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UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS:

Robert Pitofsky, Chairman
Mary L. Azcuenaga
Sheila F. Anthony
Mozelle W. Thompson
Orson Swindle

In the Matter of

JITNEY-JUNGLE STORES OF AMERICA, INC., a corporation;

BRUCKMANN, ROSSER, SHERRILL & CO., L.P., a limited partnership;

DELTA ACQUISITION CORPORATION, a corporation; and

DELCHAMPS, INC., a corporation.

DOCKET NO. C-3784

DECISION AND ORDER

The Federal Trade Commission ("Commission") having initiated an investigation of the proposed acquisition of Delchamps, Inc. ("Delchamps") by Jitney-Jungle Stores of America, Inc. ("Jitney-Jungle"), Bruckmann, Rosser, Sherrill & Co., L.P. ("Bruckmann"), and Delta Acquisition Corporation ("Delta") (collectively, "Respondents"), and Respondents having been furnished with a copy of a draft complaint that the Bureau of Competition proposed to present to the Commission for its consideration, and which, if issued by the Commission, would charge Respondents with violations of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18; and

Respondents, their attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by Respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by Respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the Respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comment received, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following Order:

1. Respondent Jitney-Jungle Stores of America, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Mississippi, with its office and principal place of business located at 1770 Ellis Avenue, Suite 200, Jackson, Mississippi 39204.

2. Respondent Bruckmann, Rosser, Sherrill & Co., L.P. is a limited partnership organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 126 East 56th Street, 29th Floor, New York, New York 10022.

3. Respondent Delta Acquisition Corporation is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Alabama, with its office and principal place of business located at c/o Jitney-Jungle Stores of America, Inc., 1770 Ellis Avenue, Suite 200, Jackson, Mississippi 39204.

4. Respondent Delchamps, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Alabama, with its office and principal place of business located at 305 Delchamps Drive, Mobile, Alabama 36602.

5. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondents, and the proceeding is in the public interest.

ORDER

I.

IT IS ORDERED that, as used in this Order, the following definitions shall apply:

A. "Jitney-Jungle" means Jitney-Jungle Stores of America, Inc., its directors, officers, employees, agents, representatives, predecessors, successors, and assigns; its subsidiaries, divisions, groups and affiliates controlled by Jitney-Jungle, and the respective directors, officers, employees, agents, and representatives, successors, and assigns of each. Jitney-Jungle, after consummation of the Acquisition, includes Delchamps. A majority of the voting securities of Jitney-Jungle are owned by Bruckmann.

B. "Bruckmann" means Bruckmann, Rosser, Sherrill & Co., L.P., its predecessors, successors and assigns, subsidiaries, divisions, groups and affiliates controlled by Bruckmann and their respective general partners, officers, employees, agents, and representatives, and the respective successors and assigns of each. Bruckmann owns a majority of the voting securities of Jitney-Jungle.

C. "Delta" means Delta Acquisition Corporation, its directors, officers, employees, agents, representatives, predecessors, successors, and assigns; its subsidiaries, divisions, groups and affiliates controlled by Delta, and the respective directors, officers, employees, agents, and representatives, successors, and assigns of each. Delta is a wholly-owned subsidiary of Jitney-Jungle.

D. "Delchamps" means Delchamps, Inc., its directors, officers, employees, agents, representatives, predecessors, successors, and assigns; its subsidiaries, divisions, groups and affiliates controlled by Delchamps, and the respective directors, officers, employees, agents, and representatives, successors, and assigns of each.

E. "Respondents" means Jitney-Jungle, Bruckmann, Delta, and Delchamps.

F. "Commission" means the Federal Trade Commission.

G. "Acquisition" means Jitney-Jungle's, Bruckmann's and Delta's proposed acquisition of all of the outstanding voting securities of and merger with Delchamps pursuant to the Agreement and Plan of Merger dated July 8, 1997.

