

EXHIBIT B

Redline

~~HK DRAFT 14 JAN 2019~~

ASSET PURCHASE AGREEMENT

BY AND AMONG

CAFE HOLDINGS CORP.

THE SUBSIDIARIES OF CAFE HOLDINGS CORP.

AND

ACM FATZ VII LLC

~~**JANUARY**~~

FEBRUARY 19,

2019

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Exhibit A – Form of Sale Order

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (as amended, supplemented or modified from time to time, this “Agreement”) is entered into as of ~~January~~, February 19, 2019 (the “Execution Date”) by and among Cafe Holdings Corp., a Delaware corporation (“Cafe”), the Subsidiaries of Cafe set forth on Schedule A hereto (such Subsidiaries, together with Cafe, each a “Seller” and, collectively, the “Sellers”) and ACM Fatz VII LLC, a Delaware limited liability company (“Buyer”). Sellers and Buyer are each referred to herein as a “Party” and collectively as the “Parties”.

WITNESSETH

WHEREAS, Sellers filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) on November 15, 2018 (the “Petition Date”) in the United States Bankruptcy Court for the District of South Carolina (the “Bankruptcy Court”), commencing Sellers’ Chapter 11 cases, which are being jointly administered under Case No. 18-05837 (the “Bankruptcy Cases”);

WHEREAS, Sellers operate the restaurants at the locations set forth in Section 1.1(a) of the Disclosure Schedule (each, a “Restaurant” and, collectively, the “Restaurants”);

WHEREAS, subject to the terms and upon the conditions set forth herein, Sellers desire to sell, transfer and assign to Buyer, and Buyer desires to purchase, acquire and assume from Sellers, all of the Acquired Assets and Assumed Liabilities, on the terms and subject to the conditions set forth in this Agreement and in accordance with §§ 105, 363, 365 and all other applicable provisions of the Bankruptcy Code all as more specifically provided herein (the “Transaction”);

WHEREAS, the Sellers have determined that it is advisable and in the best interests of their estates and the beneficiaries of their estates to consummate the Transaction pursuant to this Agreement and the Sale Order and each Seller has approved this Agreement; and

WHEREAS, the Transaction is subject to the approval of the Bankruptcy Court and will be consummated only pursuant to the Sale Order to be entered in the Bankruptcy Cases.

NOW, THEREFORE, in consideration of the mutual promises herein made, and the agreements, covenants, representations and warranties hereinafter set forth, and other good and valuable consideration, the receipt and adequacy of which are acknowledged and accepted, the Parties, intending to be legally bound hereby, agree as follows:

ARTICLE I DEFINITION S

Section 1.1 Definitions. For purposes of this Agreement:

“Accounts Receivable” means all accounts, accounts receivable and other rights to payments of Sellers of whatever kind or nature, including all current or deferred rights to payment for goods, by-products or services rendered on or prior to the Closing Date and all

claims, rights, interests and proceeds related thereto.

“Accrued Administrative Claims” means all administrative and priority claims arising out of the conduct of the Business and consistent with the categories of expenses set forth in the Approved Budget that accrued between the Petition Date and the Closing Date and remain unpaid as of the Closing Date, including (i) any health or life insurance claims incurred under Sellers’ Employee Benefit Plans the Transferred Employees and their dependents, (ii) subject to approval of the Global Settlement Order, Liabilities arising under section 503(b)(9) of the Bankruptcy Code or under the Perishable Agricultural Commodities Act of 1930, as amended, 7 U.S.C. § 499a et seq., (iii) subject to approval of the Global Settlement Order, all amounts incurred in the Ordinary Course of Business that are current in nature (and not past due) and are owed to suppliers or service providers in respect of goods and services provided after the Petition Date that would be entitled to administrative priority under section 503 of the Bankruptcy Code.

“Accrued Professional Compensation Claims” means, at any given time, all Claims for accrued, contingent, and/or unpaid fees and expenses, in an amount not to exceed the amount for such Claims set forth in the Approved Budget, rendered allowable before the Dismissal Date by any retained Chapter 11 Professional that the Bankruptcy Court has not denied by Final Order; *provided, however*, that any such fees and expenses shall not constitute Accrued Professional Compensation Claims if (a) they have been previously paid (regardless of whether a fee application has been filed for any such amount) or (b) they have been applied against any retainer that has been provided to such Chapter 11 Professional. To the extent that the Bankruptcy Court or any higher court of competent jurisdiction denies or reduces by a Final Order any amount of a Chapter 11 Professional’s fees or expenses, then the amount by which such fees or expenses is reduced or denied shall no longer constitute an Accrued Professional Compensation Claim. In no event shall the amount of Accrued Professional Compensation Claims for any Chapter 11 Professional exceed the amount for such professional set forth in the Approved Budget (inclusive of any applicable retainer that has been provided to such Chapter 11 Professional).

“Acquired Assets” means all of Sellers’ right, title, and interest in, to and under all of the business, assets, properties, contractual rights, goodwill, going concern value, rights and claims owned by Sellers, except as otherwise provided herein, wherever situated and of whatever kind and nature, real or personal, tangible or intangible, whether or not reflected on the books and records of Sellers to be acquired at the Closing, in any case, other than the Excluded Assets. Without limiting the foregoing, the Acquired Assets include all of Sellers’ rights, title and interests in, to and under each of the following assets of Sellers, in each case, to the maximum extent permitted by the Bankruptcy Code:

(a) all Inventory, including the Inventory set forth on Section 1.1(b) of the Disclosure Schedule (less such Inventory that is disposed of in the ordinary course of business prior to the Closing) (the aggregate approximate value of the Inventory in each Restaurant as of the Petition Date is set forth on Section 1.1(b) of the Disclosure Schedule);

(b) the Furnishings and Equipment (the aggregate approximate value of the Furnishings and Equipment in each Restaurant as of the Petition Date is set forth on Section 1.1(c) of the Disclosure Schedule);

(c) all Intellectual Property related to or used in connection with the Business;

(d) all prepaid expenses, advance payments, credits, deposits and bonds;

(e) all of Sellers' cash and Cash Equivalents, provided, that, to the extent the Professional Fee Escrow Amount shall have not been funded into the Professional Fee Escrow Account as of the Closing Date, Sellers shall retain an amount of cash and Cash Equivalents equal to the unfunded portion of the Professional Fee Escrow Amount;

(f) all promotional merchandise, marketing materials, including signage;

(g) all automobiles, trucks, tractors, and trailers used or held for use in the Business set forth on Section 1.1(d) of the Disclosure Schedule;

(h) the Assumed Leases, together with (to the extent of the Sellers' interest therein) the buildings, fixtures and improvements located on or attached to such real property, and (to the maximum extent transferable and permitted by the Bankruptcy Code) all rights arising therefrom (including all options and rights of first refusal) and all tenements, hereditaments, appurtenances and other real property rights appertaining thereto, subject to the rights of the applicable landlord (including rights to ownership or use of such property) under such Assumed Leases;

(i) all Transferred Contracts (other than the Assumed Leases, which are included as Acquired Assets pursuant to clause (h) above), the rights and benefits accruing thereunder and to the extent in the possession or control of any Seller, all material documents related thereto;

(j) all books of account, ledgers and general, financial and accounting records, machinery and equipment maintenance files, customer lists, customer purchasing histories, price lists, distribution lists, supplier lists, production data, quality control records and procedures, customer complaints and inquiry files, research and development files, records and data, and all other files, documents, instruments, papers, computer files, information and books and records of Sellers in any media primarily relating to the Acquired Assets (collectively, the "Files and Records");

(k) to the extent assignable under applicable Law, any customer data used and/or collected by the Business, including information collected in connection with any catering business conducted at the Restaurants;

(l) to the extent requested by Buyer and solely to the extent assignable to Buyer under applicable Law, all Permits held, used or intended to be used by Sellers in connection with the Business, including all beer, wine, spirits, and Liquor Licenses and similar Permits, and all of the rights and benefits accruing thereunder;

(m) all rights to refunds of Taxes;

(n) any rights, demands, claims, net operating losses of any Seller, causes of action (including Avoidance Actions), prepayments, refunds, rights of recovery, credits, allowances, rebates, or rights of setoff or subrogation and other claims of Sellers or their Affiliates against any Person, Buyer or any of their respective Affiliates (collectively, "Transferred Causes of Action") arising out of or relating to any of the Acquired Assets, including any rights against third parties under Transferred Contracts and any Employment Causes of Action; *provided that*

Buyer agrees that, as set forth in the Global Settlement Order, following the Closing, neither the Buyer, nor any Person claiming by, through or on behalf of the Buyer (including, but not limited to, by operation of law, sale, assignment, conveyance or otherwise) shall (i) assert, pursue, prosecute, litigate, institute or commence an action based on the Avoidance Actions, (ii) assert, sell, convey, assign or file any claim that relates to the Avoidance Actions, or (iii) assert or use any such Avoidance Actions for defensive purposes;

(o) all Accounts Receivable;

(p) all rights, title and interest of Sellers in and to any property subject to a Personal Property Lease that is used in or held for use in the Business, to the extent any such Personal Property Lease is a Transferred Contract;

(q) copies of organizational documents, including copies of any qualifications to conduct business as a foreign corporation, arrangements with registered agents relating to foreign qualifications, taxpayer and other identification numbers, seals, minute books, stock transfer books, stock certificates, and other documents relating to any Person that is not an Acquired Asset; (ii) books and records in any media related to (A) Taxes paid or payable by Sellers (including all Taxes that constitute Excluded Liabilities), (B) any Liabilities not included in Assumed Liabilities, or (C) any obligations that arise among each Seller via their business and legal relationships; and (iii) except as otherwise provided in this Agreement, any Tax refund, deposit, prepayment, credit, attribute, or other Tax asset of or with respect to any Seller;

(r) to the extent transferable, all rights of Sellers under or pursuant to all indemnities, warranties, representations and guarantees made by suppliers, manufacturers and contractors to the extent primarily relating to the Business or any of the Acquired Assets, or any services provided to Sellers primarily in connection with the Business or the Acquired Assets, or to the extent otherwise primarily affecting any Acquired Assets, other than any warranties, representations and guarantees pertaining exclusively to any Excluded Assets;

(s) all Avoidance Actions and all other claims or causes of action under any other provision of the Bankruptcy Code or applicable Laws, including, without limitation, all actions relating to the Sellers' vendors, service providers, and landlords; provided that neither the Buyer, nor any Person claiming by, through or on behalf of the Buyer (including, but not limited to, by operation of law, sale, assignment, conveyance or otherwise) shall (x) assert, pursue, prosecute, litigate, institute or commence an action based on the Avoidance Actions, or (y) assert, sell, convey, assign or file any claim that relates to the Avoidance Actions, or (z) assert or use any such Avoidance Actions for defensive purposes; ~~and~~

(t) all proceeds received from a sale of any Permit that is an Acquired Asset after the Closing; and

(u) all bank accounts of Sellers specified on the list of acquired bank accounts provided by Buyer to Sellers in advance of the Closing.

“Additional Transferred Contract” has the meaning set forth in Section 5.8(b)(ii).

“Affiliate” means, with respect to any specified Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such specified Person, where “control” means the power, directly or indirectly, to

direct or cause the direction of the management and policies of another Person, whether through the ownership of voting securities, by Contract, or otherwise.

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

“Allocation Objection Notice” has the meaning set forth in Section 2.6.

“Allocation Principles” has the meaning set forth in Section 2.6.

“Alternative Transaction” means any of the following with respect to a Person other than Buyer or any Affiliate of Buyer: (A) a merger, consolidation, share exchange, business combination, reorganization, recapitalization or other similar transaction or series of related transactions providing for the direct or indirect sale or other disposition of any or all of the Acquired Assets; (B) any sale, lease, exchange, transfer or other disposition (including by way of merger, consolidation, license, exchange, plan of reorganization or restructuring), in a single transaction or a series of related transactions, of any or all of the Acquired Assets; (C) any issuance, sale or other disposition of equity interests (or options, rights or warrants to purchase, or interests convertible into or exchangeable for, such equity interests) of any entity then currently owning, directly or indirectly, any or all of the Acquired Assets or; (D) any combination of the foregoing.

“Approved Budget” means the Budget (as defined in the Final DIP Order) attached to the Final DIP Order.

“Assignment and Assumption Agreement” has the meaning set forth in Section 2.5(a)(iii).

“Assumed Leases” means those Leases that are Transferred Contracts.

“Assumed Liabilities” means the following obligations of Sellers, and no others shall be assumed by Buyer:

(a) all Liabilities under the DIP Facility pursuant to the Approved Budget, including Accrued Administrative Claims relating to the categories of expenses set forth in the Approved Budget, but specifically excluding any Excluded Administrative Claims;

(b) all Liabilities of Buyer or the DIP Lender set forth in the Global Settlement Order;

(c) all Liabilities relating to Buyer’s ownership or operation of the Acquired Assets, to the extent arising from events, facts or circumstances that occur from and after the Effective Time, but excluding any Liabilities to the extent relating to Sellers’ ownership or operation of the Acquired Assets prior to the Effective Time or relating to any services that were sold or provided by the Sellers prior to the Effective Time;

(d) all Liabilities of Sellers under the Transferred Contracts (including all Cure Costs relating to the Transferred Contracts, if any), in each case to the extent arising after the Effective Time;

(e) all Liabilities in respect of any gift cards, gift certificates or similar items relating to the Business;

(f) all Liabilities under the WARN Act or any similar state or local Law regarding employment terminations, if any, arising out of or resulting solely from layoffs or termination of Employees by Sellers after the Petition Date; and

(g) certain accounts payable of the Sellers as determined by Buyer in its sole and absolute discretion at least one (1) Business Day prior to the Closing Date.

“Avoidance Actions” means all Causes of Action for the avoidance of any preferential transfer or fraudulent conveyance arising under Sections 544, 547, 548, 549 or 550 of the Bankruptcy Code or any analogous or similar state or federal law.

“Bankruptcy Cases” has the meaning set forth in the recitals.

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

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

“Bidding Procedures Order” means that certain Order Approving Bid Procedures Sought In Sellers’ Expedited Motion, Pursuant to Bankruptcy Code Sections 105(A), 363, And 365, and Bankruptcy Rules 2002, 6004, and 6006, for Entry of Orders (I) Approving Sale, Bidding, Notice, and Auction Procedures in Connection with the Sale of Substantially All of the Assets of the Sellers; (II) Approving Assumption and Assignment of Certain Executory Contracts Unexpired Leases; (III) Authorizing the Sale of the Sellers’ Assets Free and Clear of All Liens, Claims, Encumbrances, and Other Interests, and (IV) Granting Related Relief.

“Bill of Sale” has the meaning set forth in Section 2.5(a)(ii).

“Bonding Requirements” means standby letters of credit, guarantees, indemnity bonds, and other financial commitment credit support instruments issued by third parties on behalf of Sellers or any of their respective Subsidiaries or Affiliates regarding any of the Acquired Assets.

“Business” means the operation of the Restaurants by Sellers.

“Business Day” means any day, other than a Saturday, Sunday and any day which is a legal holiday under the laws of the State of South Carolina or is a day on which banking institutions located in the State of South Carolina are authorized or required by Law or other governmental action to close.

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

“Carve-Out” shall have the meaning set forth in the final order approving the DIP Facility.

“Cash Equivalents” means cash, checks, money orders, funds in time and demand deposits or similar accounts, marketable securities, short-term investments, and other cash equivalents and liquid investments.

“Casualty” has the meaning set forth in Section 6.9.

“Causes of Action” means any rights, demands, claims, causes of action (including Avoidance Actions), prepayments, refunds, rights of recovery, credits, allowances, rebates, or rights of setoff or subrogation and other claims of Sellers or their Affiliates against any Person,

Buyer or any of their respective Affiliates.

“Chapter 11 Professionals” means the professionals of the Sellers and the professionals of the official committee of unsecured creditors (the “Committee”), which are retained by an order of the Bankruptcy Court pursuant to sections 327, 328, 363 or 1103(a) of the Bankruptcy Code.

“Closing” means the closing of the Transaction.

“Closing Date” has the meaning set forth in Section 2.4.

“COBRA” has the meaning set forth in Section 6.3(c).

“Consent” means any consent, waiver, approval, exemption, order or authorization of, or registration, declaration or filing with or notice to, any Person.

“Contract” means any written agreement, contract, license, arrangement, commitment, promise, obligation, right, instrument, document, sales order, purchase order or other similar understanding that is binding on any Person or any part of its property under applicable Law (including commitments to enter into any of such).

“Contracting Parties” has the meaning set forth in Section 9.15.

“Contracts Schedule” has the meaning set forth in Section 5.8(a)(i).

“Copyrights” has the meaning set forth in the definition of Intellectual Property.

“Cure Costs” means any and all amounts, costs or expenses that must be paid or actions or obligations that must be performed or satisfied pursuant to the Bankruptcy Code to effectuate the assumption by the applicable Seller, and the assignment to Buyer, of the Transferred Contracts (including the Assumed Leases), as determined by the Bankruptcy Court or agreed to by Sellers and the non-Seller counterparty to the applicable Transferred Contract.

“Cure Notice” has the meaning set forth in Section 5.8(a)(i).

“Decree” means any judgment, decree, ruling, appeal, injunction, assessment, attachment, undertaking, award, charge, writ, executive order, administrative order, or any other order of any Governmental Authority.

“DIP Facility” means the debtor in possession financing facility provided to the Sellers by Buyer (or its Affiliate) in the Bankruptcy Cases.

“DIP Secured Parties” means, collectively, the lenders and other financial institutions party to the DIP Term Sheet governing the DIP Facility or which extend credit thereunder (the “DIP Lenders”) and Atalaya Administrative LLC, as agent for such DIP Lenders (the “DIP Agent”).

“Disclosure Schedule” has the meaning set forth in Article III.

“Dismissal Date” means the date on which the Bankruptcy Court enters an Order on the docket of the Bankruptcy Cases dismissing the Bankruptcy Cases pursuant to section 1112(b) of the Bankruptcy Code.

“Effective Time” has the meaning set forth in Section 2.4.

“Employee” has the meaning set forth in Section 3.12(c).

“Employment Causes of Action” means any rights, demands, claims, or Causes of Action that relate to any claim against any employee, officer, or director of Seller.

“Employee Benefit Plans” has the meaning set forth in Section 3.12(a).

“Environmental Law” means any applicable foreign, federal, state or local Law currently in effect relating to pollution, the protection of the environment or natural resources.

“Environmental Liability” means all liabilities, monetary obligations, financial assurance requirements, losses, damages, punitive damages, consequential damages, treble damages, natural resource damages, costs and expenses (including all fees, disbursements and expenses of counsel, experts and consultants and costs of investigations and feasibility studies), fines, penalties, sanctions and interest incurred as a result of any claim or demand by any Governmental Authority or any third party, and which relate to (i) the compliance or actual or alleged non-compliance with or violation of any Environmental Law or term or condition of any environmental Permit; or (ii) any actual or alleged environmental condition or the presence, use, handling, storage, disposal, Release or threatened Release of, or exposure to, any Hazardous Material.

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

“ERISA Affiliate” means, with respect to any entity, trade or business, any other entity, trade or business that is, or was at the relevant time, a member of a group described in Section 414(b), (c), (m) or (o) of the IRC or Section 4001(b)(1) of ERISA that includes or included the first entity, trade or business, or that is, or was at the relevant time, a member of the same “controlled group” as the first entity, trade or business pursuant to Section 4001(a)(14) of ERISA.

“Excluded Administrative Claims” means: (i) any Liabilities related to the payment of fees for professionals retained by the Sellers, their bankruptcy estates, or any official committee of creditors or equity holders appointed in the Bankruptcy Cases; and (ii) any other Liabilities or expenses payable from the Carve-Out.

“Excluded Assets” means all assets of Sellers in and to the following:

- (a) all capital stock and other equity interests of Sellers or any of their respective Subsidiaries;
- (b) all Permits that are not part of the Acquired Assets as provided herein;
- (c) all insurance policies and binders, including all current and prior director and officer insurance policies of any Seller and all rights of any nature relating thereto, and, except to the extent otherwise included as part of the Acquired Assets, refunds and credits from insurance policies or binders due or to become due with respect to such policies or binders;
- (d) all of Sellers’ rights under this Agreement or any Related Agreement;

- (e) all Causes of Action other than the Transferred Causes of Action;
- (f) all Contracts other than the Transferred Contracts and the Additional Transferred Contracts (the “Excluded Contracts”);
- (g) all Leases other than the Assumed Leases (the “Excluded Leases”); and
- (h) all rights and interests in Employee Benefit Plans.

“Excluded Contracts” has the meaning set forth in the definition of Excluded Assets.

“Excluded Leases” has the meaning set forth in the definition of Excluded Assets.

“Excluded Liabilities” means any Liabilities of Sellers or any predecessor or Affiliate of Sellers, of any nature whatsoever, existing before or on the Closing Date or arising thereafter, other than the Assumed Liabilities, including all of the Liabilities of Sellers or of any predecessor or Affiliate of Sellers (including as described in the preceding sentence) not specifically and expressly assumed by Buyer pursuant to this Agreement. Without limiting the foregoing, Buyer shall not be obligated to assume, and it does not assume, and hereby disclaims all of the following Liabilities of Sellers or of any predecessor or Affiliate of Sellers other than the Assumed Liabilities (and any such Liabilities shall be considered Excluded Liabilities for all purposes of this Agreement):

- (a) any Liability arising out of, under or in connection with the Excluded Assets;
- (b) any Liabilities for any accounts payable of the Sellers that are not Assumed Liabilities, as determined by Buyer at or prior to Closing in its sole and absolute discretion;
- (c) any Liability associated with any and all indebtedness of Sellers for borrowed money;
- (d) any Liability of Sellers and Affiliates of Sellers to the Internal Revenue Service or any other Governmental Authority including those relating to Sellers’ Employees, including former Employees (whether or not triggered by the Transaction or the announcement thereof (except any Assumed Liabilities or as provided for in Section 6.3);
- (e) all Liabilities of Sellers under this Agreement or any Related Agreement and the Transaction;
- (f) all costs or expenses to cure defaults not relating to the Transferred Contracts or Additional Transferred Contracts (if any);
- (g) all Liabilities of Sellers and Affiliates of Sellers related to current or former employees, officers, directors or consultants of Sellers and Affiliates of Sellers, including, without limitation, those arising under any Law, Employee Benefit Plan (including any Multiemployer Plan) or other Contract with any Employee, agent or consultant other than any such Liability expressly agreed to by Buyer in Section 6.3 or that is included in Accrued Administrative Claims;

(h) without limiting the generality of clause (g) above, all Liabilities relating to, or in respect of, any wages, bonuses or other compensation or benefits, including without limitation, vacation days, sick days or other paid time-off, that is earned or accrued by, or with respect to, Employees or officers, directors or contractors of Sellers or any Affiliate of Sellers prior to the Closing, except as otherwise expressly provided in this Agreement;

(i) all Liabilities under ERISA:

(j) all Environmental Liabilities arising prior to the Effective Time;

(k) all penalties, fines, settlements, interest, costs and expenses arising out of or incurred as a result of any presence or Release of any materials of environmental concern at any location prior to the Effective Time or any actual or alleged in writing violation by Sellers of any legal requirement and/or Environmental Law prior to the Effective Time;

(l) all Liabilities of Sellers and their Affiliates to any Person arising out of any act or omission under any legal requirement, including any Environmental Law, arising prior to the Effective Time;

(m) all Liabilities under the WARN Act or any similar state or local Law regarding employment terminations, if any, arising out of or resulting solely from layoffs or termination of Employees by Sellers on or prior to the Petition Date;

(n) all Liabilities for expenses (i) incurred in connection with the negotiation and preparation of this Agreement and (ii) relating to the Transaction, in each case to the extent incurred by Sellers and including those related to legal counsel, accounting, brokerage and investment advisors fees and disbursements; and

(o) all Excluded Administrative Claims; and

(p) any and all other Liabilities or obligations not expressly assumed pursuant to this Agreement.

“Falcon Management” means Falcon Holdings Management LLC, a Delaware limited liability company.

“Files and Records” has the meaning set forth in the definition of Acquired Assets. “Final

DIP Order” means that certain Final Order (1) authorizing the Sellers to obtain Post-Petition Financing, granting Senior Post-Petition Security Interests and according Superpriority Administrative Expense Status pursuant to sections 364(c) and 364(d) of the Bankruptcy Code, (2) authorizing the use of cash collateral, (3) granting adequate protection, (4) modifying the Automatic Stay, and (5) granting related relief entered in the Bankruptcy Cases by the Bankruptcy Court on January 8, 2019.

“Final Order” means, as applicable, an order or judgment of the Bankruptcy Court or other court of competent jurisdiction with respect to the relevant subject matter that has not been reversed, stayed, modified, or amended, and as to which the time to appeal or seek certiorari has expired and no appeal or petition for certiorari has been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been or may be filed has been resolved

by the highest court to which the order or judgment could be appealed or from which certiorari could be sought or the new trial, reargument, or rehearing shall have been denied, resulted in no modification of such order, or has otherwise been dismissed with prejudice.

“FIRPTA Affidavit” means an affidavit of an officer of each Seller (or, if such Seller is a disregarded entity for U.S. federal income tax purposes, its regarded owner), sworn to under penalty of perjury, setting forth such Seller’s (or, if applicable, regarded owner’s) name, address and federal tax identification number and stating that such Seller (or, if applicable, regarded owner) is not a “foreign person” within the meaning of section 1445 of the IRC and otherwise complying with the treasury regulations issued pursuant to section 1445 of the IRC.

