

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

MAC ACQUISITION LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 17-12224 (MFW)

(Jointly Administered)

Obj. Deadline: November 6, 2017 at 4:00 p.m. (ET)

Hearing Date: November 13, 2017 at 11:30 a.m. (ET)

**DEBTORS' MOTION FOR ENTRY OF AN ORDER (A) AUTHORIZING THE
DEBTORS TO ASSUME LIQUOR LICENSE PURCHASE AGREEMENTS,
(B) AUTHORIZING AND APPROVING SALES OF LIQUOR LICENSES FREE AND
CLEAR OF ALL LIENS, CLAIMS AND ENCUMBRANCES, AND (C) APPROVING
EXPEDITED PROCEDURES FOR THE SALE OF REMAINING LIQUOR LICENSES**

Mac Acquisition LLC and its affiliated debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “Debtors”) hereby move the Court (this “Motion”) for the entry of an order substantially in the form annexed hereto as Exhibit A (the “Proposed Order”), pursuant to sections 105(a), 363, and 365 of title 11 of the United States Code (the “Bankruptcy Code”) and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), (a) authorizing the Debtors to assume four (4) agreements to sell liquor licenses for vacated restaurants to third party buyers (the “Purchase Agreements”), copies of which are attached hereto as Exhibit B through E, respectively; (b) authorizing the Debtors to complete sales of liquor licenses (the “Liquor Licenses”) for certain Closed Premises (as defined below), free and clear of all liens, claims, encumbrances, and interests (collectively,

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Mac Acquisition LLC (6362); Mac Parent LLC (6715); Mac Holding LLC (6682); Mac Acquisition of New Jersey LLC (1121); Mac Acquisition of Kansas LLC (3910); Mac Acquisition of Anne Arundel County LLC (6571); Mac Acquisition of Frederick County LLC (6881); Mac Acquisition of Baltimore County LLC (6865); and Macaroni Grill Services LLC (5963). The headquarters for the above-captioned Debtors is located at 1855 Blake St., Ste. 200, Denver, CO 80202.

the “Encumbrances”)²; and (c) approving expedited procedures enabling the Debtors to sell remaining Liquor Licenses related to certain of the Closed Premises (collectively, the “Remaining Liquor Licenses”) free and clear of Encumbrances and to pay any fees payable to the License Listing Company (as defined below), as applicable, from the proceeds of such sales. In support of this Motion, the Debtors rely on the *Declaration of Nishant Machado in Support of the Debtors’ Chapter 11 Petitions and Requests for First Day Relief* [Docket No. 2] (the “First Day Declaration”), and respectfully represent as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334(b) and 157, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b), and pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure for the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief requested herein are sections 105(a), 363, 365, and 554 of the Bankruptcy Code, Bankruptcy Rules 6003 and 6004, and Local Rule 9013-1(m).

² Notwithstanding anything herein to the contrary, the term “Encumbrances” does not include state or other local laws or regulations regarding the approval of any transfer or assignment of liquor licenses, or any taxes or fees specifically imposed on such liquor licenses under applicable law.

BACKGROUND

A. General Background

2. On October 18, 2017 (the “Petition Date”), each of the Debtors commenced a voluntary case under chapter 11 of the Bankruptcy Code. Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, the Debtors are continuing to manage their financial affairs as debtors in possession. As of the date hereof, no trustee, examiner, or official committee of unsecured creditors has been appointed in these chapter 11 cases (the “Chapter 11 Cases”).

3. Information regarding the Debtors’ history and business operations, capital structure and primary secured indebtedness, and the events leading up to the commencement of the Chapter 11 Cases can be found in the First Day Declaration.

B. The Debtors’ Sale of the Liquor Licenses for the Closed Premises

4. From January 2017 through the Petition Date, the Debtors have closed 37 underperforming restaurants in an effort to minimize the Debtors’ cash burn and complete their turnaround. Each of these closed premises maintained Liquor Licenses in connection with the operation of their restaurants. Further, certain of these Liquor Licenses were issued by jurisdictions that have a limited “quota” as to the number of liquor licenses that may be issued at a given time. Such licenses are generally transferrable, subject to defined procedures and approvals, and therefore may be marketed and sold. As a result, the Debtors have maintained certain of their Liquor Licenses for vacated restaurants to the extent they have value and may be sold and assigned, so as to preserve and maximize value for their estates.

5. The Debtors’ vacated restaurants that include such quota liquor licenses are as follows (collectively, the “Closed Premises”):

Store No.	Store Name	Store Address
31047	Wayne	1958 State Route 23, Wayne, NJ
31055	East Hanover	138 State Route 10, Suite 2, East Hanover, NJ
31062	Edison	1521 Route 1, Edison, NJ
31076	Ramsey	900 State Rt. 17, Ramsey, NJ
31104	Cockeysville	9701 Beaver Dam Rd., Timonium, MD
31121	Santa Clarita	25720 The Old Rd., Stevenson Ranch, CA
31173	Burlington	50 South Ave., Burlington, MA
31263	Mt. Olive	51 International Dr. S, Flanders, NJ
31281	Grand Rapids	5525 28th St. SE, Grand Rapids, MI

6. The Debtors' management and financial advisors are experienced professionals in the restaurant industry, and have substantial experience in marketing and selling liquor licenses for closed restaurants. Further, where the Debtors find appropriate under the circumstances, the Debtors may elect to use the services of a listing website operated under the domain name, liquorlicense.com (the "License Listing Company"). The License Listing Company provides a listing service where the Debtors' Remaining Liquor Licenses can be posted to the company's public website, so that interested buyers may identify and submit bids for the Debtors' Remaining Liquor Licenses. To the extent the Debtors determine to use the License Listing Company for any Remaining Liquor License, the Debtors enter into separate listing agreements. In exchange for the License Listing Company's services, the License Listing Company is entitled to up to 10% of the purchase price realized from the sale of the applicable Liquor License.

7. Prior to the Petition Date, the Debtors and their management and advisors have marketed the Liquor Licenses for the Closed Premises. The Debtors' efforts were successful for four (4) of the Closed Premises, and the Debtors have entered into four (4) separate Purchase Agreements to sell Liquor Licenses to third party purchasers. In conformity with Local Bankruptcy Rule 6004-1, the Purchase Agreements are attached hereto as Exhibits B through E and the material terms of such Purchase Agreements are summarized below:

<u>Exh.</u>	<u>Seller</u>	<u>Purchaser</u>	<u>Purchase Price</u>	<u>Deposit Received</u>	<u>Outside Closing Date</u>
B	MAC Acquisition LLC	Eddie V's Holdings, LLC	\$350,000.00	\$35,000.00	3/31/18
C	MAC Acquisition LLC	Yardbird Beverly Hills LLC	\$80,000.00	\$8,000.00	N/A
D	MAC Acquisition of New Jersey LLC	900 Route 17 North Holdings LLC	\$400,000.00	\$20,000.00	270 days after filing of transfer application
E	MAC Acquisition of New Jersey LLC	East Hanover, LLC	\$405,000.00	\$20,000.00	3/18/18

8. The Purchase Agreements were all negotiated at arms' length and in good faith. No broker was used to market the Liquor Licenses subject to the Purchase Agreements, and none of such Liquor Licenses are subject to agreements with the License Listing Company. As a result, no broker or related fee will reduce the recovery for the Debtors' estates.

9. The Debtors continue to market the Remaining Liquor Licenses for the Closed Premises that are not currently subject to a Purchase Agreement. The Debtors have entered into listing agreements with the License Listing Company for certain of these Remaining Liquor Licenses, and, for the others, continue to seek interested buyers through the Debtors' current management and advisors. Through these efforts, the Debtors intend to realize the highest and best offer for each Remaining Liquor License, and to enter into further purchase agreements to the extent consistent with the Debtors' business judgment. Due to the size of the purchase prices, the Debtors are concerned that having to proceed with separate sale motions for each Remaining Liquor License would impose administrative cost that would negate the benefits of any sale, and could impose procedural delay that might chill the market for the Debtors' Remaining Liquor Licenses.

RELIEF REQUESTED

10. By this Motion, the Debtors seek the entry of an order approving and authorizing (a) the Debtors' assumption of the Purchase Agreements, (b) the Debtors to complete sales of Liquor Licenses contemplated under the Purchase Agreements pursuant to their terms, free and clear of all Encumbrances, and (c) expedited procedures enabling the Debtors to sell the Remaining Liquor Licenses free and clear of Encumbrances and to pay any fees payable to the License Listing Company, as applicable, from the proceeds of such sales.

A. Assumption of the Purchase Agreements and Completion of the Sales of the Liquor Licenses Thereunder

11. The Debtors have expended substantial time and planning leading up to the Chapter 11 Cases in order to maximize value for the estates. In connection with these efforts, the Debtors have sought to realize value from the Closed Premises, even though such restaurants are not part of the Debtors' proposed restructuring plan. These efforts included selling the Liquor Licenses related to the Closed Premises. These Liquor Licenses have no value to the Debtors as part of the go-forward business, but may generate value through sales to third-party buyers.

12. After vacating the Closed Premises, the Debtors used their extensive relationships in the restaurant industry to solicit interest from third party buyers that may be interested in acquiring the Debtors' Liquor Licenses. The Debtors have successfully entered into four (4) Purchase Agreements for the sale of Liquor Licenses associated with certain of the Closed Premises. These Purchase Agreements are expected to generate \$1.235 million in sale proceeds for the Debtors' estates, with such proceeds to be governed by the *Interim Order (I) Authorizing Debtors to Obtain Postpetition Secured Financing; (II) Authorizing Debtors To Use Cash Collateral; (III) Granting Adequate Protection to Prepetition Secured Parties; and*

(IV) *Modifying the Automatic Stay* [Docket No. 56] (the “Interim DIP Order”), or any final order with respect thereto, and the DIP Agreement (as defined in the Interim DIP Order).

13. The Debtors seek authorization to (a) assume the Purchase Agreements, and (b) complete the sales of Liquor Licenses pursuant to the terms of the Purchase Agreements free and clear of Encumbrances.

B. Sale Procedures for Remaining Liquor Licenses

14. Notwithstanding the fact that the Closed Premises do not factor into the Debtors’ going forward business plan, the Debtors have taken steps necessary to preserve the Remaining Liquor Licenses for the Closed Premises so that the Debtors can market and sell these potentially valuable assets. The Debtors have already begun marketing certain of the Remaining Liquor Licenses prepetition, and intend to continue their marketing efforts during the Chapter 11 Cases. In certain instances, the Debtors have already entered into listing agreements with the License Listing Company for certain of the Remaining Liquor Licenses, and in other instances may use only their existing management and personnel at Mackinac Partners to seek interested buyers, or may later determine to enter into new listing agreements with the License Listing Company for any unsold licenses.

15. The Debtors intend to market and sell the Remaining Liquor Licenses at the Closed Premises pursuant to a commercially reasonable marketing and sale process for the highest and best offer received, taking into consideration the exigencies and circumstances, under the following procedures (the “Sale Procedures”):

- (a) With regard to sales of Remaining Liquor Licenses in any individual transaction or series of related transactions to a single buyer or group of related buyers with a selling price up to \$500,000:
 - (i) the Debtors are authorized to consummate such transactions if the Debtors determine in the reasonable exercise of their business judgment that such sales are in the best interest of the estates,

without further order of the Court, subject to the procedures set forth herein;

- (ii) any such transactions shall be free and clear of all Encumbrances with such Encumbrances attaching only to the sale proceeds in the same validity, extent, and priority as immediately prior to the transaction;
- (iii) the Debtors shall give written notice of such sale in substantially the form attached to the Proposed Order as Exhibit 1 (the “Sale Notice”) to (a) the Office of the United States Trustee for the District of Delaware; (b) counsel to any official committee; (c) counsel to Raven Asset-Based Opportunity Fund III LP, as DIP agent (the “DIP Agent”); (d) counsel to Bank of Colorado; (e) counsel to Riesen Funding LLC; (f) any known affected creditor(s) asserting an Encumbrance against the relevant Remaining Liquor License(s); (g) any party that has expressed an interest in purchasing the relevant Remaining Liquor License(s); (h) the state or municipality that issued the relevant Remaining Liquor License(s); and (i) any party that has requested notice pursuant to Bankruptcy Rule 2002(i) (each a “Sale Notice Party”);
- (iv) the Sale Notice shall identify in reasonable detail (a) the Remaining Liquor License(s) proposed to be sold, (b) the purchaser, (c) the purchase price, (d) the significant terms of the sale agreement, (e) whether any fee is proposed to be paid from the sale proceeds, and (f) the marketing/sales efforts relating to the Remaining Liquor License(s) proposed to be sold;
- (v) if no written objection from any Sale Notice Party is received by the Debtors within ten (10) business days following service of the Sale Notice, the Debtors are authorized to (a) submit an order to the Court approving the transaction and making findings pursuant to section 363(f) and (m) and (b) immediately consummate such transaction after entry of such order; and
- (vi) if a written objection is received from a Sale Notice Party within such ten (10) business day period and such objection cannot be consensually resolved, the relevant Remaining Liquor License(s) shall only be sold upon further order of the Court after notice and a hearing.

16. For the avoidance of doubt, the Sale Procedures do not apply to sales transactions to the extent the proposed purchase price exceeds \$500,000. Further, notwithstanding the

foregoing, (a) the authority to sell Remaining Liquor Licenses to “insiders,” as that term is defined in Section 101 of the Bankruptcy Code, is neither contemplated by nor included in the relief requested herein, and (b) the Debtors shall use commercially reasonable efforts to market all Remaining Liquor Licenses proposed to be sold in an effort to maximize the value received therefor.

BASIS FOR RELIEF

A. Assumption of the Purchase Agreements is Warranted Under Section 365 of the Bankruptcy Code

17. Section 365(a) of the Bankruptcy Code provides that a debtor, “subject to the court’s approval, may assume or reject any executory contract or unexpired lease.” 11 U.S.C. § 365(a). A debtor’s determination to assume or reject an executory contract is governed by the “business judgment” standard. *See, e.g., In re HQ Glob. Holdings, Inc.*, 290 B.R. 507, 511 (Bankr. D. Del. 2003) (stating that debtor’s rejection of executory contract is governed by business judgment standard and can only be overturned if decision was product of bad faith, whim, or caprice). In applying the “business judgment” standard, courts show substantial deference to the debtor’s decision to assume or reject. *See Summit Land Co. v. Allen (In re Summit Land Co.)*, 13 B.R. 310, 315 (Bankr. D. Utah 1981) (absent extraordinary circumstances, court approval of debtor’s decision to assume or reject executory contract “should be granted as a matter of course”). “The business judgment rule ‘is a presumption that in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interest of the company.’” *Official Comm. of Subordinated Bondholders v. Integrated Res., Inc.*, 147 B.R. 650, 656 (S.D.N.Y. 1992) (quoting *Smith v. Van Gorkom*, 488 A.2d 858, 872 (Del. 1985)). The business judgment rule applies in chapter 11 cases. *See Integrated Res.*, 147 B.R. at 656 (“Delaware business judgment rule

principles have ‘vitality by analogy’ in Chapter 11.”); *see also Comm. of Asbestos-Related Litigants and/or Creditors v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 60 B.R. 612, 615-16 (Bankr. S.D.N.Y. 1986) (“[T]he Code favors the continued operation of a business by a debtor and a presumption of reasonableness attaches to a Debtor’s management decisions.”).