H. "Assets To Be Divested" shall consist of the supermarkets identified in Schedule A of this Order and all assets, leases, properties, permits (to the extent transferable), customer lists, businesses and goodwill, tangible and intangible, related to or utilized in the supermarket business operated at those locations, but shall not include those assets consisting of or pertaining to any of the Respondents' trade marks, trade dress, service marks, or trade names.

I. "Supermarket" means a full-line retail grocery store that carries a wide variety of food and grocery items in particular product categories, including bread and dairy products; refrigerated and frozen food and beverage products; fresh and prepared meats and poultry; produce, including fresh fruits and vegetables; shelf-stable food and beverage products, including canned and other types of packaged products; staple foodstuffs, which may include salt, sugar, flour, sauces, spices, coffee, and tea; and other grocery products, including nonfood items such as soaps, detergents, paper goods, other household products, and health and beauty aids.

J. "Supervalu" means Supervalu Inc., a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business located at 11840 Valley View Road, Eden Prairie, Minnesota 55344; and Supervalu Holdings, Inc. a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal place of business located at 11840 Valley View Road, Eden Prairie, Minnesota 55344. Supervalu Holdings, Inc. is a wholly-owned subsidiary of Supervalu Inc.

K. "R & M Foods" means R & M Foods, Inc., a corporation organized, existing and doing business under and by virtue of the laws of the State of Mississippi, with its principal place of business located at 1612 Adeline Street, Hattiesburg, Mississippi 39402.

L. "Southeast Foods" means Southeast Foods, Inc., a corporation organized, existing and doing business under and by virtue of the laws of the State of Mississippi, with its principal place of business located at 1001 North 11th Street, Monroe, Louisiana 71207-2230.

M. "Supervalu Agreement" means the Purchase Agreement between Supervalu and Jitney-Jungle executed on August 29, 1997, and all subsequent amendments thereto, for the divestiture by Respondents to Supervalu of the Assets To Be Divested.

N. "Acquirer(s)" means Supervalu, R & M Foods, Southeast Foods, and/or the entity or entities approved by the Commission to acquire the Assets To Be Divested pursuant to this Order.

O. "Landlord Consents" means all consents from all landlords that are necessary to effect the complete transfer to the Acquirer(s) of the assets required to be divested pursuant to this Order.

II.

IT IS FURTHER ORDERED that:

A. Respondents shall divest, absolutely and in good faith, the Assets To Be Divested to:

1. Supervalu, in accordance with the Supervalu Agreement (which agreement shall not be construed to vary or contradict the terms of this Order or the Asset Maintenance Agreement) dated August 29, 1997, no later than,

a. one (1) month after the date on which this Order becomes final, or

b. five (5) months after acceptance of the Agreement Containing Consent Order by the Commission,

whichever is later; or

2. an Acquirer that receives the prior approval of the Commission and only in a manner that receives the prior approval of the Commission, within three (3) months after the date on which this Order becomes final;

provided that the closing date of the Supervalu Agreement or any other agreement pursuant to which the Assets To Be Divested are divested to an Acquirer shall not occur until after Respondents have obtained all required Landlord Consents.

B. If Respondents divest the Assets To Be Divested pursuant to the terms of Paragraph II.A.1., Supervalu may sell, within three (3) months of the date on which this Order becomes final, any of the supermarkets constituting the Assets To Be Divested to R & M Foods or Southeast Foods, but only in a manner that receives the prior approval of the Commission. Respondents shall use their best efforts to assist Supervalu in the sale of the Assets To Be Divested pursuant to this Paragraph in accordance with the terms of this Order.

C. A condition of approval by the Commission of the divestiture transaction described in Paragraph II.A.1. shall be a written agreement by Supervalu that it will not sell the Assets To Be Divested, other than as provided in Paragraph II.B., for a period of three (3) years from the date on which this Order becomes final, directly or indirectly, through subsidiaries, partnerships or otherwise, without the prior approval of the Commission.

