

Worthington, Ohio

SUBLEASE AGREEMENT

This Sublease Agreement (the "Sublease") is entered into this 11 day of December, 1992, by and between Scrivner of New York, Inc., f/k/a S.M. Flickinger Company, Inc., whose address is 45 Azalea Drive, Checktowaga, New York ("Sublessor"), and Schrock Road Markets, Inc., whose address is 900 High Street, Worthington, Ohio 43085 ("Sublessee").

WITNESSETH:

- A. Sublessor is the assignee under that certain Lease Assignment and Assumption Agreement dated May 8, 1978, between Sublessor and The Great Atlantic & Pacific Tea Company, Inc., a Maryland corporation ("A & P") for the premises known as 900 High Street, Worthington, Ohio ("Premises") and which Assignment is attached hereto and incorporated herein as Exhibit A (the "Assignment"); and
- B. A & P is the Lessee under that certain Lease Agreement dated February 2, 1959 and Amendment to Lease #1 dated January 10, 1973, by and between A&P and Evans Investment Company ("Owner") for the Premises which Lease and Amendment are attached hereto and incorporated herein as Exhibit B (the "Prime Lease"); and
- C. Sublessor desires to sublease the Premises to Sublessee and Sublessee desires to lease said Premises from Sublessor in accordance with the terms hereof.

NOW THEREFORE, in consideration of the terms, covenants, conditions and agreements contained herein, the parties hereto contract and agree as follows:

1. Premises. Sublessor hereby subleases to Sublessee, and Sublessee accepts from Sublessor, the Premises subject to all terms and conditions contained in the Assignment and the Prime Lease (hereinafter collectively referred to as the "Lease") except for the term, renewal, rental, assignment and subletting and other provisions which are contained in this Sublease. The Lease is incorporated into this Sublease by reference.
2. Term. Sublessor agrees to sublease to Sublessee and Sublessee agrees to lease and take from Sublessor the Premises for a term of approximately one year and five months commencing December 1, 1993, and ending on April 30, 1994.
3. Rent. For the term of this Sublease, Sublessee shall pay to Sublessor as minimum rent for the Premises the sum of One Hundred One Thousand One Hundred Seventy-Eight and 39/100 Dollars (\$101,178.39) per sublease year, payable at the rate of Five Thousand Nine Hundred Fifty-One and 67/100 Dollars (\$5,951.67) per month in advance as the total minimum monthly rent, in accordance with the terms and provisions of the Lease.

It is mutually understood and agreed that the minimum monthly rental Sublessee pays to Sublessor is the same rental Sublessor pays to the Lessor under the Lease plus ten percent (10%). Said ten percent (10%) shall apply on all amounts paid by Sublessee to the Sublessor as rent, including, but not limited to sales percentages, taxes and common area maintenance. All rental shall be paid without setoff, deduction or reductions of any kind in any amount whatsoever. If Sublessee's rental obligations set forth hereunder commence on a day other than the first day of a calendar month, the rent for the initial fractional calendar month shall be prorated and paid with the rent for the first full calendar month of the term hereof.

