

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

**CBC RESTAURANT CORP., et al.,<sup>1</sup>**

Debtors.

Chapter 11

Case No. 23-10245 (KBO)  
(Jointly Administered)

**Continued Hearing Date:**  
June 7, 2023, at 12:30 p.m. (ET)

Re: Dkt. Nos. 289, 552

**NOTICE OF SUBMISSION OF PROPOSED TRANSITION SERVICES AGREEMENT**

**PLEASE TAKE NOTICE THAT** attached hereto as **Exhibit A** is the proposed *Transition Services Agreement* contemplated by the *Asset Purchase Agreement by and Among CBC Restaurant Corp, Corner Bakery Holding Company, and CBC Cardco, Inc. and SSCP Restaurant Investors, LLC* filed on June 1, 2023 [Dkt. No. 552].

Dated: June 6, 2023  
Wilmington, Delaware

/s/ Mette H. Kurth

Mette H. Kurth (DE Bar No. 6491)  
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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include CBC Restaurant Corp. (0801) (the "Debtor"), Corner Bakery Holding Company (3981), and CBC Cardco, Inc. (1938) (together with Corner Bakery Holding Company, the "Debtor Affiliates" and additionally with the Debtor, the "Debtors"). The Debtors' service address is 121 Friends Lane, Suite 301, Newtown PA 18940.



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**Exhibit A**

## TRANSITION SERVICES AGREEMENT

This Transition Services Agreement (this “Agreement”) is made and entered into as of June \_\_\_, 2023, by and among SSCP Restaurant Investors, LLC, a Delaware limited liability company (together with its successors and assigns, “Buyer”), and CBC Restaurant Corp., a Delaware corporation (“CBC”), Corner Bakery Holding Company, a Delaware corporation (“Holdco”), and CBC Cardco, Inc., a Florida corporation (“Cardco,” and with CBC and Holdco, the “Sellers”), in connection with, and as an essential component of, the transactions contemplated by the Asset Purchase Agreement dated as of June \_\_\_, 2023 by and among Buyer and Sellers (the “Asset Purchase Agreement”). The “Effective Date” of this Agreement shall be the Closing Date of the Asset Purchase Agreement. All capitalized terms used herein and not otherwise defined have the meanings set forth in the Asset Purchase Agreement.

**WHEREAS**, prior to the Closing under the Asset Purchase Agreement, Sellers owned, operated, and franchised fast-casual restaurants serving breakfast, lunch, and dinner under the Corner Bakery brand.

**WHEREAS**, the Asset Purchase Agreement and this Agreement were approved by Order of the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) that was entered in the Sellers’ Chapter 11 cases on or about June \_\_\_, 2023 (the “Sale Order”). As a consequence, pursuant to the Sale Order, Sellers have (i) assumed and assigned to Buyer the unexpired leases of nonresidential real property and certain other executory contracts and unexpired leases (the “Transferred Contracts”) set forth on Schedule 2.6(d) to the Asset Purchase Agreement (the “Transferred Contract List”) and (ii) designated the unexpired leases of nonresidential real property and certain other executory contracts and unexpired leases as Potential Contracts that the Sellers may not reject or otherwise terminate during the 90-day Contract Review Period as set forth on Schedule 2.12 to the Asset Purchase Agreement (the “Potential Contracts Schedule”).

**WHEREAS**, pursuant to Section 2.12(a)-(b) of the Asset Purchase Agreement, and in compliance with and subject to the terms of the Designation Rights set forth in the Sale Order, during the Contract Review Period, the Buyer may deliver written notice (each, a “Designation Notice”) to the Debtors designating any Potential Contract not previously assumed and assigned to the Buyer or rejected for either: (a) assumption and assignment to the Buyer or its designee, or (b) rejection, following which the Debtors shall file a notice on the docket in the above-captioned case (each an “Assumption Notice” or “Rejection Notice,” as applicable and serve such notice via email and/or by overnight delivery upon the counterparty to such Potential Contract (each a “Designation Counterparty”), and its counsel, if known, of the Debtors’ intent to assume and assign or reject such Potential Contract, all as set forth more fully in the Designation Rights established pursuant to the Sale Order. Upon the Delivery of any Designation Notice, (a) the Contracts identified thereupon for assumption and assignment to Buyer or its designee shall stay as Potential

Contracts until they become Transferred Contracts pursuant to the Sale Order and (b) the Contracts identified thereupon as not for assignment to Buyer or its designee shall immediately cease to be Potential Contracts under this Agreement.

**WHEREAS**, the facilities, premises, and store locations with respect to unexpired leases of non-residential real property that constitute Potential Contracts (as existing from time to time) are referred to herein as the “Restaurants” and each individually as a “Restaurant”.