D. The purpose of the divestitures is to ensure the continuation of the Assets To Be Divested as ongoing viable enterprises engaged in the supermarket business and to remedy the lessening of competition resulting from the Acquisition alleged in the Commission's complaint.

III.

IT IS FURTHER ORDERED that:

A. If Respondents fail to divest absolutely and in good faith the Assets To Be Divested pursuant to Paragraph II.A. of this Order, the Commission may appoint a trustee to divest the Assets To Be Divested.

B. In the event that the Commission or the Attorney General brings an action pursuant to § 5(l) of the Federal Trade Commission Act, 15 U.S.C. § 45(l), or any other statute enforced by the Commission, Respondents shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed trustee, pursuant to § 5(l) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by the Respondents to comply with this Order.

C. If a trustee is appointed by the Commission or a court pursuant to Paragraph III.A. of this Order, Respondents shall consent to the following terms and conditions regarding the trustee's powers, duties, authority, and responsibilities:

1. The Commission shall select the trustee, subject to the consent of Respondents, which

consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If Respondents have not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee within ten (10) days after notice by the staff of the Commission to Respondents of the identity of any proposed trustee, Respondents shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the Assets To Be Divested.

3. Within ten (10) days after appointment of the trustee, Respondents shall execute a trust agreement that, subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, transfers to the trustee all rights and powers necessary to permit the trustee to effect each divestiture required by this Order.

4. The trustee shall have twelve (12) months from the date the Commission or court approves the trust agreement described in Paragraph III.C.3. to accomplish the divestitures, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve-month period, the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or, in the case of a court-appointed trustee, by the court; provided, however, the Commission may extend the period for each divestiture only two (2) times.

5. The trustee shall have full and complete access to the personnel, books, records, and facilities related to the Assets To Be Divested or to any other relevant information, as the trustee may request. Respondents shall develop such financial or other information as such trustee may reasonably request and shall cooperate with the trustee. Respondents shall take no action to interfere with or impede the trustee's accomplishment of the divestitures. Any delays in divestiture caused by Respondents shall extend the time for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or, for a court-appointed trustee, by the court.

6. The trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to Respondents' absolute and unconditional obligation to make each divestiture required by this Order at no minimum price. Each divestiture shall be made in the manner consistent with the terms of this Order; provided, however, if the trustee receives bona fide offers for an asset to be divested from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the trustee shall divest such asset to the acquiring entity or entities selected by Respondents from among those approved by the Commission.

7. The trustee shall serve, without bond or other security, at the cost and expense of Respondents, on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have the authority to employ, at the cost and expense of Respondents, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the divestitures and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of the Respondents, and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the

trustee's divesting the Assets To Be Divested.

8. Respondents shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

9. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph III.A. of this Order.

10. The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish each divestiture required by this Order.

11. The trustee may also divest such additional ancillary assets and businesses and effect such arrangements as are necessary to assure the marketability and the viability and competitiveness of the Assets To Be Divested.

12. The trustee shall have no obligation or authority to operate or maintain the Assets To Be Divested.

13. The trustee shall report in writing to Respondents and the Commission every sixty (60) days concerning the trustee's efforts to accomplish each divestiture required by this Order.

IV.

IT IS FURTHER ORDERED that:

A. Pending divestiture of the Assets To Be Divested pursuant to this Order, Respondents shall take such actions as are necessary to maintain the viability, competitiveness, and marketability of the Assets To Be Divested, and to prevent the destruction, removal, wasting, deterioration, or impairment of any of Assets To Be Divested except for ordinary wear and tear.

B. Respondents shall comply with all the terms of the Asset Maintenance Agreement attached to this Order and made a part hereof as Appendix I. The Asset Maintenance Agreement shall continue in effect until such time as all Assets To Be Divested have been divested as required by this Order.

V.

