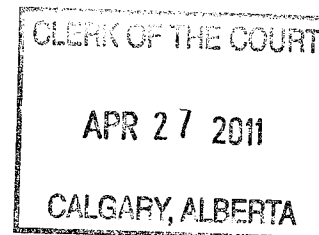


Clerk's stamp:



**Court File Number** 1101-01375

**Court** Court of Queen's Bench of Alberta

**Judicial Centre** Calgary

**Plaintiff** GE Canada Equipment Financing G.P.

**Defendant** Carpe Diem Hospitality Inc., Blue Inc., Felix Femina Restaurants Inc.,  
Athasand Restaurants Inc., Andrew Parker and Connie M. Parker

**Document** First Report to the Court submitted by PricewaterhouseCoopers Inc.  
in its Capacity as Receiver and Manager of Athasand Restaurants Inc.  
and Blue Inc.  
Dated April 26, 2011

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**FIRST REPORT TO THE COURT  
SUBMITTED BY PRICEWATERHOUSECOOPERS INC.,  
IN ITS CAPACITY AS RECEIVER AND MANAGER**

**INTRODUCTION**

1. On February 8, 2011, pursuant to Orders of the Honourable Madam Justice Eidsvik (the "Receivership Orders"), PricewaterhouseCoopers Inc. ("PwC") was appointed as receiver and manager (in such capacity, the "Receiver"), of Athasand Restaurants Inc. ("Athasand") and Blue Inc. ("Blue") (collectively the "Operating Restaurants" or the "Companies"), pursuant to section 13(2) of the Judicature Act, R.S.A. 2000, C.J-2 and section 99(a) of the *Business Corporations Act*, R.S.A. 2000, C.P-7.
2. Athasand and Blue are operators of two Moxie's Classic Grill ("Moxie's") restaurant franchises which are located in Fort McMurray and Grande Prairie, Alberta, respectively.
3. The purpose of this Report is to inform this Honourable Court of the Receiver's activities since its appointment, and to seek the Court's approval of the sale of the assets and undertaking of the Companies, pursuant to the Sales Process (as defined below).
4. This Report sets out the following:
  - a) The activities of the Receiver since the date of the Receivership Orders;
  - b) A review of the Property of the Companies held by the Receiver;
  - c) A review of the secured and potential priority claims against the Companies;
  - d) The Receiver's statement of receipts and disbursements to April 5, 2011;
  - e) The results of the Sales Process; and
  - f) The proposed interim distribution of a portion of the sale proceeds.
5. In preparing this Report, the Receiver has relied upon unaudited and draft, internal financial information of the Companies. The Receiver has not audited, reviewed, or otherwise attempted to verify the accuracy or completeness of the information provided to it and expresses no opinion, or other form of assurance, in respect of the information received from third parties.
6. All monetary amounts contained herein are in Canadian dollars. Capitalized terms not defined herein are as defined in the Receivership Orders.

**ACTIVITIES OF THE RECEIVER**

7. Since the date of the Receivership Orders, the Receiver has taken possession of and continued the operation of the two Moxie's restaurants and has carried out the Sale Process set out in the Receivership Orders. These activities are further described below.

**Possession and Custody**

8. Upon granting of the Receivership Orders on February 8, 2011, the Receiver arranged and attended meetings with the representatives of the Operator (as defined below) and the Moxie's General Manager at both the Fort McMurray and Grande Prairie locations to discuss the status of operations, the receivership process and the Receiver's proposed course of action.

9. In its attendance in Fort McMurray and Grande Prairie, the Receiver carried out the following preliminary receivership activities:
- a) Arranged for the locks to be changed on all access doors;
  - b) Secured the books, records and computers;
  - c) Obtained a copy of the payroll records and a list of creditors;
  - d) Notified the various utility and telephone companies of our appointment and provided a copy of the Receivership Order to ensure service was not disrupted;
  - e) Contacted major suppliers to notify them of our appointment and our proposed course of action to ensure continued supply of goods and services;
  - f) Notified the Alberta Gaming & Liquor Commission of our appointment and provided a copy of the Receivership Order to ensure the liquor and Video Lottery Terminal ("VLT") licenses remain in place;
  - g) Reviewed the adequacy of insurance coverage and advised the insurer of the receivership;
  - h) Changed the status of the bank accounts held by the Companies to "deposit only" and established new accounts in the name of the Receiver at the Royal Bank of Canada ("RBC" or the "Bank");
  - i) Replaced Point of Sale ("POS") machines and linked the new machines to the new bank accounts in the Receiver's name;
  - j) Took inventory of the current assets, including, cash, food inventory and liquor inventory;
  - k) Took inventory, including pictures, of property and equipment;
  - l) Enquired and cancelled any credit cards;
  - m) Performed searches at the Personal Property Registry ("PPR") to identify any possible lessors or parties claiming security interests in the assets;
  - n) Met with the employees to explain the nature of our appointment and the continuation of their employment pursuant to the Receivership Order;
  - o) Secured financing with G.E. Canada Equipment Financing G.P. ("GE") under the Receiver's certificate provisions granted by the Receivership Order; and
  - p) Completed all statutory and administrative requirements as required under the Bankruptcy and Insolvency Act.

#### **Operation of the Companies and the Temporary Operating and Management Agreement**

10. The Receivership Orders authorized the Receiver to manage, operate and carry on the business of the Companies. The Orders also authorized and directed the Receiver to enter into, execute and deliver Temporary Operating and Management Agreements (collectively the "TOMA") with Moxie's Restaurants, Limited Partnership ("Moxie's LP" or the "Operator") in respect of each of the Companies.

11. On February 8, 2011, the TOMA was executed by Moxie's LP and the Receiver. The TOMA appointed Moxie's LP as operator and managing agent of the Operating Restaurants. Under this agreement, the Operator is required to act solely on behalf of and as agent of the Receiver and not on its own behalf.
12. As agent, the Operator is required to operate the Operating Restaurants in a manner and standard consistent with the original franchise agreement and to continuously consult with the Receiver and keep the Receiver informed on a timely basis in connection with all material aspects of the Operations, including but not limited to the financial results of operations and compliance with a budget prepared by Moxie's LP.
13. Overall, the operations of the Companies since the start of the Receivership have been favourable. Revenues have exceeded budgeted levels, particularly at the Fort McMurray location, and positive operating margins have been realized. However, some unanticipated costs were incurred at the outset of the Receivership in connection with unpaid wages owing for the pre-receivership period and certain equipment that required repair or replacement to meet health and safety requirements. The Receiver will provide more details on the results of operations in a future report.
14. Under the Receivership Orders, the Receiver was authorized to make non-material amendments or modifications to the TOMA as may be required over the course of the receivership. On April 26, 2011, an amendment to the TOMA was executed by the Receiver and Moxie's LP to adjust to the minimum insurance coverage to be obtained by the Operator as it was determined that certain insurance requirements set out in the TOMA may not be commercially reasonable and exceed the coverage that would be obtained for a comparable Moxie's location.
15. As required by the TOMA, on April 20, 2011 the Operator provided the Receiver with a further budget which extends to May 4, 2011. The Operator continues to keep the Receiver informed of the status of the Operations including complying with this updated budget.

#### **PROPERTY OF THE COMPANIES**

16. As set out in the Court Order, the Receiver has taken possession of the Property of the Companies. A summary of the assets and the actions undertaken by the Receiver with respect to these assets is set out below.

#### **Cash and Cash Equivalents**

17. At the date of appointment, Athasand maintained two bank accounts at RBC which held a total balance of \$19,307. Blue maintained two bank accounts at RBC which were in a net overdraft position of \$3,618.
18. Upon our appointment, the Receiver contacted RBC to request the status of these accounts be changed to "deposit only" to ensure the accounts would continue to receive electronic payments. The Receiver also provided RBC a list of payroll cheques that were issued on the account on February 4, 2011 that we requested be allowed to clear the account.
19. As indicated previously, on February 8, 2011, the Receiver established new operating accounts in the name of the Receiver at RBC. A separate operating account was established for each of the Operating Restaurant's operating expenses ("Restaurant Trust Account") and these accounts were funded with a deposit of \$25,000 from the issuance of the Receiver's Certificates. As set out in the TOMA, the Operator was set up as an authorized party to view and order statements relating to the Restaurant Trust Account and to draw cheques up to \$3,000.
20. In accordance with the TOMA, an additional account was set up for each company where any funds in excess of those necessary to pay the operating expenses would be deposited, if available ("Receivership Account").

21. The books and records of Blue indicated that RBC was holding two GIC's each valued at \$18,800 as security for a letter of credit in the amount \$18,800 provided to the Alberta Gaming and Liquor Commission ("AGLC") for the VLT license. The Receiver requested RBC to release one of the GIC's; however, RBC indicated that they will not release the GIC's until the letter of credit is returned to the bank.
22. As at February 8, 2011, Athasand had \$600 in cash on hand as its bar float and petty cash. Blue had cash on hand of \$1,915 which represented cash for deposit, bar float and petty cash. Blue had an additional \$2,595 in cash on hand for its Video Lottery Terminals and \$665 in VLT slips.

#### **Accounts Receivable**

23. At the date of appointment, Athasand and Blue had \$26,779 and \$21,424 respectively, of accounts receivable. Blue also had loans receivable from employees in the amount of \$1,260 resulting from employee use of the VLTs. As at April 26, 2011 all the accounts receivable balances have been collected. The loans to employees were collected by withholding amounts from the employees' pay over two pay periods and have been fully collected.