18. Here, the Debtors have satisfied the “business judgment” standard and have a sound business reason for seeking to assume the Purchase Agreements. The Purchase Agreements are the product of arms-length and good faith negotiations with independent third parties. The Debtors’ management and advisors have substantial experience in the restaurant industry and with sales of this type, and believe that the purchase prices under the Purchase Agreements represent fair prices for the subject Liquor Licenses, and will provide for a prompt liquidation of assets that are no longer necessary to the on-going business of the Debtors. The Purchase Agreements do not involve any broker fees, and none of the subject Liquor Licenses are subject to agreements with the License Listing Company. As a result the purchase prices under the Purchase Agreements will be for the sole benefit of the Debtors’ estates and creditors. Even if a greater price could be achieved, which the Debtors do not believe is likely, the delay and additional cost of a Court-approved marketing process for these Liquor Licenses would negate any increase in price.

19. Accordingly, the Debtors submit that they have exercised their reasonable business judgment in seeking to assume the Purchase Agreements and thereby selling the Liquor Licenses thereunder, and that there is sufficient business justification for the assumption of the Purchase Agreements.

B. The Debtors’ Proposed Sale Procedures for the Remaining Liquor Licenses Should be Authorized Pursuant to Sections 105(a) and 363(b) of the Bankruptcy Code

1. The Debtors’ Sale of the Remaining Liquor Licenses Pursuant to the Sale Procedures is Supported by Business Judgment.

20. Section 105(a) of the Bankruptcy Code provides, in relevant part, that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Section 363(b) permits a debtor to use, sell, or lease, estate property “other than in the ordinary course of business” after notice and a hearing. 11 U.S.C. § 363(b)(1). Courts have authorized relief under section 363(b) where a debtor demonstrated a sound business justification for such relief. *See Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1071 (2d Cir. 1983) (“The rule we adopt requires that a judge determining a § 363(b) application expressly find from the evidence presented before him at the hearing a good business reason to grant such an application.”); *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1985) (“[T]he debtor must articulate some business justification, other than mere appeasement of major creditors.”).

21. As noted in the preceding section, once a debtor has articulated a valid business justification, the court accords great deference to such judgment, even in the context of chapter 11 cases. *See Integrated Res., Inc.*, 147 B.R. at 656; *Johns-Manville Corp.*, 60 B.R. at 615-16. The benefit of the business judgment rule is equally applicable in the context of sales under section 363. *See, e.g., Fulton State Bank v. Schipper (In re Schipper)*, 933 F.2d 513, 515 (7th Cir. 1991) (“[D]ebtor in possession can sell property of the estate outside the ordinary course of business if . . . he has an ‘articulated business justification.’”); *Stephens Indus., Inc. v. McClung*, 789 F.2d 386, 390 (6th Cir. 1986) (authorizing sale of debtor’s assets pursuant to section 363 “when a sound business purpose dictates such action”). The Third Circuit has explained that “under normal circumstances the court would defer to the trustee’s judgment so long as there is a

legitimate business justification” with respect to sales under section 363. *Myers v. Martin (In re Martin)*, 91 F.3d 389, 395 (3d Cir. 1996).

22. The Remaining Liquor Licenses are of little or no use or value to the Debtors’ estates or restructuring efforts. The Remaining Liquor Licenses are not of any use to those restaurants that the Debtors’ anticipate operating as part of its go-forward business plan. In order to realize any value that may be attributed to these assets, the Debtors seek authorization to consummate sales of the Remaining Liquor Licenses in accordance with the Sale Procedures set forth above. The Debtors have determined in their sound business judgment that implementing a process to sell Remaining Liquor Licenses will provide them with necessary flexibility during the Chapter 11 Cases, and thus is in the best interests of the Debtors’ estates and creditors. Moreover, those parties with an interest in the Remaining Liquor Licenses are fully protected by the opportunity to object and to obtain a hearing if desired.

23. Sales of liquor licenses pursuant to expedited sale procedures have been approved in other cases in this district. *See, e.g., Fresh & Easy, LLC*, Case No. 15-12220 (Bankr. D. Del. Jul., 22, 2016, Jul. 29, 2016).

24. Accordingly, the Debtors have a compelling business justification—to efficiently and effectively liquidate the Remaining Liquor Licenses for fair value—for seeking approval to sell the Remaining Liquor Licenses pursuant to section 363(b) and in accordance with the proposed Sale Procedures.

2. The Shortened and Limited Notice Under the Sale Procedures is Proper

25. Section 363(b)(1) of the Bankruptcy Code provides, in relevant part, that “the trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” The notice and hearing requirements contained in section

363(b)(1) are satisfied if appropriate notice and an opportunity for hearing are given in light of the particular circumstances. 11 U.S.C. § 102(1)(A) (defining “after notice and a hearing” to mean such notice and an opportunity for hearing “as [are] appropriate in the particular circumstances”). Generally, Rules 2002(a)(2) and 2002(i) of the Bankruptcy Rules require that a minimum of 21 days’ notice of proposed sales of property outside the ordinary course of business be provided by mail to “the debtor, the trustee, all creditors and indenture trustees” and any committee appointed under Section 1102 of the Bankruptcy Code.

26. Courts are authorized to shorten the 21-day notice period generally applicable to asset sales, or direct another method of giving notice, upon a showing of “cause.” *See* Fed. R. Bankr. P. 2002(a)(2). The usual process of obtaining court approval of each sale of the Remaining Liquor Licenses: (a) would create costs to the Debtors’ estates that may undermine or eliminate the economic benefits of the underlying transactions; and (b) in some instances may hinder the Debtors’ ability to take advantage of sale opportunities that are available only for a limited time. The Debtors therefore propose to streamline the process and shorten the applicable notice periods as described herein to maximize the net value realized from sales of Remaining Liquor Licenses for the benefit of all parties-in-interest.

C. Sale of the Liquor Licenses Free and Clear of Liens, Claims and Encumbrances is Authorized Under Section 363 of the Bankruptcy Code

27. A debtor in possession may sell property under section 363(b) and section 363(f) of the Bankruptcy Code “free and clear of any interest in such property of an entity other than the estate” if any one of the following conditions is satisfied:

- (1) applicable non-bankruptcy law permits the sale of such property free and clear of such interest;
- (2) such entity consents;

- (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- (4) such interest is a bona fide dispute; or
- (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

11 U.S.C. § 363(f).

28. Although the term “any interest” is not defined in the Bankruptcy Code, the Third Circuit has noted the trend in modern cases toward a “broader interpretation which includes other obligations that may flow from ownership of the property.” *Folger Adam Security, Inc. v. DeMatteis/MacGregor, JV*, 209 F.3d 252, 258-59 (3d Cir. 2000). The scope of section 363(f) is not limited to *in rem* interests in a debtor’s assets. *Id.* (citing *In re Leckie Smokeless Coal Co.*, 99 F.3d 573, 581-82 (4th Cir. 1996)). A debtor can therefore sell its assets under section 363(f) free and clear of successor liability that otherwise would have arisen under federal statute. *Id.*

29. The Debtors request approval to sell the Liquor Licenses on a final “as is” basis, free and clear of any Encumbrances in accordance with section 363(f) of the Bankruptcy Code. The Debtors anticipate that they will be able to satisfy one or more of the conditions set forth in section 363(f) in connection with any Encumbrance a party may assert against the Liquor Licenses. Indeed, the DIP Agent, and Bank of Colorado and Riesen Funding LLC, the Debtors’ junior secured lenders, have, subject to the right to review any transactions under the Sale Procedures, expressly consented to selling the Liquor Licenses free and clear of Encumbrances in accordance with the terms and provisions set forth herein and as set forth in the Proposed Order. Furthermore, the Debtors propose that any such liens, claims, and encumbrances be transferred and attached to the proceeds of the Liquor Licenses, as applicable, with the same priority and subject to the same rights, claims, defenses, and objections, if any, of all parties with respect thereto.

30. Courts in this district have previously approved such relief with respect to sales of liquor licenses pursuant to expedited sale procedures. *See, e.g., Fresh & Easy, LLC*, Case No. 15-12220 (Bankr. D. Del. Jul., 22, 2016, Jul. 29, 2016).

REQUEST FOR WAIVER OF STAY

31. The Debtors request that the Court waive the stay imposed by Bankruptcy Rule 6004(h), which provides that “[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” Fed. R. Bankr. P. 6004(h). As described above, the relief sought herein is necessary to maximize value for certain of the Debtors’ assets that could provide for meaningful recoveries for the Debtors’ creditors and to avoid unnecessary administrative expense that could undermine any such value. Accordingly, the Debtors respectfully request that the Court waive the 14-day stay imposed by Bankruptcy Rule 6004(h), as the exigent nature of the relief sought herein justifies immediate relief.

32. To implement the foregoing immediately, the Debtors respectfully request a waiver of the notice requirements of Bankruptcy Rule 6004(a) to the extent such requirements are deemed to apply.

NOTICE

33. The Debtors will provide notice of this Motion to: (i) the Office of the United States Trustee for the District of Delaware; (ii) counsel for the DIP Agent; (iii) counsel for Bank of Colorado; (iv) counsel for Riesen Funding LLC; (v) those creditors holding the thirty (30) largest unsecured claims against the Debtors’ estates (on a consolidated basis); (vi) all parties known to hold or assert an Encumbrance against the Assets; (vii) all state and municipal agencies with jurisdiction over the issuance of the Remaining Liquor License(s); and (viii) all parties who have requested notice in the chapter 11 cases pursuant to Del. Bankr. L.R. 2002-1. In light of the

nature of the relief requested herein, the Debtors submit that no other or further notice is necessary.

WHEREFORE, the Debtors respectfully request that the Court enter an order substantially in the form annexed hereto granting the relief requested herein and such other and further relief as the Court may deem just and proper.

Dated: Wilmington, Delaware
October 23, 2017

YOUNG CONAWAY STARGATT & TAYLOR, LLP

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*Proposed Counsel for the Debtors
and Debtors in Possession*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

MAC ACQUISITION LLC, *et al.*,¹

Debtors.

Chapter 11

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(Jointly Administered)

Obj. Deadline: November 6, 2017 at 4:00 p.m. (ET)

Hearing Date: November 13, 2017 at 11:30 a.m. (ET)

NOTICE OF MOTION

TO: (I) THE OFFICE OF THE UNITED STATES TRUSTEE FOR THE DISTRICT OF DELAWARE; (II) COUNSEL FOR THE DIP AGENT; (III) COUNSEL FOR BANK OF COLORADO; (IV) COUNSEL FOR RIESEN FUNDING LLC; (V) THOSE CREDITORS HOLDING THE THIRTY (30) LARGEST UNSECURED CLAIMS AGAINST THE DEBTORS' ESTATES (ON A CONSOLIDATED BASIS); (VI) ALL PARTIES KNOWN TO HOLD OR ASSERT AN ENCUMBRANCE AGAINST THE ASSETS; (VII) ALL STATE AND MUNICIPAL AGENCIES WITH JURISDICTION OVER THE ISSUANCE OF THE REMAINING LIQUOR LICENSE(S); AND (VIII) ALL PARTIES WHO HAVE REQUESTED NOTICE IN THE CHAPTER 11 CASES PURSUANT TO DEL. BANKR. L.R. 2002-1.

PLEASE TAKE NOTICE that Mac Acquisition LLC and its affiliated debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the "Debtors") have filed the attached *Debtors' Motion for Entry of an Order (A) Authorizing the Debtors to Assume Liquor License Purchase Agreements, (B) Authorizing and Approving Sales of Liquor Licenses Free and Clear of All Liens, Claims, and Encumbrances, and (C) Approving Expedited Procedures for the Sale of Remaining Liquor Licenses Including the Retention of Liquor License Brokers* (the "Motion").

PLEASE TAKE FURTHER NOTICE that any objections or responses to the relief requested in the Motion must be filed on or before **November 6, 2017 at 4:00 p.m. (ET)** (the "Objection Deadline") with the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, 3rd Floor, Wilmington, Delaware 19801. At the same time, copies of any responses or objections to the Motion must be served upon the proposed undersigned counsel to the Debtors so as to be received on or before the Objection Deadline.

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Mac Acquisition LLC (6362); Mac Parent LLC (6715); Mac Holding LLC (6682); Mac Acquisition of New Jersey LLC (1121); Mac Acquisition of Kansas LLC (3910); Mac Acquisition of Anne Arundel County LLC (6571); Mac Acquisition of Frederick County LLC (6881); Mac Acquisition of Baltimore County LLC (6865); and Macaroni Grill Services LLC (5963). The headquarters for the above-captioned Debtors is located at 1855 Blake St., Ste. 200, Denver, CO 80202.

PLEASE TAKE FURTHER NOTICE THAT A HEARING TO CONSIDER THE MOTION WILL BE HELD ON NOVEMBER 13, 2017 AT 11:30 A.M. (ET) BEFORE THE HONORABLE MARY F. WALRATH, IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 N. MARKET STREET, 5TH FLOOR, COURTROOM NO. 4, WILMINGTON, DELAWARE 19801.

PLEASE TAKE FURTHER NOTICE THAT IF NO OBJECTIONS OR RESPONSES TO THE MOTION ARE TIMELY FILED AND RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED THEREIN WITHOUT FURTHER NOTICE OR A HEARING.

Dated: Wilmington, Delaware
October 23, 2017

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Ryan M. Bartley

Michael R. Nestor (No. 3526)
Edmon L. Morton (No. 3856)
Ryan M. Bartley (No. 4985)
Elizabeth S. Justison (No. 5911)
Rodney Square
1000 North King Street
Wilmington, Delaware 19801
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emorton@ycst.com
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-and-

Jeffrey C. Krause (CA No. 94053)
Michael S. Neumeister (CA No. 274220)
Emily B. Speak (CA No. 294852)
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*Proposed Counsel for the Debtors
and Debtors in Possession*

EXHIBIT A

PROPOSED ORDER

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

MAC ACQUISITION LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 17-12224 (MFW)

(Jointly Administered)

Ref. Docket No. ____

**ORDER (A) AUTHORIZING THE DEBTORS TO ASSUME LIQUOR LICENSE
PURCHASE AGREEMENTS, (B) AUTHORIZING AND APPROVING SALES OF
LIQUOR LICENSES FREE AND CLEAR OF ALL LIENS, CLAIMS AND
ENCUMBRANCES, AND (C) APPROVING EXPEDITED PROCEDURES FOR THE
SALE OF REMAINING LIQUOR LICENSES**

Upon the *Debtors' Motion for Entry of an Order (A) Authorizing the Debtors to Assume Liquor License Purchase Agreements, (B) Authorizing and Approving Sales of Liquor Licenses Free and Clear of all Liens, Claims and Encumbrances, and (C) Approving Expedited Procedures for the Sale of Remaining Liquor Licenses* (the "Motion")² filed by the above-captioned debtors and debtors in possession (collectively, the "Debtors"); and this Court having found that it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334(b) and 157 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012; and this Court having found that venue of these cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having determined that it may enter a final order consistent with Article III of the United States

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² All capitalized terms used and not defined herein shall have the meanings ascribed to them in the Motion.