IT IS FURTHER ORDERED that, for a period of ten (10) years from the date this Order becomes final, Respondents shall not, without providing advance written notification to the Commission, directly or indirectly, through subsidiaries, partnerships, or otherwise:

A. Acquire any ownership or leasehold interest in any facility that has operated as a supermarket within six (6) months of the date of such proposed acquisition in Hancock, Harrison, Jackson, Lamar, Forrest, and Warren counties in Mississippi, and Escambia County, Florida.

B. Acquire any stock, share capital, equity, or other interest in any entity that owns any interest in or operates any supermarket or owned any interest in or operated any

supermarket within six (6) months of such proposed acquisition in Hancock, Harrison, Jackson, Lamar, Forrest, and Warren counties in Mississippi, and Escambia County, Florida.

Provided, however, that advance written notification shall not apply to the construction of new facilities by Respondents or the acquisition of or leasing of a facility that has not operated as a supermarket within six (6) months of Respondents' offer to purchase or lease.

Said notification shall be given on the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended (hereinafter referred to as "the Notification"), and shall be prepared and transmitted in accordance with the requirements of that part, except that no filing fee will be required for any such notification, notification shall be filed with the Secretary of the Commission, notification need not be made to the United States Department of Justice, and notification is required only of Respondents and not of any other party to the transaction. Respondents shall provide the Notification to the Commission at least thirty days prior to consummating any such transaction (hereinafter referred to as the "first waiting period"). If, within the first waiting period, representatives of the Commission make a written request for additional information or documentary material (within the meaning of 16 C.F.R. § 803.20), Respondents shall not consummate the transaction until twenty days after submitting such additional information or documentary material. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted by letter from the Bureau of Competition. Provided, however, that prior notification shall not be required by this paragraph for a transaction for which notification is required to be made, and has been made, pursuant to Section 7A of the Clayton Act, 15 U.S.C. § 18a.

VI.

IT IS FURTHER ORDERED that, for a period of ten (10) years commencing on the date this Order becomes final:

A. Respondents shall neither enter into nor enforce any agreement that restricts the ability of any person (as defined in Section 1(a) of the Clayton Act, 15 U.S.C. § 12(a)) that acquires any supermarket, any leasehold interest in any supermarket, or any interest in any retail location used as a supermarket on or after July 1, 1997, to operate a supermarket at that site if such supermarket was formerly owned or operated by Respondents in Hancock, Harrison, Jackson, Lamar, Forrest, and Warren counties in Mississippi, and Escambia County, Florida.

B. Respondents shall not remove any equipment from a supermarket owned or operated by Respondents in Hancock, Harrison, Jackson, Lamar, Forrest, and Warren counties in Mississippi, and Escambia County, Florida, prior to a sale, sublease, assignment, or change in occupancy, except for replacement or relocation of such equipment in or to any other supermarket owned or operated by Respondents in the ordinary course of business, or except as part of any negotiation for a sale, sublease, assignment, or change in occupancy of such supermarket.

VII.

IT IS FURTHER ORDERED that:

A. Within thirty (30) days after the date this Order becomes final and every thirty (30) days thereafter until Respondents have fully complied with the provisions of Paragraphs II or III of this Order, Respondents shall submit to the Commission verified written reports setting forth in detail the manner and form in which they intend to comply, are complying, and

have complied with Paragraphs II and III of this Order. Respondents shall include in their compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II and III of the Order, including a description of all substantive contacts or negotiations for divestitures and the identity of all parties contacted. Respondents shall include in their compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning divestiture.

B. One (1) year from the date this Order becomes final, annually for the next nine (9) years on the anniversary of the date this Order becomes final, and at other times as the Commission may require, Respondents shall file verified written reports with the Commission setting forth in detail the manner and form in which they have complied and are complying with this Order.

VIII.

IT IS FURTHER ORDERED that Respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate Respondents such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other change in Respondents that may affect compliance obligations arising out of the Order.