“Furnishings and Equipment” means all tangible personal property, including fixtures, trade fixtures, supplies, store models, tables, furniture, chairs and equipment (including information technology (other than such technology used by Sellers pursuant to licenses that prohibit the sublicense or transfer thereof and for which consent to sublicense or transfer has not been obtained by Sellers) and refrigeration equipment), in each case that is located at the Restaurants and any other location or premises used or intended to be used in the Business.

“GAAP” means United States generally accepted accounting principles consistently applied.

“Global Settlement Order” means that certain order approving the *Debtors’ Motion for Entry of an Order Approving Global Settlement* filed with the Bankruptcy Court on or about January 15, 2019.

“Governmental Authority” means any federal, state, local, or foreign government or governmental or regulatory authority, agency, board, bureau, commission, court, department, or other governmental entity.

“Hazardous Materials” means (a) any petroleum, petroleum-derived substances or petroleum products, flammable explosives, radioactive materials, radon, asbestos, or PCBs and (b) any chemicals, wastes, materials or substances which are regulated, classified or defined as “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” “pollutant” or “contaminant” or any similar denomination under any Environmental Law.

“Independent Accountant” has the meaning set forth in Section 2.6.

“Insurance Policies” means all of Sellers’ material policies of insurance by which the Acquired Assets are covered.

“Intellectual Property” means all worldwide (a) issued patents and patent applications, together with all reissuances, continuations, continuations-in-part, divisionals, extensions and reexaminations thereof (“Patents”); (b) Trademarks, including the names and service marks “Fatz”, “Fatz Cafe”, “Fatz Southern Kitchen”, “Tavern 24”, “World Famous Calabash”, and any other trade concept names used or developed by Sellers prior to the Closing, and all other indicia of origin that includes such name, or any related abbreviations, acronyms or other formatives based on such names, whether alone or in combination with any other words, phrases, or designs, and all registrations, applications and renewals thereof, all rights and goodwill associated

therewith; (c) all copyrights, together with all registrations and applications for registration therefor and renewals in connection therewith (“Copyrights”); (d) trade secrets, know-how, technology, improvements, inventions, confidential business information, formulas, research and development, customer and supplier lists, pricing and cost information, business, and marketing plans and proposals;

(e) domain names, websites and mobile device applications, (f) licenses relating to any of the foregoing; (g) registrations and applications for registration and renewal of the foregoing; (h) all Software; and (i) any past, present or future claims or Causes of Action arising out of or related to any infringement or misappropriation of any of the foregoing.

“Inventory” means all of Sellers’ now owned or hereafter acquired inventory and goods, wherever located, including, without limitation, all perishable and non-perishable meats, poultry, vegetables, all other foodstuffs, beverages, including without limitation all liquor, beer and wine (to the extent the transfer of liquor, beer, and wine is not prohibited by applicable law), condiments, work in process, finished goods, packaging materials, paper goods, and/or other material used or consumed or held for sale in connection with the Business other than such inventory and goods that are disposed of in the Ordinary Course of Business prior to the Effective Time, or in Buyer’s sole discretion is not spoiled, out-of-date, damaged, obsolete or otherwise unsaleable or unusable in the Ordinary Course of Business.

“IRC” means the Internal Revenue Code of 1986, as amended.

“IRS” means the Internal Revenue Service.

“Knowledge” of Sellers (and other words of similar import) means a fact, circumstance, matter or event that is actually known to those Persons set forth on Section 1.1(e) of the Disclosure Schedule under the heading “Seller Knowledge Parties” or that could reasonably be expected to be discovered by such Persons after reasonable investigation or inquiry if a basis exists or existed which would cause a reasonable person to make such investigation or inquiry; “Knowledge” of Buyer (and other words of similar import) means a fact, circumstance, matter or event that is actually known to those Persons set forth on Section 1.1(e) of the Disclosure Schedule under the heading “Buyer Knowledge Parties” or that could reasonably be expected to be discovered by such Persons after reasonable investigation or inquiry if a basis exists or existed which would cause a reasonable person to make such investigation or inquiry.

“Law” means any constitution applicable to, and any statute, treaty, code, rule, regulation, ordinance, or requirement of any kind of, any Governmental Authority.

“Lease Assignment Agreement” has the meaning set forth in Section 2.5(a)(iv).

“Leases” means all leases, subleases, licenses, concessions, options, contracts, extension letters, easements, reciprocal easements, assignments, termination agreements, subordination agreements, nondisturbance agreements, estoppel certificates and other agreements (written or oral), and any amendments or supplements to the foregoing, and recorded memoranda of any of the foregoing, pursuant to which any Seller holds any leasehold or subleasehold estates and other rights in respect of any real property.

“Liability” means all indebtedness, losses, claims (including “claims” as defined in section 101(5) of the Bankruptcy Code), damages, expenses, fines or other penalties, costs,

royalties, proceedings, deficiencies, duties, obligations and other liabilities (including those arising out of any Litigation, such as any settlement or compromise thereof or judgment or award therein) of a Person (whether absolute, accrued, contingent, fixed, liquidated or unliquidated, or otherwise, or whether known or unknown, or whether due or to become due, and whether in contract, tort, strict liability or otherwise, and whether or not resulting from third-party claims).

“Lien” means any mortgage, pledge, lien, charge, security interest, security agreement, option, right of first refusal, right of first offer, servitude, easement, hypothecation, restrictive covenant, encroachment, security agreement, equitable interest, earn-out, conditional sale or other title retention device or arrangement, deed of trust, or other similar encumbrance or restriction of any kind, in each case whether contingent, fixed or otherwise or whether relating to any property or right or the income or profits therefrom; provided, however, that “Lien” shall not be deemed to include (i) any license of Intellectual Property, or (ii) any Permitted Lien as set forth on Section 1.1(f) of the Disclosure Schedule under the heading “Permitted Liens.”

“Liquor License” means any liquor license, including any beer, wine, spirits and/or mixed beverage permit or license, issued by or under the authority of a Governmental Authority or pursuant to any Law.

“Litigation” means any action, cause of action, arbitration, suit, claim, investigation, audit, demand, hearing or proceeding, whether civil, criminal, administrative, investigative or arbitral, whether at Law or in equity and whether before any Governmental Authority.

“Material Adverse Effect” means a “Material Adverse Effect” under the DIP Facility or a material and adverse effect on (i) the operations, Business, Acquired Assets or condition (financial or otherwise) of the Sellers (other than those resulting solely from the commencement of the Bankruptcy Cases), (ii) the ability of the Sellers to perform any of its obligations under this Agreement, or (iii) the legality, validity or enforceability of this Agreement; provided, however, that none of the following shall be deemed in itself, or in any combination, to constitute, and none of the following shall constitute, or be taken into account in determining whether there has been or will be, a Material Adverse Effect: (a) any adverse change, effect, event, occurrence, state of facts or development arising from or relating to (i) the announcement or pendency of the Transaction or the identity of the Buyer; (ii) conditions affecting the industry in which any of the Sellers participate, the United States economy as a whole or the capital markets in general or the markets in which any Seller operates; (iii) changes in GAAP; (iv) changes in Law, rules, regulations, orders, or other binding directives issued by any Governmental Authority; (v) performance of compliance with the terms of, or the taking of any action required by, this Agreement; or (vi) national or international political or social conditions, including, the commencement, continuation or escalation of a war, armed hostilities or other international or national calamity or act of terrorism directly or indirectly involving the United States of America, provided, that such change, effect, event, occurrence, state of facts or development does not affect the Business of Sellers in a substantially disproportionate manner; (b) any existing event, occurrence or circumstance with respect to which the Buyer has actual knowledge as of the date hereof; and (c) any adverse change in or effect on the Business of the Sellers that is cured before the earlier of (1) the Closing Date and (2) the date on which this Agreement is terminated pursuant to Section 8.1 hereof.

“Multiemployer Plan” means any “multiemployer plan” within the meaning of Section 3(37) or Section 4001(a)(3) of ERISA that is subject to Title IV of ERISA.

“Nester Agreement” means that certain Operating Partner Agreement dated March 29, 2016 between Café Enterprises, Inc. and Tracy Nester.

“Non-Party Affiliates” has the meaning set forth in Section 9.15.

“Omitted Contract Designation Notice” has the meaning set forth in Section 5.8(b)(ii)

“Omitted Contract Motion” has the meaning set forth in Section 5.8(b)(i).

“Order” means any order, injunction, judgment, decree, ruling, writ, assessment or arbitration award.

“Ordinary Course of Business” means the ordinary and usual course of normal day to day operations of the Business through the date hereof consistent with past practice.

“Outside Date” has the meaning set forth in Section 8.1(c).

“Party” and “Parties” have the meaning set forth in the preamble.

“Patents” has the meaning set forth in the definition of Intellectual Property.

“Permit” means any franchise, approval, authorization, consent, clearance, permit, license, Liquor License, order, registration, certificate, variance or similar right issued, granted by, given by or under the authority of a Governmental Authority or pursuant to any Law, including Environmental Law, including all of the Permits set forth on Section 3.13(b) of the Disclosure Schedule.

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

“Personal Property Leases” has the meaning set forth in Section 3.10(b).

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

“Prepetition Credit Facility” means the credit facility furnished to the one or more of the Sellers prior to the Petition Date pursuant to (i) that certain Credit Agreement, dated as of March 21, 2014, by and among one or more of the Sellers, Atalaya Administrative LLC (as successor in interest to Madison Capital Funding LLC), and the other lenders party thereto (such agreement, the “Prepetition Credit Agreement”); and (ii) the other documents, instruments, and agreements executed in connection with the Prepetition Credit Agreement.

“Previously Omitted Contract” has the meaning set forth in Section 5.8(b)(i).

“Professional Fee Escrow Account” means an interest-bearing account established by the Sellers, but funded by the DIP Secured Parties, to hold an amount equal to the Professional Fee Escrow Amount.

“Professional Fee Escrow Amount” means the aggregate amount of accrued and unpaid fees and expenses of the Chapter 11 Professionals on the Dismissal Date, including an estimated

amount of fees and expenses to be reasonably incurred by the Chapter 11 Professionals following the Dismissal Date and relating to the Bankruptcy Cases, such aggregate amounts not to exceed the amounts set forth in the Approved Budget. Each of the Chapter 11 Professionals shall deliver to Sellers an estimate of their respective Professional Fee Escrow Amount at least one (1) Business Day prior to Closing.

“Purchase Price” means consideration furnished by the Buyer in the form of: (i) a credit bid of one million dollars (\$1,000,000) of the Sellers’ obligations to Buyer under the Prepetition Credit Facility; and (ii) assumption by the Buyer of the outstanding principal and accrued interest owed by the Sellers under the DIP Facility.

“Real Property Leases” has the meaning set forth in Section 3.5.

“Registered” means, with respect to Intellectual Property, issued, registered, renewed or the subject of a pending application.

“Registered Intellectual Property” has the meaning set forth in Section 3.14(a). “Related Agreements” means the Bill of Sale, the Assignment and Assumption Agreement, the Trademark Assignment Agreement, and the Lease Assignment Agreement.

“Release” means any release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, dispersal, leaching or migration into the indoor or outdoor environment.

“Representative” means, when used with respect to a Person, the Person’s controlled Affiliates (including Subsidiaries) and such Person’s and any of the foregoing Persons’ respective officers, directors, managers, members, shareholders, partners, employees, agents, representatives and advisors (including financial advisors, bankers, consultants, legal counsel and accountants), and when used with respect to Buyer, in addition to the foregoing, shall also mean and include Falcon Management.

“Restaurants” has the meaning set forth in the recitals.

“Retained Employees” means all of the employees of Sellers that are not Transferred Employees.

“Sale Hearing” means a hearing before the Bankruptcy Court to approve this Agreement and the Sale Order.

“Sale Order” means an order of the Bankruptcy Court, substantially in the form attached hereto as Exhibit A (with such changes as are reasonably acceptable to each Party), among other things, (a) approving (i) this Agreement and the execution, delivery, and performance by Sellers of this Agreement and the other instruments and agreements contemplated hereby, (ii) the sale of the Acquired Assets to Buyer free and clear of all Liens and Liabilities (other than Assumed Liabilities), (iii) the assumption of the Assumed Liabilities by Buyer on the terms set forth herein and (iv) the assumption and assignment to Buyer of the Transferred Contracts on the terms set forth herein; (b) determining that Buyer is a good faith purchaser and has provided adequate assurance of future performance with respect to the Transferred Contracts; and (c) providing that the Closing will occur in accordance with the terms and conditions hereof.

“Seller” and “Sellers” have the meanings set forth in the preamble.

“Software” means any and all: (a) computer programs, including any and all software implementations of algorithms, models and methodologies, whether in source code or object code;

(b) databases and compilations, including any and all data and collections of data, whether machine readable or otherwise; (c) descriptions, flow-charts and other work product used to design, plan, organize and develop any of the foregoing, screens, user interfaces, report formats, firmware, development tools, templates, menus, buttons and icons; and (d) all documentation, including user manuals and other training documentation related to any of the foregoing.

“Subsidiary” means, with respect to any Person, on any date, any Person (a) the accounts of which would be consolidated with and into those of the applicable Person in such Person’s consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date or (b) of which securities or other ownership interests representing more than fifty percent of the equity or more than fifty percent (50%) of the ordinary voting power or, in the case of a partnership, more than fifty percent (50%) of the general partnership interests or more than fifty percent (50%) of the profits or losses of which are, as of such date, owned, controlled or held by the applicable Person or one or more subsidiaries of such Person.

“Tax” or “Taxes” means any United States federal, state, local or foreign income, gross receipts, license, payroll, employment, excise, stamp, occupation, premium, windfall profits, environmental (including taxes under section 59A of the IRC), customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property, personal property, sales, use, transfer, registration, escheat, value added, alternative or add-on minimum, estimated or other tax of any kind whatsoever, whether computed on a separate or consolidated, unitary or combined basis or in any other manner, including any interest, penalty or addition thereto, whether disputed or not.

“Tax Return” means any return, declaration, report, claim for refund or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

“Trademark Assignment Agreement” has the meaning set forth in Section 2.5(a)(v).

“Trademarks” means trademarks, service marks, trade dress, logos, trade names, and Internet domain names, together with all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith.

“Transaction” has the meaning set forth in the recitals.

“Transfer Tax” has the meaning set forth in Section 6.4(a).

“Transferred Contract” has the meaning set forth in Section 5.8(a)(iii).

“Transferred Employee” has the meaning set forth in Section 6.3(a).

“Transferred Employee PTO Liability” has the meaning set forth in Section 6.3(b).

“WARN Act” means the Worker Adjustment and Retraining Notification Act, as

amended.

“Wind-Up Escrow Account” means an interest-bearing account established by the Sellers, but funded by the DIP Secured Parties, to hold an amount equal to the Wind-Up Escrow Amount.

“Wind-Up Escrow Amount” means the aggregate amount of fees and expenses of the professionals and employees or contractors of Sellers incurred in connection with the dissolution and winding up of Sellers following the Dismissal Date, with such aggregate amount not to exceed ~~[\$—]~~ \$50,000.00.

Section 1.2 Interpretations. As used in this Agreement and unless otherwise indicated herein to the contrary:

(a) When a reference is made in this Agreement to an Article, Section, Exhibit, Schedule, clause or subclause, such reference shall be to an Article, Section, Exhibit, Schedule, clause or subclause of this Agreement.

(b) The terms “include,” “includes” or “including” and other words or phrases of similar import, when used in this Agreement, shall be deemed to be followed by the words “without limitation” whether or not they are in fact followed by such word or words of like import.

(c) The words “hereof,” “herein” and “hereunder” and words of similar import, when used in this Agreement, refer to this Agreement as a whole and not to any particular provision of this Agreement.

(d) The word “if” and other words of similar import shall be deemed, in each case, to be followed by the phrase “and only if.”

(e) The use of “or” herein is not intended to be exclusive.

(f) The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of names and pronouns shall include the plural and vice versa.

(g) All terms defined in this Agreement have their defined meanings when used in any certificate or other document made or delivered pursuant hereto, unless otherwise defined therein.

(h) References to any statute shall be deemed to refer to such statute as amended from time to time and to any rules or regulations promulgated thereunder. References to any Contract are to that Contract as amended, modified or supplemented from time to time in accordance with the terms hereof and thereof. References herein to a Person are also to its successors and permitted assigns. Any reference herein to a Governmental Authority shall be deemed to include reference to any successor thereto. References from or through any date means, unless otherwise specified, from and including or through and including such date, respectively.

(i) Any reference herein to “Dollars” or “\$” shall mean United States dollars.

(j) References to “days” shall refer to calendar days unless Business Days are specified. If any period expires on a day which is not a Business Day or any event or condition is required by the terms of this Agreement to occur or be fulfilled on a day which is not a Business Day, such period shall expire or such event or condition shall occur or be fulfilled, as the case may be, on the next succeeding Business Day.

(k) Unless the context otherwise requires, the word “extent” in the phrase “to the extent” means the degree to which a subject or other thing extends, and such phrase does not mean simply “if.”

ARTICLE II PURCHASE AND SALE

Section 2.1 Purchase and Sale of Assets. On the terms and subject to the conditions set forth in this Agreement, Buyer (or its assignee) will purchase from Sellers, and Sellers will sell, transfer, assign, convey, and deliver to Buyer (or its assignee) on the Closing Date the Acquired Assets, free and clear of all Liens. Nothing herein shall be deemed to sell, transfer, assign, convey or deliver the Excluded Assets to Buyer, and Sellers shall retain all right, title and interest in, to and under the Excluded Assets.

Section 2.2 Assumed Liabilities. On the terms and subject to the conditions set forth in this Agreement, at the Closing, Buyer shall assume no liabilities or obligations of Sellers, other than the Assumed Liabilities. Buyer agrees to pay, perform, honor, and discharge, or cause to be paid, performed, honored and discharged, all such Assumed Liabilities in accordance with the terms thereof. Notwithstanding anything in this Agreement to the contrary, Buyer shall not assume, and shall not be deemed to have assumed, any of the Excluded Liabilities.

Section 2.3 Consideration. Subject to adjustment, the aggregate consideration for the Acquired Assets calculated as of the date of this Agreement shall be an amount equal to the Purchase Price and the Assumed Liabilities.

Section 2.4 Closing. The Closing shall take place via electronic exchange of closing deliveries by the Parties, including by email or other electronic exchange (or at such location as shall be mutually agreed upon by Sellers and Buyer) commencing at 10:00 a.m. Eastern time on a date (the “Closing Date”) that is within three (3) Business Days following the date of the Sale Hearing (or such later date as may be agreed to by Buyer and Sellers in writing), and all of the conditions to the obligations of Sellers and Buyer to consummate the Transaction set forth in Section 7.1 and Section 7.2 (other than conditions that by their nature are to be satisfied at the Closing itself, but subject to the satisfaction or waiver of those conditions) have been satisfied or waived or such other date as shall be mutually agreed upon by Sellers and Buyer prior thereto. For purposes of this Agreement and the Transaction, the Closing will be deemed to occur and be effective, title to and risk of loss associated with the applicable Acquired Assets, shall be deemed to occur at 12:01 a.m., Eastern time, on the Closing Date (the “Effective Time”).

Section 2.5 Closing Payments and Deliveries. On the Closing Date:

(a) Buyer shall:

(i) adjust the amount of Sellers’ outstanding obligations to Buyer

following application of Buyer's credit bid of the Purchase Price;

(ii) deliver to Sellers a Bill of Sale, in a form reasonably acceptable to Buyer (the "Bill of Sale"), duly executed by Buyer, for the Acquired Assets to be acquired in the Closing;

(iii) deliver to Sellers an Assignment and Assumption Agreement, in a form reasonably acceptable to Buyer (the "Assignment and Assumption Agreement"), duly executed by Buyer, for the Acquired Assets (other than Assumed Leases and Trademarks) and Assumed Liabilities to be acquired in the Closing;

(iv) deliver to Sellers an Assignment and Assumption of Lease, in a form reasonably acceptable to Buyer (the "Lease Assignment Agreement"), duly executed by Buyer, for each Assumed Lease to be assigned and assumed in the Closing;

(v) deliver to Sellers a Trademark Assignment Agreement, in a form reasonably acceptable to Buyer (the "Trademark Assignment Agreement"), duly executed by Buyer, acknowledging the assignment of the Trademarks included in the Acquired Assets to Buyer; and

(vi) deliver to Sellers a duly executed certificate from an officer of Buyer to the effect that each of the conditions specified in Section 7.2(a) and Section 7.2(b) is satisfied.

(b) Sellers shall:

(i) deliver to Buyer the Bill of Sale, duly executed by Sellers, for the Acquired Assets to be acquired in the Closing;

(ii) deliver to Buyer the Assignment and Assumption Agreement, duly executed by Sellers, for the Acquired Assets (other than Assumed Leases and Trademarks) and Assumed Liabilities to be acquired in the Closing;

(iii) deliver to Buyer the Lease Assignment Agreement, duly executed by each applicable Seller, for each Assumed Lease to be assigned and assumed in the Closing;

(iv) deliver to Buyer the Trademark Assignment Agreement, duly executed by each applicable Seller, effecting the assignment of the Trademarks included in the Acquired Assets to Buyer;

(v) deliver to Buyer a duly executed certificate from an officer of each applicable Seller to the effect that each of the conditions specified in Section 7.1(a) and Section 7.1(b) is satisfied;

(vi) deliver to Buyer a duly executed FIRPTA Affidavit from each applicable Seller (or, if such Seller is a disregarded entity for U.S. federal income tax purposes, its regarded owner); and

(vii) such other separate documents or instruments of sale, assignment or transfer as the Buyer shall reasonably request to evidence the consummation of the Transaction.

Section 2.6 Allocation. Buyer and Sellers agree to allocate the Purchase Price, the Assumed Liabilities, and all other relevant items among the Acquired Assets in accordance with section 1060 of the IRC and the treasury regulations thereunder (the “Allocation Principles”). No later than thirty (30) days after the Closing Date, Buyer shall deliver to Sellers an allocation of the Purchase Price and the Assumed Liabilities (and all other relevant items) as of the Closing Date among the Acquired Assets determined in a manner consistent with the Allocation Principles (the “Purchase Price Allocation”) for Sellers’ review. Sellers shall have an opportunity to review the proposed Purchase Price Allocation for a period of ten (10) Business Days after receipt of the proposed Purchase Price Allocation. If Sellers disagree with any aspect of the proposed Purchase Price Allocation, Sellers shall notify Buyer in writing prior to the end of such ten (10) Business Day period (an “Allocation Objection Notice”), setting forth Sellers’ proposed Purchase Price Allocation and specifying, in reasonable detail, any good faith dispute as to Buyer’s Purchase Price Allocation. If prior to the conclusion of such ten (10) Business Day period, Sellers notify Buyer in writing that it will not provide any Allocation Objection Notice or if Sellers do not deliver an Allocation Objection Notice within such ten (10) Business Day period, then the proposed Purchase Price Allocation shall be deemed final, conclusive and binding upon each of the Parties. Buyer and Sellers shall each use commercially reasonable efforts to resolve any objection by Sellers to the proposed Purchase Price Allocation. If, within five (5) Business Days after Buyer received an Allocation Objection Notice, the Parties have not resolved all objections and agreed upon a final Purchase Price Allocation, the Parties shall engage an independent accounting firm mutually acceptable to Buyer and Sellers (the “Independent Accountant”) to resolve any outstanding disputes, and such resolution shall be final, conclusive and binding upon each of the Parties. The fees and disbursements of the Independent Accountant shall be shared equally by Sellers, on the one hand, and Buyer, on the other hand. Sellers and Buyer shall make appropriate adjustments to the Purchase Price Allocation to reflect any adjustments to the Purchase Price. Buyer and Sellers agree (and agree to cause their respective Subsidiaries and Affiliates) to prepare, execute, and file IRS Form 8594 and all Tax Returns on a basis consistent with the final Purchase Price Allocation, and none of the Parties will take any position inconsistent with the final Purchase Price Allocation on any Tax Return or in any audit or Tax proceeding, in each case unless otherwise required by a change in Law or pursuant to the good faith resolution of a Tax contest. Notwithstanding any other provision of this Agreement, the terms and provisions of this Section 2.6 shall survive the Closing without limitation.

Section 2.7 Delivery of Possession. At the Closing, (i) Sellers shall deliver to Buyer possession of the Restaurants, (ii) all Excluded Assets shall have been removed by Sellers from each of the Properties (unless otherwise agreed by the Parties), (ii) Sellers shall deliver to Buyer’s designated representative the keys and access and security codes to the Properties and the combinations to all safes located at the Properties, and (iii) remote access to all accounting, security, general ledger, food order and other management systems relating to the operation of the Business. Buyer shall assume all risk of loss by fire or other casualty and all risks relating to the operation of the Business with respect thereto occurring upon or following the Effective Time on the Closing Date.

