hardware, spare parts, tools, dies, jigs, molds, patterns, gauges, fixtures (including production fixtures), business machines, computer hardware, other information technology assets, furniture, furnishings, supplies, vehicles, spare parts in respect of any of the foregoing and other tangible personal property (including any of the foregoing in the possession of manufacturers, suppliers, customers, dealers or others and any of the foregoing in transit) that does not constitute Inventory (collectively, "Personal Property");

(f) all right, title, and interest in and to all domestic and foreign letters patent, patents, patent applications, patent licenses, software licenses, know-how licenses, trade names, trademarks, registered copyrights, service marks, trademark registrations and applications, service mark registrations and applications, and copyright registrations and applications, that are used or held for use in the operation of the Business by Seller, including those listed in Section 2.2(f) of Seller's Disclosure Schedule, and all trade secrets, technical knowledge, know-how, and other confidential proprietary information and related ownership, use, and other rights of Seller (collectively, the "Purchased Intellectual Property");

(g) subject to **Section 2.6**, all Contracts relating to the Business to which Seller is a party (other than Purchased Real Property Leases, which are addressed in **Section 2.2(c)** above) that are listed in Section 2.2(g) of Seller's Disclosure Schedule (collectively, the "Purchased Contracts"), which Section 2.2(g) of Seller's Disclosure Schedule may be updated from time to time after the Execution Date, including pursuant to **Section 6.10(c)**;

(h) subject to **Section 2.6**, all licenses, permits, franchises, authorizations, orders, registrations, certificates, variances, approvals, and similar rights (collectively, "Permits") issued by any domestic or foreign government, governmental or regulatory body thereof, political subdivision thereof, any agency, authority, board, bureau or department thereof or any court or arbitrator thereof ("Governmental Body") that are

used or held for use in the conduct of the Business, including those listed in Section 2.2(h) of Seller's Disclosure Schedule;

(i) all books and records of Seller relating to the Business or the Purchased Assets (but excluding the Retained Records), including all books, records, files, data, correspondence and other information relating to employees, purchase or sale information, advertising, marketing, inventory, sales, customers, suppliers, vendors, and financial, accounting and operations;

(j) all of Seller's rights in and to the name Sigel's and all derivatives thereof;

(k) all prepaid expenses, prepaid rents, prepaid insurance, utility deposits, advance payments and deposits on obligations made in connection with the Business, including the items listed in Section 2.2(k) of Seller's Disclosure Schedule (collectively, "Prepaid Items");

(l) all warranties, indemnities, guarantees, rights to reimbursement or contribution, and similar rights related to the Purchased Assets, including warranties, indemnities and guarantees made by suppliers, manufacturers and contractors under the Purchased Assets and Claims against third parties in connection with the Purchased Real Property Leases and Purchased Contracts, including, for the avoidance of doubt, Executory Contracts;

(m) all known and unknown Claims (including Tax refunds), causes of action and other similar rights, rebates and credits owned by or in favor of Seller relating to any Purchased Assets, including the Claims identified on Section 2.2(m) of Seller's Disclosure Schedule;

(n) all goodwill and other intangible assets related to the Purchased Assets or the Business;

(o) all rights of Seller under non-disclosure, confidentiality or other similar agreements entered into with third persons in connection with the sale of the Business or any part of the Business;

(p) all post-petition adequate assurance deposits provided to utilities and all deposits provided to suppliers or service providers to Seller on a pre-petition basis, including those listed on Section 2.2(p) of Seller's Disclosure Schedule;

(q) all insurance policies and the rights to proceeds thereof, other than Excluded Insurance Policies;

(r) all wine futures and *En Primeur* owned or held by Seller and for which Seller has no corresponding obligation to deliver the wine related to such wine futures or *En Primeur* to a customer or other third party, in each case as set forth on Section 2.2(r) of Seller's Disclosure Schedule; and

(s) all Assumed Plans, to the extent expressly assumed pursuant to **Section 6.13(g)**.

Section 2.3 Excluded Assets. Notwithstanding any other provision of this Agreement to the contrary, at the Closing, Seller shall retain, Purchaser shall not acquire, and the Purchased Assets shall not include, any right, title or interest in the following assets, properties and interests of Seller (collectively, "Excluded Assets"):

(a) all inventory that has been sold, transferred, consumed or otherwise disposed of by Seller prior to the Closing, in each case in the ordinary course of the business consistent with past practice and **Section 6.3**;

(b) (A) all Contracts not identified on Section 2.2(c) and Section 2.2(g) of Seller's Disclosure Schedule as in effect immediately prior to the Closing (collectively, the "Excluded Contracts");

(c) all Contracts that have terminated or expired prior to the Closing in the ordinary course of the business consistent with past practice and **Section 6.3**;

(d) Seller's corporate seal, minute books, charter documents, stock ledgers, and such other books and records as pertain to the organization, existence, or share capitalization of Seller (collectively, "Retained Records") and duplicate copies of such records included in the Purchased Assets as are necessary to enable Seller to file its Tax Returns and reports, and any other records or materials relating to Seller generally and not involving or relating to the Purchased Assets or the Business;

(e) all rights, claims, causes of action and credits to the extent relating to any Excluded Asset or Retained Liabilities, including any such item to the extent arising under any warranty, guarantee, indemnity or similar right in favor of Seller in respect of an Excluded Asset or Retained Liabilities;

(f) Seller's rights arising out of or relating to this Agreement or the transactions contemplated hereby;

(g) Seller's rights, claims or causes of action set forth in Sections 544 through 551 (inclusive), 553, and 558 of the Bankruptcy Code, including any and all proceeds of the foregoing (the "Bankruptcy Avoidance Actions"), but in all cases, excluding all rights and Claims identified on Section 2.3(g) of Seller's Disclosure Schedule;

(h) all insurance policies identified on Section 2.3(h) of Seller's Disclosure Schedule and the rights to proceeds thereof (collectively, the "Excluded Insurance Policies"), other than any rights to proceeds to the extent such proceeds related to any Purchased Asset or Assumed Liability;

(i) all Employee Benefit Plans of Seller other than the Assumed Plans;

(j) all cash and cash equivalents of the Business;

(k) all accounts receivable with The American Express Company in respect of credit card receipts related to the period ending prior to the Closing Date (the “Retained Receivables”);

(l) all amounts due and owing from Worldpay, Inc., the Company’s credit card processing provider, in respect of Visa and Mastercard credit card receipts received by Worldpay, Inc. on behalf of the Company during the period ending prior to the Closing Date;

(m) all Pre-Paid Wine; and

(n) any other asset or property of Seller listed on Section 2.3(n) of Seller’s Disclosure Schedule.

Section 2.4 Assumed Liabilities. Notwithstanding any other provision of this Agreement to the contrary, Purchaser shall not assume any Liabilities of Seller, including, without any limitation, any Liabilities arising out of or otherwise relating to the Business or the Purchased Assets prior to the Closing, except for the following (collectively, “Assumed Liabilities”):

(a) all Liabilities arising after the Closing Date with respect to any Assumed Plans to the extent expressly assumed by Purchaser pursuant to **Section 6.13(g)**;

(b) all Liabilities arising under the terms of each Purchased Contract, solely to the extent arising after the Closing Date, but excluding any Liabilities arising out of or related to any breach or default thereof occurring at or prior to the Closing or arising out of any event or circumstance occurring at or prior to the Closing which, with the delivery of notice, lapse of time or both, would constitute a breach or default thereof;

(c) all Liabilities for Taxes to be borne by Purchaser to the extent expressly set out in **Section 6.14(b)**; and

(d) each credit memo issued by Seller to a customer of Seller as of the Closing Date, solely to the extent that such customer has outstanding accounts receivables as of the Closing Date in an aggregate amount equal to or greater than the aggregate amount of all credit memos issued to such customer.

Section 2.5 Retained Liabilities. Notwithstanding anything in this Agreement to the contrary, Seller shall retain and remain liable in respect of, and neither Purchaser nor any of its affiliates shall assume, pay, succeed to, be liable for, be subject to, be obligated for or become responsible for, nor shall the Purchased Assets be subject to, any Claim, Lien (other than Permitted Liens) or Liability, including without limitation, any Claim or Liability of, or action against, Seller, any of its affiliates or any other Person, arising out of or otherwise relating to the Business or the Purchased Assets prior to Closing, and all other Liabilities of Seller (collectively, the “Retained Liabilities”). Without limiting the preceding sentence, for the avoidance of doubt, Seller shall remain responsible for, and Purchaser shall not assume and hereby disclaims all of the Retained Liabilities, including all of the following Liabilities of Seller (each of which shall constitute a Retained Liability):

- (a) all Liabilities arising out of or related to the Excluded Assets;
- (b) all Liabilities for Taxes of Seller that are attributable to any period, or portion thereof, before or after the Closing Date or the transfer of the Purchased Assets from Seller to Purchaser;
- (c) all Liabilities for Taxes in respect of the Purchased Assets that are attributable to any period, or portion thereof, before the Closing Date;
- (d) all Liabilities arising under or related to Environmental Laws that are based on or attributable to facts, occurrences or conditions first arising or existing on or prior to the Closing Date;
- (e) all Liabilities, including for any indebtedness, incurred in respect of or attributable to the Business or ownership or operation of the Purchased Assets prior to the Closing, (in each case, regardless of when any such Liabilities mature or are asserted) or Liabilities from which the Purchased Assets and Purchaser are discharged, released or otherwise cleared as of the Closing in accordance with the Sale Order;
- (f) all Liabilities of Seller;
- (g) all Liabilities arising as a result of any Legal Proceeding, whether initiated before or after the Closing, to the extent related to the Business or the Purchased Assets on or prior to the Closing Date, including any Legal Proceeding based on breach of contract, tort or product liability;
- (h) all Liabilities in respect of any costs, fees and expenses (including all legal, accounting, financial advisory, valuation, investment banking and other third-party advisory or consulting fees and expenses) incurred by or on behalf of Seller in connection with or arising from the Bankruptcy Case or the transactions contemplated by this Agreement, the Ancillary Agreements and each other agreement, document or instrument contemplated hereby and thereby (the “Bankruptcy Expenses”);
- (i) all Liabilities (i) existing prior to the filing of the Bankruptcy Case that are subject to compromise under the Bankruptcy Case or (ii) incurred subsequent to the filing of the Bankruptcy Case and prior to the Closing;
- (j) all Liabilities relating to any theories of law or equity involving successors or transferees;
- (k) all Liabilities of Seller under this Agreement, the Ancillary Agreements and each other agreement, document or instrument contemplated hereby and thereby, or any Contract entered into in connection herewith or therewith;
- (l) all Liabilities, warranty and similar claims for damages, illness or injury to person or property and all other Liabilities, regardless of when made or asserted, to the extent arising out of or incurred in connection with the conduct of the Business or the ownership or operation of the Purchased Assets on or before the Closing Date;

(m) all Liabilities to the extent arising out of or related to (i) the breach, performance, or non-performance by Seller prior to the Closing (in each case, regardless of when any claims arising therefrom or relating thereto mature or are asserted) under any Contract, including for the avoidance of doubt, any Purchased Real Property Lease or Permit and (ii) the rejection by Purchaser of any Contract or the Legacy Lease;

(n) all Liabilities related to or arising out of any wine or spirits owned by a customer or other third-party but are in the possession of Seller or any of its affiliates prior to the Closing Date, including the wine that is the subject of the wine futures listed on Section 2.5(n) of Seller's Disclosure Schedules;

(o) all Cure Amounts; and

(p) except as otherwise expressly provided in **Section 6.13**, all Liabilities arising out of, relating to or in respect of (i) the employment or performance for services, or termination of employment or services by Seller or any of its affiliates of any individual on or before the Closing Date, and (ii) workers' compensation claims against Seller that relate to the period on or before the Closing Date, irrespective of whether such claims are made prior to or after the Closing.

Section 2.6 Non-Assignable Assets. Notwithstanding any other provision of this Agreement to the contrary, this Agreement shall not constitute an agreement to assign, sell or transfer and shall not affect the assignment, sale or transfer of any Purchased Asset ("Non-Assignable Asset") if (i) an attempted assignment, sale or transfer thereof, without the approval, authorization or consent of, or granting or issuance of any license or permit by, any Governmental Body or other third person (each such action, a "Necessary Consent"), would constitute a breach, default or violation thereof or of any Law or Order or in any way adversely affect the rights of Purchaser thereunder and (ii) the Bankruptcy Court has not entered an Order providing that such Necessary Consent is not required. In the event any assignment, sale or transfer is subject to such Necessary Consent being obtained, then Seller shall use its best efforts to obtain the Necessary Consent in respect of any such Non-Assignable Asset or any claim or right or any benefit arising thereunder for the assignment, sale or transfer thereto to Purchaser as Purchaser may reasonably request. For the avoidance of doubt, any asset that would be a Purchased Asset but is not assigned in accordance with this **Section 2.6** shall not be considered a "Purchased Asset" for purposes hereof unless and until such asset is assigned to Purchaser after the Closing Date upon receipt of any Necessary Consent or approval of the Bankruptcy Court. If such Necessary Consent is not obtained, or if an attempted assignment, sale or transfer thereof would be ineffective or would adversely affect the rights of Purchaser to such Non-Assignable Asset after the Closing, then Seller shall cooperate with Purchaser in any reasonable arrangement to allow Purchaser to obtain the benefits and assume the obligations thereunder in accordance with this Agreement, including subcontracting, sub-licensing or subleasing to Purchaser, or under which Seller would enforce for the benefit of Purchaser all of its rights thereunder.

ARTICLE III **PURCHASE PRICE**

Section 3.1 Purchase Price. On the terms and subject to the conditions set forth herein, in consideration of the sale, assignment, conveyance, and transfer by Seller of the Purchased Assets to Purchaser at the Closing, Purchaser will pay the Seller an amount (the “Aggregate Purchase Price”) equal to: (a) ninety percent (90%) of Seller’s purchase cost of the inventory of Seller on the Closing Date; plus (b) the face value of the trade accounts receivables (net of any credits against such receivables) of Seller outstanding on the Closing Date that are, (i) in the case of any commercial airline customers, less than forty (40) days old or, (ii) in the case of all other customers, less than thirty (30) days old; plus (c) the Purchased Real Property Purchase Price attributable to the Purchased Real Property, in each case subject to adjustment pursuant to **Section 3.5** and **Section 3.8**.

Section 3.2 Earnest Money. Upon entry of the Sale Order, Purchaser shall pay an Earnest Money Deposit (the “Deposit”) in the sum of \$200,000 to an escrow agent of Purchaser’s choice (the “Escrow Agent”), which Deposit shall be deducted from the Aggregate Purchase Price paid by Purchaser at the Closing.

Section 3.3 Closing Payment. At the Closing, the Aggregate Purchase Price shall be paid to or on behalf of Seller in the following priority:

(a) Purchaser shall pay an amount equal to \$920,000 (the “Inventory Escrow Amount”) to the Escrow Agent to satisfy any obligation of Seller to pay any amount due and owing by Seller pursuant to **Section 3.5(b)**, if any;

(b) Purchaser shall pay an amount equal to \$500,000, representing the aggregate amount of all of Seller’s unpaid Texas state and local Tax Liabilities (the “Tax Escrow Amount”), which amount will be retained by the Escrow Agent (the “Tax Escrow”) until such time as Seller has provided to Purchaser evidence in form and substance reasonably satisfactory to Purchaser of payment of all unpaid state and local Tax Liabilities of Seller, at which time the balance of the Tax Escrow shall be distributed in accordance with **Section 3.7**. In respect of any Taxes imposed by the State of Texas and any sales, use and other similar Taxes, Seller shall, pursuant to **Section 8.3(h)**, provide to Purchaser the Tax Statement setting forth all outstanding Texas state and local Tax Liabilities. If Seller is unable to provide the Tax Statement at or before Closing, Seller shall provide Purchaser with official documentation establishing the amount of its unpaid state and local Tax Liabilities and shall authorize Purchaser to obtain such documentation directly from the applicable Governmental Bodies as required by **Section 6.14(c)**;

(c) Purchaser shall pay to Seller the remainder of the Aggregate Purchase Price, if any, after giving effect to the payments set forth in Sections 3.3 (a) and (b) and after deducting the Deposit;

provided, that, for the avoidance of doubt, nothing in this agreement shall be deemed to require or obligate Purchaser to make any payment to or on behalf of Seller in excess of the Aggregate Purchase Price, as adjusted pursuant to **Section 3.5** and **Section 3.8**.

Section 3.4 Process for Determining Value of Inventory and Accounts Receivable for Closing. No later than ten days prior to the Closing Date (or, if such date is not a business day, the next business day), Seller shall deliver to Purchaser a certificate, certificated by an officer of Seller, setting forth Seller's good faith estimate of the purchase cost of the inventory of Seller and the aggregate outstanding trade accounts receivable of Seller that are, (i) in the case of any commercial airline customers, less than forty (40) days old or, (ii) in the case of all other customers, less than thirty (30) days old, in each case as of the Closing Date (the "Estimated Closing Statement"). Prior to the Closing Date, Seller and Purchaser shall cooperate in good faith to resolve any dispute about the estimated purchase cost of the inventory of Seller and the aggregate outstanding trade accounts receivable of Seller that are, (i) in the case of any commercial airline customers, less than forty (40) days old or, (ii) in the case of all other customers, less than thirty (30) days old, in each case as set forth in the Estimated Closing Statement and Seller shall make available to Purchaser at Purchaser's request the books and records of Seller used to derive the estimates set forth in the Estimated Closing Statement. The Seller's estimate of the purchase cost of the inventory and the outstanding trade accounts receivable that are, (i) in the case of any commercial airline customers, less than forty (40) days old or, (ii) in the case of all other customers, less than thirty (30) days old shall be used to determine the amount payable to the Seller in respect of the inventory of the Seller pursuant to **Section 3.1(a)** and the aggregate outstanding trade accounts receivable of the Seller pursuant to **Section 3.1(b)**, in each case subject to adjustment pursuant to **Section 3.5**.

Section 3.5 Post-Closing Adjustments of Inventory and Accounts Receivable.

(a) Immediately prior to or promptly following the Closing Date, as agreed upon by the parties, Seller and Purchaser shall perform a physical inventory count effective as of the Closing Date. No later than thirty (30) days following the Closing Date, Purchaser and Seller shall agree upon and execute a statement setting forth the purchase cost of the inventory of Seller and the aggregate outstanding trade accounts receivable of Seller that are, (i) in the case of any commercial airline customers, less than forty (40) days old or, (ii) in the case of all other customers, less than thirty (30) days old, in each case as of the Closing Date (the "Final Closing Statement").

