

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re : **Chapter 11**
:
THE GREAT ATLANTIC & PACIFIC TEA : **Case No. 15-23007 (RDD)**
COMPANY, INC., et al.,¹ :
: **(Jointly Administered)**
Debtors. :
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**ORDER (I) APPROVING THE PURCHASE AGREEMENT AMONG
SELLERS AND BUYER (II) AUTHORIZING THE SALE OF CERTAIN OF
THE DEBTORS’ ASSETS FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS
AND ENCUMBRANCES, (III) AUTHORIZING THE ASSIGNMENT OF CERTAIN
LEASES IN CONNECTION THEREWITH AND (IV) GRANTING RELATED RELIEF
(DEANNA M ROMANO FOR HACKETTSTOWN, NJ)**

Upon the motion, dated July 26, 2016, for approval of the sale of substantially all of the Debtors’ assets (Docket No. 26) (the “Sale Motion”)², filed by the above-captioned debtors and debtors in possession (the “Debtors”), seeking, among other things, entry of an order (the “Sale Order”), pursuant to sections 105, 363 and 365 of the United States Bankruptcy Code, 11 U.S.C. §§ 101, et seq. (the “Bankruptcy Code”), Rules 2002, 6004, and 6006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rules 6004-1 and 6006-1 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of New York (the “Local Bankruptcy Rules”), authorizing and approving the sale of the Acquired Assets,

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are as follows: 2008 Broadway, Inc. (0986); The Great Atlantic & Pacific Tea Company, Inc. (0974); A&P Live Better, LLC (0799); A&P Real Property, LLC (0973); APW Supermarket Corporation (7132); APW Supermarkets, Inc. (9509); Borman’s, Inc. (9761); Delaware County Dairies, Inc. (7090); Food Basics, Inc. (1210); Kwik Save Inc. (8636); McLean Avenue Plaza Corp. (5227); Montvale Holdings, Inc. (6664); Montvale-Para Holdings, Inc. (2947); Onpoint, Inc. (6589); Pathmark Stores, Inc. (9612); Plainbridge LLC (5965); Shopwell, Inc.(3304); Super Fresh Food Markets, Inc. (2491); The Old Wine Emporium of Westport, Inc. (0724); Tradewell Foods of Conn., Inc. (5748); and Waldbaum, Inc. (8599). The international subsidiaries of The Great Atlantic & Pacific Tea Company, Inc. are not debtors in these chapter 11 cases. The location of the Debtors’ corporate headquarters is 48 Bi-State Plaza, PMB 282, Old Tappan, New Jersey 07675.

² Capitalized terms used herein but not otherwise defined have the meanings given to them in the Purchase Agreement (as defined below) or, if not defined in the Purchase Agreement, the meanings given to them in the Sale Motion or the attachments thereto.

including the assignment of certain unexpired leases of the Debtors (the “Transferred Contracts”) in connection therewith; and the Transferred Contracts having been assumed by the Debtors pursuant to an order, dated February 11, 2016 [ECF No. 2501] (the “Assumption Order”); and the Debtors having paid all cure amounts required in connection with the assumption of the Transferred Contracts, pursuant to the terms of the Assumption Order; and the Court having taken into consideration this Court’s prior order, dated August 11, 2015 (Docket No.495) (the “Global Bidding Procedures Order”), approving competitive bidding procedures for certain of the Debtors’ assets (the “Bidding Procedures”) and granting certain related relief, the *Notice of Auction of Debtors’ Liquor Store Assets And Licenses* [ECF No. 3027] (the “Auction Notice”), which included amended Bidding Procedures attached thereto as Exhibit A (the “Liquor Store Bidding Procedures”) that governed the auction and sale of the Acquired Assets at an auction conducted on August 3, 2016 (the “Auction”), and the *Notice of Successful Bidders and Back-Up Bidders for Debtors’ Liquor Stores* [ECF No. 3075] (the “Auction Results Notice”), which announced the highest and best bidders for the Acquired Assets; and Deanna M Romano (the “Buyer”) having submitted the highest and best offer for the Acquired Assets, as reflected in the Purchase Agreement (as defined below); and the Court having conducted a hearing on the Sale Motion (the “Sale Hearing”) on August 26, 2016, at which time all interested parties were offered an opportunity to be heard with respect to the Sale Transaction (as defined below); and the Court having reviewed and considered (i) the Sale Motion and the exhibits thereto, (ii) the Purchase and Sale Agreement, dated as of August 4, 2016 the (“Purchase Agreement”), a copy of which is attached hereto as Exhibit A, by and between Sellers and the Buyer, whereby the Debtors have agreed, among other things, to sell the Acquired Assets to the Buyer, including the Transferred Contracts that will be assigned to Buyer, on the terms and conditions set forth in the

Purchase Agreement (collectively, the “Sale Transaction”), (iii) the Declaration of Deanna Romano in Support of the Sale Transaction (Docket No. 3101), and (iv) the arguments and representations of counsel made, and the evidence proffered and adduced, at the Sale Hearing; and it appearing that due notice of the Sale Motion, the Purchase Agreement, and the form of this order (the “Proposed Sale Order”) having been provided; and all objections to the Sale Motion having been withdrawn, resolved or overruled as provided in this Order; and it appearing that the relief requested in the Sale Motion and granted herein is in the best interests of the Debtors, their estates and creditors and all parties in interest in these chapter 11 cases; and upon the record of the Sale Hearing and these chapter 11 cases; and after due deliberation thereon; and good cause appearing therefor, it is hereby

FOUND AND DETERMINED THAT:

A. **Fed. R. Bankr. P. 7052.** The findings and conclusions set forth herein constitute the Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such. The Court’s findings shall also include any oral findings of fact and conclusions of law made by the Court during or at the conclusion of the Sale Hearing.

B. **Jurisdiction and Venue.** This Court has jurisdiction to decide the relief requested in the Sale Motion and over the Sale Transaction and the property of the Debtors’ estates, including the Acquired Assets, pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b). This matter is a core proceeding pursuant to 28 U. S.C. § 157(b)(2). Venue of these chapter 11 cases and the Sale Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

C. **Statutory and Rule Predicates.** The statutory and other legal predicates for the relief sought in the Sale Motion are sections 105(a), 363 and 365 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, and 6006, 9007 and 9014 Local Bankruptcy Rules 6004-1 and 6006-1, and the Amended Guidelines for the Conduct of Asset Sales, Approved by Administrative Order Number 383 in the United States Bankruptcy Court for the Southern District of New York.

D. **Notice and Opportunity to Object.** Actual written notice of, and a fair and reasonable opportunity to object to and to be heard with respect to the Sale Motion, the Sale Transaction, the sale of the Acquired Assets free and clear of any Claims (as defined below), the assignment of the Transferred Contracts and the relief requested in the Sale Motion has been given to all Persons entitled to notice pursuant to the Bidding Procedures and Liquor Store Bidding Procedures, including, but not limited to, the following: (i) all counterparties to the Transferred Contracts, (ii) all creditors asserting any Claims against the Acquired Assets, (iii) all parties who have requested notice in these chapter 11 cases pursuant to Bankruptcy Rule 2002, and (iv) all applicable federal, state and local taxing and regulatory authorities.

E. **Final Order.** This Sale Order constitutes a final order within the meaning of 28 U.S.C. § 158(a).

F. **Sound Business Purpose.** The Debtors have demonstrated good, sufficient, and sound business purposes and justifications for approval of the Purchase Agreement and the Sale Transaction and in entering into the Purchase Agreement and the related Bill of Sale and Assignment and Assumption Agreement (the "Related Agreements"). The Debtors' entry into and performance under the Purchase Agreement and Related Agreements (i) is a result of due deliberation by the Debtors and constitute a sound and reasonable exercise of the Debtors'

business judgment consistent with their fiduciary duties, (ii) provide value to and are beneficial to the Debtors' estates, and are in the best interests of the Debtors and their stakeholders, and (iii) are reasonable and appropriate under the circumstances. Business justifications for the Sale Transaction include, but are not limited to, the following: (i) the Purchase Agreement constitutes the highest and best offer received for the Acquired Assets, (ii) the Purchase Agreement presents the best opportunity to maximize the value of the Acquired Assets on a going concern basis and avoid decline and devaluation of the Acquired Assets, (iii) unless the Sale Transaction and all of the other transactions contemplated by the Purchase Agreement are concluded expeditiously, as provided for pursuant to the Purchase Agreement, recoveries to creditors may be materially diminished, and (iv) the value of the Debtors' estates will be maximized through the sale of the Acquired Assets pursuant to the Purchase Agreement.

G. **Compliance with Procedures.** The Debtors and Buyer complied with the Bidding Procedures and Liquor Store Bidding Procedures in all respects.

H. **Highest and Best Value.** (i) The Debtors and their advisors, including Hilco Real Estate LLC, engaged in a robust and extensive marketing and sale process for the Acquired Assets, (ii) the Debtors conducted a fair and open sale process, (iii) the sale process was non-collusive, duly noticed and provided a full, fair and reasonable opportunity for any entity to make an offer to purchase the Acquired Assets, and (iv) the process conducted by the Debtors pursuant to the Bidding Procedures and Liquor Store Bidding Procedures obtained the highest and best value for the Acquired Assets for the Debtors and their estates, and any other transaction would not have yielded as favorable an economic result.

I. **Fair Consideration.** The consideration to be paid by the Buyer under the Purchase Agreement (i) constitutes fair and reasonable consideration for the Acquired Assets,

(ii) is the highest and best offer for the Acquired Assets, (iii) will provide a greater recovery for the Debtors' estates and creditors than would be provided by any other practically available alternative, and (iv) constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code and other laws of the United States, any state, territory, possession or District of Columbia or any other applicable jurisdiction with laws substantially similar to the foregoing.

J. **No Successor or Other Derivative Liability.** The sale and transfer of the Acquired Assets to the Buyer, including the assignment, transfer and/or sale to the Buyer of the Transferred Contracts, will not subject the Buyer to any liability (including any successor liability) with respect to the operation of the Debtors' business prior to the Closing or by reason of such transfer, except that, upon the Closing, the Buyer shall become liable for the liabilities expressly assumed in the Purchase Agreement, if any (the "Assumed Liabilities"). The Buyer (i) is not, and shall not be considered a successor to the Debtors, (ii) has not, *de facto* or otherwise, merged with or into the Debtors, (iii) is not a continuation or substantial continuation, and is not holding itself out as a mere continuation, of any of the Debtors or their respective estates, businesses or operations, or any enterprise of the Debtors, and (iv) does not have a common identity of incorporators, directors or equity holders with the Debtors.

K. **Good Faith; No Collusion.** The Debtors and the Buyer, and their respective counsel and advisors, have negotiated, proposed and entered into the Purchase Agreement and each of the transactions contemplated in good faith, without collusion and from arm's-length bargaining positions. The Buyer is a "good faith purchaser" and is acting in good faith within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to all the protections afforded thereby. The Buyer has proceeded in good faith in all respects in that, among other things, (i) the Buyer recognized that the Debtors were free to deal with any other

party in interest in acquiring the Acquired Assets, and (ii) all payments to be made by the Buyer and all other material agreements or arrangements entered into by the Buyer and the Debtors in connection with the Sale Transaction have been disclosed and are appropriate. The sale price in respect of the Acquired Assets was not controlled by any agreement among potential purchasers and neither the Debtors nor the Buyer have engaged in collusion or any conduct that would cause or permit the Purchase Agreement to be avoided or costs and damages to be imposed under section 363(n) of the Bankruptcy Code. Accordingly, neither the Purchase Agreement nor the Sale Transaction may be avoided and no party shall be entitled to damages or other recovery pursuant to section 363(n) of the Bankruptcy Code. The Buyer is not an “insider” or “affiliate” of any of the Debtors, as those terms are defined in section 101 of the Bankruptcy Code, and no common identity of incorporators, directors, or controlling stockholders existed between the Buyer and the Debtors.

L. **Notice.** As evidenced by the certificates of service filed with the Court: (i) due, proper, timely, adequate and sufficient notice of the Sale Motion, the Sale Hearing, the Sale Transaction, the Proposed Sale Order and the other relief requested in the Sale Motion was provided by the Debtors, (ii) such notice was good, sufficient and appropriate under the particular circumstances and complied with the Global Bidding Procedures Order, and (iii) no other or further notice of the Sale Motion, the Sale Transaction, the Sale Hearing, the Proposed Sale Order, or any of the relief requested in the Sale Motion is required.

M. **Cure Obligations Satisfied.** In connection with the assumption of the Transferred Contracts, the Debtors have paid the contract counterparties to the Transferred Contracts the cure amounts provided for in the Assumption Order. No uncured defaults exist in

the Debtors' performance under the Transferred Contracts as of the date of this Sale Order other than defaults that are not required to be cured.

N. **Satisfaction of Section 363(f) Standards.** The Debtors may sell the Acquired Assets free and clear of all liens, claims (including those that constitute a "claim" as defined in section 101(5) of the Bankruptcy Code), rights, liabilities, encumbrances and other interests of any kind or nature whatsoever against the Debtors or the Acquired Assets, including, without limitation, any debts arising under or out of, in connection with, or in any way relating to, any acts or omissions, obligations, demands, guaranties, rights, contractual commitments, restrictions, product liability claims, environmental liabilities, employee pension or benefit plan claims, multiemployer benefit plan claims, retiree healthcare or life insurance claims or claims for Taxes of or against the Debtors, any claims under, or trusts or liens created by, PACA,³ and any derivative, vicarious, transferee or successor liability claims, rights or causes of action (whether in law or in equity, under any law, statute, rule or regulation of the United States, any state, territory, or possession thereof or the District of Columbia), whether arising prior to or subsequent to the commencement of these chapter 11 cases, whether known or unknown, and whether imposed by agreement, understanding, law, equity or otherwise arising under or out of, in connection with, or in any way related to the Debtors, the Debtors' interests in the Acquired Assets, the operation of the Debtors' businesses before the effective time of the Closing pursuant to the Purchase Agreement, or the transfer of the Debtors' interests in the Acquired Assets to the Buyer (collectively, excluding any Assumed Liabilities, the "Claims"), because, in each case, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code have been satisfied; provided, however, that, nothing herein shall be deemed, or construed as, a ruling or

³ "PACA" means The Perishable Agricultural Commodities Act, 1930 (7 U.S.C. §§499a, et seq.) or the Packers and Stockyards Act (7 U.S.C. §§181 et seq.) or any similar state laws.

determination by this Court that any Assumed Liabilities encumber the Acquired Assets.

Without limiting the generality of the foregoing, “Claims” shall include any and all liabilities or obligations whatsoever arising under or out of, in connection with, or in any way relating to:

(1) any of the employee benefit plans, including any Claims related to unpaid contributions or current or potential withdrawal or termination liability; (2) any of the Debtors’ collective bargaining agreements; (3) the Worker Adjustment and Retraining Notification Act of 1988; or (4) any of the Debtors’ current and former employees. Those holders of Claims who did not object (or who ultimately withdrew their objections, if any) to the Sale Transaction or the Sale Motion are deemed to have consented pursuant to section 363(f)(2) of the Bankruptcy Code. Those holders of Claims who did object that have an interest in the Acquired Assets could be compelled in a legal or equitable proceeding to accept money satisfaction of such Claim pursuant to section 363(f)(5) or fall within one or more of the other subsections of section 363(f) of the Bankruptcy Code and are therefore adequately protected by having their Claims that constitute interests in the Acquired Assets, if any, attach solely to the proceeds of the Sale Transaction ultimately attributable to the property in which they have an interest, in the same order of priority and with the same validity, force and effect that such holders had prior to the Sale Transaction, subject to any defenses of the Debtors. All Persons having Claims of any kind or nature whatsoever against the Debtors or the Acquired Assets shall be forever barred, estopped and permanently enjoined from pursuing or asserting such Claims against the Buyer or any of its assets, property, Affiliates, successors, assigns, or the Acquired Assets.

O. Each of (A) U.S. Bank National Association, as trustee under that certain Indenture for Senior Secured PIK Toggle Notes due 2017, dated as of March 13, 2012; and (B) U.S. Bank National Association, as trustee under that certain Indenture for Senior Secured

Convertible Notes due 2018, dated as of March 13, 2012 (each, a “Secured Lender”), has consented to or does not oppose, and is therefore deemed to consent to, the sale of the Acquired Assets to the Buyer pursuant to the Purchase Agreement free and clear of any Claims of such Secured Lender against the Acquired Assets.

P. The Buyer would not have entered into the Purchase Agreement and would not consummate the transactions contemplated thereby if the sale of the Acquired Assets was not free and clear of all Claims, or if the Buyer would, or in the future could, be liable for any such Claims, including, as applicable, certain liabilities that will not be assumed by the Buyer, as described in the Purchase Agreement. A sale of the Acquired Assets other than one free and clear of all Claims would adversely impact the Debtors, their estates and their creditors, and would yield substantially less value for the Debtors’ estates, with less certainty than the Sale Transaction.

Q. The total consideration to be provided under the Purchase Agreement reflects the Buyer’s reliance on this Order to provide it, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, with title to and possession of the Acquired Assets free and clear of all Claims (including, without limitation, any potential derivative, vicarious, transferee or successor liability claims).

R. **Assignment of Transferred Contracts.** The assignment of the Transferred Contracts is integral to the Purchase Agreement and necessary to sell the Acquired Assets to the Buyer, is in the best interests of the Debtors and their estates, and represents the valid and reasonable exercise of the Debtors’ sound business judgment.

S. With respect to each of the Transferred Contracts, the Buyer has provided adequate assurance of future performance under the Transferred Contracts in satisfaction of

section 365(f) of the Bankruptcy Code in its entirety to the extent that any such assurance is required and not waived by the counterparties to such Transferred Contract. Accordingly, the Transferred Contracts may be assigned to the Buyer as provided for in the Purchase Agreement. The assignment of each Transferred Contract is approved notwithstanding any provision in such Transferred Contract or other restrictions prohibiting its assignment or transfer.

T. **No Breach of Union Obligations.** The unions affected by the sale of the Acquired Assets have not objected to such sale and have waived their rights to assert against any of Buyer, the Debtors, the Debtors' estates, or any other party any claims or other rights arising under the successorship provisions of any collective bargaining agreement or similar agreement in relation to such sale.

U. **Validity of the Transfer.** As of the Closing, the transfer of the Acquired Assets to the Buyer will be a legal, valid and effective transfer of the Acquired Assets, and will vest the Buyer with all right, title and interest of the Debtors in and to the Acquired Assets, free and clear of all Claims. The consummation of the Sale Transaction is legal, valid and properly authorized under all applicable provisions of the Bankruptcy Code, including, without limitation, sections 105(a), 363(b), 363(f), 363(m), and 365(f) of the Bankruptcy Code and all of the applicable requirements of such sections have been complied with in respect of the Sale Transaction.

V. The Debtors (i) have full corporate or limited liability company (as applicable) power and authority to execute the Purchase Agreement and all other documents contemplated thereby, and the Sale Transaction has been duly and validly authorized by all necessary corporate action of the Debtors, (ii) have all of the corporate or limited liability company (as applicable) power and authority necessary to consummate the transactions contemplated by the Purchase

Agreement, and (iii) upon entry of this Sale Order, other than any consents identified in the Purchase Agreement, need no consent or approval from any other Person to consummate the Sale Transaction.