IX.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this Order, upon written request, Respondents shall permit any duly authorized representative of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Respondents relating to any matters contained in this Order; and

B. Upon five (5) days' notice to Respondents and without restraint or interference from Respondents, to interview Respondents or officers, directors, or employees of Respondents in the presence of counsel.

By the Commission, Commissioner Azcuenaga not participating.

Donald S. Clark
Secretary

SEAL:

ISSUED: January 28, 1998

Schedule A

1. The following supermarket located in Hancock County, Mississippi:
 - a. Delchamps store no. 64 operating under the "Delchamps" trade name, which is located at Choctaw Plaza Shopping Center, 318 Highway 90, Waveland, MS 39576;
2. The following supermarkets located in Harrison County, Mississippi:

- a. Jitney-Jungle store no. 33 operating under the "Jitney-Jungle" trade name, which is located at 917 Division St., Biloxi, MS 39530;
 - b. Jitney-Jungle store no. 32 operating under the "Jitney-Jungle" trade name, which is located at 1225 Pass Road, Gulfport, MS 39501;
 - c. Jitney-Jungle store no. 42 operating under the "Jitney-Jungle" trade name, which is located at Handsboro Square Shopping Center, 1345 East Pass Road, Gulfport, MS 39501; and
 - d. Delchamps store no. 364 operating under the "Delchamps" trade name, which is located at 11240-A Highway 49 North, Gulfport, MS 39503;
3. The following supermarkets located in Escambia County, Florida:
- a. Jitney-Jungle store no. 54 operating under the "Jitney-Jungle" trade name, which is located at 4081-A East Olive Road, Pensacola, FL 32514.
 - b. Jitney-Jungle store no. 52 operating under the "Sack & Save" trade name, which is located at Brent Oaks Mall, East Brent Lane, Pensacola, FL 32503.
4. The following supermarket located in Lamar County, Mississippi:
- a. Delchamps store no. 67 operating under the "Delchamps" trade name, which is located at Oak Grove Plaza Shopping Center, 4600 West Hardy Street, Hattiesburg, MS 39401.
5. The following supermarket located in Forrest County, Mississippi:
- a. Delchamps store no. 9 operating under the "Delchamps" trade name, which is located at 601 Broadway Street, Hattiesburg, MS 39401.
6. The following supermarket located in Warren County, Mississippi:
- a. Delchamps store no. 115 operating under the "Delchamps" trade name, which is located at Delchamps Plaza, 3046-D Indiana Avenue, Vicksburg, MS 39180.

APPENDIX I

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

In the Matter of

JITNEY-JUNGLE STORES OF AMERICA, INC., a corporation;

BRUCKMANN, ROSSER, SHERRILL & CO., L.P., a limited partnership;

DELTA ACQUISITION CORPORATION, a corporation; and

DELCHAMPS, INC., a corporation.

File No. 971-0093

ASSET MAINTENANCE AGREEMENT

This Asset Maintenance Agreement ("Agreement") is by and between Jitney-Jungle Stores

of America, Inc. ("Jitney-Jungle"), a corporation organized, existing, and doing business under and by virtue of the laws of the State of Mississippi, with its office and principal place of business located at 1770 Ellis Avenue, Suite 200, Jackson, Mississippi 39204; Bruckmann, Rosser, Sherrill & Co., L.P. ("Bruckman"), a limited partnership organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at Two Greenwich Plaza, Greenwich, Connecticut 06830; Delta Acquisition Corporation ("Delta"), a corporation organized, existing, and doing business under and by virtue of the laws of the State of Alabama, with its office and principal place of business

located at c/o Jitney-Jungle Stores of America, Inc., 1770 Ellis Avenue, Suite 200, Jackson, Mississippi 39204; Delchamps, Inc. ("Delchamps"), a corporation organized, existing, and doing business under and by virtue of the laws of the State of Alabama, with its office and principal place of business located at 305 Delchamps Drive, Mobile, Alabama 36602 (collectively "Proposed Respondents"); and the Federal Trade Commission ("Commission"), an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, 15 U.S.C. § 41, *et seq.* (collectively "the Parties").