(b) Upon the execution of the Final Closing Statement, the aggregate purchase cost of Seller in respect of the inventory and the aggregate outstanding accounts receivable of Seller, in each case as set forth in the Estimated Closing Statement, shall be compared with the aggregate purchase cost of Seller in respect of the inventory and the aggregate outstanding accounts receivable of Seller, in each case as set forth in the Final Closing Statement. An adjustment to the Aggregate Purchase Price shall be made pursuant to this **Section 3.5(b)** to account for such difference, if any.

(i) If the aggregate purchase cost of Seller in respect of inventory and the aggregate outstanding accounts receivable of Seller, in each case as set forth in the Final Closing Statement, is less than the aggregate purchase cost of inventory and the aggregate outstanding accounts receivable set forth in the Estimated Closing Statement, then the difference between (1) (A) 90% of the aggregate purchase cost of Seller in respect of the inventory as set forth in the Estimated Closing Statement, plus (B) the aggregate outstanding accounts

receivable as set forth in the Estimated Closing Statement, and (2) (A) 90% of the aggregate purchase cost of Seller in respect of the inventory as set forth in the Final Closing Statement, plus (B) the aggregate outstanding accounts receivable as set forth in the Final Closing Statement, shall be paid by the Escrow Agent to Purchaser out of the Inventory Escrow Amount and the balance of the Inventory Escrow Amount, if any, shall be paid to Seller, in each case within five (5) days of the execution by the parties of the Final Closing Statement. In the event that the Inventory Escrow Amount is not sufficient to pay the difference referred to in the immediately preceding sentence, the difference between the amount payable pursuant to the first sentence of this **Section 3.5(b)(i)** and the Inventory Escrow Amount shall be paid by Seller to Purchaser within five (5) days of the execution by the parties of the Final Closing Statement. Any amounts which may become payable from Seller to Purchaser pursuant to this **Section 3.5(b)(i)** shall constitute a super priority administrative expense of Seller under Section 364(c)(1) of the Bankruptcy Code with priority over all administrative expenses of the kind specified in Sections 503(b) and 507(a) of the Bankruptcy Code.

(ii) If the aggregate purchase cost of Seller in respect of inventory and the aggregate outstanding accounts receivable of Seller, in each case as set forth in the Final Closing Statement, is greater than the purchase cost of Seller in respect of inventory and the aggregate outstanding accounts receivable of Seller, in each case as set forth in the Estimated Closing Statement, the Inventory Escrow Amount shall be paid to Seller and the remaining balance due resulting from the difference between (1) (A) 90% of the aggregate purchase cost of Seller in respect of the inventory as set forth in the Estimated Closing Statement, plus (B) the aggregate outstanding accounts receivable as of the Estimated Closing Statement, and (2) (A) 90% of the aggregate purchase cost of Seller in respect of the inventory as of the Final Closing Statement, plus (B) the aggregate outstanding accounts receivable as of the Final Closing Statement, shall be paid by Purchaser to Seller, in each case within five (5) days of the execution by the parties of the Final Closing Statement.

Section 3.6 Release of Earnest Money Deposit. In the event that the Closing occurs, the Deposit shall be applied toward the Aggregate Purchase Price at the Closing, and Seller and Purchaser shall jointly instruct the Escrow Agent to deliver the Deposit to Seller at the Closing. In the event that this Agreement is terminated prior to the Closing for any reason other than pursuant to **Section 9.1(d)** or due to the failure to satisfy the condition set forth in **Section 7.3(f)**, then the Deposit shall be disbursed to Purchaser, free of any Claims by Sellers with respect thereto, and Purchaser shall have the right to unilaterally instruct the Escrow Agent to deliver the Deposit to Purchaser within five (5) days of such termination. If this Agreement is terminated prior to the Closing pursuant to **Section 9.1(d)** or due to the failure to satisfy the condition set forth in **Section 7.3(f)**, Seller and Purchaser shall jointly instruct the Escrow Agent to deliver the Deposit to Seller within five (5) days of such termination.

Section 3.7 Release of Tax Escrow. From time to time following the Closing, all or any portion of the Tax Escrow Amount may be released to Purchaser in accordance with the terms and conditions set forth in **Section 6.14(b)** with respect to the reimbursement of Purchaser

of any Tax Liabilities of Seller that are paid by Purchaser. Upon receipt of evidence in form and substance reasonably satisfactory to Purchaser of the payment of all outstanding Tax Liabilities of Seller following the Closing, Seller and Purchaser shall, within twenty-one (21) days thereafter, jointly instruct the Escrow Agent to distribute the remaining balance of the Tax Escrow to Seller. Notwithstanding the foregoing, in the event that any balance remains in the Tax Escrow on October 31, 2018, Purchaser shall have the right to unilaterally instruct the Escrow Agent to distribute an amount of such funds to Purchaser reasonably determined by Purchaser to be sufficient to satisfy any Tax Liabilities of Seller then-outstanding and the balance of funds remaining in the Tax Escrow following such distribution will be distributed to Seller.

Section 3.8 Adjustment to Purchase Price for Transferred Real Property. In the event that Purchaser identifies any physical, mechanical or other defects in the condition of the Transferred Real Property or any related improvements or fixtures, including the roof, foundation, structure, heating, ventilating, plumbing, electrical or any other mechanical apparatus or system, including, for the avoidance of doubt, any physical or mechanical defects identified on Section 4.13(d) of Seller's Disclosure Schedule, in each case that are not resolved prior to the Closing, then the Aggregate Purchase Price shall be reduced by an amount equal to the cost or expense required to conduct any maintenance or make any repairs necessary to cure such physical, mechanical or other defects; provided, however, that such reduction shall apply only to the Purchased Real Property Purchase Price in the event that such physical, mechanical or other defects relate solely to Owned Real Property. The amount of such reduction shall be determined pursuant to a written estimate for such cost or repair obtained prior to the Closing from a vendor mutually acceptable to Seller and Purchaser or, in the event that Seller and Purchaser cannot agree on a mutually acceptable vendor, any professionally licensed and bonded vendor designated by the Purchaser that specializes in such maintenance or repairs.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Purchaser that:

Section 4.1 Organization and Power. Seller is a limited partnership duly organized, validly existing, and in good standing under the Laws of its jurisdiction of organization. Subject to the limitations imposed on Seller as a result of having filed a petition for relief under the Bankruptcy Code, Seller has the requisite partnership power and authority to own, lease, or otherwise hold the assets and properties owned, leased or otherwise held by it and to carry on its business as currently conducted and as proposed to be conducted. Seller is duly qualified and authorized to conduct business as a foreign limited partnership under the Laws of each jurisdiction in which the conduct of its business or the ownership or lease of its assets or properties requires such qualification or authorization.

Section 4.2 Authorization and Enforceability. Subject to the entry of the Sale Order and such other authorization as is required by the Bankruptcy Court, Seller has the requisite partnership power to execute and deliver this Agreement, any Bill of Sale, any Assignment and Assumption Agreement and such other agreements, documents or instruments contemplated hereby or thereby (collectively, the "Ancillary Agreements") to which Seller is a party and to perform the obligations to be performed by it hereunder and thereunder. The execution and

delivery by Seller of this Agreement and each Ancillary Agreement to which Seller is a party and the performance by it of the obligations to be performed by it hereunder and thereunder have been (or, in the case of any such Ancillary Agreement, at the Closing, will be) duly authorized by all necessary partnership action on the part of Seller. This Agreement has been, and the Ancillary Agreements to which Seller is a party will at the Closing be, duly executed and delivered by Seller and, assuming the due execution and delivery of this Agreement and the Ancillary Agreements by the other parties hereto and thereto, constitute valid and binding obligations of Seller enforceable against Seller in accordance with their respective terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium, or other similar Laws affecting the enforcement of creditors' rights in general and subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

Section 4.3 No Conflicts. Except as set forth on Section 4.3 of Seller's Disclosure Schedule, the execution and delivery by Seller of this Agreement and each Ancillary Agreement to which Seller is a party, the performance by Seller of the obligations to be performed by it hereunder and thereunder, and the consummation of the transactions contemplated hereby and thereby, will not, (i) conflict with the certificate of formation or limited partnership agreement of Seller, (ii) subject to entry of the Sale Order, conflict with, or result in any violation of, or constitute a default (with or without notice, lapse of time, or both) under, or give rise to a right of termination, cancellation, or acceleration of any obligation or to loss of a benefit under, any material Contract or Permit to which Seller is a party or by which any of its assets or properties are bound, or (iii) subject to entry of the Sale Order, violate any order, judgment, decree, ruling, award or writ of any Governmental Body ("Order") applicable to Seller or violate any law, statute, rule, or regulation ("Law") applicable to Seller.

Section 4.4 Consents and Approvals. Except as set forth on Section 4.4 of Seller's Disclosure Schedule (which includes the consent of the Texas Alcoholic Beverage Commission (the "TABC") to the transfer of the Permits required to operate the Business) and except to the extent not required if the Sale Order is entered, no consent, approval, waiver, Order, Permit or authorization of, or registration, declaration or filing with, any Governmental Body or other person is required to be obtained or made on the part of Seller in connection with the execution and delivery of this Agreement or any Ancillary Agreement to which Seller is a party by Seller, the performance by Seller of the obligations to be performed by it hereunder or thereunder, or the consummation of the transactions contemplated hereby or thereby, other than the entry of the Sale Order.

Section 4.5 Legal Proceedings. Except for the general pendency of the Bankruptcy Case or as listed on Section 4.5 of Seller's Disclosure Schedule, there is no Legal Proceeding pending or threatened that affects any of the Purchased Assets or the Business or that could reasonably be expected to give rise to any Liability of Purchaser or adversely affect Purchaser's ability to conduct the Business after the Closing or the ownership or use of the Purchased Assets in the operation of the Business after the Closing. Neither the Business nor any of the Purchased Assets is subject to any Order. As used herein, the term "Legal Proceeding" means any claim, demand, litigation, cause of action, audit, dispute, review, hearing, charge, indictment, complaint, petition, suit or other judicial or administrative proceeding, at law or in equity, by or before any Governmental Body or arbitration or similar dispute resolution proceeding.

Section 4.6 Brokers' Fees. Neither Seller nor any person acting on its behalf has agreed to pay a fee, commission or similar payment in connection with this Agreement, any Ancillary Agreement or any of the transactions contemplated hereby or thereby to any person for which Purchaser will be liable.

Section 4.7 Title to Assets.

(a) Except as set forth on Section 4.7 of Seller's Disclosure Schedule, Seller owns or has valid rights to use the Purchased Assets free and clear of all Claims and Liens (other than Permitted Liens) and, subject to the entry of the Sale Order, at the Closing, Purchaser will be vested with good, valid, and marketable title to the Purchased Assets free and clear of all Claims and Liens, other than Permitted Liens.

(b) Other than with respect to any Contracts, including Contracts related to the lease or sublease by Seller of any real property, that Purchaser elects not to include in the Purchased Assets in accordance with the terms and conditions of this Agreement, the Purchased Assets constitute, and as of the Closing will constitute, all of the assets, properties, goodwill and rights of every kind, character and description, wherever located and whether tangible or intangible, real or personal, or fixed or contingent, that are necessary to operate the Business as currently conducted by Seller, other than Excluded Assets, and as proposed to be conducted by Seller.

Section 4.8 Compliance with Laws. Except as otherwise specifically directed by the Bankruptcy Court or as listed on Section 4.8 of Seller's Disclosure Schedule, and except where such conduct, failure to obtain, non-compliance or violations would not, individually or in the aggregate, have a Seller Material Adverse Effect: (i) Seller owns and operates the Purchased Assets and has conducted the Business in accordance with all Laws, Orders and Permits applicable to Seller and the Purchased Assets; and (ii) the Business is, and at all times has been, in compliance with all applicable Laws, Orders and Permits (including anti-bribery Laws) and has obtained all approvals necessary for owning and operating the Business and has made all necessary filings with all Governmental Entities having jurisdiction over Seller and the Purchased Assets.

Section 4.9 Absence of Changes. Since the Balance Sheet Date and except as set forth on Section 4.9 of Seller's Disclosure Schedule:

(a) no event has occurred that would reasonably be expected to have a Seller Material Adverse Effect on the Business;

(b) there has not been any loss, damage or destruction to, or any material interruption or use of, any of the Purchased Assets (whether or not covered by insurance);

(c) Seller has not sold or otherwise transferred, or leased or licensed, any portion of the assets used in the Business to any other person other than in the ordinary course of business;

(d) except as set forth in the Financial Statements, Seller has not written off as uncollectible, or established any extraordinary reserve with respect to, any accounts or notes receivable of Seller arising out of the operation of the Business;

(e) Seller has not purchased or otherwise acquired any asset from any other person, except as acquired by Seller in the ordinary course of business;

(f) Seller has not leased or licensed any asset from any other person, except in the ordinary course of business;

(g) Seller has not made any single capital expenditures in excess of \$25,000;

(h) Seller has not forgiven any debt or otherwise expressly released or waived any right or claim related to the Business;

(i) Seller has not changed any of its methods of accounting or accounting practices in any respect;

(j) Seller has not made any material change in cash management practices and policies, practices and procedures with respect to collection of accounts receivable, establishment of reserves for uncollectible accounts receivable, accrual of accounts receivable, inventory control, prepayment of expenses, payment of trade accounts payable, accrual of other expenses, deferral of revenue and acceptance of customer deposits, except for any such changes reasonably required to comply with GAAP;

(k) Seller has not entered into any transaction or taken any other action, in each case related to the Business, outside the ordinary course of business; and

(l) except for the transactions contemplated hereby, Seller has not agreed, committed or offered (in writing or otherwise) to take any of the actions referred to in the foregoing clauses “(c)” through “(k)”.

Section 4.10 Financial Statements. Seller has delivered to Purchaser copies of (i) the unaudited balance sheet of Seller as at December 31, 2016 and the related unaudited statements of operations, partners’ equity and cash flows of Seller for the year then ended and (ii) the unaudited balance sheet of Seller as at December 31, 2017 and the related unaudited statements of income and cash flows of Seller for the twelve month period then ended (such audited and unaudited statements, including the related notes and schedules thereto, are referred to herein as the “Financial Statements”). Each of the Financial Statements is true, complete and correct in all material respects, has been accurately derived from the books and records of Seller as of the dates and for the periods indicated therein, has been prepared in accordance with U.S. generally accepted accounting principles (“GAAP”) consistently applied without modification of the accounting principles used in the preparation thereof throughout the periods presented and presents fairly in all material respects the financial position, results of operations, partners’ equity and cash flows of Seller as at the dates and for the periods indicated. For the purposes hereof, the unaudited balance sheet of Seller as at December 31, 2017 is referred to as the “Balance Sheet” and December 31, 2017 is referred to as the “Balance Sheet Date.”

Section 4.11 No Undisclosed Liabilities. Except as listed in Section 4.11 of Seller's Disclosure Schedule, Seller has no indebtedness, obligations or Liabilities of any kind other than those (i) fully reflected in, reserved against or otherwise described in the Balance Sheet or the notes thereto or (ii) immaterial to Seller and incurred in the ordinary course of business consistent with past practice since the Balance Sheet Date.

Section 4.12 Taxes.

(a) Except as set forth on Section 4.12 of Seller's Disclosure Schedule, (i) Seller has timely filed all Tax Returns required to be filed with the appropriate taxing authorities in all jurisdictions in which such Tax Returns are required to be filed (taking into account any extension of time to file granted or to be obtained on behalf of Seller) and all such Tax returns are correct and accurate; and (ii) all Taxes due from Seller, regardless of whether shown to be payable on such Tax Returns have been paid. Seller is not a foreign person within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended (the "Code").

(b) Except as set forth on Section 4.12(b) of the Seller's Disclosure Schedule, all deficiencies asserted or assessments made as a result of any examinations by any Governmental Authority with respect to any Taxes due from Seller have been paid in full to the extent that the underpayment or non-payment of such Taxes would result in a Lien on the Purchased Assets after the Closing Date or in liability to Purchaser as a transferee or successor of or to the Purchased Assets. No audit or other Claim by any Governmental Authority is pending or threatened in writing with respect to any Taxes due from Seller the underpayment or nonpayment of which would result in a Lien on the Purchased Assets after the Closing Date or in liability to Purchaser as a transferee or successor of or to the Purchased Assets.

(c) There are no Liens with respect to Taxes upon any of the Purchased Assets, except for Permitted Liens.

(d) All of the Purchased Assets have been properly reflected on the tax rolls of the Governmental Authority authorized to impose property or ad valorem Taxes on such property.

(e) The Purchased Assets comprise all of the operating assets of the Business within the meaning of 34 Texas Administrative Code 3.316(d).

Section 4.13 Real Property.

(a) Section 4.13(a) of Seller's Disclosure Schedule sets forth the address and legal description of all Owned Real Property. With respect to each parcel of Owned Real Property:

(i) Seller has good and marketable fee simple title to all Owned Real Property, free and clear of all Liens, except (i) the Liens listed on Section 4.13(a)(i) of Seller's Disclosure Schedule and (ii) Permitted Liens;

(ii) Seller has not conveyed, assigned, or encumbered its interest in the Owned Real Property or any portion thereof, except with respect to Permitted Liens;

(iii) Seller has not leased or otherwise granted to any person the right to occupy the Owned Real Property or any portion thereof that remain in effect;

(iv) There are no options, rights of first offer, or rights of first refusal to purchase the Owned Real Property or any portion thereof; and

(v) Seller has been in open, notorious, adverse and peaceful possession of the Owned Real Property, and, other than Permitted Liens, there are no adverse claims to title to the Owned Real Property.

(b) Section 4.13(b) of Seller's Disclosure Schedule sets forth a complete list of all Purchased Real Property Leases the Seller is a party to as lessee or lessor, sublessee or sublessor, licensee or licensor, or sublicensee or sublicensor, including all amendments, extensions and renewals with respect thereto. Seller has a valid, binding and enforceable leasehold interest under each of the Purchased Real Property Leases, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar Laws affecting creditors' rights and remedies generally and subject, as to enforceability, to general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity). Except as listed on Section 4.13(b) of Seller's Disclosure Schedule:

(i) each of the Purchased Real Property Leases is in full force and effect;

(ii) Other than a breach or default arising from Seller either (i) having filed the Bankruptcy Case or (ii) failing to pay any rent due and payable prior to the Petition Date, Seller is not in breach or default under any of the Purchased Real Property Leases and no event has occurred or circumstance exists which, with the delivery of notice, lapse of time or both, would constitute a breach or default by Seller under any of the Purchased Real Property Leases;

(iii) to the knowledge of Seller, no other party is in default of any of any of the Purchased Real Property Leases, and no party to any of the Purchased Real Property Leases has exercised any termination rights in respect thereof;

(iv) Seller has paid all rent arising since the Petition Date currently due and payable under each of the Purchased Real Property Leases;

(v) Seller has not subleased, assigned or otherwise granted to any person the right to use or occupy any Purchased Leased Real Property or any portion thereof that remains in effect; and

(vi) Seller has not pledged, mortgaged or otherwise granted a Lien on its leasehold interest in any Purchased Leased Real Property that remains in effect, other than Permitted Liens.