4. Assumption Agreement and Covenants. Sublessee agrees to faithfully and promptly perform all obligations and duties imposed on Sublessor under the Lease, including without limitation, any obligations to make payments or contributions for ad valorem taxes, special assessments, insurance or common area maintenance; not to commit or suffer waste; not to abandon the Premises; not to use the Premises for any unlawful purposes; and, at the termination of this Sublease, to surrender the Premises in good condition, reasonable wear and tear and unavoidable casualties, condemnation or appropriation excepted. Upon nonpayment by Sublessee of any rentals or other payments when due, or any failure of Sublessee to perform the covenants contained in this Sublease, after three (3) days written notice of any default in regards to rent or other indebtedness and after fifteen (15) days written notice of any other item of default, Sublessor, at its option, may re-enter the Premises, may remove Sublessee and all persons holding under Sublessee from the Premises and may terminate this Sublease and re-enter and repossess the Premises; provided, however, that such re-entry, repossession and/or termination shall not constitute an acceptance or surrender of this Sublease or a waiver of any of Sublessor's rights or remedies, including without limitation, the right to re-let the Premises, or any part thereof, for the benefit of Sublessee and to recover damages for Sublessee's default.
5. Sublessee Indemnity. Sublessee shall defend, indemnify and hold Sublessor harmless from any and all damages, costs, losses and expenses (including attorney fees) resulting in any way from Sublessee's occupation and/or use of the Premises, or the breach of any obligation of Sublessee as set out in the Sublease, and Sublessee shall carry, at Sublessee's expense, public liability insurance on the Premises with an insurance company having a BEST rating of at least A XIV and is licensed to issue such insurance within the state wherein the Premises are located, which insurance shall stipulate limits of not less than One Million Dollars (\$1,000,000.00) per incident for personal injury and One Million Dollars (\$1,000,000.00) of coverage per incident for property damage. Sublessee shall provide Sublessor with certificates evidencing such insurance naming the Sublessor as an additional named insured, upon request but in any event no later than thirty (30) days from the execution of this Sublease, which certificate shall require the aforementioned insured to give Sublessor thirty (30) days written notice of any cancellation or material amendment to such insurance. Sublessee shall also indemnify, defend and hold Sublessor

harmless from any lien filed against the Premises during the term of this Sublease, including without limitation, reasonable attorney's fees incurred by Sublessor protecting itself as a result of Sublessee's failure to properly defend Sublessor.

6. Use, Assignment and Subletting. The Premises shall be used by Sublessee only as a retail grocery store (defined to be a retail store where the primary business consists of selling groceries, along with the selling of usual non-food items customarily sold in a grocery store, including alcoholic beverages), and for no other purpose unless the prior written consent is obtained from Sublessor and such use does not violate the terms of the Lease. Any benefit or obligation of this Sublease applicable to a party hereby shall be applicable to that party's assignee or successor in interest hereto. This provision shall not be construed as allowing Sublessee to assign its rights hereunder and the parties hereto agree that Sublessee shall be prohibited from assigning or subletting its interest in this Sublease without first obtaining prior written consent from said Sublessor to any assignment or subletting. Any purported or attempted assignment or subletting, without Sublessor's prior written consent, shall be null and void. The parties hereto do hereby agree that it is their intent that Sublessor's consent or approval to any assignment or subletting by Sublessee may be granted or withheld arbitrarily in Sublessor's sole discretion. This Sublease is not to be construed as an assignment of the Lease, and Sublessee shall not negotiate, modify or amend the Lease without the prior written consent of Sublessor.
7. Inspection. Sublessee has inspected the Premises, and is satisfied that the same are acceptable to Sublessee for all of its purposes and uses.
8. Termination. If the Lease terminates or is terminated for any reason whatsoever then this Sublease shall terminate simultaneously therewith. If Sublessee is not in default under the terms and conditions hereof, any such termination shall be without liability between Sublessor and Sublessee, except for such liability theretofore accruing or as otherwise provided herein; however, if Sublessee is in default, the provisions hereof including those of default shall control as to Sublessee's liability.
9. Assignment of Liquor License. Sublessor agrees that should it discontinue operations in the Premises, or if this Sublease is terminated for any reason, to transfer the Ohio Beer and Wine License now owned by Sublessor and used in connection with the Premises immediately and concurrently with the transfer of the business assets of Sublessee to Sublessor, without charge, and to further take all action, execute and deliver any and all documents or papers to transfer said Beer and Wine License to Sublessor.
10. Costs and Expenses. In the event Sublessor seeks enforcement of the terms and conditions of this Sublease against the Sublessee, the Sublessor shall be entitled to recover its costs and expenses incurred with such enforcement, including reasonable attorney's fees.

