

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

CBCRC LIQUIDATING CORP., et al.,¹

Debtors.

Chapter 11

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

Hearing Date:
April 10, 2024 at 10:30 a.m. (ET)

Objection Deadline:
April 3, 2024 at 4:00 p.m. (ET)

Re: D.I. 1059

**NOTICE OF SUBMISSION OF EXHIBIT E TO THE
MOTION OF THE DEBTORS FOR ENTRY OF AN ORDER: (I) APPROVING THE
SETTLEMENT AGREEMENT IN CONNECTION WITH THE ASSET PURCHASE
AGREEMENT BY AND AMONG THE DEBTORS AND SSCP RESTAURANT
INVESTORS, LLP DATED JUNE 14, 2023; (II) AUTHORIZING THE DEBTORS TO
CONVERT THESE CASES TO CASES UNDER CHAPTER 7; AND (III) GRANTING
RELATED RELIEF**

PLEASE TAKE NOTICE THAT attached hereto as **Exhibit E** to the *Motion of the Debtors for Entry of an Order: (I) Approving the Settlement Agreement in Connection With the Asset Purchase Agreement By and Among the Debtors and SSCP Restaurant Investors, LLP Dated June 14, 2023; (II) Authorizing the Debtors to Convert These Cases the Cases Under Chapter 7; and (III) Granting Related Relief* (the “9019 Motion”) is a substantially final draft of the proposed Settlement Agreement.²

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include CBCRC Liquidating Corp. (0801), CBHC Liquidating Company (3981), and CBCCI Liquidating Inc. (1938). The Debtors' service address is Corner Bakery, c/o CR3 Partners, Attn: Greg Baracato, Chief Restructuring Officer, 13355 Noel Road, Suite 2005, Dallas TX 75240.

² Capitalized terms used herein and not otherwise defined have the meanings set forth in the 9019 Motion.



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Dated: April 8, 2024
Wilmington, Delaware

/s/ Mette H. Kurth

Mette H. Kurth (DE Bar No. 6491)

CULHANE MEADOWS, PLLC

3411 Silverside Road

Baynard Building, Suite 104-13

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EXHIBIT E

Settlement Agreement

SETTLEMENT AGREEMENT

This Settlement Agreement (the “**Agreement**”) is entered into by and between CBCRC Liquidating Corp., CBHC Liquidating Company, and CBCCI Liquidating, Inc. (collectively, the “**Debtors**”), SSCP Restaurant Investors LLC (“**SSCP**”), CR3 Partners, LLC (“**CR3**”), Culhane Meadows (“**CM**”), and Kurtzman Carson Consultants LLC (“**KCC**”) (each a “**Party**” and collectively the “**Parties**”).

RECITALS

WHEREAS, on February 22, 2023, CBC Restaurant Corp., Corner Bakery Holding Company, and CBC Cardco, Inc. all filed for chapter 11 bankruptcy in the Bankruptcy Court for the District of Delaware (the “**Bankruptcy Court**”), commencing these jointly administered cases (collectively, the “**Bankruptcy Case**”) and creating (i) case numbers 23-10245, 23-10246, and 23-10247, respectively, and (ii) three respective bankruptcy estates (collectively, the “**Estate**”).

WHEREAS, on April 17, 2023, the Bankruptcy Court entered the *Order Authorizing and Approving (I) The Agreement with CR3 Partners, LLC to Provide Greg Baracato (the “**CRO**”) to Serve as the Debtor’s Chief Restructuring Officer and to Provide Temporary Staff: and (II) the Employment of Greg Baracato and Temporary Staff Effective as of March 17, 2023* [Docket No. 321] (the “**CR3 Employment Order**”).

WHEREAS, on May 5, 2023, the Bankruptcy Court entered the *Final Order (I) Authorizing the Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Granting Adequate Protection, (IV) Modifying the Automatic Stay, and (V) Granting Related Relief* [Docket No. 427] (the “**Final Senior DIP Order**”).