(c) Seller has not received any written notice of (i) violations of building codes or zoning ordinances or other governmental or regulatory Laws affecting the Purchased Real Property, (ii) existing, pending or threatened condemnation proceedings affecting the Purchased Real Property, or (iii) existing, pending or threatened zoning, building code or other moratorium proceedings, or similar matters which could reasonably be expected to adversely affect the ability to operate the Purchased Real Property as currently operated. Neither the whole nor any material portion of any Purchased Real Property has ever been damaged or destroyed by fire, flood or other casualty (whether or not covered by insurance).

(d) Except as set forth on Section 4.13(d) of Seller's Disclosure Schedule, Seller has complied in all material respects with all provisions of the Purchased Real Property Leases and any other Contract regarding the maintenance, repair and replacement of the Purchased Real Property and all improvements, buildings, plants and structures upon the Purchased Real Property have been constructed and maintained in a good and workmanlike manner and are of good quality materials and are fit for their intended use, there are no material, physical or mechanical defects in the condition of the Purchased Real Property or any related improvements, and the Purchased Real Property and all fixtures, including the roof, foundation, structure, heating, ventilating, plumbing, electrical and all other mechanical apparatus, will be in good working order, ordinary wear and tear excepted, at the Closing Date.

Section 4.14 Intellectual Property. The Purchased Intellectual Property includes all of the intellectual property rights owned or licensed by Seller and used in the conduct of the Business. Seller has good, marketable, and exclusive title to, and the valid and enforceable power and unqualified right to use, the Purchased Intellectual Property free and clear of all Liens (other than Permitted Liens) and to transfer (or, as applicable, license) the same to Purchaser, and (ii) no person other than Seller has any right or interest of any kind or nature in or in respect of the Purchased Intellectual Property or any portion thereof or any right to use, market, or exploit the Purchased Intellectual Property or any portion thereof. Good, marketable, and exclusive title in, to, and under the Purchased Intellectual Property will vest in Purchaser at the Closing, free and clear of all Liens (other than Permitted Liens). Seller is not bound by, and no Purchased Intellectual Property is subject to, any Contract containing any covenant or other provision that in any way limits or restricts the ability of Purchaser to use, exploit, assert, or enforce any Purchased Intellectual Property anywhere in the world. There are no pending, or to the knowledge of Seller, threatened actions of any nature affecting the Purchased Intellectual Property. There are no notices or claims currently pending that claim infringement of any domestic or foreign letter patent, patent, patent application, patent license, software license, know-how license, trademark, trademark registration, trade name, service mark, copyright, trade secret, technical knowledge, know-how, or other confidential proprietary information held or owned by another person. To the knowledge of Seller, there is no reasonable basis upon which any valid claim may be asserted against Seller for infringement or misappropriation of any domestic or foreign letter patent, patent, patent application, patent license, software license,

know-how license, trademark, trademark registration, trade name, service mark, copyright, trade secret, technical knowledge, know-how, or other confidential proprietary information held or owned by another person.

Section 4.15 Material Contracts. The contracts listed on Section 4.15 of Seller's Disclosure Schedule constitute a true and complete list of all of the Contracts to which Seller is a party or by which it is bound (collectively, the "Material Contracts"). Each of the Material Contracts is in full force and effect and is the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium and similar Laws affecting creditors' rights and remedies generally and subject, as to enforceability, to general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity). Except as provided in **Section 2.2(c), 2.2(g)** or otherwise in the Seller's Disclosure Schedule, Seller is not in default under any Material Contract, nor, to the knowledge of Seller, is any other party to any Material Contract in default thereunder, and no event has occurred that with notice, lapse of time or both would constitute a default thereunder other than the Bankruptcy Case. No party to any of the Material Contracts has exercised any termination rights in respect thereof. Seller has, and, subject to **Sections 2.6** will transfer to Purchaser at the Closing, good and valid title to the Material Contracts that are Purchased Contracts, free and clear of all Liens other than Permitted Liens. Seller has delivered or otherwise made available to Purchaser true, correct and complete copies of all of the Material Contracts, together with all amendments, modifications or supplements thereto. The Material Contracts collectively constitute all of the Contracts necessary to enable Purchaser to conduct the Business in the manner in which such business is currently conducted and is proposed to be conducted.

Section 4.16 Permits. Section 4.16 of Seller's Disclosure Schedule contains a list of all Permits that are required for the operation of the Business as currently conducted or to the ownership, lease, operation or use of the Purchased Assets, including the names of the Permits and their respective dates of expiration (the "Seller Permits"). The Seller Permits constitute all of the Permits that are required for the operation of the Business as currently conducted and as proposed to be conducted. Seller is not in default or violation (and no event has occurred that, with notice, lapse of time or both, would constitute a default or violation) in any material respect of any term, condition or provision of any Permit to which Seller is a party and, to the knowledge of Seller, there are no facts or circumstances that could form the basis for any such default or violation or could reasonably be expected to result in the revocation, suspension, lapse, or limitation of any such Permit. All fees and charges with respect to any Seller Permits that are required to have been paid as of the date hereof have been paid in full. Seller has complied in all material respects with, and are now in compliance in all material respects with, all Laws applicable to the conduct of the Business as currently conducted or the ownership and use of the Purchased Assets.

Section 4.17 Environmental Matters. Except as set forth on Section 4.17 of Seller's Disclosure Schedule, Seller is now, and at all times prior to the Execution Date has been, in compliance with all applicable Environmental Laws. There is no suit, claim, action, proceeding or notice of investigation relating to or arising under Environmental Laws that is pending or, to the knowledge of Seller, threatened against Seller or any real property owned or operated by Seller. Seller has not received any written notice or other communication with respect to or

entered into any order, settlement, judgment, injunction or decree involving uncompleted, outstanding or unresolved obligations, liabilities or requirements relating to or arising under Environmental Laws. Seller has never permitted, and to Seller's knowledge no Person has at any time permitted, any Hazardous Material to be generated, manufactured, produced, used, treated, refined, processed, discharged, released or disposed of (whether lawfully or unlawfully) on or beneath the surface of any real property that is, or that has at any time been, owned by, leased to, controlled by or used by Seller in connection with the Business, in or into any surface water, groundwater, soil or air associated with or adjacent to any such real property or in or into any well, pit, pond, lagoon, impoundment, ditch, landfill, building, structure, facility, improvement, installation, equipment, pipe, pipeline, vehicle or storage container that is or was located on or beneath the surface of any such real property or that is or has at any time been owned by, leased to, controlled by or used by Seller.

Section 4.18 Employee Plans.

(a) Section 4.18 of Seller's Disclosure Schedule sets forth a true, correct and complete list of all Employee Benefit Plans of Seller, some of which may be deemed to be Purchased Assets and assumed by Purchaser pursuant to **Section 6.13(g)**.

(b) Neither Seller nor any of its ERISA Affiliates within the six-year period preceding the date of this Agreement has sponsored, maintained or contributed to (or has been obligated to contribute to) any "employee pension plan," as defined in Section 3(2) of ERISA, that is subject to Title IV of ERISA or Section 412, 430 or 436 of the Code or any "multiemployer plan," as defined in Section 3(37) of ERISA, in each case that is applicable to any Employees of Seller.

(c) Each Employee Benefit Plan that is intended to qualify under Section 401(a) of the Code has received a favorable determination, advisory or opinion letter from the United States Internal Revenue Service regarding its qualification thereunder and, to the knowledge of Seller, nothing has occurred since the date of the most recent such determination, advisory or opinion letter that would adversely affect the qualified status of any of such Employee Benefit Plans.

(d) There is no proceeding pending or, to the knowledge of Seller, threatened in writing against Seller related to the Employee Benefit Plans (other than routine claims for benefits) that would reasonably be expected to result in any liability to Purchaser.

Section 4.19 Labor Matters.

(a) Seller is, as of the date hereof, in compliance in all material respects with all applicable Laws respecting employment of its employees. There has been no "mass layoff" or "plant closing" within the meaning of the WARN Act, or any similar state or local "mass layoff" or "plant closing" Law with respect to Seller within the six months prior to the date hereof.

(b) Seller is not a party to or otherwise bound by any labor or collective bargaining agreement, Contract or other agreement or understanding with a labor union or labor organization in respect of the business conducted at the Designated Plants. The

Seller is not subject to any written charge, demand, petition, or other proceeding seeking to compel, require or demand it to bargain with any labor union or labor organization nor, as of the date of this Agreement or during the twelve months prior to the date of this Agreement, has there been any (i) strikes, work stoppages, work slowdowns or lockouts pending or, to the knowledge of Seller, threatened against or involving Seller or (ii) unfair labor practice charges, grievances or complaints pending or, to the knowledge of Seller, threatened by or on behalf of any employee or group of employees of Seller.

Section 4.20 Related-Party Transactions. Except as set forth on Section 4.20 of Seller's Disclosure Schedule, none of Seller, any affiliate of Seller or any of their respective officers, directors, members, managers, partners or employees (a) owns any direct or indirect interest of any kind in, or controls or is a director, officer, employee, member, manager, or partner of, or consultant to, or lender to or borrower from or has the right to participate in the profits of, any person that is (i) a competitor, supplier, customer, landlord, tenant, creditor or debtor of Seller, (ii) engaged in a business related to the Business of Seller, or (iii) a participant in any transaction to which Seller is a party or (b) is a party to any Contract with Seller.

Section 4.21 Receivables. All accounts and notes receivable of Seller have arisen from bona fide transactions in the ordinary course of business consistent with past practice and are payable on ordinary trade terms. To Seller's knowledge, all accounts and notes receivable of Seller reflected on the Balance Sheet are good and collectible at the aggregate recorded amounts thereof, net of any applicable reserve for returns or doubtful accounts reflected thereon, which reserves are adequate and were calculated in a manner consistent with past practice and in accordance with GAAP consistently applied. To Seller's knowledge, all accounts and notes receivable arising after the Balance Sheet Date are good and collectible at the aggregate recorded amounts thereof, net of any applicable reserve for returns or doubtful accounts, which reserves are adequate and were calculated in a manner consistent with past practice and in accordance with GAAP consistently applied. None of the accounts or the notes receivable of Seller (i) are subject to any setoffs or counterclaims or (ii) represent obligations for goods sold on consignment, on approval or on sale-or-return basis or subject to any other repurchase or return arrangement.

Section 4.22 Inventory. The inventories of Seller are in good and marketable condition, and are saleable in the ordinary course of business consistent with past practice. The inventories of Seller set forth in the Balance Sheet were properly stated therein in accordance with GAAP consistently applied. Adequate reserves have been reflected in the Balance Sheet for obsolete, excess, damaged or otherwise unusable inventory, which reserves were calculated in a manner consistent with past practice and in accordance with GAAP consistently applied. The inventories of Seller constitute sufficient quantities for the normal operation of the Business in accordance with past practice.

Section 4.23 Customers and Suppliers. Section 4.23 of Seller's Disclosure Schedule lists the ten largest customers and the two largest suppliers of Seller, as measured by the dollar amount of purchases therefrom or thereby, during each of the fiscal years ended December 31, 2016 and December 31, 2017, showing the approximate total sales by Seller to each such customer and the approximate total purchases by Seller from each such supplier, during such period. Except as otherwise expressly described on Section 4.23 of Seller's Disclosure Schedule,

since the Balance Sheet Date, (i) no customer or supplier listed on Section 4.23 of Seller's Disclosure Schedule has terminated its relationship with Seller or materially reduced or changed the pricing or other terms of its business with Seller or (ii) no customer or supplier listed on Section 4.23 of Seller's Disclosure Schedule has notified Seller that it intends to terminate or materially reduce or change the pricing or other terms of its business with Seller.

Section 4.24 Insurance. Seller has insurance policies in full force and effect for such amounts as are sufficient for all requirements of Law and all agreements to which Seller is a party or by which it is bound. Section 4.24 of Seller's Disclosure Schedule lists all fire, liability and other forms of insurance and all fidelity, surety, performance or other similar bonds held by or applicable to Seller setting forth, in respect of each such policy, the policy name, policy number, carrier, term, type of coverage and annual premium. Excluding insurance policies that have expired and been replaced in the ordinary course of business consistent with past practice, no insurance policy has been cancelled within the last two years and, to the knowledge of Seller, no threat has been made to cancel any insurance policy of Seller during such period. Except as listed on Section 4.24 of Seller's Disclosure Schedule, all such insurance will remain in full force and effect and all such insurance is assignable or transferable to Purchaser. No event has occurred, including, the failure by Seller to give any notice or information or Seller giving any inaccurate or erroneous notice or information, that limits or impairs the rights of Seller under any such insurance policies.

Section 4.25 Seller as Debtor in Possession; No Trustee. From the Petition Date through the Execution Date, Seller has been at all times in its Bankruptcy Case a debtor-in-possession pursuant to Section 1107 of the Bankruptcy Code, no trustee or examiner has been appointed in the Bankruptcy Case and no motion has been filed requesting the appointment of a trustee or examiner.

Section 4.26 Required Notices. Seller has complied with all notice provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and any applicable local rules and chamber rules of the Bankruptcy Court. Without limiting the generality of the preceding sentence, Seller has delivered adequate notice of the sale of the Purchased Assets free and clear of all Liens (other than Permitted Liens) and Retained Liabilities to (i) each person who is the beneficiary of or a holder of any Lien in and to any of the Purchased Assets, and (ii) each counterparty to each of the Purchased Contracts and each of the Excluded Contracts.

Section 4.27 No Interest in Other Entities. No shares of any corporation or any ownership or other investment interest, either of record, beneficially, or equitably, in any person are included in the Purchased Assets.

Section 4.28 No Interest in Other Entities. Section 4.28 of Seller's Disclosure Schedule is a true and complete list of all Liabilities of Seller as of December 31, 2017.

Section 4.29 No Other Representations or Warranties of Seller. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES CONTAINED IN THIS ARTICLE IV, NEITHER SELLER NOR ANY PERSON ACTING ON BEHALF OF SELLER MAKES ANY OTHER EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WITH RESPECT TO SELLER, ANY AFFILIATE OF SELLER, THE BUSINESS, THE PURCHASED ASSETS,

OR WITH RESPECT TO ANY OTHER INFORMATION PROVIDED TO PURCHASER OR ANY OF ITS AFFILIATES OR REPRESENTATIVES IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. WITHOUT LIMITING THE FOREGOING, EXCEPT AS SET FORTH IN THE REPRESENTATIONS AND WARRANTIES OF SELLER CONTAINED IN THIS **ARTICLE IV** AND SELLER'S DISCLOSURE SCHEDULE, SELLER MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AT LAW OR IN EQUITY, WITH RESPECT TO (A) MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE OR USE, TITLE OR NON-INFRINGEMENT OF THE PURCHASED ASSETS, (B) ANY INFORMATION WRITTEN OR ORAL AND IN ANY FORM PROVIDED OR MADE AVAILABLE TO PURCHASER OR ANY OF ITS AFFILIATES OR REPRESENTATIVES, ON THE ONE HAND, AND SELLER, ITS AFFILIATES, OR ANY OF ITS REPRESENTATIVES, ON THE OTHER HAND, OR ON THE ACCURACY OR COMPLETENESS OF ANY SUCH INFORMATION, OR ANY PROJECTIONS, ESTIMATES, BUSINESS PLANS OR BUDGETED DELIVERED TO OR MADE AVAILABLE TO PURCHASER OR ANY OF ITS AFFILIATES OR REPRESENTATIVES OR (C) FUTURE REVENUES, EXPENSES OR EXPENDITURES, FUTURE RESULTS OF OPERATIONS (OR ANY COMPONENT THEREOF), FUTURE CASH FLOWS OR FUTURE FINANCIAL CONDITION (OR ANY COMPONENT THEREOF) OF SELLER'S BUSINESS OR THE PURCHASED ASSETS.

ARTICLE V
REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser hereby represents and warrants to Seller that:

Section 5.1 Organization. Purchaser is a limited partnership duly organized, validly existing, and in good standing under the Laws of the state of its organization.

Section 5.2 Authorization and Enforceability. Purchaser has the requisite limited partnership power to execute and deliver this Agreement, the Ancillary Agreements to which Purchaser is a party and to perform the obligations to be performed by it hereunder and thereunder. The execution and delivery by Purchaser of this Agreement and each Ancillary Agreement to which Purchaser is a party and the performance by it of the obligations to be performed by it hereunder and thereunder have been (or, in the case of any such Ancillary Agreement, at the Closing, will be) duly authorized by all necessary limited partnership action on the part of Purchaser. This Agreement has been, and the Ancillary Agreements to which Purchaser is a party will at the Closing be, duly executed and delivered by Purchaser and, assuming the due execution and delivery of this Agreement and the Ancillary Agreements by the other parties hereto and thereto, constitute valid and binding obligations of Purchaser enforceable against Purchaser in accordance with their respective terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium, or other similar Laws affecting the enforcement of creditors' rights in general and subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

Section 5.3 No Conflicts. The execution and delivery by Purchaser of this Agreement and each Ancillary Agreement to which Purchaser is a party, the performance by Purchaser of the obligations to be performed by it hereunder and thereunder, and the consummation of the

transactions contemplated hereby and thereby, will not, (i) conflict with the certificate of formation or limited liability company agreement of Purchaser, (ii) conflict with, or result in any violation of, or constitute a default (with or without notice, lapse of time, or both) under, or give rise to a right of termination, cancellation, or acceleration of any obligation or to loss of a benefit under, any material Contract or Permit to which Purchaser is a party or by which any of its assets or properties are bound, or (iii) violate any Order applicable to Purchaser or violate any Law applicable to Purchaser, other than such conflicts, violations, defaults, terminations, cancellations or accelerations or loss of a benefits that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

Section 5.4 Consents and Approvals. No consent, approval, waiver, Order, Permit or authorization of, or registration, declaration or filing with, any Governmental Body or other person is required to be obtained or made on the part of Purchaser in connection with the execution and delivery of this Agreement or any Ancillary Agreement to which Purchaser is a party by Purchaser, the performance by Purchaser of the obligations to be performed by it hereunder or thereunder, or the consummation of the transactions contemplated hereby or thereby, other than (i) the entry of the Sale Order and (ii) such consents, approvals, waivers, Orders, Permits, authorizations, registrations, declarations or filings, that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

Section 5.5 Legal Proceedings. There is no Legal Proceeding pending or, to the knowledge of Purchaser, threatened against Purchaser or to which Purchaser is otherwise a party before any Governmental Body, which, if adversely determined, would reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. Purchaser is not subject to any Order, except to the extent the same would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

Section 5.6 Brokers' Fees. Neither Purchaser nor any person acting on its behalf has agreed to pay a fee, commission or similar payment in connection with this Agreement, any Ancillary Agreement or any of the transactions contemplated hereby or thereby to any person for which Seller will be liable.