#### **Due from Related Parties**

24. At the date of appointment, the following amounts were owed to Athasand by related parties:

	\$
Due from Felix Femina Restaurants Inc.	1,446,848
Due from Blue Inc.	527,896
Due from Shareholder	167,287
	<u>2,142,031</u>

25. At the date of appointment, the following amounts were owed to Blue by related parties:

	\$
Due from Carpe Diem Hospitality Inc.	543,519
Due from Felix Femina Restaurants Inc.	410,373
Due from Shareholder	97,668
	<u>1,051,560</u>

26. The Receiver has demanded but not otherwise pursued the collection of the amounts due from related parties as it is considered to be unlikely that any amounts can be realized from them.

#### **Inventory**

27. At the date of appointment, the Operator performed a full inventory count. The book value of the Companies' inventory as counted is summarized below:

	February 8, 2011	
	Athasand	Blue
	\$	\$
Food Inventory	19,484	13,902
Liquor Inventory	8,139	4,508
Beer Inventory	1,810	2,833
Wine Inventory	4,315	2,658
Other Liquid Inventory	1,868	3,142
	35,616	27,043

Inventory is counted on a weekly basis. All inventory on hand at the date of the Receiver's appointment has now been consumed in operations.

### **Property and Equipment**

28. As at February 8, 2011, the net book value of property and equipment of Athasand totalled \$622,904. The net book value of property and equipment of Blue totalled \$47,628. Property and equipment is comprised of leasehold improvements, computer software, computer hardware, furniture, kitchen equipment and general equipment.
29. Attached as Exhibit 1 is a detailed list of the property, and equipment which was compiled based on our physical count. Management informed the Receiver that neither company has ever had its fixed assets appraised. The Receiver has not obtained an appraisal of these assets but rather have solicited offers on them through the Sales Process, as discussed below.

### **Leased Equipment**

30. The records of the Companies indicate that it entered into leases for various equipment and a vehicle. We have contacted the lessors and requested copies of the lease documents. We have made arrangements to continue making the lease payments due after our appointment with the exception of the 2009 Acura MDX which was being used personally by Mr. Andrew Parker. There is no equity in the lease of this vehicle, and the Receiver has notified the lessor that the Receiver will not continue to make payments and has no further interest in this vehicle.

### **SECURED CREDITORS AND PRIORITY CLAIMS**

31. The Receiver is aware of certain creditors who may potentially have secured or priority claims to the proceeds of realization of the assets of the Companies.

### **Secured Creditors**

32. The Receiver performed a search of the PPR to identify registered claims against each of the Companies. In addition to the security held by GE, we identified the following secured creditors:

Secured Creditor	Date of Registration	Security
<b>Athasand</b>		
Royal Bank of Canada	30-Mar-07	All present and after-acquired personal property
GE Canada Equipment Financing G.P.	14-Dec-07	All present and after-acquired personal property
GE Canada Equipment Financing G.P.	12-Mar-09	All present and after-acquired personal property
Workers' Compensation Board/ Collection Unit	2-Nov-09	2009 Acura MDX Serial # 2HNYD288X9H000703 All present and after-acquired property
National Leasing Group Inc.	14-Dec-09	All cash register / POS systems, software, equipment of every nature or kind described in lease 2484150
Royal Bank of Canada	14-Jun-10	All present and after-acquired personal property
GE Canada Equipment Financing G.P.	28-Sep-10	All furnishings, fixtures, inventory, and all assets not specifically noted.
Dispensing System Inc.	9-Dec-10	Alberta gaming & liquor license Liquor dispensing system
<b>Blue</b>		
Royal Bank of Canada	5-Jul-06	All present and after-acquired personal property
GE Canada Equipment Financing G.P.	14-Dec-07	All present and after-acquired personal property
GE Canada Equipment Financing G.P.	12-Mar-09	All present and after-acquired personal property
GE Canada Equipment Financing G.P.	28-Sep-10	All furnishings, fixtures, inventory, and all assets not specifically noted.

33. The Receiver's counsel has completed its review of the primary personal property security granted by the Company to GE (the "GE Security"). The Receiver's counsel has concluded, based on its review and subject to the customary assumptions and qualifications, that the GE Security has been duly registered, filed and recorded where required under the laws of the Province of Alberta, and each creates a valid and binding obligation enforceable against each of the Companies, in respect of those assets used in the restaurant businesses of each of the Companies.

34. The Royal Bank of Canada is owed nominal amounts by both Companies and has postponed its security interests in the secured collateral to which GE has a claim. As a result, GE is the major

secured creditor that will be receiving the proceeds from the realization of the assets of the Companies.

35. We have requested copies of the security agreements and pay-out statements from these secured parties. The Receiver will review the amount, validity and priority of these claims to the assets of the Companies prior to making any distributions to creditors. All of these creditors are on the service list in these proceedings and have notice of this application.

#### **Landlords**

36. The Operating Restaurants operate out of premises subleased from Moxie's Leaseholds Inc. The Operator has notified the head landlords of the receivership. In order to manage funding requirements, Moxie's LP is making rent payments to the landlords on a monthly basis, and has agreed that the Companies may remit their rent payments to Moxie's LP on a weekly basis during the receivership period.
37. At the date of the Receivership Orders, the records of the Companies indicate rent arrears of \$47,767 and \$61,671 owing to Moxie's Leaseholds Inc. for Athasand and Blue respectively. In addition to the rent arrears, an additional \$151,000 is estimated to be owing to the head landlord of Athasand for a percentage of sales paid to the landlord under the terms of the lease.

#### **Canada Revenue Agency ("CRA") Claims**

38. We notified CRA of the receiverships and arranged for a final audit of the Companies' records in respect of potential claims in respect of unremitted source deductions and unremitted Goods and Services Tax ("GST") amounts.
39. At the date of the Receivership Orders, the Companies' records indicated source deduction arrears of \$98,137 and \$nil for Athasand. The assets of Athasand will be subject to a deemed trust for any amount owing for the employees' portion of unremitted source deductions (which may differ from the amounts noted above). This would rank ahead of the security held by the various secured creditors. The records indicated no such arrears for Blue.
40. At the date of the Receivership Orders, the Companies' records indicated GST liabilities of \$39,818 and \$35,294 for Athasand and Blue, respectively. The liability may increase to the extent of the GST input tax credits claimed on any unpaid accounts payable which we estimate to be approximately \$12,000 and \$8,000, respectively. In the absence of a bankruptcy, these claims will also give rise to a deemed trust claim in the Companies' assets, with priority over the Companies' secured creditors. All GST remittances arising subsequent to the Receivership are being made in the normal course.
41. At the date of the Receivership Orders, the Companies' records indicated corporate income taxes payable of approximately \$47,000 and \$nil for Athasand and Blue, respectively. It is our understanding that the 2009 and 2010 corporate tax returns have not been filed; however, any liability for corporate income taxes would rank as unsecured.
42. For clarity, the claims referred to above are against the individual Companies, and are not joint and several.

#### **Workers' Compensation Board of Alberta ("WCB")**

43. We notified WCB of the receiverships and requested they perform a final audit to determine the extent of any pre-receivership liability of the Companies. Based on our review of the statements of account from WCB, it appears that the Companies may be in arrears in respect of WCB premiums in the amount of approximately \$4,800 and \$3,700 for Athasand and Blue, respectively. In the absence of a bankruptcy, this claim will also rank in priority to the secured creditors.



## **Letter of Credit**

44. Letters of Credit totalling \$18,800 were issued by RBC on behalf of Blue as security for that company's VLT license. RBC holds \$37,600 of GIC's as security for this Letter of Credit. As noted earlier, we have requested the return of one of the GIC's valued at \$18,800; however, RBC has indicated it will not release the GIC's until the Letter of Credit has been returned. The Receiver intends to return the Letter of Credit upon closing the sale of the assets of Blue.

## **Employee Claims**

45. The Receiver has reviewed the potential claims for employee wage arrears that may be secured pursuant to s. 81.4 of the BIA (the "81.4 Claims"), and currently estimates that at the date of the Receivership Orders the 81.4 Claims totalled approximately \$87,000 for Athasand and \$53,000 for Blue.
46. The s. 81.4 Claims are secured by a charge over the respective Companies' current assets, as defined in the BIA (the "81.4 Charge"). The Receiver has realized approximately \$194,000 and \$177,000 on the current assets subject to the 81.4 Charge, which exceeds the estimated amount of the 81.4 Claims. Accordingly, the Receiver anticipates that the 81.4 Claims will be paid in full.
47. The Receiver has permitted the payment of certain of the 81.4 Claims to employees who continued to work for the Companies during the receivership. These payments of wage arrears were necessary in order to retain staff and continue the operations of the Companies.
48. The Receiver estimates that approximately \$18,000 and \$11,000 of the 81.4 Claims for Athasand and Blue remain outstanding and are anticipated to be paid.
49. On March 7, 2011, a letter and proof of claim form was sent to the employees of Athasand and Blue in order to confirm the Receiver's estimate of the amount of the 81.4 Claims. We have not commenced any actions in respect of the Wage Earner Protection Program Act ("WEPPA") as the employees were not terminated on the date of Receivership pursuant to the Receivership Order.