11. **Notices.** Any notices to be given in connection with this Sublease shall be given in writing, by certified mail with return receipt requested, sent to the addresses set forth above, and Sublessee agrees to give thirty (30) days advance written notice to Sublessor of any notice Sublessee desires Sublessor to give to the underlying Lessor of the above mentioned Lease, in accordance with its terms.
12. **License Agreement.** If for any reason this Sublease terminates, then contemporaneously therewith, Sublessee's right to use the name "Jubilee Foods®", under the License Agreement, shall also terminate. However, nothing herein shall be construed as effecting or terminating Sublessor's right of first refusal as set forth in the License Agreement.
13. **Remedies Cumulative.** No remedy conferred under this Sublease shall be exclusive of any other remedy, and each remedy shall be cumulative and shall be in addition to every other remedy provided for in this Sublease or now or hereafter existing at law, in equity, by statute or otherwise. The election of any one or more remedies by a party hereto shall not be deemed, and shall not constitute, a waiver of that party's right to pursue any other available remedy or remedies.
14. **Severability.** The agreements and covenants of this Sublease are severable, and in the event any of them shall be held to be invalid by a court of competent jurisdiction, this Sublease shall be interpreted as if such invalid agreements or covenants were not contained in this Sublease.
15. **Binding Effect.** This Sublease shall bind and shall inure to the benefit of the parties, their heirs, legal representatives, successors and/or assigns.
16. **Sublessor's Obligations.** Sublessor shall have no duty to perform any obligations of the Owner under the Prime Lease and shall under no circumstances be responsible for or liable to Sublessee for any default, failure or delay on the part of the Owner in the performance of any obligations under the Prime Lease, nor shall such default of the Owner affect this Sublease or waive or defer the performance of any of Sublessee's obligations hereunder; provided, however, that in the event of such default or failure, Sublessor agrees, upon notice from Sublessee, to make demand upon the Owner to perform its obligations under the Lease.
17. **Entire Agreement.** This Sublease constitutes the entire agreement and understanding between the parties with respect to the matters contained in this Sublease, and supersedes all other agreements between and representations by the parties with respect to such matters, and Sublessee is not relying upon any representations, market analysis, projections, reports or warranties of Sublessor, and Sublessee agrees to execute a waiver of liability in a form acceptable to Sublessor. No changes, amendments or modifications of this Sublease shall be effective or enforceable unless in writing and executed by the parties hereto.

- 18. **No Representations.** Neither Sublessor or Sublessor's agents have made any representations or promises with respect to the condition of the Premises or any common areas and Sublessee hereby agrees to accept such Premises "AS IS."
- 19. **Counterparts.** This Sublease may be executed in multiple counterparts, each of which is identical and each of which shall be deemed to be an original; and all such counterparts together shall constitute but one instrument.

IN WITNESS WHEREOF, Sublessor and Sublessee have agreed to the foregoing Sublease in its entirety as of the day and year first set forth above, and have executed the same on the day and year first set forth below.

Witnessed and acknowledged
in the presence of:

SUBLESSOR:

Scrivner of New York, Inc., f/k/a S.M. Flickinger
Co., Inc., a New York corporation

Thomas A. Kindron

By: *Paul D. Conklin*

Thomas A. Kindron

Its: *Vice President*

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Maggie K. Bartolomucci

MAGGIE K. BARTOLOMUCCI

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SUBLESSEE:

Schrock Road Markets, Inc., an Ohio corporation

Thomas A. Kindron

By: *[Signature]*

Thomas A. Kindron

Its: *[Signature]*

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Maggie K. Bartolomucci

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STATE OF OHIO :
 :SS
COUNTY OF FRANKLIN :

The foregoing instrument was acknowledged before me this 11 day of DECEMBER, 1992, by DARLE S CONKLIN as VICE PRESIDENT of Scrivner of New York, Inc., f/k/a S.M. Flickinger Co., Inc., a New York corporation, on behalf of the corporation.

Helga Guffel Valenti
Notary Public
My Commission Expires: 10-31-96

STATE OF OHIO :
 :SS
COUNTY OF FRANKLIN :

The foregoing instrument was acknowledged before me this 11 day of DECEMBER, 1992, by JOSEPH A COUSINS as PRESIDENT of Schrock Road Markets, Inc., an Ohio corporation, on behalf of the corporation.

Helga Guffel Valenti
Notary Public
My Commission Expires: 10-31-96

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