W. The Acquired Assets constitute property of the Debtors' estates and good title is vested in the Debtors' estate within the meaning of section 541(a) of the Bankruptcy Code. The Debtors are the sole and rightful owners of the Acquired Assets with all right, title and interest to transfer and convey the Acquired Assets to the Buyer, and no other Person has any ownership right, title, or interests therein.

X. The Purchase Agreement is a valid and binding contract between the Debtors and the Buyer and shall be enforceable pursuant to its terms. The Purchase Agreement was not entered into for the purpose of hindering, delaying or defrauding creditors under the Bankruptcy Code or under laws of the United States, any state, territory, possession or the District of Columbia. The Purchase Agreement and the Sale Transaction itself, and the consummation thereof shall be specifically enforceable against and binding upon (without posting any bond) any chapter 7 or chapter 11 trustee appointed in these chapter 11 cases, and shall not be subject to rejection or avoidance by the foregoing parties or any other Person.

Y. The Sale Transaction does not constitute a de facto plan of reorganization or liquidation.

Z. **Waiver of Bankruptcy Rules 6004(h) and 6006(d)**. The sale of the Acquired Assets must be approved and consummated promptly in order to preserve the value of the Acquired Assets. Therefore, time is of the essence in consummating the Sale Transaction, and the Debtors and the Buyer intend to close the Sale Transaction as soon as reasonably practicable. The Debtors have demonstrated compelling circumstances and a good, sufficient, and sound

business purpose and justification for the immediate approval and consummation of the Sale Transaction as contemplated by the Purchase Agreement. Accordingly, there is sufficient cause to lift the stay contemplated by Bankruptcy Rules 6004(h) and 6006(d) with regards to the transactions contemplated by this Sale Order.

AA. **Legal and Factual Bases.** The legal and factual bases set forth in the Sale Motion and at the Sale Hearing establish just cause for the relief granted herein.

NOW THEREFORE, IT IS ORDERED THAT:

1. **Relief Requested is Granted.** The relief requested in the Sale Motion is granted and approved as set forth herein.
2. **Objections Overruled.** All objections, if any, to the Sale Motion or the relief requested therein that have not been withdrawn with prejudice, waived or settled as announced to the Court at the Sale Hearing or by stipulation filed with the Court, and all reservations of rights included therein, are hereby overruled on the merits and with prejudice.
3. **Notice.** Notice of the Sale Motion, Sale Transaction, and Sale Hearing was fair and equitable under the circumstances and complied in all respects with section 102(1) of the Bankruptcy Code and Bankruptcy Rules 2002, 6004 and 6006.
4. **Fair Purchase Price.** The consideration provided by the Buyer under the Purchase Agreement is fair and reasonable and constitutes (i) reasonably equivalent value under the Bankruptcy Code and the Uniform Fraudulent Transfer Act, (ii) fair consideration under the Uniform Fraudulent Conveyance Act, and (iii) reasonably equivalent value, fair consideration and fair value under any other applicable laws of the United States, any state, territory or possession or the District of Columbia.
5. **Approval of the Purchase Agreement.** The Purchase Agreement, the Related Agreements, all transactions contemplated therein (including, but not limited to, all ancillary

agreements contemplated thereby) and all of the terms and conditions thereof are hereby approved. The failure specifically to include any particular provision of the Purchase Agreement in this Sale Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Purchase Agreement (including, but not limited to, all ancillary agreements contemplated thereby) be authorized and approved in its entirety.

6. **Consummation of Sale Transaction.** Pursuant to sections 105, 363 and 365 of the Bankruptcy Code, the Debtors, as well as their officers, employees and agents, are authorized to execute, deliver and perform their obligations under and comply with the terms of the Purchase Agreement and the Related Agreements and to close and consummate the Sale Transaction, pursuant to and in accordance with the terms and conditions of the Purchase Agreement, the Related Agreements and this Sale Order.

7. The Debtors, their Affiliates and their respective officers, employees and agents, are authorized to execute and deliver, and authorized to perform under, consummate and implement all additional instruments and documents that may be reasonably necessary or desirable to implement the Purchase Agreement and to take all further actions as may be necessary or appropriate to the performance of the obligations contemplated by the Purchase Agreement or to implement the Sale Transaction, all without further order of the Court.

8. All Persons that are currently in possession of some or all of the Acquired Assets are hereby directed to surrender possession of such Acquired Assets to the Buyer as of the applicable Closing. To the extent required by the Purchase Agreement, the Debtors agree to exercise commercially reasonable efforts to assist the Buyer in assuring that all Persons that are presently, or on the applicable Closing Date may be, in possession of some or all of the Acquired

Assets will surrender possession of the Acquired Assets to either (i) the Debtors before the applicable Closing Date, or (ii) the Buyer on or after the applicable Closing Date.

9. All Persons are prohibited from taking any action to adversely affect or interfere with the ability of the Debtors to transfer the Acquired Assets to the Buyer in accordance with the Purchase Agreement and this Order; provided that the foregoing restriction shall not prevent any party from appealing this Order in accordance with applicable law or opposing any appeal of this Order.

10. Each and every federal, state, local, or foreign government or governmental or regulatory authority, agency, board, bureau, commission, court, department, or other governmental entity is hereby directed to accept any and all documents and instruments necessary and appropriate to consummate the transactions contemplated by the Purchase Agreement.

11. **Transfer of Assets Free and Clear.** Pursuant to sections 105(a), 363(b), 363(f) and 365 of the Bankruptcy Code, the Debtors are authorized to transfer the Acquired Assets in accordance with the terms of the Purchase Agreement. The Acquired Assets shall be transferred to the Buyer, and, upon the Closing, such transfer shall: (a) be valid, legal, binding and effective, (b) vest the Buyer with all right, title and interest of the Debtors in the Acquired Assets, and (c) be free and clear of all Claims (including Claims of any Governmental Authority) in accordance with section 363(f) of the Bankruptcy Code, with all Claims that represent interests in property to attach to the net proceeds of the Sale Transaction, in the same amount and order of their priority, with the same validity, force and effect which they have against the Acquired Assets, and subject to any claims and defenses the Debtors may possess with respect thereto in each case immediately before such Closing.

12. Except as otherwise expressly provided in the Purchase Agreement, all Persons (and their respective successors and assigns) including, without limitation, the Debtors, the Debtors' estates, all debt security holders, equity security holders, governmental, tax and regulatory authorities, governmental units, lenders, employees, former employees, pension plans, multiemployer pension plans, labor unions, trade creditors and any other creditors holding Claims against the Debtors, the Acquired Assets or the Debtors' businesses (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, senior or subordinated), arising under or out of, in connection with, or in any way relating to the Debtors, the Acquired Assets or the Debtors' businesses prior to the Closing Date or the transfer of the Acquired Assets to the Purchase, are hereby forever barred, estopped and permanently enjoined from asserting or pursuing such Claims against the Buyer, its Affiliates, successors or assigns, its property or the Acquired Assets, including, without limitation, taking any of the following actions with respect to or based on a Claim (other than an Assumed Liability): (a) commencing or continuing in any manner any action or other proceeding against the Buyer, its Affiliates, successors or assigns, assets or properties; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree, or order against the Buyer, its Affiliates, successors or assigns, assets, or properties; (c) creating, perfecting, or enforcing any Claims against the Buyer, its successors or assigns, assets or properties; (d) asserting a Claim as a setoff, right of subrogation or recoupment of any kind against any obligation due the Buyer or its successors or assigns; or (e) commencing or continuing any action in any manner or place that does not comply, or is inconsistent, with the provisions of this Sale Order or the agreements or actions contemplated or taken in respect thereof. No such Persons shall assert or pursue against the Buyer or its Affiliates, successors or assigns any such Claim.

13. This Sale Order (a) shall be effective as a determination that, as of the Closing, all Claims, have been unconditionally released, discharged and terminated as to the Buyer and the Acquired Assets, and that the conveyances and transfers described herein have been effected, and (b) is and shall be binding upon and govern the acts of all Persons, including all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal, state, county and local officials and all other Persons 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 that reflect that the Buyer is the assignee and owner of the Acquired Assets free and clear of all Claims, or who may be required to report or insure any title or state of title in or to any lease (all such entities being referred to as "Recording Officers"). All Recording Officers are authorized and specifically directed to strike recorded encumbrances, claims, liens and other interests against the Acquired Assets recorded prior to the date of this Sale Order. A certified copy of this Sale Order may be filed with the appropriate Recording Officers to evidence cancellation of any recorded encumbrances, claims, liens and other interests against the Acquired Assets recorded prior to the date of this Sale Order. All Recording Officers are hereby directed to accept for filing any and all of the documents and instruments necessary and appropriate to consummate the transactions contemplated by the Purchase Agreement.

14. Following the Closing, no holder of any Claim shall interfere with the Buyer's title to or use and enjoyment of the Acquired Assets based on or related to any such Claim or based on any actions the Debtors may take in these chapter 11 cases.

15. Except as expressly set forth in the Purchase Agreement, the Buyer and its successors and assigns shall have no liability for any Claim, whether known or unknown as of

the Closing Date, now existing or hereafter arising, whether fixed or contingent, whether derivatively, vicariously, as a transferee or successor or otherwise, of any kind, nature or character whatsoever, by reason of any theory of law or equity, including Claims arising under, without limitation: (a) any employment or labor agreements or the termination thereof; (b) any pension, welfare, compensation or other employee benefit plans, agreements, practices and programs, including, without limitation, any pension plan of or related to any of the Debtors or any Debtor's Affiliates or predecessors or any current or former employees of any of the foregoing; (c) the Debtors' business operations or the cessation thereof; (d) any litigation involving one or more of the Debtors; and (e) any employee, workers' compensation, occupational disease or unemployment or temporary disability related law, including, without limitation, claims that might otherwise arise under or pursuant to (i) the Employee Retirement Income Security Act of 1974, as amended, (ii) the Fair Labor Standards Act, (iii) Title VII of the Civil Rights Act of 1964, (iv) the Federal Rehabilitation Act of 1973, (v) the National Labor Relations Act, (vi) the Worker Adjustment and Retraining Notification Act of 1988, (vii) the Age Discrimination and Employee Act of 1967 and Age Discrimination in Employment Act, as amended, (viii) the Americans with Disabilities Act of 1990, (ix) the Consolidated Omnibus Budget Reconciliation Act of 1985, (x) the Multiemployer Pension Plan Amendments Act of 1980, (xi) state and local discrimination laws, (xii) state and local unemployment compensation laws or any other similar state and local laws, (xiii) state workers' compensation laws or (xiv) any other state, local or federal employee benefit laws, regulations or rules or other state, local or federal laws, regulations or rules relating to, wages, benefits, employment or termination of employment with any or all Debtors or any predecessors; (xv) any antitrust laws; (xvi) any product liability or similar laws, whether state or federal or otherwise; (xvii) any

environmental laws, rules, or regulations, including, without limitation, under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601, et seq., or similar state statutes; (xviii) PACA; (xix) any bulk sales or similar laws; (xx) any federal, state or local tax statutes, regulations or ordinances, including, without limitation, the Internal Revenue Code of 1986, as amended; and (xxi) any common law doctrine of *de facto* merger or successor or transferee liability, successor-in-interest liability theory or any other theory of or related to successor liability.

16. If any Person that has filed financing statements, mortgages, mechanic's liens, *lis pendens* or other documents or agreements evidencing Claims against or in the Debtors or the Acquired Assets shall not have delivered to the Debtors prior to the Closing, in proper form for filing and executed by the appropriate parties, termination statements, instruments of satisfaction, releases of all interests which the Person has with respect to the Debtors or the Acquired Assets or otherwise, then with regard to the Acquired Assets that are purchased by the Buyer pursuant to the Purchase Agreement and this Sale Order (a) the Debtors are hereby authorized to execute and file such statements, instruments, releases and other documents on behalf of the Person with respect to the Acquired Assets, and (b) the Buyer is hereby authorized to file, register or otherwise record a certified copy of this Sale Order, which, once filed, registered or otherwise recorded, shall constitute conclusive evidence of the release of all Claims against the Acquired Assets. This Sale Order is deemed to be in recordable form sufficient to be placed in the filing or recording system of each and every federal, state, county or local government agency, department or office.

17. On the Closing Date, this Sale Order shall be considered and constitute for any and all purposes a full and complete general assignment, conveyance and transfer of the

Acquired Assets acquired under the Purchase Agreement or a bill of sale or assignment transferring good and marketable, indefeasible title and interest in all of the Acquired Assets to the Buyer.

18. To the maximum extent available under applicable law and to the extent provided for under the Agreement, the Buyer shall be authorized, as of the Closing Date, to operate under any license, permit, registration and governmental authorization or approval of the Debtors with respect to the Acquired Assets and, to the maximum extent available under applicable law and to the extent provided for under the Agreement, all such licenses, permits, registrations and governmental authorizations and approvals are deemed to have been transferred to the Buyer as of the Closing Date. All existing licenses or permits applicable to the business shall remain in place for the Buyer's benefit until either new licenses and permits are obtained or existing licenses and permits are transferred in accordance with applicable administrative procedures.

19. **No Successor or Other Derivative Liability.** By virtue of the Sale Transaction, the Buyer and its affiliates, successors and assigns shall not be deemed or considered to, (a) be a legal successor, or otherwise be deemed a successor to any of the Debtors, (b) have, *de facto* or otherwise, merged with or into any or all Debtors, or (c) be a continuation or substantial continuation, or be holding itself out as a mere continuation, of any of the Debtors or their respective estates, businesses or operations, or any enterprise of the Debtors, in each case by any law or equity, and the Buyer has not assumed nor is it in any way responsible for any liability or obligation of the Debtors or the Debtors' estates, except with respect to any Assumed Liabilities. Except as expressly set forth in the Purchase Agreement, the Buyer and its affiliates, successors and assigns shall have no successor, transferee or vicarious liability of any kind or character, including, without limitation, under any theory of foreign, federal, state or local antitrust,

environmental, successor, tax, ERISA, assignee or transferee liability, labor, product liability, employment, de facto merger, substantial continuity, or other law, rule, regulation or doctrine, whether known or unknown as of the Closing Date, now existing or hereafter arising, whether asserted or unasserted, fixed or contingent, liquidated or unliquidated with respect to the Debtors or any obligations of the Debtors arising prior to the Closing Date, including, without limitation, liabilities on account of any Taxes or other Governmental Authority fees, contributions or surcharges, in each case arising, accruing or payable under, out of, in connection with, or in any way relating to, the operation of the Acquired Assets prior to the Closing Date or arising based on actions of the Debtors taken after the Closing Date.

20. **Assignment of Transferred Contracts.** The Debtors are hereby authorized in accordance with sections 105(a) and 365 of the Bankruptcy Code to assign the Transferred Contracts to the Buyer free and clear of all Claims, and to execute and deliver to the Buyer such documents or other instruments as may be necessary to assign and transfer the Transferred Contracts to the Buyer as provided in the Purchase Agreement. Upon the Closing, the Buyer shall be fully and irrevocably vested with all right, title and interest of the Debtors under the Transferred Contracts and, pursuant to section 365(k) of the Bankruptcy Code, the Debtors shall be relieved from any further liability with respect to the Transferred Contracts. Buyer acknowledges and agrees that from and after the Closing, subject to and in accordance with the Purchase Agreement, it shall comply with the terms of each assigned Transferred Contract in its entirety, including any indemnification obligations expressly contained in such Transferred Contract that could arise as a result of events or omissions that occur from and after the Closing, unless any such provisions are not enforceable pursuant to the terms of this Sale Order. The

assignment of the Transferred Contracts to the Buyer shall not be a default under any such Transferred Contract.

21. Each non-debtor party to a Transferred Contract is forever barred, estopped and permanently enjoined from asserting against the Debtors or Buyer, their successors or assigns or the property of any of them, any default existing as of the date of the Sale Hearing if such default was not raised or asserted prior to or at the Sale Hearing.

22. **Ipsa Facto Clauses Ineffective.** The Transferred Contracts shall be transferred to, and remain in full force and effect for the benefit of, the Buyer in accordance with their respective terms, including all obligations of the Buyer as the assignee of the Transferred Contracts, notwithstanding any provision in any such Transferred Contracts (including, without limitation, those of the type described in sections 365(e)(1) and (f) of the Bankruptcy Code) that prohibits, restricts or conditions such assignment or transfer. There shall be no, and all non-Debtor parties to any Transferred Contract are forever barred and permanently enjoined from raising or asserting against the Debtors or the Buyer any defaults, breach, claim, pecuniary loss, rent accelerations, escalations, assignment fees, increases or any other fees charged to the Buyer or the Debtors as a result of the assignment of the Transferred Contracts or any applicable Closing.

23. Upon the Debtors' assignment of the Transferred Contracts to the Buyer under the provisions of this Sale Order, no default shall exist under any Transferred Contract, and no counterparty to any Transferred Contracts shall be permitted to declare a default by any Debtor or otherwise take action against the Buyer as a result of any Debtor's financial condition, bankruptcy or failure to perform any of its obligations under the relevant Transferred Contract. Any provision in a Transferred Contract that prohibits or conditions the assignment or sublease

of such Transferred Contract (including without limitation, the granting of a lien therein) or allows the counterparty thereto to terminate, recapture, impose any penalty, condition on renewal or extension, or modify any term or condition upon such assignment or sublease, constitutes an unenforceable anti-assignment provision that is void and of no force and effect. The failure of the Debtors or the Buyer to enforce at any time one or more terms or conditions of any Transferred Contract shall not be a waiver of such terms or conditions, or of the Debtors' and the Buyer's rights to enforce every term and condition of the Transferred Contract.

24. **Statutory Mootness.** The transactions contemplated by the Purchase Agreement are undertaken by the Buyer without collusion and 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 of the Sale Transaction shall neither affect the validity of the Sale Transaction nor the transfer of the Acquired Assets to the Buyer, free and clear of Claims, unless such authorization is duly stayed before the Closing Date pending such appeal. The Buyer is a good faith purchaser of the Acquired Assets and is entitled to all of the benefits and protections afforded by section 363(m) of the Bankruptcy Code. The Debtors and the Buyer will be acting in good faith if they proceed to consummate the Sale Transaction at any time after entry of this Sale Order.

25. **No Avoidance of Purchase Agreement.** Neither the Debtors nor the Buyer has engaged in any conduct that would cause or permit the Purchase Agreement to be avoided or costs and damages to be imposed under section 363(n) of the Bankruptcy Code. Accordingly, the Purchase Agreement and the Sale Transaction shall not be avoidable under section 363(n) of the Bankruptcy Code, and no party shall be entitled to any damages or other recovery pursuant to

section 363(n) of the Bankruptcy Code in respect of the Purchase Agreement or the Sale Transaction.

26. **No Breach of Union Obligations.** The unions affected by the sale of the Acquired Assets have not objected to such sale and have waived their rights to assert against any of Buyer, the Debtors, the Debtors' estates, or any other party any claims or other rights arising under the successorship provisions of any collective bargaining agreement or similar agreement in relation to such sale, and no union shall have any such claims or other rights against such parties arising under the successorship provisions of any collective bargaining agreement or similar agreement in relation to such sale.