PREMISES

WHEREAS, Jitney-Jungle, of which a majority of the voting securities are owned by Bruckmann, and Delta, a wholly-owned subsidiary of Jitney-Jungle, pursuant to an Agreement and Plan of Merger dated July 8, 1997, agreed to acquire all of the outstanding stock of Delchamps (hereinafter "the proposed Acquisition"); and

WHEREAS, the Commission is now investigating the proposed Acquisition to determine if it would violate any of the statutes the Commission enforces; and

WHEREAS, if the Commission accepts the attached Agreement Containing Consent Order ("Consent Order"), the Commission is required to place it on the public record for a period of sixty (60) days for public comment and may subsequently either withdraw such acceptance or issue and serve its Complaint and its Decision and final Order in disposition of the proceeding pursuant to the provisions of Section 2.34 of the Commission's Rules; and

WHEREAS, the Commission is concerned that if an agreement is not reached preserving the status quo ante of the Assets To Be Divested as defined in the attached Consent Order

(hereinafter referred to as "Assets" or "Supermarket(s)") during the period prior to their divestiture, any divestiture resulting from the Consent Order or from any other administrative proceeding challenging the legality of the Acquisition might not be possible, or might produce a less than effective remedy; and

WHEREAS, the purpose of this Agreement and of the Consent Order is to preserve the Assets pending their divestiture pursuant to the terms of the Consent Order, in order to remedy any anticompetitive effects of the proposed Acquisition; and

WHEREAS, Proposed Respondents entering into this Agreement shall in no way be construed as an admission by Proposed Respondents that the proposed Acquisition is illegal; and

WHEREAS, Proposed Respondents understand that no act or transaction contemplated by this Agreement shall be deemed immune or exempt from the provisions of the antitrust laws or the Federal Trade Commission Act by reason of anything contained in this

Agreement.

NOW, THEREFORE, in consideration of the Commission's agreement that at the time it accepts the Consent Order for public comment it will grant early termination of the Hart-Scott-Rodino waiting period, the Parties agree as follows:

TERMS OF AGREEMENT

1. Proposed Respondents agree to execute, and upon its issuance to be bound by, the attached Consent Order. The Parties further agree that each term defined in the attached Consent Order shall have the same meaning in this Agreement.
2. Proposed Respondents agree that from the date Proposed Respondents sign this Agreement until the earlier of the dates listed in subparagraphs 2.a. and 2.b., Proposed Respondents will comply with the provisions of this Agreement:
 - a. three (3) business days after the Commission withdraws its acceptance of the Consent Order pursuant to the provisions of Section 2.34 of the Commission's Rules; or
 - b. the date all of the divestitures required by the Consent Order have been completed.
3. Proposed Respondents shall maintain the viability, marketability, and competitiveness of the Assets, and shall not cause the wasting or deterioration of the Assets, nor shall they cause the Assets to be operated in a manner inconsistent with applicable laws, nor shall they sell, transfer, encumber or otherwise impair the marketability, viability, or competitiveness of the Assets. Proposed Respondents shall conduct or cause to be conducted the business of the Supermarkets in the regular and ordinary course and in accordance with past practice (including regular repair and maintenance efforts) and shall use their best efforts to preserve the existing relationships with each Supermarket's suppliers, customers, employees and others having business relations with the Supermarkets, in the ordinary course of the Supermarkets' business and in accordance with past practice. Proposed Respondents shall not terminate the operation of any Supermarket. Proposed Respondents shall continue to maintain the inventory of each Supermarket at levels and selections (e.g., stock-keeping units) consistent with those maintained by such Proposed Respondent(s) at such Supermarket in the ordinary course of business consistent with past practice. Proposed Respondents shall use best efforts to keep the organization and properties of each of the Supermarkets intact, including current business operations, physical facilities, working conditions, and a work force of equivalent size, training, and expertise associated with each Supermarket. Included in the above obligations, Proposed Respondents shall, without limitation:
 - a. maintain operations and departments and shall not reduce hours at each Supermarket;
 - b. not transfer inventory from any Supermarket other than in the ordinary course of business consistent with past practice;
 - c. make any payment required to be paid under any contract or lease when due, and otherwise shall pay all liabilities and satisfy all obligations, in each case in a manner consistent with past practice;
 - d. maintain each Supermarket's books and records;
 - e. not display any signs or conduct any advertising (including direct mailing, point-of-purchase coupons, etc.), that indicates that any Proposed Respondent is moving its operations to another location, or that indicates a Supermarket will close;