Constitution; and it appearing that notice of the Motion has been given as set forth in the Motion and that such notice is adequate and no other or further notice need be given; and a hearing having been held to consider the relief requested in the Motion; and upon the record of the hearing on the Motion and all of the proceedings had before this Court; and this Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates, their creditors and all other parties in interest; and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Order. The failure to specifically include any particular provision of the Purchase Agreements shall not diminish or impair the effectiveness of such provisions, it being the intent of this Court that the Purchase Agreements and all of their respective provisions, payments and transactions, be and hereby are authorized and approved as and to the extent provided for in this Order.
3. To the extent there is any conflict between this Order, the Purchase Agreements, and the Sale Procedures, the terms of this Order shall control over all other documents.
4. The Purchase Agreements are hereby assumed pursuant to section 365 of the Bankruptcy Code. The Debtors are authorized to act and perform in accordance with the terms of the Purchase Agreements.
5. Pursuant to section 363 of the Bankruptcy Code, the Debtors are authorized to sell, assign, transfer, convey and deliver the Liquor Licenses described in the Purchase

Agreements on the terms set forth in the Purchase Agreements, as applicable, without the need for any further order of this Court.

6. The following Sale Procedures are approved in their entirety; provided, however, that the Sale Procedures shall not apply to any proposed or actual sale to “insiders,” as that term is defined in Section 101 of the Bankruptcy Code:

- (a) With regard to sales of Remaining Liquor Licenses in any individual transaction or series of related transactions to a single buyer or group of related buyers with a selling price up to \$500,000:
 - (i) the Debtors are authorized to consummate such transactions if the Debtors determine in the reasonable exercise of their business judgment that such sales are in the best interest of the estates, without further order of the Court, subject to the procedures set forth herein;
 - (ii) any such transactions shall be free and clear of all Encumbrances with such Encumbrances attaching only to the sale proceeds in the same validity, extent, and priority as immediately prior to the transaction;
 - (iii) the Debtors shall give written notice of such sale in substantially the form attached hereto as Exhibit 1 (the “Sale Notice”) to (a) the Office of the United States Trustee for the District of Delaware; (b) counsel to any official committee; (c) counsel to the DIP Agent; (d) counsel to Bank of Colorado; (e) counsel to Riesen Funding LLC; (f) any known affected creditor(s) asserting an Encumbrance against the relevant Remaining Liquor License(s); (g) any party that has expressed an interest in purchasing the relevant Remaining Liquor License(s); (h) the state or municipality that issued the relevant Remaining Liquor License(s); and (i) any party that has requested notice pursuant to Bankruptcy Rule 2002(i) (each a “Sale Notice Party”);
 - (iv) the Sale Notice shall identify in reasonable detail (a) the Remaining Liquor License(s) proposed to be sold, (b) the purchaser, (c) the purchase price, (d) the significant terms of the sale agreement, (e) whether any fee is proposed to be paid from the sale proceeds, and (f) the marketing/sales efforts relating to the Remaining Liquor License(s) proposed to be sold;

- (v) if no written objection from any Sale Notice Party is received by the Debtors within ten (10) business days following service of the Sale Notice, the Debtors are authorized to (a) submit an order to the Court approving the transaction and making findings pursuant to section 363(f) and (m) and (b) immediately consummate such transaction after entry of such order; and
- (vi) if a written objection is received from a Sale Notice Party within such ten (10) business day period and such objection cannot be consensually resolved, the relevant Remaining Liquor License(s) shall only be sold upon further order of the Court after notice and a hearing.

7. The Debtors are authorized pursuant to section 105(a) and section 363(b)(1) of the Bankruptcy Code, to complete sales of the Remaining Liquor Licenses pursuant to the Sale Procedures, and to pay any fees payable to the License Listing Company from the proceeds of such sales, as applicable; provided, however, such fees shall not exceed 10% of the applicable purchase price unless approved by a separate order of this Court.

8. The sale of any Liquor Licenses, whether pursuant to Purchase Agreements or the Sale Procedures, are and shall be deemed arm's-length transactions entitled to protections of section 363(m) of the Bankruptcy Code.

9. All sales of Liquor Licenses pursuant to this Order and the procedures approved herein shall be free and clear of all liens, claims, interests, and encumbrances (collectively, "Encumbrances") against the Debtors, their estates or the Purchased Assets, because, in each case, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. Holders of Encumbrances against Liquor Licenses are adequately protected by having their Encumbrances attach to the cash proceeds attributable to the Liquor Licenses in which such creditor alleges an interest, in the same order of priority, with the same validity, force and effect that such creditor had prior to the sale, subject to any claims and defenses the Debtors may possess with respect thereto. Those holders of Encumbrances against the Liquor Licenses

who received notice of the Motion and that did not object to the relief requested therein are deemed to have consented pursuant to section 363(f)(2) of the Bankruptcy Code. Any holders of Encumbrances against Liquor Licenses sold pursuant the Sale Procedures who either, (i) received notice of the Motion and did not object to the relief requested therein, or (ii) do not object pursuant to the Sale Procedures, or in each case who withdraw their objections, shall be deemed to have consented pursuant to section 363(f)(2) of the Bankruptcy Code.

10. The proceeds of any Liquor Licenses sold during the Chapter 11 Cases pursuant to this Order shall be subject to and applied pursuant to the terms of the *Interim Order (I) Authorizing Debtors to Obtain Postpetition Secured Financing; (II) Authorizing Debtors To Use Cash Collateral; (III) Granting Adequate Protection to Prepetition Secured Parties; and (IV) Modifying the Automatic Stay* [Docket No. 56] (the “Interim DIP Order”), or any final order with respect thereto, and the DIP Agreement (as defined in the Interim DIP Order).

11. Notwithstanding anything herein to the contrary, the term “Encumbrances” does not include state or other local laws or regulations regarding the approval of any transfer or assignment of liquor licenses, or any taxes or fees specifically imposed on such liquor licenses under applicable law.

12. Notwithstanding the relief granted herein and any actions taken hereunder, nothing contained herein shall create, nor is intended to create, any rights in favor of, or enhance the status of any claim held by, any person.

13. Notice of the Motion as provided therein shall be deemed good and sufficient and the requirements of Bankruptcy Rule 6004(a) and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware are satisfied by such notice.

14. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

15. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: _____, 2017
Wilmington, Delaware

MARY F. WALRATH
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

SALE NOTICE

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

MAC ACQUISITION LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 17-12224 (MFW)

(Jointly Administered)

NOTICE OF SALE

PLEASE TAKE NOTICE that, on October 18, 2017, Mac Acquisition LLC and its affiliated debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “Debtors”) filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).

PLEASE TAKE FURTHER NOTICE that, on _____, 2017, the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) approved an *Order (A) Authorizing the Debtors to Assume Liquor License Purchase Agreements, (B) Authorizing and Approving Sales of Liquor Licenses Free and Clear of All Liens, Claims and Encumbrances, and (C) Approving Expedited Procedures for the Sale of Remaining Liquor Licenses* [Docket No. ____] (the “Sale Order”), whereby the court authorized the Debtors to, among other things, sell liquor licenses for their vacated restaurant locations (the “Liquor Licenses”) free and clear of all liens, claims, encumbrances, and interests (collectively, the “Encumbrances”).

PLEASE TAKE FURTHER NOTICE that, pursuant to the Sale Order, the Debtors propose to sell the Liquor License(s) set forth and described on Exhibit A attached hereto (the “Sale Assets”). Exhibit A identifies, for each Sale Asset, the purchaser, purchase price, significant terms of any applicable sale agreement, whether any fee is proposed to be paid from the sale proceeds, and the marketing/sales efforts undertaken by the Debtors.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Sale Order, any recipient of this notice may object to the proposed sale free and clear of Encumbrances within ten (10) business days following service of this notice by writing to the Debtors’ counsel, Young Conaway Stargatt & Taylor, LLP and Gibson, Dunn & Crutcher LLP. Objections: (i) must be in writing; (ii) must be received within ten (10) business days following service of this notice; and

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(iii) must be submitted by mail, facsimile or email to Michael R. Nestor, Esq. (mnestor@ycst.com) and Edmon L. Morton, Esq. (emorton@ycst.com), Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801, Telephone: (302) 571-6600, Facsimile: (302) 571-1253 and to Jeffrey C. Krause, Esq. (jkrause@gibsondunn.com) and Michael S. Neumeister, Esq. (mneumeister@gibsondunn.com), Gibson Dunn & Crutcher LLP, 333 South Grand Avenue, Los Angeles, California 90071, Telephone: (213) 229-7000, Facsimile: (213) 229-7520. **If you object, the Debtors may not sell the Sale Assets set forth on Exhibit A without further order of the Bankruptcy Court unless you and the Debtors consensually resolve the objection. If you fail to timely object, the Debtors may sell the Sale Assets without further order of the Bankruptcy Court.**

EXHIBIT B

PURCHASE AGREEMENT WITH EDDIE V'S HOLDINGS, LLC

LICENSE PURCHASE AND SALE AGREEMENT

AGREEMENT made this ____ day of July, 2017 by and between Mac Acquisition LLC, a foreign limited liability company organized under the laws of the State of Delaware, with a principal place of business at 1855 Blake Street, Denver, CO 80202, hereinafter referred to as the "Seller", Eddie V's Holdings, LLC, a Florida limited liability corporation, doing business as "Eddie V's" with a principal corporate address of 1000 Darden Center Drive, Orlando, Florida 32837, hereinafter referred to as the "Buyer", and MJDEL, LLC a Massachusetts limited liability company with a business address of 61 Solomon Pierce Road, Lexington, Massachusetts, 02420, hereafter referred to as the "Landlord".

WHEREAS, the Seller operated a restaurant known as "Romano's Macaroni Grill " at 50 South Avenue, Burlington, Massachusetts (the "Seller's Business"); and

WHEREAS, an all alcoholic beverages restaurant license, ABCC#00029-RS-0160, (the "License") has been issued to the Seller in connection with the Seller's Business;

WHEREAS, the Landlord, Pursuant to that certain Order, dated March 13, 2017, in the Matter of MJDEL, LLC, Plaintiff, versus Mac Acquisition LLC, Defendant and Bank of America, Trustee Process Defendant, Landlord has been granted "the authority to dispose, sell, or transfer the Liquor License".

WHEREAS, the Buyer intends to operate a restaurant known as "Eddie V's" at 50 South Avenue, Burlington, Massachusetts (the "Buyer's Business");

WHEREAS, Seller and the Landlord desire to sell to the Buyer, the Buyer desires to purchase from the Seller, the Seller's right, title and interest in and to the License upon the terms and conditions hereinafter set forth.

In consideration of One (\$1.00) Dollar and other valuable consideration by each of the parties hereto to the other paid, the receipt of which is hereby acknowledged, and of the covenants and agreements hereinafter set forth, the parties have agreed and by these presents do hereby agree as follows:

1. SALE OF ALL ALCOHOLIC BEVERAGES LICENSE. The Seller agrees to sell and the Buyer agrees to buy the License.

2. PURCHASE PRICE. For said conveyance and transfer, the Buyer, or its nominee, shall pay the total sum of Three Hundred and Fifty Thousand and 00/100 (\$350,000.00) Dollars as follows:

(i) Thirty-Five Thousand and 00/100 (\$35,000.00) Dollars, as a deposit, has been paid upon the execution hereof to Escrow Agent pursuant to paragraph 9 of this Agreement, the receipt of

which is acknowledged by the Escrow Agent; which deposit shall be paid by Escrow Agent as set forth in this Agreement; and

(ii) Three Hundred Fifteen Thousand and 00/100 (\$315,000.00) Dollars shall be paid in cash or by certified, bank treasurer's, company or attorney's IOLTA check or in other good funds at the time of closing.

3. REPRESENTATIONS AND COVENANTS OF SELLER. The Seller warrants, represents and covenants the following:

(a) The Seller has, and will have, good and marketable, indefeasible, title to the License, which is, and will be at the closing, in good standing and in full force and effect.

(b) The Seller is a duly organized and existing Delaware limited liability company in good standing, with a principal office as listed in the first paragraph hereof.

(c) The Seller materially represents that the person or persons signing this agreement on behalf of the corporation has/have been duly authorized by the company to do so.

(d) As of the date of execution there is no litigation or other proceedings, including Seller being named as a debtor in any bankruptcy proceedings, pending and known against the Seller which shall make it impossible for the Seller to consummate the transaction in accordance with the terms and conditions contained herein, subject to the Order, as defined below. Buyer shall not be obligated to close the transaction as contemplated in Section 6 unless the Seller can reaffirm the representation contained in this Section 3(d) at the time of closing. Parties acknowledge that pursuant to that certain Order, dated March 13, 2017, in the Matter of MJDEL, LLC, Plaintiff, versus Mac Acquisition LLC, Defendant and Bank of America, Trustee Process Defendant (the "Order"), Landlord has been granted "the authority to dispose, sell, or transfer the Liquor License" and that Landlord signing this agreement agrees to be a party to this agreement to permit the sale of the liquor license from Seller to Buyer as set forth in this agreement.

(e) The License will be transferred to the Buyer free and clear from all encumbrances and will contain the usual warranties of title which will survive the closing, provided that Landlord has waived or released any and all rights granted to it pursuant to the Order.

(f) No judgments or liens will be outstanding at the time of closing against the Seller which will prevent its compliance with the terms and conditions contained herein relative to the License.

(g) The Seller will indemnify the Buyer and hold the Buyer harmless from and against all acts, actions, suits, damages, judgments, costs, charges, expenses and attorneys' fees, in consequence of any liability of whatsoever nature occurring prior to the closing and which may be successfully asserted against the Buyer, at any time as the transferee of the license to be purchased by the Buyer hereof; it being

understood that this indemnity refers only to such transferee liabilities as might be imposed by law on the Buyer, as the transferee of the License to be purchased by the Buyer hereunder.

(h) The Seller, to the best of its knowledge, has complied with all laws, rules and regulations of the municipal, state and federal governments, and is not in violation of any terms and conditions of the License which said violation would prevent the transfer of the license to the Buyer in accordance with the provisions of this Agreement.

(i) The Seller has not entered into any contract to sell or mortgage the License.

(j) The Bill of Sale and instruments of assignment to be delivered at the closing will transfer to the Buyer, or its nominee, all of the interest of the Seller in the License issued by the Town of Burlington.

(k) At the time of the closing there will be no restraining orders, tax liens or outstanding taxes owed to the Commonwealth which will prevent the transference of the License.

(l) At the time of the closing the Seller will pay, or will have paid, all monies owed for liquor to any liquor wholesaler or distributor so that there will be no outstanding monies owed by the Seller relative to this License and the Seller will not be delinquent with any liquor wholesalers or distributors relative to this License, it being the intention of this provision that there will be no reason based on the Seller's debt to a liquor wholesaler or distributor for the Buyer to be prevented from ordering liquor from the same on credit.