Section 2.8 Insurance Proceeds. If between the Execution Date and the Effective Time there is any material damage or other loss to any item(s) of Furnishings and Equipment, Inventory, or other items of property, plant or equipment, in each case, to the extent such item is an Acquired Asset that is covered by insurance, then at the Closing, Buyer shall receive the insurance proceeds that any Seller shall have received (or be entitled to receive), or in the event the proceeds have not been received by a Seller at the time of Closing, an assignment by the applicable Seller of all of its rights in and to adjust and receive the insurance proceeds. Sellers shall credit to Buyer the amount of any insurance deductible at Closing, solely to the extent such deductible had not yet been paid by Sellers. Post-Closing and with respect to insurance claims made for damages or losses to the Acquired Assets occurring after the Execution Date, Sellers shall not have the right to participate in any insurance adjustment, settlement or claim or condemnation proceeding, but shall have such right to participate prior to and until Closing, and shall, at all times, reasonably cooperate with Buyer in pursuing any claim settlement, adjustment or prosecution, and any and all insurance proceeds shall be the sole property of Buyer.

Section 2.9 Withholding. Notwithstanding any other provision of this Agreement to the contrary, Buyer shall be entitled to deduct and withhold from any consideration or other amounts payable to any Person pursuant to this Agreement such amounts as it is required to deduct and withhold with respect to the payment of such consideration or other amounts under any provision of U.S. federal, state, local, or non-U.S. Tax law. If Buyer determines that any deduction or withholding is required, Buyer will provide prior written notice to Sellers of any such determination prior to the Closing Date; provided, that in no event shall Buyer be required to pay any additional amounts in respect of such withholding or deduction. Any amounts so deducted and withheld shall be treated for all purposes of this Agreement as having been paid to the Person in respect of which such deduction and withholding was made.

ARTICLE III SELLERS' REPRESENTATIONS AND WARRANTIES

Sellers, jointly and severally, represent and warrant to Buyer that the statements contained in this Article III are true and correct, except as set forth in the disclosure schedule accompanying this Agreement with section references corresponding to the section references in this Agreement (the "Disclosure Schedule").

Section 3.1 Organization of Sellers; Good Standing. Each Seller is a corporation or limited liability company, as applicable, duly organized, validly existing and in good standing under the Laws of the state of its incorporation or formation, as applicable, and has, subject to the necessary authority from the Bankruptcy Court, all requisite corporate or limited liability company (as applicable) power and authority to own, lease and operate its assets and to carry on its business as now being conducted and is duly qualified or licensed to do business and is in good standing in each jurisdiction where the character of its business or the nature of its properties makes such qualification or licensing necessary.

Section 3.2 Authorization of Transaction. Subject to the Bankruptcy Court's entry of the Sale Order and any other order required by Law to close the sale of the Acquired Assets, each Seller has full power and authority (including full corporate or other organizational power and authority) to execute and deliver this Agreement, the Related Agreements and all other agreements contemplated hereby to which it is a party and to perform its obligations hereunder and thereunder. The execution, delivery, and performance of this Agreement, the Related Agreements and all other agreements contemplated hereby to which each Seller is a party have

been duly authorized by such Seller. Upon due execution hereof and thereof by each Seller, this Agreement, the Related Agreements and all other agreements contemplated hereby to which each Seller is a party (assuming in each case due authorization, execution and delivery by Buyer where applicable) shall constitute, subject to the Bankruptcy Court's entry of the Sale Order and any other order required by Law to close the sale of the Acquired Assets, the valid and legally binding obligations of such Seller, enforceable against such Seller in accordance with their respective terms and conditions, except as limited by the availability of equitable remedies (regardless of whether enforceability is considered in a proceeding at Law or in equity) (the "General Enforceability Exceptions").

Section 3.3 Noncontravention; Government Filings. Except as set forth on Section 3.3 of the Disclosure Schedule, neither the execution and delivery of this Agreement, nor the consummation of the Transaction (including the assignments and assumptions referred to in Article II), will (a) conflict with or result in a breach or violation of or default under the organizational documents of any Seller, (b) subject to the entry of the Sale Order and any other order required by Law to close the sale of the Acquired Assets, materially conflict with, or result in any material violation or material breach of or material default (with or without notice or lapse of time, or both) under any Law or Decree to which any Seller is subject in respect of the Acquired Assets, or (c) subject to the entry of the Sale Order and any other order required by Law to close the sale of the Acquired Assets, materially conflict with, result in a material breach or violation of, constitute a material default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify or cancel, or require any notice under any material Contract or material Permit constituting an Acquired Asset to which any Seller is a party or to which any of the Acquired Assets is subject. Other than as required or pursuant to the Bankruptcy Code, the Sale Order, and any other order required by Law to close the sale of the Acquired Assets, no Seller is required to give any notice to, make any material filing with, or obtain any material Consent from any Person in order for the Parties to consummate the Transaction.

Section 3.4 Title to Assets. Immediately prior to the Closing, Sellers will have, and upon delivery to Buyer on the Closing Date of this Agreement and the Related Agreements, and in accordance with the terms of the Sale Order, Sellers will thereby transfer to Buyer, good and valid title to, or, in the case of property leased by Sellers, a valid leasehold interest in, all of the Acquired Assets to be transferred as part of the Closing, free and clear of all Liens (to the extent permitted under applicable Law). Except for the Excluded Assets and as otherwise set forth in Section 3.4 of the Disclosure Schedule, the Acquired Assets, whether real or personal, tangible or intangible, comprise all of the assets, properties and rights of Sellers and their Affiliates as of the Execution Date that are necessary to conduct the Business in the manner presently conducted.

Section 3.5 Real Property. Section 3.5 of the Disclosure Schedule sets forth the location of each Restaurant leased to a Seller by a third party, and a list of all related Leases for real property at which the Restaurants are located, including any Leases for real property at the properties in which a Seller is the lessor, sublessor, or licensor (such Leases, the "Real Property Leases"). Sellers have made available to Buyer a true and complete copy of each Real Property Lease. With respect to each Real Property Lease, (a) such Real Property Lease is in full force and effect, (b) Sellers have a valid and enforceable leasehold interest under such Real Property Lease, free and clear of all Liens (to the extent permitted under applicable law), and (c) neither such Sellers nor, to Sellers' Knowledge, the counterparty thereto is in material breach or material default

under such Real Property Lease, except for those defaults that will be cured in accordance with the Sale Order or waived in accordance with section 365 of the Bankruptcy Code (or that need not be cured under the Bankruptcy Code to permit the assumption and assignment of the Real Property Leases and that would not be a Liability of Buyer at or after the Closing).

Section 3.6 Litigation; Decrees. Other than the Bankruptcy Cases or with respect to any Excluded Liabilities, (a) there is no material Litigation pending, or, to Sellers' Knowledge, threatened by or before any Governmental Authority, nor, to Sellers' Knowledge, is there any material investigation pending by any Governmental Authority, in each case, against Sellers in connection with the Business and (b) neither Sellers nor any of their respective assets or properties is subject to any outstanding material Decree applicable to the Business.

Section 3.7 Labor Relations.

(a) No Seller is party to any labor or collective bargaining agreement.

(b) No labor organization representing any Employees has made any demand against any Seller for recognition; and there are no representation proceedings or petitions seeking a representation proceeding against any Seller involving any Employees or, to the Sellers' Knowledge, threatened to be brought or filed against any Seller with the United States National Labor Relations Board or any other labor relations tribunal inside or outside of the United States. To Sellers' Knowledge, there is no ongoing organizing activity involving Employees pending or threatened by any labor organization or group of Employees.

Section 3.8 Brokers' Fees. Other than the fees and expenses payable to Duff & Phelps in connection with the Transaction, which shall be borne solely by Sellers, no Seller has entered into any Contract to pay any fees or commissions to any broker, finder, or agent with respect to the Transaction for which Buyer or any of its Affiliates could become liable or obligated to pay.

Section 3.9 Taxes. Except as set forth on Section 3.9 of the Disclosure Schedule:

(a) In each case with respect to the Acquired Assets and the Business, Sellers have timely filed all Tax Returns required to be filed with the appropriate Tax authorities in all jurisdictions in which such Tax Returns are required to be filed (taking into account any extension of time to file granted or to be obtained on behalf of Sellers), and all such Tax Returns are true, correct and complete in all material respects; and all Taxes payable by or on behalf of each Seller have been timely paid.

(b) Sellers have complied in all material respects with all applicable Laws relating to the payment and withholding of Taxes with respect to the Acquired Assets and the Business and have duly and timely withheld and paid over to the appropriate Tax authorities all material amounts required to be so withheld and paid over under all applicable Laws with respect to the Acquired Assets and the Business.

(c) To Sellers' Knowledge, there is no action, suit, investigation, audit, claim or assessment pending, with respect to Taxes of the Business.

Section 3.10 Tangible Personal Property; Inventory.

(a) Except as set forth on Section 3.10(a) of the Disclosure Schedule, Sellers

have good and valid title to all Furnishings and Equipment, free and clear of all Liens (to the extent permitted under applicable law) other than Liens that will be released at Closing.

(b) Section 3.10(b) of the Disclosure Schedule sets forth a list of all Transferred Contracts that constitute Leases of personal property (“Personal Property Leases”) relating to personal property held, used or intended to be used by Sellers in the Business. Sellers have made available to Buyer true and complete copies of the Personal Property Leases.

(c) Sellers have a valid and enforceable leasehold interest under each of the Personal Property Leases. No party to any of the Personal Property Leases has provided written notice of any termination rights with respect thereto.

(d) All Inventory consists of a quality and quantity usable and, with respect to finished goods, saleable, in the Ordinary Course of Business. All Inventory of the Sellers is located at the Restaurants.

Section 3.11 Contracts.

(a) Section 3.11(a) of the Disclosure Schedule contains a list of each material Contract, Lease or Real Property Lease to which any Seller is a party or by which any Seller is bound and that is used in or related to the Business or any of the Acquired Assets. Each of the Transferred Contracts is in full force and effect and is a valid and binding obligation of the applicable Seller(s) and, to Sellers’ Knowledge, the other parties thereto, in accordance with its terms and conditions, in each case subject to the terms of the Sale Order. Sellers have made available to Buyer true and complete copies of each Transferred Contract. Except for those defaults that will be cured or waived in accordance with Section 365 of the Bankruptcy Code (or that do not need to be cured under the Bankruptcy Code to permit the assumption and assignment of the Transferred Contracts and that would not be a Liability of Buyer at or after the Closing), there is no material default under any of the Transferred Contracts by any Seller or, to the Knowledge of Sellers, by any other party thereto, and Sellers have not received any written notice of any default or event that with notice or lapse of time or both would constitute a default by Sellers under any Transferred Contract. Subject only to the satisfaction of the Cure Costs applicable to the Transferred Contracts and the entry of the Sale Order, each Transferred Contract may be assumed by Sellers and assigned to Buyer pursuant to section 365 of the Bankruptcy Code. For purposes of this Section 3.11(a) the term “Transferred Contracts” excludes all Real Property Leases.

(b) Section 3.11(b) of the Disclosure Schedule sets forth a list of all Bonding Requirements required as of the date hereof with respect to the Transferred Contracts, with the amount of such Bonding Requirements set forth in Section 3.11(b) of the Disclosure Schedule next to each such Transferred Contract.

Section 3.12 Employee Benefits; Employees.

(a) Section 3.12(a) of the Disclosure Schedule lists all material written Employee Benefit Plans. “Employee Benefit Plans” means all “employee benefit plans,” as defined in Section 3(3) of ERISA, including any Multiemployer Plans, and all other material employee benefit plans, programs, policies, practices, or other arrangements providing benefits (other than governmental plans and statutorily required benefit arrangements), including bonus or incentive plans, deferred compensation arrangements, stock purchase, stock option, change of

control, severance pay, sick leave, vacation pay, disability, medical insurance and life insurance, in each case, maintained or contributed to by Sellers and ERISA Affiliates with respect to Employees (including, solely for purposes of this Section 3.12(a), Employees of the Restaurants who are on short-term disability, long-term disability or any other approved leave of absence).

(b) True and correct copies of the most recent plan summaries distributed to Employees, if any, and all amendments or supplements thereto, with respect to each of the material written Employee Benefit Plans (as applicable) have been provided to Buyer

(c) Section 3.12(c) of the Disclosure Schedule contains a true and complete list of all employees of Sellers and their respective Affiliates whose business time and attention is devoted to the on-premises management and operation of the Restaurants, including those employees on worker's compensation, family or medical leave or any other leave of absence and all employees who perform either light duty or have work restrictions (collectively, the "Employees") as of ~~the Execution Date~~ February 8, 2019 (which Disclosure Schedule shall be updated prior to Closing to include all such Employees through the Closing Date), including thereon their current base wage and hourly rate, and with respect to each Employee, his or her name and applicable restaurant location, and the Transferred Employee PTO Liability. Except as otherwise set forth on Section 3.12(c) of the Disclosure Schedule, each of the Employees has been actively employed or engaged by Seller through the Execution Date. The employment or consulting arrangement of all Employees is terminable at will. To Seller's Knowledge, all of the Employees will be available to Buyer after the Closing and none of the Employees has indicated that he or she will not agree to employment by Buyer or its Affiliates on substantially the same terms and conditions as his or her current relationship with the applicable Seller.

(d) Section 3.12(d) of the Disclosure Schedule contains a true and accurate description of all Liabilities, including reimbursement claims (such as medical and dental claims) for expenses incurred, and for all non-reimbursement claims (such as life insurance claims) incurred under Sellers' Employee Benefit Plans.

Section 3.13 Compliance with Laws; Permits.

(a) The Business is being conducted in all material respects in compliance with all applicable Laws and Orders promulgated by any Governmental Authority applicable to Seller.

(b) Section 3.13(b) of the Disclosure Schedule sets forth a list of all material Permits held or used by Sellers, or otherwise required, to operate the Business in substantially the same manner as such Restaurants have been operated in the past twelve (12) months, including all Permits necessary for the sale and service of beer, wine, and spirits and similar Permits and all Permits required pursuant to any Environmental Law, in each case each of which is in effect on the date hereof, and all applications for any such Permits that are in process on the date hereof. Sellers are in compliance in all material respects with all such Permits. Sellers hold all such Permits and such Permits constitute all Permits which are required for the Business as presently conducted. Each such Permit is in full force and effect and has not expired. To the Knowledge of Sellers there are no pending disciplinary actions, unresolved citations, unsatisfied penalties, Litigation or other past disciplinary actions related to the alcohol beverage Permits that would reasonably be expected to have a material adverse impact on any Restaurant or its ability to maintain or renew any Permits and no Seller has received notice of any pending or threatened modification, suspension, revocation, nonrenewal or cancellation of any Permit. Sellers are not in

default or violation (and no event has occurred which, with notice or the lapse of time or both, would constitute a material default or violation) of any term, condition or provision of any such Permit to which Sellers are parties.

(c) Section 3.13(c) of the Disclosure Schedule sets forth a list of all Bonding Requirements required as of the date hereof with respect to the Permits listed in Section 3.13(b) of the Disclosure Schedule, with the amount of such Bonding Requirements set forth in Section 3.13(c) of the Disclosure Schedule next to each such Permit.

Section 3.14 Intellectual Property.

(a) Section 3.14(a) of the Disclosure Schedule sets forth a list of all of the Intellectual Property that is necessary to operate the Business as presently operated by Sellers, including each item of Intellectual Property that is Registered (including the respective registration or application number and the record owner thereof) (the "Registered Intellectual Property"). Each item of Registered Intellectual Property is subsisting (and no such fees or filings with respect to any Registered Intellectual Property are due within ninety days after the date of the Closing) and is valid and enforceable. No such item of Registered Intellectual Property, or any material Trademark related to the Business that is not Registered, is subject to any outstanding Order, judgment or Decree restricting its use by Sellers or adversely affecting the Sellers' rights thereto. One of the Sellers owns or has valid rights to use each item of Registered Intellectual Property and each material Trademark related to the Business that is not Registered, free and clear from all Liens (to the extent permitted under applicable law), and no item of Registered Intellectual Property or material Trademark related to the Business that is not Registered is the subject of any exclusive outbound license of Intellectual Property.

(b) Except as set forth in Section 3.14(b) of the Disclosure Schedule or as could not reasonably be expected to result in Buyer incurring material liabilities under Intellectual Property Laws: (i) to the Knowledge of Sellers, the use of the Intellectual Property in the operation of the Business does not infringe, violate or misappropriate the Intellectual Property of any Person and (ii) no such claim for infringement, violation or misappropriation is pending or has been threatened in a written notice delivered to any Seller in the twelve (12) months prior to the date hereof.

(c) To the Knowledge of Sellers, (i) except as set forth in Section 3.14(c) of the Disclosure Schedule, no Person is infringing, violating, or misappropriating any of the Intellectual Property, and (ii) no Seller has delivered written notice of any such claim for infringement, violation or misappropriation to any Person in the twelve (12) months prior to the date hereof.

(d) Section 3.14(d) of the Disclosure Schedule contains a list of all Intellectual Property licenses that are used in or related to the Business or any of the Acquired Assets.

Section 3.15 Environmental Matters. With respect to each Restaurant and the Business and operations conducted at each Restaurant by the applicable Seller:

(a) each Seller is in, and during the past three (3) years has been in, material compliance with all applicable Environmental Laws, and no Seller has received any written notice of or been charged with the breach or violation of any applicable Environmental Laws which remains outstanding;

(b) there is no Litigation pending, or to Sellers' Knowledge, threatened against Sellers pursuant to any Environmental Law or otherwise with respect to any alleged violation of Environmental Law or Release of, or exposure to, any Hazardous Materials; and

(c) there has been no Release of any Hazardous Material into the indoor or outdoor environment (whether on-site or off-site) arising from Sellers' operation of any Restaurant in violation of or in a manner or location that could reasonably be expected to require any remediation or other response actions which would reasonably be expected to result in Sellers incurring Liabilities under Environmental Laws.

Section 3.16 Approved Budget. All projected, material operational disbursements of Sellers during the 13-week time period beginning on the Petition Date are set forth in the Approved Budget.

ARTICLE IV BUYER'S REPRESENTATIONS AND WARRANTIES

Buyer represents and warrants to each Seller that the statements contained in this Article IV are true and correct.

Section 4.1 Organization of Buyer; Good Standing. Buyer is a limited liability company duly organized, validly existing, and in good standing under the Laws of the State of Delaware and has all requisite power and authority to own, lease, and operate its assets and to carry on its business as now being conducted and is duly qualified or licensed to do business and is in good standing in each jurisdiction where the character of its business or the nature of its properties makes such qualification or licensing necessary, except where the failure to be so organized, existing, qualified or licensed, in good standing or to have such power and authority would not, individually or in the aggregate, prevent or materially impair or delay Buyer's ability to consummate the Transaction or perform its obligations hereunder on a timely basis.

Section 4.2 Authorization of Transaction. Buyer has full power and authority (including full corporate or other entity power and authority) to execute and deliver this Agreement, the Related Agreements and all other agreements contemplated hereby to which it is a party and to perform its obligations hereunder and thereunder. The execution, delivery, and performance of this Agreement, the Related Agreements and all other agreements contemplated hereby to which Buyer is a party have been duly authorized by Buyer. Upon due execution hereof and thereof, this Agreement, the Related Agreements and all other agreements contemplated hereby to which Buyer is a party (assuming in each case due authorization, execution and delivery by Sellers) shall constitute the valid and legally binding obligation of Buyer, enforceable against Buyer in accordance with their respective terms and conditions.

Section 4.3 Noncontravention. Neither the execution and delivery of this Agreement, nor the consummation of the Transaction (including the assignments and assumptions referred to in Article II) will (a) conflict with or result in a breach or violation of or default under the certificate of incorporation or bylaws, or other organizational documents, of Buyer, (b) conflict with, or result in any violation or breach of or default (with or without notice or lapse of time, or both) under any Law or Decree to which Buyer or its assets or properties are subject or (c) conflict with, result in a breach or violation of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify or cancel, or require any notice under

any Contract to which Buyer is a party or by which it is bound, except, in the case of either clause (b) or clause (c), for such conflicts, breaches, violations, defaults, accelerations, rights or failures to give notice as would not, individually or in the aggregate, prevent or materially impair or delay Buyer's ability to consummate the Transaction or perform its obligations hereunder on a timely basis. Subject to requisite Bankruptcy Court approval, as applicable, Buyer is not required to give any notice to, make any material filing with, or obtain any material Consent from any Person in order for the Parties to consummate the Transaction.

Section 4.4 Litigation; Decrees. There is no Litigation pending or, to Buyer's Knowledge, threatened in writing that challenges the validity or enforceability of this Agreement or seeks to enjoin or prohibit consummation of the Transaction. Buyer is not subject to any outstanding Decree that would prevent or materially impair or delay Buyer's ability to consummate Transaction or perform its obligations hereunder on a timely basis.

Section 4.5 Brokers' Fees. Buyer has not entered into any Contract to pay any fees or commissions to any broker, finder or agent with respect to the Transaction for which Sellers or any of their Affiliates could become liable or obligated to pay.

Section 4.6 Adequate Assurances. Buyer is and shall be capable of satisfying the conditions contained in sections 365(b)(1)(C) and 365(f) of the Bankruptcy Code with respect to the Transferred Contracts and the related Assumed Liabilities.

ARTICLE V PRE-CLOSING COVENANTS

The Parties agree as follows with respect to the period between the execution of this Agreement and Closing (except as otherwise expressly stated to apply to a different period):

Section 5.1 Efforts; Cooperation; Permits.

(a) Efforts; Cooperation. Upon the terms and subject to the conditions set forth in this Agreement, each of the Parties shall use its commercially reasonable efforts (except as set forth in Section 5.1(b)) to take, or cause to be taken, all actions, and to do, or cause to be done, and to assist and cooperate with the other Parties in doing, all things necessary, proper, or advisable to consummate and make effective, in the most expeditious manner reasonably practicable, the Transaction (including by giving, or causing to be given, any notices to, making any filings with, and using commercially reasonable efforts to obtain any Consents of Governmental Authorities as are necessary and appropriate to consummate the Transaction). Subject to Section 5.1(b) and Section 5.5, without limiting the generality of the foregoing, (a) each Seller shall use its commercially reasonable efforts to cause the conditions set forth in Section 7.1 that are within its control or influence to be satisfied or fulfilled and (b) Buyer shall use its commercially reasonable efforts to cause the conditions set forth in Section 7.2 that are within its control or influence to be satisfied or fulfilled.

(b) Permits. Buyer shall (i) use commercially reasonable efforts to obtain such Permits as are reasonably required in connection with the operation of the Restaurants (including by giving, or causing to be given, any notices to, making any filings with, and using commercially reasonable efforts to obtain any Consents of Governmental Authorities as are reasonably necessary and appropriate to obtain such Permits) and shall diligently pursue such

applications and filings to obtain such Permits and (ii) notify Sellers of any assistance it may require from Sellers and Sellers shall use commercially reasonable efforts to assist Buyer in obtaining any such Permits during the 90-day period following Closing; provided that Sellers shall continue to assist Buyer for up to 150 days if required in connection with the assignment or attainment of certain liquor Permits. Sellers shall reasonably cooperate with Buyer and use their commercially reasonable efforts to provide any documents and/or information necessary to assist Buyer in obtaining such Permits and to execute such Consents or other papers as may reasonably be required. To the extent permitted by applicable Law and if requested by Buyer, Sellers shall, consistent with applicable Law, execute a power of attorney authorizing Buyer to operate using such Sellers' Permits from and after such Closing Date and to execute and file, at Buyer's sole cost and expense, any documents or instruments (including fictitious name consents, which shall be withdrawn as soon as Buyer obtains its own Permits), required in order to permit Buyer to lawfully operate the applicable portion of the Business then-owned by Buyer under such Sellers' Permits from and after such Closing Date in accordance with the foregoing, and with respect to Liquor Licenses, with the consent of any Governmental Authority required. With respect to Liquor Licenses, if requested by Buyer, Sellers shall negotiate in good faith such alcoholic beverage management agreements with respect to the Restaurants, in form and substance reasonably acceptable to Buyer and Sellers, as may be reasonably necessary, and shall assist Buyer in the preparation of Buyer's application for Liquor Licenses and such other documentation as may be required by a Governmental Authority, for Buyer to operate the Restaurants under Sellers' Permits pending Buyer's receipt of any new or transferred Permits.

Section 5.2 Conduct of the Business Pending Closing. From the Execution Date until the Closing, except as set forth on Section 5.2 of the Disclosure Schedule and as otherwise expressly provided in this Agreement and subject to the obligations of Sellers to comply with applicable Law or any order of the Bankruptcy Court, and the provisions of the Bankruptcy Code, Sellers shall: (a) operate in the Ordinary Course of Business and carry on the Business in substantially the same manner as it has prior to the Execution Date; (b) maintain the Acquired Assets in substantially the same condition as the Acquired Assets were maintained as of the Execution Date, ordinary wear and tear excepted; (c) take all actions reasonably necessary and appropriate to deliver to Buyer title to the Acquired Assets free and clear of all Liens and Liabilities (other than Assumed Liabilities) pursuant to the Sale Order and cooperate with Buyer to obtain appropriate releases, consents, estoppels, certificates and other instruments as Buyer may reasonably request; (d) keep in full force and effect present insurance policies or other comparable insurance benefiting the Acquired Assets and the conduct of the Business; and (e) maintain and preserve its status as a corporation, limited liability company or limited partnership, as applicable.