27. **Waiver of Bankruptcy Rules 6004(h), 6006(d) and 7062.** Notwithstanding the provisions of Bankruptcy Rules 6004(h), 6006(d) or 7062 or any applicable provisions of the Local Rules, this Sale Order shall not be stayed after the entry hereof, but shall be effective and enforceable immediately upon entry, and the fourteen (14) day stay provided in Bankruptcy Rules 6004(h) and 6006(d) is hereby expressly waived and shall not apply. Time is of the essence in closing the Sale Transaction and the Debtors and the Buyer intend to close the Sale Transaction as soon as practicable. Any party objecting to this Sale Order must exercise due diligence in filing an appeal and pursuing a stay within the time prescribed by law and prior to the Closing Date, or risk its appeal will be foreclosed as moot.

28. **Binding Effect of Sale Order.** The terms and provisions of the Purchase Agreement and this Sale Order shall be binding in all respects upon the Debtors, their estates and their creditors, any affected third parties, all holders of equity interests in the Debtors, all holders of any claims, whether known or unknown, against the Debtors, any holders of Claims against or on all or any portion of the Acquired Assets, including, but not limited to all contract

counterparties, leaseholders, governmental units, and any trustees, examiners, administrators, responsible officers, estate representatives, or similar entities for the Debtors, if any, subsequently appointed in any of the Debtors' chapter 11 cases or upon a conversion to chapter 7 under the Bankruptcy Code of any of the debtors' chapter 11 cases, and each of their respective Affiliates, successors and assigns. The Purchase Agreement and the Sale Order shall inure to the benefit of the Debtors, their estates and creditors, the Buyer and their respective successors and assigns. The Purchase Agreement, the Sale Transaction and this Sale Order shall not be subject to rejection or avoidance by the Debtors, their estates, their creditors or any trustee, examiner or receiver.

29. **Conflicts; Precedence.** In the event that there is a direct conflict between the terms of this Sale Order, the Purchase Agreement, and any documents executed in connection therewith, the provisions contained in this Sale Order, the Purchase Agreement and any documents executed in connection therewith shall govern, in that order. Nothing contained in any chapter 11 plan hereinafter confirmed in these chapter 11 cases, any order confirming such plan, or in any other order of any type or kind entered in these Chapter 11 Cases (including, without limitation, any order entered after any conversion of any or all of these Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code) or in any related proceeding shall alter, conflict with or derogate from the provisions of the Purchase Agreement or the terms of this Sale Order.

30. **Modification of Purchase Agreement.** The Purchase Agreement, and any related agreements, documents or other instruments, may be modified, amended or supplemented by the parties thereto, in a writing signed each party, and in accordance with the terms thereof, without further order of the Court; provided that any such modification, amendment or

supplement does not materially change the terms of the Purchase Agreement or any related agreements, documents or other instruments.

31. **Bulk Sales; Taxes.** No bulk sales law, bulk transfer law or similar law of any state or other jurisdiction (including those relating to Taxes other than Transfer Taxes) shall apply in any way to the transactions contemplated by the Purchase Agreement, the Sale Motion or this Sale Order.

32. **Retention of Jurisdiction.** This Court shall retain exclusive jurisdiction to, among other things, interpret, enforce and implement the terms and provisions of this Sale Order and the Purchase Agreement, all amendments thereto, any waivers and consents thereunder (and of each of the agreements executed in connection therewith), to adjudicate disputes related to this Sale Order or the Purchase Agreement (and such other related agreements, documents or other instruments) and to enforce the injunctions set forth herein.

Dated: August 29, 2016
White Plains, New York

/s/Robert D. Drain
UNITED STATES BANKRUPTCY JUDGE

STORE NO: **037-602**
57 ROUTE 46, SUITE 204
HACKETTSTOWN, NJ 07840
BIN # 646-B

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this "**Agreement**") is made as of August 4, 2016 by and between (a) The Great Atlantic & Pacific Tea Company, Inc., a Maryland corporation ("**A&P**"), A&P Real Property, LLC, a Delaware limited liability company (a wholly-owned subsidiary of A&P and, together with A&P, "**Seller**"), (b) Deanna M Romano ("**Buyer**"), and (c) solely for the purposes of Sections 28 through 48 and Section 51, Pasquale Romano III, Vicki Romano, and Pasquale Romano Jr., (together, "**Guarantors**"). Seller, Buyer and Guarantors are sometimes herein referred to collectively as the "**Parties**" and individually as a "**Party**."

WITNESSETH:

WHEREAS, A&P Real Property, LLC is the tenant under that certain lease more specifically described on Exhibit A attached hereto and made a part hereof (together with any amendments, modifications, extensions and renewals, the "**Lease**"), with respect to all or a portion of certain real property (the "**Leased Premises**"), which real property is more particularly described in Exhibit B attached hereto and made a part hereof (the "**Premises**");

WHEREAS, Seller and certain of its affiliates filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**") on July 19, 2015 in the United States Bankruptcy Court for the Southern District of New York (the "**Bankruptcy Court**");

WHEREAS, pursuant to the *Order Approving (A) Global Bidding Procedures, (B) Bid Protections Granted to Certain Stalking Horse Purchasers, (C) the Form and Manner of Notice of Auctions, Sale Transactions and Sale Hearing, (D) the Assumption and Assignment Procedures, and (E) the Date for Auctions, If Necessary, and Sale Hearings* entered by the Bankruptcy Court on August 11, 2015 [Docket No. 495] (the "**Global Bidding Procedures Order**") or the *Order Approving Discrete Sale and Lease Rationalization Procedures* entered by the Bankruptcy Court on August 11, 2015 [Docket No. 496] (the "**Discrete Procedures Order**"), as applicable, and subject to any approval of the Bankruptcy Court required by the Global Bidding Procedures Order or the Discrete Procedures Order, as applicable, Seller desires to sell, assign, convey and transfer all of its rights, title and interests as tenant under the Lease, together with all of its rights, title and interests as sublessor under those certain sublease agreements and/or license agreements more particularly described on Exhibit C attached hereto (each, a "**Sublease**" and, collectively, the "**Subleases**"), if any, and each of the foregoing owned by Seller located at the Leased Premises: (a) all trade fixtures, shopping carts, aisle markers, store models, shelving, display racks and refrigeration equipment and other furnishings and equipment ("**FF&E**"), (b) all inventory, including food, beverages (including to the extent transferable to Buyer under applicable Law, alcohol), and other general merchandise and products offered for sale to customers at the Store, other than any Excluded Inventory (as defined

in Section 5(a)) (“**Inventory**”) and (c) New Jersey Plenary Retail Distribution Liquor License Number 1438-44-002-003 (the “**NJ License**”);

WHEREAS, Buyer desires to purchase and accept such assignment and assume all rights, title, interests and obligations of Seller under the Lease, and, to the extent set forth herein, any Subleases, FF&E, Inventory, Prepaid Expenses and Licenses (as provided in Section 7) (the foregoing, as applicable, collectively, the “**Acquired Assets**”), subject to the conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby reciprocally acknowledged, Seller and Buyer agree as follows:

1. Procedures. This Agreement is made subject to, and in accordance with, the Global Bidding Procedures Order or the Discrete Procedures Order. Capitalized terms used but not otherwise defined herein (including on Schedule I attached hereto) shall have the meanings ascribed to them in the Global Bidding Procedures Order or the Discrete Procedures Order, as applicable.

2. Consideration. The consideration for the assignment of the Lease, together with the Subleases, FF&E, Inventory and Licenses to the extent set forth herein shall be equal to an aggregate Dollar amount equal to the sum of (A) Three Hundred Fifty Thousand Dollars (\$350,000.00) (the “**Cash Purchase Price**”), *plus* (B) the amount of the Inventory Purchase Price, *plus* (C) the amount of the Prepaid Expenses, *plus* (D) the Seller Proration Amount, if any, *minus* (E) the Buyer Proration Amount, if any (such calculation, the “**Purchase Price**”).

Buyer’s submission of an executed copy of this Agreement along with the Deposit shall be deemed a binding and irrevocable offer subject only to the rights of termination provided herein.

3. Payment of Purchase Price. The Purchase Price shall be paid to Seller by Buyer as follows:

(a) Deposit. Concurrently herewith, Buyer shall deposit with Titlevest Services, LLC (“**Escrowee**”) by a bank wire transfer of immediately available federal funds to an account designated by Escrowee the sum of Thirty-Five Thousand Dollars (\$35,000.00) (together with all interest thereon, the “**Deposit**”), which Deposit shall be held by Escrowee pursuant to the escrow agreement (the “**Escrow Agreement**”) attached hereto as Exhibit D and hereby made a part hereof. Notwithstanding anything to the contrary set forth in this Agreement or in the Escrow Agreement, (i) all charges of Escrowee, if any, attendant to holding and/or disbursing the Deposit shall be paid by Buyer and (ii) all interest accrued in connection with the Deposit hereunder shall accrue for the sole benefit of the Party to whom the Deposit is paid. The Parties agree that any payments made pursuant to this Section 3(a) in respect of accrued interest shall be deemed to be an adjustment to the Purchase Price for Tax purposes to the extent permitted by applicable Law.

(b) Closing Payment. On the Closing Date, as defined below, the Purchase Price, as adjusted by the application of the Deposit, shall be paid by Buyer by a bank wire transfer of immediately available federal funds to the account designated on Exhibit E hereto or

as otherwise designated in writing by Seller. For the avoidance of doubt, no portion of the Purchase Price shall be withheld by Buyer for any reason.

4. Allocation. Buyer and Seller agree to allocate the Purchase Price and all other relevant items among the Acquired Assets in accordance with section 1060 of the Code and the Treasury Regulations thereunder (the “**Allocation Principles**”) and consistent with Exhibit F attached hereto (the “**Purchase Price Allocation**”). The Purchase Price Allocation shall be conclusive and binding on the Parties, and Buyer and Seller agree (and agree to cause their respective subsidiaries and Affiliates) to prepare, execute, and file IRS Form 8594 and all Tax returns on a basis consistent with the Purchase Price Allocation. None of the Parties will take any position inconsistent with the Purchase Price Allocation on any Tax return or in any audit or Tax proceeding, unless otherwise required by a final determination by a Governmental Authority. For the avoidance of doubt, the Parties shall cooperate in determining the portion of the Purchase Price allocable to the Acquired Assets that are subject to a Transfer Tax prior to the Closing (and Seller shall collect from Buyer any sales Taxes based thereon at the Closing in accordance with Section 17). Notwithstanding any other provision of this Agreement, the terms and provisions of this Section 4 shall survive the Closing without limitation.

5. Inventory. To the extent Buyer has elected to acquire the Inventory hereunder:

(a) A physical count of the Inventory, and calculation of the value thereof, at the Leased Premises shall be made two (2) Business Days prior to the anticipated Closing Date, or on such other date as the Parties may mutually agree (the date of such inventory being the “**Inventory Date**”) by a nationally-recognized, independent inventory service (the “**Inventory Taker**”) selected and engaged by Seller in its sole discretion. The Inventory Taker will conduct the physical inventory in accordance with instructions set forth in Schedule II and otherwise in accordance with the terms and conditions of this Section 5. Each Party shall be entitled to have a representative present during the inventory and the fees and expenses of the Inventory Taker shall be borne fifty percent (50%) by Buyer and fifty percent (50%) by Seller. The physical inventory (and the Inventory Purchase Price to be paid by Buyer for the Inventory) shall not include Inventory that is damaged, spoiled, perishable, outdated (any merchandise that has a manufacturer’s date by which it must be sold that is less than fourteen (14) days after the Inventory Date being deemed outdated for this purpose), obsolete, or otherwise unsaleable at normal retail price in the ordinary course of business at the Leased Premises (collectively, the “**Excluded Inventory**”). The Inventory Taker shall value all Inventory carried in the Leased Premises on the Inventory Date, excluding the Excluded Inventory (but including any portion or all of the Excluded Inventory that Buyer deems Inventory, to the extent agreed by Seller), at the percentages of the segment retail price set forth in Schedule II (such value, the “**Inventory Purchase Price**”).

(b) The complete inventory prepared by the Inventory Taker shall be prepared in accordance with the usual and customary practices of the industry and shall show the total cost of the Inventory for the Leased Premises determined in the manner provided above. In the event that the Parties do not agree on the value of the Inventory for any Leased Premises because the Parties disagree as to whether certain items should be counted as Excluded Inventory or as Seller’ cost of Inventory, the opinion of the Inventory Taker shall be final and binding.

(c) With respect to the Leased Premises, during the period commencing on the date that is fifteen (15) days prior to the anticipated Closing Date for such Leased Premises, Seller will have no obligation to purchase or maintain levels of Inventory that would constitute Excluded Inventory.

6. Payment of Cure Amount. The Purchase Price includes consideration for the proposed cure amount of the Lease (the "**Cure Amount**"), which Cure Amount shall be the total amount payable in order to cure any monetary defaults required to be cured under section 365(b)(1) of the Bankruptcy Code or otherwise to effectuate, pursuant to the Bankruptcy Code, the assumption by Buyer and assignment to Buyer of all contracts being assigned hereunder, and which shall be subject to approval by the Bankruptcy Court. If Buyer is the landlord at any of the Leased Premises, Buyer hereby waives any and all rights and any Cure Amounts that may be owed in connection with the Leased Premises.

7. Licenses.

(a) Buyer shall make application, within ten (10) Business Days of the execution of this Agreement, to obtain all temporary and permanent alcoholic beverage licenses and/or permits (i) to sell alcoholic beverage products to consumers at the Leased Premises and (ii) if required by applicable Law, to transfer any alcoholic beverage Inventory (such licenses and/or permits, collectively "**Licenses**"). Buyer shall diligently pursue approval for all necessary Licenses (including, but not limited to, satisfying any applicable publication requirements). Seller shall reasonably cooperate with Buyer to obtain said Licenses; provided Seller shall not be required to incur any expense in connection with the same. Buyer's application for the Licenses shall include application for a person-to-person transfer of the NJ License. If Buyer fails to obtain all required Licenses within one-hundred and twenty (120) days of the filing of the application for a person-to-person transfer, the application for such Licenses shall be deemed rejected and all rights related to the License, including disposition of the alcoholic beverage Inventory, shall revert to Seller (unless Seller elects otherwise in writing); provided, however, that Seller shall have the sole discretion to extend the deadline by which Buyer must have obtained such permanent Licenses until the Outside Date.

8. Closing. The closing of the transactions contemplated by this Agreement (the "**Closing**") shall take place at the offices of Weil, Gotshal & Manges LLP located at 767 Fifth Avenue, New York, New York, such other location in the state where the Leased Premises are located as may be selected by Seller, or such other location as shall be mutually agreed upon by Seller and Buyer, commencing at 10:00 a.m. local time on a date (the "**Closing Date**") that is no later than ten (10) Business Days following the date Buyer receives all required Licenses (the "**License Approval Date**"), or on such other date as shall be mutually agreed upon by Seller and Buyer prior thereto; provided, that all of the conditions to the obligations of Seller and Buyer to consummate the transactions contemplated hereby set forth in Section 20 (other than conditions that by their nature are to be satisfied at the Closing itself, but subject to the satisfaction or waiver of those conditions) have been satisfied or waived, or on such other date as shall be mutually agreed upon by Seller and Buyer prior thereto; provided, further that Seller shall have a one-time right to adjourn the Closing Date for up to fifty-five (55) days following the License Approval Date. For purposes of this Agreement and the transactions contemplated hereby, the

Closing will be deemed to occur and be effective at 12:01 a.m., New York City time, on the Closing Date.

9. Assignment. As of the Closing Date, pursuant to sections 363 and 365 of the Bankruptcy Code and in accordance with the Discrete Procedures or a sale order entered pursuant to the Global Bidding Procedures Order, Seller shall grant, transfer and assign to Buyer, without representation or warranty of any kind, all of its right, title, and interest in and to the Lease, the Subleases, if any, and, to the extent provided herein, FF&E, Inventory and Licenses.

10. Assumption. On and after the Closing Date, Buyer shall assume all of the covenants, agreements, and obligations of Seller as tenant under the Lease and as sublessor under the Subleases, if any. In further consideration of the above assignment, Buyer hereby agrees that, as of the Closing Date: (a) it shall perform all of the covenants, conditions and agreements under (i) the Lease (including making all payments) as if Buyer were the original tenant under the Lease and (ii) the Subleases, if any, as if Buyer were the original sublessor under each of such Subleases, and (b) the Lease and each of the Subleases, if any, shall remain in full force and effect. As of the Closing Date, Seller shall have no further liabilities or obligations with respect to the Lease, including, but not limited to, obligations related to rents, utilities, Taxes, insurance and common area maintenance, regardless of when due and payable, nor any of the Subleases, if any, and Seller shall be released from all such obligations and Buyer shall fully indemnify and hold harmless Seller with respect thereto. No Person other than Buyer shall be deemed a beneficiary of the provisions of this Section 10. Notwithstanding anything contained herein to the contrary, but subject to Sections 11, 17 and 25, Buyer shall not be liable for any Lease obligations arising prior to the Closing Date.

11. Proration.

(a) On the Closing Date all monthly payments for the month in which the Closing occurs (including base rent, common area maintenance fees, and utility charges) under the Lease transferred at the Closing (the “**Prorated Charges**”) shall be apportioned and prorated between Seller and Buyer as of the Closing Date with (i) Buyer bearing the expense of Buyer’s proportionate share of such Prorated Charges that shall be equal to the product obtained by multiplying (A) a fraction, the numerator being the amount of the Prorated Charges under the Lease and the denominator being the total number of days in the lease month in which the Closing occurs, times (B) the number of days in such lease month following the day that immediately precedes the Closing Date and paying such amount to Seller to the extent payment for such Prorated Charges has been made by Seller prior to the Closing, and (ii) Seller bearing the remaining portion of such Prorated Charges (and paying the amounts thereof to Buyer to the extent payment for such Prorated Charges has not been previously made by Seller). The net amount of all Prorated Charges owed to Buyer and Seller under this shall be referred to as the “**Buyer Proration Amount**” if owed to Buyer or the “**Seller Proration Amount**” if owed to Seller. Except as set forth in this Section 11 and in Section 15, no amounts paid or payable under or in respect of any Acquired Asset or group of Acquired Assets shall be apportioned and prorated between Seller and Buyer. Notwithstanding the foregoing there shall be no apportionment nor reduction in Purchase Price for percentage rents, if any.

(b) Real estate taxes and assessments and water and sewer charges shall be adjusted in the manner set forth in Section 15.

(c) As to all non-monthly real estate related payments, the same shall be apportioned between Seller and Buyer as of 12:01 a.m. on the Closing Date. If any amounts are payable in installments, all installments due through the Closing together with the accrued but unpaid portion of any other installments not yet due as of the Closing shall be prorated based on the periods of time covered by such installments occurring before and after the Closing Date.