4. REPRESENTATIONS AND COVENANTS OF BUYER. The Buyer warrants, represents and covenants the following:

(a) The Buyer is a duly organized and existing Florida limited liability company in good standing, with a principal office at 1000 Darden Center Drive, Orlando, Florida, 32837.

(b) The Buyer materially represents that the person or persons signing this agreement on behalf of the corporation has/have been duly authorized by the company to do so.

(c) To the best of Buyer's knowledge, no facts exist which would result in the denial of the transfer of the License to the Buyer. To the best of Buyer's knowledge it is a qualified licensee and has a qualified manager as required by the Burlington Licensing Board and the ABCC for the ownership and operation of an establishment with service of alcoholic beverages.

(d) As of the date of closing there will be no litigation or other proceedings pending known against the Buyer which shall make it impossible for the Buyer to consummate the transaction in accordance with the terms and conditions contained herein.

(e) The Buyer, to its knowledge, has complied with all laws, rules and regulations of the town, state and federal governments.

(f) The Buyer has not entered into any contract to purchase any other all alcohol or License which would prohibit the transfer of the License to the Buyer as contemplated herein.

(g) The Buyer will indemnify the Seller and hold the Seller harmless from and against all acts, actions, suits, damages, judgments, costs, charges, expenses and attorneys' fees, in consequence of any liability of whatsoever nature occurring after the closing and which may be successfully asserted against the Seller, at any time as the transferor of the License to be purchased by the Buyer hereof; it being understood that this indemnity refers only to such transferee liabilities as might be imposed by law on the Seller as the transferor of the License to be purchased by the Buyer hereunder.

5. NO ASSUMPTION OF LIABILITIES. The parties agree and acknowledge that the Buyer is not assuming any liabilities or obligations of the Seller whatsoever with regard to the License unless expressly set forth herein.

6. CLOSING. The closing shall take place at The Law Office of George P. Katsarakes, PC, 56 Middlesex Turnpike, Suite 220, Burlington, Massachusetts 01803 within ten (10) days after the approval and notification by the Town of Burlington that it has received the approval from the Massachusetts Alcoholic Beverages Control Commission ("ABCC") for the transfer of the License to the Buyer and change or alteration of location to Buyer's proposed place of operation at 50 South Avenue, Burlington, Massachusetts (the "Liquor Application"), unless some condition precedent to closing (including the conditions of sale set forth in paragraph 12) has not been satisfied, and then in such case ten (10) days after such condition has been satisfied, or at any other time and place which shall have been mutually agreed upon in writing. Provided, however, in the event that said approvals have not been obtained or transferred or the last of the conditions precedent have not been satisfied or waived by March, 31, 2018, (including any delay resulting from Seller being named as a debtor in any bankruptcy proceeding), either party may terminate this Agreement upon ten (10) days' written notice to the other (unless said licenses are obtained or transferred and the remaining conditions precedent waived or satisfied within such ten (10) day period in which event this Agreement shall not be terminated) and all deposits made hereunder shall be refunded forthwith.

At the closing, and as a condition precedent to the payment of the purchase price provided for in Paragraph 2 hereof, the Seller shall deliver to the Buyer the following documents:

(a) Title Documents - A Bill of Sale conveying good title to the License with the usual warranties of title in accordance with this agreement, free from all encumbrances, liens and liabilities of any nature, and any other reasonable and customary instruments required by the Buyer or Buyer's counsel to effectuate the transfer contemplated herein.

(b) Manager's Authorization - An authorization duly executed by the SELLER in accordance with its operating agreement as to the due adoption by the SELLER of resolutions authorizing (i) the transaction to be performed by the SELLER under this Agreement and (ii) the manager or officers of the SELLER to do all acts and deeds necessary or desirable to accomplish the transactions to be performed by the SELLER under this Agreement.

(c) Certificate of Good Standing - A Certificate of Good Standing from the Massachusetts Secretary of the Commonwealth's Corporations Division.

(d) Waiver of Tax Lien - A Waiver of Tax Lien per, or Compliance with, General Laws Chapter 62C, Section 52 for the Seller issued by the Massachusetts Department of Revenue or proof satisfactory to Buyer that the Seller is not subject to a lien thereunder.

7. SURVIVAL OF REPRESENTATIONS. All representations, warranties, and agreements made by the Seller in this agreement or pursuant hereto, except as otherwise expressly stated, shall survive the closing.

8. DEPOSIT. All deposits made hereunder shall be held in escrow by Ronald W. Dunbar, Jr., Esq. , Dunbar Law P.C., 197 Portland Street, 5th Floor, Boston, Massachusetts 02114 , in a non-interest bearing escrow account, and duly accounted for at closing.

9. ESCROW. Pending approval or disapproval of the Liquor Application by the Licensing Board of the Town of Burlington and the ABCC, the monies deposited under this Agreement shall be held in escrow, (pursuant to that certain order dated March 31, 2017, Dunbar Law PC shall hold the sale proceeds from the sale of the License, including the Deposit, in escrow pending a resolution of the lawsuit between MJDEL, LLC and MAC Acquisition, LLC unless the Deposit is required to be returned to Darden pursuant to this Agreement) by Ronald W. Dunbar, Jr., Esq. , Dunbar Law P.C., 197 Portland Street, 5th Floor, Boston, Massachusetts 02114 ("Escrow Agent") upon the following terms:

Upon satisfactory proof to the Escrow Agent that the Liquor Application has been approved by both the Burlington Licensing Authority and the Massachusetts Alcoholic Beverages Control Commission to the Buyer or its nominee, and notification of the place and time for the closing, the Escrow Agent shall retain Seller's proceeds and comply with the court order referenced in Paragraph 3(d) as to the purchase money held by him, and the Escrow Agent shall thereupon be discharged from all liability under this Agreement.

If the Liquor Application is disapproved and the License is denied to the Buyer or its nominee due to the breach of this Agreement by the Buyer, the Escrow Agent, upon written notice given by both the Buyer and Seller, or per a valid court order, shall forthwith retain for the benefit of the Seller or its

nominee the deposit held by him as per the court order referenced in paragraph (d), and the Escrow Agent shall thereupon be discharged from all liability therefore, and all rights of the Buyer and the Seller under this Agreement shall thereupon terminate.

In the event either party exercises its option to terminate the Agreement per the terms of paragraph 6 hereof, the Escrow Agent shall forthwith pay over to the Buyer or its nominee the deposit held by him, and the Escrow Agent shall thereupon be discharged from all liability therefore, and all rights of the Buyer and the Seller under this Agreement shall thereupon terminate.

Escrow Agent shall not be made a party to any lawsuit or dispute having to do with this Agreement so long as the Escrow Agent acts in good faith, and in connection therewith, Escrow Agent shall be held harmless and indemnified by the parties to this Agreement.

10. **BUYER'S DEFAULT.** In the event of default of the Buyer hereunder, any deposit paid by the Buyer hereunder shall be retained by the Seller as liquidated damages, which shall be the sole remedy at law and in equity for the Seller.

11. **BROKER.** It is agreed by and between the parties that no broker or agent brought about the sale of the License. If it should be determined that any broker or agent is due a commission the party engaging the services of such other broker or agent shall be fully and solely obligated to pay such commission.

12. **CONDITIONS OF SALE.** This Agreement and the closing hereunder is subject to the following:

(a) Approval by the Burlington Licensing Board and the ABCC of the Liquor Application, in accordance with the business set-up and operation described in the Buyer's application for the same, which shall be in a form suitable for the Buyer's purpose at the Buyer's sole discretion. Seller agrees to cooperate in the transfer of the License and to execute and deliver such documents and other things necessary or desirable to effectuate the submission of the Liquor Application and approval in a timely manner. Landlord agrees to cooperate in the transfer of the License and to execute and deliver such documents and other things necessary or desirable to effectuate the submission of the Liquor Application and approval in a timely manner. Buyer shall be solely responsible for the cost of the Liquor Application, and Buyer shall use reasonable business efforts to pursue the same and respond to all inquiries and reasonable requests for information from all applicable governmental and civic organizations. Failure of the Buyer to use reasonable business efforts in pursuing the Liquor Application shall be considered a default under the provisions of this Agreement. Buyer shall use reasonable business efforts to apply for and file the Liquor Application, but in no event shall Buyer be required to file the same until November 30, 2017.

(b) The Buyer entering into a satisfactory lease for its proposed location of operation at 50 South Avenue, Burlington, Massachusetts, between the owner of the said premises, as landlord, and the Buyer, as tenant, which lease shall be satisfactory to the Buyer in the Buyer's sole discretion, the lease remaining in full force and effect until the approval of the License Application by the Town of Burlington and the ABCC and the obtaining by the Buyer of all necessary municipal and other governmental permits, approvals and resolutions required to commence the construction on the Premises according to the specifications of the Buyer..

13. NOTICE: Any notice, demand, request or other instrument which may be or is required to be given under this Agreement shall be deemed to have been duly given if in writing and (a) sent by facsimile, email or other commonly used mode of electronic or digital transmission, if a facsimile number or email address is provided in this Agreement; (b) deposited in the United States mail, postage prepaid, certified or registered mail, return receipt requested; or (c) delivered personally or sent by a nationally recognized overnight courier, all charges prepaid, at the addresses of SELLER and BUYER as set forth in this Paragraph. Notice given to either party's legal counsel shall be deemed to have been given to the represented party. Such address or other contact information may be changed by written notice to the other party in accordance with this Paragraph.

To Buyer:

Eddie V's, LLC
C/O Darden Restaurants, Inc.
Attn: Leeanne K. Calderon
Paralegal, Licensing
1000 Darden Center Drive
Orlando, Florida 32837
Ph 407-245-5401
Fax 407-241-7454
lcalderon@darden.com

With a copy to:

Joseph H. Devlin
Devlin Law Offices, LLC
1 Harris Street, Ste 1
Ph: 617-514-2837
Fax: 617-514-2825
Email: jdevlin@devlinlawoffices.com

To Seller:

Mac Acquisition LLC
1855 Blake Street

Denver, CO 80202
Attention: Legal Department

With copies to:

Andrew Upton, Esq.
DiNicola, Seligson & Upton
6 Beacon Street, Suite 700
Boston, MA 02108

Stephen Cohen, Esq.
315 Parkview Terrace
Golden Valley, MN 55416

MJDEL, LLC
C/O Nick Delegas, Manager
61 Solomon Pierce Road
Lexington, Massachusetts, 02420

And
George P. Katsarakes, Esq.
The Law Office of George P. Katsarakes, PC
56 Middlesex Turnpike, Suite 220
Burlington, Massachusetts 01803
Tel 781-273-1055
Fax 781-273-1011
Email: george@katsarakes.com

Notice given pursuant to the method described in (a) shall be deemed effective only upon receipt by the party to whom such notice is addressed, within the time frame applicable to such notice. All notices given pursuant to the methods described in (b) and (c) shall be deemed effective upon mailing. Either party may notify the other of a new address, in which case such new address shall be employed for all subsequent mailings. The effective date of such notice of new address shall be determined by the method of notice used pursuant to (a), (b) and (c) above. The parties agree that this Agreement and any amendment may be transmitted between them by facsimile, email or other commonly used mode of electronic or digital transmission. The parties intend that faxed, emailed or electronic or digital transmissions of signatures constitute original signatures for all purposes. It is agreed and understood that any amendment of the provisions of this Agreement, or any extension of this agreement, may be executed on behalf of a party by their counsel.

14. BENEFIT. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, heirs and legal representatives, provided that neither party shall assign any of its rights hereunder without the prior written consent of the other.

15. ENTIRE AGREEMENT MODIFICATION. This Agreement is to take effect as a sealed instrument and sets forth the entire agreement between the parties relative to the subject matters hereof and may be cancelled or modified only by a written instrument executed by the parties.

16. MASSACHUSETTS CONTRACT. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts and may be executed in any number of counterparts, each of which when executed and delivered is an original, but all of which together shall constitute one instrument. Facsimile signatures shall be deemed as originals for all purposes so required.

17. NATURE AND SURVIVAL OF REPRESENTATION. All statements contained in any certificate or other instrument delivered by or on behalf of the Seller, or in connection with the transactions contemplated hereby, shall be deemed representations, warranties, and agreements made by the Seller in this Agreement or pursuant hereto shall survive the closing.

18. PAYMENT OF ANNUAL FEE. The cost of the annual fee for the License shall be adjusted pro rata at the date of closing, and the net amount thereof shall be added to the purchase price payable by the Buyer at closing, unless the Town of Burlington charges the Buyer an annual fee or prorates the same upon issuance of the License to the Buyer.

19. USE OF PURCHASE MONEY TO CLEAR TITLE. To enable the Seller to make conveyance and transfer as herein provided, the Seller may at the time of delivery of the Bill of Sale and other instruments of transfer, use the purchase money or any portion thereof, to clear title of any or all encumbrances; provided, that all instruments so procured are recorded simultaneously, or reasonably thereafter, with the delivery of said Bill of Sale.

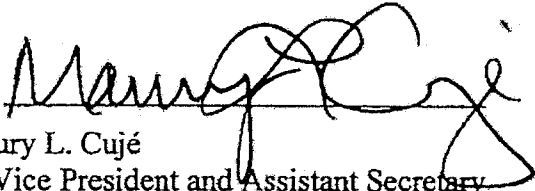
20. LANDLORD. In the event it is necessary that Seller join in or provide information in connection with the transfer of the Liquor License and fails to do so, Landlord agrees to take reasonable action, at Landlord's sole cost and expense, to seek enforcement of the Order against Seller and to assist Tenant in working with the City of Burlington and the Massachusetts Alcohol Beverage Commission to get them to accept Landlord's and Tenant's rights to the sale and transfer of the Liquor License.

Signed as a sealed instrument on the date first above written.

Seller:

Mac Acquisition LLC

By:



Maury L. Cujé
Its Vice President and Assistant Secretary
Mac Acquisition LLC
and being duly authorized.

Buyer:

Eddie V's Holdings, LLC

By: _____

and being duly authorized.

Landlord:

MJDEL, LLC

BY:



Nick Delegas, Manager
and being duly authorized

Signed as a sealed instrument on the date first above written.

Seller:

Mac Acquisition LLC

Buyer:

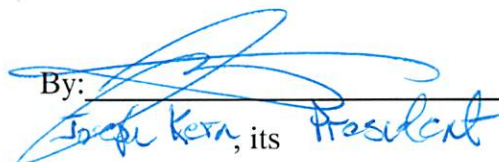
Eddie V's Holdings, LLC

By: _____

, its

and being duly authorized

By: _____

 Joseph Kern, its President

and being duly authorized.