WHEREAS, effective as of March 30, 2023, Nicholas Rubin (“**Rubin**”) was appointed as the sole and independent director of the CBCCI Liquidating, Inc. and the independent director of CBCRC Liquidating Corp. and CBHC Liquidating Company, and the Board of Directors of CBHC Liquidating Company and CBCRC each established an executive committee, delegating to the committees the full power and authority of the Boards, to the fullest extent permitted by the Delaware General Corporations Law, and designating Rubin as their sole member.

WHEREAS, on June 9, 2023, the Bankruptcy Court entered its *Order Authorizing CBC Restaurant Corp. and Its Affiliated Debtors to (I) Sell Substantially All of the Debtors’ Assets Free and Clear of All Liens, Claims, and Interests, (II) Authorizing and Approving the Debtors’ Performance under the APA, (III) Authorizing and Approving the Assumption and Assignment of Certain of the Debtors’ Executory Contracts, Unexpired Leases, and Permits Related Thereto, and (IV) Granting Related Relief* [Docket. No. 609] (the “**Sale Order**”) and approving that certain Asset Purchase Agreement (the “**APA**”) by and among CBC Restaurant Corp, Corner Bakery Holding Company, and CBC Cardco, Inc., as sellers, and SSCP, as buyer, and providing for aggregate consideration of at least \$17,028,065, consisting of a

\$14,999,065 credit bid, \$1,159,000 of a Wind Down Fund,¹ the assumption of certain liabilities, and \$870,000 prepaid-rent reimbursement.

WHEREAS, following entry of the Sale Order, CBC Restaurant Corp, Corner Bakery Holding Company, and CBC Cardco, Inc., pursuant to Section 6.11 of the APA, changed their corporate names to CBCRC Liquidating Corp., CBHC Liquidating Company, and CBCCI Liquidating, Inc., respectively.

WHEREAS, on June 14, 2023, the Debtors and SSCP closed SSCP's purchase of substantially all the Debtors' assets pursuant to the APA, as amended (the "**Sale**").

WHEREAS, the APA provided that the Debtors' cash would be distributed pursuant to a Wind Down Budget agreed to by the Debtors and SSCP. The Wind Down Budget included \$500,000.00 to be paid to Foley and an amount reserved for the payment of allowed professional fees. The Parties have referred throughout the Bankruptcy Case to the amounts budgeted/earmarked for professionals as the "**Professional Fee Reserve**," and the Debtors funded a segregated Professional Fee Reserve account for the sole purpose of reserving for and funding payments to the professionals. The Debtors allocated portions of the Professional Fee Reserve to, among others, CR3, KCC, CM, and the professionals employed by the Official Committee of Unsecured Creditors (the "**Committee Professionals**").

WHEREAS, the Debtors hold at least \$1,135,000.00 in cash, consisting of \$894,000.00 in the Professional Fee Reserve and \$241,860.42 in non-Professional Fee Reserve funds.

WHEREAS, on September 5, 2023, the Debtors filed their *Motion of the Debtors for Entry of an Order: (A) Enforcing the Order Authorizing CBC Restaurant Corp. and Its Affiliated Debtors to (I) Sell Substantially All of the Debtors' Assets Free and Clear of All Liens, Claims, and Interests, (II) Authorizing and Approving the Debtors' Performance under the APA, (III) Authorizing and Approving the Assumption and Assignment of Certain of the Debtors' Executory Contracts, Unexpired Leases, and Permits Related Thereto, and (IV) Granting Related Relief* [Docket. No. 853] (the "**Motion to Enforce**"), alleging that SSCP owes the Estate over \$1.6 million in unpaid obligations under the APA.

WHEREAS, the Debtors believe that SSCP owes CM at least \$81,540.00 and KCC at least \$65,924.09 for services provided to SSCP at its request and direction for which SSCP has direct liability pursuant to paragraph 6 of the Transition Services Agreement.

WHEREAS, on October 13, 2023, SSCP filed its *Cross-Motion to Enforce the Sale Order* [Docket No. 954] (the "**Cross Motion to Enforce**"), alleging that (a) it does not owe the Estate the amounts asserted by the Debtors and (b) the Debtors breached the APA by, among other things, (i) failing to provide access to the accounting and other business records and intellectual property of the purchased assets, (ii) failing to transfer customer and related deposits and accounts receivable, and (iii) generally mismanaging the business post-petition/pre-Closing, resulting in substantial damage to SSCP. The exact amount of this damage is unknown. But SSCP believes that the amount of this damage is substantial.