Section 5.7 No Other Representations and Warranties of Purchaser. Purchaser acknowledges that Seller is not making any representation or warranty whatsoever, express or implied, beyond those made by Seller in this Agreement and in the Ancillary Agreements.

ARTICLE VI **COVENANTS**

Section 6.1 Certain Bankruptcy Undertakings. Seller and Purchaser each agree to use commercially reasonable efforts to do such further acts and things as may reasonably be required to obtain the Bankruptcy Court's approval of the Sale Order, the sale of the Purchased Assets to Purchaser in accordance with this Agreement, the assumption and/or assignment or transfer of the Purchased Real Property Leases, Purchased Contracts and Permits, or any other agreement contemplated hereby and the consummation of the transactions contemplated hereby. In furtherance of the foregoing, the Parties hereby agree as follows:

(a) Within one Business (1) day after the Execution Date, Seller shall, at its sole cost and expense, file with the Bankruptcy Court a motion (the “Sale Motion”), in form and substance acceptable to Purchaser, seeking approval of the sale of the Purchased Assets to Purchaser in accordance with this Agreement and entry of the Sale Order.

(b) Seller shall use commercially reasonable efforts to obtain entry of the Sale Order as soon as reasonably practicable, and in no event later than twenty-five (25) days after the Execution Date, provided, that if the Bankruptcy Court is unavailable to consider entry of the Sale Order within such twenty-five (25) day period, Seller will seek a hearing on the first available hearing date thereafter to obtain entry of the Sale Order.

(c) Prior to any filing by Seller, and as early in advance as is practicable, Seller shall provide Purchaser and its counsel with a reasonable opportunity to review and comment on all proposed pleadings, motions, including the Sale Motion, notices, statements schedules, applications, reports and other material papers to be filed by the Seller in the Bankruptcy Court to the extent related to the consummation or approval of the transactions contemplated hereby or the Purchased Assets and shall include in any such filing thereof such revisions as may be reasonably requested by Purchaser. Seller shall provide Purchaser with a reasonable opportunity to review and the right to approve all notice and mailing lists to be used to notify known and potential creditors and parties-in-interest of the proposed free and clear sale of the Purchased Assets, and Sellers shall accept Purchaser’s reasonable comments.

(d) From and after the Execution Date and prior to the Closing or the termination of this Agreement in accordance with **Section 9.1**, Seller shall not take any action which is intended to (or is reasonably likely to), or fail to take any action the intent (or the reasonably likely result) of which failure to act is to result in the reversal, voiding, modification or staying of the Sale Order or this Agreement.

(e) If entry of the Sale Order or any other orders of the Bankruptcy Court relating to the transactions contemplated by this Agreement shall be appealed or otherwise challenged by any person (including by petition for certiorari or motion for reconsideration, amendment, clarification, modification, vacation, stay, rehearing or re-argument), then the Seller agrees to diligently oppose such appeal, challenge, petition or motion and to use commercially reasonable efforts to obtain an expedited resolution of any such appeal, petition or motion.

Section 6.2 Access to Information. From the Execution Date through the Closing Date, Purchaser shall be entitled, through its officers, employees and representatives (including, its legal counsel, accountants and other advisors), to make such investigation of the assets, properties, operations, businesses and affairs of Seller and such examination of the books, records and financial condition of Seller, the Business and the Purchased Assets as it reasonably requests and to make extracts and copies of such books and records. From the Execution Date through the Closing Date, Seller shall provide Purchaser with access during normal business hours to all of the Purchased Assets and all of the books and records of Seller related to the Business and shall use its commercially reasonable efforts to provide Purchaser with access to all

vendors, suppliers and material customers of Seller. Seller shall cooperate, and shall cause its officers, employees, consultants, agents, accountants, attorneys and other representatives to cooperate, with Purchaser and its representatives in connection with such access, investigation and examination. No investigation by Purchaser or its representatives prior to or after the Execution Date shall affect or be deemed to modify any of the representations, warranties, covenants or agreements of Seller contained in this Agreement or the Ancillary Agreements. From the Execution Date through the Closing Date, Seller shall promptly deliver or make available to Purchaser all material pleadings, motions, notices, statements, schedules, applications, reports or other documents filed in the Bankruptcy Case or in any other judicial or administrative action, suit or proceeding related to the Business, the Purchased Assets or the transactions contemplated hereby.

Section 6.3 Conduct of the Business Pending Closing.

(a) Except as required by applicable Law or by the Bankruptcy Court, as otherwise expressly provided by this Agreement or with the prior written consent of Purchaser, during the period from the Execution Date to and through the Closing Date, Seller shall:

(i) conduct the Business (A) in substantially the same manner as conducted on the Execution Date in the ordinary course of business and (B) as a reasonable prudent operator, in a good and workmanlike manner, in accordance with good industry practice and in compliance with all applicable Law;

(ii) use its commercially reasonable efforts to (A) maintain and preserve the current business operations, organization (including, management and the sales force) and goodwill of Seller; (B) keep available the services of all employees of Seller and (C) preserve the current relationships with persons having business dealings with Seller (including, employees, creditors, customers and suppliers);

(iii) maintain (A) all of the Purchased Assets in good repair, working order and good condition (ordinary wear and tear excepted) and from time to time make, or cause to be made, all necessary or appropriate repairs, replacements or improvements thereto in the ordinary course of business, including without limitation, the completion and payment in full of all repairs or other work in connection with the replacement or repair of the roof at the Transferred Real Property subject to the Real Property Leases identified on Section 6.3(a)(iii) of Seller's Disclosure Schedule; (B) all books and records of Seller in accordance with good industry practice; and (C) insurance upon all of the assets and properties of Seller in such amounts and of such kinds comparable to that in effect on the Execution Date;

(iv) maintain inventory levels consistent with the past practices of the Business;

(v) (A) continue to collect accounts receivable and pay all undisputed accounts payable consistent with past practice or as otherwise ordered by the Bankruptcy Court, (B) defend and protect the Purchased Assets from infringement and deterioration; and (C) comply with all contractual and other obligations applicable to the operations of Seller;

(vi) file all material Tax Returns and pay or deposit all material Taxes on a timely basis in the ordinary course of business during the pendency of the Bankruptcy Case; and

(vii) comply in all material respects with all applicable Laws.

(b) Except as otherwise expressly provided by this Agreement or with the prior written consent of Purchaser, during the period from the Execution Date to and through the Closing Date, Seller shall not, and shall cause its Subsidiaries and affiliates to not, and shall use best efforts to cause its representative and agents to not:

(i) permit, offer, agree or commit (in writing or otherwise) to permit, any of the Purchased Assets to become subject, directly or indirectly, to any Lien or Legal Proceeding, except for any Permitted Liens;

(ii) solicit, initiate contact with, knowingly facilitate or knowingly encourage the submission of any proposals or offers or respond to any unsolicited proposals or offers from, supply confidential information to, any Person other than Purchaser, its agents and representatives, or enter into any Contract for, in each case in connection with, or that would reasonably be expected to lead to or result in, the direct or indirect sale (whether by merger, sale of assets or stock, or otherwise), transfer, financing, assignment, conveyance, lease recapitalization or other disposition of the Business as a whole or any Purchased Asset (other than sales of inventory in the ordinary course of business consistent with past practice) in a transaction or series of transactions with one or more Persons other than Purchaser and/or its affiliates or that otherwise affects any Purchased Asset or the ability of Purchaser to determine the number of Employees (if any) it will be hiring, their qualifications and their terms and conditions of employment (each, an "Alternative Transaction"); provided, however, that this **Section 6.3(b)(ii)** shall not be deemed to prohibit Seller from entering into Contracts in the ordinary course of business that do not involve or relate to an Alternative Transaction; provided, further, that each such Contract is terminable by Seller without penalty upon 60 days' notice or less. For the avoidance of doubt, an Alternative Transaction includes a chapter 11 plan that does not contemplate the sale of the Business and the Purchased Assets by the Seller to the Purchaser in accordance with the terms of this Agreement;

(iii) other than in the ordinary course of business (A) enter into any Contract that would constitute a Material Contract, if in effect on the Execution Date, (B) assume, amend, modify or terminate any Material Contract to which Seller is a party or by which Seller is bound and that is used in or related to the

Business or the Purchased Assets (including any Purchased Contract or Purchased Real Property Lease), or (C) fail to exercise any renewal right in respect of any Material Contract or any Purchased Real Property Lease that by its terms would otherwise expire;

(iv) move any equipment, machinery or other Purchased Assets from the facilities of the Business;

(v) cause Seller to (a) delay its payment of any accounts payable, or (b) offer terms, dating or discounts to customers outside the ordinary course of business consistent with past practice;

(vi) make or change any Tax election, change an annual accounting period, adopt or change any accounting method, file any amended Tax Return, enter into any closing agreement, settle or compromise any Tax claim or assessment relating to the Business, surrender any right to claim a refund of Taxes, consent to any extension or waiver of the limitation period applicable to any Tax claim or assessment relating to the Business, or take any other similar action relating to the filing of any Tax Return or the payment of any Tax;

(vii) increase the compensation or benefits (including granting any bonuses, whether monetary or otherwise) of any current or former Employee or Service Provider

(viii) grant or increase any severance, retention, change-of-control or similar payments to any current or former Employee or Service Provider other than as provided for in any Employee Benefit Plan or written Contract made available to Purchaser prior to the Execution Date;

(ix) enter into any collective bargaining agreement or similar Contract;

(x) compromise any indebtedness or claim or waive or release any right of Seller that constitutes a Purchased Asset;

(xi) assign, sublet, pledge, encumber, terminate, amend or modify in any matter any Owned Real Property or any Leased Real Property;

(xii) permit the lapse of any right relating to the Purchased Intellectual Property or any other intangible Purchased Asset;

(xiii) enter into any Contract to license any Purchased Intellectual Property or renew, extend, expand or otherwise amend the terms of any existing Purchased Intellectual Property license;

(xiv) merge or consolidate Seller with any other person or acquire any business or equity interests of any other person;

(xv) maintain insurance in a manner inconsistent with the insurance policies set forth on Section 4.24 of Seller's Disclosure Schedule.

(xvi) commence, settle or compromise any Legal Proceeding that affects any of the Purchased Assets or the Business or that could reasonably be expected to adversely affect Purchaser's ability to conduct the Business after the Closing or the ownership or use by Purchaser of the Purchased Assets in the operation of the Business after the Closing; or

(xvii) take, or agree, commit or offer (in writing or otherwise) to take, (A) any actions in violation of this **Section 6.2(b)** or (B) any actions outside of the ordinary course of Seller's business as of the Execution Date.

Section 6.4 Consents and Permits. Seller shall use its best efforts, and Purchaser shall cooperate with Seller, to obtain at the earliest practicable date all consents and approvals contemplated hereby, including, the consents and approvals referred to in **Section 4.4** and the Necessary Consents. Purchaser and Seller, shall use their commercially reasonable efforts to obtain the issuance, or transfer of, all Permits required to be issued, transferred or reissued to Purchaser in connection with the acquisition of the Purchased Assets and the operation of the Business by Purchaser after the Closing Date. Seller shall use its best efforts, and Purchaser shall use its commercially reasonable efforts to give and make all notices and reports that Seller or Purchaser is required to make to the appropriate Governmental Body and other persons in respect of the Permits that may be necessary for the sale of the Purchased Assets to Purchaser at the Closing.

Section 6.5 Further Assurances.

(a) Seller and Purchaser shall use their commercially reasonable efforts to (i) take all actions necessary or appropriate to consummate the transactions contemplated hereby; (ii) provide the other party with reasonable cooperation and take such actions as such other party may reasonably request in connection with the consummation of the transactions contemplated hereby; (iii) at or after the Closing (to the extent applicable), execute and deliver such additional instruments, assignments, conveyances, assurances, affidavits, certificates and other documents as may be required to transfer the Purchased Assets to Purchaser or for purposes of issuing title insurances policies to Purchaser and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the transactions contemplated hereby and (iv) cause the fulfillment at the earliest practicable date of all of the conditions to their respective obligations to consummate the transactions contemplated hereby. Without limiting the preceding sentence, Purchaser and Seller shall use their commercially reasonable efforts to defend any Legal Proceeding that would prevent the condition to Closing set forth in **Section 7.1(a)** from being satisfied, including seeking to have any stay or temporary restraining Order entered by any court or other Governmental Body in respect thereof reversed or vacated and shall cooperate with each other in connection with the foregoing.

(b) If after the Closing, (i) Purchaser holds any Excluded Assets or Retained Liabilities or (ii) Seller holds any Purchased Assets (including any proceeds, income,

revenues, monies and other items attributable to the Purchased Assets), then Purchaser or Seller, as the case may be, shall promptly transfer (or cause to be transferred) such assets or assume (or cause to be assumed) such Liabilities to or from the other party. Prior to any such transfer, the party receiving or possessing any such asset shall hold it in trust for such other party. Seller hereby grants Purchaser an irrevocable power of attorney to endorse such checks, drafts and other instruments, and any check, draft or other instrument arising from and after the Closing that constitutes Purchased Assets issued in the name of Seller.

Section 6.6 Publicity. Unless otherwise required by law, neither Purchaser nor Seller will make any public announcement regarding the proposed purchase without the consent of the other party, which consent will not be unreasonably withheld or delayed; provided, however, that Purchaser and Seller acknowledge and agree that the transactions contemplated by this Agreement require the approval of the Bankruptcy Court and in no event shall it be deemed to be a violation of the terms and conditions of this **Section 6.6** for Purchaser to file the appropriate pleadings in the Bankruptcy Case to approve the transactions contemplated by this Agreement and the attachment of this Agreement to such pleadings and the content of such pleadings shall not be deemed to be a violation of the terms and conditions of this **Section 6.6**. Purchaser and Seller further acknowledge and agree that the transactions contemplated by this Agreement may require certain filings with TABC and such filings shall not be deemed to be a violation of the terms and conditions of this **Section 6.6**.

Section 6.7 Notification of Certain Matters.

(a) From time to time prior to the Closing, Seller shall promptly deliver written notice to Purchaser of (i) any event, change, effect, condition, state of facts or occurrence that comes to the knowledge of Seller that (A) would reasonably be expected to (1) cause a breach of Seller's covenants or agreements contained herein, (2) render the satisfaction of the conditions in **Section 7.1** or **Section 7.3** reasonably unlikely to be fulfilled, or (3) prevent, prohibit or delay the Closing; (B) would reasonably be expected to have a Seller Material Adverse Effect or material adverse effect on or a material adverse change in or to the wholesale or retail liquor industry or market generally; or (C) that, if occurring or arising or in existence before or on the Execution Date would have caused a representation or warranty of Seller to be inaccurate or deficient; (ii) any notice or other written communication from any person alleging that the consent of such person is or may be required in connection with the consummation of the transactions contemplated hereby; and (iii) the commencement of any Legal Proceeding relating to the Business or the Purchased Assets. The delivery of any notice pursuant to this **Section 6.6(a)** shall not have any effect on the satisfaction of the condition to closing set forth in **Section 7.3(a)** or Purchaser's right to terminate the Agreement pursuant to **Section 9.1(c)**, and shall not be deemed to amend or supplement Seller's Disclosure Schedule or limit or otherwise affect any remedy available to Purchaser or prevent or cure any breach of any representation or warranty.

(b) From time to time prior to the Closing, Purchaser shall promptly deliver written notice to Seller of (i) any event, change, effect, condition, state of facts or occurrence that comes to the knowledge of Purchaser that (A) would reasonably be

expected to (1) cause a breach Purchaser's covenants or agreements contained herein, (2) render the satisfaction of the conditions in **Section 7.1** or **Section 7.2** reasonably unlikely to be fulfilled, or (3) prevent, prohibit or delay the Closing; (B) would reasonably be expected to constitute a Purchaser Material Adverse Effect; or (C) that, if occurring or arising or in existence before or on the Execution Date would have caused a representation or warranty of Purchaser to be inaccurate or deficient; and (ii) any notice or other written communication from any person alleging that the consent of such person is or may be required in connection with the consummation of the transactions contemplated hereby. The delivery of any notice pursuant to this **Section 6.6(b)** shall not have any effect on the satisfaction of the condition to closing set forth in **Section 7.2(a)** or Seller's right to terminate this Agreement pursuant to **Section 9.1(d)** and shall not be deemed to limit or otherwise affect any remedy available to Seller or prevent or cure any breach of any representations or warranty.

Section 6.8 Use of Names. From and after the Closing Date, Seller will execute such consents and take such other action as Purchaser shall reasonably request in order to permit Purchaser to use the name Sigel's and variants thereof. After the Closing Date, Seller shall promptly (i) discontinue the use of the name Sigel's and any variants thereof, (ii) remove such name or names from any buildings, signs, vehicles or other assets or property included in the Excluded Assets and (iii) within five (5) days following the Closing Date, amend its charter or other organizational documents to remove such name or names. Notwithstanding the foregoing, Seller and Purchaser expressly understand and agree that the Bankruptcy Case will continue after the Closing and that the use of the style of the Bankruptcy Case on pleadings filed therein (which includes the "Sigel's" name) will not be a violation of this paragraph.