## **RECEIVER'S STATEMENT OF RECEIPTS AND DISBURSEMENTS**

50. Attached as Exhibit 2 is a Statement of Receipts and Disbursements for Athasand for the period February 8, 2011 to April 5, 2011, which indicates an excess of receipts over disbursements of \$377,000. Also attached as Exhibit 3 is a Statement of Receipts and Disbursements for Blue for the period February 8, 2011 to April 5, 2011, which indicates an excess of receipts over disbursements of \$236,000.
51. In addition to the above disbursements, the Receiver has incurred but has not yet paid costs totaling approximately \$135,000 and \$54,000 (the "Accrued Costs") for Athasand and Blue, respectively, excluding professional fees of the Receiver and its legal counsel.
52. Pursuant to the Receivership Orders, the Receiver is authorized to borrow up to \$50,000 for each of Athasand and Blue, if required, for the purpose of funding the exercise of the powers and duties of the Receiver. This included, *inter alia*, funding the operation of the restaurants. To date the Receiver has borrowed \$25,000 in respect of each of the Companies, as illustrated in the Statements of Receipts and Disbursements.

## **RESULTS OF THE SALES PROCESS**

53. Pursuant to the Receivership Orders, the Receiver was authorized and directed to carry out a Sales Process for the Companies, in accordance with the steps set out in Schedule B of each of the Receivership Orders. These steps were identical for the two Companies.

54. The Receiver prepared a salient fact sheet and a confidential information memorandum package including a standard form of offer. The salient fact sheet was distributed to 121 Alberta based restaurant and food service providers and 8 existing franchisees.
55. On February 24, 2011, the Receiver ran a one day advertisement regarding the sale of the Property in the following publications:
  - a) Globe and Mail (National Edition);
  - b) Grande Prairie Daily Herald Tribune; and,
  - c) Fort McMurray Today.
56. The Confidential Information Memorandum ("CIM") outlined the Companies' operations, locations, historical financial information, franchise and lease agreements, a listing of assets and other information that the Receiver viewed as relevant in the circumstances.
57. A CIM was requested by 18 parties following their receipt of the salient fact sheet. As set out in the Receivership Order, the Receiver provided Moxie's LP with 3 business day's notice of the parties requesting the CIM.
58. After execution of the Confidentiality Agreement ("CA") by the interested party, the Receiver provided each party with a copy of the CIM and access to the online data room. The data room contained franchise documents, financial information, lease agreements, photos, employee listings and management team compensation in respect of the Operating Restaurants. In accordance with the timelines set out in the Receivership Order, the Receiver began distributing the CIM to those parties who provided an executed CA during the week of February 28, 2011. As of the offer deadline, 14 CAs had been executed and 14 CIMs had been sent.
59. The Receiver was required to give notice to Moxie's LP of those persons who wished to access the confidential information on the Companies. As set out below, Moxie's LP objected to a total of three parties.
60. On March 9, 2011, the Receiver received notice from Moxie's LP objecting to providing the CIM to two parties for which the notice period had expired, the CA had already been executed and the CIM and data room access had been provided. Moxie's LP objected to these parties on the basis they would not approve them as franchisees if they were successful bidders since one party's operations were in direct competition to those of Moxie's and the other party intended to rebrand the restaurants
61. The Receiver relayed Moxie's LP's position to these two parties and requested that they provide the Receiver with their position on this matter. As a result, one of the parties withdrew from the process as they did not intend to use the location as a Moxie's restaurant and as a result expected the likelihood of their offer being accepted would be low. This party destroyed their copy of the CIM and their data room access was removed. The remaining party wished to continue their pursuit of the property but did not eventually submit a bid.
62. On March 9, 2011, Mr. Andrew Parker (the principal of the Companies) requested a copy of the CIM and the Receiver gave notice to Moxie's LP of this request in accordance with the provisions of the Receivership Order. Moxie's LP objected to the Receiver providing Mr. Parker with this information on the basis they would not approve him as an operator.
63. On March 15, 2011, the Receiver agreed to provide Mr. Parker with the CIM and data room access; however, the Receiver notified Mr. Parker that the access would be delayed until March 18, 2011. The purpose of the delay was to allow Moxie's LP time to make a court application in the event it wished to intervene in the Receiver's decision. The basis of the Receiver's decision was that it is reasonable for a court-appointed Receiver to disclose this type of information to the principal of the corporate entity in

receivership, most of this information was already known to Mr. Parker as the former operator of the business and he would be required to sign the same CA as is required of prospective purchasers. The Receiver was notified by Moxie's LP that it would not stand in the way of distributing the CIM to Mr. Parker and on March 17, 2011, Mr. Parker returned the signed CA to the Receiver and was provided with the CIM and data room access. Mr. Parker ultimately did not submit an offer to buy the Companies.

64. The Sales Process established a deadline for the submission of offers as of 5:00 pm on March 25, 2011 (the "Offer Deadline"), which was not adjusted by the Receiver.
65. As of the Offer Deadline, 14 CA's had been executed, 14 CIM's had been sent and 5 offers were received. The offers were in various forms, with three offers including both the Fort McMurray and Grande Prairie locations. The other two offers were for the Fort McMurray location only.
66. The three offers presented for both locations were relatively close in amount and there was no clear preferred bidder. However, the Receiver concluded that based on the offers received, an en bloc sale of both Companies' operations would likely lead to a higher net recovery than a piecemeal sale.
67. The Receiver provided the opportunity to these bidders to submit further offers. Two parties elected to let their original offer remain in place, and the third party increased the amount of their offer and removed certain conditions. On April 1, 2011, the Receiver was presented with an offer to purchase the assets of Athasand and Blue from Eatz Enterprises, by its partners 3422691 Manitoba Ltd. and 3422682 Manitoba Ltd. (the "Eatz Group" or the "Successful Purchaser"). The terms of this offer to purchase are summarized in the Bid Summary which will be filed with the Court after the closing of the transaction.
68. While the offer presented by the Successful Purchaser was marginally less than the highest offer received, it contained fewer conditions and was considered to have less execution risk than the highest offer. The other two offers had additional conditions attached which could have introduced further risk and costs to closing the transaction. Further, on April 26, 2011, the Successful Purchaser removed the financing condition from its offer.
69. The Receiver summarized the offers received, including the proposed purchase price that the interested parties indicated in their respective bids (the "Bid Summary"). The Receiver is seeking the approval of the offer presented by the Successful Purchaser and, accordingly, in the event this Honourable Court does not grant an order approving the sale to the Successful Purchaser or that the transaction does not close, the Receiver is of the view that efforts to re-market the Property may be impaired if the Bid Summary is made public at this time. The Receiver is of the view that it is preferable for the Bid Summary to remain confidential until such time as the sale transaction closes. Accordingly, the Receiver proposes to provide the Bid Summary to this Honourable Court after the sale transaction closes.
70. On April 4, 2011, the Receiver reviewed the Bid Summary with GE and sought GE's view with respect to the bids received. As a result of these discussions, GE agreed with the Receiver's recommendation to proceed to attempt to negotiate a binding asset purchase agreement, subject only to court approval (an "APA") with the Successful Purchaser.
71. On April 6, 2011, the Receiver notified Moxie's LP of its decision to proceed with negotiating a binding Asset Purchase Agreement ("APA") with the Successful Purchaser. On April 21, 2011, Moxie's LP confirmed to the Receiver it has approved the Successful Purchaser as assignee of the franchise agreements and sublease agreements.
72. The Sales Process proposed the execution of an APA by April 8, 2011, subject to adjustment at the Receiver's discretion. The Receiver and Eatz Group mutually agreed to defer this date, but to pursue completion of the APA in a prudent manner. On April 26, 2011, the Receiver and the Successful Purchaser entered into a binding APA in respect of the purchase of substantially all of the assets and

undertakings (the "Purchased Assets") of each of the Companies. This APA is attached as Exhibit 4 and is subject to court approval.

73. The APA provides for the Eatz Group to assign its rights as they relate to the Purchased Assets for Athasand to Crazy Joe Davola Enterprises Inc. and to Poppi's Restaurant Inc. in respect of the Purchased Assets of Blue.
74. If approved by the Court, the parties intend to close by May 4, 2011.

#### **RECEIVER'S RECOMMENDATION**

75. The Receiver is of the view that the Sales Process was conducted in accordance with the terms of the Receivership Orders, and that the market was properly canvassed. Significant interest was expressed in acquiring the assets of the Companies as evidenced by the number of requests for CIM's and the offers received. To the best of its knowledge, the Receiver considers that all reasonable requests for information made to the Receiver by parties in the Sales Process were satisfied.
76. The offer from the Successful Purchaser provides for the continued operation of the two Moxie's restaurants, under the management of an existing Moxie's franchisee that has the support of Moxie's LP. The Receiver consulted with GE, the most significant secured creditor, and has the support of GE in proceeding with the Successful Purchaser.
77. The Sales Process required the Receiver to apply to this Honourable Court for approval of this transaction as soon as possible after execution of the binding APA, but on three business days' notice to Moxie's LP. Such notice has been given to Moxie's LP.
78. The Receiver respectfully submits that, based on the foregoing, its activities with respect to the sale of the Property of the Companies were conducted in accordance with the Sales Process.
79. The Receiver recommends the acceptance of the offer and requests that it be directed to complete it in accordance with its terms and the terms of the sales process as set out in the Receivership Orders. This recommendation is based on the foregoing comments and the following factors:
  - The Successful Purchaser's offer was one of the top two offers received;
  - The offer from the Successful Purchaser had the fewest conditions and least execution risk of the offers received, and the Successful Purchaser has subsequently removed the financing condition contained in their offer;
  - The offer was for an En Bloc sale of the assets of the Companies, which was considered to be economically preferable to a piecemeal sale; and,
  - The Receiver has been advised by Moxie's LP that they will approve the Successful Purchaser as a franchisor.

#### **PROPOSED INTERIM DISTRIBUTION**

80. If the Court grants the Approval and Vesting Orders approving the sale of the assets to the Successful Purchaser, the Receiver proposes to make an interim distribution from the realization of the assets of Athasand of up to \$2.0 million to GE once the proceeds have been received on closing of the transaction. This interim distribution would be subject to approval of this Honourable Court.
81. As noted above, the Receiver has obtained an independent review of GE's security which indicate its security has been validly perfected in respect of the assets used in the restaurant business of Athasand and Blue.