(d) If on the Closing Date any subtenant or licensee is in arrears in the payment of rent or has not paid the rent payable by it and which is attributable to the month in which the Closing occurs (whether or not it is in arrears for such month on the Closing Date), any rent received by Buyer or Seller after the Closing shall be applied to amounts due and payable by such tenant in the following order of priority: first, to rent attributable to the month in which the Closing occurred, and, thereafter, ratably, between rent attributable to the months following the month in which the Closing occurred and rent attributable to the months preceding the month in which the Closing occurred. If rent or any portion thereof received by Seller or Buyer after the Closing is due and payable to the other Party by reason of the foregoing allocation, the appropriate sum shall be promptly paid to such other Party.

(e) Following the Closing Date, at no cost to Seller, Buyer shall use commercially reasonable efforts to collect rent owed to Seller by any tenant allocable to the period up to and including the Closing Date. Buyer agrees to reasonably cooperate with Seller at no cost to Buyer in connection with all efforts by Seller to collect such rent.

(f) Subtenant security deposits shall not be assigned and an amount equal to such security deposits shall be a credit to the Buyer.

(g) If any of the items subject to apportionment under the foregoing provisions cannot be apportioned at the Closing because of the unavailability of the information necessary to compute such apportionment, or if any errors or omissions in computing apportionments at the Closing are discovered subsequent to the Closing, then such item shall be reapportioned and such errors and omissions corrected as soon as practicable after the Closing Date and the proper Party reimbursed.

12. Free and Clear of All Liens. Pursuant to the Discrete Procedures Order or a sale order entered by the Bankruptcy Court as contemplated by the Global Bidding Procedures Order, Seller shall convey its rights and interests under the Lease, Inventory and FF&E to Buyer free and clear of all liens, claims, interests, or encumbrances (collectively, "Liens"), if any, with any such Liens attaching to the proceeds paid to Seller.

13. Closing Deliverables. On the Closing Date:

(a) Seller shall deliver to Buyer a duly executed copy of: (i) an Assignment and Assumption of Lease in the form attached hereto as Exhibit G ("Assignment and Assumption"); (ii) a FIRPTA Certificate; (iii) if applicable, Transfer Tax forms or certifications provided by Buyer as more specifically described in subsection (b) below; (iv) if applicable, a Quitclaim Bill of Sale in the form attached hereto as Exhibit H; (v) a landlord notice and a

subtenant notice (if applicable), each in the form attached hereto as Exhibit I; (vi) if applicable, an assignment and assumption with respect to the Subleases, to the extent such Subleases are assignable and are in effect on the Closing Date, in the form attached hereto as Exhibit J (“**Assignment of Subleases**”); (vii) a duly executed certificate from an officer of Seller to the effect that each of the conditions specified in Section 20(a)(i) and Section 20(a)(ii) are satisfied; (viii) all original Licenses for Buyer to have endorsed by the applicable municipality(ies); and (ix) an order entered by the Bankruptcy Court approving the transactions contemplated by this Agreement.

(b) Buyer shall deliver to Seller: (i) a fully executed counterpart of the Assignment and Assumption; (ii) an executed, completed copy of all Transfer Tax forms or certifications (except for Seller’s signature) as may be required by each state, county or municipality to record the Assignment and Assumption and effectuate the transactions contemplated herein, prepared in accordance with Section 14; (iii) a fully executed copy of the Form C-9600 (including thereon or as an attachment thereto, a notification indicating that (w) Seller is in bankruptcy, (x) that such Form is being filed in connection with the transfer of the NJ License pursuant to court order, (y) any action to collect any Tax remains subject to the provisions of the Bankruptcy Code and (z) a denial of the Tax clearance / transfer of the NJ License in the event of a non-payment of pre-petition Taxes would violate the anti-discrimination protections of Bankruptcy Code Section 525), along with a copy of the confirmation of receipt of such Form by the New Jersey Division of Taxation; (iv) a fully executed counterpart of the Assignment of Subleases; (v) a duly executed certificate from an officer of Buyer to the effect that each of the conditions specified in Section 20(b)(i) and Section 20(b)(ii) are satisfied; (vi) a copy of the municipal resolution approving the person-to-person transfer of the NJ License issued by the New Jersey Division of Alcoholic Beverage Control; and (vii) such other documents as may be reasonably required to complete the transactions provided for in this Agreement. All documents executed and delivered by Buyer pursuant to this Section 13 shall be in form and substance reasonably satisfactory to Seller.

14. Transfer Tax Forms. Buyer shall be responsible for the preparation, delivery and recordation of any and all real estate Transfer Tax forms or certifications required by any Governmental Authority (unless Seller notifies Buyer that they will do so), with Buyer being responsible for any payment required therewith as provided in Section 17. The Party that is required by applicable Law to file or record any other Transfer Tax forms or certifications shall prepare and timely file and record such forms or certifications, with Buyer being responsible for any payment required therewith with respect to the Acquired Assets as provided in Section 17. The Parties shall cooperate in making, in a timely manner, all such Tax returns, filings, reports, forms and other documentation as are necessary or appropriate to comply with all applicable Laws in connection with the payment of Transfer Taxes and shall cooperate in good faith to minimize, to the fullest extent possible under such Laws, the amount of any such Transfer Taxes. At Seller’s request, all Transfer Tax forms and certifications, along with payment therefor, shall be delivered by Buyer to Seller for recordation and payment with the appropriate Governmental Authority. To the extent required by applicable Law, Seller shall execute any Transfer Tax forms or certifications.

15. Tax Adjustments. Taxes (other than Transfer Taxes) imposed upon or assessed directly against the Acquired Assets (including real estate Taxes (other than those subsumed in

Section 11), personal property Taxes and similar Taxes) for the Tax period in which the Closing occurs (the "**Proration Period**") will be apportioned and prorated between Seller and Buyer as of the Closing Date with Buyer bearing the expense of Buyer's proportionate share of such Taxes which shall be equal to the product obtained by multiplying (i) a fraction, the numerator being the amount of the Taxes and the denominator being the total number of days in the Proration Period, times (ii) the number of days in the Proration Period following the Closing Date, and Seller shall bear the remaining portion of such Taxes. If the precise amount of any such Tax cannot be ascertained on the Closing Date, apportionment and proration shall be computed on the basis of the amount payable for each respective item during the Tax period immediately preceding the Proration Period and any proration shall be adjusted thereafter on the basis of the actual charges for such items in the Proration Period. When the actual amounts become known, such proration shall be recalculated by Buyer and Seller, and Buyer or Seller, as the case may be, shall promptly (but not later than ten (10) days after notice of payment due and delivery of reasonable supporting documentation with respect to such amounts) shall make any additional payment or refund so that the correct prorated amount is paid by each of Buyer and Seller.

16. Tax Refunds. Seller shall be entitled to receive from Buyer all refunds (or credits for overpayments) of Taxes, including any interest paid thereon, by a Governmental Authority, attributable to any tax period ending on or prior to the Closing Date or the portion of any Proration Period ending on and including the Closing Date, net of any costs, fees, expenses or Taxes incurred in obtaining such refunds (or credits). Buyer and Seller shall execute all documents, take reasonable additional actions and otherwise reasonably cooperate as may be necessary to obtain the Tax refunds (or credits) contemplated by this Section 16. Buyer shall pay any such Tax refund (or the amount of any such credit) to Seller within five (5) calendar days after Buyer receives such Tax refund from a Governmental Authority or files a Tax return claiming such credit.

17. Closing Costs.

(a) Seller and Buyer shall each pay their own attorneys' fees and expenses. Buyer shall pay (i) all state, county and local Transfer Taxes required to be paid in connection with the assignment and assumption of the Lease and any and all Subleases, and the consummation of the transactions contemplated herein, all of which amounts shall be paid, if applicable, to the proper Governmental Authority on or prior to the Closing Date, and (ii) all title and escrow charges.

(b) Buyer agrees to fully indemnify and hold Seller harmless for, from and against any loss, cost, claim, damage or expense incurred, directly or indirectly, by Seller as a result of Buyer's failure to pay any Taxes or costs pursuant to clause (a) above. Buyer's obligations in this Section 17 shall survive the Closing Date.

18. Seller Representations and Warranties. Seller represents and warrants to Buyer that the statements contained in this Section 18 are true and correct as of the date of this Agreement, except as disclosed in any forms, statements, or other documents filed with the Bankruptcy Court.

(a) Organization of Seller; Good Standing. Each Seller is a corporation or limited liability company, as applicable, duly organized, validly existing and in good standing under the laws of the state of its formation. Each Seller has, subject to the necessary authority from the Bankruptcy Court, all requisite corporate or other organizational power and authority to own, lease and operate its assets and to carry on its business as now being conducted, except where the failure to be so organized, existing, or in good standing or have such power and authority would not reasonably be expected to have a Material Adverse Effect.

(b) Authorization of Transaction. Subject to the Discrete Procedures Order or the Bankruptcy Court's entry of a sale order and any other necessary order to close the sale of the Acquired Assets, each Seller has full power and authority (including full corporate or other organizational power and authority) to execute and deliver this Agreement and all other agreements contemplated hereby to which it is a party and to perform its obligations hereunder and thereunder. The execution, delivery, and performance of this Agreement and all other agreements contemplated hereby to which each Seller is a party have been duly authorized by such Seller. Upon due execution hereof by each Seller, this Agreement (assuming due authorization and delivery by Buyer) shall constitute, subject to the Discrete Procedures Order or the Bankruptcy Court's entry of a sale order and any other necessary order to close the sale of the Acquired Assets, the valid and legally binding obligation of such Seller, enforceable against such Seller in accordance with its terms and conditions, subject to applicable bankruptcy, insolvency, moratorium, or other similar laws relating to creditors' rights and general principles of equity.

(c) Noncontravention; Government Filings. Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby, will (i) conflict with or result in a breach of the organizational documents of any Seller, (ii) subject to the Discrete Procedures Order or the Bankruptcy Court's entry of a sale order and any other necessary order to close the sale of the Acquired Assets, materially violate any Law or Decree to which any Seller is subject in respect of the Acquired Assets, or (iii) subject to the Discrete Procedures Order or the Bankruptcy Court's entry of a sale order and any other necessary order to close the sale of the Acquired Assets, result in a material breach of, constitute a material default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify or cancel, or require any notice under any material contract to which any Seller is a party or to which any of the Acquired Assets is subject, except, in the case of either clause (ii) or (iii), for such conflicts, violations, breaches, defaults, accelerations, rights or failures to give notice as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Other than (x) any application related to the Licenses contemplated hereby and (y) as required or pursuant to the Bankruptcy Code, the Discrete Procedures Order or the Bankruptcy Court's entry of a sale order and any other necessary order to close the sale of the Acquired Assets, no Seller is required to give any notice to, make any filing with, or obtain any authorization, consent or approval of any Governmental Authority in order for the Parties to consummate the transactions contemplated by this Agreement or any Related Agreement, except where the failure to give notice, file or obtain such authorization, consent or approval would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

19. Buyer Representations and Warranties. Buyer represents and warrants to Seller that the statements contained in this Section 19 are true and correct as of the date of this Agreement.

(a) Organization of Buyer; Good Standing. Buyer is an individual and has all requisite power and authority to own, lease, and operate assets and to carry on business as now being conducted.

(b) Authorization of Transaction. Buyer has full power and authority (including full corporate or other entity power and authority) to execute and deliver this Agreement and all other agreements contemplated hereby to which it is a party and to perform its obligations hereunder and thereunder. The execution, delivery, and performance of this Agreement and all other agreements contemplated hereby to which Buyer is a party have been duly authorized by Buyer. This Agreement (assuming due authorization and delivery by Sellers) constitutes the valid and legally binding obligation of Buyer, enforceable against Buyer in accordance with its terms and conditions, subject to applicable bankruptcy, insolvency, moratorium, or other similar laws relating to creditors' rights and general principles of equity.

(c) Noncontravention. Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby will (i) conflict with or result in a breach of the certificate of incorporation or bylaws, or other organizational documents, of Buyer, (ii) violate any Law or Decree to which Buyer is, or its assets or properties are, subject or (iii) conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify or cancel, or require any notice under any contract to which Buyer is a party or by which it is bound, except, in the case of either clause (ii) or (iii), for such conflicts, breaches, defaults, accelerations, rights or failures to give notice as would not, individually or in the aggregate, have a material adverse effect on Buyer or prevent or materially impair or delay Buyer's ability to consummate the transactions contemplated hereby or perform its obligations hereunder on a timely basis. Other than (x) any application related to the Licenses contemplated hereby and (y) as required or pursuant to the Bankruptcy Code, Buyer is not required to give any notice to, make any filing with, or obtain any authorization, consent or approval of any Governmental Authority in order for the Parties to consummate the transactions contemplated by this Agreement or any Related Agreement, except where the failure to give notice, file or obtain such authorization, consent or approval would not, individually or in the aggregate, prevent or materially impair or delay Buyer's ability to consummate the transactions contemplated hereby or perform its obligations hereunder on a timely basis.

(d) Criminal History; Alcoholic Beverage Law Violations. Buyer has no adverse criminal history or alcoholic beverage Law violations that would prevent Buyer from obtaining the required Licenses in the timeframe outlined by this Agreement.

(e) No Interest. Buyer has no interest in any license in another tier of the alcoholic beverage industry such that it would be prevented from holding the Licenses by the three tier Laws.

(f) License Limitations. Buyer does not currently have interests in other retail licenses to the extent that Buyer would exceed the license limitations set forth in New Jersey or Buyer has an approved plan from the acting director of the New Jersey Division of Alcoholic Beverage Control such that Buyer could acquire licenses in excess of the license limit, place them in pocket with the appropriate Township clerks and eventually sell such licenses. Further, the Purchase Price shall be derived from funding sources (with such sources to be set forth

consistent with the Liquor License Transfer Guide) that are not connected with or derived directly from accounts related to any alcoholic beverage retail establishment such that the application could be considered an application seeking more than the two retail license limitation.

20. Conditions to Closing.

(a) Conditions to Buyer's Obligations. Buyer's obligation to consummate the transactions contemplated hereby in connection with the Closing is subject to satisfaction or waiver of the following conditions:

(i) the representations and warranties set forth in Section 18 shall have been true and correct on the date hereof and as of the Closing in all material respects;

(ii) Seller shall have performed and complied with all of its covenants and agreements hereunder through the Closing in all material respects;

(iii) the transactions contemplated by this Agreement shall have been authorized or deemed authorized pursuant to the Discrete Procedures Order or a sale order entered by the Bankruptcy Court as contemplated by the Global Bidding Procedures Order, and no order staying, reversing, modifying or amending such authorization shall be in effect on the Closing Date;

(iv) no material Decree shall be in effect that prohibits consummation of the transactions contemplated by this Agreement; and

(v) each delivery contemplated by Section 13(a) to be delivered to Buyer shall have been delivered.

(b) Conditions to Seller's Obligations. Seller's obligations to consummate the transactions contemplated hereby in connection with the Closing are subject to satisfaction or waiver of the following conditions:

(i) the representations and warranties set forth in Section 19 shall have been true and correct on the date hereof and as of the Closing in all material respects;

(ii) Buyer shall have performed and complied with all of its covenants and agreements hereunder through the Closing in all material respects, including application for receipt of the applicable Licenses;

(iii) the transactions contemplated by this Agreement shall have been authorized or deemed authorized pursuant to the Discrete Procedures Order or a sale order entered by the Bankruptcy Court as contemplated by the Global Bidding Procedures Order, and no order staying, reversing, modifying or amending such authorization shall be in effect on the Closing Date;

(iv) no material Decree shall be in effect that prohibits consummation of any of the transactions contemplated by this Agreement;

(v) Buyer shall have received all required Licenses; and

(vi) each payment contemplated by Section 3 to be made to Seller or any landlord shall have been made, and each delivery contemplated by Section 13(b) to be delivered to Seller shall have been delivered.

(c) No Frustration of Closing Conditions. Neither Buyer nor Seller may rely on the failure of any condition to their respective obligations to consummate the transactions contemplated hereby set forth in Subsection 20(a) or Subsection 20(b), as the case may be, to be satisfied if such failure was caused by such Party's or its Affiliate's failure to use its reasonable best efforts (or other required standard of efforts as specifically set forth herein) to satisfy the conditions to the consummation of the transactions contemplated hereby or by any other breach hereunder. The Parties agree that neither the failure to obtain a court order nor any action with respect to a Competing Bid (as defined below), to the extent permitted hereunder, shall be deemed to be a failure to use the efforts required to satisfy the conditions to consummation of the transactions contemplated hereunder nor a breach hereunder.

21. No Other Contingencies. Buyer expressly agrees and acknowledges that Buyer's obligations hereunder are not in any way conditioned upon or qualified by Buyer's ability to obtain financing of any type or nature whatsoever (i.e., whether by way of debt, financing or equity investment or otherwise) nor upon Buyer's ability to obtain title insurance.

22. Termination of Agreement.

(a) The Parties may terminate this Agreement at any time prior to the Closing as provided below:

(i) by the mutual written consent of the Parties;

(ii) by any Party by giving written notice to the other Party if:

(A) any court of competent jurisdiction or other competent Governmental Authority shall have enacted or issued a Law or Decree or taken any other action permanently restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated by this Agreement and such Law or Decree or other action shall have become final and non-appealable; provided, however, that the right to terminate this Agreement under this Subsection 22(a)(ii)(A) shall not be available to Buyer if the failure to consummate the Assignment because of such action by a Governmental Authority shall be due to the failure of Buyer to have fulfilled any of its obligations under this Agreement; or

(B) the Closing shall not have occurred prior to two-hundred and forty (240) days following the execution of this Agreement (the "Outside Date"); provided, however, that, upon written notice to Buyer, Seller may elect to extend the Outside Date for a period of up to thirty (30) days if Buyer has not obtained all required Licenses within the time frames set forth in Section 7; provided, further that if the Closing shall not have occurred on or before the Outside Date due to a material breach of this Agreement by Buyer or Seller, then the breaching Party may not terminate this Agreement pursuant to this 22(a)(ii)(B).

(iii) by Seller by giving written notice to Buyer if:

(A) Buyer has not obtained all required Licenses within the time frames set forth in Section 7 (subject to Seller's extension rights granted therein); provided that in the event this Agreement is so terminated, Buyer shall immediately withdraw any application for transfer of the NJ License, or if the transfer has already been approved, Buyer shall immediately file an application with all applicable authorities to transfer the Licenses back to Seller;

(B) Buyer fails to satisfy any requirement set forth under Section 20(b)(vi), including delivery of the Deposit required hereunder. In such case, the Agreement shall be rendered null and void, Seller shall be entitled to retain any and all consideration already paid to Seller, including, but not limited to, the Deposit; or

(C) there has been a breach by Buyer of any representation, warranty, covenant, or agreement contained in this Agreement that has prevented the satisfaction of the conditions to the obligations of Seller at Closing set forth in Section 20(b)(i) and Section 20(b)(ii), and such breach has not been waived by such Seller, or, if such breach is curable, cured by Buyer prior to the earlier to occur of (I) ten (10) days after receipt of such Seller's notice of intent to terminate and (II) the Outside Date. In such case, Seller shall be entitled to retain the Deposit.