Section 6.9 Confidentiality. Purchaser acknowledges and understands that this Agreement may be publicly filed in the Bankruptcy Court and that, except as prohibited herein, such disclosure shall not be deemed to violate any confidentiality obligations owing to Purchaser, whether pursuant to this Agreement or otherwise. Seller acknowledges and agrees that from and after the Closing, all non-public information relating to the Business, including the Purchased Assets, shall be valuable and proprietary to Purchaser and its affiliates. From and after the Closing, Seller shall not disclose to any person any information relating to Purchaser and its affiliates, or the Business, including the Purchased Assets, except as required by applicable Law or as otherwise becomes available in the public domain other than through any action by Seller in violation of its obligations under this **Section 6.9**; provided, however, that Seller shall use its commercially reasonable efforts, consistent with the requirements of such applicable Law to consult with Purchaser in respect of the text thereof to the extent practicable and shall cooperate with Purchaser to seek a protective order with respect thereto. Notwithstanding the foregoing, Seller is expressly permitted to disclose and discuss the information protected by and subject to this paragraph with its professional advisors with a legitimate need to know such information; provided, however, that such professional advisors shall be subject to confidentiality obligations with respect to such information disclosed by Seller at least as protective as the confidentiality obligations set forth in this **Section 6.9**. Seller acknowledges and agrees that the remedies at law for any breach or threatened breach of this **Section 6.9** by Seller are inadequate to protect Purchaser and its affiliates and that the damages resulting from any such breach are not readily susceptible to being measured in monetary terms. Accordingly, without prejudice to any other rights or remedies otherwise available to Purchaser

or its affiliates, upon any breach or threatened breach by Seller of the terms and conditions of this **Section 6.9**, Purchaser and its affiliates, as applicable shall be entitled to immediate injunctive relief and to an order restraining any threatened or future breach from any court of competent jurisdiction without proof of actual damages or posting of any bond in connection with any such remedy. The provisions of this **Section 6.9** shall survive the Closing indefinitely. Notwithstanding the foregoing, Purchaser acknowledges and understands that after the Closing, Seller may be required to report certain information related to its possession and use of the Purchased Assets prior to the Closing to the Bankruptcy Court in connection with the Bankruptcy Case or as result of certain reporting requirements to the TABC imposed upon Seller, and that such reporting and disclosures shall not be deemed to be a violation of the terms and conditions set forth in this **Section 6.9**.

Section 6.10 Assumption and Assignment or Rejection of Contracts.

(a) As of the Execution Date, Section 2.2(c) and Section 2.2(g) of Seller's Disclosure Schedule sets forth all Contracts relating to the Business to which Seller is a party and Seller's good faith estimate of the amount of Cure Amount (the "Estimated Cure Amount") payable in respect of each such Contract, if any. If Seller believes in good faith that no Cure Amount is estimated to be payable in respect of any particular Contract, the amount of such Cure Amount designated for such Contract shall be "None". Seller represents and warrants to Purchaser that the Estimated Cure Amount in respect of each Contract reflects, if applicable, the Cure Amount that has been agreed to between Seller and a counterparty in connection with an Initial Cure Notice (as herein defined) as well as any Cure Amount that has been asserted by the non-debtor parties in response to an Initial Cure Notice, if any, but that have not been resolved prior to the Execution Date.

(b) If following the Execution Date, but prior to the date that is fifteen (15) days prior to the effective date of any plan of reorganization confirmed in Seller's Bankruptcy Case, Purchaser or Seller determines that Seller is party to any Contract that was not previously designated in Section 2.2(g) of Seller's Disclosure Schedule as a Purchased Contract (each, an "Additional Contract"), Seller or Purchaser, as the case may be, shall promptly notify the other party of the existence of such Additional Contract and Seller shall deliver to Purchaser a true, correct and complete copy of such Additional Contract, together with information relating to such Additional Contract necessary to effect the sale, transfer, assignment and novation of such Additional Contract to Purchaser. On the date that is no later than 30 days after the notification by Seller or Purchaser of such Additional Contract pursuant to the immediately preceding sentence, Purchaser, in its sole discretion by written notice to Seller, may elect to assume such Additional Contract from Seller by providing written notice of such election to Seller. Thereafter, Seller shall seek entry of an order (reasonably acceptable to Purchaser) from the Bankruptcy Court authorizing and approving Seller's assumption and assignment, as applicable, of the Additional Contract to Purchaser and, to the extent that Seller has not previously provided a notice (an "Initial Cure Notice"), Seller shall deliver a notice reasonably acceptable to Purchaser to all non-debtor counterparties to the applicable Additional Contract designated by Purchaser as a Purchased Contract, which notice shall state, among other things: (i) the proposed Cure Amount for such Contract and (ii) an

objection deadline for such non-debtor party to object to the proposed Cure Amount. To the extent that any objections are received from such non-debtor parties in response to such notice, Seller shall use its commercially reasonable efforts to resolve such disputes with the applicable non-debtor party prior to the Closing.

(c) Notwithstanding any other provision of this Agreement to the contrary, at any time prior to the Closing, Purchaser shall be entitled, in its sole discretion, to: (i) remove any Contract previously designated as a Purchased Contract from the schedule of Purchased Contracts on Section 2.2(g) of Seller's Disclosure Schedule or remove the Legacy Lease from the schedule of Purchased Real Property Leases on Section 2.2(c) of Seller's Disclosure Schedule, in each case by providing written notice thereof to Seller, and (ii) designate any Additional Contract as a Purchased Contract by adding such Additional Contract to the schedule of Purchased Contracts on Section 2.2(g) of Seller's Disclosure Schedule.

(d) No designation of any Contract for assumption and assignment or rejection, as applicable, in accordance with this **Section 6.10** shall give rise to any right to any adjustment of the Purchase Price.

(e) Seller shall not seek to assume or reject any Contract related to the Business prior to the Closing Date unless prior written approval has been obtained from Purchaser.

(f) To the extent that any Contract that is a Purchased Contract or Purchased Real Property Lease requires the payment of any Cure Amount in order to be assigned to Purchaser (or assumed and assigned pursuant to Sections 363 and 365 of the Bankruptcy Code), the Cure Amount related to such Contract shall be paid by Seller and Seller shall provide evidence that all obligations with respect to all Cure Amounts due and owing for any period on or prior to the Closing shall have been or shall at Closing be satisfied in full. Purchaser will cooperate with Seller in demonstrating Purchaser's ability to provide adequate assurance of future performance on its behalf and on behalf of its designees to the extent required under the Bankruptcy Code, including Section 365(f)(2)(B) thereof; provided, however, that Purchaser will not be required to provide any security, guarantees, credit support or other financial accommodations in connection with any Purchased Contract or Purchased Real Property Lease.

Section 6.11 Cooperation with Financing. From the Execution Date through and until the Closing Date, Seller shall and shall cause its officers, directors, employees and representatives to assist Purchaser and its affiliates in obtaining financing reasonably acceptable to Purchaser in Purchaser's sole discretion that is necessary to fund all or any portion of the Aggregate Purchase Price or the Business from and after the Closing, including by taking the following actions: (i) making senior management, representatives and advisors of Seller available for meetings and due diligence sessions with prospective financing sources; (ii) cooperating with prospective lenders, underwriters, placement agents, initial purchasers and their respective advisors and representatives in performing their due diligence; and (iii) assist Purchaser in procuring credit agreements, hedging arrangements, notes, mortgages, pledge and security documents, landlord waivers, estoppels, consents and

approvals and other definitive financing documents or other requested certificates or documents (including solvency certificates to the extent required). Notwithstanding the foregoing and for the avoidance of doubt, any third-party financing sought or obtained by Purchaser shall not be construed as a condition to the performance of any of the obligations of Purchaser under this Agreement, including, without limitation, Purchaser's obligation to close the transactions contemplated hereby pursuant to **Section 8.1**.

Section 6.12 Casualty Insurance.

(a) Seller shall maintain until the Closing all existing insurance policies relating to the Business or the Purchased Assets (the "Seller Policies"), at its sole cost and expense. If between the Execution Date and the Closing, any of the Purchased Assets shall be damaged or destroyed by fire, theft, vandalism or other casualty event, or become subject to any condemnation or eminent domain proceeding, then Seller shall promptly notify Purchaser in writing of such fact and Purchaser shall have the option in Purchaser's sole discretion to (i) acquire such Purchased Assets on an "as is" basis and take an assignment from Seller of any and all insurance proceeds payable to Seller, and any and all third-party claims of Seller, in respect of such event, (ii) elect to exclude such Purchased Asset from this Agreement, or (iii) if such event would have a Seller Material Adverse Effect, terminate this Agreement and abandon the transactions contemplated hereby.

(b) Except for insurance policies that expire prior to the Closing Date (which Seller shall be required to maintain through the Closing Date in accordance with **Section 6.3**), Seller shall not be required to renew any Seller Policy beyond the duration that is in effect on the Execution Date. Purchaser shall be entitled to insurance proceeds paid under such Seller Policies in respect of any claim relating to a Purchased Asset or the Business from and after the Closing Date.

Section 6.13 Employee Matters.

(a) Seller shall provide a list of all Employees on Section 6.13 of Seller's Disclosure Schedule, which such schedule shall reflect any and all Employees as of the Execution Date, and such schedule shall be updated to provide any and all employment or service hirings or terminations occurring prior to the Closing Date, with the final such update to occur no later than five business days prior to the Closing Date (it being understood that Seller will inform Purchaser in writing of the termination of employment or services of an Employee or Service Provider after the date hereof). In addition, Seller shall provide Purchaser no later than five business days after the Closing Date with a true, correct and complete list of any and all employment losses (within the meaning of the Worker Adjustment and Retraining Notification Act, as amended (the "WARN Act")) incurred by Seller during the 180-day period prior to and including the Closing Date.

(b) Seller shall provide Purchaser, upon execution and delivery of this Agreement, with access to the Employees at times and in a manner reasonably acceptable to Seller, and with information reasonably requested by Purchaser in respect of compensation and benefits of the Employees. Purchaser or one of its affiliates may (but

is not obligated to) offer employment to such Employees as it may determine in its sole discretion (the “Offered Employees”). Any Offered Employee who (i) accepts an offer of employment from Purchaser or one of its affiliates and (ii) commences employment with Purchaser or one of its affiliates as of immediately after the Closing shall be referred to herein as the “Transferred Employees.” Unless a written acceptance of an offer of employment is required by applicable Law, an Offered Employee who is actively at work with Purchaser or one of its affiliates as of the Closing Date and continues employment shall be deemed to have accepted the offer of employment from Purchaser or one of its affiliates, unless such Offered Employee specifically declines such offer of employment.

(c) The employment of any Transferred Employee with Purchaser or one of its affiliates shall commence immediately upon the Closing and shall be deemed, for all purposes, consistent with applicable Law and except as otherwise expressly provided herein, to have occurred with no interruption or break in service and no termination of employment; provided, however, that any Inactive Employee shall not be considered a Transferred Employee unless and until such Inactive Employee returns to active status pursuant to the following sentence, and notwithstanding any other provision of this Agreement to the contrary, Purchaser and its affiliates shall only be responsible for Liabilities relating to the Inactive Employee from and after the date such Inactive Employee becomes a Transferred Employee. The employment of any Inactive Employee with Purchaser or one of its affiliates, as applicable, shall be effective upon his or her return to active work; provided, however, that the Inactive Employee reports to work with Purchaser or one of its affiliates, as applicable, within 15 days after the end of any such approved leave and, to the extent permitted by applicable Law, in no event later than 120 days after the Closing Date, and, as of such date, such Inactive Employee shall be a Transferred Employee. Each Transferred Employee shall be hired on an “at will” basis unless otherwise agreed by Purchaser.

(d) Seller shall terminate, or shall cause to be terminated, the employment of all Transferred Employees effective as of the Closing or, in respect of any Inactive Employee who becomes a Transferred Employee after the Closing Date in accordance with **Section 6.13(c)**, upon his or her return to active work with Purchaser or one of its affiliates, as applicable. Subject to, and effective as of, the Closing, Seller shall offer to each of the Transferred Employees a waiver and release from any and all contractual, common law or other restrictions enforceable by Seller and its affiliates on the employment, activities or other conduct of such individuals after their termination of employment with Seller except in respect of obligations related to confidentiality and trade secrets which shall become effective upon such Transferred Employee’s execution of a mutual release of liability between such Transferred Employee and Seller releasing any and all claims against each other, other than those that arise out of intentional misconduct, fraud, breaches of confidentiality or theft of trade secrets. Prior to the Closing Date, and to the extent necessary to implement this sentence, Seller shall cause to be taken all actions as may be reasonably required to amend any Employee Benefit Plan and take or cause to be taken all other action as may be reasonably required to provide that severance or separation payments shall not be payable to any Transferred Employee on account of such employee’s termination of employment with Seller and its affiliates.

(e) Pursuant to the “Standard Procedure” provided in Section 4 of Revenue Procedure 2004-53, 2004-2 C.B. 320, (i) Purchaser and Seller shall report on a predecessor/successor basis as set forth therein, (ii) Seller will not be relieved from filing a Form W-2 in respect of any Transferred Employees for any tax period ending immediately prior to the Closing Date and the tax year including the Closing Date in respect of the portion of such year that such Transferred Employee was employed by Seller and its affiliates, and (iii) Purchaser will undertake to file (or cause to be filed) a Form W-2 for each such Transferred Employee in respect of the portion of the year during which such Transferred Employees are employed by Purchaser that includes the Closing Date, excluding the portion of such year that such Transferred Employees were employed by Seller and its affiliates.

(f) Purchaser shall be responsible for all workers’ compensation claims relating to any Transferred Employees if the incident or alleged incident giving rise to the claim occurred after the Closing Date. Seller shall be responsible for all workers’ compensation claims relating to any Transferred Employees if the incident or alleged incident giving rise to the claim occurred on or prior to the Closing Date.

(g) Upon written notice to Seller prior to the Closing Date, Purchaser may elect, in its sole discretion, to assume, or cause one of its affiliates to assume, the Employee Benefit Plans and Policies set forth on Section 6.11(g) of the Seller’s Disclosure Schedule as modified thereon, and all assets, trusts, insurance policies and other Contracts relating thereto (the “Assumed Plans”), for the benefit of the Transferred Employees and Seller. Seller and Purchaser shall cooperate with each other to take all actions and execute and deliver all documents and furnish all notices necessary to establish Purchaser or one of its affiliates as the sponsor of any Assumed Plans, as applicable, including all assets, trusts, insurance policies and other contracts relating thereto.

(h) Nothing herein, express or implied, shall confer upon any other persons (including any current or former employee of Seller, Purchaser or any of their respective affiliates) any rights or remedies hereunder, including any right to employment or continued employment for any specified period or continued participation in any Employee Benefit Plan or other benefit plan, or any nature or kind whatsoever under or by reason of this Agreement. Nothing herein restricts or precludes the right of Purchaser to terminate the employment of any Transferred Employee. The provisions contained herein are not intended to be for the benefit of or otherwise be enforceable by, any third party, including any current or former Employee or Service Provider. Nothing in this **Section 6.13**, express or implied, shall be (i) deemed an amendment of any Employee Benefit Plan providing benefits to any Employee or (ii) construed to prevent Purchaser or its affiliates from terminating or modifying to any extent or in any respect any employee benefit plan that Purchaser or its affiliates may establish or maintain.

(i) Notwithstanding any other provision of this Agreement to the contrary, if requested by Purchaser in writing, Seller shall provide Purchaser, upon execution and delivery of this Agreement, with access to such Employees as Purchaser elects, at times

and in a manner reasonably acceptable to Seller, to allow Purchaser to negotiate and offer post-Closing consulting agreements with such Employees.

(j) As used in this Agreement, the following terms have the following meanings: (i) "Employee" means any employee of Seller; (ii) "Inactive Employees" means Offered Employees who are: (A) on a Seller-approved leave of absence on the Closing Date as a result of military service, pregnancy, parental leave, disability leave, medical leave, jury duty or any leave provided under applicable Law; and (B) expected to return to work in the time permitted for such leave under applicable Law and, for any other leave, in accordance with the terms of such leave but not longer than 120 days after the Closing Date; and (iii) "Service Provider" means any consultant or independent contractor who is or has been providing services to Seller.

(k) The transactions contemplated hereby constitute an "asset sale" within the meaning of Section 54.4980B-9, A-1(c) of the Treasury Regulations and the provisions of Section 54.4980B-9, A-8(c) of the Treasury Regulations shall apply to the transactions contemplated hereby.

Section 6.14 Certain Tax Matters.

(a) Transfer Taxes. All documentary, stamp, transfer, motor vehicle registration, sales, use, excise, and other similar non-income Taxes and all filing and recording fees (and any penalties and interest associated with such Taxes and fees) arising from or relating to the consummation of the transactions contemplated hereby that are not eliminated by application of Section 1146(a) of the Bankruptcy Code (collectively, "Transfer Taxes") shall be borne by Seller, regardless of the party on whom liability is imposed under the provisions of the Laws relating to such Transfer Taxes. Seller and Purchaser shall consult and cooperate in timely preparing and making all filings, Tax Returns, reports and forms as may be required to comply with the provisions of the Laws relating to such Transfer Taxes and shall cooperate and otherwise take commercially reasonable efforts to obtain any available refunds for or exemptions from such Transfer Taxes, including preparing exemption certificates and other instruments as are applicable to claim available exemptions from the payment of Transfer Taxes under applicable Law and executing and delivering such affidavits and forms as are reasonably requested by the other party.

(b) Certain Periodic Non-Income Taxes.

(i) Any amounts which may become payable from Seller to Purchaser pursuant to this **Section 6.14** shall constitute a super-priority administrative expense of Seller under Section 364(c)(1) of the Bankruptcy Code with priority over all administrative expenses of the kind specified in Sections 503(b) and 507(a) of the Bankruptcy Code.

(ii) In respect of any real or personal property or other periodic Taxes not based on income or receipts ("Periodic Non-Income Taxes") that are assessed on, or in respect of, the Purchased Assets and attributable to any period that

begins after the Closing Date, if Seller pays such Periodic Non-Income Taxes, as promptly as practicable after delivery to Purchaser of proof of such payment, and in any case within five business days, Purchaser shall pay to Seller the amount of such Periodic Non-Income Taxes paid by Seller. In respect of any Periodic Non-Income Taxes that are assessed on, or in respect of, the Purchased Assets and attributable to any period that ends on or prior to the Closing Date, if Purchaser pays such Periodic Non-Income Taxes, as promptly as practicable after delivery to Seller of proof of such payment, Purchaser may unilaterally instruct the Escrow Agent to pay such amounts to Purchaser from the Tax Escrow and, if the Tax Escrow contains insufficient funds to pay the amount of such Periodic Non-Income Taxes in full, Seller shall pay to Purchaser the difference between what Purchaser receives from the Tax Escrow and the amount of such Periodic Non-Income Taxes paid by Purchaser.