Section 5.3 Certain Actions. From the Execution Date until the Closing, except as otherwise expressly provided in this Agreement, or as required by the Bankruptcy Court and the provisions of the Bankruptcy Code, Sellers, except in the Ordinary Course of Business consistent with past practice, shall not take any of the following actions without first obtaining the written consent of Buyer: (a) amend or terminate any Transferred Contract or Additional Transferred Contract; (b) sell, assign, transfer, distribute or otherwise transfer or dispose of any Acquired Assets or other, plant, equipment account receivable, supply or other assets or property, in each case, other than sales of Inventory in the Ordinary Course of Business; (c) make any material changes in cash management practices, pricing policies, credit or allowance policies, monetary policies, or accounting policies; (d) make any payment to, or undertake any transaction with, any Affiliate, officer, director, owner or manager of Sellers other than in the Ordinary Course of

Business; (e) adopt, amend or terminate any Employee Benefit Plan or other plan (other than in connection with the Closing ~~or pursuant to Section 6.11~~); or (f) change the compensation, or benefits, or terminate without cause or change the position of any Employees, other than in the Ordinary Course of Business or as contemplated by this Agreement.

Section 5.4 Access; Provision of Additional Information.

(a) From the Execution Date until the Closing Date, upon the reasonable request of Buyer and to the extent not otherwise prohibited by applicable Law, Sellers will permit Buyer and its Representatives to have, upon reasonable advance written notice pursuant to the terms of this Agreement, during normal business hours, access to the Business and the Acquired Assets, including to the Restaurants and all other premises and properties (including access to conduct Phase I environmental site assessments, it being expressly agreed that Buyer shall not be permitted to do any subsurface testing without the Sellers' prior written consent, which shall not be unreasonably withheld, conditioned or delayed) relating to the Business, and to the books and records of the Sellers relating to the Acquired Assets and the Business, Permits and Transferred Contracts included in the Acquired Assets, and shall furnish to Buyer and its Representatives all material information concerning the Acquired Assets and the Business reasonably requested by Buyer and not otherwise disclosed pursuant to this Agreement and all financial, operating and other data and information regarding the Business as Buyer or its Representatives may from time to time reasonably request. No such access or examination, whether occurring prior to or after the date of this Agreement, shall diminish or obviate any of the representations, warranties, covenants or agreements of Sellers contained in this Agreement or the Related Agreements. Without limiting the foregoing, from and after the entry of the Sale Order, Sellers shall reasonably cooperate with Buyer and its Representatives and use their commercially reasonable efforts to provide access to the Restaurants to facilitate the timely conversion of the Restaurants; provided, that (A) such access shall not interfere with the normal business operations of any Seller or Restaurant, and

(B) Sellers may, at their sole discretion, chaperone any such visits to the Restaurants prior to the Closing. In addition, Sellers shall use commercially reasonable efforts to cause Sellers' agents, Representatives, remaining employees, officers, directors, landlords, vendors, suppliers, and licensors to reasonably cooperate with Buyer and Buyer's representatives in connection with Buyer's due diligence review of the Business.

(b) From the Execution Date until the Closing Date, Sellers shall use commercially reasonable efforts to cause its officers and employees to confer with one or more Representatives of Buyer and to answer Buyer's questions regarding matters relating to the conduct of the Business and the status of the Transaction.

(c) Sellers shall not disclose any diligence information (i) received from Buyer, its Affiliates or its Representatives, or (ii) derived from materials provided to Sellers by Buyer, its Affiliates or Representatives, to any Person that is or is seeking to evaluate, negotiate or consummate an Alternative Transaction.

(d) Sellers shall reasonably cooperate with Buyer and its Representatives: (i) in Buyer's efforts to obtain all consents, approvals, authorizations, clearances and licenses required to carry out the Transaction (including, without limitation, those of governmental and regulatory authorities) or which Buyer reasonably deems necessary or appropriate, (ii) in the preparation of any document or other material which may be required by any governmental agency as a predicate to or result of the Transaction, and (iii) in Buyer's efforts to effectuate the

assignment of Transferred Contracts to Buyer as of the Closing Date. To the extent Buyer needs certain information and data which is in the possession of Sellers in order for Buyer to complete Buyer's license and permit approval applications, Buyer shall receive, upon request, reasonable assistance from Sellers in connection with the provision of such information.

Section 5.5 Bankruptcy Court Matters.

(a) Bankruptcy Court Filings.

(i) Whenever possible, at least two (2) days prior to filing any pleading before the Bankruptcy Court, Sellers shall deliver to Buyer a copy in draft form. Sellers shall reasonably cooperate with Buyer with respect to all such filings and incorporate any reasonable comments of Buyer and its counsel into such order, amendment, supplement, motion, or pleading. If commercially reasonable, Sellers shall oppose and seek the dismissal of any appeal (including a petition for certiorari, motion for rehearing, reargument, reconsideration or revocation) of the Sale Order that is filed. Each party hereto shall promptly notify the other party if, at any time before the Closing Date such party becomes aware that any information provided to the Bankruptcy Court contains any untrue statement of a material fact or omits to state a material fact required to be stated herein or necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading. In the event an appeal is taken, or a stay pending appeal is requested, from the Sale Order, the Transferred Contract Assumption and Assignment Order or any other order, Sellers shall immediately notify Buyer of such appeal or stay request and shall provide to Buyer within one (1) Business Day a copy of the related notice of appeal or order of stay. Sellers shall also provide Buyer with written notice of any motion or application filed in connection with any appeal from either of such orders.

(ii) Sellers shall file such motions or pleadings as may be appropriate or necessary to assume and assign the Transferred Contracts and to determine and resolve, if necessary, the amount of the Cure Costs (if any).

(b) Sale Order. Sellers shall seek entry of the Sale Order and any other necessary orders to close the sale by the Bankruptcy Court at hearing occurring no later than February 12, 2019, and Sellers shall provide notice of the Sale Order to all Persons necessary to provide Buyer with the benefits and protections set forth in the Sale Order (including notice to all applicable Tax authorities). Buyer and Sellers understand and agree that the Transaction is subject to approval by the Bankruptcy Court. Buyer agrees that it will promptly take such actions as are reasonably requested by Sellers to assist in obtaining entry of the Sale Order. In the event the entry of the Sale Order shall be appealed, Sellers shall use commercially reasonable efforts to defend such appeal.

Section 5.6 Notice of Developments. Sellers, on the one hand, and Buyer, on the other hand, will give prompt written notice to the other Party of (a) the existence of any fact or circumstance, or the occurrence of any action or event, of which it has Knowledge that has caused, or would reasonably be likely to cause, a condition to a Party's obligations to consummate the Transaction set forth in Article VII not to be timely satisfied, or (b) the receipt of

any notice or other communication from any Governmental Authority in connection with the Transaction. The delivery of any notice pursuant to this Section 5.6 shall not have any effect on the representations, warranties, covenants and agreements contained in this Agreement for purposes of determining satisfaction of any condition herein and shall not be deemed to amend or supplement this Agreement. The failure to deliver any such notice shall not constitute a waiver of any right or condition to the consummation of the Transaction by any Party.

Section 5.7 Replacement Bonding Requirements. At Closing, Buyer shall cause itself or one or more of its Affiliates to provide replacement guarantees, standby letters of credit or other assurances of payment with respect to all Bonding Requirements set forth on Section 3.13(c) of the Disclosure Schedule, in form and substance reasonably acceptable to Sellers and any banks or other counterparty thereto and cooperate with Sellers to obtain a release in form and substance reasonably acceptable to Buyer and Sellers with respect to all such Bonding Requirements. To the extent Buyer is unable to make such arrangements with respect to such Bonding Requirements as of the Closing Date, Buyer shall effect such arrangements as soon as practicable after the Closing Date, but in any event with three (3) months thereof.

Section 5.8 Assumption and Assignment of Transferred Contracts; Cure Costs.

(a) Assignment and Assumption at Closing.

(i) Sellers have: (A) provided to Buyer a schedule setting forth (1) each material Contract, Lease or Real Property Lease to which any Seller is a party or by which any Seller is bound and that is used in or related to the Business or any of the Acquired Assets, (2) all Cure Costs (if any) for each such material Contract, Lease or Real Property Lease and (3) a general description of each such material Contract, Lease or Real Property Lease (such schedule is referred to herein as the “Contracts Schedule”); and (B) sent a notice to each counter-party for a Contract, Lease or Real Property Lease on the Contracts Schedule setting forth the proposed Cure Costs (if any) for such Contracts, Leases and Real Property Lease (the “Cure Notice”). In the Cure Notice, Sellers (A) set forth the procedures for the assumption and assignment of Contracts, Leases or Real Property Leases, and (B) notified counter-parties that their Contracts, Leases or Real Property Leases may be assumed or rejected as of the Closing Date.

(ii) Sellers shall take all other actions necessary to cause all Transferred Contracts to be assumed by Sellers and assigned to Buyer pursuant to Bankruptcy Code section 365, provided that (A) the only Contracts, Leases and Real Property Leases to be actually assumed and assigned to Buyer at Closing will be the

Transferred Contracts and (B) the only Contracts, Leases and Real Property Leases to be actually assumed and assigned to Buyer after Closing will be the Additional Transferred Contracts. Buyer shall, at or prior to Closing, comply with all requirements under Bankruptcy Code section 365 to assign to Buyer the Assumed Contracts,

(iii) ~~No later than three Business Days prior~~ Prior to the ~~Auction~~ Sale Hearing, Buyer shall, by delivering written notice to Sellers, designate each

Contract, Lease or Real Property Lease on the Contracts Schedule that it desires to acquire as a Transferred Contract as “Assumed”. Each Contract, Lease, or Real Property Lease so designated as “Assumed” is referred to herein as a “Transferred Contract”; provided, however, that Buyer may amend the list of Transferred Contracts to add or remove items from that list at any time prior to the Closing Date. Prior to the Sale Hearing, Sellers shall have filed a notice with the Bankruptcy Court setting forth the Transferred Contracts, provided, however, that such list may be revised to add additional Transferred Contracts, or remove contracts previously designated by Buyer as a Transferred Contract, at any time prior to the Closing Date.

(iv) Sellers shall, at or prior to Closing, comply with all requirements under Bankruptcy Code section 365 to assign to Buyer the Transferred Contracts. At Closing, (A) Sellers shall, pursuant to the Sale Order and the Assignment and Assumption Agreement(s), Lease Assignment Agreement and other transfer and assignment documents requested by Buyer, assume and assign to Buyer (the consideration for which is included in the Purchase Price) each of the Transferred Contracts and (B) Buyer and/or DIP Lender shall pay, or provide Sellers with advances sufficient to promptly pay, all Cure Costs (if any) in connection with such assumption and assignment (as agreed to among Buyer and Sellers or as determined by the Bankruptcy Court) and assume and agree to perform and discharge the Assumed Liabilities (if any) under the Transferred Contracts, pursuant to the Assignment and Assumption Agreement(s) or Lease Assignment Agreement; provided, however, that Buyer’s obligations to pay Cure Costs (if any) ~~(1)~~ (1) shall not exceed the amount set forth in the Approved Budget and (2) shall reduce the Assumed Liabilities in connection with the DIP Facility dollar for dollar.

(b) Previously Omitted Contracts.

(i) In the event that it is discovered that a material Contract, Lease or Real Property Lease should have been listed on the Contracts Schedule but was not listed on the Contracts Schedule (any such Contract, a “Previously Omitted Contract”), Sellers shall, immediately following the discovery thereof (but in no event later than two (2) Business Days following the discovery thereof), (A) notify Buyer of such Previously Omitted Contract and all Cure Costs (if any) for such Previously Omitted Contract, and (B) file a motion with the Bankruptcy Court on notice to the counterparties to such Previously Omitted Contract seeking entry of an order (the “Omitted Contract Motion”) requesting that the Bankruptcy Court fix the Cure Costs (if any) and authorize the potential assumption and assignment of such Previously Omitted Contract in accordance with this Section 5.8, as designated by Buyer pursuant to Section 5.8(b)(ii) (provided that no Previously Omitted Contract shall be assumed and assigned unless such Previously Omitted Contract is designated by Buyer as “Transferred” in accordance with Section 5.8(b)(ii)).

(ii) Following the filing of the Omitted Contract Motion, Buyer may deliver written notice to Sellers (such written notice shall be an “Omitted Contract Designation Notice”), designating one or more Previously Omitted Contracts set

forth in such Omitted Contract Motion as “Transferred.” For purposes of the application of this Section 5.8 each Previously Omitted Contract so designated as “Transferred” shall be an “Additional Transferred Contract”. Each Previously Omitted Contract shall then be treated in accordance with the provisions of this Section 5.8.

(c) Additional Transferred Contracts. On each date that each Additional Transferred Contract (as applicable) is assumed and assigned to Buyer pursuant to this Section 5.8 (including, without limitation, the approval of the assumption and assignment thereof by the Bankruptcy Court), such Additional Transferred Contract (as applicable) shall constitute a “Transferred Contract” and shall be a Transferred Contract for all purposes under this Agreement, provided that no Additional Transferred Contract shall be assigned or transferred pursuant to this Agreement unless the Bankruptcy Court has previously approved the assumption and assignment thereof to Buyer.

Section 5.9 D&O Policy. At or prior to Closing, a D&O insurance policy shall be bound providing coverage to the directors and officers of Sellers prior to the Closing Date in the same amounts and for at least six (6) years following the Closing Date.

Section 5.10 Professional Fee Escrow Account. No later than one Business Day prior to Closing, Sellers shall establish the Professional Fee Escrow Account. The DIP Lender shall fund the Professional Fee Escrow Account with cash in the amount of the Professional Fee Escrow Amount. The Professional Fee Escrow Account shall be maintained in trust for the Chapter 11 Professionals. Such funds shall not be considered property of the Sellers’ Estates, except as otherwise provided in Sections 5.11 and 5.12.

Section 5.11 Final Fee Applications and Payment of Accrued Professional Compensation Claims. All final requests for payment of claims of a Chapter 11 Professional shall be filed no later than seventy-five (75) days after the Closing Date; *provided, however*, that such deadline may be extended by the written consent of Buyer, which such consent will not be unreasonably withheld, conditioned or delayed in the event the Dismissal Date has not yet occurred. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code and prior Bankruptcy Court orders, the allowed amounts of Accrued Professional Compensation Claims shall be determined by the Bankruptcy Court. The amount of Accrued Professional Compensation Claims owing to the Chapter 11 Professionals, after taking into account any prior payments and after applying any retainers, shall be paid in cash to such Chapter 11 Professionals from funds held in the Professional Fee Escrow Account after such Chapter 11 Professionals’ Accrued Professional Compensation Claims are allowed by a Final Order. After all allowed Accrued Professional Compensation Claims have been paid in full, the escrow agent shall return any excess amounts within the Professional Fee Escrow Account to the DIP Secured Parties.

Section 5.12 Professional Fee Escrow Amount. The Chapter 11 Professionals shall estimate their Accrued Professional Compensation Claims before and as of the Dismissal Date, taking into account any prior payments and amounts to be applied from retainers, and shall deliver such estimate to the Sellers no later than one (1) business day prior to the Closing Date; *provided, however*, that (x) such estimate shall not be considered an admission with respect to the fees and expenses of such Chapter 11 Professional and such Chapter 11 Professionals are not bound to any extent by the estimates and (y) in no event shall the amounts payable to a Chapter 11 Professional exceed the amounts set forth in the Approved Budget. If a Chapter 11 Professional does not provide an estimate, the Sellers may estimate a reasonable amount of

unbilled fees and expenses of such Chapter 11 Professional, taking into account any prior payments and the availability of any retainers; *provided, however*, that such estimate shall not be binding or considered an admission with respect to the fees and expenses of such Chapter 11 Professional. To the extent that any Accrued Professional Compensation Claims are satisfied after the funding of the Professional Fee Escrow Account with funds outside the Professional Fee Escrow Account, the Professional Fee Escrow Amount shall be reduced by the amount of such funds and such amount shall be returned as soon as practicable to the DIP Secured Parties; *provided* that, (i) until a Chapter 11 Professional reasonably agrees that such Chapter 11 Professional's representation of the Sellers in the Bankruptcy Cases has concluded, such Chapter 11 Professional may retain up to fifty thousand dollars (\$50,000) of such Chapter 11 Professional's retainer, subject in all instances to the approved aggregate amount set forth in the Approved Budget; (ii) a Chapter 11 Professional shall provide the Buyer with advanced, written notice of any potential application of such retainer (and a reasonable opportunity to object to the reasonableness of fees to be applied against such retainer); and (iii) any unused portion of such Chapter 11 Professional's retainer shall be returned to the DIP Secured Parties following allowance of such Chapter 11 Professional's final fee application.

Section 5.13 Post Dismissal Date Fees and Expenses. From and after the Dismissal Date, the Sellers or reorganized Sellers, as applicable, may, in the ordinary course of business and without any further notice to or action, order, or approval of the Bankruptcy Court, pay in cash the reasonable legal, professional, or other fees and expenses of Chapter 11 Professionals that have been formally retained in accordance with sections 327, 363, or 1103 of the Bankruptcy Code before the Dismissal Date.

Section 5.14 Wind-Up Escrow Account. No later than one Business Day prior to Closing, Sellers shall establish the Wind-Up Escrow Account. The DIP Lender shall fund the Wind-Up Escrow Account with cash in the amount of the Wind-Up Escrow Amount. The Wind-Up Escrow Account shall be maintained in trust for the professionals of Sellers, including employees and contractors of Sellers, that assist Sellers with the dissolution or winding up of Sellers following the Dismissal Date. Such funds shall not be considered property of the Sellers' Estates. Notwithstanding the foregoing, in the event any amounts remain in the Professional Fee Escrow Account following payment in full to the Chapter 11 Professionals, the DIP Lender shall be permitted to transfer such amounts to the Wind-Up Escrow Account for use in connection therewith. Following the completion of the winding down and dissolution of Sellers, any unused portion of the Wind-Up Escrow Amount shall be returned promptly to the DIP Secured Parties.

ARTICLE VI OTHER COVENANTS

The Parties agree as follows with respect to the period from and after the Closing:

Section 6.1 Further Assurances. At any time, and from time to time at and after the Closing, if any further action is necessary to carry out the purposes of this Agreement, each of the Parties will, at the requesting Party's sole cost and expense, take such further action (including the execution and delivery of such other reasonable instruments of sale, transfer, conveyance, assignment, assumption and confirmation, providing materials and information) as the other Party may reasonably request which actions shall be reasonably necessary to transfer, convey or assign to Buyer all of the Acquired Assets or to confirm Buyer's assumption of the Assumed Liabilities. Promptly following receipt thereof, from and after the Closing, Buyer shall remit to Sellers amounts received in connection with any other Excluded Asset. Promptly following

receipt thereof, from and after the Closing, Sellers shall remit to Buyer any amounts received by Sellers or any of their respective Affiliates related to any of the Accounts Receivable or Buyer's accounts receivables or other amounts received in receipt of any other Acquired Asset.

Section 6.2 Access; Enforcement; Record Retention. From and after the Closing, upon the written request by any Seller, Buyer will permit Sellers and their Representatives to have reasonable access during normal business hours, and in a manner so as not to interfere unreasonably with the normal business operations of Buyer, to such premises, properties, personnel, books and records, and Contracts of or related to the Acquired Assets or the Assumed Liabilities for the purposes of (a) preparing Tax Returns, (b) complying with the requirements of any Governmental Authority, or (c) reasonably required by Sellers in connection with the wind-down of the Bankruptcy Cases; provided, however, that, for avoidance of doubt, the foregoing shall not require Buyer to take any such action if (i) such action may result in a waiver or breach of any attorney/client privilege, or (ii) such action could reasonably be expected to result in violation of applicable Law. Buyer agrees to maintain the files or records which are contemplated by the first sentence of this Section 6.2 in a manner consistent with its document retention and destruction policies, as in effect from time to time, for three (3) years following the Closing.

Section 6.3 Employees.

(a) Offer of Employment. Prior to the Closing Date and contingent upon the Closing and upon advance written notice to and coordination with Sellers, Buyer shall be authorized to conduct interviews, background checks and drug tests on the Employees, and shall be authorized, but not required, to make offers of employment to certain Employees of the Sellers (including any designated Seller employees working at the Restaurants) designated by the Buyer, in writing (the Employees who accept such offers of employment and commence employment on or after the Closing Date with Buyer, the "Transferred Employees"). Buyer shall provide Sellers a list of Transferred Employees within ~~five~~two (~~5~~2) Business Days prior to the Closing Date. Subject to this Section 6.3, the offers of employment made to Transferred Employees shall be made on such terms and conditions satisfactory to Buyer in its sole discretion. Nothing herein shall be construed as to prevent Buyer from terminating the employment of any Transferred Employee, consistent with applicable Law, at any time following the Closing.

(b) Vacation; PTO. Buyer agrees to assume and honor the vacation days and other paid-time-off accrued or earned during the one (1) year period ending on the Petition Date, but not yet taken, by each Transferred Employee as of the Closing Date (collectively, the "Transferred Employee PTO Liability").

(c) Welfare Benefit Claims; COBRA. On the Closing Date, Sellers shall cease to provide welfare coverage to each Transferred Employee and his or her covered dependents. Sellers shall be responsible in accordance with its applicable welfare plans in effect prior to the Petition Date for all reimbursement claims (such as medical and dental claims) for expenses incurred, and for all non-reimbursement claims (such as life insurance claims) incurred, under Sellers' Employee Benefit Plans that are welfare benefit plans prior to the Petition Date by the Transferred Employees and their dependents. For purposes of this Section 6.3(c), a claim shall be deemed to have been incurred as follows: (i) for health, dental and prescription drug benefits, upon provision of such services, and (ii) for life, accidental death and dismemberment and business travel accident insurance benefits, upon the death, disability or accident giving rise to

such benefits. Sellers shall provide coverage required by the Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”) under Sellers’ Employee Benefit Plans that are group health plans with respect to qualifying events occurring prior to the Closing Date. Buyer and its Affiliates shall provide coverage required by COBRA to Transferred Employees. Sellers shall also be responsible for the payment of any severance payment or benefits that become due to any current or former employee, officer, director, member, partner or independent contractor as a result of the termination of such individual by Sellers or ERISA Affiliate thereof. Buyer or its Affiliates shall be responsible for any severance benefits for any Transferred Employee who terminates employment with the Buyer or such Affiliate after the Closing Date. Notwithstanding anything in this Agreement that may appear to the contrary, Buyer is not assuming, agreeing to be bound by, or otherwise agreeing to be liable for any Liability arising under, the Management Incentive Plan, dated as of August 24, 2018, any of the Restaurant Operating Partner Bonus Contracts for Café Enterprises, Inc. other than the Nester Agreement, any general manager equity plan, management incentive plan, key employee retention plan or any similar employee, manager or operating incentive plan of any Seller that may be deemed to be an Employee Benefit Plan.

(d) No Third-Party Beneficiary Rights. The Parties agree that nothing in this Section 6.3, whether express or implied, is intended to create any third-party beneficiary rights in any Employee.

(e) Cooperation. After the Closing Date, Buyer shall, and shall cause its Affiliates to, reasonably cooperate with Sellers to provide such current information regarding the Transferred Employees on an ongoing basis as may be necessary to facilitate determinations of eligibility for, and payments of benefits to, the Transferred Employees under any applicable employee benefit that continues to be maintained by Sellers or their Affiliates. Buyer shall, and shall cause its Affiliates to, permit Transferred Employees to provide such assistance to Sellers as may be reasonably required in respect of claims against Sellers or their Affiliates, whether asserted or threatened, to the extent that, in Sellers’ opinion, (i) a Transferred Employee has knowledge of relevant facts or issues, and (ii) a Transferred Employee’s assistance is reasonably necessary in respect of any such claim.

(f) Access to Employees. From and after the date hereof, and through the Closing, Buyer and/or its Representatives may meet and otherwise communicate with the Employees at each of the Restaurants, upon prior written notice to Sellers and an opportunity for Sellers to participate (in a manner so as not to interfere unreasonably with the normal business operations of any Seller) in order to discuss the impact of the pending Transaction and Buyer’s intentions with respect to the Employees at the Restaurants.

Section 6.4 Certain Tax Matters.

(a) Transfer Taxes. All stamp, documentary, filing, recording, registration, sales, use, transfer, added-value or similar non-income Taxes, fees or governmental charges imposed under applicable Law in connection with the Transaction (a “Transfer Tax”) shall be borne by Buyer. The Party that is required by applicable Law to file any Tax Returns in connection with Transfer Taxes shall prepare and timely file such Tax Returns; provided, however, that the other Parties shall be entitled to receive such Tax Returns and other documentation reasonably in advance of filing by such preparing Party, but not less than ten (10) Business Days prior to the due date of such Tax Returns, and such Tax Returns and other documentation shall be subject to the other Parties’ approval, which shall not be unreasonably

withheld, delayed, or conditioned. The Parties hereto shall cooperate to permit the filing Party to prepare and timely file any such Tax Returns and shall provide each other with any applicable exemption certificates.

(b) Change of Ownership and Address. From and after the Closing Date, Buyer agrees to use commercially reasonable efforts to take such actions as are reasonably necessary to notify applicable federal, state, and local Governmental Authorities of the change of ownership and address to which all such Tax statements and related information should be mailed to ensure Buyer's receipt thereof.

Section 6.5 Insurance Matters.

(a) Except as provided in Section 6.5(b), Buyer acknowledges that, upon the Closing, all insurance coverage provided in relation to Sellers, the Restaurants, or the Acquired Assets that is maintained by any Seller or its Affiliates (whether such policies are maintained with third-party insurers or with such Seller or its Affiliates) shall not provide any coverage to Buyer and shall cease providing any coverage to the Restaurants or the Acquired Assets, and no further coverage shall be available to the Restaurants or Acquired Assets under any such policies.