(iv) by Buyer by giving written notice to Seller if there has been a breach by any Seller of any representation, warranty, covenant, or agreement contained in this Agreement that has prevented the satisfaction of the conditions to the obligations of Buyer at Closing set forth in Section 20(a)(i) and Section 20(a)(ii), and such breach has not been waived by Buyer, or, if such breach is curable, cured by such Seller prior to the earlier to occur of (A) ten (10) days after receipt of Buyer's notice of intent to terminate and (B) the Outside Date. In such case, Buyer shall be entitled to retain the Deposit.

(b) This Agreement shall terminate if (i)(x) Seller enters into a definitive agreement with respect to a higher or better competing bid in accordance with the Global Bidding Procedures Order or the Discrete Procedures Order in respect of the Lease or all or any part of the Acquired Assets (whether in combination with other assets of Seller or its Affiliates or otherwise) ("**Competing Bid**"), (y) the Bankruptcy Court enters an order approving a Competing Bid, and (z) the Person making the Competing Bid consummates the Competing Bid or (ii) the Bankruptcy Court enters an order that precludes the consummation of the transactions contemplated hereby on the terms and conditions set forth in this Agreement.

(c) Effect of Termination. If any Party terminates this Agreement pursuant to Section 22(a) or (b), all rights and obligations of the Parties hereunder shall terminate upon such termination and shall become null and void (except that Section 17, this Section 22, Sections 28 through 48, and Schedule I shall survive any such termination) and no Party shall have any Liability (except as set forth in Section 22(a)(iii) and Section 23) to the other Party hereunder (except as may be provided in Section 4 and Subsection 22(a)(iii)); provided, however, that nothing in this Section 22 shall relieve any Party from Liability for any breach occurring prior to any such termination (but solely to the extent such breach was willful, grossly negligent, or

fraudulent) set forth in this Agreement; provided, further, that other than in the case of fraud or willful misconduct, (i) the maximum Liability of Seller under this Agreement shall not exceed the reasonable and documented out-of-pocket expenses incurred by Buyer up to an aggregate amount of 5% of the Cash Purchase Price and (ii) the maximum Liability of Buyer under this Agreement shall not exceed the Deposit.

(d) Withdrawal of Application. Upon termination of this Agreement pursuant to this Section 22, Buyer shall immediately withdraw any pending application for transfer of any NJ License and related forms.

23. Bankruptcy Court Matters.

(a) Competing Transaction. This Agreement is subject to approval by the Bankruptcy Court in accordance with the Global Bidding Procedures Order or the Discrete Procedures Order, and the consideration by Seller of a Competing Bid pursuant to the bidding procedures set forth in the *Notice of Auction of Liquor Stores* filed by the Debtors with the Bankruptcy Court on July 15, 2016 (the "**Notice**") or another notice of auction relating to the Acquired Assets filed by the Debtors pursuant to the Discrete Procedures Order that is substantially similar to the Notice and the bidding procedures set forth therein (as applicable, the "**Bidding Procedures**").

(b) From the date hereof and until the transactions contemplated hereby are consummated, Seller is permitted to, and is permitted to cause its Representatives and Affiliates to, initiate contact with, solicit or encourage submission of any inquiries, proposals or offers by or from any Person (in addition to Buyer and its Affiliates and Representatives) in connection with a Competing Bid, and Seller shall be permitted and shall have the authority to (and to cause its Representatives and Affiliates to) respond to any inquiries or offers to purchase all or any part of the Acquired Assets, including supplying information relating to the assets of Seller to prospective buyers. Without limiting the foregoing, Seller shall be permitted to perform all of the foregoing activities with respect to all or any part of the Acquired Assets and perform any and all other acts related thereto which are required under the Bankruptcy Code, the Global Bidding Procedures Order, Discrete Procedures Order or other applicable Law. The Global Bidding Procedures Order, Discrete Procedures Order and the Bidding Procedures are deemed to be incorporated herein and the Buyer agrees to comply with and abide by its obligations set forth therein.

(c) Bankruptcy Court Filings.

(i) If the Buyer is the successful bidder (to the extent an auction is conducted), as soon as reasonably practicable following the execution of this Agreement by the Debtors, Seller shall seek approval of the Agreement in accordance with the Global Bidding Procedures Order or the Discrete Procedures Order and file any necessary notice or pleadings required in connection therewith. Buyer agrees that it will promptly take such actions as are reasonably requested by Seller to assist in obtaining Bankruptcy Court approval of the transactions contemplated by this Agreement pursuant to the Global Bidding Procedures Order or the Discrete Procedures Order, including a finding of adequate assurance of future performance by Buyer, including furnishing affidavits or other documents or information for

providing the Adequate Assurance Information to the Cure Notice Parties and filing with the Bankruptcy Court for the purposes, among others, of providing necessary assurances of performance by Buyer under this Agreement and demonstrating that Buyer is a “good faith” purchaser under section 363(m) of the Bankruptcy Code. Buyer shall not, without the prior written consent of Seller, file, join in, or otherwise support in any manner whatsoever any motion or other pleading relating to the sale of the Acquired Assets hereunder. In the event the approval of the transactions contemplated by this Agreement shall be appealed, Seller and Buyer shall use their respective commercially reasonable efforts to defend such appeal.

24. [Intentionally Omitted]

25. Delivery; “AS IS” Transaction.

(a) Buyer acknowledges that it has fully inspected or waived the right to inspect the Leased Premises and/or any Acquired Assets prior to the execution of this Agreement and does hereby assume all of the risks, including, but not limited to, latent defects in the Leased Premises. Seller shall not be obligated to do any work or alter, restore, repair or develop the Leased Premises, but Seller shall deliver the Leased Premises in vacant, broom clean condition, and, if applicable, with all furnishings, fixtures, equipment, inventory, racks, aisle displays, refrigeration equipment and personal property removed from the Leased Premises. Any work (including demolition) which may be necessary to adapt the Leased Premises for Buyer’s occupancy or for the operation of Buyer’s business therein shall be the sole responsibility of Buyer and shall be performed by Buyer at its sole cost and expense, in accordance with the terms of the Lease.

(b) BUYER HEREBY ACKNOWLEDGES AND AGREES THAT SELLER MAKES NO REPRESENTATIONS, WARRANTIES, OR GUARANTEES WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO: ANY MATTER RELATED TO THE ACQUIRED ASSETS, INCLUDING ANY MATTER RELATING TO THE LEASE OR THE LEASED PREMISES (INCLUDING, WITHOUT LIMITATION, INCOME TO BE DERIVED FROM OR EXPENSES TO BE INCURRED IN CONNECTION WITH THE LEASED PREMISES; THE PHYSICAL CONDITION OF THE LEASED PREMISES; THE PRESENCE OR ABSENCE OF ANY HAZARDOUS MATERIALS IN, ON OR ABOUT THE LEASED PREMISES OR ANY OTHER MATTER RELATED TO THE ENVIRONMENTAL CONDITION OF THE LEASED PREMISES; THE ZONING OF THE LEASED PREMISES; THE POSSIBILITY OF DEVELOPING OR USING THE LEASED PREMISES IN THE MANNER CONTEMPLATED BY BUYER OR OBTAINING ANY CONSENTS, APPROVALS, PERMITS, AUTHORIZATIONS OR ENTITLEMENTS IN CONNECTION THEREWITH; THE VALUE OF THE LEASE OR THE LEASED PREMISES; THE FITNESS OF THE LEASED PREMISES, FOR ANY PARTICULAR PURPOSE OR USE; THE ACCURACY, COMPLETENESS, OWNERSHIP OR TRANSFERABILITY OF ANY DOCUMENTS OR OTHER MATERIALS FURNISHED TO BUYER WITH RESPECT TO THE LEASED PREMISES (OR ANY PORTION THEREOF); OR ANY OTHER MATTER OR THING RELATED TO THE LEASE OR THE LEASED PREMISES). BUYER ACKNOWLEDGES THAT BUYER HAS NOT RELIED, AND IS NOT RELYING, UPON ANY INFORMATION, DOCUMENT, SALES BROCHURES OR OTHER LITERATURE, MAPS OR SKETCHES, PROJECTIONS, PRO FORMAS, STATEMENTS,

REPRESENTATIONS, GUARANTEES OR WARRANTIES (WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, OR MATERIAL OR IMMATERIAL) THAT MAY HAVE BEEN GIVEN BY OR MADE BY OR ON BEHALF OF SELLER. BUYER ALSO ACKNOWLEDGES THAT BUYER HAS CONDUCTED OR WAIVED THE RIGHT TO CONDUCT AN INDEPENDENT INSPECTION AND INVESTIGATION OF THE PHYSICAL AND ENVIRONMENTAL CONDITION OF THE LEASED PREMISES AND ALL SUCH OTHER MATTERS RELATED TO OR AFFECTING THE LEASED PREMISES AND/OR THE LEASE, AS BUYER DEEMED NECESSARY OR APPROPRIATE AND BUYER IS ACQUIRING THE LEASE AND THE LEASED PREMISES, BASED SOLELY UPON SUCH INDEPENDENT INSPECTIONS AND INVESTIGATIONS OR BUYER'S INDEPENDENT JUDGMENT, AND BUYER IS NOT RELYING UPON ANY REPRESENTATIONS OF SELLER OR SELLER'S AGENTS. ACCORDINGLY, BUYER HEREBY ACCEPTS THE LEASED PREMISES IN ITS "AS IS, WHERE IS," "WITH ALL FAULTS," CONDITION AND ALL LATENT OR PATENT DEFECTS.

26. Release; Indemnity. Pursuant to section 365(k) of the Bankruptcy Code, on and after the Closing Date, Buyer agrees to defend and indemnify Seller against, and hold Seller harmless from, any and all claims, actions, proceedings, suits, costs, liabilities, losses, damages or expenses (including, without limitation, reasonable attorneys' fees and disbursements), whether foreseen or unforeseen, in connection with the Lease, the Leased Premises (including, without limitation, the performance or observance or the failure or refusal to perform or observe any agreement or obligation of the tenant under the Lease or any term or provision thereof required to be performed by the tenant under the Lease), each Sublease, and this Agreement; provided such release and indemnity shall not apply to matters arising prior to the Closing Date.

27. Casualty and Condemnation.

(a) Seller agrees to give Buyer prompt written notice of any fire, flood or similar casualty affecting any portion of the Leased Premises or of any actual or threatened (to the extent that Seller has current knowledge thereof) taking or condemnation of all or any portion of any Leased Premises.

(b) If prior to Closing there shall occur: (i) damage to any Leased Premises caused by fire or other casualty; or (ii) the taking or condemnation of all or any portion of the Leased Premises; then, in each case, the Closing Date shall occur as provided in this Agreement, and Buyer shall be assigned at the Closing Date (A) all interest of Seller in and to any insurance proceeds (including, but not limited to, any proceeds of business interruption insurance for the period after the date of the Closing Date), subject to all applicable deductible amounts or (B) condemnation awards payable to Seller on account of that event, less sums which Seller incurs before the Closing Date for the direct cost of the repair of any of the damage or taking that Seller may elect, in its sole discretion, to undertake or in pursuing the collection of any such insurance proceeds or participating in any condemnation proceeding.

(c) The Parties hereby waive the provisions of the Uniform Vendor and Purchaser Risk Act (to the extent the same is applicable to the Leased Premises) and of any other Law to the same or similar effect, and agree that the same shall not apply to this Agreement.

28. Brokers' Fees. Other than the fees and expenses payable to Hilco Real Estate Group LLC in connection with the transactions contemplated hereby, which shall be borne by Seller, neither Party has entered into any contract to pay any fees or commissions to any broker, finder, or agent with respect to the transactions contemplated hereby for which Buyer could become liable or obligated to pay. Buyer shall indemnify and hold Seller harmless from and against any and all claims, causes of action, losses, costs, expenses, damages or Liabilities, including reasonable attorneys' fees and disbursements, which Seller, or any of its Affiliates may sustain, incur or be exposed to, by reason of any claim or claims by any broker, finder or other person or entity for fees, commissions or other compensation arising out of the transactions contemplated herein if such claim or claims are based in whole or in part on dealings or agreements with the Buyer. Any broker retained by or providing services to Buyer in connection with the transaction evidenced by this Agreement shall be compensated solely by Buyer without contribution from Seller.

29. Survival. Except as specifically set forth herein, none of the representations, warranties, or covenants of any Party set forth in this Agreement or in any certificate delivered pursuant to Section 13(a) or Section 13(b) shall survive, and each of the same shall terminate and be of no further force or effect as of the Closing.

30. Expenses. Except as otherwise expressly set forth herein, including but not limited to Section 17, each Party will bear its own costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby, including all fees of law firms, commercial banks, investment banks, accountants, public relations firms, experts and consultants. For the avoidance of doubt, Buyer shall pay all recording fees arising from the transfer of the Acquired Assets.

31. Entire Agreement. This Agreement, any documents delivered at Closing pursuant hereto, and any confidentiality agreement entered into by Seller and Buyer in connection with this transaction, constitute the entire agreement between the Parties and supersede any prior understandings, agreements or representations (whether written or oral) by or between the Parties to the extent they relate in any way to the subject matter hereof.

32. Incorporation of Exhibits and Schedules. The Exhibits and Schedule(s) to this Agreement are incorporated herein by reference and made a part hereof.

33. Amendments and Waivers. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by each Party. No waiver of any breach of this Agreement shall be construed as an implied amendment or agreement to amend or modify any provision of this Agreement. No waiver by any Party of any default, misrepresentation or breach hereunder, whether intentional or not, shall be valid unless the same shall be in writing and signed by the Party making such waiver, nor shall such waiver be deemed to extend to any prior or subsequent default, misrepresentation or breach hereunder or affect in any way any rights arising by virtue of any prior or subsequent default, misrepresentation or breach. No conditions, course of dealing or performance, understanding, or agreement purporting to modify, vary, explain, or supplement the terms or conditions of this Agreement shall be binding unless this Agreement is amended or modified in writing pursuant to the first sentence of this Section 33 except as expressly provided herein. Except where a specific period

for action or inaction is provided herein, no delay on the part of any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

34. Succession and Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. No Party may assign either this Agreement or any of its rights, interests, or obligations hereunder without the prior written consent of each other Party.

35. Notices. All notices, requests, demands, claims and other communications hereunder shall be in writing except as expressly provided herein. Any notice, request, demand, claim, or other communication hereunder shall be deemed duly given (a) when delivered personally to the recipient; (b) one (1) Business Day after being sent to the recipient by reputable overnight courier service (charges prepaid); (c) on the day such communication was sent by e-mail (return receipt requested); or (d) three (3) Business Days after being mailed to the recipient by certified or registered mail, return receipt requested and postage prepaid, and addressed to the intended recipient as set forth below:

If to Seller:

The Great Atlantic & Pacific Tea Company, Inc.
48 Bi-State Plaza, PMB 282
Old Tappan, New Jersey 07675
Attention: Christopher W. McGarry
E-mail: mcgarryc@aptea.com

With a copy (which shall not constitute notice to Seller) to:

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, New York 10153
Attention: Ray C. Schrock, P.C.; Gavin Westerman; and
Beatriz Azcuy-Diaz
E-mail: ray.schrock@weil.com; gavin.westerman@weil.com;
beatriz.azcuy@weil.com

If to Buyer:

Deanna M Romano
24 Fredon Greendell Rd.
Newton, NJ 07860
Attention: Pasquale Romano, Jr.
E-mail: romanos@embarqmail.com

With a copy (which shall not constitute notice to Buyer) to:

Law Office of John D. Williams
18 Church St,
Suite 205
Newton, NJ 07860
Attention: John D. Williams
E-mail: jdwesq@mac.com

Any Party may change the address to which notices, requests, demands, claims and other communications hereunder are to be delivered by giving the other Parties notice in the manner set forth in this Section 35.

36. Governing Law. This Agreement shall be governed by and construed in accordance with the internal Laws of the State of New York (without giving effect to the principles of conflict of laws thereof), except to the extent that the Laws of such state are superseded by the Bankruptcy Code.

37. Submission to Jurisdiction; Service of Process. Each of the Parties irrevocably and unconditionally submits to the exclusive jurisdiction of the Bankruptcy Court in any Litigation arising out of or relating to this Agreement or any Related Agreement or the transactions contemplated hereby or thereby and agrees that all claims in respect of such Litigation may be heard and determined in any such court. Each Party also agrees not to (a) attempt to deny or defeat such exclusive jurisdiction by motion or other request for leave from the Bankruptcy Court or (b) bring any action or proceeding arising out of or relating to this Agreement or any Related Agreement or the transactions contemplated hereby or thereby in any other court. Each of the Parties irrevocably and unconditionally waives any objection to the laying of venue in, and any defense of inconvenient forum to the maintenance of, any Litigation so brought and waives any bond, surety or other security that might be required of any other Party with respect thereto. Any Party may make service on any other Party by sending or delivering a copy of the process to the Party to be served at the address and in the manner provided for the giving of notices in Section 35; provided, however, that nothing in this Section 37 shall affect the right of any Party to serve legal process in any other manner permitted by Law or in equity. Each Party agrees that a final judgment in any Litigation so brought shall be conclusive and may be enforced by Litigation or in any other manner provided by Law or in equity. The Parties intend that all foreign jurisdictions will enforce any Decree of the Bankruptcy Court in any Litigation arising out of or relating to this Agreement or any Related Agreement or the transactions contemplated hereby or thereby.

38. Waiver of Jury Trial. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY RELATED AGREEMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

39. Specific Performance. Buyer acknowledges and agrees that Seller and its estate would be damaged irreparably in the event Buyer does not perform its obligations under this

Agreement in accordance with its specific terms or otherwise breaches this Agreement, so that, in addition to any other remedy that Seller may have under Law or equity, Seller shall be entitled, without the requirement of posting a bond or other security, to injunctive relief to prevent any breaches of the provisions of this Agreement and to enforce specifically this Agreement and the terms and provisions hereof.

40. Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provisions of this Agreement. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be illegal, invalid or unenforceable, such provisions shall be limited or eliminated only to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect.

41. No Third Party Beneficiaries. This Agreement shall not confer any rights or remedies upon any Person other than Buyer, Seller, and their respective successors and permitted assigns, except as expressly set forth in this Agreement.

42. Non-Recourse. All claims or causes of action (whether in contract or in tort, at Law or in equity, or granted by statute) that may be based upon, in respect of, arise under, out or by reason of, be connected with, or related in any manner to this Agreement or the Related Agreements may be made only against (and are expressly limited to) the Persons that are expressly identified as parties hereto or thereto (the "Contracting Parties"). In no event shall any Contracting Party have any shared or vicarious Liability for the actions or omissions of any other Person. No Person who is not a Contracting Party, including any director, officer, employee, incorporator, member, partner, manager, stockholder, Affiliate, agent, attorney or representative of, and any financial advisor or lender to, any of the foregoing ("Non-Party Affiliates"), shall have any Liability (whether in contract or in tort, at Law or in equity, or granted by statute or based upon any theory that seeks to impose Liability of an entity party against its owners or affiliates) for any claims, causes of action, obligations or Liabilities arising under, out of, in connection with or related in any manner to this Agreement or the Related Agreements or based on, in respect of, or by reason of this Agreement or the Related Agreements or their negotiation, execution, performance or breach; and, to the maximum extent permitted by Law, each Contracting Party waives and releases all such Liabilities, claims and obligations against any such Non-Party Affiliates. Without limiting the foregoing, to the maximum extent permitted by Law, (a) each Contracting Party hereby waives and releases any and all rights, claims, demands, or causes of action that may otherwise be available at Law or in equity, or granted by statute, to avoid or disregard the entity form of a Contracting Party or otherwise impose Liability of a Contracting Party on any Non-Party Affiliate, whether granted by statute or based on theories of equity, agency, control, instrumentality, alter ego, domination, sham, single business enterprise, piercing the veil, unfairness, undercapitalization, or otherwise; and (b) each Contracting Party disclaims any reliance upon any Non-Party Affiliates with respect to the performance of this Agreement or the Related Agreements or any representation or warranty made in, in connection with, or as an inducement to this Agreement or the Related Agreements. The Parties acknowledge and agree that the Non-Party Affiliates are intended third-party beneficiaries of this Section 42.