82. The interim distribution would be paid out of the proceeds of the assets of Athasand only, as the Successful Purchaser has allocated the majority of the proceeds to these assets. It is anticipated that the proceeds of realization from the assets of Blue will primarily be used to pay out priority claims and any professional fees associated with the receivership proceedings.
83. The Receiver considers that it is appropriate to approve the interim distribution of up to \$2.0 million and allow for sufficient reserves to cover any priority claims, Court-ordered charges, the costs of the receivership proceedings and a general provision for other matters which may arise in the administration of the receivership. An application to the Court will be made prior to any further distributions being made.

#### **CONCLUSION**

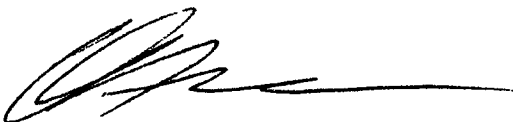
84. The Receiver respectfully requests that this Honourable Court grant:
- a) The Approval and Vesting Orders, approving the sale of the Purchased Assets of each of the Companies to the Successful Purchaser, and vesting the Companies' respective right, title and interest in and to the Purchased Assets in Successful Purchaser, free and clear of all encumbrances; and
  - b) An order directing the Receiver to file the Bid Summary with the Court upon the close of the sale transaction; and,
  - c) An order approving the interim distribution of up to \$2.0 million to GE as described above.

All of which is respectfully submitted on this 26th day of April, 2011.

**PricewaterhouseCoopers Inc.**

In its Capacity as Court Appointed

Receiver and Manager of Athasand Restaurants Inc. and Blue Inc.



Donald MacLean  
Senior Vice President

## **EXHIBIT 1**

**ATHASAND RESTAURANTS INC.  
O/A MOXIE'S CLASSIC GRILL  
FT. MCMURRAY, ALBERTA  
ASSET LISTING  
FEBRUARY 8, 2011**

<b>Qty</b>	<b>Description</b>
<b>Front Entrance</b>	
1	Brushed aluminum case 50"x 24"
2	Framed prints, 14"x36" depicting a bubble on leaf and same size depicting flower with blossoms
1	Framed wall print 48" x 48" depicting bamboo
1	Reception stand (walnut) 30" x 54"
5	Decorative goblets on hearth of fireplace.
1	Menu stand (black) metal 24"x48" with 2 shelves
1	Framed wall print 14"x48" depicting wheat field
1	Framed wall print 36"x54", depicting dew on spears
1	Menu stand (black) metal 24"x48" with 2 shelves
1	Wall print, 14"x48" depicting ferns
2	Framed wall prints, 8"x48", depicting plant foliage
3	Ceramic vases 0-type, white, each containing bulk flowers
4	White ceramic vases, 30"x6" with jade plants
<b>Restaurant</b>	
1	Framed wall print, 42"x26"
2	Framed wall prints, 42"x26", depicting gold leaves
3	Framed wall prints, 14"x48" depicting green foliage

**ATHASAND RESTAURANTS INC.  
O/A MOXIE'S CLASSIC GRILL  
FT. MCMURRAY, ALBERTA  
ASSET LISTING  
FEBRUARY 8, 2011**

<b>Qty</b>	<b>Description</b>
<b>Booths (Fixed)</b>	
7	2 person
9	4 person
7	6 person
5	6 or more people (persons)
2	Overhead chandeliers, dining fixture
22	Black spotlights
4	Baby high chairs, oak
<b>Bar</b>	
7	4 person booths, c/w 48"x36" double pedestal tables
1	8 person booth, c/w a hexagon table 48", double pedestal
8	Round 36" single pedestal tall tables
2	Round 36" single pedestal short tables
1	Round 48" single pedestal table
6	Booths, 4 person, leather with fixed tables
52	Tall bar type stools, red mahogany walnut backed leather seats (brand name of the bar stools are: Lucien Genbron, #11855)
18	Low chairs, walnut backs with leather seats, (Lucien Genbron)
2	Double pedestal tables, 36"x142" varnished plywood
1	Mitsubishi overhead projection system, c/w fold-down screen, 5'x8' ft



**ATHASAND RESTAURANTS INC.  
O/A MOXIE'S CLASSIC GRILL  
FT. MCMURRAY, ALBERTA  
ASSET LISTING  
FEBRUARY 8, 2011**

<b>Qty</b>	<b>Description</b>
1	Panasonic overhead projection system, c/w fixed wall screen 5'x 6' ft
2	Samsung overhead 24" flat screen tv's
2	Samsung built-in 42" flat screen tv's
6	Samsung overhead tv's, 42"
9	Framed mirrors, 36"x48"
1	Line component audio system; consisting of a JVC Receiver, channel plus, Model 54.45 digital modulator, an audio block, Ksounde
3	Caser Amps
1	MPN DVD Player
1	Nortel Networks multiline telephone
1	22 ft fixed U-style bar
1	AMA AM/PM touch screen order monitor
1	Ithapa, Model 610 receipt printer
1	Eigen CC Swiper glass cooler with sliding top 50"x36"
1	Moyer Diebel glass washer, Model BFNG Serial # G6723
1	Ice chiller, stainless steel, 24"x24"
1	6 head beer dispensing system
1	Stainless Steel Coldwell, 36"x50", 16 compartment

**ATHASAND RESTAURANTS INC.  
O/A MOXIE'S CLASSIC GRILL  
FT. MCMURRAY, ALBERTA  
ASSET LISTING  
FEBRUARY 8, 2011**

<b>Qty</b>	<b>Description</b>
1	DSI beverage measuring dispenser unit c/w 210 keyheads
1	Celli glass rinser
1	Spigot Heineken stainless steel/chrome
1	True refrigeration unit, 5-door
2	Bunn gourmet slush makers
1	Bar sink, 12"x12" with stainless shelf
1	Stelth sync touch monitor, version 5432, ordering monitor
1	Epson receipt printer
1	Stealth touch ordering monitor c/w ID scan
4	MONERIS, Model 6200 high speed, Serial # NSV, authorization/Deposit Chip Card Transaction Units - Serial # 623030674566, and the other Serial # is C0V312848070, the last one NSV
<b>Kitchen</b>	
1	Stelth touch ordering monitor
1	Epson receipt machine
1	6 head soda pop dispenser, c/w a cold well
1	Green wire rack system 6 ft x 24"x 72", 4 tier
22	Glass trays
1	Habco double door refrigerating unit (2 door)
1	Bunn Hard coffee system (2 pot), c/w 6 aluminum pots

**ATHASAND RESTAURANTS INC.  
O/A MOXIE'S CLASSIC GRILL  
FT. MCMURRAY, ALBERTA  
ASSET LISTING  
FEBRUARY 8, 2011**

Qty	Description
	Serial # AX0011325
1	Bunn Hot liquid dispenser
1	Firecoast hot beverage dispenser, espresso tea, foam milk, hot milk, latte
1	Panasonic AM/FM receiver
1	____ Tube ____ Deflector
1	Stainless steel 2 tier table 48"x72"
1	DOLP optiplex disc Receiver/Music Model 9024 Model JAX110
1	Syncro I.G. V. 151V Flat Monitor
1	Ice-o-matic ice maker (Ice dispenser, 500 pounder)
1	Flo-Jet Beverage Dispenser
10	Unit and wire stand
1	6 head beverage dispenser c/w cold well on stainless steel cabinet c/w glass slides
1	AM/FM Touch screen ordering device
1	Ithica Model 610 Receipt printer
1	double stainless sink 30"x30" times 2, c/w 6 ft x 30" runoff and lower shelf unit
2	Tanita digital scale
1	Diplomat 5 cu ft. fridge
1	Danby microwave

**ATHASAND RESTAURANTS INC.  
O/A MOXIE'S CLASSIC GRILL  
FT. MCMURRAY, ALBERTA  
ASSET LISTING  
FEBRUARY 8, 2011**

<b>Qty</b>	<b>Description</b>
1	Stainless steel prep table, 36"x90", c/w overhead
1	Burkel slicer, NSV (needs repair)
1	Rice cooker
1	Garland Single, heavy duty burner assembly
1	Stainless steel prep table 38"x60", c/w mounted can opener
1	Turnable microwave
1	Kitchenaide mixer, c/w assortment of stainless pots
1	Nelle night scale
1	Blodgetti pizza oven
1	Hamilton Beach countertop blender
1	Ideal, 2-door warming oven
5	Sections of heavy duty shelving, 24"x48"x96", 4-tier
1	Aluminum step ladder, 5 ft
1	Plastic dolly, 3-tier, 4-wheel
1	Light step-stool
1	Wire rack, 48"x70" 3-tier
1	Globe, heavy duty mixer, c/w tilt device
1	Steam kettle (Tilt, 8 gallon), on a stainless table with 24"x24" sink Serial # W19467