¹ Capitalized terms not defined in this Agreement shall have the meaning given to them in the APA or the Final Senior DIP Order.

WHEREAS, the Debtors dispute SSCP's allegations in the Cross Motion to Enforce, and SSCP disputes the Debtors' allegations in the Motion to Enforce.

WHEREAS, SSCP asserts that, in full and final satisfaction of all unpaid amounts owed to it by the Estate and SSCP, the Debtors paid (a) \$125,000.00 to KCC, in December 2023 and (b) \$30,000.00 to KCC in March 2024 (collectively, the "**KCC Payment**").

WHEREAS, the Debtors and KCC dispute SSCP's characterization of the payments made to KCC and assert that (a) KCC agreed to participate as Party to this Settlement Agreement on the terms set forth herein provided that it received the \$125,000 KCC Payment prior to December 31, 2023, and the Debtors in fact made such payment and (b) SSCP and the Debtors subsequently requested that KCC serve the notice of 9019 Motion on Debtors' creditor matrix, which KCC agreed to undertake provided that – separate and apart from any payments under this Settlement Agreement – it received an advance, non-refundable payment of \$30,000 to cover the service costs, which the Debtors agreed to and in fact provided to KCC.

WHEREAS, SSCP believes that it has valid grounds to disallow or reduce the fees and expenses awarded to, among others, CR3, CM, KCC, and the UCC Professionals (collectively, the "**Fee Disputes**"), which assertions CR3, CM, and KCC dispute on both procedural and substantive grounds.

WHEREAS, as set forth in the Motion of the Debtors for Entry of an Order: (I) Approving the Settlement Agreement in Connection with the Asset Purchase Agreement by and Among the Debtors and SSCP Restaurant Investors, LLP dated June 14, 2023, (II) Authorizing the Debtors to Convert These Cases to Cases Under Chapter 7, and (III) Granting Related Relief filed on March 11, 2024 (D.I. No. 1059) (the "**9019 Motion**"), the Parties now wish to settle their disputes relating to the Motion to Enforce, the Cross-Motion to Enforce, and the Fee Disputes, the Parties now wish to settle their disputes relating to the Motion to Enforce, the Cross-Motion to Enforce, and the Fee Disputes.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements set forth in the Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Court Approval.** This Agreement is subject to approval by the Bankruptcy Court. The Agreement will be effective when the order approving the 9019 Motion (the "**Settlement Order**") is final and non-appealable (the "**Effective Date**").

2. **Condition Subsequent.** The Debtors and SSCP retain the right to terminate this Agreement until entry of the Settlement Order by the Bankruptcy Court (the "**Termination Deadline**"). To terminate its obligations under this Agreement, (a) SSCP must notify the Debtors, c/o Mette Kurth, in writing prior to the Termination Deadline, and (b) the Debtors must notify SSCP, c/o Marcus Helt, in writing prior to the Termination Deadline. Upon such notification, (a) the Agreement shall be automatically void and of no force and effect, and (b) the Debtors shall promptly file a Notice of Non-Settlement and Request to Convert Cases to Chapter 7 with the Bankruptcy Court. The Parties all understand and agree that each party may waive its Condition Subsequent in its sole and absolute discretion.

3. **Settlement Payment/Obligations.** As consideration for the mutual promises and covenants in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Debtors agree to pay \$669,000.00 to SSCP, which such amount is calculated as follows:

- a. The Committee Professionals *pro rata* share of the Professional Fee Reserve, which the Parties agreed is \$222,000.00, which was assigned to SSCP by the Committee Professionals in December 2023.
- b. CR3's *pro rata* share of the Professional Fee Reserve, which the Parties agreed is \$247,000.00.
- c. The Parties agree that \$200,000 of the Professional Fee Reserve will be allocated to SSCP, given that SSCP funded \$500,000 to the Debtors for the sole purpose of paying Foley for its post-petition fees incurred in the Bankruptcy Case as adequate protection under the Final Senior DIP Order.