**WHEREAS**, each Restaurant is a casual-dining restaurant which operates (including by preparation and sale of food to the public) under the respective permits listed on **Schedule 1** (each a “Permit” and, collectively, the “Permits”) in the name of the applicable Seller, with such Permits broken out by Restaurant.

**WHEREAS**, Buyer and Sellers desire services to continue, without interruption, under the Potential Contracts and Permits as set forth herein.

**NOW, THEREFORE**, for good and valuable consideration as provided herein and in the Asset Purchase Agreement, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The “Term” shall commence on the Effective Date and shall terminate on the 90<sup>th</sup> day following the Effective Date; *provided*, that Buyer may terminate this agreement on August 31, 2023 upon written notice to Seller on or before August 10, 2023.

2. During the Term, the Sellers hereby appoint Buyer as their agent to assist with operation of the Restaurants under the Permits and Potential Contracts. Pursuant to its appointment as Sellers’ agent and subject to the following sentence, Buyer shall be entitled to take any and all action on behalf of Sellers hereunder, including opening of bank accounts to collect and to retain all revenues generated by the Restaurants during the Term (the “Revenues”) (which accounts shall be located at institutions designated as authorized depositories by the Office of the United States Trustee for the District of Delaware pursuant to the U.S. Trustee Chapter 11 Guidelines for the District Court of Delaware), and shall be responsible to third parties for and obligated to pay all costs, expenses, liabilities, and obligations of the Restaurants first arising during the Term to such third parties, including the insurance obligations of Sellers as set forth in Section 9, below (individually a “Liability” and collectively the “Liabilities”). For the avoidance of doubt, even if such Revenues are not sufficient to pay the Liabilities in full, Buyer shall pay all amounts equal to the difference of the sum of such costs, expenses, liabilities and obligations less such Revenues.

3. Buyer will timely pay all rent (including but not limited to base rent, taxes, and CAM charges) when due for each real property lease that is a Potential Contract and perform any obligations of Sellers first arising during the Term (and not including obligations to cure any

*[Signature Pages to Transition Services Agreement]*

breach by Sellers, subject to any obligations of Buyer in connection with Cure Claims under the Asset Purchase Agreement) under such real property lease from and after the Effective Date and until the date on which such Potential Contract is assumed and assigned to Buyer or its designee or the date on which such Potential Contract is rejected pursuant to a Rejection Order. Buyer shall make all such payments made directly to the Landlord in satisfaction of the obligations of the applicable Seller under the applicable Potential Contract. A landlord of a lease occupied by a Restaurant may enforce this Section 3 against Buyer as an intended third-party beneficiary hereof. Buyer will provide Seller with a monthly statement of all such rent payments, by Landlord and store location, and will provide supporting details upon request.

4. Buyer shall be obligated to pay any and all amounts arising or otherwise due under any Potential Contract (other than real property leases, which are governed by Section 3 above) and to perform any obligations of the Sellers under any such Potential Contract, in each case that arise during the period from and after Effective Date and continuing until either the date on which such Potential Contract is assumed and assigned to Buyer or its designee or the date on which such Potential Contract is rejected pursuant to a Rejection Order, as applicable, except to the extent such post-Closing amounts due are arising out of an intentional breach (other than the rejection of such Contract), willful misconduct or gross negligence by Sellers of or with respect to such Contract prior to the Rejection or Assignment Date. Any payments owed shall be made under the terms of the applicable Potential Contract as if Buyer were a party to such Potential Contract and shall be paid directly to the non-Seller party to such Potential Contract for the benefit of Sellers. A counterparty to a Potential Contract may enforce this Section 4 against Buyer as an intended third-party beneficiary hereof. Buyer will provide Seller with a monthly statement of all such payments, by counterparty, and will provide supporting details upon request.

5. Buyer may assign its obligations under Section 3 and Section 4 to one or more Affiliates of Buyer; provided, that such assignment shall not relieve Buyer of its obligations hereunder, and further provided that counterparties to Potential Contracts shall be entitled to enforce relevant provisions of this Agreement against the assignee(s).