Landlord:

MJDEL, LLC

BY: _____

Nick Delegas, Manager

and being duly authorized

EXHIBIT C

PURCHASE AGREEMENT WITH YARDBIRD BEVERLY HILLS LLC



2222 Damon Street
Los Angeles, CA 90021
Tel: (213) 417-2341 • F: (213) 417-2339
www.abcescrow.com
kim@abcescrow.com

State of California- Department of Business Oversight

ESCROW INSTRUCTIONS SALE OF ALCOHOLIC BEVERAGE CONTROL LICENSE

Date: April 26, 2017
Officer: Kim Ables
Escrow No: 16506-KA

This instruction is given this Twenty Sixth day of April, 2017, by and between
MAC ACQUISITION LLC
PREMISE ADDRESS: 25720 THE OLD RD, Stevenson Ranch, CA 91381
LIQUOR LICENSE NO: 47-472479
hereinafter known and designated as the **SELLER(S)**, and

YARDBIRD BEVERLY HILLS LLC
PREMISE ADDRESS: 8500 BEVERLY BLVD #112, LOS ANGELES, CA 90048,
hereinafter known and designated as the **BUYER(S)**,

The above mentioned liquor license is the subject of this escrow, which Seller owns and agrees to sell and Buyer agrees to purchase from Seller, described as Alcoholic Beverage License: **ON SALE GENERAL EATING PLACE** License Number **47-472479** to be transferred to Buyer's said premises on the following terms and conditions:

Terms of Transaction

1. PURCHASE PRICE	\$	80,000.00
DEPOSIT - DUE UPON SIGNING	\$	8,000.00
BALANCE DUE	\$	72,000.00

Within thirty (30) days after application has been filed with the Department of Alcoholic Beverage Control, the Buyer agrees to deposit the balance of the purchase price as set out above plus any additional balance of funds due to Escrow Holder. Escrow Holder is instructed to then execute and forward the ABC form 226 to the Department of Alcoholic Beverage Control, indicating that the consideration has been deposited into the escrow.

2. Subject to any precedent requirements, Seller and Buyer shall cause an application to be made for the transfer of the subject license at the proper office or offices of the Department of Alcoholic Beverage Control within 30 days of the date hereof. Transfer fee to be paid by Buyer.

3. Pursuant to Section 24073 of the Business and Professions Code of the State of California, Seller/Transferor and Buyer/Transferee will cause the Notice of Intended Transfer to be filed for record in the office of the county recorder in the county where the license is located, and provide a copy of said notice, certified by the county recorder, to be deposited with the Department of Alcoholic Beverage Control. The parties hereto authorize and instruct **ABC Escrow** to execute the Seller's signature on "Notice of Intended Transfer Liquor License" as accommodation to the parties in this escrow.

4. Escrow shall close upon issuance of said license to Buyer by the Department of Alcoholic Beverage Control.

5. The Escrow Holder discloses Craig Block has an affiliated interest in both **ABC Escrow**, and **LiquorLicense.com**.

If Escrow Holder is notified by the Department of Alcoholic Beverage Control that any tax agency under the provisions of Section 24049 of said Act has withheld the transfer and that nothing at the time of such notification is preventing the transfer except the release of such withhold, then upon Notice to Seller the Escrow Holder is authorized and instructed to pay from funds in escrow the amount of taxes claimed due by any such agency and charge the Seller's account without further authorization required for doing so.

Upon notification to Escrow Holder by the Dept. of Alcoholic Beverage Control of approval of the transfer of the license, Escrow Holder shall furnish the Seller with a list of the claims filed in escrow prior to receipt of said notification. Unless Seller notifies Escrow Holder in writing to the contrary within ten (10) days after Escrow Holder have furnished said list, all claims appearing on said list, shall be construed by Escrow Holder as being bonafide and Escrow Holder is authorized and instructed to pay the same in accordance with Section 24074 of the Business & Professions Code of California.

ADDITIONAL INSTRUCTION ATTACHED HERETO AND MADE A PART HEREOF

My initials below represent my agreement and acknowledgment of the foregoing.

Buyer

Page 1

Seller

Buyer agrees to pay 100% of the escrow fees and costs in this transaction. Further, 100% of the costs of processing claims and the payment of claims by taxing authorities and other creditors will be paid by the Seller as follows:

\$ 25.00 -- for each claim received/entered into escrow.

\$ 75.00 -- for each claim paid through escrow.

\$250.00 -- for notification to claimants of disputed claims.

Seller Initials _____

Escrow Holder is authorized and instructed to disburse from Buyer's funds on deposit any amounts necessary for the payment of expenses which must be paid prior to the close of escrow, including but not limited to: recording fees, and overnight mail services. The parties acknowledge that though such disbursements are made from Buyer's funds on deposit, these payments may be made for the benefit of either the Seller or the Buyer to facilitate the closing of this escrow. These payments are not refundable whether this escrow closes or cancels and all parties acknowledge ABC Escrow shall have no responsibility or liability in connection with the recovery of Buyer's funds should a dispute arise between Buyer and Seller. At the close of escrow, Escrow Holder is authorized to charge the party for whom the expense was incurred and is released from any and all liability in connection with compliance with this instruction.

In addition to the purchase price payable to the Seller for the license, the Buyer is paying a finder's fee through this escrow per the terms of a separate agreement and instruction deposited herewith, a matter which the Seller has no responsibility.

Buyer herein understands that it is Buyer's responsibility to pay the license renewal fee in the amount of \$572.00 or the prevailing rate to the Department of Alcoholic Beverage Control on or before 7/31/2017.

Buyer Initials: AS

Escrow Holder is authorized and instructed to take a cancellation fee from funds on deposit as specified in this instruction and the additional cancellation instructions. Escrow Holder will disburse any remaining deposits to the parties specified in the instructions.

Buyer Initials: _____

Seller Initials: _____

THIRD PARTY DEPOSITS: Each party hereto hereby authorizes Escrow to accept deposits from third parties on behalf of either Buyer or Seller. In the event any funds on deposit with Escrow are to be paid to or on behalf of either Buyer or Seller upon termination of an escrow, and any portion of said funds on deposit have been deposited by a third party, the party on whose behalf the funds are to be paid (i.e., Buyer or Seller) shall, as a condition of Escrow's payment of such funds, provide Escrow with a written direction as to the person/entity to which said funds are to be paid, which direction shall be signed by both the party on whose behalf said funds are to be paid and the third party depositor.

Buyer Initials: AS

Seller Initials: _____

ESCROW INSTRUCTIONS: ABC Escrow, may accept Escrow Instructions executed in counterpart as separate originals, regardless of the date of their signing and delivery. Such counterparts together shall be construed as one and the same document.

Escrow Agent, Seller, and Purchaser, and each of them, agree that this Agreement, all amendments hereto, notices and communications given in accordance herewith, may be executed in counterpart and transmitted by facsimile, adobe/pdf format or other similar media, each of which shall be deemed an original signed by the transmitting party, the authenticity of which signature(s) shall be deemed to be authenticity represented by the transmission.

GENERAL PROVISIONS: The Parties acknowledge that they have read, understood, and agreed to the General Provision of these Escrow Instructions, and that the Provisions as stated are fully incorporated into these Escrow Instructions. The undersigned state that they have read these instructions and understand and agree to them. Escrow Holders are not authorized to give legal advice. If you desire legal advice, consult your attorney before signing.

1. The parties hereby enter into this escrow at ABC Escrow, 2222 Damon Street, Los Angeles, CA 90021, hereafter referred to as Escrow Holder, for the purpose of completing this transaction in accordance with Sections 6101-6107 of the Uniform Commercial Code of California, Section 3440 of the California Civil Code, or such other law as may be applicable to the subject matter of this escrow.
2. No demand, alteration or amendment shall be binding on Escrow Holder unless given in writing, signed by all parties hereto and deposited with Escrow Holder.
3. Should any dispute arise between or among the parties hereto or third parties or should Escrow Holder receive conflicting demands with reference to the escrow, Escrow Holder may, at its option, but without limiting its other rights hereafter set forth, do either of the following.
 - A. Stop all proceedings in the performance of this escrow and withhold delivery of documents or monies in its possession until such dispute or conflicting demands have been resolved and written proof thereof has been deposited in escrow.

ADDITIONAL INSTRUCTION ATTACHED HERETO AND MADE A PART HEREOF
My initials below represent my agreement and acknowledgment of the foregoing.

Buyer AS

Seller _____

ADDITIONAL ESCROW CONDITIONS AND INSTRUCTIONS - GENERAL PROVISIONS

- B. File an interpleader suit in any court of competent jurisdiction. Upon the filing of such suit, Escrow Holder shall be fully released and discharged of and from all obligations and liability in connection with the escrow, and the parties jointly and severally agree to pay Escrow Holder all costs, expenses, charges and actual attorneys' fees expended or incurred by Escrow Holder.
4. In the event Escrow Holder receives from any third party any claim or demand against any party hereto, and such claim or demand is denied or disallowed in whole or in part, Escrow Holder may notify the said claimant of such denial or disallowance and hold the money or documents of the party against whom the claim is made for a period of twenty-five (25) days. Should the claimant fail to cause a levy on the documents, funds, or assets of said party within the time so provided, Escrow Holder may, in its discretion, distribute funds or documents to the party against whom the claim or demand was made, without liability to any person for so doing.
5. In the event that escrow receives cancellation instructions signed solely by the Buyer or the Seller, the parties agree that should the Escrow Holder not receive additional instructions within 120 days of receiving the initial cancellation instructions, the Escrow Holder shall deem the escrow cancelled and to disburse any remaining deposits in accordance with specified in the instructions.
6. The parties acknowledge that Escrow Holder is a mere stakeholder as contemplated in Section 386.5 of the California Code of Civil Procedure, and Escrow Holder shall not be required to perform any services or duties except the safekeeping of money, instruments, or other documents received by it and the disposition of same in accordance with the written instructions accepted in this escrow. However, without further authorization, Escrow Holder may accept performance from the parties hereto after the time specifically provided for performance has passed.
7. Escrow Holder shall not be liable for any of the following:
- A. The sufficiency or correctness of form, content, execution or validity, or any instrument deposited in escrow;
 - B. The identity, authority, or right of any person to execute the documents referred to in herein;
 - C. The failure of the parties to comply with these instructions or any agreement or documents filed or referred to herein;
 - D. Any reasonable exercise of discretion by Escrow Holder provided such exercise is authorized by these instructions;
 - E. Fraud perpetrated by any person in connection with this escrow; except that Escrow Holder shall be liable for its own actions or inactions.
 - F. Forgeries or false impersonations occurring in connection with this escrow; except that Escrow Holder shall be liable for its own actions or inactions.
8. Each party to this Escrow further warrants that any negotiable instrument ("Instrument") delivered to Escrow by or on behalf of such party ("Delivering Party") shall be honored upon presentation by Escrow. In the event such Instrument is not honored upon presentation, such Delivering Party shall be charged by Escrow a dishonored check fee of \$25.00. Upon any Instrument not being honored upon any second attempt to negotiate such Instrument, Escrow requires such Delivering Party to deliver to Escrow a replacement cashier's check in the amount of the original Instrument, plus the dishonored Instrument fee. In the event a cashier's check is required by Escrow, at its sole discretion, to replace the opening deposit funds, then only a cashier's check will be accepted for payment of all further deposits into Escrow on behalf of such party.
9. The parties promise to indemnify and hold Escrow Holder harmless of and from all costs, charges, damages, claims, judgments, attorneys' fees, expenditures, obligations, expenses and liabilities but only to the extent arising out of such party's actions or inactions which Escrow Holder may incur or sustain in connection with this escrow.
10. Except for claims which have been expressly disapproved by the party against whom made, or are subject to specific distribution rules (i.e., Business & Professions Code §24074, if the consideration to be received by such party is insufficient to pay in full the claims duly filed in escrow against such party, Escrow Holder may distribute the consideration pro rata to the claimants without further notice to, or authorization from, the parties hereto.
11. Should any paragraph, clause, or provision of this Agreement be construed or interpreted by a court of competent jurisdiction to be void, invalid, or unenforceable, such decision shall affect only the paragraph, clause or provision so construed or interpreted and shall in no event affect the remaining paragraphs, clauses or provisions of these instructions which shall remain valid, subsisting and enforceable.
12. Escrow Holder is hereby instructed by the parties to pay from the funds deposited in escrow, upon notice to Seller, either at the close of escrow or prior to the close of escrow if payment is a condition precedent to the transfer of the Alcoholic Beverage License which is the subject of this escrow, the following claims against or indebtedness of the Seller, to-wit, taxes assessed whether or not designated as a hold against the transfer of the license, including but not limited to, taxes due under the Alcoholic Beverage Tax Law, the Sales and Use Tax Law, the Personal Income Tax Law, or the Bank and Corporation Tax Law, or taxes on unsecured property as defined in Section 134 of the Revenue and Taxation Code, provided such tax liability arose in full or in part out of the conduct of a business licensed by the Department of the Alcoholic Beverage Control. Payments pursuant to the above instructions made from funds deposited in escrow by the Buyer shall be credited upon the purchase price.
13. With respect to creditors' claims against the Seller, Escrow Holder is instructed as follows:
- A. Escrow Holder may accept creditors' claims until such time as the escrow has been notified by the Department of Alcoholic Beverage Control of its approval of the transfer of the subject license.
 - B. Escrow Holder may accept creditors' claims filed by mail, fax, delivery, overnight mail, or via the internet at www.abcescrow.com or claims@abcescrow.com. You are instructed to pay timely filed creditors' claims pursuant to the provisions of the California Business and Professions Code Sections 24074 and 24074.1, as follows:
 - C. After the requirements for the transfer of the license as provided in Section 24049 of the Business and Professions Code are satisfied, you shall pay out of the purchase price or consideration, the claims of the bonafide creditors of the seller who file their claims with you before you are notified by the department of its approval of the transfer of the license, or if the purchase price or consideration is not sufficient to pay the claims in full, you shall distribute the consideration as follows:
 - (i) First, to the United States for claims based on income or withholding taxes: and thereafter for claims based on any tax other than specified under Section 24049;
 - (ii) Second, to the payment of claims for wages, salaries, or fringe benefits of employees of the Seller or Transferor earned or accruing prior to the sale, transfer or opening of an escrow for the sale thereof;
 - (iii) Third, to the payment of secured creditors to the extent of the proceeds which arise from the sale of the security;

ADDITIONAL INSTRUCTION ATTACHED HERETO AND MADE A PART HEREOF

My initials below represent my agreement and acknowledgment of the foregoing.

Buyer

Seller _____

ADDITIONAL ESCROW CONDITIONS AND INSTRUCTIONS - GENERAL PROVISIONS

- (iv) Fourth, to the payment of claims on mechanics' liens;
- (v) Fifth, to the payment of escrow fees and the payment of claims for the prevailing brokerage fees for services rendered and claims for reasonable attorneys' fees for services rendered;
- (vi) Sixth, to the payment of claims for goods sold and delivered to the transferor for resale at this licensed premises and the payment of claims for services rendered, performed or supplied in connection with the operation of the licensed business; and to the payment of claims of a landlord, to the extent of proceeds on past-due rent;
- (vii) Seventh, to the payment of other claims which have been reduced to court-ordered judgments, including claims for support of a minor child;
- (viii) Eighth, to the payment of all other claims. The payment of these claims, if sufficient assets are not available for the claim in full, shall be pro rata.

D. If the Seller disputes any claim, Seller shall notify the claimant, and the amount of pro rate amount thereof shall be retained by the Escrow Holder for a period of twenty-five (25) days, and if not attached shall be paid to the Seller.. Escrow Holder shall make payment or distribution within a reasonable time after the completion of the transfer of license.

