

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

**COMMISSIONERS: Andrew N. Ferguson, Chairman
 Mark R. Meador**

In the Matter of)	
)	
Garage Topco LP,)	
 a limited partnership;)	
)	
PEP VIII Intermediate 7 L.P.,)	
 a limited partnership;)	
)	
365 Retail Markets, LLC,)	
 a limited liability company;)	Docket No. C-
)	
and)	
)	
Cantaloupe, Inc.,)	
 a corporation.)	
)	

DECISION

The Federal Trade Commission initiated an investigation of the proposed acquisition by Garage Topco LP, and PEP VIII Intermediate 7 L.P., limited partnerships that control 365 Retail Markets, LLC (“365”), of Cantaloupe, Inc. (“Cantaloupe”) (collectively “Respondents”). The Commission’s Bureau of Competition prepared and furnished to Respondents the Draft Complaint, which it proposed to present to the Commission for its consideration. If issued by the Commission, the Draft Complaint would charge Respondents with violations of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45 (collectively “Acts”).

Respondents and the Bureau of Competition executed an Agreement Containing Consent Orders (“Consent Agreement”) containing (1) an admission by Respondents of all the jurisdictional facts set forth in the Draft Complaint, (2) 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 the Draft Complaint, or that the facts as alleged in the Draft Complaint, other than jurisdictional facts, are true, (3) waivers and other provisions as required by the Commission’s Rules, and (4) a proposed Decision and Order and Order to Maintain Assets.

The Commission considered the matter and determined that it had reason to believe that Respondents have violated the said Acts, and that a complaint should issue stating its charges in

that respect. The Commission accepted the Consent Agreement and placed it on the public record for a period of 30 days for the receipt and consideration of public comments; at the same time, it issued and served its Complaint and Order to Maintain Assets. The Commission duly considered any comments received from interested persons pursuant to Commission Rule 2.34, 16 C.F.R. § 2.34. Now, in further conformity with the procedure described in Rule 2.34, the Commission makes the following jurisdictional findings, and issues the following Decision and Order (“Order”):

1. Respondent Garage Topco LP, is a limited partnership organized, existing, and doing business under, and by virtue of, the laws of the State of Delaware with its executive offices and principal place of business located at c/o Providence Equity Partners L.L.C., 50 Kennedy Plaza, 18th Floor, Providence, RI 02903.
2. Respondent PEP VIII Intermediate 7 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 headquarters and principal place of business located at c/o Providence Equity Partners L.L.C., 50 Kennedy Plaza, 18th Floor, Providence, RI 02903.
3. Respondent 365 Retail Markets, LLC is a limited liability company organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its headquarters and principal place of business located at 1743 Maplelawn Drive, Troy, MI 48084.
4. Respondent Cantaloupe, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania, with its headquarters and principal place of business located at 101 Lindenwood Drive, Suite 405, Malvern, PA 19355.
5. The Commission has jurisdiction over the subject matter of this proceeding and over the Respondents, and the proceeding is in the public interest.

ORDER

I. Definitions

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

- A. “365” means 365 Retail Markets, LLC, its directors, officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, partnerships, divisions, groups, and affiliates controlled by 365 Retail Markets, LLC, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- B. “Garage Topco,” means Garage Topco LP, its directors, officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, partnerships,

- divisions, groups, and affiliates controlled by Garage Topco LP, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- C. “PEP VIII” means PEP VIII Intermediate 7 L.P., its directors, officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, partnerships, divisions, groups, and affiliates controlled by PEP VIII Intermediate 7 L.P., and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- D. “Cantaloupe” means Cantaloupe, Inc., its directors, officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, partnerships, divisions, groups, and affiliates controlled by Cantaloupe, Inc., and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- E. “Seaga” means Seaga Manufacturing, Inc., a corporation organized, existing, and doing business under and by virtue of the laws of Illinois, with its executive offices and principal place of business located at 700 Seaga Drive, Freeport, IL 61032.
- F. “Three Square Market” means Three Square Market, Inc., a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with its executive offices and principal place of business located at c/o Cantaloupe, Inc., 101 Lindenwood Drive, Suite 405, Malvern, PA 19355.
- G. “Commission” means the Federal Trade Commission.
- H. “Acquirer” means:
1. Seaga Manufacturing, Inc.; or
 2. Any other Person that acquires the Three Square Market Assets pursuant to this Order.
- I. “Acquisition” means the proposed acquisition described in the agreement titled Agreement and Plan of Merger dated June 15, 2025.
- J. “Acquisition Date” means the date Respondents consummate the Acquisition.
- K. “Business Information” means books, records, data, and information, wherever located and however stored, used in the operation of the Three Square Market Business relating to the Three Square Market Assets, including documents, written information, graphic materials, and data and information in electronic format, along with the knowledge of employees, contractors, and representatives. Business Information includes books, records, information, and data relating to sales, marketing, logistics, products and SKUs, pricing, promotions, advertising, personnel, accounting, business strategy, information technology systems, customers, suppliers, vendors, research and development, Equipment, operations, and all other information used in the operation of the Three Square Market Business relating to the Three Square Market Assets.
- L. “Confidential Information” means all information not in the public domain, including Business Information, except for any information that was or becomes generally available to the public other than as a result of disclosure by Respondents.
- M. “Consent” means an approval, consent, ratification, waiver, or other authorization.