6. Notwithstanding anything herein to the contrary, the Buyer shall directly pay or reimburse Sellers for any out-of-pocket costs, expenses, claims or liabilities incurred by Sellers in connection with the operation of such Potential Contracts during the Contract Review Period, including all professional fees incurred by Sellers for the support services described on **Schedule 2** and requested by Buyer in writing (including by email) or otherwise incurred at the written direction of Buyer in connection with post-Closing obligations under the Asset Purchase Agreement or in assisting the Buyer with the assumption or rejection of Potential Contracts, the resolution of Cure disputes, or in support of the Contract Review Period under Sections 2.6 or 2.12 of the Asset Purchase Agreement; *provided, however*, that Buyer shall not be responsible for fees and expenses of Sellers associated solely with the administration of the Chapter 11 Cases; *provided, further*, that (a) neither Seller nor Seller's professionals will have any obligation to

provide services to the Buyer under this Agreement for which Buyer has not agreed to reimburse the Sellers, (b) Buyer shall not be responsible for any out-of-pocket costs or expenses (other than professional fees, including fees for claim administration services provided by KCC, LLC) in excess of \$5,000 individually unless the same has been approved by Buyer in writing, and (c) Buyer shall not be responsible for professional fees unless such fees are for services which have been pre-approved in writing by Buyer (with Buyer's approval not to be unreasonably withheld). Before requesting any service, Buyer may request an estimated cost from Seller and any estimate provided shall be made in good faith. Sellers will remit payment of such fees and expenses within five business days following entry of a Certificate of No Objection or an Order allowing such fees and expenses as provided in the *Order (I) Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals and (II) Granting Related Relief* entered on April 17, 2023 [Dkt. No. 322] or other Order of the Bankruptcy Court. Buyer shall pay directly to the United States Trustee an amount equal to the quarterly United States Trustee fees incurred by Sellers in connection with the Chapter 11 Cases for the period from the Closing Date through the date on which Potential Contract has been either assumed and assigned or rejected.

7. Buyer and Sellers covenant and agree as follows, which covenants and agreements shall survive the termination of this Agreement:

- (a) Sellers shall have no duties or responsibilities under this Agreement other than those specified herein and no implied obligations shall be read into this Agreement except for the implied duty of good faith and fair dealing; and further provided that Sellers shall perform their obligations hereunder in a reasonably prudent manner;
- (b) Other than with respect to the gross negligence, fraud or willful misconduct of the Seller Indemnified Parties (as defined below), Buyer agrees to indemnify, defend and hold harmless and discharges Sellers and their independent board member, chief restructuring officer, attorneys, agents and representatives ("Seller Indemnified Parties") from and against any and all claims, actions, demands, judgments, losses, costs, expenses, damages and liabilities (including, without limitation, attorneys' fees and other expenses of litigation) arising out of or resulting from such parties' performance of Sellers' obligations under this Agreement; and
- (c) During the Term, except as provided below, all purchases and services rendered with respect to the operation of the Restaurants shall be in the name of the Buyer, including, without limitation, all utility service and all accounts for the purchase of inventory.

8. Sellers shall, at the sole cost and expense of Buyer, use commercially reasonable efforts to maintain and/or keep all Permits valid. Without limiting any other term of this Agreement, Revenues will be used to pay for Buyer's costs and expenses in operating the Restaurants pursuant to this Agreement; provided, however, if such Revenues are not sufficient to pay for such costs, expenses, and liabilities, Buyer shall pay the difference.

9. During the full Term hereof, Buyer shall keep in full force and effect the insurance policies set forth on **Schedule 3**. Buyer represents that such insurance policies are in full force and effect as of the Effective Date and that, without the prior written consent of Sellers (not to be unreasonably withheld, conditioned or delayed) Buyer will not adversely amend, terminate, or allow to expire any such insurance policy. Buyer will maintain such worker's compensation insurance as required by law. During the full Term hereof, Sellers shall: (i) to the extent that Sellers' obligations under this Agreement are insurable, maintain commercial general liability insurance for the benefit of Buyer insuring Sellers' obligations under this Agreement, in accordance with Sellers' standard corporate insurance policies, processes and procedures (all such costs with respect to such insurance (including any premiums) to be paid for by Buyer, except to the extent that net Revenues for the Restaurants are sufficient to pay for such costs with respect to the Restaurants)

10. Buyer will provide Sellers with cooperation and continued access to personnel and books and records, during normal business hours upon reasonable advance notice and without any obligation for Buyer to disrupt its normal business operations, in order to make pre closing payments, including allocation of expenses between pre- and post-closing periods, and filing of Monthly Operating Reports and other required reports.

11. This Agreement is made and entered into in connection with, and as an essential component of, the transactions contemplated by the Asset Purchase Agreement, and the provisions of the Asset Purchase Agreement are incorporated herein by reference. In the event of any conflict between this Agreement and the Asset Purchase Agreement, the Asset Purchase Agreement will control. This writing otherwise contains the entire agreement between the parties hereto with respect to the subject matter of this Agreement, and all negotiations and prior understandings are merged herein. No modification or amendments to this Agreement shall be effective unless made in writing and signed by each party hereto.