As further consideration for the mutual promises and covenants in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, CM and KCC agree to the following:

- d. KCC's invoices for services provided in its capacity as the Debtors' claims and noticing agent for the period from the Petition Date through the filing of the 9019 Motion (the "**Fee Period**") will be allowed in full, and KCC's monthly fee applications filed during the Fee Period will be allowed in full on an interim basis.
- e. KCC will not be entitled to payment of any further fees and expenses. KCC has agreed to cap its recovery from the Professional Fee Reserve, the Estate, and SSCP to the amounts previously received from the Estate, including the KCC Payment. The KCC Payment, which represents KCC's *pro rata* share of the Professional Fee Reserve plus amounts to serve the 9019 Motion, was paid in full and final satisfaction of all unpaid amounts owed by the Estate or SSCP to KCC (the "**KCC Fee Cap**").
- f. KCC's receipt and retention of the payments previously received (approximately \$551,000) is in full and final satisfaction of all amounts owed by the Debtors, the Estate, or SSCP to KCC on account of its outstanding, unpaid fees and expenses (whether incurred as claims and noticing agent or as the Debtors' administrative advisor), and KCC waives and releases all rights (not otherwise assigned to SSCP) against the Debtors, the Estate, and SSCP for the payment of fees and expenses other than as provided in this Agreement. KCC will be entitled to retain the fees and expenses that it has already received from the Debtors.

- g. CM's monthly fee applications filed during the Fee Period will be allowed in full on an interim basis.
- h. CM agrees to cap its recovery from the Professional Fee Reserve, the Estate, and SSCP to amounts previously received and an additional payment of \$195,000.00 (the "**CM Payment**") on account of outstanding, unpaid fees and expenses allowed on an interim basis, representing its *pro rata* share of the Professional Fee Reserve. Receipt of the CM Payment by CM will be in full and final satisfaction of all unpaid amounts owed by the Estate or SSCP to CM (the "**CM Fee Cap**").
- i. CM's receipt and retention of (i) the payments previously received (approximately \$1,232,000.00), (ii) application of its unapplied retainer in the amount of \$3,267.32, and (iii) the CM Payment – which amount will be paid to CM by the Debtors within three (3) business days following entry of the Settlement Order – will be in full and final satisfaction of all unpaid amounts owed by the Debtors, the Estate, or SSCP to CM, and CM waives all rights against the Debtors, the Estate, and SSCP for the payment of fees and expenses other than the provided in this Agreement. CM will be entitled to retain the fees and expenses that it has already received from the Debtors, its retainer, and the CM Payment.
- j. Upon the Effective Date, the Debtors, the Estate, SSCP, KCC, and CR3 all waive objections to the final allowance and payment of CM's fees and expenses consistent with this Settlement.
- k. CR3's fees and expenses as set forth on the monthly staffing reports filed with the Bankruptcy Court for the period from the Petition Date through January 31, 2024, will be allowed in full, subject to the payment restrictions set forth in this Agreement.
- l. CR3 will be entitled to retain all fees and expenses already paid by the Debtors, which are, collectively, approximately \$588,349.00.
- m. CR3 will be allocated \$247,000.00 from the Professional Fee Reserve; provided, however, CR3 will not be entitled to payment of any further fees or expenses on account of its outstanding, unpaid fees and expenses, as its agreed allocation from the Professional Fee Reserve and any further amounts CR3 would be entitled to will be assigned to SSCP under the Settlement.
- n. CR3's receipt of payments previously received (\$588,349) will cap its recovery pursuant to the Wind Down Budget and will be in full and final satisfaction of all unpaid amounts owed by Debtors, the Estate, or SSCP to CR3, and CR3 waives all rights against the Debtors, the Estate, and

SSCP for payment of fees other than as provided herein. Other than to keep the \$588,349 that it had previously received, CR3 will not be entitled to payment of any further fees or expenses on account of its outstanding, unpaid fees and expenses, as any further amounts CR3 would be entitled to will be assigned to SSCP.