(b) Notwithstanding anything to the contrary in this Agreement, Sellers shall use commercially reasonable efforts to: (A)(i) assign, to the extent assignable, to Buyer the right, power and authority to make directly to the insurer any request for payment under the Insurance Policies relating to any Assumed Liability or the Acquired Assets, or (ii) to the extent Sellers are unable to make such assignment, cooperate with Buyer in filing any claims under the Insurance Policies and in the collection of proceeds therefrom, including, where permitted by law and the applicable Insurance Policies, transferring to Buyer the right to pursue insurance proceeds hereunder related to the Assumed Liabilities or the Acquired Assets, as applicable; and (B) assign, to the extent assignable, to Buyer the right to receive any proceeds from such claims relating to such Assumed Liability or Acquired Asset, in the case of each of the foregoing clauses (A) and (B), at Buyer's sole cost and expense. Any Party receiving a notice under an Insurance Policy with respect to any Assumed Liability or Acquired Asset shall promptly notify all other Parties hereto.

Section 6.6 Acknowledgements. Buyer acknowledges that, except for the representations and warranties expressly set forth in Article III, in the certificate delivered to Buyer pursuant to Section 2.5(a)(ii)(E), and in the Related Agreements (which representations and warranties shall terminate and be of no further force or effect as of the Closing), no Seller nor any other Person makes any representation or warranty, express or implied, including as to the accuracy or completeness of any information regarding any Seller, the Restaurants, any Acquired Assets, any Assumed Liabilities or any other matter, and no Seller nor any other Person will be subject to any Liability to Buyer or any other Person resulting from such matters or the distribution to Buyer, or the use of, any such information. Buyer acknowledges that, should Closing occur, Buyer will acquire the Acquired Assets and assume the Assumed Liabilities in an "as is" condition and on a "where is" basis, without any representation or warranty of any kind, express or implied (including any with respect to environmental, health, or safety matters), including any implied warranty of merchantability or fitness for a particular purpose.

Section 6.7 Press Releases and Public Announcements. No Party shall issue any press release or make any public announcement relating to the existence or subject matter of this Agreement without the prior written approval of the other Party unless a press release or public

announcement is required by applicable Law or a Decree of the Bankruptcy Court. To the extent any press release or public announcement is made or required, it shall be in form and substance reasonably acceptable to the Buyer in its sole discretion. The Parties acknowledge that Sellers shall file this Agreement with the Bankruptcy Court in connection with obtaining the Sale Order.

Section 6.8 Personally Identifiable Information. Buyer acknowledges that the Acquired Assets include personally identifiable information (“PII”) within the meaning of Section 363(b) of the Bankruptcy Code, along with associated personal information about the Sellers' customers. In connection with the same, Buyer agrees to: (i) employ appropriate security controls and procedures (technical, operational and managerial) to protect PII and personal information, (ii) abide by all applicable laws and regulations with respect to PII and (iii) take such further actions with respect to PII as may be agreed between the Parties. The Buyer further agrees that (a) it shall abide by the Sellers' privacy policies and privacy-related covenants made in Sellers' terms of service that were in effect as of the Petition Date, (b) respect prior requests of customers to opt out of receipt of marketing messages (to the extent Sellers make Buyer aware of such requests; provided that Buyer shall seek to obtain such information from Sellers), and (c) use personal information only for the purposes of continuing Business operations and continuing to provide similar goods and services to customers, including marketing the products and services related to Acquired Assets.

Section 6.9 Casualty. If, between the date of this Agreement and the Closing, any of the Acquired Assets shall be destroyed or damaged in whole or in part by fire, earthquake, flood, other casualty or any other cause (each, a “Casualty”), then Buyer shall have the option to: (a) acquire such Acquired Assets on an “as is” basis and take an assignment from Sellers of all insurance proceeds payable to Sellers in respect of the applicable Casualty to the extent applicable to the Acquired Assets or Assumed Liabilities, or (b) in the event that the applicable Casualty causes a Material Adverse Effect, terminate this Agreement and the Transaction.

Section 6.10 Release by Buyer. In consideration of the premises contained herein, the Acquired Assets, and in consideration of and as an inducement to Sellers to consummate the Closing, upon the occurrence of the Closing (and subject to the occurrence of the Closing), Buyer on behalf of itself and its Affiliates, hereby releases and forever discharges each of the Sellers' respective past, present and future officers, directors, employees, representatives, Affiliates, shareholders, successors and assigns (individually, a “Released Party” and collectively, “Released Parties”) from any and all claims, demands, proceedings, causes of action, orders, obligations, contracts, indebtedness and liabilities whatsoever, whether known or unknown, suspected or unsuspected, both at law and in equity, which such Buyer or any of such Buyer's Affiliates now has, have ever had or may hereafter have against the respective Released Parties arising contemporaneously with or prior to the Closing or on account of or arising out of any matter, cause or event whatsoever occurring contemporaneously with or prior to the Closing, including (i) any matter arising out of or in connection with a Released Party's capacity as a director, officer, employee, or shareholder of a Seller, including, but not limited to, Employment Causes of Action, (ii) any Avoidance Action, and (iii) any rights to indemnification or reimbursement from any Released Party, whether pursuant to their respective constituent documents, contract or otherwise and whether or not relating to claims pending on, or asserted after, the Closing; provided that (x) nothing contained herein shall operate to release any obligations of Sellers arising under this Agreement and (y) nothing contained herein shall operate to release any claims against any Released Party based on fraud, theft or willful misconduct. Additionally, neither the Buyer, nor

any Person claiming by, through or on behalf of the Buyer shall (w) institute or commence an action based on the Employment Causes of Action, regardless of whether such Employment Cause of Action may be or are covered by a policy of insurance, a third-party payor or otherwise, or (x) assert, pursue, prosecute, litigate, institute or commence an action based on the Avoidance Actions, or (y) assert, sell, convey, assign or file any claim that relates to the Avoidance Actions, or (z) assert or use any such Avoidance Actions for defensive purposes. Buyer, on behalf of itself and its Affiliates, hereby irrevocably covenants to refrain from, directly or indirectly, asserting any claim or demand, or commencing, instituting or causing to be commenced, any proceeding of any kind against any Released Party, based upon any matter purported to be released hereby. Buyer specifically acknowledges and declares that, upon the Closing Date, there is no representation, warranty, or collateral agreement, written or oral, which will in any way modify, alter or provide any condition as to the effectiveness of the foregoing release.

~~Section 6.11 Executive Bonus Compensation Plan. At or prior to Closing, Buyer shall enter into separate individual agreements with certain key employees or management identified on Schedule 6.11 (as applicable, the "Key Employees"), regarding the payment of certain bonus payments to such Key Employees, up to the amounts set forth on Schedule 6.11, all in accordance with, and subject to, the terms of such individual agreements to be agreed upon by Buyer and Sellers. The Key Employees and amounts set forth on Schedule 6.11 can be changed prior to the Closing with the consent of both Buyer and Sellers. For the avoidance of doubt, the aggregate maximum amount to be paid to all of the Key Employees as set forth on Schedule 6.11, taken as a whole, shall not be reduced by the Buyer prior to such time as Buyer and every Key Employee enter into the individual agreements relating to such bonus payments.~~
Section 6.12 Sellers' Obligation to Notify Buyer. Upon Sellers' determination that (i) the sum of the amounts in clauses (i)-(iii) of Section 8.1(k) herein, individually or in the aggregate, are greater than one hundred thousand dollars (\$100,000), or (ii) it will be unable to achieve total Cure Costs relating to the Assumed Leases, individually or in the aggregate, of less than three hundred fifty thousand dollars (\$350,000), in each such case, Sellers shall promptly notify Buyer and provide all supporting documentation, materials and information relating to such determination to Buyer other than such documentation, materials and information as may be protected by attorney-client privilege.

ARTICLE VII CONDITIONS TO OBLIGATION TO CLOSE

Section 7.1 Conditions to Buyer's Obligations to Effect the Closing. Buyer's obligation to consummate the Transaction in connection with the Closing is subject to satisfaction or waiver of the following conditions:

- (a) the representations and warranties set forth in Article III shall have been true and correct in all material respects on the date hereof and as of the Closing (except to the extent expressly made as of an earlier date, in which case as of such date as if made at and as of such date);
- (b) Sellers shall have performed and complied with their respective covenants and agreements hereunder through the Closing in all material respects;
- (c) the Bankruptcy Court (i) shall have entered the Sale Order, and any other order necessary to close the sale of the Acquired Assets, in a form agreed to by Buyer and Sellers,

(ii) no order staying, reversing, modifying or amending such orders shall be in effect on the Closing Date, and (iii) the Sale Order shall not be subject to any challenge of Buyer's good faith under section 363(m) of the Bankruptcy Code;

(d) no Decree shall be in effect that prohibits, enjoins or materially restricts or delays consummation of the Transaction;

(e) each delivery contemplated by Section 2.5(a)(ii) to be delivered to Buyer shall have been delivered;

(f) Sellers shall have complied with sections 1113 and 1114 of the Bankruptcy Code, to the extent required by the Bankruptcy Code; and

(g) Sellers shall have assumed each applicable Transferred Contract to be assumed by or before the Closing, and with respect to the applicable Assumed Leases, to be assumed by or before the earlier of the Closing and the statutory deadline for Sellers to assume or reject unexpired leases of nonresidential real property in accordance with 11 U.S.C. 365(d)(4), as the same may be extended by order of the Bankruptcy Court; and

(h) The Bankruptcy Court shall have entered a Final Order, which shall be in form and substance agreeable to Buyer and Sellers, approving the *Debtors' Motion for Entry of an Order Approving Global Settlement* that was filed with the Bankruptcy Court on January 15, 2019.

For the avoidance of doubt, Buyer shall have the right to waive any of the conditions set forth in this Section 7.1 (other than Section 7.1(c)) in its sole and absolute discretion.

Section 7.2 Conditions to Sellers' Obligations to Effect the Closing. Sellers' obligations to consummate the Transaction in connection with the Closing are subject to satisfaction or waiver of the following conditions:

(a) the representations and warranties set forth in Article IV shall have been true and correct in all material respects on the date hereof and as of the Closing (except to the extent expressly made as of an earlier date, in which case as of such date as if made at and as of such date) except for any failures to be so true and correct that would not, individually or in the aggregate, prevent or materially impair or materially delay Buyer's ability to consummate the Transaction;

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

(c) the Bankruptcy Court shall have entered (i) the Sale Order, and any other order necessary to close the sale of the Acquired Assets, and (ii) no order staying, reversing, modifying or amending such orders shall be in effect on the Closing Date;

(d) each delivery contemplated by Section 2.5(a)(i) to be delivered to Sellers shall have been delivered;

(e) no Decree shall be in effect that prohibits, enjoins or materially restricts or delays consummation of the Transaction; and

(f) The Bankruptcy Court shall have entered a Final Order, which shall be in form and substance agreeable to Buyer and Sellers, approving the *Debtors' Motion for Entry of an Order Approving Global Settlement* that was filed with the Bankruptcy Court on January 15, 2019.

For the avoidance of doubt, Sellers shall have the right to waive any of the conditions set forth in this Section 7.2 (including Section 7.2(c)) in their sole and absolute discretion.

Section 7.3 No Frustration of Closing Conditions. Neither Buyer nor Sellers may rely on the failure of any condition to their respective obligations to consummate the Transaction set forth in Section 7.1 or Section 7.2, as the case may be, to be satisfied if such failure was primarily caused by such Party's failure to perform its obligations hereunder.

ARTICLE VIII TERMINATION RIGHTS

Section 8.1 Termination of Agreement. The Parties may terminate this Agreement at any time prior to the Closing as provided below:

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

(b) by any Party by giving written notice to the other Parties if any court of competent jurisdiction or other competent Governmental Authority shall have enacted or issued a Law or Decree or taken any other action permanently restraining, enjoining or otherwise prohibiting the consummation of the Transaction and such Law or Decree or other action shall have become final and non-appealable; provided, however, that the right to terminate this Agreement under this Section 8.1(b) shall not be available to a Party if the failure to consummate the Closing because of such action by a Governmental Authority shall be due to the failure of such Party to have fulfilled any of its obligations under this Agreement;

(c) by any Party by giving written notice to the other Parties if the Closing shall not have occurred on or prior to February 28, 2019 (the "Outside Date"); provided, however, that if the Closing shall not have occurred on or before the Outside Date due to a material breach of any representations, warranties, covenants or agreements contained in this Agreement by Buyer or Sellers, then the breaching Party may not terminate this Agreement pursuant to this Section 8.1(c); provided, further, if the Closing shall not have occurred on or before the Outside Date due to the

Sale Order having not yet been entered by the Bankruptcy Court because a shutdown of the federal government prevented the Bankruptcy Court from being able to enter the Sale Order between February 12, 2019 and the Outside Date, then the Outside Date shall be extended to March 15, 2019;

(d) at any time before the Closing, by Buyer if there is a material breach of this Agreement by Seller, or a material inaccuracy of any representation or warranty of Seller, in either case, that is not cured within five (5) Business Days after notice thereof by Buyer;

(e) at any time before the Closing, by Sellers if there is a material breach of this Agreement by Buyer, or a material inaccuracy of any representation or warranty of Buyer, in either case, that is not cured within five (5) Business Days after notice thereof by Seller;

(f) by Buyer by giving written notice to each Seller if there has been a breach by any Seller of any representation, warranty, covenant, or agreement contained in this Agreement that has prevented the satisfaction of the conditions to the obligations of Buyer at the Closing set forth in Section 7.1(a) and Section 7.1(b), and such breach or unsatisfied condition has not been waived by Buyer, or, if such breach or unsatisfied condition is curable (including any payment default), cured by such Seller prior to the earlier to occur of (A) ten (10) days after receipt of Buyer's written notice of intent to terminate, and (B) the Outside Date;

(g) by any Seller by giving written notice to Buyer and the other Sellers if there has been a breach by Buyer of any representation, warranty, covenant, or agreement contained in this Agreement that has prevented the satisfaction of the conditions to the obligations of Sellers at the Closing set forth in Section 7.2(a) and Section 7.2(b), and such breach has not been waived by such Seller, or, if such breach is curable (including any payment default), cured by Buyer prior to the earlier to occur of (A) ten (10) days after receipt of such Sellers' written notice of intent to terminate or (B) the Outside Date;

(h) by Buyer by giving notice to Seller, if:

(i) the Bidding Procedures Order has not been entered on or before January 11, 2019; or

(ii) the Sale Order has not been entered on or before February 20, 2019.

(i) by any Seller or Buyer by giving written notice to the other Party if (A) any Sellers enter into a definitive agreement with respect to an Alternative Transaction, (B) the Bankruptcy Court enters an order approving an Alternative Transaction, or (C) the Alternative Transaction is consummated, or (ii) the Bankruptcy Court enters an order that precludes the consummation of the Transaction on the terms and conditions set forth in this Agreement;

(j) by Buyer by giving written notice to Sellers if prior to the Closing (i) the Bankruptcy Cases are converted to cases under Chapter 7 of the Bankruptcy Code, (ii) the Bankruptcy Cases are dismissed or (iii) if a chapter 11 trustee or examiner with enlarged powers relating to the operations of the Business (powers beyond those set forth in Section 1106(a)(3) and

(4) of the Bankruptcy Code) is appointed in the Bankruptcy Cases;

(k) by Buyer giving written notice to Sellers if, prior to the Closing, Buyer determines in good faith that the amounts set forth in clauses (i)-(iii) below, individually or in the aggregate, is greater than one hundred thousand dollars (\$100,000):

(i) total Liability under the WARN Act or any similar state or local Law regarding employment terminations that is triggered by the termination of the Retained Employees by Sellers after the Petition Date;

(ii) total Transferred Employee PTO Liability; and

(iii) total Transfer Taxes.

(l) by Buyer giving written notice to Sellers if, prior to the Closing, Buyer

determines in good faith that Sellers are unable to achieve total Cure Costs relating to the Assumed Leases, individually or in the aggregate, of less than three hundred fifty thousand dollars (\$350,000).

Section 8.2 Effect of Termination. If any Party terminates this Agreement pursuant to Section 8.1, all rights and obligations of the Parties hereunder shall terminate upon such termination and shall become null and void, except Article I, Article IX (other than Section 9.3), and this Section 8.2 (and the definitions of all defined terms appearing in the foregoing sections) shall survive any such termination, and no Party shall have any Liability to the other Party hereunder; provided, however, that nothing in this Section 8.2 shall relieve any Party from any Liability or damages (which the Parties agree shall be determined by the courts referred to in Section 9.10 and, to the extent proven, shall not necessarily be limited to reimbursement of expenses or out-of-pocket costs) for any breach occurring prior to any such termination (but solely to the extent such breach was willful or fraudulent) set forth in this Agreement. The obligation to pay in full in cash when due any amount owed by Sellers to Buyer under this Agreement shall not be discharged, modified or otherwise affected by any Chapter 11 plan in these Bankruptcy Cases or by any other Order or action of the Bankruptcy Court. Any damages caused to Buyer from breach or termination of this Agreement shall be treated as a super-priority administrative expense claim against the Sellers' bankruptcy estates pursuant to sections 363, 503(b), and 507(a)(2) of the Bankruptcy Code and payable by each Seller from its respective bankruptcy estate, which such claims shall be junior only to the claims under the DIP Facility.

ARTICLE IX MISCELLANEOUS

Section 9.1 Survival. Except for any covenant that by its terms is to be performed (in whole or in part) by any Party following the Closing, none of the representations, warranties, or covenants of any Party set forth in this Agreement or in any certificate delivered pursuant to Section 2.5(a)(i)(F) and Section 2.5(a)(ii)(E) shall survive, and each of the same shall terminate and be of no further force or effect as of, the Closing.

Section 9.2 Expenses. Except as otherwise expressly set forth herein (including Section 2.6 and Section 6.4(a)), each Party will bear its own costs and expenses incurred in connection with this Agreement and the Transaction, including all fees of law firms, commercial banks, investment banks, accountants, public relations firms, experts and consultants.

Section 9.3 Misdirected Payments; Offset Rights. Sellers shall promptly remit to Buyer any monies received by Sellers constituting or in respect of the Acquired Assets, Transferred Contracts, and/or Assumed Liabilities, and Buyer shall promptly remit to Sellers any monies received by Buyer constituting or in respect of the Excluded Assets and/or Excluded Liabilities. If any Person determines that funds previously paid or credited to Sellers or the Business in respect of services rendered prior to the Closing Date have resulted in an overpayment or must be repaid, Sellers shall be responsible for the repayment of said monies (and the defense of such actions), except to the extent that the repayment obligation was an Assumed Liability, and Buyer shall have the right to recover such funds.

Section 9.4 Entire Agreement. This Agreement and the Related Agreements constitute the entire agreement between the Parties and supersede any prior understandings, agreements or representations (whether written or oral) by or between the Parties to the extent they relate in any way to the subject matter hereof.

Section 9.5 Incorporation of Exhibits and Disclosure Schedule. The Exhibits to this Agreement and the Disclosure Schedule are incorporated herein by reference and made a part hereof.

Section 9.6 Amendments and Waivers. No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by each Party, except as expressly provided herein. No waiver of any breach of this Agreement shall be construed as an implied amendment or agreement to amend or modify any provision of this Agreement. No waiver by any Party of any default, misrepresentation or breach of warranty or covenant hereunder, whether intentional or not, shall be valid unless the same shall be in writing and signed by the Party making such waiver, nor shall such waiver be deemed to extend to any prior or subsequent default, misrepresentation or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent default, misrepresentation or breach of warranty or covenant. No conditions, course of dealing or performance, understanding or agreement purporting to modify, vary, explain, or supplement the terms or conditions of this Agreement shall be binding unless this Agreement is amended or modified in writing pursuant to the first sentence of this Section 9.6 except as expressly provided herein. Except where a specific period for action or inaction is provided herein, no delay on the part of any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

Section 9.7 Succession and Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. No Party may assign either this Agreement or any of its rights, interests, or obligations hereunder without the prior written consent of the other Parties; provided, however, that Buyer may assign this Agreement and any or all rights or obligations hereunder (including Buyer's rights to purchase the Acquired Assets and assume the Assumed Liabilities) to any Affiliate of Buyer; provided, that any such assignment shall not relieve Buyer of its obligations under this Agreement. Upon any such permitted assignment, the references in this Agreement to Buyer shall also apply to any such assignee unless the context otherwise requires.

Section 9.8 Notices. All notices, requests, demands, claims and other communications hereunder shall be in writing except as expressly provided herein. Any notice, request, demand, claim, or other communication hereunder shall be deemed duly given (a) when delivered personally to the recipient; (b) one (1) Business Day after being sent to the recipient by reputable overnight courier service (charges prepaid); (c) on the day such communication was sent by email; or (d) three (3) Business Days after being mailed to the recipient by certified or registered mail, return receipt requested and postage prepaid, and addressed to the intended recipient as set forth below:

If to Seller:

Cafe Holdings Corp.
4324 Wade Hampton Blvd., Suite B
Taylors, SC 29687
Attention: Jim Mazany and Eric Easton E-mail:
jmazany@cafeent.com; eeaston@cafeent.com

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

Haynes and Boone, LLP 2323 Victory Avenue, Suite 700

Dallas, TX 75219
Attention: Christina Marshall, Esq. and Ian Peck
E-mail: christina.marshall@haynesboone.com;
ian.peck@haynesboone.com

If to Buyer: ACM Fatz VII LLC
780 Third Avenue, 27th Floor
New York, NY 10017
Attention: Adam Nadborny

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

Holland & Knight LLP 200 Crescent Court, Suite 1600

Dallas, TX 75201 Attention: Matthew Fontane, Esq.
E-mail: matthew.fontane@hkllaw.com

Any Party may change the address to which notices, requests, demands, claims and other communications hereunder are to be delivered by giving the other Parties notice in the manner set forth in this Section 9.8.

Section 9.9 Governing Law. This Agreement shall be governed by and construed in accordance with the internal Laws of the State of Delaware (without giving effect to the principles of conflict of Laws thereof), except to the extent that the Laws of such state are superseded by the Bankruptcy Code.

Section 9.10 Submission to Jurisdiction; Service of Process. Each of the Parties irrevocably and unconditionally submits to the exclusive jurisdiction of the Bankruptcy Court in any Litigation arising out of or relating to this Agreement or any Related Agreement or the Transaction and agrees that all claims in respect of such Litigation may be heard and determined in any such court. Each Party also agrees not to (a) attempt to deny or defeat such exclusive jurisdiction by motion or other request for leave from the Bankruptcy Court or (b) bring any Litigation arising out of or relating to this Agreement or any Related Agreement or the Transaction in any other court. Each of the Parties irrevocably and unconditionally waives any objection to the laying of venue in, and any defense of inconvenient forum to the maintenance of, any Litigation so brought and waives any bond, surety or other security that might be required of any other Party with respect thereto. Any Party may make service on any other Party by sending or delivering a copy of the process to the Party to be served at the address and in the manner provided for the giving of notices in Section 9.8; provided, however, that nothing in this Section 9.10 shall affect the right of any Party to serve legal process in any other manner permitted by law or in equity. Each Party agrees that a final judgment in any Litigation so brought shall be conclusive and may be enforced by Litigation or in any other manner provided by law or in equity. The Parties intend that all foreign jurisdictions will enforce any Decree of the Bankruptcy Court in any Litigation arising out of or relating to this Agreement or any Related Agreement or the Transaction.

Section 9.11 Waiver of Jury Trial. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN

RESPECT OF ANY LITIGATION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY RELATED AGREEMENTS OR THE TRANSACTION.

Section 9.12 Specific Performance. Each Party acknowledges and agrees that the other Party would be damaged irreparably in the event that a Party does not perform its obligations under this Agreement in accordance with its specific terms or otherwise breaches this Agreement, so that, in addition to any other remedy that Buyer or Sellers may have under law or equity (but subject to the provisions of Section 5.5 with respect to Buyer), either Party shall be entitled, without the requirement of posting a bond or other security, to seek injunctive relief to prevent any breaches of the provisions of this Agreement by the other Party and to enforce specifically this Agreement and the terms and provisions hereof.

Section 9.13 Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provisions of this Agreement. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be illegal, invalid or unenforceable, such provisions shall be limited or eliminated only to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect.

Section 9.14 No Third-Party Beneficiaries. Except as set forth in Section 9.15, this Agreement shall not confer any rights or remedies upon any Person other than Buyer, Sellers, and their respective successors and permitted assigns.

Section 9.15 Non-Recourse. All claims or Causes of Action (whether in contract or in tort, in law or in equity, or granted by statute) that may be based upon, in respect of, arise under, out or by reason of, be connected with, or related in any manner to this Agreement, the Related Agreements, the Transaction or pre-Closing operations of the Business may be made only against (and are expressly limited to) the Persons that are expressly identified as Parties hereto or thereto (the "Contracting Parties"). In no event shall any Contracting Party have any shared or vicarious Liability for the actions or omissions of any other Person. No Person who is not a Contracting Party, including any director, officer, employee, incorporator, member, partner, manager, stockholder, Affiliate, agent, attorney or representative of, and any financial advisor or lender to, any of the foregoing ("Non-Party Affiliates"), shall have any Liability (whether in contract or in tort, in law or in equity, or granted by statute or based upon any theory that seeks to impose Liability of an entity party against its owners or affiliates) for any Causes of Action or Liabilities arising under, out of, in connection with or related in any manner to this Agreement or the Related Agreements or based on, in respect of, or by reason of this Agreement or the Related Agreements or their negotiation, execution, performance or breach; and, to the maximum extent permitted by Law, each Contracting Party waives and releases all such Causes of Action and Liabilities against any such Non-Party Affiliates. Without limiting the foregoing, to the maximum extent permitted by Law, each Contracting Party disclaims any reliance upon any Non-Party Affiliates with respect to the performance of this Agreement or the Related Agreements or any representation or warranty made in, in connection with, or as an inducement to this Agreement or the Related Agreements. The Parties acknowledge and agree that the Non-Party Affiliates are intended third-party beneficiaries of this Section 9.15.