This Escrow Agreement is deemed to have been made in Los Angeles, CA and the place of performance is deemed to occur in Los Angeles, CA. Should any action be brought in connection with this Escrow Agreement, or among or between the parties to this Escrow Agreement pertaining to any matter in connection with this Escrow Agreement, venue is agreed to be proper only in Los Angeles, CA. This Escrow Agreement incorporates and contains the full and final expression of all of the terms of this Agreement, and supersedes all prior and contemporaneous oral understandings or agreements of the parties. This Agreement, and all documents requiring signature in connection with this Escrow Agreement, will be considered signed by a party when the signature of such party is delivered by mail, delivery, facsimile or electronic (i.e., e-mail) transmission. Any such signature transmission shall be treated in all respects as an original signature. © ABCEscrow.com All Rights Reserved. Proprietary & Confidential. May Not Be Duplicated Without Written Permission.

IN WITNESS WHEREOF, the parties have executed this document on _____, 20_____.

BUYER

SELLER

YARDBIRD BEVERLY HILLS LLC

MAC ACQUISITION LLC

By: 

By: _____

Print Name & Title

John H. Kunkel
CEO

Print Name & Title _____

**** END OF INSTRUCTIONS ****

EXHIBIT D

PURCHASE AGREEMENT WITH 900 ROUTE 17 NORTH HOLDINGS LLC

**AGREEMENT FOR TRANSFER
OF LIQUOR LICENSE**

THIS AGREEMENT is made on this _____ day of August, 2017, by **MAC ACQUISITION OF NEW JERSEY LLC**, a New Jersey limited liability company (referred to as "Transferor") with offices at _____ 1855 Blake Street, #200, Denver, CO 80202, and **900 ROUTE 17 NORTH HOLDINGS LLC**, a New Jersey limited liability company (referred to as "Transferee"), with its place of business at 48 West 48th Street, Suite 1410, New York, New York 10036.

WHEREAS, Transferor desires to transfer and Transferee desires to obtain a certain liquor license #0248-33-004-005 issued by the Borough of Ramsey, County of Bergen, State of New Jersey (the "License") on the terms and conditions set forth below.

NOW THEREFORE, in consideration of the mutual promises and conditions contained in this Agreement, the parties agree as follows:

1. TRANSFER OF LICENSE Subject to the terms and conditions of the Agreement, Transferor agrees to transfer and assign to Transferee, and Transferee agrees to accept, the License.

2. CONSIDERATION The total consideration for the transfer shall be Four Hundred Thousand and 00/100 DOLLARS (\$400,000.00) (the "Purchase Price"). A deposit of Twenty Thousand and 00/100 DOLLARS (\$20,000.00) in cash, certified or attorney trust fund check or wire transfer shall be deposited with Sills Cummis & Gross, P.C., Attorney Trust Account, (the "Escrow Agent") immediately upon execution of this Agreement by Transferor and Transferee. Transferee's failure to pay the deposit shall be a default under this Agreement which shall be grounds for termination of this Agreement by Transferor. The Escrow Agent shall place the deposit in an escrow account and the deposit shall be applied to the consideration. At the closing, a Bill of Transfer (containing the usual covenants of title) for said License, a corporate or company resolution, Affidavit of Title (Exhibit 1) shall be delivered to the Escrow Agent and the balance of the consideration in cash, certified or attorney trust fund check or wire transfer of funds, shall be deposited with the Escrow Agent. If the transfer is not approved, the provisions of Paragraph 8 shall apply.

Prior to closing, at the closing, and from time to time after the closing, Transferor shall execute and deliver other reasonable and necessary documents and instruments, including all documents necessary to effectuate the transfer of Transferor's interest in the License.

3. CLOSING (a) The closing shall be held on the tenth (10th) calendar day after the date the License has been approved for transfer by the governmental authority. The closing shall be held at the office of McManimon, Scotland & Baumann, LLC at 10:00 A.M. on the closing date, or at the election of Transferor, as an escrow closing conducted by the overnight mailing of documents and wire transfer of funds, unless another time or place is agreed on by the parties. The closing shall be held on or about November 30, 2017. In the event the transfer has not been approved by that date by the governmental authority and provided Transferee is diligently pursuing the license transfer application, then said closing date shall be extended to the

day following municipal approval of the license transfer. Provided, however, that if the Transferee has reason to believe that an appeal of the approval may be brought, Transferee shall have the right to adjourn the closing date to ten (10) business days beyond the expiration of the appeal period to assure that no appeal has been filed.

(b) At closing, Transferor shall deliver to Transferee a fully executed Bill of Transfer, Closing Statement, Company Resolution and Affidavit of Title in the form attached hereto as Exhibit 1.

(c) Transferee's obligation to perform under this Agreement is expressly contingent upon the following:

(i.) Within ten (10) days of execution of this Agreement, receipt by Transferee from Transferor of (A) a true copy of the last renewal application for the License together with (B) a true copy of the governing body resolution renewing said license and (C) a copy of any governmentally imposed restrictions or conditions on the license.

(ii.) Transferee's ability to effect a person-to-person transfer of the License to it within one hundred twenty (120) days after the application is filed with the municipality. Transferee agrees to use its best efforts to obtain the transfer of the License within such time.

(iii.) Transferor's representations and warranties contained in this Agreement or in any certificate or document delivered pursuant to the provisions hereof or in connection with the transactions contemplated being true at and as of the time of the transfer of the License as though such representations and warranties were made at and as of such time.

(iv.) Transferor having performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the transfer of the License.

(v.) Receipt by Transferee, prior to the transfer of the License, of a license violation search in New Jersey Division of Alcohol Beverage Control ("ABC") indicating no outstanding or pending violations or penalties therefor or charges or administrative actions or taxes (local, state or federal) against the License.

(vi.) That no governmental investigation affecting the License be known to be in process at the time of the transfer of the License; and that Transferee acquire said License free and clear from any such investigation, or be satisfied that Transferor has adequately made provision for satisfaction of any penalty arising therefrom.

(vii.) That Transferor has not done any acts or incurred any debts which encumber the License and that the License be transferred to Transferee free and clear of all liens, claims, encumbrances, taxes, debts and bills owed to anyone, including past-due bills to liquor wholesalers/distributors.

(viii.) Transferor furnishing to Transferee a consent to transfer said License prior to Transferee applying for the transfer of the License.

(ix.) That the License is free and clear of any conditions or restrictions that would, in Transferee's judgment, inhibit or limit the use and/or transferability of said License.

(d) Transferor's obligation to perform under this Agreement is expressly contingent upon the following:

(i.) Within thirty (30) days of receipt by Transferee from Transferor of (A) a true copy of the last renewal application for the License together with (B) a true copy of the governing body resolution renewing said license (C) a copy of any governmentally imposed restrictions or conditions on the license and (D) a consent to transfer said License executed by Transferor, Transferee shall have submitted any and all documents required for the approval of the transfer of the License to Transferee to the appropriate governmental authorities. In the event Transferee fails, through no fault of Transferor, and Transferee is not diligently pursuing the license transfer to submit the required documents on or before the aforementioned deadline, then Transferor shall have the absolute right to terminate this Agreement and neither party shall have any further obligation to one another except for Transferor's approval of the return of the Deposit to Transferee.

(ii.) Transferee's ability to effect a person-to-person transfer of the License to it within one hundred fifty (150) days after the application is filed with the municipality. In the event Transferee is not diligently pursuing the liquor license, transfer application and fails, through no fault of Transferor, to effectuate the aforesaid transfer within such 150 day period, then Transferor shall have the absolute right to terminate this Agreement and neither party shall have any further obligation to one another except for Transferor's approval of the return of the Deposit to Transferee. Notwithstanding the foregoing, if the Transferee, through no fault of Transferor, is unable to effectuate the transfer on or before the date that is two hundred seventy (270) days after the application is filed with the municipality, regardless of Transferee's diligent pursuit thereof or any other circumstances which may have arisen other than delay caused by Transferor, the Transferor shall have the absolute right to terminate this Agreement and neither party shall have any further obligation to one another except for Transferor's approval of the return of the Deposit to Transferee.

(iii.) Transferee having performed and complied with all agreements and conditions required by this Agreement to be performed or complied with by it prior to or at the transfer of the License.

(iv.) Receipt by Transferor of the Purchase Price at Closing.

4. TRANSFEROR'S REPRESENTATIONS AND WARRANTIES Transferor represents and warrants:

(a) That it has, and at the closing date shall have, good, absolute, and marketable title to the License, free and clear of all liens, claims, taxes of any kind, debts, including monies owed to wholesaler/distributor, encumbrances, and restrictions of every kind, other than restrictions required by law and as are inherent with respect to type "C", Plenary Retail Consumption Licenses; and Transferor has, and will have at the closing date, the complete and unrestricted right, power, and authority to transfer and assign the License pursuant to this Agreement and, to the best of Transferor's knowledge, information and belief, the License has never been suspended, revoked or invalidated and no special limitation has ever been placed on the License and that Transferor has received no written notice of any governmental investigations affecting the License.

(b) That it is a limited liability company duly formed and lawfully existing and in good standing under the laws of the State of New Jersey. That it has the right to make, execute and perform this Agreement; and that the execution, delivery and performance of this Agreement does not constitute a violation of any instrument to which Transferor is a party or by which Transferor may be bound.

(c) That the Transferor will use commercially reasonable efforts to continue to renew the License until transferred to Transferee.

(d) That the License was acquired by Transferor on March 28, 2012 is currently inactive, having last been actively used, to Transferor's knowledge, on January 24, 2017, but is otherwise in good standing, and has not been revoked or invalidated and is not currently suspended or to be suspended at such time in the future that it might become active and no special conditions or limitations have been placed on the License.

(e) That there are no alcoholic beverage taxes and other taxes due under any tax law of New Jersey and nor any outstanding bills for the purchase of alcoholic beverages under Transferor's License, so that the License is not subject to attachment under New Jersey tax laws in accordance with N.J.S.A. 33:1-26, nor to any outstanding Notice of Obligation or Notice of Delinquency under N.J.A.C. 13:2-24.4.

(f) Transferor acknowledges that Transferee shall file with the State of New Jersey, Division of Taxation, a notice of bulk transfer (Division of Taxation Form C-9600) as required by law and as is necessary to obtain the "Licensee Clearance Certificate" required by P.L. 1995, c. 161, and Transferor agrees to be bound by the escrow requirements imposed by the Division of Taxation following filing of such notice and to cooperate with Transferee in obtaining the "Licensee Clearance Certificate". Transferor's New Jersey Tax Identification number is 270-991-121/000. Transferor's federal identification number is 27-0991121.

(g) That Transferor has not received any written notice that there are now any pending disciplinary actions against the License, either by the Borough of Ramsey or the New Jersey Division of Alcoholic Beverage Control, and to the best of Transferor's knowledge, that there have been no investigations of Transferor or its License within the past five (5) years prior to the effective date of this Agreement.

(h) To the best of Transferor's knowledge, there are no outstanding invoices due vendors for alcoholic beverage purchases.

5. COOPERATION OF TRANSFEROR Transferor agrees to execute, in a form satisfactory to Transferee or as required by law or regulation, all documents and certificates required in Transferee's application for transfer of the License, including, but not limited to, a Consent to Transfer. Transferor agrees to use commercially reasonable efforts to cooperate fully and promptly with Transferee in regard to Transferee's License transfer application.

6. RIGHTS OF OTHERS Transferor represents and warrants that there are no outstanding options, contracts, commitments, warranties, or agreements entitling anyone to acquire the License.

7. LAWSUITS AND PROCEEDINGS Transferor warrants and represents that to the best of Transferor's knowledge there are no lawsuits or administrative proceedings pending or threatened against Transferor or affecting any of its properties or rights that could adversely affect the transfer contemplated by this Agreement.

8. TERMINATION AND DEFAULT (a) In the event the closing of this transaction does not take place by reason of the failure of any contingency to closing as set forth in Paragraph 3(c) or 3(d) of this Agreement, either party shall have the right to terminate this Agreement by written notice to the other party. If the failure to satisfy such contingency is not the fault of Transferee, the deposit shall be returned to Transferee and this Agreement shall become null and void and the parties shall have no further liability to each other.

(b) Notwithstanding anything to the contrary in this Agreement, if Transferee shall fail to close this transaction after receiving approval from the municipality or default hereunder, the deposit shall be paid over to Transferor as liquidated damages by reason of such breach. The liquidated damages remedy afforded to Transferor shall be its sole and exclusive remedy. This Agreement shall then become null and void and neither party shall have any further liability to the other.

(c) In the event that failure to obtain satisfaction of any such contingency is the fault of Transferor, Transferee shall be entitled as its sole remedies, to either of the following: (i) make an application to the applicable court of competent jurisdiction for specific performance of this Agreement or (ii) to terminate this Agreement and receive the return of the deposit.

9. COMMUNICATION FROM GOVERNMENTAL AUTHORITIES Transferor shall serve upon Transferee a copy of any notice received from the ABC or any federal, state or municipal governmental body or agency with regard to or involving the License within seven (7) days receipt thereof by Transferor. This Paragraph shall survive the transfer of the License.

10. NON-WAIVER The failure of Transferee or Transferor to insist upon strict performance of any of the covenants or conditions of this Agreement shall not be construed as a waiver by such party of any of its rights or remedies hereunder unless such waiver is in writing and signed by the party waiving such rights or remedies.

11. SALES TAX Transferor shall be solely responsible for all sales tax due as a result of the transfer of the License to Transferee. Transferor agrees to indemnify and hold Transferee harmless from all claims for sales tax liability imposed on the seller of liquor licenses, as a result of the transfer of the License to Transferee as described herein.

12. LIABILITY OF ESCROW AGENT The Escrow Agent may act upon any instrument or other writing believed by the Escrow Agent in good faith to be genuine, and to be signed by the proper party. In the event of any controversy or dispute hereunder, or with respect to any question as to the construction of this Agreement or any action to be taken by the Escrow Agent hereunder, the Escrow Agent may confer with counsel and shall incur no liability for any action taken or suffered in good faith in accordance with the advice or opinion of such counsel, including the depositing of the escrow fund in a court of competent jurisdiction which shall adjudicate any difference between Transferor and Transferee.

(a) The Escrow Agent shall not be liable in connection with the performance of his duties hereunder, except for his own gross negligence or misconduct.

(b) The Escrow Agent shall be under no duty or responsibility to enforce any of the terms or conditions of this Agreement.

(c) Transferor and Transferee, jointly and severally, hereby agree to indemnify the Escrow Agent hold the Escrow Agent harmless from and against any loss, liability or expense incurred (absent the Escrow Agent's neglect, negligence or misconduct) arising out of or in connection with the acceptance or administration of Escrow Agent's duties hereunder.

(d) The parties acknowledge that Escrow Agent is also acting as counsel for Transferor and shall not be precluded or prevented from representing Transferor in any capacity as a result of Escrow Agents role as escrow agent hereunder.

13. SEPARABILITY If any article, section, paragraph or provision of this Agreement or of any supplements or rider hereto should be held invalid or compliance therewith restrained by operation of law or by any tribunal of competent jurisdiction, the remainder of this Agreement and of any supplements or rider hereto, to the extent possible, shall not be affected thereby.