12. Time is of the essence in this Agreement. Buyer agrees, from and after its delivery of a Designation Notice indicating the assumption of the related Potential Contracts, to work diligently to secure all necessary authorizations, consents and approvals to transfer the Permits at the Restaurants in its name, and Sellers agree to cooperate in good faith with Buyer.

13. Nothing contained herein shall be construed as to constitute the relationship hereby created as an employment, an agency, partnership, or a joint venture, Sellers having no authority to make any binding agreement or commitment on behalf of Buyer.

14. The provisions of Section 9.5 (Amendments and Waivers), Section 9.6 (Succession and Assignment), Section 9.7 (Notices), Section 9.8 (Governing Law; Jurisdiction); Section 9.10 (Severability), Section 9.11 (No Third Party Beneficiaries), except as otherwise expressly stated herein, Section 9.16 (Mutual Drafting), and Section 9.19 (Counterparts; Facsimile and Email Signatures) of the Asset Purchase Agreement shall govern the interpretation and enforcement of

this Agreement as if fully set forth herein, *mutatis mutandis*.

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

**SELLERS:**

**CBC RESTAURANT CORP.**

By: \_\_\_\_\_

Name:

Title:

**CORNER BAKERY HOLDING  
COMPANY**

By: \_\_\_\_\_

Name:

Title:

**CBC CARDCO, INC.**

By: \_\_\_\_\_

Name:

Title:

**BUYER:**

**SSCP RESTAURANT INVESTORS, LLC**

By \_\_\_\_\_

Name: Dan Patel

Title: Vice President and  
Chief Financial Officer



**SCHEDULE 1 – PERMITS**

## **SCHEDULE 2 – PROFESSIONAL SERVICES**

### **B120 Asset Analysis and Recovery. Identification and review of potential assets including causes of action and non-litigation recoveries.**

- Sellers will promptly respond to all reasonable requests from Buyer regarding their identification and review of potential causes of action related to the Purchased Assets consisting of causes of action, lawsuits, judgments, claims, refunds, rights of recovery, rights of set-off, recoupment, counterclaims, defenses, demands, warranty claims, rights to indemnification, contribution, advancement of expenses or reimbursement, or similar rights of any Seller (at any time or in any manner arising or existing, whether choate or inchoate, known or unknown, now existing or hereafter acquired, contingent or noncontingent), including the Purchased Avoidance Actions.

### **B130 Asset Disposition. Sales, abandonment and transaction work related to asset disposition.**

- Sellers will promptly respond to all reasonable requests for information from Buyer regarding the Purchased Assets and take any further actions necessary or reasonably required to carry out the purposes of the Asset Purchase Agreement, including pursuant to Sections 6.1 (Cooperation), Section 6.2 thereof (Further Assurances), and Section 6.11 (Name Change)

### **B185 Assumption/Rejection of Leases and Contracts. Analysis of leases and executory contracts and preparation of motions specifically to assume or reject.**

- Sellers will promptly respond to all reasonable requests from Buyer for information regarding Potential Contracts, the amounts due thereunder, or historical negotiations between the Debtors and Contract Counterparties regarding modifications to, or the resolution of disputes regarding, Potential Contracts.
- Sellers will promptly respond to all requests from Buyer for assistance in responding to Assignment Objections or Adequate Assurance and Cure Objections, including reviewing, finalizing, and filing of any responsive pleadings and appearances at any hearings thereon.
- Sellers will process all Designation Notices provided by Buyer by preparing and filing Assumption Notices or Rejection Notices, as applicable, and serving such notices via email and/or by overnight delivery upon the Designation Counterparty and its counsel.
- Sellers, will upon Buyer's request, prepare and file Rejections Orders, as required, under Certificate of No Objection or Certification of Counsel.
- If an objection to a Rejection Notice is timely and properly filed and served, Sellers will

provide any assistance requested by Buyer in writing with respect to any required reply and will review, finalize, and file same and appear at any hearing thereon

- Sellers will prepare and file Assumption Orders, as requested by Buyer, under Certificate or NO Objection or Certification of Counsel
- If an objection to an Assumption Notice is timely and properly filed and served, Sellers will provide any assistance requested by Buyers with respect to any required reply and will review, finalize, and file same and appear at any hearing thereon.
- Sellers will provide to Buyer any other assistance necessary under Section 2.6 or 2.12 of the Asset Purchase Agreement, as requested in writing by Buyer.

**B310 Claims Administration and Objections. Specific claim inquiries; bar date motions; analyses, objections and allowances of claims.**

- Sellers will promptly respond to all requests from Buyers regarding their analysis of claims asserted against the estate and their identification, review, and prosecution of potential claim objections.
- If requested by Buyer, Sellers will prepare, file, and seek approval of an administrative claims bar date.

**SCHEDULE 3 – INSURANCE POLICIES**