f. not conduct any "going out of business," "close-out," "liquidation" or similar sales or promotions at or relating to any Supermarket;

g. not change or modify in any material respect the existing advertising practices, programs and policies for any Supermarket, other than changes in the ordinary course of business consistent with past practice for supermarkets of the Proposed Respondents not being closed or relocated; or

h. not transfer any of the Proposed Respondents' on-site employees employed at any Supermarket on the date of this Agreement to any other supermarket or location owned or operated by any Proposed Respondent other than transfers in the ordinary course of business consistent with past practice.

4. Should the Commission seek in any proceeding to compel Proposed Respondents to divest themselves of the Assets or to seek any other injunctive or equitable relief, Proposed Respondents shall not raise any objection based upon the expiration of the applicable Hart-Scott-Rodino Antitrust Improvements Act waiting period or the fact that the Commission has not sought to enjoin the Acquisition. Proposed Respondents also waive all rights to contest the validity of this Agreement.

5. For the purpose of determining or securing compliance with this Agreement, subject to any legally recognized privilege, and upon written request with five (5) days' notice to Proposed Respondents and to their principal office(s), Proposed Respondents shall permit any duly authorized representative or representatives of the Commission:

a. access during the office hours of Proposed Respondents, in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Proposed Respondents relating to compliance with this Agreement; and

b. to interview officers or employees of Proposed Respondents, who may have counsel present, regarding any such matters.

6. This Agreement shall not be binding on the Commission until approved by the Commission.

Signed this ____ day of September, 1997.

JITNEY-JUNGLE CORPORATION OF AMERICA, INC., a corporation

By: _____
Michael E. Julian
Chief Executive Officer and President

R. Barry Cannada, Esq.
Butler, Snow, O'Mara, Stevens & Cannada, PLLC
Counsel for Jitney-Jungle Stores of America, Inc.

Stephen A. Stack, Jr., Esq.
Dechert Price & Rhoads
Counsel for Jitney-Jungle Stores of America, Inc.

BRUCKMANN, ROSSER, SHERRILL & CO., L.P., a limited partnership

By: _____

Harold O. Rosser, II
Managing Director

Stephen A. Stack, Jr., Esq.
Dechert Price & Rhoads
Counsel for Bruckmann, Rosser, Sherrill & Co., L.P.

DELTA ACQUISITION CORPORATION, a corporation

By: _____

Michael E. Julian
President

R. Barry Cannada, Esq.
Butler, Snow, O'Mara, Stevens & Cannada, PLLC
Counsel for Delta Acquisition Corporation

Stephen A. Stack, Jr., Esq.
Dechert Price & Rhoads
Counsel for Delta Acquisition Corporation

DELCHAMPS, INC., a corporation

By: _____

David W. Morrow
Chairman of the Board and Chief Executive Officer

Howard E. Sinor, Jr., Esq.
Jones, Walker, Waechter, Poitevent, Carrere & Denegre, L.L.P. Counsel for Delchamps,
Inc.

FEDERAL TRADE COMMISSION

By: _____

Debra Valentine
General Counsel

The Commission accepted the consent agreement for public comment on September 11, 1997.

Donald S. Clark
Secretary