43. Mutual Drafting. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

44. Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

45. Counterparts; Facsimile and Electronic Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. This Agreement or any counterpart may be executed and delivered by facsimile copies or delivered by electronic communications by portable document format (.pdf), each of which shall be deemed an original.

46. Limitations Under Applicable Law. Notwithstanding anything to the contrary contained in this Agreement, Seller's obligations hereunder shall be subject to limitations under applicable Law, including, without limitation, Sections 1113 and 1114 of the Bankruptcy Code.

47. Assignment of Lease. The acceptance by Buyer of the Assignment and Assumption as to the Lease and the Bill of Sale as to any Inventory and FF&E to be transferred hereunder, shall be deemed to be a full performance of Seller and discharge of every agreement and obligation on the part of Seller to be performed pursuant to the provisions of this Agreement.

48. Prevailing Party. If any action is brought by either of the Parties against the other, then the prevailing Party shall be entitled to recover from the other Party court costs and reasonable attorneys' fees and costs actually incurred.

49. Store Employees. Buyer shall offer employment to existing Store employees on substantially the same terms as that of their current employment or as otherwise agreed with such employees or their representative. For those store employees represented by a labor union, Buyer will negotiate with the appropriate local union representing such store employees, in good faith, and either (a) assume the applicable collective bargaining agreement; (b) enter into a mutually acceptable collective bargaining agreement; or (c) enter into an agreement with such local union integrating such represented store employees into Buyer's existing collective bargaining units. For all purposes of this Section 49, Buyer acknowledges the requirements of sections 1113 and 1114 of the Bankruptcy Code and agrees to use good faith reasonable best efforts to cooperate with Seller in ensuring compliance with any applicable provisions thereof. Notwithstanding anything to the contrary contained in this Agreement, Seller's obligations hereunder shall be subject to applicable Law, including, without limitation, sections 1113 and 1114 of the Bankruptcy Code and any applicable federal labor Law.

50. Bulk Transfer Laws. For the avoidance of doubt, and except as necessary with respect to Form C-9600 as described in Section 13 above, Buyer acknowledges that Seller may not comply with the provisions of any bulk transfer, Tax clearance or similar Laws of any jurisdiction in connection with the transactions contemplated by this Agreement, including the

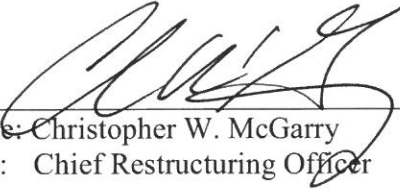
United Nations Convention on the Sale of Goods, and hereby waives all claims related to the non-compliance therewith. In the event that an application or request for a bulk transfer, Tax clearance or similar certificate is required under applicable non-bankruptcy law to transfer the NJ License to Buyer, the Parties may make such filing so long as such application or request includes thereon or as an attachment thereto a notification indicating that (i) Seller is in bankruptcy, (ii) such filing is being made in connection with the transfer of the NJ License pursuant to court order, (iii) any action to collect any Tax remains subject to the provisions of the Bankruptcy Code and (iv) a denial of the Tax clearance / transfer of the NJ License in the event of a non-payment of pre-petition Taxes would violate the anti-discrimination protections of Bankruptcy Code Section 525.

51. Guarantee. Guarantors hereby irrevocably and unconditionally guarantee the due and punctual performance of all obligations of Buyer under this Agreement, including, without limitation, each payment contemplated by Section 3; provided, however, that such guaranty shall terminate upon the occurrence of the Closing. This guaranty is a guarantee of payment and performance, and not of collection. Guarantors hereby waive all defenses available to a surety.

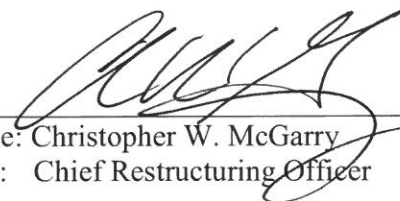
[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

THE GREAT ATLANTIC & PACIFIC TEA COMPANY, INC.

By: 
Name: Christopher W. McGarry
Title: Chief Restructuring Officer

A&P REAL PROPERTY, LLC

By: 
Name: Christopher W. McGarry
Title: Chief Restructuring Officer

DEANNA M ROMANO

PASQUALE ROMANO III,
As Guarantor, solely for the purposes of
Sections 28 through 48 and Section 51

By: _____
Name:
Title:

VICKI ROMANO,
As Guarantor, solely for the purposes of
Sections 28 through 48 and Section 51

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first
above written.

THE GREAT ATLANTIC & PACIFIC TEA COMPANY, INC.

By: _____
Name: Christopher W. McGarry
Title:


A&P REAL PROPERTY, LLC

By: _____
Name: Christopher W. McGarry
Title:

DEANNA M ROMANO



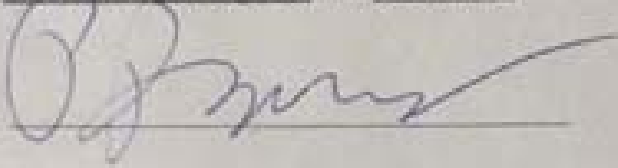
PASQUALE ROMANO III,
As Guarantor, solely for the purposes of
Sections 28 through 48 and Section 51

By: 
Name: Pasquale T Romano III
Title:

VICKI ROMANO,
As Guarantor, solely for the purposes of
Sections 28 through 48 and Section 51



PASQUALE ROMANO JR.,
As Guarantor, solely for the purposes of
Sections 28 through 48 and Section 51

A handwritten signature in dark ink, appearing to read "Pasquale Romano Jr.", is written over a horizontal line. The signature is fluid and cursive, with a long, sweeping tail that extends to the right.

LIST OF SCHEDULE AND EXHIBITS

<u>SCHEDULE</u>	<u>DESCRIPTION</u>
Schedule I	Definitions
Schedule II	Inventory Allocation Instructions

<u>EXHIBIT</u>	<u>DESCRIPTION</u>
Exhibit A	The Lease
Exhibit B	Premises
Exhibit C	Sublease(s)
Exhibit D	Escrow Agreement
Exhibit E	Wire Instructions
Exhibit F	Purchase Price Allocation
Exhibit G	Form of Assignment and Assumption of Lease
Exhibit H	Form of Quitclaim Bill of Sale
Exhibit I	Form of Landlord Notice and Form of Subtenant Notice
Exhibit J	Form of Assignment and Assumption of Subleases
Exhibit K	Copy of the NJ License

Schedule I

Definitions

- (i) “Affiliate” means, with respect to 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, where “control” means the power, directly or indirectly, to direct or cause the direction of the management and policies of another Person, whether through the ownership of voting securities, by contract, or otherwise.
- (ii) “Business Day” means any day, other than a Saturday, Sunday and any day which is a legal holiday under the Laws of the State of New York or is a day on which banking institutions located in the State of New York are authorized or required by Law or other governmental action to close.
- (iii) “Code” means the Internal Revenue Code of 1986, as amended.
- (iv) “Damages” means any actual losses, claims, liabilities, debts, damages, fines, penalties, or costs (in each case, including reasonable out-of-pocket expenses (including reasonable fees and expenses of counsel)).
- (v) “Decree” means any judgment, decree, ruling, injunction, assessment, attachment, undertaking, award, charge, writ, executive order, administrative order, or any other order of any Governmental Authority.
- (vi) “FIRPTA Certificate” means a certificate from Seller in compliance with applicable Treasury Regulations setting forth Seller’s (or, if applicable, its regarded owner’s) name, address and federal tax identification number and stating that Seller (or, if applicable, its regarded owner) is not a “foreign person” within the meaning of section 1445 of the Code and otherwise complying with the Treasury Regulations issued pursuant to section 1445 of the Code.
- (vii) “Governmental Authority” means any federal, state, local, or foreign government or governmental or regulatory authority, agency, board, bureau, commission, court, department, or other governmental entity.
- (viii) “Law” means any constitution applicable to, and any law, statute, treaty, code, rule, regulation, ordinance, or requirement of any kind of, any Governmental Authority.
- (ix) “Liability” means any liability or obligation of whatever kind or nature (whether known or unknown, whether asserted or unasserted, whether determined, determinable or otherwise, whether directly incurred, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated and whether due or to become due) regardless of when arising.
- (x) “Litigation” means any action, cause of action, suit, claim, charge, investigation, audit, demand, hearing or proceeding, whether civil, criminal, administrative, or arbitral, whether at Law or in equity (including actions or proceedings seeking injunctive relief) and whether before any Governmental Authority.

(xi) “Material Adverse Effect” means any effect or change that has a material adverse effect on the condition of the Acquired Assets, taken as a whole, other than any effects or changes arising from or related to: (a) general business or economic conditions in any of the geographical areas in which the Store operates; (b) any condition or occurrence affecting retail liquor generally; (c) national or international political or social conditions, including the engagement by any country in hostilities, whether commenced before or after the date hereof and whether or not pursuant to the declaration of a national emergency or war, or the occurrence of any military or terrorist attack; (d) financial, banking, or securities markets (including any disruption thereof or any decline in the price of securities generally or any market or index); (e) the occurrence of any act of God or other calamity or force majeure events (whether or not declared as such), including civil disturbance, embargo, natural disaster, fire, flood, hurricane, tornado, or other weather event; (f) changes in Law or accounting rules; (g) the taking of any action contemplated by this Agreement or any Related Agreement or taken with the consent of the other Party; (h) any effects or changes as a result of the announcement or pendency of this Agreement; (i) any filing or motion made under sections 1113 or 1114 of the Bankruptcy Code; (j) the sale of any other assets or stores to any third parties by any Seller or any of its Affiliates; (k) any effects or changes arising from or related to the breach of the Agreement by Buyer; (l) the failure of Seller to obtain any consent, permit, authorization, waiver or approval required in connection with the transactions contemplated hereby; (m) any strike or labor dispute; (n) any effect resulting from any Bankruptcy Court filings with respect to the Acquired Assets; or (o) any matter of which Buyer is aware on the date hereof.

(xii) “Prepaid Expenses” means all of Seller’s security deposits, prepaid rent, and prepaid expenses previously paid by Seller to fulfill Seller’s obligations under the Lease and, to the extent transferable, other deposits by Seller relating to the Store.

(xiii) “Person” means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, or any other entity, including any Governmental Authority or any group of any of the foregoing.

(xiv) “Related Agreements” means the Assignment and Assumption of Lease, the Quitclaim Bill of Sale, the Landlord Notice, the Subtenant Notice, and the Assignment and Assumption of Subleases.

(xv) “Representative” means, when used with respect to a Person, the Person’s controlled Affiliates (including subsidiaries) and such Person’s and any of the foregoing Persons’ respective officers, directors, managers, members, shareholders, partners, employees, agents, representatives, advisors (including financial advisors, bankers, consultants, legal counsel, and accountants), and financing sources.

(xvi) “Store” means the liquor store located at 57 Route 46, Suite 204, Hackettstown, NJ 07840 under the name “A&P Liquors”.

(xvii) “Tax” or “Taxes” means any United States federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, stamp, occupation, premium, windfall profits, environmental (including taxes under section 59A of the Code), customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real

property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated or other tax of any kind whatsoever, whether computed on a separate or consolidated, unitary or combined basis or in any other manner, including any interest, penalty or addition thereto, whether disputed or not.

(xviii) “Transfer Tax” means any stamp, documentary, filing, recording, registration, sales, use, transfer, added-value or similar non-income Taxes, fees or governmental charges imposed under applicable Law in connection with the transactions contemplated by this Agreement.

(xix) “Treasury Regulations” mean the Treasury regulations promulgated under the Code.

Schedule II

Inventory Allocation Instructions

Procedures for Inventory/Retail to Cost Conversions

(a) The Inventory Taker shall value all Inventory carried in the Store (excluding certain items hereinafter referred to), at the greater of (a) 75% of regular retail price and (b) the cost to Seller; and, in each case, the regular retail price of all items counted shall be the regular retail price on each item on the shelf or, if there is no such price, the regular retail price as shown in the most recent price book or other price guide of Seller.

EXHIBIT A

The Lease

STORE 037-3602 – 57 ROUTE 46, HACKETTSTOWN, NJ

LEASE DATED FEBRUARY 7, 2005 ORIGINALLY BETWEEN 2085 REALTY PARTNERS, LLC, AS LANDLORD, AND THE GREAT ATLANTIC & PACIFIC TEA COMPANY, INC., AS TENANT.

- MEMORANDUM OF LEASE FOR RECORDATION (NOTICE OF LEASE) DATED FEBRUARY 7, 2006
- SUBORDINATION, RECOGNITION AND NON-DISTURBANCE AGREEMENT DATED OCTOBER 12, 2007
- RENEWAL LETTER DATED AUGUST 25, 2010
- ORDER OF THE UNITED STATES BANKRUPTCY COURT OF THE SOUTHERN DISTRICT OF NEW YORK DATED DECEMBER 23, 2011
- ASSIGNMENT AND ASSUMPTION AGREEMENT DATED MARCH 13, 2012
- GUARANTY DATED MARCH 13, 2012
- SUBORDINATION, RECOGNITION AND NON-DISTURBANCE AGREEMENT DATED JULY 24, 2012
- AMENDMENT TO LEASE AND EXTENSION AGREEMENT DATED MAY 18, 2015

AS THE SAME MAY HAVE BEEN AMENDED.

EXHIBIT B

Leased Premises

STORE 037-3602 – 57 ROUTE 46, HACKETTSTOWN, NJ

EXHIBIT C

Sublease(s)

None

Exhibit D

Escrow Agreement

(See attached)

Escrow Agreement

Bidder ID No. 646-B

Site No(s). 37-602 Hackettstown

ESCROW RIDER TO PURCHASE AND SALE AGREEMENT

This Escrow Agreement dated this 4th day of August, 2016 (this "Escrow Agreement"), is entered into by and among The Great Atlantic & Pacific Tea Company, Inc., a Maryland corporation ("A&P"), A&P Real Property, LLC, a Delaware limited liability company (a wholly-owned subsidiary of A&P and together with A&P, "Seller"), Deanna M Romano ("Bidder"), and TITLEVEST AGENCY, LLC, a New York limited liability company, as escrow agent ("Escrow Agent"). Seller and Bidder are known herein, individually or collectively as the context may require as a "Party" or the "Parties". Any capitalized terms not defined herein shall have the meaning ascribed to them in the Sale Agreement (as defined below).

WITNESSETH

WHEREAS, the Bidder has executed that certain Purchase and Sale Agreement (the "Sale Agreement") as part of a bid for the acquisition of certain assets of Seller pursuant to the Sale Agreement (the "Acquired Assets");

WHEREAS, as part of the bid process, Bidder is required to wire to Escrow Agent a Deposit in the amount of \$35,000.00 (the "Escrow Funds"); and

WHEREAS, Bidder desires that Escrow Agent hold the Escrow Funds in escrow pursuant to the terms of this Escrow Agreement; and

WHEREAS, Escrow Agent is willing to hold the Escrow Funds, on the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid, the receipt and sufficiency of which are hereby mutually acknowledged, the Parties and the Escrow Agent agree as follows:

I. ESCROW FUNDS

A. Delivery of Escrow Funds; Authorization of Escrow Agent. Concurrently with execution and delivery of this Escrow Agreement, Bidder shall deliver the Escrow Funds along with a nonrefundable Escrow Fee of \$700 ("Initial Escrow Fee"; together with all other nonrefundable escrow fees set forth on Exhibit B, the "Nonrefundable Escrow Fees") to Escrow Agent via wire transfer. Upon receipt, the Escrow Funds shall be held by Escrow Agent in Escrow Agent's client escrow account at First American Trust. The Parties hereby appoint Escrow Agent to serve as escrow agent with respect to the Escrow Funds, and Escrow Agent hereby accepts such appointment and agrees to act in accordance with the terms and subject to the conditions of this

Escrow Agreement. Escrow Agent shall have the right to disburse the Escrow Funds, in whole or in part, solely in accordance with the terms of this Escrow Agreement. Escrow Agent shall not, under any circumstances, pledge or hypothecate any portion of the Escrow Funds and shall act only as directed in accordance with the terms of this Escrow Agreement.

B. UNTIL RELEASED AND DISBURSED IN ACCORDANCE WITH THE TERMS OF THIS ESCROW AGREEMENT, ALL ESCROW FUNDS SHALL (i) REMAIN THE PROPERTY OF BIDDER, (ii) NOT BE OR BECOME THE PROPERTY OR ASSETS OF SELLER OR ESCROW AGENT, AND (iii) NOT BE SUBJECT TO ANY LIEN OR ANY JUDGMENT OR CREDITORS' CLAIMS AGAINST SELLER, BIDDER OR ESCROW AGENT. IN NO EVENT SHALL ANY OF THE ESCROW FUNDS BE COMMINGLED WITH DEPOSIT ACCOUNTS OF ESCROW AGENT OR OTHERWISE TREATED AS A DEPOSIT ACCOUNT OF ESCROW AGENT OR REFLECTED ON THE FINANCIAL STATEMENTS OF ESCROW AGENT.

II. RELEASE OF ESCROW FUNDS

A. Potential Bidder. If Bidder is determined by Seller not to meet the requirements for qualifying as a bidder, as confirmed by the Seller, within fifteen (15) business days after July 20, 2016 at 5:00 p.m. (Eastern Time) (the "Bid Deadline") ("Unqualified Bidder"), the Escrow Agent shall, upon joint notice from Seller and Bidder, return to Bidder the Escrow Funds.

B. Qualified Bidder. The Escrow Funds will be forfeited to Seller if Bidder is determined by Seller to meet the requirements for qualifying as a bidder ("Qualified Bidder") and (A) Bidder attempts to modify, amend or withdraw its qualified bid, except as may permitted by the governing procedures or the Sale Agreement, during the time the qualified bid remains binding and irrevocable under the applicable procedures and the Sale Agreement or (B) the Bidder is selected as the Successful Bidder (defined below) and fails to enter into the required definitive documentation or to consummate the transaction according to the applicable procedures, and the terms of the applicable transaction documents with respect to the successful bid. The Escrow Agent shall release the Escrow Funds by wire transfer of immediately available funds to an account designated by Seller two (2) business days after the receipt by the Escrow Agent of a joint written notice by Seller and Bidder requesting the release of the Escrow Funds to Seller.