**ATHASAND RESTAURANTS INC.  
O/A MOXIE'S CLASSIC GRILL  
FT. MCMURRAY, ALBERTA  
ASSET LISTING  
FEBRUARY 8, 2011**

Qty	Description
1	25 lbs wall mounted fire extinguisher
1	Stainless steel condiment server, 9 compartment w/ teflon cutting board 36"x24"
1	Stainless steel overhead range hood, w/ an 8 head fire suppressor system and filtration
1	Quest grill, solid 4 burner 48"x70", c/w 2 lower cooling drawers
1	Grated grill, 11 burner 48"x57", c/w 2 lower mounted cooling drawers
6	Quest multi-burner exposed grill, c/w lower 2 drawer ovens
1	Quest 6 burner exposed grill, 48"x36" with 2 lower cooling drawers
1	Stainless steel condiment cabinet, with overhead closing unit, 36"x48"
4	Pitco deep fryers
1	Jetair 3-drawer oven (1 door not operative) 48"x36"x40" mounted on a stainless steel roller cabinet
2	Wire rack units 24"x48", 5-tier
1	Double stainless sink, 30"x30" x2
1	Geosten, Model 900 Ecolab soap dispensing unit
1	Ecolab heavy duty dishwashing system, Model ES4000, Flolab pap 2 or 3 style, c/w stainless steel in and out runoff, 40"x72" Serial # disfigured
2	Overhead spray units, stainless steel landing 36"x72", with 36"x90" runoff
1	Ecolab silverpowers, Softron 100 soap dispenser unit

**ATHASAND RESTAURANTS INC.  
O/A MOXIE'S CLASSIC GRILL  
FT. MCMURRAY, ALBERTA  
ASSET LISTING  
FEBRUARY 8, 2011**

<b>Qty</b>	<b>Description</b>
1	Black 72 ft freezer, chest type
1	Bunn coffee grinder, Model G-9
1	Classic APW heated gravy well, 4-compartment
1	Twin sided stainless steel food prep and delivery staging system, 20 ft c/w several compartments, multi shelving, Cayenne overhead warming system
1	Holman, star heat tube (toaster conveyer) (needs repair) Model D214 Serial # 197901
1	Danby designer microwave
1	Epson receipt printer
1	Emerson microwave
1	Walk-in cooler, Cube Bright refrigeration unit, 15ft x15ft, 5 sections of green wire mesh racking 36"x48"x72"
3	Aluminum tray dollies, multi-height, adjustable
1	Cold Stream walk-in freezer, 6ftx10ft, c/w 2-keep white overhead freezing units

**ATHASAND RESTAURANTS INC.  
O/A MOXIE'S CLASSIC GRILL  
FT. MCMURRAY, ALBERTA  
ASSET LISTING  
FEBRUARY 8, 2011**

<b>Qty</b>	<b>Description</b>
<b>Beer Cooler Unit</b>	
1	Bohn twin fan overhead refrigerator unit
2	Green wire racks, 3 tier, 24"x48"x72"
1	BSI System Beer, dispensing assembly, c/w 7 twin stream line.
<b>Liquor Vault</b>	
1	DSI –Dispensing system, 6 manifold unit, w/ a 24-bottle capacity
<b>Utility Room</b>	
1	Co 2 propelled dispensing optimization unit, M2-fired, complete on a Praxair nisurge tank Serial # 051632
1	Carbo-high flow bulk CO2 system, Model: Max 750 (Prax Air)
6	* 50-lbs beer gas cylinders
1	Wire rack system, 36"x48"x72", 4-tier
1	Arris telephone system, touchtone modem, 4-line capacity _____ system
1	Kenmore Elite Smart Heat Quiet Pack 9 dryer
1	Brado Ace washing machine
<b>Office</b>	
1	HP printer/fax machine, DIVERA
1	Ascendent PC Serial # 30605
1	Keyboard

**ATHASAND RESTAURANTS INC.  
O/A MOXIE'S CLASSIC GRILL  
FT. MCMURRAY, ALBERTA  
ASSET LISTING  
FEBRUARY 8, 2011**

Qty	Description
1	Dell mouse
1	HP flant screen 17"
1	Dell keyboard
1	Canon Model : MAX340, printer copier/fax machine
1	RS Royal Sovereign bill counter
1	Nortel Networks multi-line desk phone
1	HP flat screen monitor, 14"
1	Acer keyboard
1	Acer mouse
1	Acer PC, Veriton, M460GPC
1	Backup RS800, A-pack Unit
2	Cordless drills
1	Black 2-drawer letter sized filing cabinet
1	Black 2-drawer legal-sized filing cabinet
1	4-drawer legal-sized filing cabinet
2	Office swivel tilt secretarial chairs
1	Dibold vault, upright, 24"x57" (combination changed)
1	Ascendent video camera system, c/w 9 cameras in strategic retail areas



**ATHASAND RESTAURANTS INC.  
O/A MOXIE'S CLASSIC GRILL  
FT. MCMURRAY, ALBERTA  
ASSET LISTING  
FEBRUARY 8, 2011**

<b>Qty</b>	<b>Description</b>
1	HP Model W2207 camera monitor screen
	Several lots of glassware, stainless condiment containers, trays, basins, bowls saucepans, ladles, strainers, flatware, glasses, sauce pan, cast iron frying pan, skillets.

**Ladies Washroom off Restaurant**

2	Framed prints depicting spear grass, 14"x36"
1	Framed print depicting dew on lilies, 24"x24"

**Men's Washroom off Restaurant**

1	Framed print depicting wood, 18"x36"
1	Framed print depicting frost on willows 12"x26"

**Estimated Costs (Repairs that are necessary)**

**Exterior**

Menu Board Outside, it appears it needs new lighting, the backing is not lit.

Signage, the Moxies Classic Grill letters should be backlit: they're not.  
There's approximately 6 lights that aren't illuminated, bulbs should be  
checked.

**Interior**

Several bench cushions require patching and repair

Several blinds have no cords for adjusting, some blinds missing at the  
restaurant area

ATHASAND RESTAURANTS INC.  
O/A MOXIE'S CLASSIC GRILL  
FT. MCMURRAY, ALBERTA  
ASSET LISTING  
FEBRUARY 8, 2011

Qty	Description
<b>Interior</b>	
	Men's bathroom require some bulbs to be replaced, as well as the cover of one of the fixtures Toilet paper dispenser should be replaced
	Ladies washroom require some bulbs to be replaced and fixtures straightened and aligned
	Washroom's directive sign, the illumination isn't working properly
	Door handle for walk-in cooler also the Ideal Trooper, (warming oven)
	3 - Corp chart frames need replacing
	The vertical slicer is missing some parts (handle for controlling it). Safety device on vertical slicer totally missing; it should be replaced, for obvious safety reasons.
	Jet Air Oven: one of the bottom drawers is not working at all, and the other 2 have no handles

**BLUE INC.  
O/A MOXIE'S CLASSIC GRILL  
GRANDE PRAIRIE, ALBERTA  
ASSET LISTING  
FEBRUARY 8, 2011**

<b>Qty</b>	<b>Description</b>
<b>Lounge Capital Assets</b>	
15	Freestanding tables
45	Lowback chairs
21	High Stools
7	Fixed Booths/tables
6	LG 47" Flat screen TV's
2	Panasonic 32" Flat screen TV's
1	Red Bull mini fridge
1	'Petite Sorbeteer' Slushy Machine
2	Coldstream, Model #BB72 - 6 foot, 3 door beer coolers.
1	Black and Decker Blender
1	Brasilia Model # PDM-100 Coffee and Hot Beverage Machine (Doesn't work)
1	Moyer Diebel bar dishwasher
1	True Manufacturing Beer Mug Freezer
1	Bar prep station/sinks
2	Soda guns
1	Bar gun
2	Draft stations (4 taps each)
<b>Restaurant Server Station</b>	
1	8 fountain pop station

**BLUE INC.  
O/A MOXIE'S CLASSIC GRILL  
GRANDE PRAIRIE, ALBERTA  
ASSET LISTING  
FEBRUARY 8, 2011**

<b>Qty</b>	<b>Description</b>
2	Pioneer POS systems
1	Manitowac Series 800 Ice Machine
1	Bunn Dual Coffee Machine
1	Bunn Coffee Grinder
1	Bunn Hot Water dispenser
1	Kitchen Rack
1	Freezer Danby
<b>Restaurant</b>	
32	Fixed booths/tables
1	Pioneer POS system
1	End Table
9	Tables
26	Chairs
<b>Lounge Server Station</b>	
2	Pioneer POS system
1	TQA 500 Series Amplifier
1	Star Choice receiver
1	Bill counter
1	Acer Netbook

BLUE INC.  
O/A MOXIE'S CLASSIC GRILL  
GRANDE PRAIRIE, ALBERTA  
ASSET LISTING  
FEBRUARY 8, 2011

Qty	Description
1	Small safe
1	17" Security Monitor
1	Dell Music Box
1	Crown Xti2000 amplifier / mixer
1	Sterbourne Amplifier
1	Star Choice / Motorola Receiver
1	Toshiba XDE DVD Player
6	Liquor "Kegs" / liquor gun system
<b>Kitchen</b>	
3	Steel racks
1	Vulcan Oven (broken)
1	Blodgett Oven
Various	Pots/Pans
1	Hobart Mixer
1	Cleveland steam kettle
1	Prep Table
1	Prep station
1	Berkel Model # 919E Meat Slicer
1	Doyon Pizza Oven
1	Grill

BLUE INC.  
O/A MOXIE'S CLASSIC GRILL  
GRANDE PRAIRIE, ALBERTA  
ASSET LISTING  
FEBRUARY 8, 2011

Qty	Description
1	8 burner gas range
1	Char Broiler
2	2 basket deep fryer
1	Cornelius cooler/insert rack
1	cooler/insert rack
1	Hot insert station
1	cooler/insert rack
1	Beamark microwave
2	Panasonic microwave
1	20 foot hood range
1	Dishwasher station
1	Small freezer
Office	
2	Desktops
2	Printers
1	Fax Machine

## **EXHIBIT 2**

**Athasand Restaurants Inc.**  
**Receiver's Statement of Receipts and Disbursements**  
**For the Period February 8, 2011 to April 5, 2011**