- N. “Contract” means an agreement, contract, lease, license agreement, consensual obligation, promise, or undertaking (whether written or oral and whether express or implied), whether legally binding with third parties.
- O. “Direct Cost” means the cost of labor, materials, travel, and other expenditures directly incurred. The cost of any labor included in Direct Cost shall not exceed the hours of labor provided times the then-current average hourly wage rate, including benefits, for the employee providing such labor.
- P. “Divestiture Agreement” means the Equity Purchase Agreement, by and among Cantaloupe, Inc., Seaga Manufacturing, Inc., Three Square Market, Inc., and 365 Retail Markets, LLC, dated March 4, 2026, and all amendments, exhibits, attachments, agreements (including agreements to provide Transitional Assistance), and schedules attached to this Order as Nonpublic Appendix A.
- Q. “Divestiture Date” means the date on which Respondents consummate the divestiture of the Three Square Market Assets to the Acquirer as required by this Order.
- R. “Divestiture Trustee” means the Person appointed by the Commission pursuant to Section X of this Order.
- S. “Employee Information” means to the extent permitted by law, the following information summarizing the employment history of each employee that includes:
1. Name, job title or position, date of hire, and effective service date;
 2. Specific description of the employee’s responsibilities;
 3. The employee’s base salary or current wages;
 4. Most recent bonus paid, aggregate annual compensation for Respondents’ last fiscal year, and current target or guaranteed bonus, if any;
 5. Written performance reviews for the past three years, if any;
 6. Employment status (*i.e.*, active or on leave or disability; full-time or part-time);
 7. Any other material terms and conditions of employment in regard to such employee that are not otherwise generally available to similarly situated employees; and
 8. At the Acquirer’s option, copies of all employee benefit plans and summary plan descriptions (if any) applicable to the employee.
- T. “Equipment” means all tangible personal property of every kind owned or leased by Respondents in connection with the operation of the Three Square Market Business, including all: fixtures, furniture, computer equipment and third-party software, office equipment, telephone systems, security systems, registers, credit card systems, credit card invoice printers and electronic point of sale devices, money order machines and money order stock, shelving, display racks, walk-in boxes, furnishings, signage, tools, supplies,

and all other items of equipment or tangible personal property of any nature or other systems used in the operation of the Three Square Market Business, together with any express or implied warranty by the manufacturers or sellers or lessors of any item or component part, to the extent such warranty is transferrable, and all maintenance records and other related documents.