C. Successful Bidder. If Bidder is the successful bidder for the Acquired Assets ("Successful Bidder"), Seller or its agent shall notify Escrow Agent, and Escrow Agent shall retain the Escrow Funds through and including the Closing Date (and any permitted extensions), subject to the terms of this Escrow Agreement.

D. Backup Bidder. If the Bidder is selected as the next highest or next best bid for purchase of the Acquired Assets ("Backup Bidder"), Seller or its agent shall notify the Escrow Agent, and the Escrow Funds will continue to be held by the Escrow Agent until the acquisition of the Acquired Assets by the Successful Bidder, at which time the Escrow Funds shall, upon joint written notice from Seller and Bidder, be promptly returned to Bidder by wire transfer in accordance with Bidder's wire instructions attached hereto as Exhibit B, less any applicable Nonrefundable Escrow Fees (and Escrow Agent will notify Bidder by electronic mail at the time the refund wire transfer has been initiated); provided that if the Successful Bidder does not consummate the purchase of the Acquired Assets, then the Escrow Agent shall retain the Escrow Funds through and including the Closing Date (and any permitted extensions), subject to the terms of this Escrow Agreement.

E. Neither Successful Nor Backup Bidder. If Bidder is determined by Seller to be neither the Successful Bidder nor the Backup Bidder, then, within fifteen (15) business days after the Bid Deadline, the Escrow Funds shall, upon joint written notice from Seller and Bidder, be promptly returned to Bidder by wire transfer in accordance with Bidder's wire instructions attached hereto as Exhibit B, less any applicable Nonrefundable Escrow Fees. Escrow Agent will notify Bidder by electronic mail at the time the refund wire transfer has been initiated. In the case of Subsections (C) and (D) of this Section II, Escrow Agent shall release the funds no later than the Outside Date except to the extent the Sale Agreement is executed by Seller with respect to a Backup Bidder prior to the Outside Date.

F. Disbursements. Seller and Bidder agree to execute an appropriate joint notice to the Escrow Agent for the return of any Escrow Funds. If either party fails to execute such written notice, the Escrow Funds may be released by an order of the Bankruptcy Court.

G. Reliance. Escrow Agent shall rely on all information provided jointly to it by attorneys for Seller and Bidder regarding (i) the Successful Bidder, the Backup Bidder, an Unqualified Bidder and a Qualified Bidder (ii) the closing with the Successful Bidder, and (iii) any default by the Successful Bidder or acceptance of the Backup Bidder. Bidder acknowledges that Escrow Agent is entitled to rely on said information in disbursing the Escrow Funds.

III. DUTIES OF THE ESCROW AGENT

A. Scope of Responsibility. Notwithstanding any provision to the contrary, Escrow Agent is obligated only to perform the duties specifically set forth in this Escrow Agreement, which shall be deemed purely ministerial in nature. Under no circumstances will Escrow Agent be deemed to be a fiduciary to any Party or any other person under this Escrow Agreement. Escrow Agent will not be responsible or liable for the failure of any Party to perform in accordance with this Escrow Agreement. Escrow Agent shall neither be responsible for, nor chargeable with, knowledge of the terms and conditions of any other agreement, instrument, or document other than this Escrow Agreement, whether or not an original or a copy of such agreement has been provided to Escrow Agent; and Escrow Agent shall have no duty to know or inquire as to the performance or nonperformance of any provision of any such agreement, instrument, or document. References in this Escrow Agreement to any other agreement, instrument, or document are for the convenience of the Parties, and Escrow Agent has no duties or obligations with respect thereto. This Escrow Agreement sets forth all matters pertinent to the escrow contemplated hereunder, and no additional obligations of Escrow Agent shall be inferred or implied from the terms of this Escrow Agreement or any other agreement.

B. Attorneys and Agents. Escrow Agent shall be entitled to rely on and shall not be liable for any action taken or omitted to be taken by Escrow Agent in accordance with the advice of counsel or other professionals retained or consulted by Escrow Agent. Escrow Agent shall be reimbursed for any and all compensation (reasonable and documented fees, expenses and other costs) paid and/or reimbursed to such counsel and/or professionals. Escrow Agent may perform any and all of its duties through its agents, representatives, attorneys, custodians, and/or nominees.

C. Reliance. Escrow Agent shall not be liable for any action taken or not taken by it in accordance with the direction or consent of the Parties or their respective agents, representatives, successors and/or assigns. Escrow Agent shall not be liable for acting or refraining from acting upon any notice, request, consent, direction, requisition, certificate, order, affidavit, letter, or other paper or document believed by it to be genuine and correct and to have been signed or sent

by the proper person or persons, without further inquiry into the person's or persons' authority. Concurrently herewith, the Bidder shall deliver Exhibit C hereto, which contains authorized party designations.

D. Right Not Duty Undertaken. The permissive rights of Escrow Agent to do things enumerated in this Escrow Agreement shall not be construed as duties.

E. No Financial Obligation. No provision of this Escrow Agreement shall require Escrow Agent to risk or advance its own funds or otherwise incur any financial liability or potential financial liability in the performance of its duties or the exercise of its rights under this Escrow Agreement. Escrow Agent shall not be liable for the insolvency of any bank in which the Escrow Funds are deposited.

IV. PROVISIONS CONCERNING ESCROW AGENT

A. Indemnification. The Parties, jointly and severally, shall indemnify, defend and hold harmless the Escrow Agent from and against any and all loss, liability, cost, damage and expense, including, without limitation, reasonable and documented attorneys' fees and expenses which the Escrow Agent may suffer or incur by reason of any action, claim or proceeding brought against the Escrow Agent, arising out of or relating to (i) the Escrow Agent's execution and performance of this Escrow Agreement, except to the extent that such loss, liability or expense shall have been finally adjudicated to have directly resulted from the gross negligence or willful misconduct of the Escrow Agent (or any person through which its duties are performed, as provided in Section 3(C)) or (ii) the Escrow Agent's following any instructions or other directions from the Bidder or Sellers, except to the extent that its following any such instruction or direction is expressly forbidden by the terms of this Escrow Agreement. The provisions of this Section 4(A) shall survive the resignation or removal of the Escrow Agent and the termination of this Escrow Agreement.

B. Limitation of Liability. ESCROW AGENT SHALL NOT BE LIABLE, DIRECTLY OR INDIRECTLY, FOR ANY (I) DAMAGES, LOSSES OR EXPENSES ARISING OUT OF THE SERVICES PROVIDED HEREUNDER, OTHER THAN DAMAGES, LOSSES OR EXPENSES WHICH HAVE BEEN FINALLY ADJUDICATED TO HAVE DIRECTLY RESULTED FROM ESCROW AGENT'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR (II) SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES OR LOSSES OF ANY KIND WHATSOEVER (INCLUDING WITHOUT LIMITATION LOST PROFITS), EVEN IF THE ESCROW AGENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES AND REGARDLESS OF THE FORM OF ACTION.

C. Resignation or Removal. Escrow Agent may resign by furnishing written notice of its resignation to the Parties, and Seller may remove Escrow Agent by furnishing to Escrow Agent a written notice of Escrow Agent's removal along with payment of all reasonable and documented fees and expenses to which it is entitled through the date of termination or removal. Such resignation or removal, as the case may be, shall be effective thirty (30) days after the delivery of such notice or upon the earlier appointment of a successor, and Escrow Agent's sole responsibility thereafter shall be to safely keep the Escrow Funds and to deliver the same to a successor escrow agent as shall be appointed by the Seller, as evidenced by a written notice filed with Escrow Agent or in accordance with a court order. If the Seller fails to appoint a successor escrow agent prior to the expiration of thirty (30) days following the delivery of such notice of resignation or removal, Escrow Agent may petition any court of competent jurisdiction for the appointment of a successor escrow agent or for other appropriate relief, and any such resulting

appointment shall be binding upon the Parties. Any such successor escrow agent shall deliver to Seller and Bidder a written instrument accepting such appointment, and thereupon it shall succeed to all the rights and duties of the escrow agent hereunder and shall be entitled to receive possession of the Escrow Funds. Upon receipt of the identity of the successor escrow agent, the Escrow Agent shall deliver the Escrow Funds then held hereunder, less any reasonable and documented fees and expenses then due and owing to the Escrow Agent, to the successor escrow agent. In the event of the resignation or removal of the Escrow Agent, the resigning or removed Escrow Agent shall be absolved from any further duties as the Escrow Agent hereunder; provided, however, that the Escrow Agent or any successor escrow agent shall continue to act as the Escrow Agent until a successor is appointed and qualified to act as the Escrow Agent.

D. Compensation. Escrow Agent shall be entitled to fees and expenses incurred in administering and disbursing the Escrow Funds, and compensation for its services which shall be paid by Bidder as set forth on Exhibit B. If any material controversy arises hereunder, or Escrow Agent is made a party to any litigation pertaining to this Escrow Agreement or the subject matter hereof, then Escrow Agent shall be compensated for such extraordinary services and reimbursed for all costs and expenses, including reasonable and documented attorneys' fees and expenses, occasioned by any such delay, controversy, litigation or event. If any amount due to Escrow Agent hereunder is not paid within thirty (30) days of the date due, Escrow Agent in its sole discretion may charge interest on such amount up to the highest rate permitted by applicable law.

E. Disagreements. If any conflict, disagreement or dispute arises between, among, or involving the Parties concerning the meaning or validity of any provision hereunder or concerning any other matter relating to this Escrow Agreement, or Escrow Agent is in doubt as to the action to be taken hereunder, Escrow Agent is authorized to retain the Escrow Funds until Escrow Agent (i) receives a final non-appealable order of a court of competent jurisdiction or a final non-appealable arbitration decision directing delivery of the Escrow Funds, (ii) receives a written agreement executed by the Parties directing delivery of the Escrow Funds, in which event Escrow Agent shall be authorized to disburse the Escrow Funds in accordance with such agreement, or (iii) files an interpleader action in any court of competent jurisdiction, and upon the filing thereof, Escrow Agent shall be relieved of all liability as to the Escrow Funds which it delivers to such court and shall be entitled to recover reasonable and documented attorneys' fees, expenses and other costs incurred in commencing and maintaining any such interpleader action. Escrow Agent shall be entitled to act on any such agreement, court order, or arbitration decision without further question, inquiry, or consent.

F. Attachment of Escrow Funds; Compliance with Legal Orders. In the event that any Escrow Funds shall be attached, garnished or levied upon by any court order, or the delivery thereof shall be stayed or enjoined by an order of a court, or any order, judgment or decree shall be made or entered by any court order affecting Escrow Funds, Escrow Agent is hereby expressly authorized, in its reasonable discretion, to respond as it deems appropriate or to comply with all writs, orders or decrees so entered or issued, or which it is advised by legal counsel of its own choosing is binding upon it, whether with or without jurisdiction. In the event that Escrow Agent obeys or complies with any such writ, order or decree, it shall not be liable to any of the Parties or to any other person, firm or corporation, should, by reason of such compliance notwithstanding, such writ, order or decree be subsequently reversed, modified, annulled, set aside or vacated.

V. MISCELLANEOUS

A. Successors and Assigns. This Escrow Agreement shall be binding on and inure to the benefit of the Parties and Escrow Agent and their respective successors and permitted assigns.

No other persons shall have any rights under this Escrow Agreement. No assignment of the interest of the Parties shall be binding unless and until written notice of such assignment shall be delivered to other Party and Escrow Agent and shall require the prior written consent of such other Party and Escrow Agent (such consent not to be unreasonably withheld).

B. Notices. All notices, requests, demands, and other communications required under this Escrow Agreement shall be in writing, in English, and shall be deemed to have been duly given if delivered (i) personally, (ii) by facsimile transmission with written confirmation of receipt, (iii) on the day of transmission if sent by electronic mail ("e-mail") to the e-mail address given below, (iv) by overnight delivery with a reputable national overnight delivery service, or (v) by mail or by certified mail, return receipt requested, and postage prepaid. If any notice is mailed, it shall be deemed given five (5) Business Days after the date such notice is deposited in the United States mail. If notice is given to a party, it shall be given at the address for such party set forth below. It shall be the responsibility of each party hereto to notify the Escrow Agent and the other Party in writing of any name or address changes.

If to Sellers:

The Great Atlantic and Pacific Tea Company, Inc.
2 Paragon Drive
Montvale, New Jersey 07645
Attention: Christopher W. McGarry; Matthew Bennett
E-mail: mcgarryc@aptea.com; bennettm@aptea.com

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

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, New York 10153
Attention: Ray C. Schrock, P.C. and Gavin Westerman
Facsimile: (212) 310-8007
E-mail: ray.schrock@weil.com; gavin.westerman@weil.com

Notices to Bidder:

Deanna M Romano
24 Fredon Greendell Rd.
Newton, NJ 07860
Fax: 973-383-3961
E-mail: romanos@embarqmail.com

With a copy to:

Law Office of John D. Williams
18 Church St.
Suite 205
Newton, NJ 07860
E-mail: jdwesq@mac.com

Notices to Escrow Agent:

TitleVest Agency, LLC
44 Wall Street – 10th Floor
New York, NY 10005
Attn: Sara Murray
E-Mail: APBid@TitleVest.com

With a copy to:

Fax: _____

E-mail: _____

C. Governing Law; Jurisdiction. This Escrow Agreement shall be governed by and construed in accordance with the laws of the State of New York (without giving effect to the principles of conflict of laws thereof), except to the extent that the laws of such state are superseded by chapter 11 of title 11 of the United States Code (“Chapter 11”). Without limiting any Party’s right to appeal any order of the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”), (i) the Bankruptcy Court shall retain exclusive jurisdiction to enforce the terms of this Escrow Agreement and to decide any claims (including with respect to Section) or disputes which may arise or result from, or be connected with, this Escrow Agreement, any breach or default hereunder, and (ii) any and all proceedings related to the foregoing shall be filed and maintained only in the Bankruptcy Court, and the parties hereto hereby consent to and submit to the jurisdiction and venue of the Bankruptcy Court and shall receive notices at such locations as indicated herein; provided, however, that if the contemplated Chapter 11 cases of Seller and certain of its affiliates has closed, the parties hereto agree to unconditionally and irrevocably submit to the exclusive jurisdiction of the state or federal courts of the State of New York, located in New York County for the resolution of any such claim or dispute. Each party hereto (a) expressly and irrevocably consents and submits to the jurisdiction of each such court; (b) agrees that each such court shall be deemed to be a convenient forum; (c) agrees that service of process in any such proceeding may be made by giving notice pursuant to Section V(B); and (d) agrees not to assert, by way of motion, as a defense or otherwise, in any such proceeding commenced in any such court, any claim that such party is not subject personally to the jurisdiction of such court, that such proceeding has been brought in an inconvenient forum, that the venue of such proceeding is improper or that this Escrow Agreement or the subject matter of this Escrow Agreement may not be enforced by such court.

D. Entire Agreement. This Escrow Agreement sets forth the entire agreement and understanding of the Parties and Escrow Agent related to the Escrow Funds.

E. Amendment. This Escrow Agreement may be amended, modified, superseded, rescinded, or canceled only by a written instrument executed by all of the Parties and Escrow Agent.

F. Waivers. The failure of any Party at any time or times to require performance of any provision under this Escrow Agreement shall in no manner affect the right at a later time to enforce the same performance. A waiver by any Party of any such condition or breach of any term, covenant, representation, or warranty contained in this Escrow Agreement, in any one or more instances, shall neither be construed as a further or continuing waiver of any such condition

or breach nor a waiver of any other condition or breach of any other term, covenant, representation, or warranty contained in this Escrow Agreement.

G. Headings. Section headings of this Escrow Agreement have been inserted for convenience of reference only and shall in no way restrict or otherwise modify any of the terms or provisions of this Escrow Agreement.

H. Counterparts. This Escrow Agreement and any notices or communications may be executed in one or more counterparts, each of which when executed shall be deemed to be an original, and such counterparts shall together constitute one and the same instrument.

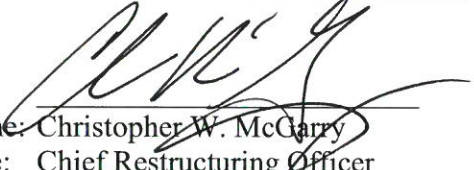
I. Conflicts. In the event of any conflict between this Escrow Agreement and the Sale Agreement or any order of the Bankruptcy Court, the terms of the Sale Agreement and/or the order of the Bankruptcy Court shall govern, but only as between the Parties.

J. Publication; disclosure. By executing this Escrow Agreement, the Parties and the Escrow Agent acknowledge that this Escrow Agreement (including related attachments) contains certain information that is sensitive and confidential in nature and agree that such information needs to be protected from improper disclosure, including the publication or dissemination of this Escrow Agreement and related information to individuals or entities not a party to this Escrow Agreement. The Parties further agree to take reasonable measures to mitigate any risks associated with the publication or disclosure of this Escrow Agreement and information contained therein, including, without limitation, the redaction of the manual signatures of the signatories to this Escrow Agreement, or, in the alternative, publishing a conformed copy of this Escrow Agreement. If a Party must disclose or publish this Escrow Agreement or information contained therein pursuant to any regulatory, statutory, or governmental requirement, as well as any judicial, or administrative order, subpoena or discovery request, it shall notify in writing the other Party and the Escrow Agent at the time of execution of this Escrow Agreement of the legal requirement to do so. If any Party becomes aware of any threatened or actual unauthorized disclosure, publication or use of this Escrow Agreement, that Party shall promptly notify in writing the other Parties and the Escrow Agent and shall be liable for any unauthorized release or disclosure.

[Signature Page Follows]

IN WITNESS WHEREOF, this Escrow Agreement has been duly executed as of
the date first written above.

THE GREAT AMERICAN & PACIFIC TEA COMPANY, INC.

By: 
Name: Christopher W. McGarry
Title: Chief Restructuring Officer

DEANNA M ROMANO

TITLEVEST AGENCY, LLC

By: _____
Name:
Title:

IN WITNESS WHEREOF, this Escrow Agreement has been duly executed as of
the date first written above.

THE GREAT ATLANTIC & PACIFIC TEA COMPANY, INC.

By: _____
Name:
Title:

DEANNA M ROMANO



TITLEVEST AGENCY, LLC

By: _____
Name:
Title:

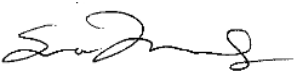
IN WITNESS WHEREOF, this Escrow Agreement has been duly executed as of
the date first written above.

THE GREAT AMERICAN & PACIFIC TEA COMPANY, INC.

By: _____
Name: Christopher W. McGarry
Title: Chief Restructuring Officer

DEANNA M ROMANO

TITLEVEST AGENCY, LLC


By: _____
Name: Sara Murray
Title: Escrow Supervisor

A&P REAL PROPERTY, LLC

By:

Name: Christopher W. McGarry

Title: Chief Restructuring Officer

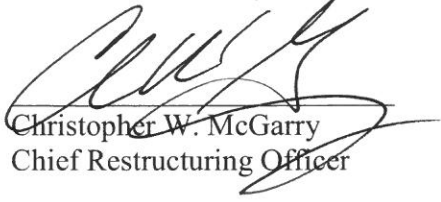
A handwritten signature in black ink, appearing to read 'CW McGarry', is written over the printed name and title. The signature is fluid and cursive, with a large initial 'C' and 'W'.