(iii) In respect of any Periodic Non-Income Taxes that are assessed on, or in respect of, the Purchased Assets and attributable to any period that includes but does not end on the Closing Date (a “Straddle Period”) (i) if Seller pays such Periodic Non-Income Taxes, as promptly as practicable after delivery to Purchaser of proof of such payment, and in any case within five business days, Purchaser shall pay to Seller the amount of such Periodic Non-Income Taxes paid by Seller that are attributable to the portion of such Straddle Period beginning after the Closing Date (the “Post-Closing Straddle Period”), and (ii) if Purchaser pays such Periodic Non-Income Taxes, as promptly as practicable after delivery to Seller of proof of such payment, Purchaser may unilaterally instruct the Escrow Agent to pay such amounts to Purchaser from the Tax Escrow and, if the Tax Escrow contains insufficient funds to pay the amount of such Periodic Non-Income Taxes in full, Seller shall pay to Purchaser the difference between what Purchaser receives from the Tax Escrow and the amount of such Periodic Non-Income Taxes paid by Purchaser that are attributable to the portion of such Straddle Period up to and including the Closing Date (the “Pre-Closing Straddle Period”). For purposes of this **Section 6.14**, the amount of Periodic Non-Income Taxes for a Straddle Period that are attributable to a Pre-Closing Straddle Period or a Post-Closing Straddle Period shall be determined as follows: (A) Periodic Non-Income Taxes that are based on or related to income or receipts or imposed on a transactional basis shall be allocated to the period in which the transaction giving rise to such Periodic Non-Income Taxes occurred and (B) Periodic Non-Income Taxes that are ad valorem, property or Periodic Non-Income Taxes imposed on a periodic basis pertaining to a Straddle Period shall be based on the ratio of the number of days in the Pre-Closing Straddle Period to the total number of days in the Straddle Period, and the amount of Periodic Non-Income Taxes attributable to a Post-Closing Straddle Period shall be based upon the ratio of the number of days in the Post-Closing Straddle Period to the total number of days in the Straddle Period.

(iv) The party that has the primary obligation to do so under applicable Law shall timely pay to the applicable taxing authority any Periodic Non-Income Taxes covered by this **Section 6.13**.

(c) Seller shall authorize the Texas Comptroller of Public Accounts and any other Governmental Body imposing Taxes on Seller or the Purchased Assets to release to Purchaser such confidential Tax account information of Seller as Purchaser, in its sole discretion, may deem reasonably necessary to determine the amount of the Aggregate Purchase Price to be deposited with the Escrow Agent pursuant to **Section 3.3(b)**.

Section 6.15 Non-Competition.

(a) In order for Purchaser to have and enjoy the full benefit of the Purchased Assets and the Business, and as a material and valuable inducement for Purchaser to enter into this Agreement (without which the Purchaser would not have entered into this Agreement), for a period of five (5) years from and after the Closing Date (the “Non-Competition Period”), Seller shall not, and the Stockholder shall not, (i) compete with Purchaser in the Business or (ii) have a material interest in any person that engages directly or indirectly in the Business in any capacity, including as a partner, shareholder, member, employee, principal, agent, trustee or consultant.

(b) Seller and the Stockholder agree, during the Non-Competition Period, neither Seller nor the Stockholder will hire or solicit any employees of Purchaser to work for Seller or for any other person and shall not solicit any customers of Purchaser on behalf of Seller or any other person in a manner that causes such customer to compete with Purchaser or otherwise materially and adversely alter such customer’s relationship with Purchaser and the Business.

(c) The parties hereto agree that the restrictions contained in this **Section 6.15** are reasonable in scope in view of the Business as it is presently conducted and anticipated to be conducted and are necessary to protect the goodwill acquired by each party under this Agreement. If any provision of this **Section 6.15** is held to be unreasonably broad, oppressive or unenforceable by a court or other Governmental Body, this **Section 6.15** shall nevertheless remain effective but shall be considered amended to the extent considered by such Governmental Body to be reasonable, and shall be fully enforceable by the parties as so amended.

Section 6.16 Purchase of Personal Property Subject to Executory Contracts. With respect to any Contract for the lease of Personal Property, if (a) such Contract is recharacterized by a Final Order of the Bankruptcy Court as a secured financing or (b) Purchaser, Seller and the counterparty to such Contract agree, then Purchaser shall have the option to purchase such Personal Property by paying to the applicable Seller for the benefit of the counterparty to such Contract an amount equal to the amount, as applicable (i) of such counterparty’s allowed secured Claim arising in connection with the recharacterization of such Contract as determined by such Order or (ii) agreed to by Purchaser, Seller and such counterparty.

Section 6.17 Access to Real Property. In the event that Purchaser elects, pursuant to **Section 6.10(c)**, to remove the Legacy Lease from the schedule of Purchased Real Property Leases on Section 2.2(c) of Seller’s Disclosure Schedules, Seller covenants and agrees to maintain its rights under, and to not terminate, breach or seek to reject (pursuant to the Bankruptcy Code), the Legacy Lease prior to the earlier of (a) the date that is forty-five (45) days

following the Closing Date or (b) the date on which Seller receives written notice from Purchaser that all of the inventory included in the Purchased Assets and located at the Legacy Leased Real Property has been removed by Purchaser; provided, however, that Purchaser shall be liable for any base monthly rent and utility charges incurred pursuant to the Legacy Lease during such period, which amounts shall be appropriately prorated for such period.

Section 6.18 Third-Party Wine and Spirits. Seller covenants and agrees that, prior to the Closing Date, Seller shall remove or shall cause to be removed from any Owned Real Property or Leased Real Property any wine or spirits owned by a customer or other third-party but that is in the possession of Seller or any of its affiliates, including, without limitation, the wine and spirits set forth on Section 6.18 of the Seller's Disclosure Schedules.

ARTICLE VII

CONDITIONS TO CLOSING

Section 7.1 Conditions Precedent to the Obligations of the Parties. The respective obligations of the parties hereto to consummate the transactions contemplated hereby are subject to the satisfaction, at or prior to the Closing, of each of the following conditions:

(a) there shall not be in effect any Order issued or entered into by any Governmental Body of competent jurisdiction restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated hereby;

(b) the Bankruptcy Court shall have entered the Sale Order, the Sale Order shall be in full force and effect and not stayed and shall not have been reversed or modified since the date of its entry.

Section 7.2 Conditions Precedent to the Obligations of Seller. The obligation of Seller to consummate the transactions contemplated hereby is subject to the satisfaction, at or prior to the Closing, of each of the following conditions (any or all of which may be waived by Seller, in whole or in part, to the extent permitted by applicable Law):

(a) the representations and warranties of Purchaser contained herein that are not qualified by materiality or a similar qualification shall be true and correct in all material respects at and as of the Closing, except to the extent expressly made as of an earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date, and the representations and warranties of Purchaser contained herein that are qualified by materiality or a similar qualification shall be true and complete in all respects at and as of the Closing, except to the extent expressly made as of an earlier date, in which case such representations and warranties shall be true and correct in all respects as of such earlier date, and Seller shall have received a certificate signed by an authorized officer of Purchaser, dated the Closing Date, to such effect;

(b) Purchaser shall have performed and complied in all material respects with all agreements and covenants required by this Agreement to be performed or complied with by it on or prior to the Closing Date, and Seller shall have received a certificate signed by an authorized officer of Purchaser, dated the Closing Date, to such effect; and

(c) Purchaser shall have delivered, or caused to be delivered, to Seller all of the items required to be delivered to Seller in **Section 8.4**.

Section 7.3 Conditions Precedent to the Obligations of Purchaser. Notwithstanding any other provision of this Agreement to the contrary, the obligation of Purchaser to consummate the transactions contemplated hereby is subject to the satisfaction, at or prior to the Closing, of each of the following conditions (any or all of which may be waived by Purchaser, in whole or in part, to the extent permitted by applicable Law):

(a) the representations and warranties of Seller contained herein that are not qualified by materiality or a similar qualification shall be true and correct in all material respects at and as of the Closing, except to the extent expressly made as of an earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such earlier date, and the representations and warranties of Seller contained herein that are qualified by materiality or a similar qualification shall be true and complete in all respects at and as of the Closing, except to the extent expressly made as of an earlier date, in which case such representations and warranties shall be true and correct in all respects as of such earlier date, and Purchaser shall have received a certificate signed by the general partner of Seller, dated the Closing Date, to such effect;

(b) Seller shall have performed and complied in all material respects with all agreements and covenants required by this Agreement to be performed or complied with by it on or prior to the Closing Date, and Purchaser shall have received a certificate signed by the general partner of Seller, dated the Closing Date, to such effect;

(c) Seller shall have delivered, or caused to be delivered, to Purchaser all of the items required to be delivered to Purchaser in **Section 8.3**;

(d) The Sale Order duly rendered by the Bankruptcy Court shall be in form and substance satisfactory to Purchaser in its sole discretion and the Sale Order is not subject to a timely appeal or request to void, vacate, reconsider, amend or modify the Sale Order;

(e) Purchaser shall have obtained approval from the TABC for issuance to Purchaser of all Permits necessary or appropriate for Purchaser to conduct the Business as currently conducted and as proposed to be conducted by Purchaser, which approval shall be in form and substance satisfactory to Purchaser in its sole discretion;

(f) certain key employees, at the discretion of Purchaser, shall have entered into employment or other similar agreements in the form and substance satisfactory to Purchaser and such employee; and

(g) there shall not have been any material adverse changes affecting the Purchaser.

Section 7.4 Frustration of Closing Conditions. No party hereto may rely on the failure of any condition set forth in **Section 7.1, 7.2 or 7.3**, as the case may be, if such failure was caused by such party's breach or failure to comply with any provision of this Agreement.

ARTICLE VIII
CLOSING

Section 8.1 Closing. The closing of the purchase and sale of the Purchased Assets provided for in **Article II** (the “**Closing**”) shall take place at the offices of Pronske, Goolsby & Kathman, P.C., 901 Main St., Suite 610, Dallas, Texas 75202 at 10:00 A.M., Dallas, Texas time on July 2, 2018 or, if the conditions set forth in **Article VII** (other than the conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of such conditions at Closing) are not satisfied or waived on or prior to such date, on the date that is three business days after the satisfaction or waiver in writing of all of the conditions to the obligations of the parties set forth in **Article VII** (other than the conditions that by their nature are to be satisfied at the Closing, but subject to the satisfaction or waiver of such conditions at Closing) or at such other time, date or place as may be mutually agreed to in writing by Purchaser and Seller. The date on which the Closing is held is referred to herein as the “**Closing Date**.” The transfer of the Purchased Assets shall be deemed to take place and be effective at 12:01 A.M. Dallas, Texas time (the “**Effective Time**”) on the Closing Date.

Section 8.2 Proceedings at Closing. At the Closing, (i) Seller shall take the actions and deliver the documents referred to in **Section 8.3** and (ii) Purchaser shall take the actions and deliver the documents referred to in **Section 8.4**. All actions to be taken and all documents to be executed and delivered by Seller in connection with the consummation of the transactions contemplated at the Closing shall be reasonably satisfactory in form and substance to Purchaser and its counsel, and all actions to be taken and all documents to be executed and delivered by Purchaser in connection with the consummation of the transactions contemplated at the Closing shall be reasonably satisfactory in form and substance to Seller and its counsel. All actions to be taken and all documents to be executed and delivered by all parties hereto at the Closing shall be deemed to have been taken and executed and delivered simultaneously, and no action shall be deemed taken nor any document executed or delivered until all have been taken, executed, and delivered.

Section 8.3 Deliveries by Seller. At the Closing, Seller shall deliver, or cause to be delivered, to Purchaser (or such other person as may be indicated below):

- (a) a true and correct copy of the Sale Order duly rendered by the Bankruptcy Court;
- (b) one or more bills of sale duly executed by Seller in the form attached hereto as **Exhibit A** (except for dates and other relevant information needed to complete and effectuate such bills of sale) evidencing the transfer of the Purchased Assets to Purchaser;
- (c) one or more assignment and assumption agreements duly executed by Seller in the form attached hereto as **Exhibit B** (except for dates and other relevant information needed to complete and effectuate such assignment and assumption agreements) evidencing the transfer of the Purchased Assets to Purchaser;
- (d) a license agreement duly executed by Seller in form and substance

reasonably satisfactory to Seller and Purchaser providing for access by Purchaser to any real property subject to a Real Property Lease that is not a Purchased Real Property Lease for the purpose of granting a 14-day license to Purchaser to access such real property for the purpose of removing the inventory included in the Purchased Assets and located at such real property on the Closing Date, if applicable (the “License Agreement”);

(e) one or more special warranty deeds duly executed by Seller in form and substance reasonably satisfactory to Purchaser and Seller evidencing the transfer of the Owned Real Property to Purchaser;

(f) the officer’s certificates required to be delivered pursuant to **Sections 7.3(a)** and **7.3(b)**;

(g) a certificate of non-foreign status duly executed by Seller in the form attached hereto as **Exhibit C** and that otherwise complies with Section 1445 of the Code;

(h) a statement issued by the Texas Comptroller of Public Accounts setting forth any Taxes due and payable as of and for any period ending on or prior to the Closing Date (the “Tax Statement”);

(i) a properly executed Statement of Occasional Sale (Texas Comptroller Form 01-917);

(j) one or more pay-off letters duly executed by PNC Bank evidencing the retirement of all indebtedness owed by Seller to PNC Bank;

(k) evidence of the release and termination of all Liens associated with all indebtedness owed by Seller to PNC Bank;

(l) unless otherwise agreed in advance in writing between Seller and Purchaser, evidence in form and substance satisfactory to Purchaser of completion and payment in full of all repairs or other work performed since the Petition Date on any Transferred Real Property, including, without limitation, (i) any repairs or other work for which non-payment could give rise to a Lien and (ii) all repairs or work in connection with the replacement or repair of the roof at the Transferred Real Property subject to the Real Property Leases identified on Section 6.3(a)(iii) of Seller’s Disclosure Schedules;

(m) three DVD copies of the “virtual data room” created for the purposes of the sale of the Purchased Assets, as such data room existed on the close of business on the third business day prior to the Closing Date;

(n) original certificates of title to all owned motor vehicles that are Purchased Assets;

(o) a fully completed and notarized TABC alcoholic beverage inventory form in the form attached hereto as **Exhibit D**; and

(p) such other deeds, endorsements, assignments and instruments of

conveyance, transfer and release, in form and substance reasonably acceptable to Purchaser, as Purchaser may reasonably request to assign and convey the Purchased Assets to Purchaser and vest title therein in Purchaser (in each case free and clear of all Claims and Liens other than Permitted Liens).

Section 8.4 Deliveries by Purchaser. At the Closing, Purchaser shall deliver, or cause to be delivered, to Seller (or such other person as may be indicated below):

(a) The Aggregate Purchase Price (other than the Escrow Deposit) as set forth in **Section 3.3**;

(b) one or more bills of sale duly executed by Purchaser in the form attached hereto as **Exhibit A** (except for dates and other relevant information needed to complete and effectuate such bills of sale) evidencing the transfer of the Purchased Assets to Purchaser;

(c) one or more assignment and assumption agreements duly executed by Purchaser in the form attached hereto as **Exhibit B** (except for dates and other relevant information needed to complete and effectuate such assignment and assumption agreements) evidencing the transfer of the Purchased Assets to Purchaser;

(d) the License Agreement duly executed by Purchaser, if applicable; and

(e) the officer's certificates required to be delivered pursuant to **Sections 7.2(a)** and **7.2(b)**.

ARTICLE IX

TERMINATION

Section 9.1 Termination. This Agreement may be terminated and the transactions contemplated hereby may be abandoned at any time prior to the Closing as follows:

(a) by mutual written consent of Seller and Purchaser;

(b) by Purchaser, on the one hand, or Seller, on the other hand, upon prior written notice to the other party, if the Closing has not occurred by 5:00 P.M., Dallas, Texas time on July 31, 2018; provided, however, that (i) Purchaser shall have the right to extend such date for up to 30 days for any reason or (ii) if all Permits that are necessary or appropriate for Purchaser to conduct the Business as currently conducted and as proposed to be conducted by Purchaser have not been issued by the TABC to Purchaser by such date, then Purchaser shall have the right to extend such date from time to time for one or more periods of 30 days until such time as all such Permits are obtained or Purchaser has determined that all such Permits are not likely to be obtained (as such date may be so extended pursuant to clause (i) or (ii) above, the "**Termination Date**"); provided, further, that if the Closing has not occurred on or before the Termination Date due to a material breach of any representation, warranty, covenant or agreement

contained in this Agreement by a party, then such party may not terminate this Agreement pursuant to this **Section 9.1(b)**;

(c) by Purchaser, if Seller breaches any representation, warranty, covenant or agreement contained in this Agreement, and such breach (i) would result in a failure of a condition set forth in **Section 7.1** or **7.3** and (ii)(A) cannot be cured by the Termination Date or (B) if capable of being cured, has not been cured by the earlier of (1) ten business days after the giving of written notice by Purchaser to Seller of such breach (which notice shall specify in reasonable detail the nature of such breach and Purchaser's intention to terminate this Agreement if such breach is not cured) and (2) one business day prior to the earlier of the Termination Date and the date on which this Agreement may otherwise be terminated by Purchaser in accordance with this **Section 9.1**; provided, however, that Purchaser is not then in material breach of any representation, warranty, covenant or agreement contained in this Agreement;

(d) by Seller, if Purchaser breaches any representation, warranty, covenant or agreement contained in this Agreement, and such breach (i) would result in a failure of a condition set forth in **Section 7.1** or **7.2** and (ii)(A) cannot be cured by the Termination Date or (B) if capable of being cured, has not been cured by the earlier of (1) ten business days after the giving of written notice by Seller to Purchaser of such breach (which notice shall specify in reasonable detail the nature of such breach and Seller's intention to terminate this Agreement if such breach is not cured) and (2) one business day prior to the earlier of the Termination Date and the date on which this Agreement may otherwise be terminated by Seller in accordance with this **Section 9.1**; provided, however, that Seller is not then in material breach of any representation, warranty, covenant or agreement contained in this Agreement;

(e) by Seller or Purchaser if there is in effect a final, non-appealable Order of a Governmental Body of competent jurisdiction restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated by this Agreement or the Ancillary Agreements, it being agreed that the parties hereto shall promptly appeal any adverse determination which is not non-appealable and pursue such appeal with reasonable diligence unless and until this Agreement is terminated pursuant to this **Section 9.1**;

(f) by Purchaser, under the circumstances described in **Section 6.12(a)(iii)**;

(g) by Purchaser, if (i) if the Sale Order shall not have been entered within forty-five (45) days after the Execution Date, (ii) the Bankruptcy Court shall have stated, declared or determined that it will not enter the Sale Order, (iii) Seller shall have breached any of its obligations in **Section 6.3(b)(ii)** or **Section 10.20**; (iv) Seller enters into a definitive agreement with respect to an Alternative Transaction; (v) Seller withdraws the Sale Motion; or (vi) Seller withdraws, modifies or qualifies, in any manner adverse to Purchaser, its approval or declaration of advisability of this Agreement, including obtaining authorization from Seller's general partner, the board of directors, equity holders or other governing body of Seller to pursue or enter into a definitive agreement with respect to an Alternative Transaction;

(h) by Purchaser, if, prior to the Closing, the Bankruptcy Case is converted into a case under Chapter 7 of the Bankruptcy Code or dismissed or if a trustee is appointed in the Bankruptcy Case; or

(i) by Purchaser, if, prior to the Closing, Purchaser reasonably believes that any condition contained in **Section 7.1** or **7.3** will not be satisfied in accordance with its terms

Section 9.2 Notice of Termination. If this Agreement is terminated pursuant to **Section 9.1** (other than a termination under **Section 9.1(a)**, which shall not require notice), then the terminating party shall forthwith give written notice of termination to the other party specifying the subsection of **Section 9.1** pursuant to which such termination is made.