- o. Upon the Effective Date, the Debtors, the Estate, SSCP, KCC, and Culhane waive all objections to the final allowance and payment of CR3's fees and expenses.
- p. Notwithstanding anything to the contrary in this Motion, all rights, claims, and causes of action of the Debtors, the Estate, or SSCP to seek recovery from the Debtors' D&O policy and its proceeds will survive entry of the Settlement Order and any order approving CR3's fees on a final basis. Stated differently, entry of an order allowing CR3's fees in any amount is not preclusive to the Estate's or SSCP's rights collectively or individually to assert claims or causes of action against Greg Baracato in his capacity as a CRO or CR3 to collect insurance policy proceeds under the Debtors' D&O insurance policy. Any right to recover on such claims or causes of action is limited to a claim against Greg Baracato in his capacity as the Debtors' CRO or CR3 and only to recover from the Estate's D&O policy.
- q. In waiving any right to any claim or damage over and above the amounts that may be paid by the Debtor's D&O carrier under the D&O policy, the Estate and SSCP covenant and agree that: (i) no such damages other than those recovered from the D&O policy will be sought from CR3 or Greg Baracato, in his capacity as CRO or personally; and (ii) no damages will be sought from any other non-Estate insurance policy.
- r. The Director's compensation for services provided for the periods from the Petition Date through the filing date of this 9019 Motion are allowed in full, and the Director will be entitled to retain the fees that he has already received from the Debtors.
- s. The Director's receipt of such payments cap his payments pursuant to the Wind Down Budget and will be in full and final satisfaction of all unpaid amounts owed by Debtors, the Estate, or SSCP to the Director, and the Director waives all rights against the Debtors, the Estate, and SSCP for payment of unpaid Directors' fees (currently estimated to be \$100,000) other than as provided herein.
- t. The Debtors, the Estate, SSCP, KCC, and CM waive all objections to the Director's retention of the compensation previously received by the Director from the Debtors.

- u. Notwithstanding anything to the contrary in this Motion, all rights, claims, and causes of action of the Debtors, the Estate, or SSCP to seek recovery from the Debtors' D&O policy and its proceeds will survive entry of the Settlement Order. Stated differently, entry of the Settlement Order is not preclusive to the Estate's or SSCP's rights collectively or individually to assert claims or causes of action against the Director in his capacity as Director or to collect insurance policy proceeds under the Debtor's D&O insurance policy.
- v. Any right to recover on such claims or causes of action is limited to a claim against the Director in his capacity as the Debtors' Director and only to recover from the Estate's D&O policy. In waiving any right to any claim or damage over and above the amounts that may be paid by the Debtor's D&O carrier under the D&O policy, the Estate and SSCP covenant and agree that: (i) no such damages other than those recovered from the D&O policy will be sought from the Director, in his capacity as such or personally; and (ii) no damages will be sought from any other non-estate insurance policy.
- w. The \$669,000.00 will be paid to SSCP upon entry of the Settlement Order.
- x. The \$195,000.00 will be paid to CM upon entry of the Settlement Order.
- y. After payment of (a) the \$669,000.00 to SSCP and (b) the \$195,000.00 to CM, the Debtors expects to hold at least \$212,500.00 (the "**Remaining Cash**").
- z. The Remaining Cash will be paid to SSCP thirty (30) days after entry of the Settlement Order, subject to the Opt-Out Procedures set forth in the 9019 Motion and related notice.

4. **Dismissal.** Within ten (10) business days after the Effective Date and the payments to SSCP and CM under Paragraph 3 of the Agreement, (a) the Debtors shall withdraw the Motion to Enforce and (b) SSCP shall withdraw the Cross-Motion to Enforce.

5. **Release of SSCP Parties.** In consideration of the promises set forth in this Agreement, as of the Effective Date, the Debtors, the Estate, KCC, CR3, and CM hereby fully and forever release, acquit, and discharge SSCP and its successors and predecessors, subsidiaries, affiliates, and related companies, present and former employees, managers, officials, insurers, directors, officers, Board members, agents, and attorneys, in their capacities as such, (the "**SSCP Parties**") from any and all claims, causes of action, lawsuits, liabilities, debts, damages, expenses, and demands of any nature whatsoever, in law or in equity, known or unknown, asserted or not asserted, foreseen or unforeseen, direct or derivative, that the Debtors, the Estate, KCC, CR3, and CM each ever had or may presently have related to the Bankruptcy Case, the APA, the Motion to Enforce, or the Cross-Motion to Enforce (collectively, the "**Estate Released Claims**") against SSCP.