EXHIBIT A

Wire Instructions

PAYABLE TO: TitleVest Agency, LLC

BANK: First American Trust, FSB Trust Account

ADDRESS: 5 First American Way, Santa Ana, CA 92707

ACCOUNT NO: 3132040000

ROUTING NUMBER: 122241255

PLEASE REFERENCE THE FOLLOWING:

PROPERTY: Store 37-602, 57 Route 46, Suite 204, Hackettstown, NJ 07840
BIDDER ID NUMBER: 646-B

PLEASE USE THE ABOVE INFORMATION WHEN WIRING FUNDS TO **TitleVest Agency, LLC. FUNDS MUST BE WIRED FROM A BANK WITHIN THE UNITED STATES.** PLEASE NOTIFY YOUR ESCROW OFFICER AT OR WHEN YOU HAVE TRANSMITTED YOUR WIRE.

IF YOUR FUNDS ARE BEING WIRED FROM A NON-U.S. BANK, ADDITIONAL CHARGES MAY APPLY.

PLEASE CONTACT TITLEVEST FOR INTERNATIONAL WIRING INSTRUCTIONS.

FIRST AMERICAN TRUST CONTACT INFO: Banking Services 1-877-600-9473

**ALL WIRES WILL BE RETURNED IF THE FILE NUMBER
AND/OR PROPERTY REFERENCE ARE NOT INCLUDED**

With cyber-crimes on the increase, it is important to be ever vigilant. If you receive an e-mail or any other communication that appears to be generated from a First American employee that contains new, revised or altered bank wire instructions, consider it suspect and call our office at a number you trust. Our bank wire instructions seldom change.

EXHIBIT B

FEES OF ESCROW AGENT

Administration Fee: \$700.00

The Administration Fee is payable with the bid submission.

General

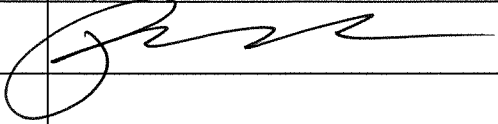
Out of Pocket Expenses: Actual Cost. Escrow Agent will charge for out-of-pocket expenses in response to specific tasks assigned by the client or provided for in the escrow agreement. Possible expenses would be, but are not limited to, express mail, Federal Express or other overnight carrier, messenger charges, wiring fees and travel fees and expenses to attend closing or other meetings. There are no charges for indirect out-of-pocket expenses. Payable at closing.

EXHIBIT C

BIDDER AUTHORIZED PARTY

Telephone Numbers and Authorized Signatures for
Person(s) Designated to Execute the Escrow Agreement, Give Joint Instruction and Confirm
Funds Transfer Instructions

For Buyer:

<u>Name</u>	<u>Business Telephone Numbers</u>	<u>Signature</u>
1. Pasquale Romano, Jr.	973-479-8878	
2.		
3.		

To the extent required herein, all instructions to be delivered by Bidder, including but not limited to funds transfer instructions, whether transmitted by facsimile or otherwise, must include the signature of the Authorized Representative authorizing said funds transfer on behalf of Bidder

EXHIBIT D

JOINT NOTICE TO RELEASE ESCROW

Escrow Agent is hereby authorized and directed by the undersigned to disburse the following amount(s) of the Escrow Funds pursuant to the wire instructions below:

Wire Amount:	
Bank Address:	
Bank City, State, Zip:	
Bank ABA:	
Account Holder's Name:	
Account Number:	

Dated: _____
Signature: _____
Bidder: _____

Dated: _____
Signature: _____
Seller: _____

Exhibit E

Wire Instructions

Account Name:	The Great Atlantic & Pacific Tea Company, Inc.
Account Number:	4123996555
Bank Name:	Wells Fargo
Bank ABA Number:	121000248
Bank Address:	420 Montgomery Street, San Francisco, CA 94104
Special Instructions:	SWIFT Code: WFBIUS6S

Exhibit F

Purchase Price Allocation*

Assets	Allocation of Purchase Price
Prepaid Expenses (Class I)	\$25,000.00
Inventory (Class IV)	TBD**
FF&E (Class V)	\$100,000.00
Leases (Class V)	\$100,000.00***
NJ Licenses (Class VI)	\$125,000.00
Total Consideration	\$350,000.00 plus Inventory (above #'s to be adjusted at closing)***

* This Exhibit shall be updated in a manner consistent with the Allocation Principles to reflect any adjustments contemplated by the terms of the Agreement (including pursuant to Section 11(g) and/or Section 15) to amounts treated as consideration for U.S. federal income tax purposes. Any payments made pursuant to Section 3(a) in respect of accrued interest shall be allocated to Class VI (proportionately within such Class).

** To be updated as necessary to reflect the calculation of the Inventory Purchase Price pursuant to Section 5.

*** To be increased by the Cure Amount, *plus* the Seller Proration Amount, if any, *minus* the Buyer Proration Amount, if any.

Exhibit G

Form of Assignment and Assumption of Lease

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, New York 10153-0119
Attention: Samuel Zylberberg, Esq. (MM)

ASSIGNMENT AND ASSUMPTION OF LEASE

THIS **ASSIGNMENT AND ASSUMPTION OF LEASE** (this "**Assignment**") is entered into and effective as of [_____], 2016, by and between [_____], whose address is [_____] ("**Seller**"), and [_____], a [_____], whose address is [_____] ("**Buyer**"). Seller and Buyer are referred to collectively herein as the "**Parties**."

WHEREAS, the Parties are parties to that certain Purchase and Sale Agreement, dated [_____], 2015 (the "**Purchase Agreement**") (capitalized terms used but not otherwise defined herein have the meanings given to such terms in the Purchase Agreement);

WHEREAS, the execution and delivery of this Assignment is contemplated by the Purchase Agreement; and

WHEREAS, Seller desires to assign, transfer, convey, and deliver to Buyer the Lease described in **Exhibit A** attached hereto including all amendments, modifications, and supplements thereto (collectively, the "**Lease**"), and Buyer desires to accept an assignment of the Lease together with all right, title, and interest of Seller thereunder. The Lease encumbers all or a portion of certain property (the "**Leased Premises**") which property is more specifically described on **Exhibit B** attached hereto (the "**Premises**").

NOW, THEREFORE, in consideration of the promises and mutual agreements set forth in the Purchase Agreement, the Parties hereby agree as follows:

- 1) **Assignment and Assumption of Lease.** Effective as of the Closing, Seller hereby assigns, transfers, conveys, and delivers to Buyer all of Seller's estate, right, title and interest as tenant of the leasehold estate described under the Lease, and Buyer hereby accepts the assignment, transfer, conveyance, and delivery of Seller's estate, rights, title and interest in, to and under such leasehold estate, and assumes and agrees to pay, discharge, and perform when due all of Seller's obligations as tenant under the Lease.
- 2) **Conflict.** The assignment and assumption of the Lease (and the obligations thereunder) made hereunder are made in accordance with and subject to the Purchase Agreement (including, without limitation, the representations, warranties, covenants, and agreements contained therein), which is incorporated herein by reference. In the event of a conflict between the terms and conditions of this Assignment and the terms and conditions of the Purchase Agreement, the terms and conditions of the Purchase Agreement shall govern, supersede, and prevail. Notwithstanding anything to the contrary in this Assignment, nothing herein is intended to, nor shall it, extend, amplify, or otherwise alter the Purchase Agreement.

- 3) Severability. Whenever possible, each provision of this Assignment shall be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Assignment is held to be prohibited by or invalid under applicable Law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Assignment.
- 4) Amendments. This Assignment may not be amended or modified except by an instrument in writing signed by, or on behalf of, Buyer and Seller.
- 5) Counterparts; Facsimile and Electronic Signatures. This Assignment may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument.
- 6) Governing Law. This Assignment shall be governed by the Laws of the state in which the Leased Premises are located, except to the extent that the Laws of such state are superseded by the Bankruptcy Code.
- 7) Third Party Beneficiaries and Obligations. This Assignment shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. Nothing in this Assignment, express or implied, is intended to or shall confer upon any Person other than the Parties or their respective successors and permitted assigns, any rights, remedies, or liabilities under or by reason of this Assignment.
- 8) Recordation. Seller makes no representation regarding the recordability of this Assignment, nor the Lease or related documents. Seller shall bear no liability for the failure of the Lease or related documents to be recorded.
- 9) Further Assurances. Each of the Parties, without additional consideration, shall execute and deliver all such further documents and do such other things as the other Party may reasonably request to give full effect to this Assignment, including, without limitation, any other form of assignment agreement required in order to record this Assignment in the appropriate public records of the county in which the Leased Premises is located.

* * * * *

IN WITNESS WHEREOF, the Parties have executed this Assignment as of the
date first above written.

SELLER:

[_____,
a _____]

By: _____
Name: _____
Title: _____

[ACKNOWLEDGMENTS]

[Seller Signature Page to Assignment and Assumption of Lease –
City, State (Store __) (____)]

BUYER:

[_____,
a _____]

By: _____
Name: _____
Title: _____

[ACKNOWLEDGMENTS]

[Buyer Signature Page to Assignment and Assumption of Lease –
City, State (Store __) (____)]

EXHIBIT A

Lease

[List Lease in the following form:

Lease dated [●] originally between [●], as Landlord, and [●], as Tenant.]

EXHIBIT B

Premises

Exhibit H

Form of Quitclaim Bill of Sale

QUITCLAIM BILL OF SALE

THIS **QUITCLAIM BILL OF SALE** (this "Bill of Sale") is entered into and effective as of [_____], 2016, by and among [_____], a [_____] ("Seller") and [_____], a [_____] ("Buyer"). Seller and Buyer are referred to collectively herein as the "Parties."

WHEREAS, the Parties are parties to that certain Purchase and Sale Agreement, dated [_____], 2015 (the "Purchase Agreement") (capitalized terms used but not otherwise defined herein have the meanings given to such terms in the Purchase Agreement); and

WHEREAS, the execution and delivery of this Bill of Sale is contemplated by the Purchase Agreement.

NOW, THEREFORE, in consideration of the promises and mutual agreements set forth in the Purchase Agreement, the Parties hereby agree as follows:

1. Sale and Acceptance of Acquired Assets. For true and lawful consideration paid by Buyer, the sufficiency of which is hereby acknowledged, effective as of the date hereof, (a) Seller hereby sells, assigns, transfers, conveys, grants and delivers to Buyer all of its right, title and interest in and to the Acquired Assets, and (b) Buyer hereby accepts the foregoing sale and assignment.

2. Conflict. In the event of a conflict between the terms and conditions of this Bill of Sale and the terms and conditions of the Purchase Agreement, the terms and conditions of the Purchase Agreement shall govern, supersede, and prevail.

3. No Representation. This Bill of Sale is made without any covenant, warranty or representation by, or recourse against, Seller or any of Seller's Affiliates of any kind whatsoever.

4. Severability. Whenever possible, each provision of this Bill of Sale shall be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Bill of Sale is held to be prohibited by or invalid under applicable Law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Bill of Sale.

5. Amendments. This Bill of Sale may not be amended or modified except by an instrument in writing signed by, or on behalf of, Buyer and Seller.

6. Counterparts; Facsimile and Electronic Signatures. This Bill of Sale may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. This Bill of Sale or any counterpart may be executed and delivered by facsimile copies or delivered by electronic communications by portable document format (.pdf), each of which shall be deemed an original.

7. Governing Law. This Bill of Sale shall be governed by and construed in accordance with the internal Laws of the State of New York (without giving effect to the

principles of conflicts of Laws thereof), except to the extent that the Laws of such state are superseded by the Bankruptcy Code.

8. Third Party Beneficiaries and Obligations. This Bill of Sale shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. Nothing in this Bill of Sale, express or implied, is intended to or shall confer upon any Person other than the Parties or their respective successors and permitted assigns, any rights, remedies, or liabilities under or by reason of this Bill of Sale.

9. Entire Agreement. This Bill of Sale, together with the Purchase Agreement and the exhibits and the documents referred to in the Purchase Agreement, contain the entire understanding between the Parties with respect to the transactions contemplated hereby and supersede all prior agreements, understandings, representations and statements, oral or written, between the Parties on the subject matter hereof, which such prior agreements, understandings, representations and statements, oral or written, shall be of no further force or effect.

* * * * *

IN WITNESS WHEREOF, the Parties have executed this Bill of Sale as of
the date first above written.

[SELLER]

By: _____
Name:
Title:

[Seller Signature Page to Bill of Sale]

[BUYER]

By: _____

Name:

Title:

Exhibit I

**Form of Landlord Notice
Form of Subtenant Notice**

NOTICE TO LANDLORD

[_____], 2016

Via Federal Express

[Name and Address of Landlord]

Re: Notice of assignment of lease at [_____] (the "Lease")

Ladies and Gentlemen:

Please be advised that on July 19, 2015, [_____], the tenant under the Lease ("Tenant"), and certain of its affiliates filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of New York.

Effective as of [_____], Tenant's interest in the Lease has been assigned to [_____] ("Assignee"), and Assignee has assumed all of the tenant's obligations under the Lease.

Any future inquiries regarding your Lease should be directed to the address below:

[Assignee's Name]
[Assignee's Notice Address]

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Very truly yours,

[_____]

By: _____
Name:
Title:

NOTICE TO SUBTENANTS

[_____], 2016

Via Federal Express

[Name and Address of Subtenant]

Re: Notice of assignment of sublease at [_____] (the "Sublease")

Ladies and Gentlemen:

Please be advised that on July 19, 2015, [_____], the sublessor under the Sublease ("Sublessor"), and certain of its affiliates filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of New York.

Effective as of [_____], Sublessor's interest in the Sublease has been assigned to [_____] ("Assignee"), and Assignee has assumed all of the sublessor's obligations under the Sublease.

Any future inquiries regarding your Sublease should be directed to the address below:

[Assignee's Notice Name]
[Assignee's Notice Address]

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Very truly yours,

[_____]

By: _____
Name:
Title:

Exhibit J

Form of Assignment and Assumption of Subleases

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, New York 10153-0119
Attention: Samuel Zylberberg, Esq. (MM)

ASSIGNMENT AND ASSUMPTION OF SUBLEASE

This **ASSIGNMENT AND ASSUMPTION OF SUBLEASE** (this "Assignment") is entered into and effective as of [_____], 2016, by and between [_____], a [_____] [_____] having an address at [_____] ("Assignor"), and [_____], a [_____] [_____] having an address at [_____] ("Assignee"). Assignor and Assignee are referred to collectively herein as the "Parties".

WHEREAS Assignor, as tenant, entered into a lease agreement with respect to certain premises more specifically described on Exhibit B attached hereto (the "Premises").

WHEREAS Assignor entered into that certain sublease dated [_____] as more particularly described on Exhibit A (together with all amendments, modification, and renewals thereto, the "Sublease") with respect to all or a portion of the Premises; and

WHEREAS, Assignor desires to assign, transfer, convey and deliver to Assignee all of its right, title and interest in and to the Sublease, and Assignee desires to accept an assignment of the Sublease together with all right, title and interest of Assignor thereunder.

NOW, THEREFORE, in consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged:

1. Assignment by Assignor. Assignor hereby assigns to Assignee all of Assignor's right, title, interest and obligations in, to and under the Sublease.
2. Assumption by Assignee. Assignee hereby expressly and unconditionally accepts the foregoing assignment and assumes and agrees to perform fully and faithfully each and every term, covenant, condition and obligation of Assignor under the Sublease and to meet Assignor's obligations under the Sublease.
3. Severability. Whenever possible, each provision of this Assignment shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Assignment is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Assignment.
4. Amendments. This Assignment may not be amended or modified except by an instrument in writing signed by all of the parties hereto.
5. Counterparts; Facsimile and Electronic Signatures. This Assignment may be executed in one or more counterparts, each of which shall be deemed an original but all of which

together will constitute one and the same instrument. This Assignment or any counterpart may be executed and delivered by facsimile copies or delivered by electronic communications by portable document format (.pdf), each of which shall be deemed an original.

6. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the state in which the Premises are located, except to the extent that the laws of such state are superseded by the Bankruptcy Code.
7. Third Party Beneficiaries and Obligations. This Assignment shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. Nothing in this Assignment, express or implied, is intended to or shall confer upon any Person other than the Parties or their respective successors and permitted assigns, any rights, remedies, or liabilities under or by reason of this Assignment.
8. Recordation. Subject to the following two sentences, this Assignment may be recorded in the appropriate public records of the county in which the Premises is located. Assignor makes no representation regarding the recordability of this Assignment, nor the Sublease or related documents. Assignor shall bear no liability for the failure of the Sublease or related documents to be recorded.
9. Entire Agreement. This Assignment, together with the Exhibits attached hereto, supersedes all prior agreements, understandings, representations, and statements, oral or written, between the Parties on the subject matter hereof, which such prior agreements, understandings, representations, and statements, oral or written, shall be of no further force or effect.
10. Further Assurances. Each of the Parties, without additional consideration, shall execute and deliver all such further documents and do such other things as the other Party may reasonably request to give full effect to this Assignment.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties have executed this Assignment as of the date first above written.

ASSIGNOR:

[●], a [●]

Witness Signature

Printed Witness Name

Witness Signature

Printed Witness Name

By: _____

Name: _____

Title: _____

[ACKNOWLEDGMENT]

Assignor Signature Page to Assignment and Assumption of Sublease –
[City], [State] (Store #[●]) ([doc#])

ASSIGNEE:

[•], a [•]

Witness Signature

Printed Witness Name

Witness Signature

Printed Witness Name

By: _____
Name: _____
Title: _____

[ACKNOWLEDGMENT]

Assignee Signature Page to Assignment and Assumption of Sublease -
[City], [State] (Store #[•]) ([doc#])

EXHIBIT A

Sublease

EXHIBIT B

Premises

Exhibit K

Copy of the NJ License

This License Expires: 06/30/2017



State of New Jersey

*Department of Law and Public Safety
Division of Alcoholic Beverage Control*

2016 - 2017

WASHINGTON TOWNSHIP
MORRIS COUNTY

Pursuant to Title 33 of the New Jersey Statutes, A

Is Hereby Granted To

License Number:

PLENARY RETAIL DISTRIBUTION LICENSE

THE GREAT ATLANTIC & PACIFIC TEA COMPANY INC
DEBTOR IN POSSESSION
57 ROUTE 46
HACKETTSTOWN, NJ 07840

1438-44-002-003

This license confers all rights and privileges pertaining thereto, as set further in Title 33 of the New Jersey Statutes, and any amendments thereof and supplements thereto, and is expressly subject to the terms, provisions, limitations, requirements and conditions set forth therein and any rules and regulations promulgated heretofore and hereafter by the Director of the Division of Alcoholic Beverage Control pursuant to Title 33 of the New Jersey Statutes. The license is further subject to the provisions of all municipal ordinances and/or resolutions pertaining thereto which have been or shall have been duly enacted under law.

Effective Date: 07/01/2016

Fee Paid \$200.00

A handwritten signature in cursive script, appearing to read 'Nina DeGregorio', written over a horizontal line.

Attest: WASHINGTON TOWNSHIP