Section 9.3 Effect of Termination. Except for **Section 3.6**, this **Section 9.3** and **Article X**, each of which shall survive any termination of this Agreement, upon the valid termination of this Agreement pursuant to **Section 9.1**, this Agreement shall become null and void and of no further force and effect and all obligations of the parties hereto shall terminate and there shall be no liability or obligation of any party hereto; provided, however, nothing herein shall relieve Purchaser or Seller of any liability for any breach of this Agreement prior to the effective date of such termination; provided, further, that, if this Agreement is terminated by Purchaser pursuant to **Section 9.1(i)** solely with respect to a failure of the conditions set forth in **Section 7.3(f)** and this Agreement would not otherwise have been terminable by Purchaser pursuant to **Section 9.1**, then Purchaser shall forfeit any right to or interest in the Deposit and the Deposit shall be released to Seller in accordance with **Section 3.6**.

ARTICLE X MISCELLANEOUS PROVISIONS

Section 10.1 Amendments. This Agreement may be amended, modified or supplemented only pursuant to a written instrument making specific reference to this Agreement and signed by each of the parties hereto.

Section 10.2 Assignment. Neither this Agreement nor any right or obligation hereunder shall be assigned, delegated or otherwise transferred (whether voluntarily, by operation of law, by merger or otherwise), without the prior written consent of the other party hereto; provided, however, that Purchaser may, without obtaining the prior written consent of Seller, (i) assign, delegate, or otherwise transfer its rights and obligations hereunder to any affiliate or Subsidiary of Purchaser and (ii) make a collateral assignment of its rights hereunder to any institutional lender to Purchaser; provided, further, that any such assignment, delegation, or other transfer shall not relieve Purchaser of its obligations hereunder. Seller shall execute such acknowledgements of such assignments and collateral assignments in such forms as Purchaser or any such institutional lender may from time to time reasonably request. Any attempted assignment, delegation or transfer in violation of this **Section 10.2** shall be void and of no force or effect.

Section 10.3 Binding Effect. This Agreement shall be binding upon the parties hereto and their respective legal representatives, successors and permitted assigns.

Section 10.4 Counterparts. This Agreement may be executed in multiple counterparts, all of which shall constitute one and the same instrument.

Section 10.5 Entire Agreement. This Agreement (including the Exhibits and Schedules attached hereto), constitutes the entire agreement between the parties hereto in respect of the subject matter hereof and supersedes any prior agreement or understanding between them in respect of such subject matter.

Section 10.6 Equitable Relief. Seller acknowledges and agrees that irreparable damage would occur if any of the obligations to be performed by Seller hereunder were not performed in accordance with their specific terms or were otherwise breached, and that damages at law may be an inadequate remedy for breach of any of Seller's agreements and covenants contained in this Agreement. Accordingly, Purchaser shall be entitled to injunctive relief to prevent any such breach, and to enforce specifically the terms of this Agreement, including specific performance of such agreements and covenants or an Order enjoining Seller from any threatened, or from continuation of any actual, breach of the agreements and covenants contained in this Agreement. The rights set forth in this Section 10.7 shall be in addition to any other rights that Purchaser may have at law or in equity pursuant to this Agreement.

Section 10.7 Construction.

(a) General. The Article and Section headings in this Agreement are for convenience of reference only and shall not be deemed to alter or affect the meaning or interpretation of any provision hereof. Unless the context otherwise requires, (i) all references to Articles, Sections, Schedules or Exhibits contained in this Agreement are references to articles, sections, schedules and exhibits of or to this Agreement, (ii) words in the singular include the plural and *vice versa*, and (iii) words of any gender include each other gender. Any agreement, instrument or Law defined or referred to herein means such agreement, instrument or Law as from time to time amended, qualified or supplemented, including (in the case of agreements and instruments) by waiver or consent and (in the case of Laws) by succession of comparable successor Laws. References to a person or entity are also to its successors and permitted assigns. Each party hereto acknowledges that it participated in, or had a meaningful opportunity to participate in, the negotiations and drafting of this Agreement. If an ambiguity or question of intent or interpretation arises in respect of this Agreement, then this Agreement shall be construed to be the product of meaningful individualized negotiations between the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party hereto by virtue of the authorship of any of the provisions of this Agreement.

(b) Time Periods. If any time period set forth herein expires on a day that is not a business day, then such time period shall automatically be extended to the first business day immediately after the non-business day on which such time period would have otherwise expired.

Section 10.8 Governing Law. **THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE**

STATE OF TEXAS (WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS), EXCEPT TO THE EXTENT SUCH LAWS ARE SUPERSEDED BY THE BANKRUPTCY CODE OR OTHER APPLICABLE FEDERAL LAW.

Section 10.9 Jurisdiction; Venue. Without limiting any party's right to appeal any order of the Bankruptcy Court, the Bankruptcy Court shall retain sole jurisdiction over any claim, controversy or dispute relating to this Agreement or any of the transactions contemplated hereby; provided, however, if the Bankruptcy Court is unwilling or unable to hear any such claim, controversy or dispute, then the courts of the State of Texas in Dallas County and the United States District Court for the Northern District of Texas (Dallas Division) and the appellate courts having jurisdiction of appeals in such courts shall have sole jurisdiction over any such claim, controversy or dispute. Each of the parties hereto hereby irrevocably and unconditionally (i) submits and consents for itself and its property in any action, suit, proceeding or investigation relating to this Agreement or for recognition of and enforcement of any judgment in respect thereof, to the exclusive jurisdiction of such courts and that all claims in respect of any such action, suit, proceeding or investigation shall be heard and determined only in such courts, (ii) waives any objection that it may now or hereafter have to the venue or jurisdiction of any such action, suit, proceeding or investigation in such courts or that any such action, suit, proceeding or investigation was brought in an inconvenient forum (and agrees not to plead or claim the same) and (iii) agrees that service of process in any such action, suit, proceeding or investigation may be effected by mailing a copy of such process by certified mail, postage prepaid, to such party at its address set forth in **Section 10.9**.

Section 10.10 Notices. All notices, requests, demands, or other communications required or permitted to be given hereunder by any party hereto to any other party shall be in writing and delivered (i) in person, (ii) by a nationally recognized overnight courier service requiring acknowledgment of receipt of delivery, (iii) by United States certified or registered mail, postage prepaid and return receipt requested, or (iv) by electronic mail, as follows:

If to Seller, to:

Sigel's Beverages, L.P.
2690 Anode Lane
Dallas, Texas 75220
Attention: Tony J. Bandiera, Jr.
E-Mail: ajbandiera@yahoo.com

with a copy to (which shall not constitute notice):

Pronske Goolsby & Kathman, P.C.
901 Main Street, Suite 610
Dallas, Texas 75202
Attention: Gerrit M. Pronske
E-Mail: gpronske@pgkpc.com

If to Purchaser, to:

Twin Liquors LP

5639 Airport Blvd.
Austin, Texas 78751
Attention: David Jabour
Email: djabour@twinliquors.com

with a copy to (which shall not constitute notice):

Baker Botts L.L.P.
2001 Ross Ave., Suite 700
Dallas, Texas 75201
Attention: Jim Prince
Email: Jim.Prince@bakerbotts.com

Notice shall be deemed given, received, and effective on: (i) if given by personal delivery or courier service, the date of actual receipt by the receiving party, or if delivery is refused on the date delivery was first attempted; (ii) if given by certified or registered mail, the third day after being so mailed if posted with the United States Postal Service; and (iii) if given by e-mail, the date on which the e-mail is electronically confirmed if confirmed by transmission report during the transmitter's normal business hours, or at the beginning of the next business day after transmission if confirmed at any time other than the transmitter's normal business hours. Any person entitled to notice may change any address or e-mail address to which notice is to be given to it by giving notice of such change of address or e-mail address as provided in this Section 10.11. The inability to deliver notice because of changed address or e-mail address of which no notice was given shall be deemed to be receipt of the notice as of the date such attempt was first made.

Section 10.11 No Recourse. Notwithstanding any other provision of this Agreement to the contrary, no past, present or future officer, director, partner, member, manager, equity holder, controlling person, employee, contractor, agent or representative of the parties hereto shall have any liability for any liability or obligation of Seller or Purchaser, as applicable, under this Agreement or any other agreement or document contemplated hereby for any claim based on, arising out of, or relating to the transactions contemplated hereby and thereby. Any claim or cause of action based upon, arising out of or relating to this Agreement or any agreement or document contemplated hereby may only be brought against persons that are expressly named as parties hereto or thereto, and then only in respect of the specific obligations set forth herein or therein. Other than the parties hereto, no other party shall have any liability or obligation for any of the liabilities or obligations of any party under this Agreement or any other agreement or document contemplated hereby or thereby or for any action, suit or proceeding based upon, arising out of or relating to the transactions contemplated hereby or thereby (including the breach, termination or failure to consummate such transactions)

Section 10.12 Cumulative Remedies. The rights, powers and remedies provided hereunder are cumulative and are not exclusive of any rights, powers and remedies provided by applicable Law.

Section 10.13 Severability. Each provision of this Agreement shall be deemed severable. If any provision of this Agreement, or the application of such provision to any person or

circumstance, shall be held invalid, illegal or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement or the application of such provision to other persons or circumstances or in other jurisdictions shall not be affected thereby.

Section 10.14 Survival. The representations and warranties contained in this Agreement or in any document delivered in connection with the transactions contemplated hereby shall not survive the Closing and none of the parties shall have any liability to any other party after Closing for any breach thereof. The agreements and covenants contained in this Agreement or in any document delivered in connection with the transactions contemplated hereby that are to be performed at or after the Closing shall survive the Closing until the expiration of the applicable statute of limitations (or for such shorter period as may be explicitly specified herein or therein) and a party shall be liable to the other party after the Closing for any breach thereof.

Section 10.15 No Third-Party Beneficiaries. This Agreement and the covenants made herein are made expressly and solely for the benefit of the parties hereto, and no other person shall be entitled or be deemed to be entitled to any benefits or rights hereunder, nor be authorized or entitled to enforce any rights, claims or remedies hereunder or by reason hereof.

Section 10.16 Time Is of the Essence. Time is of the essence in the performance of this Agreement.

Section 10.17 Waiver of Bulk Sales Laws. To the maximum extent not prohibited by applicable law, the parties hereto hereby waive compliance by Purchaser and Seller with the terms of any bulk sales or similar Laws in any applicable jurisdiction in respect of the transactions contemplated by this Agreement. The Sale Order shall exempt Purchaser and Seller from compliance with any such Laws.

Section 10.18 Waiver of Trial by Jury. **TO THE MAXIMUM EXTENT NOT PROHIBITED BY APPLICABLE LAW, EACH PARTY HERETO, HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, SUIT OR PROCEEDING, DIRECTLY OR INDIRECTLY, AT ANY TIME ARISING OUT OF, OR RELATING TO, THIS AGREEMENT.**

Section 10.19 Waivers. No waiver of any provision hereof, or consent required hereunder, or any consent or departure from this Agreement, shall be valid or binding unless expressly and affirmatively made in writing and duly executed by the party to be charged with such waiver. No waiver shall constitute or be construed as a continuing waiver or a waiver in respect of any subsequent breach or default, either of similar or different nature, unless expressly so stated in such writing. No delay, forbearance or neglect by any party hereto, whether in one or more instances, in the exercise of any right, power, privilege or remedy hereunder or in the enforcement of any provision of this Agreement shall constitute or be construed as a waiver thereof. The single or partial exercise of any right, power, privilege or hereunder or under applicable Law shall not preclude any other or further exercise of any other right, power, privilege or remedy.

Section 10.20 Exclusive Negotiations. The Purchaser will be expending significant time and incurring significant expenses in connection with the proposed acquisition. Accordingly, the Seller agrees to the following: (a) the Seller acknowledges that Purchaser has agreed to purchase the Seller's Assets as provided herein, and the Seller agrees to negotiate exclusively with the Purchaser and in good faith until the date scheduled for Closing, the Seller shall not negotiate simultaneously with any other interested parties for the purchase of the Seller's Assets during those respective periods as applicable; and (b) the Seller shall not, directly or indirectly (through agents or otherwise), encourage or solicit any inquiries or accept any proposals by, or engage in any discussions or negotiations with or furnish any information to any other person or entity concerning a sale of a substantial portion of the Seller's Assets during those respective periods, as applicable. Additionally, the person signing below as the "Seller" warrants that he owns, in the aggregate, 100% of the Seller's Assets. The Seller shall be responsible for any breach of this paragraph by the Seller.

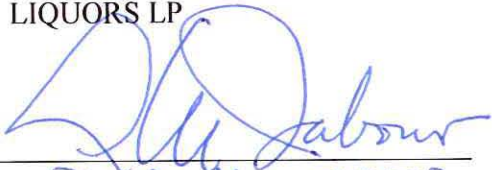
* * * * *

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the Execution Date.

PURCHASER:

TWIN LIQUORS LP

By: 
Name: DAVID M JABOUR
Title: PRESIDENT

SELLER:

SIGEL'S BEVERAGES, L.P.

By: Milan General Investments, Inc.,
its General Partner

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the Execution Date.

PURCHASER:

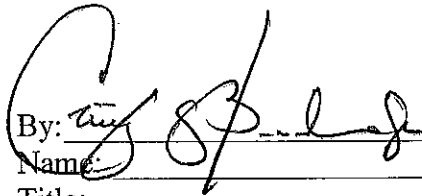
TWIN LIQUORS LP

By: _____
Name: _____
Title: _____

SELLER:

SIGEL'S BEVERAGES, L.P.

By: Milan General Investments, Inc.,
its General Partner

By:  _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the undersigned hereby joins in this Agreement for the sole and limited purpose of agreeing to his obligations under **Section 6.15** of this Agreement.

STOCKHOLDER:

ANTHONY J. BANDIERA, JR.

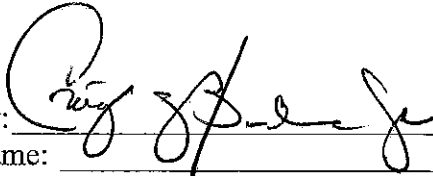
By: 
Name: _____
Title: _____

EXHIBIT A

Form of Bill of Sale

(see attached)

BILL OF SALE

This BILL OF SALE (this “**Bill of Sale**”) is dated as of [____], 2018 (the “**Effective Date**”), and executed by SIGEL’S BEVERAGES, L.P., a Texas limited partnership (“**Seller**”), to and for the benefit of TWIN LIQUORS LP, a Texas limited partnership (“**Purchaser**”). Capitalized terms used herein but not defined herein shall have the meanings ascribed to such terms in the Purchase Agreement (as hereinafter defined).

WHEREAS, Purchaser, Seller and, for the limited purposes set forth therein, Anthony Bandiera, Jr., have entered into that certain Asset Purchase Agreement, dated as of April 5, 2018 (the “**Purchase Agreement**”), which provides, among other things, for the sale and assignment by Seller, and the purchase and acceptance by Buyer, of the Purchased Assets.

NOW, THEREFORE, in consideration of the mutual promises contained in the Purchase Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Seller and Purchaser, and subject to the terms and conditions of the Purchase Agreement, Seller and Purchaser agree as follows:

1. Sale. Seller does hereby sell, convey, transfer, assign and deliver to Purchaser, free and clear of all Claims, Liens (other than Permitted Liens) and any other interests, all right, title and interest in, to and under the Purchased Assets (other than any Purchased Assets being sold, conveyed, transferred, assigned and delivered to Purchaser concurrently herewith pursuant to a special warranty deed delivered pursuant to Section 7.3(e) of the Purchase Agreement, one or more assignment and assumption agreements delivered pursuant to Section 7.3(c) or such other instruments of sale, conveyance, assignment, transfer and delivery being delivered pursuant to Section 7.3 of the Purchase Agreement). The parties agree that the Purchased Assets shall specifically exclude those assets defined in the Purchase Agreement as the Excluded Assets.

2. Successors and Assigns. This Bill of Sale shall apply to, be binding in all respects upon, and inure to the benefit of, the parties and their respective successors and permitted assigns in accordance with Section 10.3 of the Purchase Agreement.

3. Amendment; Waiver. This Bill of Sale may be amended, modified or supplemented only by an instrument in writing executed by the party against which enforcement of the amendment, modification or supplement is sought. No waiver of any provision of this Bill of Sale shall be valid unless in writing and signed by the party to be charged with such waiver.

4. Controlling Agreement. Nothing in this Bill of Sale, express or implied, is intended to or shall be construed to modify, expand or limit in any way the terms, representations and warranties or covenants contained in the Purchase Agreement, each of which are incorporated by reference into this Bill of Sale. To the extent that any provision of this Bill of Sale conflicts or is inconsistent with the terms of the Purchase Agreement, the terms of the Purchase Agreement shall govern. It is contemplated that Seller may, at any time or from time to time, execute, acknowledge and deliver one or more separate instruments of assignment and conveyance relating to certain of the Purchased Assets. In the event that any conflict or ambiguity exists as between this Bill of Sale and any such separate instrument of assignment, the terms and provisions of such separate instrument of assignment shall govern and be controlling.