Notwithstanding anything in this Agreement to the contrary, the Estate Released Claims **SHALL NOT INCLUDE** (a) any action or claim to enforce the terms of this Agreement and (b) any rights, offsets or defenses that CR3 or Baracato in his capacity as CRO or Rubin in his capacity as Independent Director may have in defense to any litigation brought by the Estate or SSCP to recover insurance proceeds under the Debtor's D & O Policy. For avoidance of doubt, neither CR3 or Baracato in his capacity as CRO or Rubin in his capacity as the Independent Director are waiving any rights, offsets or defenses that they may have to any litigation brought by the Estate or SSCP to recover insurance proceeds under the Debtor's D & O Policy.

6. **Release of the Estate Parties.** In consideration of the promises set forth in this Agreement, as of the Effective Date, the SSCP Parties hereby fully and forever release, acquit, and discharge the Debtors, the Estate, as well as KCC and CM and their successors and predecessors, subsidiaries, affiliates, and related companies, present and former employees, managers, officials, insurers, directors, officers, Board members, agents, and attorneys, in their capacities as such, (the "**Estate Parties**") from any and all claims, causes of action, lawsuits, liabilities, debts, damages, expenses, and demands of any nature whatsoever, in law or in equity, known or unknown, asserted or not asserted, foreseen or unforeseen, direct or derivative, that the SSCP Parties ever had or may presently have related to the APA, the Motion to Enforce, or the Cross Motion to Enforce (collectively, the "**SSCP Released Claims**") against the Estate Parties.

7. **Reservation of Rights.** Notwithstanding anything in this Agreement to the contrary, nothing in the Agreement is or should be construed as a waiver by SSCP of any rights, other than SSCP's rights to (a) challenge the allowance of fees awarded to CM, CR3, and KCC consistent with paragraph 3 in this Agreement and (b) the relief sought in the Cross Motion to Enforce. Further, the SSCP Released Claims **SHALL NOT INCLUDE** (a) any action or claim to enforce the terms of this Agreement; (b) any claim, cause of action, or objection of SSCP. the Debtors, these Estate, against CR3 or Greg Baracato in his capacity as CRO or Nicholas Rubin as the Independent Director, which are limited to claims against Baracato in his capacity as CRO or CR3 or Rubin in his capacity as Independent Director, to collect from the estate's D & O insurance policy proceeds. SSCP and the Estate waive any right to any claim or damage over and above the amounts that may be paid by the Debtors' D&O carrier under the D&O policy. SSCP and the Estate agree (i) that no such damages other than those recovered from the Debtors' D& O policy will be sought from CR3 or Baracato, individually or in his capacity as CRO or Rubin in his capacity as Independent Director and (ii) no such damages will be sought from any non-estate insurance policy; and (c) the Prepetition Obligations owed to the Prepetition Lender pursuant to the Prepetition Loan Documents, which are estimated to be at this time at least \$42,326,283.97.

This reservation includes, without limitation, (a) SSCP's rights against any person on claims and causes of action, including the claims and causes of action purchased by SSCP in the Bankruptcy Cases, other than as provided in paragraphs 3, 6, or 7 of this Agreement, and (b) SSCP's claims against the Estate for any amounts, including any super-priority or other administrative expenses and any amounts owed under the Prepetition Loan Document or the Final Senior DIP Order and related documents. All rights of SSCP to recover against Baracato or Rubin are subject to the limitation on any claims against CR3 or Greg Baracato, individually or in his capacity as CRO, or Rubin in his capacity as Independent Director to a recovery from the proceeds of the Debtors' D & O policy as provided in paragraph 3 herein.