Section 9.16 Mutual Drafting. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption

or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

Section 9.17 Disclosure Schedule. All capitalized terms not defined in the Disclosure Schedule shall have the meanings ascribed to them in this Agreement. The representations and warranties of Sellers in this Agreement are made and given, and the covenants are agreed to, subject to the disclosures and exceptions set forth in the Disclosure Schedule. Except to the extent that sufficient details are set forth on the Disclosure Schedule so that the purpose for which disclosure is made is readily apparent to a person of ordinary experience without special expertise or knowledge regarding the Business, the disclosures in the Disclosure Schedule must relate only to the representations and warranties in the Section of this Agreement to which they expressly relate and not to any other representation or warranty in this Agreement, unless otherwise so indicated in the applicable Disclosure Schedule. In no event shall the listing of any matter in the Disclosure Schedule be deemed or interpreted to expand the scope of Sellers' representations, warranties, or covenants set forth in this Agreement. All attachments to the Disclosure Schedule are incorporated by reference into the applicable section of the Disclosure Schedule in which they are directly referenced.

Section 9.18 Headings; Table of Contents. The section headings and the table of contents contained in this Agreement and the Disclosure Schedule are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 9.19 Counterparts; Facsimile and Electronic Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. This Agreement or any counterpart may be executed and delivered by facsimile copies or delivered by electronic communications by portable document format (.pdf), each of which shall be deemed an original.

Section 9.20 Time of Essence. With regard to all dates and time periods set forth or referred to in this Agreement, time is of the essence.

[Remainder of Page Intentionally Left Blank. Signature Pages Follow.]

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

SELLERS:

CAFE HOLDINGS CORP.

By: _____
Name: Eric Easton
Title: Chief Financial Officer

CAFE ENTERPRISES, INC.

By: _____
Name: Eric Easton
Title: Chief Financial Officer

CE SPORTZ LLC

By: _____
Name: Eric Easton
Title: Chief Financial Officer

CES GASTONIA LLC

By: _____
Name: Eric Easton
Title: Chief Financial Officer

BUYER:

ACM FATZ VII LLC

By: _____
Name: _____
Title: _____

SCHEDULE A

Subsidiaries

1. Cafe Enterprises, Inc.
2. CE Sportz LLC
3. CES Gastonia LLC

CAFE HOLDINGS CORP., DISCLOSURE SCHEDULE
TO
ASSET PURCHASE AGREEMENT

The following disclosure schedule (the “Disclosure Schedule”) is delivered by Cafe Holdings Corp., a Delaware corporation (“Cafe”), pursuant to that certain Asset Purchase Agreement (as amended, supplemented or modified from time to time, the “Agreement”), dated as of ~~January []~~, February 19, 2019 (the “Execution Date”), by and among Cafe, the Subsidiaries of Cafe set forth on Schedule A thereto (such Subsidiaries, together with Cafe, each a “Seller” and, collectively, the “Sellers”) and ACM Fatz VII LLC, a Delaware limited liability company (“Buyer”), in substantially the form agreed to by Sellers and Buyer on ~~January []~~, February 19, 2019. All capitalized terms used but not otherwise defined herein shall have the respective meanings assigned to them in the Agreement.

The Disclosure Schedule is qualified in its entirety by reference to the specific provisions of the Agreement referenced herein, and the representations and warranties of Sellers made in the Agreement are made and given, and the covenants are agreed to, subject to the disclosures and exceptions set forth in the Disclosure Schedule. Except to the extent that sufficient details are set forth on the Disclosure Schedule so that the purpose for which disclosure is made is readily apparent to a person of ordinary experience without special expertise or knowledge regarding the Business, the disclosures in the Disclosure Schedule must relate only to the representations and warranties in the section of the Agreement to which they expressly relate and not to any other representation or warranty in the Agreement, unless otherwise so indicated in the applicable Disclosure Schedule. In no event shall the listing of any matter in the Disclosure Schedule be deemed or interpreted to expand the scope of Sellers’ representations, warranties, or covenants set forth in the Agreement. All attachments to the Disclosure Schedule are incorporated by reference into the applicable section of the Disclosure Schedule in which they are directly referenced.

Headings have been inserted on the sections of the Disclosure Schedule for convenience of reference only and shall not affect in any way the meaning or interpretation of the Agreement.

Section 1.1

Definitions

(a) – Restaurants

The following ~~listed restaurants are labeled as follows:~~ * indicates a restaurant that has been rejected ** indicates a restaurant that has been closed and rejected + indicates a restaurant that is likely to be rejected ^ indicates a restaurant for which the lease has been terminated Restaurants are Assumed Assets and the Leases relating to such Restaurants are the Assumed Leases:

- ~~1. Waccamaw Restaurant # 0001, located at 6750 Pottery Road, Spartanburg, SC 29303~~
1. ~~2.~~ Gaffney Restaurant # 0004, located at 294 Peachoid Road, Gaffney, SC 29341
2. ~~3.~~ Easley Restaurant # 0005, located at 5051 Calhoun Memorial Highway, Easley, SC 29640
3. ~~4.~~ Greenwood Restaurant # 0007, located at 1302 Montague Avenue Extension, Greenwood, SC 29649
- ~~5. ** Southport Road Restaurant # 0008, located at 100 Southport Road, Spartanburg, SC 29306~~
4. ~~6.~~ Forest Drive Restaurant # 0009, located at 5590 Forest Drive, Columbia, SC 29206
5. ~~7.~~ Seneca Restaurant # 0010, located at 1615 Sandifer Boulevard, Seneca, SC 29678
- ~~8. * Hendersonville Restaurant # 0011, located at 110 Henderson Crossing, Hendersonville, NC 28792~~
6. ~~9.~~ Greer Restaurant # 0012, located at 1361 West Wade Hampton Boulevard, Suite A, Greer, SC 29650
7. ~~10.~~ +Boiling Springs Restaurant # 0013, located at 1925 Boiling Springs Road, Spartanburg, SC 29316
8. ~~11.~~ Orangeburg Restaurant # 0014, located at 3575 St. Matthews Road, Orangeburg, SC 29118
9. ~~12.~~ Asheville Restaurant # 0015, located at 5 Spartan Avenue, Asheville, NC 28806
10. ~~13.~~ Shelby Restaurant # 0016, located at 1235 East Dixon Boulevard, Shelby, NC 28152
11. ~~14.~~ Lexington Restaurant # 0018, located at 942 East Main Street, Lexington, SC 29072
12. ~~15.~~ Forest City Restaurant # 0019, located at 118 Hill Top Way, Forest City, NC 28043
13. ~~16.~~ *Irmo Restaurant # 0020, located at 7420 Broad River Road, Irmo, SC 29063
14. ~~17.~~ Morganton Restaurant # 0022, located at 2111 South Sterling Street, Morganton, NC 28655
15. ~~18.~~ Greeneville Restaurant # 0023, located at 3140 East Andrew Johnson Highway, Greeneville, TN 37745
16. ~~19.~~ Lincolnton Restaurant # 0024, located at 1430 East Main Street, Lincolnton, NC 28092
17. ~~20.~~ Florence Restaurant # 0025, located at 2007 West Lucas Street, Florence, SC 29501
- ~~21. Evans Restaurant # 0026, located at 464 North Belair Road, Evans, GA 30809~~
18. ~~22.~~ Rock Hill Restaurant # 0027, located at 478 South Herlong Avenue, Rock Hill, SC 29732
19. ~~23.~~ Bristol Restaurant # 0028, located at 1175 Volunteer Parkway, Bristol, TN 37620
20. ~~24.~~ Winder Restaurant # 0029, located at 442 Atlanta Highway Northwest, Winder, GA 30680
21. ~~25.~~ Rockingham Restaurant # 0030, located at 714 US Highway 74 Business East, Rockingham, NC 28379
- ~~26. * Conway Restaurant # 0031, located at 2494 Church Street, Conway, SC 29526~~

- ~~22.~~ ~~27~~ Marion Restaurant # 0032, located at 390 US 70 West, Marion, NC 28752
- ~~23.~~ ~~28~~ Aiken Restaurant # 0033, located at 996 Pine Log Road, Aiken, SC 29803
- ~~24.~~ ~~29~~ Elizabethton Restaurant # 0034, located at 980 Over Mountain Drive, Elizabethton, TN 37643
- ~~25.~~ ~~30~~ Anderson Restaurant # 0035, located at 105 Interstate Boulevard, Anderson, SC 29621
- ~~31.**~~ ~~North Charleston Restaurant # 0036, located at 4951 Centre Point Drive, North Charleston, SC 29418~~
- ~~26.~~ ~~32~~ Kingsport Restaurant # 0037, located at 2610 West Stone Drive, Kingsport, TN 37660
- ~~27.~~ ~~33~~ Camden Restaurant # 0038, located at 212 Wall Street, Camden, SC 29020
- ~~28.~~ ~~34~~ Clinton Restaurant # 0039, located at 179 East Corporate Center Drive, Clinton, SC 29325
- ~~29.~~ ~~35~~ Athens Restaurant # 0040, located at 4115 Lexington Road, Athens, GA 30605
- ~~36.**~~ ~~Carowinds Restaurant # 0041, located at 10920 Winds Crossing Drive, Charlotte, NC 28273~~
- ~~30.~~ ~~37~~ Blairsville Restaurant # 0042, located at 206 Highway 515 E., Blairsville, GA 30512
- ~~31.~~ ~~38~~ Dublin Restaurant # 0043, located at 4586 Alexander Farm Rd., Dublin, VA 24084
- ~~39.**~~ ~~Warner Robins Restaurant # 0044, located at 2715 Watson Boulevard, Warner Robins, GA 31093~~
- ~~32.~~ ~~40~~ Jasper Restaurant # 0045, located at 800 Noah Avenue, Jasper, GA 30143
- ~~33.~~ ~~41~~ Cheraw Restaurant # 0046, located at 973 Chesterfield Highway, Cheraw, SC 29520
- ~~42.**~~ ~~Pooler Restaurant # 0047, located at 400 Pooler Parkway, Pooler, GA 31322~~
- ~~43.**^~~ ~~Afton-Ridge Concord Restaurant # 0048, located at 6081 Bayfield Parkway, Concord, NC 28027~~
- ~~34.~~ ~~44~~ Franklin Restaurant # 0049, located at 107 Sawmill Village Lane, Franklin, NC 28734
- ~~35.~~ ~~45~~ Lenoir Restaurant # 0050, located at 975 Blowing Rock Boulevard Northwest, Lenoir, NC 28645

The following Restaurants will not be assumed by Buyer and are therefore Excluded Assets and the Leases underlying such Restaurants are the Excluded Leases:

1. Waccamaw Restaurant # 0001, located at 6750 Pottery Road, Spartanburg, SC 29303
2. Southport Road Restaurant # 0008, located at 100 Southport Road, Spartanburg, SC 29306
3. Hendersonville Restaurant # 0011, located at 110 Henderson Crossing, Hendersonville, NC 28792
4. Evans Restaurant # 0026, located at 464 North Belair Road, Evans, GA 30809
5. Conway Restaurant # 0031, located at 2494 Church Street, Conway, SC 29526
6. North Charleston Restaurant # 0036, located at 4951 Centre Point Drive, North Charleston, SC 29418
7. Carowinds Restaurant # 0041, located at 10920 Winds Crossing Drive, Charlotte, NC 28273
8. Warner Robins Restaurant # 0044, located at 2715 Watson Boulevard, Warner Robins, GA 31093
9. Pooler Restaurant # 0047, located at 400 Pooler Parkway, Pooler, GA 31322
10. Afton-Ridge Concord Restaurant # 0048, located at 6081 Bayfield Parkway, Concord, NC 28027
11. ~~46.**~~ Gastonia Restaurant (3002 Tavern 24), located at 421 Cox Road, Gastonia, NC 28054

(b) – Acquired Assets – Inventory ~~in the Restaurants~~ as of the Petition Date and located in the

Restaurants that are represented by Assumed Leases (including the approximate aggregate inventory values)

1. Meat with a cost value of ~~\$162,794.09~~, 77,304.00, held at Fatz restaurant locations
2. Poultry with a cost value of \$51,047.00, held at Fatz restaurant locations
3. Seafood with a cost value of \$27,803.00, held at Fatz restaurant locations
4. Seasoning with a cost value of \$36,262.00, held at Fatz restaurant locations
5. Shortening with a cost value of \$12,133.00, held at Fatz restaurant locations
6. ~~2.~~ Grocery materials with a cost value of ~~\$213,646.68~~, 117,711.00, held at Fatz restaurant locations
7. ~~3.~~ Bread with a cost value of ~~\$33,100.28~~, 21,355.00, held at Fatz restaurant locations
8. ~~4.~~ Produce with a cost value of ~~\$43,940.83~~, 39,424.00, held at Fatz restaurant locations
9. ~~5.~~ Dairy with a cost value of ~~\$32,169.96~~, 26,997.00, held at Fatz restaurant locations
10. ~~6.~~ Dessert items with a cost value of ~~\$37,717.59~~, 36,874.00, held at Fatz restaurant locations
11. ~~7.~~ Beverage products with a cost value of ~~\$35,974.70~~, 31,389.00, held at Fatz restaurant locations
12. ~~8.~~ Beer with a cost value of ~~\$79,973.99~~, 65,670.00, held at Fatz restaurant locations
13. ~~9.~~ Wine with a cost value of ~~\$25,512.78~~, 23,070.00, held at Fatz restaurant locations
14. ~~10.~~ Liquor with a cost value of ~~\$70,992.44~~, 57,662.00, held at Fatz restaurant locations
15. ~~11. Bar supplies~~ Supplies with a cost value of ~~\$13,526.98~~, held at Fatz restaurant locations
12. ~~Miscellaneous supplies with a cost value of \$72,578.68~~, 10,910.00, held at Fatz restaurant locations
16. ~~13.~~ Used restaurant equipment kept in the storage facility managed by Taylors Mini Warehouses

(c) – Acquired Assets – Furnishings and Equipment in the Restaurants represented by the Assumed Leases as of the Petition Date (including the approximate value thereof)

1. ~~Miscellaneous Fixtures and Equipment located at Restaurant # 0001 in Waccamaw, SC, with a net book value of \$20,770.18~~

The following listed assets will be Assumed Assets:

1. ~~2.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0004 in Gaffney, SC, with a net book value of \$22,832.17
2. ~~3.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0005 in Easley, SC, with a net book value of \$20,205.10
3. ~~4.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0007 in Greenwood, SC, with a net book value of \$47,350.65
5. ~~Miscellaneous Fixtures and Equipment located at Restaurant # 0008 in Southport, SC, with a net book value of \$18,257.34~~
4. ~~6.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0009 in Forest Drive, SC, with a net book value of \$38,555.50
5. ~~7.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0010 in Seneca, SC, with a net book value of \$47,209.25
8. ~~Miscellaneous Fixtures and Equipment located at Restaurant # 0011 in Hendersonville, NC, with a net book value of \$36,294.10~~
6. ~~9.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0012 in Greer, SC, with a net book value of \$0.00
7. ~~10.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0013 in Boiling

Springs, SC, with a net book value of \$45,462.09

8. ~~11.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0014 in Orangeburg, SC, with a net book value of \$54,491.77
9. ~~12.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0015 in Asheville, NC, with a net book value of \$52,716.84
10. ~~13.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0016 in Shelby, NC, with a net book value of \$29,258.08
11. ~~14.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0018 in Lexington, SC, with a net book value of \$214,193.18
12. ~~15.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0019 in Forest City, NC, with a net book value of \$20,297.67
13. ~~16.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0020 in Irmo, SC, with a net book value of \$27,587.54
14. ~~17.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0022 in Morganton, NC, with a net book value of \$31,020.51
15. ~~18.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0023 in Greeneville, TN, with a net book value of \$22,727.35
16. ~~19.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0024 in Lincolnton, NC, with a net book value of \$21,032.98
17. ~~20.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0025 in Florence, SC, with a net book value of \$34,720.84
21. ~~Miscellaneous Fixtures and Equipment located at Restaurant # 0026 in Evans, GA, with a net book value of \$17,159.00~~
18. ~~22.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0027 in Rock Hill, SC, with a net book value of \$24,783.19
19. ~~23.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0028 in Bristol, TN, with a net book value of \$8,870.21
20. ~~24.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0029 in Winder, GA, with a net book value of \$2,539.46
21. ~~25.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0030 in Rockingham, NC, with a net book value of \$22,074.46
22. ~~26.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0032 in Marion, NC, with a net book value of \$22,713.02
23. ~~27.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0033 in Aiken, SC, with a net book value of \$26,730.70
24. ~~28.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0034 in Elizabethton, TN, with a net book value of \$24,708.02
25. ~~29.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0035 in Anderson, SC, with a net book value of \$35,086.22
26. ~~30.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0037 in Kingsport, TN, with a net book value of \$26,720.83
27. ~~31.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0038 in Camden, SC, with a net book value of \$34,812.11
28. ~~32.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0039 in Clinton, SC, with a net book value of \$57,832.86
29. ~~33.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0040 in Athens, GA, with a net book value of \$35,658.05
30. ~~34.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0042 in Blairsville,

GA, with a net book value of \$15,457.47

- [31.](#) ~~35.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0043 in Dublin, VA, with a net book value of \$41,498.97
- [32.](#) ~~36.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0045 in Jasper, GA, with a net book value of \$27,109.68
- [33.](#) ~~37.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0046 in Cheraw, SC, with a net book value of \$27,911.00
- [34.](#) ~~38.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0049 in Franklin, NC, with a net book value of \$67,011.41
- [35.](#) ~~39.~~ Miscellaneous Fixtures and Equipment located at Restaurant # 0050 in Lenoir, NC, with a net book value of \$32,769.45
- [36.](#) ~~40.~~ Miscellaneous Fixtures and Equipment not allocated to specific stores, with a net book value of \$214,589.31
- [37.](#) ~~41.~~ Miscellaneous Fixtures and Equipment located at the Corporate Office, with a net book value of \$109,992.18

The following listed assets have been excluded by Buyer and are therefore Excluded Assets:

- [1. Miscellaneous Fixtures and Equipment located at Restaurant # 0001 in Waccamaw, SC, with a net book value of \\$20,770.18](#)
- [2. Miscellaneous Fixtures and Equipment located at Restaurant # 0008 in Southport, SC, with a net book value of \\$18,257.34](#)
- [3. Miscellaneous Fixtures and Equipment located at Restaurant # 0011 in Hendersonville, NC, with a net book value of \\$36,294.10](#)
- [4. Miscellaneous Fixtures and Equipment located at Restaurant # 0026 in Evans, GA, with a net book value of \\$17,159.00](#)

(d) – Acquired Assets – Automobiles, Trucks, Tractors, and Trailers; Vehicle Leases

1. 2011 Honda Pilot SUV, VIN 5FNYPF3H41BB001124, with a net book value of \$2,048.64

(e) – Knowledge Parties

Seller Knowledge Parties

1. Jim Mazany, CEO and Director
2. Eric Easton, CFO

Buyer Knowledge Parties

1. Rana Mitra

(f) – Permitted Liens

1. Liens relating to the Assumed Liabilities.
2. Easements, encroachments, restrictions, rights of way, any non-monetary title defects and zoning, building, and other similar restrictions with respect to the Real Property Leases.
3. [Liens of governmental units arising from ad valorem taxes.](#)

4. Section 3.3

Noncontravention; Government Filings

(a) – Conflicts with Organizational Documents

None.

(b) – Conflicts with Law

1. The Bankruptcy Court must approve the Agreement and the Transaction contemplated thereby pursuant to the Sellers' filings under chapter 11 of title 11 of the Bankruptcy Code

(c) – Conflicts with Permits or Contracts_

None.

~~1. Any Secured Debt currently outstanding may require Lender's consent notwithstanding the bankruptcy filing~~

Section 3.4 Other Assets

~~(a) Certain liquor licenses or permits owned by Sellers may not be permitted to be transferred to Buyer.~~

~~(b) The following Real Property Leases are currently terminated and unless a new Real Property Lease is negotiated with the landlord thereof for each such lease listed below, the applicable Seller will not be able to operate such Restaurant:~~

~~1. Amended and Restated Lease Agreement, by and between Cafe Enterprises, Inc. and Old Mill Stream, LLC, dated as of March 1, 2008; for Afton Ridge Concord Restaurant # 0048, located at 6081 Bayfield Parkway, Concord, NC 28027~~

~~(a)~~ (a) Sellers have maintained a Customer List and Classic Club Loyalty Program List containing PII of Restaurant customers.

Section 3.5

Real Property Leases

~~1. Real Property Lease Agreement, by and between Cafe Enterprises, Inc. and James B. Rogers and Louis C. Manios, dated as of January 29, 1999, as amended by that First Amendment to the Real Property Lease Agreement, dated as of July 26, 1999; and that Second Amendment to the Real Property Lease Agreement, dated as of August 1, 2010; for Waccamaw Restaurant # 0001, located at 6750 Pottery Rd., Spartanburg, SC, 29303~~

The following constitute the Assumed Leases:

1. ~~2.~~ Real Property Lease Agreement, by and between Cafe Enterprises, Inc. and Gary P. and Margaret W. Smith, dated as of March 8, 2006, as amended by that Lease Assignment, Assumption and Cooperation Agreement, dated as of November 18, 2010; for Gaffney Restaurant # 0004, located at 294 Peachoid Road, Gaffney, SC 29341
2. ~~3.~~ Real Property Lease Agreement, by and between Cafe Enterprises, Inc. and MRB, LLC, dated as of January 1, 2007; for Easley Restaurant # 0005, located at 5051 Calhoun Memorial Highway, Easley, SC 29640
3. ~~4.~~ Master Lease Agreement, by and between Cafe Enterprises, Inc. and STORE Master Funding V, LLC, dated as of March 21, 2014; for Greenwood Restaurant # 0007, located at 1302 Montague Avenue Extension, Greenwood, SC 29649
- ~~5. Lease Agreement, by and between Cafe Enterprises, Inc. and STORE Capital Acquisitions, LLC, dated as of March 21, 2014, as amended by that Notice of Sale to Carolina Child Care Properties, LLC, dated as of December 23, 2014; for Southport Road Restaurant # 0008, located at 100 Southport Road, Spartanburg, SC 29306~~
4. ~~6.~~ Shopping Center Lease Agreement, by and between Cafe Enterprises, Inc. dba Fatz Cafe and LC of Columbia, Inc., dated as of September 19, 1994, as amended by that First Amendment to the Lease Agreement, dated as of December 14, 1994; that Second Amendment to the Lease Agreement, dated as of September 28, 2005; that Third Amendment to the Lease Agreement, dated as of October 1, 2009; and that Fourth Amendment to the Lease Agreement, dated as of May 21, 2013; for Forest Drive Restaurant # 0009, located at 5590 Forest Drive, Columbia, SC 29206
5. ~~7.~~ Lease Agreement, by and between Cafe Enterprises, Inc. and Thrift Brothers, Inc., dated as of September 28, 1999, as amended by that First Amendment to the Lease Term Agreement for Extension of Term, dated as of August 18, 2009; and that Second Amendment to the Lease Term Agreement for Extension of Term, dated as of October 1, 2014; for Seneca Restaurant # 0010, located at 1615 Sandifer Boulevard, Seneca, SC 29678
- ~~8. Shopping Center Lease, by and between Cafe Enterprises, Inc. and Eaglewood Properties I, Ltd., dated as of July 20, 1995, as amended by that Lease Extension Agreement, dated as of December 1, 2009; and that Second Amendment to the Lease Agreement for Extension of Term, dated as of October 1, 2014; for Hendersonville Restaurant # 0011, located at 110 Henderson Crossing, Hendersonville, NC 28792~~