5. Governing Law. This Bill of Sale shall be governed by and construed and enforced in accordance with the Laws of the State of Texas, without regard to the conflict-of-law principles thereof, except to the extent such laws are superseded by the Bankruptcy Code or other applicable federal law.

6. Further Assurances. Each of Purchaser and Seller agree to take any and all actions, including the execution, acknowledgement or delivery, at the request of the other party hereto, of assurances, deeds, assignments, transfers, conveyances and other instruments or papers as may be reasonably requested, required or appropriate to carry out the assignments and sales contemplated by this Bill of Sale, in each case necessary and appropriate to vest in Purchaser all right, title and interest in, to and under the Purchased Assets, as contemplated by the Purchase Agreement.

7. Headings. The headings contained in this Bill of Sale are inserted for convenience only and shall not be deemed to affect the meaning or construction of any of the provisions hereof.

8. Counterparts; Electronic Transmission. This Bill of Sale 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. Signatures transmitted by facsimile or electronic mail shall be deemed originals for purposes of this Bill of Sale.

[Signature Pages Follow.]

IN WITNESS WHEREOF, the Seller has executed this Bill of Sale as of the Effective Date.

SELLER:

SIGEL’S BEVERAGES, L.P.

By: Milan General Investments, Inc.,
Its General Partner

By: _____
Name:
Title:

IN WITNESS WHEREOF, the Seller has executed this Bill of Sale as of the Effective Date.

PURCHASER:

TWIN LIQUORS LP

By: _____
Name:
Title:

EXHIBIT B

Form of Assignment and Assumption Agreement

(see attached)

ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT (this “**Agreement**”) is dated as of [____], 2018 (the “**Effective Date**”), by and between SIGEL’S BEVERAGES, L.P., a Texas limited partnership (“**Assignor**”), to and for the benefit of TWIN LIQUORS LP, a Texas limited partnership (“**Assignee**”).

WHEREAS, pursuant to the Asset Purchase Agreement, dated as of April 5, 2018 (the “**Purchase Agreement**”), by and among Seller, Purchaser and, for the limited purposes set forth in the Purchase Agreement, Anthony Bandiera, Jr., on the terms set forth herein and therein, Assignor has agreed to sell, convey, transfer, assign and deliver to Assignee, and Assignee, in reliance on the representations, warranties and covenants of Assignor contained in the Purchase Agreement, has agreed to acquire and accept from the Assignor, the Purchased Assets;

WHEREAS, the Purchased Assets include the rights and interests of Assignor in the Purchased Assets described in Section 2.01(g) and (h), which consist of the rights and interests of Seller under the Purchased Contracts and certain Permits of Seller related to or used or held for use in the Business to the extent such Permits, approvals and certifications can be assigned by Seller under applicable law and subject to any approval or other action required by a Governmental Body (the “Assigned Rights”); and

WHEREAS, pursuant to the Purchase Agreement, on the terms set forth herein and therein, Assignee has agreed to assume and discharge in a timely manner in accordance with their terms the Assumed Liabilities.

NOW, THEREFORE, in consideration of the foregoing and the mutual representations, covenants and agreements contained herein and in the Purchase Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Capitalized Terms. Capitalized terms used and not otherwise defined herein shall have the respective meanings assigned to them in the Purchase Agreement.

2. Assignment. Effective as of the Closing, Assignor hereby assigns and transfers to Assignee all Assigned Rights; provided, however, that any Non-Assignable Assets shall not be deemed to be assigned or transferred, or attempted to be assigned or transferred, pursuant to this Agreement, and shall remain subject in all respects to Section 2.6 of the Purchase Agreement. In addition, the parties agree that the Assigned Rights shall specifically exclude those assets defined in the Purchase Agreement as the Excluded Assets.

3. Assumption. Assignee hereby accepts the assignment and transfer of the Assigned Rights and assumes and agrees to perform or otherwise discharge in a timely manner the Assumed Liabilities. The parties agree that Purchaser shall not, and shall not have any obligation to, assume any liabilities and obligations defined in the Purchase Agreement as Excluded Liabilities.

4. No Expansion of Rights. The assumption by Assignee of the Assumed Liabilities as provided herein is not intended by the parties to expand the rights and remedies of

any third party against Assignee in respect of such Assumed Liabilities as compared to the rights and remedies that such third party would have had against Assignor in respect of such Assumed Liabilities had Assignee not consummated the transactions contemplated by the Purchase Agreement. Assignee shall have all rights that Assignor may have or may have had to defend or contest any claim or demand in respect of any Assumed Liabilities.

5. Successors and Assigns. This Agreement shall apply to, be binding in all respects upon, and inure to the benefit of, the parties and their respective successors and permitted assigns in accordance with Section 10.2 of the Purchase Agreement.

6. Amendment; Waiver. This Agreement may be amended, modified or supplemented only by an instrument in writing executed by the party against which enforcement of the amendment, modification or supplement is sought. No waiver of any provision of this Agreement shall be valid unless in writing and signed by the party to be charged with such waiver.

7. Controlling Agreement. This Agreement is delivered pursuant to the Purchase Agreement and is subject to the terms and conditions provided therein. The scope, nature and limited extent of the Assumed Liabilities are expressly set forth in the Purchase Agreement. Nothing contained herein shall itself change, amend, extend, limit or alter (nor shall it be deemed or construed as changing, amending, extending, limiting or altering) the terms or conditions of the Purchase Agreement in any manner whatsoever. This Agreement does not create or establish liabilities or obligations not otherwise created or established under or pursuant to the Purchase Agreement. In the event of any conflict or other difference between the Purchase Agreement and this instrument, the provisions of the Purchase Agreement shall control.

8. Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the Laws of the State of Texas, without regard to the conflict-of-law principles thereof, except to the extent such laws are superseded by the Bankruptcy Code or other applicable federal law.

9. Further Assurances. Each of Assignee and Assignor agree to take any and all actions, including the execution, acknowledgement or delivery, at the request of the other party hereto, of instruments of transfer, assignment and assumption and other instruments or papers as may be reasonably requested, required or appropriate to carry out the assignments and assumptions contemplated by this Agreement, including any such instruments or papers necessary and appropriate to vest in Assignee all Assigned Rights or to evidence or complete its assumption of the Assumed Liabilities, as contemplated by the Purchase Agreement.

10. Headings. The headings contained in this Agreement are inserted for convenience only and shall not be deemed to affect the meaning or construction of any of the provisions hereof.

11. Counterparts; Electronic Transmission. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same agreement. Signatures transmitted by facsimile or electronic mail shall be deemed originals for purposes of this Agreement.

[Signature Pages Follow]

IN WITNESS WHEREOF, the undersigned parties have executed and delivered this Agreement as of the Effective Date.

ASSIGNOR:

SIGEL’S BEVERAGES, L.P.

By: Milan General Investments, Inc.,
Its General Partner

By: _____
Name:
Title:

ASSIGNEE:

TWIN LIQUORS LP

By: _____
Name:
Title:

EXHIBIT C

Form of Tax Certificate

(see attached)

CERTIFICATE OF NON-FOREIGN STATUS

Section 1445 of the Internal Revenue Code of 1986, as amended (the “Code”), provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. For U.S. tax purposes (including Section 1445 of the Code), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform Twin Liquors LP, a Texas limited partnership (“Transferee”), that withholding of tax is not required upon the disposition of a U.S. real property interest by Sigel’s Beverages, L.P., a Texas limited partnership (“Transferor”), the undersigned, on behalf of Transferor, hereby certifies to Transferee that:

- (i) Transferor is not a disregarded entity as defined in Treasury Regulations Section 1.1445-2(b)(2)(iii);
- (ii) Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Code and Income Tax Regulations);
- (iii) Transferor’s U.S. employer identification number is 75-2585944;
and
- (iv) Transferor’s principal office address is 2690 Anode Lane, Dallas, Texas 75220.

Transferor understands that this certification may be disclosed to the Internal Revenue Service by Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalty of perjury, I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct, and complete, and I further declare that I have authority to sign this document on behalf of Transferor.

Dated: April [____], 2018

TRANSFEROR:

SIGEL’S BEVERAGES, L.P.

By: Milan General Investments, Inc.,
its General Partner

By: _____
Name:
Title:

EXHIBIT D

Alcoholic Beverage Inventory Form

(see attached)



ALCOHOLIC BEVERAGE INVENTORY

Instructions: Please complete this form in triplicate. Present all three signed and notarized copies to the local TABC office. Upon approval of the inventory transfer, one copy each will be returned to the seller and purchaser. As a condition of the transfer, this sale is **not valid until approved and signed** by a representative of the local TABC office.

State of Texas
County of _____

Before me, the undersigned authority, on this day personally appeared

_____, known to me to be a credible person and
_____, known to me to be a credible person and who
after being duly sworn, did depose and say:

I certify that I am a(n) _____
(Owner/partner/Officer of Corporation)
of _____, permit number _____
(Name of Establishment)
located at _____, Texas.
(Address/City)

The below listed alcoholic beverages which were inventoried the close of business on
_____, and sold to _____,
(Month/Day/Year) (Name of Establishment)
permit number _____ or stored at _____
(Address/City/State)

Quantity	Size	Brand Name	Type	ID Stamp
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

(Seller) (Purchaser)
SWORN TO AND SUBSCRIBED BEFORE ME, this the _____ day of _____, 20____

Notary Public Signature
Date: _____
TABC Representative (Agent, Auditor, Supervisor)

IN RE SIGEL'S BEVERAGES, L.P.
CASE NO. 16-34118-bjh-11

Purchased Real Property Leases and Purchased Contracts

Row	Contract Type	Debtor Counterparty	Contract Counterparty/Notice Party	Contract Description	Cure Amount
1	Real Property Lease	Sigel's Beverages, L.P.	Texas Center Control PO Box 840790 Dallas, TX 75284-0790	Store #1 5757 Greenville	None
2	Real Property Lease	Sigel's Beverages, L.P.	PNYX Limited PO Box 191345 Dallas, TX 75219	Store #3 506 S. Riverfront [Industrial]	None
3	Real Property Lease	Sigel's Beverages, L.P.	Laws Street 2519 Thomas Avenue Dallas, TX 75201	Store #4 3209 Fitzhugh	None
4	Real Property Lease	Sigel's Beverages, L.P.	Ginana, Inc. 5704 Covehaven Drive Dallas, TX 75252	Store #7 801 Country Road	None
5	Real Property Lease	Sigel's Beverages, L.P.	United Legacy Ltd. PO Box 674368 Dallas, TX 75267-4368	Store #9 3020 Legacy	\$46,123.38
6	Real Property Lease	Sigel's Beverages, L.P.	The Florida Company 3322 Shorecrest Dr., Suite 235 Dallas, TX 75235	Store #11 538 Centennial	None
7	Real Property Lease	Sigel's Beverages, L.P.	Mobile City Limited Partnership 3322 Shorecrest Dr., Suite 235 Dallas, TX 75235	Store #12 2325 Interstate Hwy 30	None
8	Real Property Lease	Sigel's Beverages, L.P.	PNYX Limited PO Box 191345 Dallas, TX 75219	Store #13 1441 W. Mockingbird	None
9	Real Property Lease	Sigel's Beverages, L.P.	Clover Quadrangle 1801 W. Olympic Blvd. Pasadena, CA 91199-1267	Store #22 2800 Routh Street, Suite 180	None
10	Real Property Lease	Sigel's Beverages, L.P.	Dart Development 2000 McKinney Ave., Suite 100 Dallas, TX 75201	Warehouse Facility 2920-2940 Anode Lane	None
11	Consulting/Programming	Sigel's Beverages, L.P.	Al Miller 7710 Bantry Lane Dallas, TX 75248		None
12	Performance Goals	Sigel's Beverages, L.P.	Crystal of America, Inc. 95 Mayfield Ave. Edison, NJ 08837		None
13	Performance Goals	Sigel's Beverages, L.P.	Libbey Glass PO Box 730598 Dallas, TX 75373		None
14	Fujitsu Scanner Support	Sigel's Beverages, L.P.	Ricoh USA Inc. 2300 Parkdale Dr. NE Atlanta, GA 30345		None
15	Kofax Software Support	Sigel's Beverages, L.P.	Ricoh USA Inc. 2300 Parkdale Dr. NE Atlanta, GA 30345		None
16	Electricity Contract	Sigel's Beverages, L.P.	TXU Energy 6555 Sierra Drive, 3-S-24 Irvine, TX 75039		\$27,166.71
17	Copier Maintenance	Sigel's Beverages, L.P.	Verity Group a Laser Works Company PO Box 940361 Plano, TX 75094		\$415.15
18	Credit Card Processing	Sigel's Beverages, L.P.	Worldpay 600 Morgan Falls Rd., Suite 260 Atlanta, GA 30350		None
19	Cable Service, Store #4	Sigel's Beverages, L.P.	Direct TV PO Box 105249 Atlanta, GA 30348		None
20	Cable Service, Store #1	Sigel's Beverages, L.P.	Direct TV PO Box 105249 Atlanta, GA 30348		None
21	Managed Internet Service	Sigel's Beverages, L.P.	AT&T Attn. Jacob White 675 W. Peachtree St. NW Atlanta, GA 30308		\$582.22
22	IP Flexible Reach (Landline Phone Service)	Sigel's Beverages, L.P.	AT&T Attn. Jacob White 675 W. Peachtree St. NW Atlanta, GA 30308		\$2,181.33
23	Wireless Service	Sigel's Beverages, L.P.	AT&T Mobility PO Box 6463 Carol Stream, IL 60197		None
24	Software Support	Sigel's Beverages, L.P.	Atlantic Systems, Inc. PO Box 2244 Farmington, NJ 07727		None

EXHIBIT

2

exhibitsicker.com

Row	Contract Type	Debtor Counterparty	Contract Counterparty/Notice Party	Contract Description	Cure Amount
25	ERP Software Maintenance	Sigel's Beverages, L.P.	Friedman Corporation One Parkway North, Suite 400S Deerfield, IL 60015		None
26	Monthly Web Site Monitoring and Support	Sigel's Beverages, L.P.	Proclaim Interactive PO Box 15447 Wilmington, NC 28408		None
27	Media Services (Music for stores)	Sigel's Beverages, L.P.	Play Network 8727 148th Ave. NE Redmond, WA 98052-3483		None
28	Armored Car Service Agreement	Sigel's Beverages, L.P.	AT Systems Southwest Inc. A Garda Co. 301 N. Lake Ave., Suite 600 Pasadena, CA 91101		None
29	Document Management System	Sigel's Beverages, L.P.	DocuWare Corporation 4 Crotty Lane, Suite 200 New Windsor, NY 12553		None
30	Vehicle Lease	Sigel's Beverages, L.P.	Ally Financial 2911 Lake Vista Dr. Lewisville, TX 75067	2014 Ford E-250 VIN # 1FTNE2EL3EDA7480960	\$457.52
31	Vehicle Lease	Sigel's Beverages, L.P.	Penske Truck Leasing Co., LP Route 10-Green Hills PO Box 563 Reading, PA 19603-0563	2012 Isuzu NPR Serial #JALC4W165C7000741	
32	Vehicle Lease	Sigel's Beverages, L.P.	Penske Truck Leasing Co., LP Route 10-Green Hills PO Box 563 Reading, PA 19603-0563	2012 Isuzu NPR Serial #JALC4W165C7000979	
33	Vehicle Lease	Sigel's Beverages, L.P.	Penske Truck Leasing Co., LP Route 10-Green Hills PO Box 563 Reading, PA 19603-0563	2012 Isuzu NPR Serial #JALC4W167C7000739	
34	Vehicle Lease	Sigel's Beverages, L.P.	Penske Truck Leasing Co., LP Route 10-Green Hills PO Box 563 Reading, PA 19603-0563	2012 Isuzu NPR Serial #JALC4W167C7000742	
35	Vehicle Lease	Sigel's Beverages, L.P.	Penske Truck Leasing Co., LP Route 10-Green Hills PO Box 563 Reading, PA 19603-0563	2012 Isuzu NPR Serial #JALC4W167C7000952	
36	Vehicle Lease	Sigel's Beverages, L.P.	Penske Truck Leasing Co., LP Route 10-Green Hills PO Box 563 Reading, PA 19603-0563	2012 Isuzu NPR Serial #JALC4W167C7001003	\$10,073.17
37	Vehicle Lease	Sigel's Beverages, L.P.	Penske Truck Leasing Co., LP Route 10-Green Hills PO Box 563 Reading, PA 19603-0563	2012 Isuzu NPR Serial #JALC4W168C7000698	
38	Vehicle Lease	Sigel's Beverages, L.P.	Penske Truck Leasing Co., LP Route 10-Green Hills PO Box 563 Reading, PA 19603-0563	2012 Isuzu NPR Serial #JALC4W168C7000989	
39	Vehicle Lease	Sigel's Beverages, L.P.	Penske Truck Leasing Co., LP Route 10-Green Hills PO Box 563 Reading, PA 19603-0563	2012 Isuzu NPR Serial #JALC4W168C7000992	
40	Vehicle Lease	Sigel's Beverages, L.P.	Penske Truck Leasing Co., LP Route 10-Green Hills PO Box 563 Reading, PA 19603-0563	2013 Isuzu NPR Serial #JALC4W165D7002667	
41	Vehicle Lease	Sigel's Beverages, L.P.	Ally Financial 2911 Lake Vista Dr. Lewisville, TX 75067	2013 Ford E-150	\$322.15
42	Vehicle Lease	Sigel's Beverages, L.P.	Penske Truck Leasing Co., LP Route 10-Green Hills PO Box 563 Reading, PA 19603-0563	2013 Isuzu NPR Serial #JALC4W167D7002704	None
43	Postal Machine Lease	Sigel's Beverages, L.P.	Secap Finance 27 Waterview Drive Shelton, PA 06484	Pitney Bowes Digital Postal Meters Serial #0806719 Serial #3089107 Serial #0041926	None
44	Copy Machine Lease	Sigel's Beverages, L.P.	Great America Financial Services Corp. 625 First Street SE Cedar Rapids, IA 52401	Two (2) Toshiba e-Studio 857, 85ppm Digital MFP	None
45	Sign Lease	Sigel's Beverages, L.P.	Federal Heath Sign Company 15534 Hardy Road, Suite 200 Houston, TX 77060	Electric Sign Display (located at 1441 West Mockingbird)	None
46	Copy Machine/Printer Lease	Sigel's Beverages, L.P.	GE Capital c/o Ricoh USA Program PO Box 650016 Dallas, TX 75265	Ricoh ZZ PS-KOFAX Ricoh ZZ PS-WESTBROK	None