	\$
<b>Receipts</b>	
Sales Receipts	1,001,109.00
GST Collected	47,595.00
Funding from Receiver's Certificate	25,000.00
Cash on Hand	31,086.00
Accounts Receivable Collection	<u>7,735.00</u>
	<u>1,112,525.00</u>
<b>Disbursements</b>	
Labour & Benefits	294,440.00
Cost of Sales	195,592.00
Othe Operating Expenses	94,506.00
Labour Arrears	84,473.00
Rent	37,172.00
Capital Costs	12,992.00
GST Paid	9,966.00
Utilities & Telephone	4,083.00
Accounting Fees	2,506.00
GST Remitted	-
Reg Fees (Rec Gen - O/R)	<u>-</u>
	<u>735,730.00</u>
<b>Excess of Receipts over Disbursements</b>	<u><u>376,795.00</u></u>
Represented by:	
Cash in Bank - Receivership Account	0.00
Cash in Bank - Restaurant Trust Account	<u>376,795.00</u>
	<u><u>376,795.00</u></u>



## **EXHIBIT 3**

**Blue Inc.**  
**Receiver's Statement of Receipts and Disbursements**  
**For the Period February 8, 2011 to April 5, 2011**

	\$
<b>Receipts</b>	
Sales Receipts	514,119.00
GST Collected	25,059.00
Funding from Receiver's Certificate	25,000.00
Cash on Hand	16,385.00
Accounts Receivable Collection	5,011.00
VLT Receipts	33,035.00
Employee Loans Collection	<u>1,130.00</u>
	<u>619,739.00</u>
<b>Disbursements</b>	
Labour & Benefits	98,670.00
Cost of Sales	87,863.00
Labour Arrears	55,656.00
Othe Operating Expenses	55,068.00
Rent	42,306.00
VLT Remittances	28,144.00
Utilities & Telephone	7,083.00
GST Paid	5,678.00
Accounting Fees	3,214.00
Capital Costs	-
GST Remitted	-
Reg Fees (Rec Gen - O/R)	<u>-</u>
	<u>383,682.00</u>
<b>Excess of Receipts over Disbursements</b>	<u><u>236,057.00</u></u>
Represented by:	
Cash in Bank - Receivership Account	0.00
Cash in Bank - Restaurant Trust Account	<u>236,057.00</u>
	<u><u>236,057.00</u></u>

## **EXHIBIT 4**

## **ASSET PURCHASE AGREEMENT**

THIS ASSET PURCHASE AGREEMENT (the "**Agreement**") dated as of the 26<sup>th</sup> day of April, 2011 by and between PricewaterhouseCoopers Inc., in its capacity as receiver and manager of Athasand Restaurants Inc. ("**Athasand**") and Blue Inc. ("**Blue**") and not in its personal or corporate capacity (the "**Vendor**") and Eatz Enterprises by its partners 3422691 Manitoba Ltd. and 3422682 Manitoba Ltd. (the "**Purchaser**").

WHEREAS by order of the Alberta Court of Queen's Bench (the "**Court**") dated February 8, 2011 (the "**Athasand Appointment Order**"), the Vendor was appointed as receiver and manager of Athasand;

AND WHEREAS by order of the Court dated February 8, 2011 (the "**Blue Appointment Order**"), the Vendor was appointed as receiver and manager of Blue;

AND WHEREAS pursuant to the Athasand Appointment Order and the Blue Appointment Order, the Vendor is in possession of the assets, business, undertakings and properties of Athasand located at #100 – 9521 Franklin Avenue, Fort McMurray, Alberta, T9H 3Z7, as more particularly described under paragraph A.1 of Schedule A (the "**Athasand Assets**") and the assets, business, undertakings and properties of Blue located at #212, 11801 – 100 Street, Grande Prairie, Alberta, T8V 3Y2, as more particularly described under paragraph A.2 of Schedule A (the "**Blue Assets**");

AND WHEREAS the Vendor, subject to Court approval and the terms and conditions of this Agreement, has agreed to sell the Athasand Assets and the Blue Assets (the "**Assets**") to the Purchaser, and the Purchaser has agreed to purchase all of the Assets;

NOW THEREFORE, in consideration of the payment by the Purchaser of the sum of THREE MILLION EIGHT HUNDRED FIFTY THOUSAND (\$3,850,000.00) (the "**Purchase Price**"), the receipt and sufficiency of which is hereby acknowledged by the Vendor, and in further consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

1. The Vendor acknowledges that the Purchaser has paid to it a deposit of FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) (the "**Deposit**"), by way of bank drafts payable to the Vendor. The Purchaser agrees that the Deposit shall be applied toward the Purchase Price on the Closing Date. If the Approval and Vesting Order (as defined below) is not granted by the Court, the Deposit shall be returned to the Purchaser, without interest or deduction.
2. The Purchaser agrees that the balance of the Purchase Price that shall remain outstanding (net of the Deposit) (the "**Balance**") shall be deposited and held in the trust account of the Purchaser's solicitor on or before Tuesday, May 3, 2011. If the Approval and Vesting Order (as defined below) is not granted by the Court, the Balance shall be released back to the Purchaser.
3. The Vendor shall promptly seek to obtain from the Court an order or separate orders, one in respect of each of Athasand and Blue (individually or collectively, the "**Approval and Vesting Order**") that:
  - (a) approves the sale by the Vendor to the Purchaser of the Assets in accordance with the provisions of this Agreement;

- (b) vests title to the Assets in the name of the Purchaser or as it otherwise directs pursuant to Section 22 free and clear of all security interests (registered or unregistered) or other charges, mortgages, liens, or encumbrances (collectively the "Encumbrances");
- (c) allows the Purchaser reasonable access to the Assets prior to the Closing Date (as defined below).

If the Vendor does not obtain the Approval and Vesting Order on or before Tuesday, May 3, 2011, or such later date as the parties may agree in writing, this Agreement shall be null and void and the obligations of the Vendor and the Purchaser under this Agreement shall immediately terminate and be of no further force and effect (save for return of the Deposit to the Purchaser).

4. Subject to:

- (a) the Court granting the Approval and Vesting Order in accordance with Section 3; and
- (b) payment by the Purchaser of the Purchase Price in accordance with Section 6;

The Vendor agrees to sell, transfer and assign to the Purchaser all of the right, title and interest of Athasand and Blue in and to the Assets in accordance with the Approval and Vesting Order and the provisions of this Agreement for the Purchase Price, which Purchase Price shall be allocated to the Assets in accordance with Schedule B.

5. Completion of the sale and purchase of the Assets pursuant to this Agreement shall occur on or before Wednesday, May 4, 2011 or such other date as the parties may agree in writing (the "Closing Date"). Subject to compliance with the terms and conditions hereof, the transfer of possession of the Assets shall be deemed to take effect as at the opening of business on the Closing Date. The closing shall take place at 10:00 a.m. (Edmonton Time) at the offices of the Vendor's solicitors.

6. On the Closing Date:

- (a) the Purchaser shall pay the Balance to the Vendor by way of wire transfer, certified cheque, bank draft or solicitors' trust cheque in immediately available funds, to or to the order of the Vendor;
- (b) the Vendor and the Purchaser shall deliver a certificate certifying that the representations and warranties of the Vendor and the Purchaser, respectively, contained in this Agreement are true and correct on the Closing Date;
- (c) the Vendor and Purchaser shall execute and deliver to the other:
  - (i) a bill of sale substantially in the form set out in Schedule C to this Agreement; and
  - (ii) a GST Form 44(E) Election;

- (d) the Purchaser shall execute and deliver or cause to be executed and delivered such other documents relevant to the closing of the transactions contemplated hereby as the Vendor, acting reasonably, may request;
  - (e) the Vendor shall deliver to the Purchaser such other forms of deeds, conveyances, transfers, and assignments reasonably required to transfer title to the Assets to the Purchaser as may be mutually agreed upon by the Vendor and the Purchaser, each acting reasonably; and
  - (f) The Vendor shall deliver possession of the Assets to the Purchaser on the Closing Date.
7. The Purchaser represents and warrants to the Vendor as follows and acknowledges and confirms that the Vendor is relying on such representations and warranties in connection with the sale of the Assets:
- (a) the Purchaser is a validly subsisting partnership of two validly subsisting corporations under the laws of Manitoba;
  - (b) the Purchaser has the power and capacity to enter into, and to perform its obligations under this Agreement and has taken all necessary action to authorize the entering into of this Agreement and all documents ancillary hereto and the performance of its obligations thereunder;
  - (c) this Agreement and each of the documents required by this Agreement to be delivered by the Purchaser on the Closing Date has been duly authorized by the Purchaser;
  - (d) except as otherwise set forth herein, there is no requirement for the Purchaser to make any filing with, give any notice to or obtain any licence, permit, certificate, registration, authorization, consent or approval of, any government or regulatory authority as a condition to the lawful consummation of the transactions contemplated by this Agreement;
  - (e) this Agreement has been duly executed and delivered by the Purchaser and is a valid and binding obligation of the Purchaser, enforceable in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction;
  - (f) the Purchaser is a Canadian within the meaning of the *Investment Canada Act*; and
  - (g) the Purchaser is a registrant under the *Excise Tax Act* (Canada).
8. Subject to the terms of the Approval and Vesting Order, the Purchaser acknowledges and agrees that the Assets are being sold on an "as is, where is" basis and neither the Vendor, its affiliates, nor any of their respective officers, directors, employees nor other representatives make, have made or shall be deemed to have made any representations, warranty, inducement or condition, express or implied, at law, in equity, by statute, customs or otherwise, in respect of the Assets, including with respect to title, size, description, fitness for purpose or intended use, quantity, number, condition or quality of the assets or in respect of any other matter or thing

whatsoever, and the Purchaser shall be deemed to have relied entirely upon its own inspection and investigation of the Assets. All conditions and warranties provided for in the *Sale of Goods Act of Alberta* and any other relevant legislation shall not apply to this agreement and shall be deemed to have been waived by the Purchaser. Notwithstanding the foregoing, the Vendor represents and warrants that the Assets shall be in substantially the same condition from the time of inspection by the Purchaser to the Closing Date, normal wear and tear excepted.