6. ~~9.~~ Lease Agreement, by and between Cafe Enterprises, Inc. and Dill Creek Partnership, dated as of January 28, 1997, as amended by that First Lease Amendment, dated as of February 1, 2010; and that Notice of Tenant's Exercise of First Option, dated as of July 23, 2012; for Greer Restaurant # 0012, located at 1361 West Wade Hampton Boulevard, Suite A, Greer, SC 29650
7. ~~10.~~ Real Property Lease Agreement, by and between Cafe Enterprises, Inc. and MRB, LLC, dated as of March 1, 1998, as amended by that Notice of Tenant's Exercise of First Option, dated as of January 15, 2008; and that Notice of Tenant's Exercise of Second Option, dated as of November 9, 2012; for Boiling Springs Restaurant # 0013, located at 1925 Boiling Springs Road, Spartanburg, SC 29316
8. ~~11.~~ Real Property Lease Agreement, by and between Cafe Enterprises, Inc. and Norman McLean, dated as of October 7, 1996, as amended by that Addendum to the Real Property Lease, dated as of January 23, 1998; and that Amendment to the Lease Agreement, dated as of October 1, 2009; for Orangeburg Restaurant # 0014, located at 3575 St. Matthews Road, Orangeburg, SC 29118
9. ~~12.~~ Lease Agreement, by and between Cafe Enterprises, Inc. and Old Mill Stream, LLC, dated as of May 1, 2007, as amended by that First Amended and Restated Lease Agreement, dated as of November 1, 2010; that Settlement Agreement, dated as of November 18, 2010; and that Second Amended and Restated Lease Agreement, dated as of March 21, 2014; for Asheville Restaurant # 0015, located at 5 Spartan Avenue, Asheville, NC 28806
10. ~~13.~~ Real Property Lease Agreement, by and between Cafe Enterprises, Inc. and Ligon Properties, LLC, dated as of April 18, 2003, as amended by that First Amendment to the Lease Agreement, dated as of October 1, 2009; and that Rental Reduction and Amendment to the Lease Agreement, dated as of August 1, 2013; for Shelby Restaurant # 0016, located at 1235 East Dixon Boulevard, Shelby, NC 28152
11. ~~14.~~ Real Property Lease Agreement, by and between Cafe Enterprises, Inc. and Old Beetle Enterprises, LLC, dated as of March 26, 2003, as amended by that Amendment to the Lease Agreement, dated as of January 1, 2010; for Lexington Restaurant # 0018, located at 942 East Main Street, Lexington, SC 29072
12. ~~15.~~ Real Property Lease Agreement, by and between Cafe Enterprises, Inc. and Hilltop Way, LLC, dated as of July 29, 2004, as amended by that First Amendment to the Lease Agreement, dated as of November 1, 2009; and that Rental Reduction and Second Amendment to the Lease Agreement, dated as of September 1, 2013; for Forest City Restaurant # 0019, located at 118 Hill Top Way, Forest City, NC 28043
13. ~~16.~~ Real Property Lease Agreement, by and between Cafe Enterprises, Inc. and Old Mill Stream, LLC, dated as of January 17, 2003, as amended by that Real Property Lease Agreement, by and between Ohlandt Properties, LLC and Old Mill Stream, LLC, dated as of July 20, 2005; that Lease Assignment, Assumption and Cooperation Agreement, by and between Ohlandt Properties, LLC, Old Mill Stream, LLC, and Cafe Enterprises, Inc., dated as of November 18, 2010; that Rental Reduction and First Amendment to the Lease Agreement, dated as of August 1, 2013; and that Amendment to the Lease Agreement and

Reconstitution of the Sublease Agreement, dated as of October 13, 2015; for Irmo Restaurant # 0020, located at 7420 Broad River Road, Irmo, SC 29063

14. ~~17.~~ Amended and Restated Master Lease Agreement, by and between Cafe Enterprises, Inc. and STORE Master Funding I, LLC, dated as of March 21, 2014; for Morganton Restaurant # 0022, located at 2111 South Sterling Street, Morganton, NC 28655

15. ~~18.~~ Real Property Lease Agreement, by and between Cafe Enterprises, Inc. and Tryon N. Sisson and Dolores A. Sisson, dated as of January 1, 2005, as amended by that First Amendment to the Lease Agreement, dated as of October 1, 2009; and that Rental Reduction and Amendment to the Lease Agreement, dated as of August 1, 2013; for Greeneville Restaurant # 0023, located at 3140 East Andrew Johnson Highway, Greeneville, TN 37745

16. ~~19.~~ Restated Real Property Lease Agreement, by and between Cafe Enterprises, Inc. and Old Mill Stream, LLC, dated as of May 5, 2004, as amended by that Amended and Restated Lease Agreement, dated as of November 1, 2010; that Settlement Agreement, dated as of November 18, 2010; and that Second Amended and Restated Lease Agreement, dated as of March 21, 2014; for Lincolnton Restaurant # 0024, located at 1430 East Main Street, Lincolnton, NC 28092

17. ~~20.~~ Amended and Restated Lease Agreement, by and between Cafe Enterprises, Inc. and Old Mill Stream, LLC, dated as of November 1, 2010, as amended by that Settlement Agreement, dated as of November 18, 2010; and that Second Amended and Restated Lease Agreement, dated as of March 21, 2014; for Florence Restaurant # 0025, located at 2007 West Lucas Street, Florence, SC 29501

~~21. Restated Real Property Lease Agreement, by and between Cafe Enterprises, Inc. and Old Mill Stream, LLC, dated as of March 19, 2004, as amended by that Amended and Restated Lease Agreement, dated as of November 1, 2010; that Settlement Agreement, dated as of November 18, 2010; and that Second Amended and Restated Lease Agreement, dated as of March 21, 2014; for Evans Restaurant # 0026, located at 464 North Belair Road, Evans, GA 30809~~

18. ~~22.~~ Amended and Restated Master Lease Agreement, by and between Cafe Enterprises, Inc. and STORE Master Funding I, LLC, dated as of March 21, 2014; for Rock Hill Restaurant # 0027, located at 478 South Herlong Avenue, Rock Hill, SC 29732

19. ~~23.~~ Master Lease Agreement, by and between Cafe Enterprises, Inc. and STORE Master Funding V, LLC, dated as of March 21, 2014; for Bristol Restaurant # 0028, located at 1175 Volunteer Parkway, Bristol, TN 37620

20. ~~24.~~ Master Lease Agreement, by and between Cafe Enterprises, Inc. and STORE Master Funding V, LLC, dated as of March 21, 2014; for Winder Restaurant # 0029, located at 442 Atlanta Highway Northwest, Winder, GA 30680

21. ~~25.~~ Amended and Restated Master Lease Agreement, by and between Cafe Enterprises, Inc. and STORE Master Funding I, LLC, dated as of March 21, 2014; for Rockingham Restaurant # 0030, located at 714 US Highway 74 Business East, Rockingham, NC 28379

~~26. Real Property Lease Agreement, by and between Cafe Enterprises, Inc. and B & T Sand Company, Inc., Joel A. Tyson, Robert D. Barrier, William L. Barrier, and Betty B. Tyson, dated as of November 20, 2006, as amended by that Amendment to the Lease Agreement, dated as of October 1, 2009; for Conway Restaurant # 0031, located at 2494 Church Street, Conway, SC 29526~~

22. ~~27.~~ Restated Real Property Lease Agreement, by and between Cafe Enterprises and Old Mill Stream, LLC, dated as of October 20, 2005, as amended by that Lease Assignment, Assumption and Cooperation Agreement, dated as of November 18, 2010; and that Rental Reduction and Amendment to Lease Agreement, dated as of August 1, 2013; for Marion Restaurant # 0032, located at 390 US 70 West, Marion, NC 28752

23. ~~28.~~ Amended and Restated Master Lease Agreement, by and between Cafe Enterprises, Inc. and STORE Master Funding I, LLC, dated as of March 21, 2014; for Aiken Restaurant # 0033, located at 996 Pine Log Road, Aiken, SC 29803

24. ~~29.~~ Lease Agreement, by and between Cafe Enterprises, Inc. and STORE Capital Acquisitions, LLC, dated as of March 21, 2014; for Elizabethton Restaurant # 0034, located at 980 Over Mountain Drive, Elizabethton, TN 37643

25. ~~30.~~ Master Lease Agreement, by and between Cafe Enterprises, Inc. and STORE Master Funding V, LLC, dated as of March 21, 2014; for Anderson Restaurant # 0035, located at 105 Interstate Boulevard, Anderson, SC 29621

~~31. Commencement Date Agreement, by and between Cafe Enterprises, Inc. and Citadel Bulldog, LLC, dated as of May 31, 2007, as amended by that First Amendment to the Sublease Agreement, dated as of May 31, 2007; that Assignment and Assumption of Landlord's Interest in Leases, dated as of February 14, 2008; and that Rental Reduction and Amendment to the Lease Agreement, dated as of August 1, 2013; for North Charleston Restaurant # 0036, located at 4951 Centre Pointe Drive, North Charleston, SC 29418~~

26. ~~32.~~ Master Lease Agreement, by and between Cafe Enterprises, Inc. and STORE Master Funding V, LLC, dated as of March 21, 2014; for Kingsport Restaurant # 0037, located at 2610 West Stone Drive, Kingsport, TN 37660

27. ~~33.~~ Master Lease Agreement, by and between Cafe Enterprises, Inc. and STORE Master Funding V, LLC, dated as of March 21, 2014; for Camden Restaurant # 0038, located at 212 Wall Street, Camden, SC 29020

28. ~~34.~~ Master Lease Agreement, by and between Cafe Enterprises, Inc. and STORE Master Funding V, LLC, dated as of March 21, 2014; for Clinton Restaurant # 0039, located at 179 East Corporate Center Drive, Clinton, SC 29325

29. ~~35.~~ Master Lease Agreement, by and between Cafe Enterprises, Inc. and STORE Master Funding V, LLC, dated as of March 21, 2014; for Athens Restaurant # 0040, located at 4115 Lexington Road, Athens, GA 30605

~~36. Ground Lease Agreement, by and between Cafe Enterprises, Inc. and Southpointe BTS-~~

~~Partners, LLC, dated as of April 5, 2007, as amended by that First Amendment, dated as of October 1, 2009; that Second Amendment, dated as of October 1, 2011; and that Third Amendment, dated as of October 1, 2012; for Carowinds Restaurant # 0041, located at 10920 Winds Crossing Drive, Charlotte, NC 28273~~

30. ~~37.~~ Restated Real Property Lease Agreement, by and between Cafe Enterprises, Inc. and Old Mill Stream, LLC, dated as of November 1, 2007, as amended by that First Amended and Restated Lease Agreement, dated as of November 1, 2010; that Settlement Agreement, dated as of November 18, 2010; and that Second Amended and Restated Lease Agreement, dated as of March 21, 2014; for Blairsville Restaurant # 0042, located at 206 Highway 515 E., Blairsville, GA 30512

31. ~~38.~~ Master Lease Agreement, by and between Cafe Enterprises, Inc. and STORE Master Funding V, LLC, dated as of March 21, 2014; for Dublin Restaurant # 0043, located at 4586 Alexander Farm Rd., Dublin, VA 24084

~~39. Lease Agreement, by and between Cafe Enterprises, Inc. and Warner Robins Westgate, LLC, dated as of June 26, 2007, as amended by that First Amendment to the Lease Agreement and Actual Base Rent and Commencement Date Agreement, dated as of February 27, 2008; that Second Amendment to the Lease Agreement, dated as of March 1, 2010; that Assignment and Assumption of Assignor's Interest in Leases, Licenses and Contracts, dated as of December 28, 2012; and that Third Amendment to the Lease Agreement, dated as of September 1, 2013; for Warner Robins Restaurant # 0044, located at 2715 Watson Boulevard, Warner Robins, GA 31093~~

32. ~~40.~~ Lease Agreement, by and between Cafe Enterprises, Inc. and STORE Capital Acquisitions, LLC, dated as of March 21, 2014; for Jasper Restaurant # 0045, located at 800 Noah Avenue, Jasper, GA 30143

33. ~~41.~~ Master Lease Agreement, by and between Cafe Enterprises, Inc. and STORE Master Funding V, LLC, dated as of March 21, 2014; for Cheraw Restaurant # 0046, located at 973 Chesterfield Highway, Cheraw, SC 29520

~~42. Lease Agreement, by and between Cafe Enterprises, Inc. and STORE Capital Acquisitions, LLC, dated as of March 21, 2014; for Pooler Restaurant # 0047, located at 400 Pooler Parkway, Pooler, GA 31322~~

~~43. Amended and Restated Lease Agreement, by and between Cafe Enterprises, Inc. and Old Mill Stream, LLC, dated as of March 1, 2008; for Afton Ridge Concord Restaurant # 0048, located at 6081 Bayfield Parkway, Concord, NC 28027~~

34. ~~44.~~ Amended and Restated Master Lease Agreement, by and between Cafe Enterprises, Inc. and STORE Master Funding I, LLC, dated as of March 21, 2014; for Franklin Restaurant # 0049, located at 107 Sawmill Village Lane, Franklin, NC 28734

35. ~~45.~~ Master Lease Agreement, by and between Cafe Enterprises, Inc. and STORE Master Funding V, LLC, dated as of March 21, 2014; for Lenoir Restaurant # 0050, located at 975 Blowing Rock Boulevard Northwest, Lenoir, NC 28645

~~46. Ground Lease Agreement, by and between CES Gastonia LLC and PP Gaston Mall, LLC,~~

~~dated as of April 5, 2012, as amended by that First Amendment to the Ground Lease Agreement, dated as of November 19, 2012; that Second Amendment to the Ground Lease Agreement, dated as of July 24, 2015; and that Third Amendment to the Ground Lease Agreement, dated as of April 1, 2016; for Gastonia Restaurant (3002 Tavern 24), located at 421 Cox Road, Gastonia, NC 28054~~

36. ~~47.~~ Lease Agreement, by and between Cafe Enterprises, Inc. and TRS Properties, dated as of October 14, 1996, as amended by that First Lease Extension/Modification Agreement, dated as of October 1, 2001; that Second Lease Extension/Modification Agreement, dated as of October 1, 2009; that Assignment of the Lease Agreement, dated as of January 1, 2007; that First Lease Amendment, dated as of February 18, 2004; that Second Lease Amendment, dated as of May 15, 2006; that Third Lease Extension/Modification Agreement, dated as of October 1, 2011; that Rental Reduction and Amendment to the Lease Agreement, dated as of August 1, 2013; and that Amendment to the Lease Agreement for Extension of Term, dated as of August 21, 2014; for Corporate Office located at 4324 Wade Hampton Boulevard, Suite B, Taylors, SC 29687

The following includes all of the Excluded Leases:

1. Real Property Lease Agreement, by and between Cafe Enterprises, Inc. and James B. Rogers and Louis C. Manios, dated as of January 29, 1999, as amended by that First Amendment to the Real Property Lease Agreement, dated as of July 26, 1999; and that Second Amendment to the Real Property Lease Agreement, dated as of August 1, 2010; for Waccamaw Restaurant # 0001, located at 6750 Pottery Rd., Spartanburg, SC, 29303
2. Lease Agreement, by and between Cafe Enterprises, Inc. and STORE Capital Acquisitions, LLC, dated as of March 21, 2014, as amended by that Notice of Sale to Carolina Child Care Properties, LLC, dated as of December 23, 2014; for Southport Road Restaurant # 0008, located at 100 Southport Road, Spartanburg, SC 29306
3. Shopping Center Lease, by and between Cafe Enterprises, Inc. and Eaglewood Properties I, Ltd., dated as of July 20, 1995, as amended by that Lease Extension Agreement, dated as of December 1, 2009; and that Second Amendment to the Lease Agreement for Extension of Term, dated as of October 1, 2014; for Hendersonville Restaurant # 0011, located at 110 Henderson Crossing, Hendersonville, NC 28792
4. Restated Real Property Lease Agreement, by and between Cafe Enterprises, Inc. and Old Mill Stream, LLC, dated as of March 19, 2004, as amended by that Amended and Restated Lease Agreement, dated as of November 1, 2010; that Settlement Agreement, dated as of November 18, 2010; and that Second Amended and Restated Lease Agreement, dated as of March 21, 2014; for Evans Restaurant # 0026, located at 464 North Belair Road, Evans, GA 30809
5. Real Property Lease Agreement, by and between Cafe Enterprises, Inc. and B & T Sand Company, Inc., Joel A. Tyson, Robert D. Barrier, William L. Barrier, and Betty B. Tyson, dated as of November 20, 2006, as amended by that Amendment to the Lease Agreement, dated as of October 1, 2009; for Conway Restaurant # 0031, located at 2494 Church Street, Conway, SC 29526

- [6. Commencement Date Agreement, by and between Cafe Enterprises, Inc. and Citadel Bulldog, LLC, dated as of May 31, 2007, as amended by that First Amendment to the Sublease Agreement, dated as of May 31, 2007; that Assignment and Assumption of Landlord's Interest in Leases, dated as of February 14, 2008; and that Rental Reduction and Amendment to the Lease Agreement, dated as of August 1, 2013; for North Charleston Restaurant # 0036, located at 4951 Centre Pointe Drive, North Charleston, SC 29418](#)
- [7. Ground Lease Agreement, by and between Cafe Enterprises, Inc. and Southpointe BTS Partners, LLC, dated as of April 5, 2007, as amended by that First Amendment, dated as of October 1, 2009; that Second Amendment, dated as of October 1, 2011; and that Third Amendment, dated as of October 1, 2012; for Carowinds Restaurant # 0041, located at 10920 Winds Crossing Drive, Charlotte, NC 28273](#)
- [8. Lease Agreement, by and between Cafe Enterprises, Inc. and Warner Robins Westgate, LLC, dated as of June 26, 2007, as amended by that First Amendment to the Lease Agreement and Actual Base Rent and Commencement Date Agreement, dated as of February 27, 2008; that Second Amendment to the Lease Agreement, dated as of March 1, 2010; that Assignment and Assumption of Assignor's Interest in Leases, Licenses and Contracts, dated as of December 28, 2012; and that Third Amendment to the Lease Agreement, dated as of September 1, 2013; for Warner Robins Restaurant # 0044, located at 2715 Watson Boulevard, Warner Robins, GA 31093](#)
- [9. Lease Agreement, by and between Cafe Enterprises, Inc. and STORE Capital Acquisitions, LLC, dated as of March 21, 2014; for Pooler Restaurant # 0047, located at 400 Pooler Parkway, Pooler, GA 31322](#)
- [10. Amended and Restated Lease Agreement, by and between Cafe Enterprises, Inc. and Old Mill Stream, LLC, dated as of March 1, 2008; for Afton-Ridge Concord Restaurant # 0048, located at 6081 Bayfield Parkway, Concord, NC 28027](#)
- [11. Ground Lease Agreement, by and between CES Gastonia LLC and PP-Gaston Mall, LLC, dated as of April 5, 2012, as amended by that First Amendment to the Ground Lease Agreement, dated as of November 19, 2012; that Second Amendment to the Ground Lease Agreement, dated as of July 24, 2015; and that Third Amendment to the Ground Lease Agreement, dated as of April 1, 2016; for Gastonia Restaurant \(3002 Tavern 24\), located at 421 Cox Road, Gastonia, NC 28054](#)
- [12. ~~48.~~Lease Agreement, by and between Cafe Enterprises, Inc. and STORE Capital Acquisitions, LLC, dated as of March 21, 2014; for property located at 619 S. Regional Road, Greensboro, NC 27409](#)
- [13. ~~49.~~Lease Agreement, by and between Cafe Enterprises, Inc. and Trinity Johnson City, LLC, dated as of March 16, 2011, as amended by that Rental Reduction and First Amendment to the Lease Agreement, dated as of August 1, 2013; for property located at 3101 W. Market St. 101-103, Johnson City, TN 37604](#)
- [14. ~~50.~~Lease Agreement, by and between Cafe Enterprises, Inc. d/b/a Fatz Cafe and Koury Corporation, dated as of August 1, 2011, as amended by that Agreement Amending the](#)

Lease, dated as of November 4, 2013; and subsequent letters between Cafe and Landlord;
for ~~property~~properties located at 3011 High Point Road, 3009 High Point Road, and 3015
R1 High Point Road, Greensboro, NC 27403

15. Section 3.9

Taxes

(a) – Tax Returns Not Timely Filed

From time to time, the Company has not made timely tax payments. However, as of the date of the Agreement, any untimely tax returns have been filed and all obligations have been met thereunder. The only settlement agreements relating to taxes exist in Georgia and North Carolina.

(b) – Tax

Failures None.

(c) – Tax Actions

None.

Section 3.10

Tangible Personal Property; Inventory

(a) – Furnishings and Equipment

None.

(b) – Personal Property Leases—

The following ~~is a list of all Personal Property Leases~~ listed personal property leases will be assumed:

1. CO2 Equipment Leases under which Cafe Enterprises, Inc. is lessee
- ~~2. Equipment Lease for Copier under which Cafe Enterprises, Inc. is lessee~~
- ~~2. 3. Dish Machine Leases under which Cafe Enterprises, Inc. is lessee~~
- ~~4. Postage Equipment Lease under which Cafe Enterprises, Inc. is lessee~~
- ~~3. 5. Warehouse Storage Lease under which Cafe Enterprises, Inc. is lessee~~
- ~~4. 6. Pepsi fountain beverage equipment provided pursuant to that National Account Fountain Beverage Sales Agreement, by and between Cafe Enterprises, Inc. and PepsiCo Sales, Inc., dated as of January 1, 2012, and held at Fatz restaurant locations~~

The following listed personal property leases are Excluded Assets:

- ~~1. Equipment Lease for Copier under which Cafe Enterprises, Inc. is lessee~~
- ~~2. Postage Equipment Lease under which Cafe Enterprises, Inc. is lessee~~
- ~~3. 7. Cooking Oil equipment provided pursuant to that Supply Agreement, by and between Cafe Enterprises, Inc. and Restaurant Technologies, Inc., dated as of August 5, 2015, and held at Fatz restaurant locations~~

Section 3.11

Material Contracts

(a) – Material Contracts

The following are the Transferred Contracts:

1. Operating Partner Agreement, by and between Cafe Enterprises, Inc. and Tracy Nester, dated as of March 29, 2016, as amended by that Amendment dated as of August 1, 2016
2. Service Agreement, by and between Cafe Enterprises, Inc. and Ambiance Radio LLC, dated as of June 15, 2016
- ~~3. Service Agreement, by and between Cafe Enterprises, Inc. and Aramark Uniform Services, dated as of March 20, 2017~~
3. ~~4.~~ Master Agreement, by and between Cafe Enterprises, Inc. and DSI/DataSource, Inc., dated as of February 4, 2018
4. ~~5.~~ Agreement, by and between Cafe Enterprises, Inc. dba Fatz Cafe and Dr. Pepper Snapple Group, dated as of January 1, 2015
- ~~6. Product and Services Supply Agreement, by and between Cafe Enterprises, Inc. and Ecolab Inc., dated as of October 1, 2012~~
- ~~7. Pest Elimination Services Agreement, by and between Cafe Enterprises, Inc. and Ecolab Inc., dated as of November 1, 2014~~
- ~~8. Purchasing Contract, by and between Cafe Enterprises, Inc. and FreshPoint, dated as of January 25, 2018~~
5. ~~9.~~ Agreement, by and between Cafe Enterprises, Inc. and Snagajob (People Matter), dated as of June 7, 2017
- ~~10. Master Services Agreement, by and between Cafe Enterprises, Inc. and Market Force Information, Inc., dated as of May 15, 2017, as amended by subsequent Statements of Work~~
6. ~~11.~~ Sales Order Agreement, by and between Cafe Enterprises, Inc. and NCR Corporation, dated as of December 15, 2017
7. ~~12.~~ National Account Fountain Beverage Sales Agreement, by and between Cafe Enterprises, Inc. and PepsiCo Sales, Inc., dated as of January 1, 2012
8. Solid Waste/Recycling Cost Reduction Service Agreement, by and between Cafe Enterprises, Inc. and Waste Revelation LLC, dated as of July 17, 2014
9. Customer Processing Agreement, by and between Cafe Enterprises, Inc. and WorldPay US, Inc., dated as of April 18, 2013
10. Agreement, by and between Cafe Enterprises, Inc. and Valley Proteins, Inc., dated as of

November 29, 2018

11. Items 1–36 set forth under Section 3.5 are incorporated herein by reference.

The following are the Excluded Contracts:

1. Purchasing Contract, by and between Cafe Enterprises, Inc. and FreshPoint, dated as of January 25, 2018
2. ~~13.~~ Master Distribution Agreement, by and between Cafe Enterprises, Inc. d/b/a Fatz Cafe and Sysco Columbia, LLC, dated as of January 1, 2012, as amended by that First Amendment to the Master Distribution Agreement, dated as of May 1, 2012; that Second Amendment

to the Master Distribution Agreement, dated as of December 13, 2013; and that Third Amendment Agreement, dated as of March 26, 2014

3. ~~14.~~ Customer Incentive Agreement, by and between Cafe Enterprises, Inc. and Sysco Columbia, LLC & Sysco Charlotte, LLC, dated as of October 30, 2017
4. Master Services Agreement, by and between Cafe Enterprises, Inc. and Market Force Information, Inc., dated as of May 15, 2017, as amended by subsequent Statements of Work
5. Product and Services Supply Agreement, by and between Cafe Enterprises, Inc. and Ecolab Inc., dated as of October 1, 2012
6. Pest Elimination Services Agreement, by and between Cafe Enterprises, Inc. and Ecolab Inc., dated as of November 1, 2014
7. ~~15.~~ Solid Waste/Recycling Cost Reduction Service Agreement, by and between Cafe Enterprises, Inc. and Waste Revelation LLC, dated as of July 17, 2014 Aramark Uniform Services, dated as of March 20, 2017
- ~~16.~~ Customer Processing Agreement, by and between Cafe Enterprises, Inc. and WorldPay US, Inc., dated as of April 18, 2013
- ~~17.~~ Agreement, by and between Cafe Enterprises, Inc. and Valley Proteins, Inc., dated as of November 29, 2018
- ~~18.~~ Items 1 – 50 set forth under Section 3.5 are incorporated herein by reference.

(b) – Contract Bonding Requirements

None.