- U. “Governmental Authorization” means a Consent, license, registration, or permit issued, granted, given or otherwise made available by or under the authority of any governmental body or pursuant to any legal requirement.
- V. “Intellectual Property” means all intellectual property, including commercial names, assumed fictional business names, trade names, “doing business as” (d/b/a names), registered and unregistered trademarks, service marks and applications, and trade dress; patents, patent applications and inventions and discoveries that may be patentable; registered and unregistered copyrights in both published works and unpublished works; know-how, trade secrets, confidential or proprietary information, customer lists, software, technical information, data, process technology, plans, drawings, and blue prints; and rights in internet web sites and internet domain names presently used.
- W. “Micromarket Kiosks” means any technology solution that enables users to self-scan or self-select and pay for merchandise or refreshments at micromarkets, which are unattended self-service mini-convenience stores commonly situated in offices, workplace breakrooms, and other private or semi-private locations.
- X. “Monitor” means any Person appointed by the Commission to serve as a monitor pursuant to this Order or the Order to Maintain Assets.
- Y. “Orders” means this Order and the Order to Maintain Assets.
- Z. “Person” means any individual, partnership, corporation, business trust, limited liability company, limited liability partnership, joint stock company, trust, unincorporated association, joint venture or other entity or a governmental body.
- AA. “Relevant Employee” means full-time employees, part-time employees, or contract employees, who were employed by or under contract with Respondents at any time during the 90 days preceding the Acquisition Date or at any time after the Acquisition Date, and whose duties primarily relate or were primarily related to operating the Three Square Market Business.
- BB. “Retained Assets” means any asset solely used by, and in the operation of, Three Square Market Limited, a private limited company organized, existing, and doing business under and by virtue of the laws of England and Wales, with its headquarters and principal place of business located at C/O Csc Cls (Uk) Limited 5 Churchill Place, 10th Floor, London, England, E14 5HU.
- CC. “River Falls Lease” means the agreement for the lease of real property located at 3329 Casey Street, River Falls, WI 54022.
- DD. “Three Square Market Assets” means all of Respondent Cantaloupe’s right, title, and interest, including any equity interests, in Three Square Market, and all property and assets, real, personal, or mixed, tangible and intangible, of every kind and description, wherever located, used in, or relating to the Three Square Market Business, including:

1. The River Falls Lease and all other real property interests (including fee simple interests and real property leasehold interests), including all easements, and appurtenances, together with all buildings and other structures, facilities, and improvements located thereon, owned, leased, or otherwise held;
2. All Intellectual Property;
3. All Equipment;
4. All Contracts and all outstanding offers or solicitations to enter into any Contract, and all rights thereunder and related thereto;
5. All Governmental Authorizations and all pending applications therefor or renewals thereof, to the extent transferable;
6. All Business Information; and
7. All intangible rights and property, including going concern value, goodwill, and telephone listings.

Provided, however, the Three Square Market Assets does not include the Retained Assets.

- EE. “Three Square Market Business” means the business activities related to the operation of Three Square Market in the United States and Canada.
- FF. “Transitional Assistance” means technical services, personnel, assistance, training, and other logistical, administrative, and other transitional support as required by the Acquirer to facilitate the transfer of the Three Square Market Assets from Respondents to the Acquirer, including services, training, personnel, and support related to: audits, finance and accounting, accounts receivable, accounts payable, employee benefits, payroll, pensions, human resources, information technology and systems, maintenance and repair of facilities and equipment, purchasing, quality control, R&D support, technology transfer, use of Respondents’ brands for transitional purposes, operating permits and licenses, regulatory compliance, sales and marketing, customer service, and supply chain management and customer transfer logistics.

II. Divestiture

IT IS FURTHER ORDERED that:

- A. No later than 10 days after the Acquisition Date, Respondents shall divest the Three Square Market Assets as an ongoing Three Square Market Business, absolutely, in good faith, to Seaga.

Provided, however, that, if within 12 months after issuing this Order, the Commission determines, in consultation with the Acquirer and the Monitor, the Acquirer needs one or

more Retained Assets to operate the Three Square Market Assets in a manner that achieves the purposes of this Order, Respondents shall divest, absolutely and in good faith, such needed Retained Assets to the Acquirer;

Provided, further, however, that if Business Information includes information (i) that also relates to other retained businesses of Respondents and cannot be segregated in a manner that preserves the usefulness of the information as it relates to the Three Square Market Assets or (ii) where Respondents have a legal obligation to retain the original copies, then Respondents shall provide only copies of the materials containing such information with appropriate redactions to the Acquirer and shall provide the Acquirer access to the original materials if copies are insufficient for regulatory or evidentiary purposes.

B. If Respondents have divested the Three Square Market Assets to the Acquirer prior to the date this Order becomes final, and if, at the time the Commission determines to make this Order final, the Commission notifies Respondents that:

1. The Acquirer is not an acceptable purchaser of the relevant Three Square Market Assets, then Respondents shall rescind the divestiture to that Acquirer within 5 days of notification, and shall divest the relevant Three Square Market Assets no later than 180 days from the date this Order is issued, absolutely and in good faith, at no minimum price, to a Person that receives the prior approval of the Commission and in a manner that receives the prior approval of the Commission; or
2. The manner in which the divestiture to the Acquirer was accomplished is not acceptable, the Commission may direct Respondents, or appoint a Divestiture Trustee, to modify the manner of divestiture of the relevant Three Square Market Assets as the Commission may determine is necessary to satisfy the requirements of this Order.