14. BROKER'S FEES Transferor and Transferee warrant and represent that, except as set forth below, Transferor and Transferee will not be obligated in any way for any commission, fee, or other remuneration to any finder, broker, or the like employed by any party in connection with this contract or its negotiation, execution, or performance except:

NONE

15. AMENDMENT This Agreement may be not be amended or modified at any time and in any respect except by an instrument in writing executed by Transferee and Transferor.

16. ASSIGNMENT Neither this Agreement nor any right created by this Agreement shall be assignable by either party without the prior written consent of the other party.

17. NOTICES Any notice, communication, request, reply, or advise ("Notice") required or permitted to be given, made, or accepted by either party under this Agreement must be in writing and may be given or served by depositing it in the United States mail, addressed to 3414303 v2 #695543v4_iManage_ - Agreement for Transfer of Liquor License - MacGrill.... docx6

the party to be notified, postage prepaid and registered or certified with return receipt requested, or by delivering it in person to the party to be notified or by confirmed email to the addresses listed below.. For purposes of notice the addresses of the parties shall be as follows until changed by notice:

Transferor:

Mac Acquisition of New Jersey LLC
Attn: Legal Department
1855 Blake Street, Suite #200
Denver, CO 80202

with a copy to:

Jason L. Sobel, Esq.
Sills Cummis & Gross, PC
One Riverfront Plaza
Newark, NJ 07102
Email: JSobel@SillsCummis.com

Transferee:

900 Route 17 North Holdings LLC
48 West 48th Street, Suite #1410
New York, NY 10036

with a copy to:

John B. Hall, Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue
Roseland, NJ 07068
Email:

Every notice or other communication sent in the manner aforesaid shall be deemed to have been given when the same shall be deposited in the United States mail, properly addressed and with proper postage as aforesaid or on the date of confirmed receipt if sent by email.

18. HEADINGS Headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

19. COUNTERPART EXECUTION This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. This Agreement may be executed by .pdf signatures which, for purposes of this Agreement, shall be deemed the equivalent of an original ink signature.

20. PARTIES IN INTEREST All of the terms and provisions of this Agreement shall be binding on and inure to the benefit of and be enforceable by Transferee and Transferor, their heirs, executors, administrators, successors, and assigns.

21. INTEGRATED AGREEMENT This Agreement constitutes the entire agreement between the parties, and there are no agreements, understandings, restrictions, warranties, or representations between the parties other than those set forth or provided for in this Agreement.

22. CHOICE OF LAW It is the intention of the parties that the laws of the State of New Jersey should govern.

23. NATURE AND SURVIVAL OF TRANSFEROR'S REPRESENTATIONS, ETC. All statements contained in any certificate or other instrument delivered by or on behalf of Transferor pursuant hereto or in connection with the transactions contemplated hereby shall be deemed representations and warranties by Transferor hereunder. All representations, warranties and agreements made by Transferor in this Agreement or pursuant hereto shall survive the closing hereunder and any investigation made at any time by or on behalf of Transferee for a period of six (6) months after the closing.

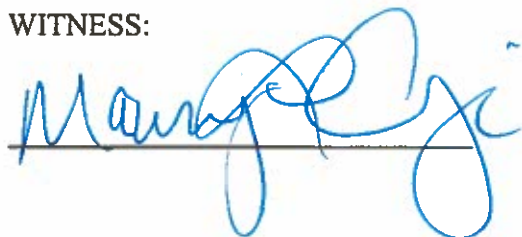
24. ACCEPTANCE OF TERMS AND CONDITIONS The parties hereto declare that each has had ample and sufficient opportunity to review the terms of this Agreement and has had the opportunity to review with counsel of their own selection.

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

TRANSFEROR

WITNESS:



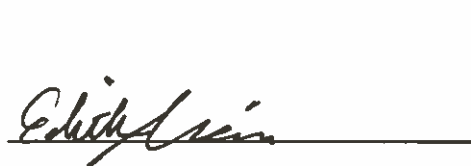
MAC ACQUISITION OF NEW JERSEY LLC

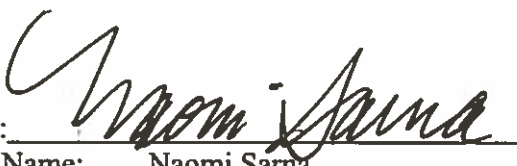
By: 
Name: Dean A. Riesen
Title: CFO

TRANSFeree

WITNESS

900 ROUTE 17 NORTH HOLDINGS LLC




By: 
Name: Naomi Sarna
Title: Manager

CONSENT TO TRANSFER

I, Dean A. Riesen, Chief Financial Officer of **MAC ACQUISITION OF NEW JERSEY LLC**, do hereby consent to the transfer of a Plenary Retail Consumption Liquor License No. 0248-33-004-005 issued by the Borough of Ramsey, Bergen County, State of New Jersey to **900 ROUTE 17 NORTH HOLDINGS LLC**.

MAC ACQUISITION OF NEW JERSEY LLC

By: 
Name: Dean A. Riesen
Title: CFO

Sworn to and subscribed before me this
22nd day of August, 2017.


Notary Public of Colorado

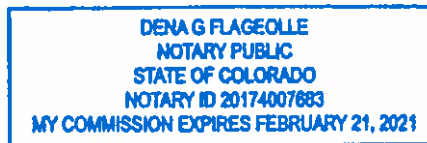


EXHIBIT 1

AFFIDAVIT OF TITLE

STATE OF Colorado :

SS. :

COUNTY OF Denver:

Dean A. Rierson says under oath:

1. **Officers.** I am an officer of **MAC ACQUISITION OF NEW JERSEY LLC**, a limited liability company of the State of New Jersey. The Company will be called the "company" and sometimes simply "it" or "its". The President of the company is Nishant Machado. I am fully familiar with the business of the company. I am a citizen of the United States and at least 18 years old.

2. **Representations.** The statements contained in this affidavit are true to the best of our knowledge, information and belief.

3. **Company Authority.** The company is the only owner of Plenary Retail Liquor License No. 0248-33-004-005. This action, and the making of this affidavit of title, have been duly authorized by members of the company. The company is legally existing and authorized to transact business in New Jersey. It has paid all state taxes presently due. Its charter, franchise and corporate powers have never been suspended or revoked. It is not restrained from doing business nor has any legal action been taken for that purpose. It has never changed its name or used any other name.

4. **Approval by Shareholders.** (check one only)

☐ Shareholder approval is not required.

☐ This is a sale of all or substantially all of the assets of the company. The sale is not made in the regular course of this business of the company. A copy of the authorization and approval of the members is attached.

5. **Liens or Encumbrances.** It has not allowed any interests (legal rights) to be created which affects its ownership or use of the liquor license. No other persons have legal rights in this liquor license. The company does not have any pending lawsuits or judgments against it or other legal obligations which may be enforced against this liquor license. It may owe disability, unemployment, corporate franchise, social security, municipal or alcoholic beverage tax payments, but adequate monies will be set aside in an escrow account to cover such payments due. No bankruptcy or insolvency proceedings have been started by or against it, nor has it ever been declared bankrupt. No one has any security interest in the liquor license that will remain in effect after the sale of the liquor license. The license is not on C.O.D. status.

6. **Representations and Warranties.**

(a). The company agrees to indemnify and hold 900 Route 17 North Holdings LLC, (the "Buyer"), its successors and assigns, harmless from any and all claims asserted by company creditors against the Buyer including costs of defense and attorney's fees, if any. This clause shall survive closing of title and delivery of Bill of Transfer and shall not merge therein. There

will be no creditors after closing unless adequately provided for with escrow funds. All of the Company's unpaid creditors shall be paid out of the closing proceeds at the time of closing. However, in the event a claim is asserted by any creditor of the company, the company will indemnify and hold harmless the Buyer from said creditors' claims. In connection therewith, the Buyer agrees to promptly notify the company of any possible claim against it by forwarding the same to the company by certified mail, return receipt requested, with a copy to their attorney by regular mail. This clause and the representations contained herein shall not merge in but shall survive the Bill of Transfer and closing of title.

(b). The company covenants and agrees that it shall remain liable for any tax deficiencies, interest and penalties assessed to the closing date. It shall be and remain liable for any and all liabilities, debts and/or liens through the date of closing. It shall be and remain liable for any and all acts or conduct which may give rise to a lawsuit, including but not limited to the breach of contract action, negligence action, tort action and products liability action which accrues through the closing date.

(c). The company represents and warrants the following:

- i. that there are no exiting or pending violations with regard to the Plenary Retail Liquor License No. 0248-33-004-005 issued by the Borough of Ramsey;
- ii. that the company is not on either the default or non-delivery list under ABC Regulation No. 39;
- iii. that there are no charges now pending against the license and the company has no knowledge of any act committed in violation of the municipal, state or federal laws or rules or regulations affecting the operation of this business;
- iv. there are no actions, lawsuits or judgments or investigations either administrative or judicial or claims of any nature, either pending or threatened against the company, where the same would affect the transfer of the aforementioned liquor license;
- v. the company represents that all liquor license reports that are required by law to be filed are up to date;
- vi. the company represents that it knows of no contracts or other agreements which prohibit the use of this license by the company in any way;
- vii. the company represents that the existing creditors shall be paid out of closing proceeds or adequate escrow provisions made therefor.

These clauses and the representations contained herein shall not merge in but shall survive the Bill of Transfer and closing of title.

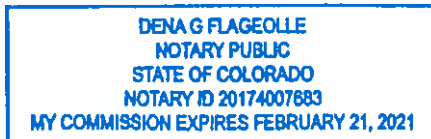
7. **Reliance.** The company makes this affidavit in order to induce the Buyer to accept the liquor license transfer. It is aware that the Buyer will rely on the statements made in this affidavit and on its truthfulness.

Signed and sworn to before me
on August 22nd, 2017.

MAC ACQUISITION OF NEW JERSEY LLC

Dena Flageolle
Dena Flageolle

By: [Signature]
Name: Dean A. Riesen
Title: CFO



MEMBER AUTHORIZATION AND APPROVAL

The undersigned, representing the sole member of **MAC ACQUISITION OF NEW JERSEY LLC**, a New Jersey limited liability company, do hereby authorize and approve the sale of Plenary Retail Liquor License No. 0248-33-004-005 to **900 ROUTE 17 NORTH HOLDINGS LLC**, for the sale price of Four Hundred Thousand and 00/100 (\$400,000.00) Dollars.

IN WITNESS WHEREOF, we have hereunto set our hands and seal of the said company this 22nd day of August, 2017.

MAC ACQUISITION OF NEW JERSEY, LLC

**Member:
MAC ACQUISITION LLC**

By: _____

Name: _____



Dean A. Riesen

EXHIBIT E

PURCHASE AGREEMENT WITH EAST HANOVER, LLC

AGREEMENT OF SALE

THIS AGREEMENT ("**Agreement**") is made and entered into this 19th day of September 2017 by and between Mac Acquisition of New Jersey LLC, a New Jersey limited liability company, whose address is 1855 Blake Street, Suite #200, Denver CO 80202 ("**Seller**"), and East Hanover, LLC, a New Jersey Limited Liability Company, whose address is c/o Tom Graziano, 291 Douglass Road, Far Hills, NJ 07931 ("**Purchaser**"). The Seller and the Purchaser are hereinafter individually referred to as a "**Party**" and collectively as the "**Parties**".

WITNESSETH:

WHEREAS, Seller, is the owner of a State of New Jersey Class "C" Plenary Retail Consumption License, bearing License No. 1410-33-003-004 - Pocket License, issued by the Township of East Hanover, County of Morris, State of New Jersey, (hereinafter referred to as the "**License**"); and the Seller is desirous of selling the License to the Purchaser; and

WHEREAS, the Purchaser is willing to purchase and acquire the License for use at a location in the Township of East Hanover, New Jersey, subject to the terms and conditions of this Agreement, and the contingencies contained herein.

NOW, THEREFORE, in consideration of the mutual covenants, promises and conditions contained herein, and for other good and valuable consideration, the Parties agree as follows:

1. **RECITALS INCORPORATED IN AGREEMENT.** The above recitals are hereby incorporated in and made a part of this Agreement.

2. **PURCHASE PRICE:**

(a) The Seller shall sell to the Purchaser, and the Purchaser shall buy from Seller, the License and all of the Seller's right, title and interest in and to the License, free and clear of all liabilities and encumbrances, for the sum of Four Hundred Five Thousand Dollars (\$405,000.00) (the "**Purchase Price**"). The Purchaser shall place a deposit in the amount of Twenty Thousand Dollars (\$20,000.00) (the "**Deposit**") in escrow with the Seller's attorney, Sills Cummins & Gross PC TA Esq. ("**Escrow Agent**"), within five (5) days from the Effective Date (as hereinafter defined), which deposit shall be credited to the Purchase Price at Closing. The Deposit shall be held in Escrow Agent's IOLTA trust account, without interest, until same is disbursed in accordance with the terms of this Agreement.

(b) The balance of the Purchase Price shall be paid upon the closing of title to the License as contemplated hereby (the "**Closing**"), or, if this Agreement is terminated prior to Closing, in accordance with the applicable terms of this Agreement.

(c) At Closing, in addition to the Purchase Price, the Purchaser shall reimburse the Seller for the pro rata portion of the License fees paid by the Seller to the Township of East Hanover and the New Jersey Division of Alcoholic Beverage Control (the "NJABC") for the unexpired portion of the then current License term.

3. CONTINGENCY / ADDITIONAL PAYMENTS.

(a) The Closing is contingent upon the Purchaser obtaining all necessary and proper approvals from the Township of East Hanover, the NJABC and all other governmental entities with jurisdiction, for a person-to-person transfer of the License to Purchaser (collectively the "Approvals") within one hundred eighty (180) days of the Effective Date (the "Approval Period").

(b) Purchaser shall make an application for the Approvals within thirty (30) days of the Effective Date, and shall diligently pursue such Approvals during the Approval Period. In the event the Approvals are not obtained on or before the conclusion of the Approval Period, either Party shall have the right to terminate this Agreement upon written notice to the other at any time prior to the date upon which the Approvals have been obtained, in which event the Escrow Agent shall return the Deposit to Buyer, and neither Party shall have any further obligation to the other hereunder.

(c) Notwithstanding any contrary term or provision contained herein, in the event the Township of East Hanover or the NJABC denies any one or more of the required Approvals, either Party may terminate this Agreement upon written notice to the other at any time prior to the date upon which the Approvals have been obtained, in which event Escrow Agent shall immediately return the Deposit to the Purchaser.

(e) The Closing is further contingent on the License being a valid and unexpired active license at the time of Closing. The Seller shall renew the License as necessary such that it is an active, valid and unexpired license at Closing. In the event the License becomes an invalid or expired license, Purchaser may terminate this Agreement, in which event Escrow Agent shall immediately return the Deposit to Purchaser.

4. WARRANTIES OF SELLER. The Seller makes the representations set forth below as of the Effective Date and shall also make the same representations at Closing, it being agreed that such warranties and representations shall survive the Closing as the context might require:

(a) That it is a limited liability company duly formed and lawfully existing and in good standing under the laws of the State of New Jersey.