9. The Purchaser shall:

- (a) be liable to the Vendor for all losses, awards, actions, liabilities, costs (including all reasonable legal costs on a solicitor and his own client, full indemnity basis), damages and expenses which the Vendor may suffer, sustain, pay or incur as a result of or arising directly or indirectly out of or in connection with, and
- (b) indemnify and save the Vendor harmless from, any and all manner of actions, causes of action, proceedings, claims, demands, losses, costs (including all reasonable legal costs on a solicitor and his own client, full indemnity basis), damages, penalties, fines, and directives or orders from any statutory authority which may be brought or made against the Vendor or which the Vendor may suffer, sustain, pay or incur as a result of or arising directly or indirectly out of or in connection with:
  - (i) any breach by the Purchaser of, or any inaccuracy of, any representation or warranty of the Purchaser contained in this Agreement or in any agreement, instrument, certificate or other document delivered pursuant hereto;
  - (ii) any breach or non-performance by the Purchaser of any covenant to be performed by it that is contained in this Agreement or in any agreement, certificate or other document delivered pursuant hereto; and
  - (iii) the ownership, operation, use, and/or possession of the Assets after the Closing Date, including, without limitation, any failure by the Purchaser to pay, satisfy, discharge, perform or fulfil any of the obligations set out in paragraph 12 of this Agreement.

10. Subject to the granting of the Approval and Vesting Order, the Vendor represents and warrants that:

- (a) the Vendor will have good and marketable title to all of the Assets free and clear of all Encumbrances and will be entitled at law and in equity to sell, assign and transfer clear title to the Assets to the Purchaser;
- (b) the Vendor is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada);
- (c) the Vendor has no actual or constructive knowledge of any agreement, option or right, or any right capable of becoming an agreement or option for the purchase from the Vendor of any of the Assets;

- (d) other than the list of employees identified by the Vendor as temporary foreign workers and the applicable work permits and labour market opinions associated with such employees in the Vendor's possession, the Vendor has no actual or constructive knowledge of any other documents in its possession pertaining to the Temporary Foreign Worker Program in Alberta; and
- (e) other than those contracts identified in Section 13, the Vendor has no actual or constructive knowledge of any contracts or other liabilities attached to or forming part of or otherwise affecting the Assets.

The representations and warranties set-out in paragraphs 10(c), 10(d) and 10(e) of this Agreement shall not be construed as actionable representations and, as such, the Vendor shall have no liability in respect of them.

- 11. The Vendor shall withhold from the proceeds of the Purchase Price such amount as it may determine is necessary to satisfy any claims of any parties having priority over the secured lenders of Athasand and Blue, including, without limitation, The Workers' Compensation Board of Alberta (the "WCB") and the Canada Revenue Agency and shall cooperate with the Purchaser in obtaining a clearance certificate from the WCB.
- 12. No adjustments shall be made to the Purchase Price paid by the Purchaser under this Agreement.
- 13. In addition to the purchase and sale of the Assets as contemplated herein, the Purchaser shall be responsible, following the Closing Date and completion of the purchase of the Assets contemplated herein, for and the Vendor shall take no responsibility (unless otherwise specified) for the following matters:
  - (a) Moneris Solutions ("**Moneris**") owns point of sale equipment, which is currently located at the business premises of and which is leased to Blue and Athasand. The Purchaser shall obtain its own point of sale equipment, which is to be attached to its own merchant account, so that the point of sale equipment belonging to Moneris may be returned to it and replaced with the Purchaser's point of sale equipment on the Closing Date. The Purchaser hereby agrees to indemnify and hold the Vendor harmless of any claim by Moneris in this respect;
  - (b) National Leasing Inc. ("**National Leasing**") leases to Athasand cash registers, point of sales systems, software and equipment ("**National Leasing Assets**"). The Purchaser shall either assume the lease or return National Leasing Assets to National Leasing. The Purchaser hereby agrees to indemnify and hold the Vendor harmless of any claim by National Leasing in this respect;
  - (c) Dispensing Systems Inc. ("**Dispensing Systems**") leases liquor dispensing system ("**Dispensing System Assets**") to Athasand. The Purchaser agrees to assume this lease or return the Dispensing System Assets to Dispensing Systems. The Purchaser hereby agrees to indemnify and hold the Vendor harmless of any claim by Dispensing Systems in this respect;



- (d) At the premises of Blue, there is an ATM machine owned by WestCoast Cash, Inc. and a cigarette machine owned by Saskatoon Mountain Cash Inc. The Purchaser shall notify WestCoast Cash, Inc. and Saskatoon Mountain Cash Inc. of its purchase of the Assets;
  - (e) Each of Blue and Athasand previously maintained an account with Eigen Development Ltd. ("Eigen") for processing gift card transactions. The Purchaser, at its option, shall set up its own account(s) with Eigen for processing gift card transactions on or after the Closing Date;
  - (f) The Purchaser shall be responsible for complying with any licensing requirements of the Alberta Gaming and Liquor Commission ("AGLC") in respect of the purchase and sale of liquor products and the operation of VLTs. The Vendor shall deliver by facsimile to AGLC the "Seller's Notification – Change of Operator" form, which will notify AGLC of the purchase and sale of the Assets as of the Closing Date;
  - (g) The Purchaser shall be responsible for notifying Human Resources and Skills Development Canada and/or Citizenship and Immigration Canada of the transaction contemplated herein in respect of any temporary foreign workers; and
  - (h) The Purchaser shall be responsible for setting up its own accounts with utilities providers and other suppliers effective the Closing Date.
14. The Purchase Price does not include goods and services tax ("GST"). The Purchaser shall be liable for and shall pay any and all taxes, including any GST ("Sales Taxes"), due or arising as a result of the sale of Assets under this Agreement. The Purchaser shall indemnify or reimburse the Vendor for any amounts for which the Vendor may become liable (including, without limitation, penalties and interest) as a result of any failure by the Purchaser to pay any Sales Taxes, or for which the Vendor may be liable in the event the Form 44(E) Election is not accepted by Canada Revenue Agency. The Vendor will cooperate with the Purchaser to the extent that a Section 167 election is available to the Purchaser.
15. Each representation and warranty of the Purchaser contained in this Agreement or in any document, instrument, certificate or undertaking given pursuant hereto shall survive the completion of the transactions contemplated by this Agreement until the second anniversary of the date of this Agreement.
16. To the extent they have not been fully performed at or prior to date of this Agreement, each and every covenant of the Purchaser contained in this Agreement and any agreement, instrument, certificate or other document executed or delivered pursuant to this Agreement shall survive the completion of the transactions contemplated by this Agreement and, notwithstanding such completion, shall continue in full force and effect for the benefit of the Vendor.
17. In the event that the transactions contemplated herein are not consummated for any reason, the Purchaser covenants and agrees that, except as otherwise authorized by the Vendor or as required by applicable law, neither the Purchaser nor its representatives, agents or employees will disclose to third parties, directly or indirectly, any confidential information or confidential data relating to the Assets discovered by the Purchaser or its representatives as a result of the

Vendor making available to the Purchaser and its representatives the information requested by them in connection with the transactions contemplated herein.

18. All references to currency in this Agreement are deemed to mean Canadian currency.
19. Time shall be of the essence of this Agreement.
20. The Schedules attached to this Agreement shall be incorporated by reference into this Agreement and shall be deemed to form a part of this Agreement.
21. This Agreement, including the Schedules to this Agreement, supersede all other agreements between the parties hereto relating to the purchase and sale of the Assets and constitute the entire agreement between the parties and there are no statements, representations, warranties, undertakings or agreements, written or oral, express or implied, between the parties hereto except as herein set forth.
22. This Agreement and everything herein contained shall enure to the benefit of and be binding upon the parties together with their respective heirs, executors, administrators, successors and permitted assigns. The Purchaser shall not assign this Agreement without the prior written consent of the Vendor, provided however that the Purchaser may assign its rights, as they relate to the purchase of the Athasand Assets to Crazy Joe Davola Enterprises Inc., and as they related to the purchase of the Blue Assets to Poppi's Restaurant Inc. upon the exercise by each of a Nomination and Assumption Agreement in the form attached hereto as Schedule D.
23. This Agreement shall be construed and interpreted, and the rights of the parties shall be determined, in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein, without regard to the choice of law principles of the Province of Alberta or of any other jurisdiction. Each party hereto accepts and hereby irrevocably and unconditionally consents to submit to the jurisdiction of the courts of the Province of Alberta and all courts of appeal therefrom for any actions, suits and proceedings occurring out of or relating to this Agreement and the transactions contemplated thereby (and agrees not to commence any action, suit or proceeding relating thereto except in such courts).
24. No change or modification to this Agreement shall be valid unless it shall be in writing and signed by each of the parties to this Agreement.
25. If at any time any party shall be in default of any of its covenants or agreements contained in or arising out of this Agreement, any remedy which may be available to any other party by virtue of any provision contained in this Agreement and as a consequence of such default shall be in addition to and not by way of substitution for any statutory, equitable, or common law remedy which may also be available and all such remedies may be enforced either successively or concurrently.
26. Each of the parties to this Agreement will promptly and duly execute and deliver to the other party such further documents and assurances and take such further action as such other party may from time to time reasonably request in order to more effectively carry out the intent and purpose of this Agreement and to establish and protect the rights and remedies created or intended to be created by this Agreement.