8. **Non-Disparagement.** The Parties and their counsel agree NOT to make any statements, written or verbal, or cause or encourage others to make any statements, written or verbal, that defame or

disparage the personal or business reputation, practices, or conduct of the Parties with respect to the disputes arising in connection with the APA, the Motion to Enforce, and the Cross Motion to Enforce. The Parties acknowledge and agree that the provisions in this Paragraph 7 constitute material terms of this Agreement. Should any Party or its attorneys or representatives (or anyone acting on their behalf, at their direction, or in association with them) violate these provisions, such a violation shall be a material breach of this Agreement for which remedies shall be available in law or equity, including, **without limitation**, injunctive relief and attorneys' fees and costs incurred in enforcing this Agreement.

9. **No Admissions.** Nothing contained in this Agreement is to be construed as an admission of liability by any Party. Any such liability is expressly denied. Nothing contained in this Agreement, nor anything said or communicated during negotiations on this Agreement may be offered in any proceeding as evidence of any liability or wrongdoing by any Party; **provided, however**, this Agreement and all communications and statements made in connection with this Agreement may be introduced in any proceeding to enforce any of the terms of this Agreement.

10. **Amendment, Modification, and Waiver.** This Agreement may be amended, modified, and supplemented only by a written instrument signed by each Party, which written instrument may include email communications.

11. **Representation by Counsel; Mutual Drafting.** The Parties agree that they have been represented by counsel during the negotiation and execution of this Agreement and have participated jointly in the negotiation and drafting of this Agreement and hereby waive the application of any law, regulation, holding, or rule of construction providing that ambiguities in an agreement or other document will be construed against the party drafting such agreement or document. If 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.

12. **Construction.** The captions and headings of the paragraphs, subparagraphs, and sections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

13. **Governing Law.** This Agreement and any dispute arising out of or related to this Agreement shall be governed and construed in accordance with the laws of the State of Delaware, including any applicable statutes of limitation, without regard to any otherwise applicable principles of conflicts of law or choice-of-law rules that would result in the application of the substantive or procedural rules or law of any other jurisdiction. The Bankruptcy Court shall have exclusive jurisdiction to decide and issue final orders on all matters related to this Agreement.

14. **Successors and Assigns.** This Agreement shall be binding on and inure to the benefit of the Parties and their respective successors and assigns, including any chapter 7 trustee; **provided, however**, that this Agreement is not assignable by any Party without the prior written consent of the other Party. Any attempted assignment in contravention of the foregoing shall be null and void and of no force or effect.

15. **Fees and Expenses.** All fees, costs, and expenses incurred in connection with the negotiation, documentation, execution, and delivery of this Agreement, shall be borne exclusively by the respective Party incurring such fees, costs, or expenses.

16. **Reliance.** Each Party acknowledges that, in executing this Agreement, it is not relying on and has not relied on any representation or statement by any other Party other than the accuracy of the cash balances and the amounts asserted to be owed by each Party.

17. **Entire Agreement; Integration.** This Agreement represents the entire agreement between the Parties regarding the subject matter hereof and supersedes all prior negotiations, representations, or agreements between the Parties, either written or oral, in respect of such subject matter.

18. **Severability.** If any section, paragraph, subparagraph, or sentence within this Agreement is declared by a court of competent jurisdiction to be void or unenforceable, such portion shall be deemed severed from the remainder of this Agreement, and the balance of this Agreement shall remain in full force and effect.

19. **Counterparts.** Delivery of executed signature pages in one or more counterparts (including via facsimile or the electronic exchange of portable document format [PDF] copies) all of which shall together constitute one and the same instrument and shall be sufficient to render this Agreement effective in accordance with its terms.

[Signatures on following pages]

CBRC LIQUIDATING CORP.

By:
Its:

Date

CBHC LIQUIDATING COMPANY

By:
Its:

Date

CBCCI LIQUIDATING, INC.

By:
Its:

Date

SSCP RESTAURANT INVESTORS LLC

By:
Its:

Date

CULHANE MEADOWS

By:
Its:

Date

KURTZMAN CARSON CONSULTANTS LLC

By:
Its:

Date

CR3 PARTNERS

By:
Its:

Date