Section 3.12

Employee Benefits; Employees

(a) – List of Employee Benefit Plans

1. *2018 Restaurant Manager Incentive Plan (the “Restaurant Manager Incentive Plan”)
2. *Operating Partner Agreement, by and between Cafe Enterprises, Inc. and [REDACTED], dated as of March 29, 2016, as amended by that Amendment dated as of August 1, 2016 (the “Operating Partner Agreement”, and together with the Restaurant Manager Incentive Plan, the “Management Incentive Plan Agreements”)
3. Employee 401(k) Plan No. [REDACTED], administered by ADP
4. Cafe Holdings Corp. Equity Incentive Plan, adopted in 2008, as amended by that Amendment 2012-1, dated as of March 13, 2012
5. Health and Vision Insurance Plans provided through United Healthcare, Group Number [REDACTED]
6. Dental, Life, Disability, and AD&D Insurance Plans provided through The Guardian Life

Insurance Company of America, Group Policy No. [REDACTED]

*For the avoidance of doubt, Buyer is not assuming the current Management Incentive Plan Agreements or any liability thereunder. Buyer and Sellers' management to amend the Management Incentive Plan Agreements in connection with the Transaction.

(c) – List of Employees

The following listed employees will be transferred, and are labeled as follows:

~~* indicates an employee who has been terminated ** indicates an employee who has resigned~~ + indicates an employee who will transition to an hourly pay scale

The table is almost entirely redacted with black boxes. Only a few small fragments of text are visible, including a hyphen '-' on the right side of one row and a plus sign '+' on the right side of another row. The redaction covers the names, titles, and other identifying information of the employees.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted]

[Redacted]

The following listed employees will not be transferred:

[Redacted list of employees]

(d) – List of Benefit Plan Liabilities

None.

Section 3.13

Compliance with Laws; Permits

(b) – List of Permits and Licenses

The following listed permits and licenses will be assumed:

~~1. Beer and Wine License No. 32020312-PBW; Store # 0001; SC Department of Revenue and~~

~~Taxation~~

- ~~2. Liquor License No. 32046347-PLB; Store # 0001; SC Department of Revenue & Taxation~~
- ~~3. Sunday Liquor License No. 32046347-LOP; Store # 0001; SC Department of Revenue & Taxation~~
- ~~4. Health Permit; Store # 0001; SC Department of Health and Environmental Control~~
1. ~~5.~~ Beer and Wine License No. 32046358-PBW; Store # 0004; SC Department of Revenue & Taxation
2. ~~6.~~ Liquor License No. 32046358-PLB; Store # 0004; SC Department of Revenue & Taxation
3. ~~7.~~ Health Permit; Store # 0004; SC Department of Health and Environmental Control
4. ~~8.~~ City of Easley Retail Business License No. 37089; Store # 0005
5. ~~9.~~ Beer and Wine License No. 32046356-PBW; Store # 0005; SC Department of Revenue & Taxation
6. ~~10.~~ Liquor License No. 32046356-LOP; Store # 0005; SC Department of Revenue & Taxation
7. ~~11.~~ Liquor License No. 32046356-PLB; Store # 0005; SC Department of Revenue & Taxation
8. ~~12.~~ Health Permit; Store # 0005; SC Department of Health and Environmental Control
9. ~~13.~~ City of Greenwood Retail Business License No. 1374; Store # 0007
10. ~~14.~~ Beer and Wine License No. 32046351-PBW; Store # 0007; SC Department of Revenue & Taxation
11. ~~15.~~ Liquor License No. 32046351-PLB; Store # 0007; SC Department of Revenue & Taxation
12. ~~16.~~ Sunday Liquor License No. 320463510-LOP; Store # 0007; SC Department of Revenue & Taxation
13. ~~17.~~ Health Permit; Store # 0007; SC Department of Health and Environmental Control
14. ~~18.~~ City of Columbia Retail Business License No. 23881; Store # 0009
15. ~~19.~~ Beer and Wine License No. 32046359-PBW; Store # 0009; SC Department of Revenue & Taxation
16. ~~20.~~ Liquor License No. 32046359-PLB; Store # 0009; SC Department of Revenue & Taxation
17. ~~21.~~ Sunday Liquor License No. 32003427-LOP; Store # 0009; SC Department of Revenue & Taxation
18. ~~22.~~ Health Permit; Store # 0009; SC Department of Health and Environmental Control
19. ~~23.~~ Beer and Wine License No. 32046346-PBW; Store # 0010; SC Department of Revenue & Taxation
20. ~~24.~~ Liquor License No. 32046346-PLB; Store # 0010; SC Department of Revenue & Taxation
21. ~~25.~~ Sunday Liquor License No. 32046346-LOP; Store # 0010; SC Department of Revenue & Taxation
22. ~~26.~~ Health Permit; Store # 0010; SC Department of Health and Environmental Control
- ~~27. City of Hendersonville Beer and Wine License No. 48; Store # 0011~~
- ~~28. City of Hendersonville Retail Business License No. 193439; Store # 0011~~
- ~~29. City of Hendersonville Retail Business License No. 476; Store # 0011~~
- ~~30. Mixed Beverages License No. MX9881; Store # 0011; NC Alcoholic Beverage Control Commission~~
- ~~31. Health Permit; Store # 0011; NC Department of Environment and Natural Resources (now NC Department of Environmental Quality)~~

- 23. ~~32.~~ City of Greer Retail Business License No. 44665; Store # 0012
- 24. ~~33.~~ Beer and Wine License No. 32046352-PBW; Store # 0012; SC Department of Revenue & Taxation
- 25. ~~34.~~ Liquor License No. 32046352-LOP; Store # 0012; SC Department of Revenue & Taxation
- 26. ~~35.~~ Liquor License No. 32046352-PLB; Store # 0012; SC Department of Revenue & Taxation
- 27. ~~36.~~ Health Permit; Store # 0012; SC Department of Health and Environmental Control
- 28. ~~37.~~ Beer and Wine License No. 32016681-PBW; Store # 0013; SC Department of Revenue & Taxation
- 29. ~~38.~~ Liquor License No. 32016681-PSB; Store # 0013; SC Department of Revenue & Taxation
- 30. ~~39.~~ Sunday Liquor License No. 32016681-LOP; Store # 0013; SC Department of Revenue & Taxation
- 31. ~~40.~~ Health Permit; Store # 0013; SC Department of Health and Environmental Control
- 32. ~~41.~~ County of Orangeburg Retail Business License No. 000565; Store # 0014
- 33. ~~42.~~ Beer and Wine License No. 32046343-PBW; Store # 0014; SC Department of Revenue & Taxation
- 34. ~~43.~~ Liquor License No. 32046343-LOP; Store # 0014; SC Department of Revenue & Taxation
- 35. ~~44.~~ Liquor License No. 32046343-PLB; Store # 0014; SC Department of Revenue & Taxation
- 36. ~~45.~~ Health Permit; Store # 0014; SC Department of Health and Environmental Control
- 37. ~~46.~~ Buncombe County Beer License No. 261; Store # 0015
- 38. ~~47.~~ Buncombe County Wine License No. 261; Store # 0015
- 39. ~~48.~~ City of Asheville Beer License No. 521; Store # 0015
- 40. ~~49.~~ City of Asheville Wine License No. 522; Store # 0015
- 41. ~~50.~~ City of Asheville Retail Business License No. 523; Store # 0015
- 42. ~~51.~~ Mixed Beverages License No. 00099327MB; Store # 0015; NC Alcoholic Beverage Control Commission
- 43. ~~52.~~ Health Permit; Store # 0015; NC Department of Environment and Natural Resources (now NC Department of Environmental Quality)
- 44. ~~53.~~ City of Shelby Beer and Wine License; Store # 0016
- 45. ~~54.~~ Cleveland County Beer and Wine License No. 14; Store # 0016
- 46. ~~55.~~ Mixed Beverages License No. 00103277MB; Store # 0016; NC Alcoholic Beverage Control Commission
- 47. ~~56.~~ Health Permit; Store # 0016; NC Department of Environment and Natural Resources (now NC Department of Environmental Quality)
- 48. ~~57.~~ Beer and Wine License No. 32046348-PBW; Store # 0018; SC Department of Revenue & Taxation
- 49. ~~58.~~ Liquor License No. 32046348-PLB; Store # 0018; SC Department of Revenue & Taxation
- 50. ~~59.~~ Sunday Liquor License No. 32046348-LOP; Store # 0018; SC Department of Revenue & Taxation
- 51. ~~60.~~ Health Permit; Store # 0018; SC Department of Health and Environmental Control
- 52. ~~61.~~ Town of Lexington Retail Business License No. 4372; Store # 0018
- 53. ~~62.~~ Mixed Beverages License No. 00113915MB; Store # 0019; NC Alcoholic Beverage Control Commission

- [54.](#) ~~63.~~Health Permit; Store # 0019; NC Department of Environment and Natural Resources (now NC Department of Environmental Quality)
- [55.](#) ~~64.~~Town of Forest City Beer and Wine License No. 9690; Store # 0019
- [56.](#) ~~65.~~Richland County Retail Business License No. 2018-25567-24719; Store # 0020
- [57.](#) ~~66.~~Beer and Wine License No. 32046349-PBW; Store # 0020; SC Department of Revenue & Taxation
- [58.](#) ~~67.~~Liquor License No. 32046349-PLB; Store # 0020; SC Department of Revenue & Taxation
- [59.](#) ~~68.~~Sunday Liquor License No. 32046349-LOP; Store # 0020; SC Department of Revenue & Taxation
- [60.](#) ~~69.~~Health Permit; Store # 0020; SC Department of Health and Environmental Control
- [61.](#) ~~70.~~Burke County Beer and Wine License No. 1290/0743; Store # 0022
- [62.](#) ~~71.~~City of Morganton Beer and Wine License No. 2362; Store # 0022
- [63.](#) ~~72.~~City of Morganton Retail Business License; Store # 0022
- [64.](#) ~~73.~~Mixed Beverages License No. 00115624MB; Store # 0022; NC Alcoholic Beverage Control Commission
- [65.](#) ~~74.~~Health Permit; Store # 0022; NC Department of Environment and Natural Resources (now NC Department of Environmental Quality)
- [66.](#) ~~75.~~Greene County Retail Business License No. 470973; Store # 0023
- [67.](#) ~~76.~~Liquor License by the Drink No. 7885; Store # 0023; TN Alcoholic Beverage Commission
- [68.](#) ~~77.~~Health Permit No. 169670/169671; Store # 0023; TN Division of Environmental Health
- [69.](#) ~~78.~~Town of Greeneville Beer License No. 181; Store # 0023
- [70.](#) ~~79.~~Town of Greeneville Liquor License; Store # 0023
- [71.](#) ~~80.~~Town of Greeneville Retail Business License No. 2012 22443; Store # 0023
- [72.](#) ~~81.~~Mixed Beverages License No. 00128644MB; Store # 0024; NC Alcoholic Beverage Control Commission
- [73.](#) ~~82.~~Health Permit; Store # 0024; NC Department of Environment and Natural Resources (now NC Department of Environmental Quality)
- [74.](#) ~~83.~~Beer and Wine License No. 32046357-PBW; Store # 0025; SC Department of Revenue & Taxation
- [75.](#) ~~84.~~Liquor License No. 32046357-PLB; Store # 0025; SC Department of Revenue & Taxation
- [76.](#) ~~85.~~Health Permit; Store # 0025; SC Department of Health and Environmental Control
- ~~86.~~Columbia County Beer and Wine License No. 724; Store # 0026
- ~~87.~~Columbia County Health Permit; Store # 0026
- ~~88.~~Columbia County Retail Business License No. 15967; Store # 0026
- ~~89.~~Beer, Wine, and Alcohol License No. 47325; Store # 0026; GA Department of Revenue
- [77.](#) ~~90.~~City of Rock Hill Retail Business License No. 1425; Store # 0027
- [78.](#) ~~91.~~Beer and Wine License No. 32046345-PBW; Store # 0027; SC Department of Revenue & Taxation
- [79.](#) ~~92.~~Liquor License No. 32046345-PLB; Store # 0027; SC Department of Revenue & Taxation
- [80.](#) ~~93.~~Sunday Liquor License No. 32046345-LOP; Store # 0027; SC Department of Revenue & Taxation
- [81.](#) ~~94.~~Health Permit; Store # 0027; SC Department of Health and Environmental Control
- [82.](#) ~~95.~~City of Bristol Beer License No. 185; Store # 0028

- [83.](#) ~~96.~~ City of Bristol Retail Business License No. 2012-24285; Store # 0028
- [84.](#) ~~97.~~ Sullivan County Retail Business License No. 92582; Store # 0028
- [85.](#) ~~98.~~ Liquor License by the Drink No. 52479; Store # 0028; TN Alcoholic Beverage Commission
- [86.](#) ~~99.~~ Health Permit No. 184367/184368; Store # 0028; TN Division of Environmental Health
- [87.](#) ~~100.~~ Barrow County Beer and Wine License No. 2005-032; Store # 0029
- [88.](#) ~~101.~~ Barrow County Health Permit; Store # 0029
- [89.](#) ~~102.~~ Barrow County Retail Business License No. 2007-6937; Store # 0029
- [90.](#) ~~103.~~ Beer, Wine, and Alcohol License No. 49610; Store # 0029; GA Department of Revenue
- [91.](#) ~~104.~~ City of Rockingham Retail Business License No. 60230; Store # 0030
- [92.](#) ~~105.~~ City of Rockingham Beer and Wine License No. 602300; Store # 0030
- [93.](#) ~~106.~~ Mixed Beverages License No. 00140020MB; Store # 0030; NC Alcoholic Beverage Control Commission
- [94.](#) ~~107.~~ Health Permit; Store # 0030; NC Department of Environment and Natural Resources (now NC Department of Environmental Quality)
- [95.](#) ~~108.~~ Richmond County Beer and Wine License No. 3803; Store # 0030
- [96.](#) ~~109.~~ City of Marion Beer and Wine License; Store # 0032
- [97.](#) ~~110.~~ City of Marion Beer and Wine License No. 6516; Store # 0032
- [98.](#) ~~111.~~ City of Marion Retail Business License No. 7944; Store # 0032
- [99.](#) ~~112.~~ McDowell County ACL License; Store # 0032
- [100.](#) ~~113.~~ Mixed Beverages License No. 00140809; Store # 0032; NC Alcoholic Beverage Control Commission
- [101.](#) ~~114.~~ Health Permit; Store # 0032; NC Department of Environment and Natural Resources (now NC Department of Environmental Quality)
- [102.](#) ~~115.~~ City of Aiken Retail Business License No. 20144; Store # 0033
- [103.](#) ~~116.~~ Beer and Wine License No. 32046342-PBW; Store # 0033; SC Department of Revenue & Taxation
- [104.](#) ~~117.~~ Liquor License No. 32046342-PLB; Store # 0033; SC Department of Revenue & Taxation
- [105.](#) ~~118.~~ Sunday Liquor License No. 32046342-LOP; Store # 0033; SC Department of Revenue & Taxation
- [106.](#) ~~119.~~ Health Permit; Store # 0033; SC Department of Health and Environmental Control
- [107.](#) ~~120.~~ Carter County Retail Business License No. 26152; Store # 0034
- [108.](#) ~~121.~~ City of Elizabethton Beer License No. 48; Store # 0034
- [109.](#) ~~122.~~ City of Elizabethton Retail Business License No. 10972; Store # 0034
- [110.](#) ~~123.~~ Liquor License by the Drink No. 14302; Store # 0034; TN Alcoholic Beverage Commission
- [111.](#) ~~124.~~ Health Permit No. 189511/189512; Store # 0034; TN Division of Environmental Health
- [112.](#) ~~125.~~ Beer and Wine License No. 32046353-PBW; Store # 0035; SC Department of Revenue & Taxation
- [113.](#) ~~126.~~ Liquor License No. 32046353-PLB; Store # 0035; SC Department of Revenue & Taxation
- [114.](#) ~~127.~~ Health Permit; Store # 0035; SC Department of Health and Environmental Control
- [128.](#) ~~Health Permit; Store # 0036; SC Department of Health and Environmental Control~~
- [115.](#) ~~129.~~ City of Kingsport Beer License No. 528; Store # 0037

- [116.](#) ~~130.~~ City of Kingsport Retail Business License No. 17-00009293; Store # 0037
- [117.](#) ~~131.~~ Sullivan County Retail Business License No. 123833; Store # 0037
- [118.](#) ~~132.~~ Liquor License by the Drink No. 20650; Store # 0037; TN Alcoholic Beverage Commission
- [119.](#) ~~133.~~ Health Permit No. 192581/192582; Store # 0037; TN Division of Environmental Health
- [120.](#) ~~134.~~ City of Camden Retail Business License No. 20160048; Store # 0038
- [121.](#) ~~135.~~ Beer and Wine License No. 32046362-PBW; Store # 0038; SC Department of Revenue & Taxation
- [122.](#) ~~136.~~ Liquor License No. 32046362-PLB; Store # 0038; SC Department of Revenue & Taxation
- [123.](#) ~~137.~~ Sunday Liquor License No. 320463627-LOP; Store # 0038; SC Department of Revenue & Taxation
- [124.](#) ~~138.~~ Health Permit; Store # 0038; SC Department of Health and Environmental Control
- [125.](#) ~~139.~~ City of Clinton Retail Business License No. 175102; Store # 0039
- [126.](#) ~~140.~~ Beer and Wine License No. 32046363-PBW; Store # 0039; SC Department of Revenue & Taxation
- [127.](#) ~~141.~~ Liquor License No. 32046363-PLB; Store # 0039; SC Department of Revenue & Taxation
- [128.](#) ~~142.~~ Health Permit; Store # 0039; SC Department of Health and Environmental Control
- [129.](#) ~~143.~~ Athens-Clarke County Retail Business License No. BT-0089637; Store # 0040
- [130.](#) ~~144.~~ Clarke County Beer, Wine, LBD License No. AL-0089480; Store # 0040
- [131.](#) ~~145.~~ Clarke County Health Permit; Store # 0040
- [132.](#) ~~146.~~ Beer, Wine, LBD License No. 183782; Store # 0040; GA Department of Revenue
- [133.](#) ~~147.~~ City of Blairsville License; Store # 0042
- [134.](#) ~~148.~~ City of Blairsville Retail Business License No. 304997810; Store # 0042
- [135.](#) ~~149.~~ Beer, Wine, and Alcohol License No. 57857; Store # 0042; GA Department of Revenue
- [136.](#) ~~150.~~ Union County Health Permit; Store # 0042
- [137.](#) ~~151.~~ Pulaski County Health Permit; Store # 0043
- [138.](#) ~~152.~~ Pulaski County Retail Business License No. 001124; Store # 0043
- [139.](#) ~~153.~~ Beer, Wine, and Liquor License No. 050220; Store # 0043; VA Department of Alcoholic Beverage Control
- [140.](#) ~~154.~~ City of Jasper Beer and Wine License No. 36H; Store # 0045
- [141.](#) ~~155.~~ City of Jasper Alcohol License No. 36H; Store # 0045
- [142.](#) ~~156.~~ City of Jasper Retail Business License No. 388; Store # 0045
- [143.](#) ~~157.~~ Beer and Wine License No. 52663; Store # 0045; GA Department of Revenue
- [144.](#) ~~158.~~ Pickens County Health Permit; Store # 0045
- [145.](#) ~~159.~~ Beer and Wine License No. 32044207-PBW; Store # 0046; SC Department of Revenue & Taxation
- [146.](#) ~~160.~~ Liquor License No. 32044207-PLB; Store # 0046; SC Department of Revenue & Taxation
- [147.](#) ~~161.~~ Health Permit; Store # 0046; SC Department of Health and Environmental Control
- [148.](#) ~~162.~~ Town of Cheraw Retail Business License No. 20167502; Store # 0046
- [149.](#) ~~163.~~ Est. Alcohol License No. 00163373; Store # 0049; NC Alcoholic Beverage Control Commission
- [150.](#) ~~164.~~ Health Permit; Store # 0049; NC Department of Environment and Natural Resources (now NC Department of Environmental Quality)

- 151. ~~165.~~Town of Franklin Beer and Wine License No. 1132; Store # 0049
- 152. ~~166.~~Town of Franklin Retail Business License No. 5995; Store # 0049
- 153. ~~167.~~Caldwell County Licenses; Store # 0050
- 154. ~~168.~~City of Lenoir Retail Business License No. 5322; Store # 0050
- 155. ~~169.~~City of Lenoir City Licenses; Store # 0050
- 156. ~~170.~~State Alcohol License No. 0163106; Store # 0050; NC Alcoholic Beverage Control Commission
- 157. ~~171.~~Health Permit; Store # 0050; NC Department of Environment and Natural Resources (now NC Department of Environmental Quality)

The following listed permits and licenses are Excluded Assets:

- 1. Beer and Wine License No. 32020312-PBW; Store # 0001; SC Department of Revenue and Taxation
- 2. Liquor License No. 32046347-PLB; Store # 0001; SC Department of Revenue & Taxation
- 3. Sunday Liquor License No. 32046347-LOP; Store # 0001; SC Department of Revenue & Taxation
- 4. Health Permit; Store # 0001; SC Department of Health and Environmental Control
- 5. City of Hendersonville Beer and Wine License No. 48; Store # 0011
- 6. City of Hendersonville Retail Business License No. 193439; Store # 0011
- 7. City of Hendersonville Retail Business License No. 476; Store # 0011
- 8. Mixed Beverages License No. MX9881; Store # 0011; NC Alcoholic Beverage Control Commission
- 9. Health Permit; Store # 0011; NC Department of Environment and Natural Resources (now NC Department of Environmental Quality)
- 10. Columbia County Beer and Wine License No. 724; Store # 0026
- 11. Columbia County Health Permit; Store # 0026
- 12. Columbia County Retail Business License No. 15967; Store # 0026
- 13. Beer, Wine, and Alcohol License No. 47325; Store # 0026; GA Department of Revenue
- 14. Health Permit; Store # 0036; SC Department of Health and Environmental Control

(c) – Permit Bonding Requirements

- 1. Tennessee Tax Bond for the Sale of Alcoholic Beverages for Consumption on Premises, issued for Cafe Enterprises, Inc. by Washington International Insurance Company; Bond No. 9181517; Bond Amount: \$2,200.00; Location: Store # 0037, 2610 West Stone Drive, Kingsport, TN 37660
- 2. Tennessee Tax Bond for the Sale of Alcoholic Beverages for Consumption on Premises, issued for Cafe Enterprises, Inc. by Washington International Insurance Company; Bond No. 9181516; Bond Amount: \$8,500.00; Location: Store # 0028, 1175 Volunteer Parkway, Bristol, TN 37620
- 3. Tennessee Tax Bond for the Sale of Alcoholic Beverages for Consumption on Premises, issued for Cafe Enterprises, Inc. by North American Specialty Insurance Company; Bond No. 2250015; Bond Amount: \$1,900.00; Location: Store # 0034, 980 Over Mountain Drive, Elizabethton, TN 37643
- 4. Tennessee Tax Bond for the Sale of Alcoholic Beverages for Consumption on Premises, issued for Cafe Enterprises, Inc. by North American Specialty Insurance Company; Bond No. 2250017; Bond Amount: \$8,500.00; Location: Store # 0023, 3140

East Andrew Johnson Highway, Greeneville, TN 37745

5. **Section 3.14**

Intellectual Property

(a) – Domain Names and Trademarks

1. Trademark; Registration No. 2,764,092; Cafe Enterprises, Inc.
2. Trademark; Registration No. 2,764,091; Cafe Enterprises, Inc.
3. Trademark; Registration No. 3,217,012; Cafe Enterprises, Inc.
4. Trademark; Registration No. 3,600,822; Cafe Enterprises, Inc.
5. Trademark; Registration No. 3,600,823; Cafe Enterprises, Inc.
6. Domain Name; <https://fatz.com>; Cafe Enterprises, Inc.
7. Domain Name; www.cafe-enterprises.com; Cafe Enterprises, Inc.
8. Domain Name; www.southernkitchencatering.com; Cafe Enterprises, Inc.
9. Domain Name; www.fatzsouthernkitchen.com; Cafe Enterprises, Inc.

(b) – Intellectual Property Infringement

None.

(c) – Intellectual Property Infringement Claims

None.

(d) – Intellectual Property Licenses

None.

Section 5.8(a)(i)

Material Contracts

1. Items 1–~~50~~[36](#) set forth under Section 3.5 are incorporated herein by reference.
2. Items 1–~~47~~[10](#) set forth under Section 3.11 are incorporated herein by reference.

~~SCHEDULE 6.11~~

~~[REDACTED]~~

Form of Sale Order

Document comparison by Workshare Compare on Friday, February 8, 2019 5:45:54 PM

Input:	
Document 1 ID	file://C:\Users\Pearcej\Documents\Cafe Enterprises\Complete APA Sets (and Filed Docs)\Cafe Enterprises Atalaya (as-filed 1.15.19) - Unredacted APA plus Schedules.pdf
Description	Cafe Enterprises Atalaya (as-filed 1.15.19) - Unredacted APA plus Schedules
Document 2 ID	file://C:\Users\Pearcej\Documents\Cafe Enterprises\Complete APA Sets (and Filed Docs)\Cafe Enterprises Atalaya - Complete APA with Schedules [UNREDACTED 2.8.19].pdf
Description	Cafe Enterprises Atalaya - Complete APA with Schedules [UNREDACTED 2.8.19]
Rendering set	Standard

Legend:	
	<u>Insertion</u>
	Deletion
	Moved from
	<u>Moved to</u>
	Style change
	Format change
	Moved deletion
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	614
Deletions	563
Moved from	74

Moved to	74
Style change	0
Format changed	0
Total changes	1325