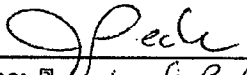
27. Any term, condition or provision of this Agreement which is deemed to be, void, prohibited or unenforceable shall be severable herefrom, be ineffective to the extent of such avoidance, prohibition or unenforceability without in any way invalidating the remaining terms, conditions and provisions hereof.
28. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by facsimile or other electronic means of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.

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

VENDOR:

PricewaterhouseCoopers Inc. in its capacity as receiver and manager of Athasand Restaurants Inc. and Blue Inc. and not in its personal or corporate capacity.

Per:

  
Name: ☒ Jennifer Pade  
Position: ☒ Vice President

PURCHASER:

Eatz Enterprises by its partners 3422691 Manitoba Ltd. and 3422682 Manitoba Ltd.

Per:

\_\_\_\_\_  
Name: ☐  
Position: ☐

27. Any term, condition or provision of this Agreement which is deemed to be, void, prohibited or unenforceable shall be severable herefrom, be ineffective to the extent of such avoidance, prohibition or unenforceability without in any way invalidating the remaining terms, conditions and provisions hereof.
28. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by facsimile or other electronic means of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.

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


**VENDOR:**

PricewaterhouseCoopers Inc. in its capacity as receiver and manager of Athasand Restaurants Inc. and Blue Inc. and not in its personal or corporate capacity.

Per: \_\_\_\_\_  
Name: ☐  
Position: ☐

**PURCHASER:**

Eatz Enterprises by its partners 3422691 Manitoba Ltd.

Per:   
Name: Brad Houghton  
Position: President  
3422682 Manitoba Ltd.

Per:   
Name: Darin Amies  
Position: President

## SCHEDULE A

### ASSETS

#### **A.1 Athasand Restaurants Inc.**

Equipment and leasehold interests set out in attached Schedule A.1.1;

All right, title and interest of Athasand Restaurants Inc., in and to that Franchise Agreement between Moxie's Restaurants, Limited Partnership ("MRLP") as franchisor and Athasand Restaurants Inc. as franchisee, dated June 8, 2005 (a photocopy of which Franchise Agreement is attached hereto and marked as Schedule A.1.2), **but subject to the approval of MRLP;**

All right, title and interest of Athasand Restaurants Inc. in and to that lease of property located at #100, 9521 Franklin Avenue, Fort McMurray, Alberta, T9H 3Z7 ("Athasand Location") between Moxie's Leaseholds Inc. as sublessor and Athasand Restaurants Inc. as sublessee and MRLP pursuant to a Sublease dated June 8, 2005 (a photocopy of which Sublease is attached hereto and marked as Schedule A.1.3) **but subject to the approval of Moxie's Leaseholds Inc.;**

Any and all inventory of Athasand Restaurants Inc. located at the Athasand Location;

Any and all goodwill, intangibles or other personal property not described herein owned by Athasand Restaurants Inc. and located at the Athasand Location;

#### **A.2 Blue Inc.**

Equipment and leasehold interests set out in attached Schedule A.2.1;

All right, title and interest of Blue Inc., in and to that Franchise Agreement between Moxie's Restaurants, Limited Partnership ("MRLP") as franchisor and Blue Inc. as franchisee dated July 10, 2006 (a photocopy of which Franchise Agreement is attached hereto and marked as Schedule A.2.2), **but subject to the approval of MRLP;**

All right, title and interest of Blue Inc. in and to that lease of property located at #212, 11801 – 100 Street, Grande Prairie, Alberta, T8V 3Y2 ("Blue Location") between Moxie's Leaseholds Inc. as sublessor and Blue Inc. as sublessee and MRLP pursuant to a Sublease dated July 10, 2006 (a photocopy of which Sublease is attached hereto and marked as Schedule A.2.3) **but subject to the approval of Moxie's Leaseholds Inc.;**

Any and all inventory of Blue Inc. located at the Blue Location;

Any and all goodwill, intangibles or other personal property not described herein owned by Blue Inc. and located at the Blue Location.

**SCHEDULE B**

**ALLOCATION OF PURCHASE PRICE**

<b>Athasand</b>	
Equipment	\$ 500,000
Leasehold Improvements	1,000,000
Inventory	50,000
Goodwill/Intangibles/Other	2,000,000
Total	\$3,550,000

<b>Blue</b>	
Equipment	\$250,000
Inventory	50,000
Total	\$300,000

SCHEDULE C

FORM OF BILL OF SALE

THIS BILL OF SALE dated as of the \_\_\_\_ day of \_\_\_\_\_, 2011 by and between PricewaterhouseCoopers Inc., in its capacity as receiver and manager of Athasand Restaurants Inc. ("Athasand") and Blue Inc. ("Blue") and not in its personal or corporate capacity (the "Vendor") and Eatzi Enterprises by its partners 3422691 Manitoba Ltd. and 3422682 Manitoba Ltd. (the "Purchaser").

Pursuant to an Asset Purchase Agreement dated as of the \_\_\_\_ day of \_\_\_\_\_, 2011 (the "Purchase Agreement") between the Vendor and the Purchaser, the Purchaser has agreed to purchase from the Vendor, and the Vendor has agreed to sell to the Purchaser, all of the right, title and interest of Athasand, Blue or any of them in and to the Assets, which are more particularly listed in the attached Schedule "A" to this Bill of Sale. All capitalized terms used, but not defined herein, shall have the meanings given to them in the Purchase Agreement.

NOW THEREFORE, in consideration of the payment by the Purchaser of the Purchase Price, the receipt and sufficiency of which is hereby acknowledged, and in further consideration of the mutual covenants and agreements contained in the Purchase Agreement, and pursuant to the terms of the Purchase Agreement, the Vendor does hereby convey, transfer, assign, sell and deliver to the Purchaser all of the right, title and interest of Athasand, Blue or any of them in and to the Assets.

To the extent of any conflict between the terms and conditions of this Bill of Sale and the terms and conditions of the Purchase Agreement, the terms and conditions of the Purchase Agreement shall govern, supersede and prevail. Notwithstanding anything to the contrary, nothing herein is intended to, nor shall it, extend, amplify or otherwise alter the covenants and obligations of the Vendor or the Purchaser contained in the Purchase Agreement.

This Bill of Sale shall be construed and interpreted, and the rights of the parties shall be determined, in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein, without regard to the choice of law principles of the Province of Alberta or of any other jurisdiction.

**IN WITNESS WHEREOF**, the parties hereto have caused this Bill of Sale to be duly executed as of the date first written above.

**VENDOR:**

PricewaterhouseCoopers Inc. in its capacity as  
receiver and manager of Athasand Restaurants  
Inc. and Blue Inc. and not in its personal or  
corporate capacity.

Per: \_\_\_\_\_  
Name: ●  
Position: ●

SCHEDULE D

FORM OF NOMINATION AND ASSUMPTION AGREEMENT

[Please see attached]



**NOMINATION AND ASSUMPTION  
OF OBLIGATIONS AGREEMENT**

**THIS AGREEMENT** made as of this                      day of April, 2011,

**BETWEEN:**

**EATZ ENTERPRISES,  
A Partnership of 3422691 Manitoba Ltd. and 3422682 Manitoba Ltd. ,  
("Eatz")**

- and -

**CRAZY JOE DAVOLA ENTERPRISES INC.  
("Franchisee"),**

- and -

**PRICEWATERHOUSECOOPERS INC.,  
solely in its capacity as Receiver and Manager  
of the undertaking, property and assets of  
Athasand Restaurants Inc. ("Athasand") and Blue Inc.  
(the "Vendor").**

**WHEREAS:**

- (a) Eatz and the Vendor entered into an agreement (the "**Agreement**") whereby Eatz agreed to purchase from the Vendor the right, title and interest of Athasand in the Athasand Assets (as that term is defined in the Agreement);
- (b) Eatz desires to nominate the Franchisee and the Franchisee desires to assume the obligations of Eatz under the Agreement as set out in paragraph 22 of the Agreement;

**NOW THEREFORE IN CONSIDERATION** of the premises and the sum of \$1.00 and other good and valuable consideration now paid by each party to the other party hereto, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree that:

1. In accordance with paragraph 22 of the the Agreement, Eatz hereby nominates and appoints the Franchisee and the Franchisee hereby accepts such nomination and appointment to take title to the Athasand Assets in Eatz's place and stead for and on behalf of Eatz.

5. The Vendor hereby acknowledges the within nomination and appointment of the Franchisee by Eatz and hereby agrees that it shall and does hereby release Eatz of and from all covenants, obligations and agreements under the Agreement.

**IN WITNESS WHEREOF** the parties have executed this Agreement as of the day and year first above written.

**EATZ EAST ENTERPRISES,  
by its partners  
3422691 MANITOBA LTD.**

Per: \_\_\_\_\_

—

President

**3422682 MANITOBA LTD.**

Per: \_\_\_\_\_

—

President

**CRAZY JOE DAVOLA ENTERPRISES INC..**

Per: \_\_\_\_\_

—

President

**PRICEWATERHOUSECOOPERS INC.** in its capacity as receiver and manager of Athasand Restaurants Inc. and Blue Inc. and not in its personal or corporate capacity.

Per: \_\_\_\_\_

—

President