(b) That it has the right to make, execute and perform this Agreement; and that the execution, delivery and performance of this Agreement does not constitute a violation of the Seller's articles of formation, operating agreement or any other instrument to which the Seller is a party or by which the Seller may be bound.

(c) That the execution and delivery of this Agreement and the performance by the Seller of the obligations to be performed by it hereunder have been duly authorized by the proper company actions of the members as may be necessary, and that there is no agreement of any kind, including but not limited to a pledge of the membership interest of the Seller, that would prohibit or restrict such company actions.

(d) That the person(s) executing this Agreement on behalf of the Seller are duly elected officers of the company or are otherwise duly authorized by the company, and have received the authority to make and execute this Agreement and to bind the Seller hereto.

(e) That the Seller owns, has possession of, and has good and marketable title to the License and owns the privilege represented by the License free and clear of all liens, claims, encumbrances or restrictions, and that all taxes and fees, whether federal, state or local, due on the License or in connection with it, have been paid and are not delinquent.

(f) That the License is currently active and has been renewed for the current license term expiring June 30, 2018.

(g) The License is an active, valid and unexpired license in good standing, and has not been revoked or invalidated, and is not currently suspended or to be suspended at some time in the future, and that no special conditions or limitations have been placed on the License.

(h) That there are no alcoholic beverage taxes and other taxes due under any tax law of New Jersey and nor any outstanding bills for the purchase of alcoholic beverages (including interest and late fees imposed by alcoholic beverage suppliers) under the Seller's License, so that the License is not subject to attachment under New Jersey tax laws in accordance with *N.J.S.A. 33:1-26*, nor to any outstanding Notice of Obligation or Notice of Delinquency under *N.J.A.C. 13:2-24.4*. To the extent there are outstanding bills relating to the License at the time of closing hereunder, such outstanding bills shall be paid by the Seller prior to Closing or by the Seller or the Escrow Agent from the proceeds of the Purchase Price at closing.

(i) That there are no sales taxes due, and Seller is not delinquent in the payment of any taxes, fees, interest, or penalties imposed by any State tax law for which a lien may attach pursuant to *N.J.S.A. 54:49-1* or pursuant to the State Tax Uniform Procedure Law, *N.J.S.A. 54:48-1, et seq.*, or any similar State tax law. The Seller acknowledges that the Purchaser must file with the State of New Jersey, Division of Taxation, a notice of bulk transfer (Division of Taxation Form C-9600), as required by law, and Seller agrees to be bound by any escrow requirements imposed by the Division of Taxation following filing of such notice. Seller also agrees to cooperate, in good faith, with Purchaser in obtaining the "Licensee Clearance Certificate" required by *P.L. 1995, c. 161*.

(j) That there are not now, or at the time of Closing, any pending disciplinary actions against the License, either by the Township of East Hanover or the NJABC, known

to the Seller, or of which the Seller has actual or constructive knowledge, and there have been no investigations of the Seller or its License within the past one year prior to the Effective Date.

(k) That Seller has complied with all laws, rules and regulations of the township, state and federal governments relative to the License.

(l) That there is no litigation or other proceedings pending, known or threatened against the Seller which will affect the License being transferred to the Purchaser.

(m) That no judgments or liens are outstanding against the License or the Seller's business related to the License.

5. **WARRANTIES OF PURCHASER.** The Purchaser makes the representations set forth below and agrees that it will make the same representations at the time of Closing, and that such representations will survive the Closing as the context may require, as follows:

(a) That it is a Limited Liability Company duly formed and lawfully existing and in good standing under the laws of the State of New Jersey.

(b) That the Purchaser has the right to make, execute and perform this Agreement; and that the execution, delivery and performance of this Agreement does not constitute a violation of the Purchaser's by-laws, operating agreement, or any other instrument to which the Purchaser is a party or by which the Purchaser may be bound.

(c) That the execution and delivery of this Agreement and the performance by the Purchaser of the obligations to be performed by it hereunder will have been duly authorized by the proper officer of the company as may be necessary, and that there is no agreement of any kind that would prohibit or restrict such actions.

(d) That the Purchaser is solvent and will have the funds available for the acquisition of the License in the manner contemplated in this Agreement.

(e) That the Purchaser is not disqualified to hold an alcoholic beverage license in the State of New Jersey, or, if any person associated with the Purchaser is found to be disqualified, such person will be terminated in order to remove such disqualification.

6. **COOPERATION OF SELLER.** The Seller agrees to execute, in a form reasonably satisfactory to the Purchaser or as required by law or regulation, all documents and certificates required for the Purchaser to obtain the Approvals, including, but not limited to, a "Consent to Transfer." The Seller agrees to cooperate fully, promptly and in good faith, with the Purchaser in regard to the Approvals, including, but not limited to the Seller or the Seller's attorney appearing before such applicable agencies or bodies if required to effectuate the transfer of the License.

7. **EFFECTIVE DATE.** The effective date of this Agreement shall be the date of the last signing of this Agreement, as indicated by the dates inserted next to the signatures of the Parties (the “**Effective Date**”).

8. **CLOSING.**

(a) The Closing is tentatively scheduled for December 30, 2017, provided Purchaser is in receipt of the Approvals and this Agreement has not been terminated. Closing shall take place at the office of Purchaser’s attorney upon the date chosen by Purchaser not later than three (3) business days following Purchaser’s receipt of the Approvals.

(b) At Closing, and as a condition precedent to the payment of the Purchase Price, the Seller shall deliver to the Purchaser the following documents fully and properly executed by the Seller, as applicable:

(i) A Bill of Sale or other instrument of assignment or transfer conveying to the Purchaser good and sufficient title to the License with the customary warranties of title in accordance with this Agreement, free from all encumbrances, claims and liens;

(ii) A closing statement; and

(iii) Such other documents as are reasonably necessary to consummate the transaction as contemplated herein.

(c) At Closing, Purchaser shall deliver to Seller the following documents, fully and properly executed by Purchaser, as applicable:

(i) A closing statement;

(ii) The Balance of Purchase Price, subject to adjustments; and

(iii) Such other documents as are reasonably necessary to consummate the transaction as contemplated herein.

(d) At Closing, the monies will be disbursed, and all papers will be delivered to the Parties, as applicable.

9. **DEFAULT AND REMEDIES.**

(a) It shall be a “**Purchaser Event of Default**” hereunder if (i) the Purchaser is in default of any of the terms or obligations contained in this Agreement and does not cure

such default within ten (10) days after written notice from Seller, or (ii) any representation or warranty of the Purchaser contained in this Agreement is materially untrue.

(b) Upon a Purchaser Event of Default, Seller shall have the right to terminate this Agreement by providing written notice to the Purchaser at which time Escrow Agent is directed to release the Deposit to the Seller, which amount released to the Seller is deemed by the Parties to be liquidated damages, and neither Party shall have any further obligations to the other. Seller and Purchaser agree that the amount of damages incurred by the Seller as a result of such Purchaser Event of Default would be difficult, if not impossible, to determine and that the amount specified herein as liquidated damages represents a reasonable good faith estimate by the Parties of the amount of damages that the Seller would incur in such event.

(c) It shall be a "**Seller Event of Default**" hereunder if (i) the Seller is in default of any of the terms or obligations contained in this Agreement and does not cure such default within ten (10) days after written notice from the Purchaser Buyer, or (ii) any representation or warranty of the Seller contained in this Agreement is materially untrue. Upon a Seller Event of Default, the Purchaser shall have the right to (x) immediately terminate this Agreement, at which time the Deposit shall be promptly returned to the Purchaser, (y) cure such Seller Event of Default, in which event all reasonable costs and expenses incurred by the Purchaser in connection therewith shall be a credit against the Purchase Price and/or (z) the Purchaser shall be entitled to pursue any and all legal or equitable remedies it may have against the Seller, including without limitation, seek specific performance or an action for money damages with costs.

(d) If any action is brought by either Party against the other, the prevailing Party shall be entitled to recover from the non-prevailing Party reasonable attorney's fees, costs and expenses incurred in connection with the prosecution or defense of such action.

10. **BROKERS, COMMISSIONS, AND FINDER'S FEE.** The Parties each represent and warrant that they have not dealt with any broker so as to cause any such broker to be entitled to a broker's fee or commission and agree to defend and indemnify one another from and against any claims by any brokers claiming such fees or commissions. The provisions of this paragraph shall survive the Closing.

11. **COMMUNICATION FROM GOVERNMENTAL AUTHORITIES.** The Seller shall serve upon the Purchaser a copy of any notice received from the NJABC; the Bureau of Alcohol, Tobacco & Firearms; the Township of East Hanover; or any other governmental entity with regard to the License within seven (7) days of receipt thereof.

12. **NOTICES.** Whenever by the terms of this Agreement notice shall or may be given either to Seller or Purchaser, such notice shall be in writing and shall be sent by registered or certified mail, postage prepaid or by overnight delivery by a recognized carrier such as Federal Express, UPS, U.S. Postal Service and the like, provided a receipt of delivery is available, as follows:

If to Seller,

Mac Acquisition of New Jersey LLC
1855 Blake Street, Suite #200
Denver, CO 80202
Attention: Legal Department

With a copy to:

Stephen Cohen, Esq.
315 Parkview Terrace
Golden Valley, MN 55416
stephen@stephencohenlaw.com

If to Purchaser:

East Hanover Restaurant, LLC
c/o Tom Graziano
291 Douglass Road
Far Hills, NJ 07931
E-Mail: tomgraz@icloud.com

with a copy to:

Richard Lupo, LLC
1254 Highway 27
North Brunswick, NJ 08902
Telephone: 732.846.2200
Fax: 732.937.6536
E-Mail: beth@lupo-law.com

All such notices shall be effective when the same are received or refused in the ordinary course at the address to which the same were sent. Any such notice, demand or communication from an attorney acting or purporting to act on behalf of a party shall be deemed to be notice from such party provided that such attorney is authorized to act on behalf of such party.

13. **BULK SALES ACT.** Prior to the Closing, the Purchaser may file with the New Jersey Division of Taxation a Notification of Sale, Transfer, or Assignment in Bulk (Form C-9600), together with an executed copy of this Agreement (collectively the “**Notification**”), as required by the New Jersey Division of Taxation. The Seller shall cooperate with the Purchaser in connection with the preparation and filing of such Notification. Provided that the Purchaser has filed such Notification, the Purchaser shall have no obligation to close title hereunder unless and until the New Jersey Division of Taxation issues a notice instructing the Purchaser as to what portion of the Purchase Price, if any, must be withheld at Closing. Upon receipt of such notice, the amount set forth in such notice shall be withheld from the Purchase Price at Closing and will

be delivered to the Purchaser's attorney, as escrow agent (the "**Bulk Sale Escrow Agent**"), to be held in escrow under a mutually satisfactory escrow agreement. Thereafter, as and when the New Jersey Division of Taxation or another governmental authority issues an order requiring the payment of some or all of the escrowed amounts, the Purchaser shall inform the Seller and the Bulk Sale Escrow Agent of same, and the Bulk Sale Escrow Agent shall promptly pay and disburse same to the applicable governmental authority from the escrowed funds. Upon receipt by the Purchaser of a tax clearance certificate issued by the New Jersey Division of Taxation confirming that all of the Seller's taxes are paid in full and instructing the Purchaser (or the Bulk Sale Escrow Agent) to release the remaining balance of the escrow to the Seller, the Purchaser shall inform the Seller and the Bulk Sale Escrow Agent of same, whereupon the Bulk Sale Escrow Agent shall release the remaining balance of the escrowed amounts to the Seller.

14. **ENTIRE AGREEMENT AND MODIFICATIONS.** This Agreement supersedes any prior or contemporaneous agreements, negotiations, proposals or representations, whether written or oral, relating to the sale and purchase of the License; and it alone represents the full, final and complete understanding of the parties, and all prior representations and agreements are merged herein. Once properly executed by all parties, this Agreement may not be changed or terminated orally by either party without the written consent of the other party. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their successors and assigns. It is agreed and understood that there will be no binding agreement unless the Seller and Purchaser each executes this Agreement.

14. **LAWS GOVERNING.** This Agreement shall be governed by and be construed and enforced in accordance with the laws of the State of New Jersey.

15. **SEPARABLE CLAUSES.** Each provision of this Agreement shall be considered to be separable and if, for any reason, any provision or any part hereof is deemed to be invalid and contrary to any applicable law, such invalidity shall not impair the portions of this Agreement which are valid; and this Agreement shall be construed and enforced to all effects as if such invalid provision had been omitted.

16. **NO WAIVER.** The failure of the Seller or the Purchaser to insist upon strict performance of any of the covenants or conditions of this Agreement shall not be construed as a waiver by such party of any of its rights or remedies under this Agreement, and shall not be construed as a waiver, relinquishment or failure of any such covenants, conditions, or options.

17. **SUBJECT HEADINGS.** The subject headings at the beginning of each section are provided for convenience only and are not intended to modify or amplify the text of the section.

18. **SIGNING IN COUNTERPART.** This Agreement may be executed in any number of counterparts (and by facsimile or PDF copies of executed signature pages), all of which taken together shall constitute the original hereof. If separately executed counterparts of this Agreement or its signature page(s) have been executed by and delivered to all parties hereto, or their attorneys, they shall have the same effect as if the signatures were all on the same copy hereof.

19. **NO ASSUMPTION OF LIABILITIES.** The Parties agree and acknowledge that the Purchaser is not assuming any liabilities or obligations of the Seller whatsoever with regard to the License or the Seller's business related to the License. If there are any outstanding bills due to liquor distributors in connection with the License, the Seller shall pay the same at or prior to the Closing. The Seller agrees to indemnify, defend and hold harmless the Purchaser from and against any losses, claims, causes of action, damages, costs, and expenses, including reasonable attorney's fees, which the Purchaser may incur or sustain by reason of or relating to any claim made against the Purchaser for any obligation or liability incurred by the Seller with regard to the License.

20. **ASSIGNMENT.** This Agreement is non-assignable by the Parties without the written consent of the other Party, except that the Purchaser may assign this Agreement without such written consent provided Purchaser continues to remain liable hereunder.

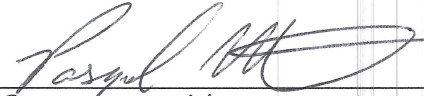
21. **ANNUAL LICENSE FEE.** The annual license fee shall be prorated at the Closing, with Seller obtaining a credit for the portion of the license fee applicable to the period flowing Closing.

IN WITNESS WHEREOF, the parties have caused these presents to be executed and sealed as of the day, month and year noted below.

MAC ACQUISITION OF NEW JERSEY LLC, (Seller)

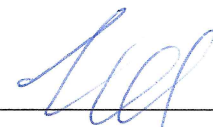
Witness:


Dena Flageolle
Licensing manager

By 
Pasquale Maturro, Co-CFO & Treasurer

Dated: 9.19.2017

EAST HANOVER RESTAURANT, LLC, (Purchaser)

Witness:

RICHARD LUPO
ATTORNEY AT LAW OF NEW JERSEY

By 
Tom Graziano, (Managing Member)

Dated: 9-15-17