C. Respondents shall obtain, no later than the Divestiture Date and at its sole expense, all Consents from third parties and all Governmental Authorizations that are necessary to affect the complete transfer and divestiture of the Three Square Market Assets on such Divestiture Date and for the Acquirer to operate any aspect of the relevant Three Square Market Business.

Provided, however, that Respondents may satisfy the requirement to obtain all Consents from third parties by certifying that the Acquirer has entered into equivalent agreements or arrangements directly with the relevant third party that are acceptable to the Commission, or has otherwise obtained all necessary Consents and waivers; and

Provided, further, however, that with respect to any Governmental Authorizations that are not transferable, Respondents shall, to the extent permitted under applicable law, allow the Acquirer to operate the Three Square Market Business under Respondents' Governmental Authorizations pending the Acquirer's receipt of its own Governmental Authorizations, and Respondents shall provide such assistance as the Acquirer may

reasonably request in connection with its efforts to obtain such Governmental Authorizations.

- D. Respondents shall assist the Acquirer to conduct a due diligence investigation of the Three Square Market Assets, including by providing sufficient and timely access to all information customarily provided as part of a due diligence process, and affording the Acquirer and its representatives (including prospective lenders and their representatives) full and free access, during regular business hours, to the personnel, assets, Contracts, Governmental Authorizations, and Business Information, with such rights of access to be exercised in a manner that does not unreasonably interfere with the operations of Respondents.

III. Third-Party Interoperability

- A. Respondent 365 shall not discriminate against any third-party or customer integration request, and shall offer, maintain, and establish integrations on the same or similar terms regardless of the identity of the third party or customer, so long as the third party or customer adheres to current National Automatic Merchandising Association (“NAMA”) standards, or such other standards that may be in effect during the term of this Order. Any fees charged by Respondent 365 for establishing, maintaining, or facilitating an integration must also be reasonable.

Provided, however, nothing in this Order shall prevent Respondent 365 from charging different fees to third parties and customers, so long as those fees are objective, specific, and related to the work being performed to establish or maintain integration for the particular third party or customer.

Provided further, however, Respondent 365 is not required to develop or facilitate integrations where Respondent has a reasonable basis to believe that the integration would: (i) create data security issues, or (ii) would threaten Respondent 365’s or Respondent 365’s customers’ business or reputations.

- B. Respondent 365 shall not:
1. Downgrade, inhibit, or alter an existing integration during the term of the integration (other than at the request of the customer), except for reasonable circumstances, *provided, however,* it is consistent with the treatment of any similar integration, including between Respondent 365’s own products and/or services. Respondent 365 shall identify and describe the reasonable circumstances for each customer in its Compliance Reports pursuant to Section XIII.
 2. Raise maintenance fees for existing customers using such integrations, except for reasonable circumstances that Respondent 365 describes in its Compliance Reports provided pursuant to Section XIII.

- C. Respondent 365 shall not discriminate among its customers related to the customer's right to access their own data, including any terms (such as the quality, cadence, or robustness of any data transfers) and costs pursuant to the customer's right to its data.
- D. Respondent 365 shall abide by industry consensus-based standards, such as NAMA standards, in effect during the term of this Order relating to facilitating integrations.
- E. Respondent 365 shall not use, or derive, any Confidential Information, for itself or any third party, as part of establishing, facilitating, or maintaining any integrations, except as is necessary to effectuate the transfer of data itself pursuant to any integrations or as is otherwise necessary to support a third-party integration (and only to the extent necessary).
- F. In instances where Respondent 365 does not comply with or complete an integration request from a customer or third party, Respondent 365 must submit a supplemental compliance report that includes, (1) a description of each instance, (2) the name of the customer or third party, (3) the reason(s) for failure to comply or complete the integration request, and (4) any other information Respondent 365 believes is helpful to understanding the circumstances of the situation.

IV. Divestiture Agreement

IT IS FURTHER ORDERED that:

- A. The Divestiture Agreement shall be incorporated by reference into this Order and made a part hereof, and any failure by Respondents to comply with the terms of the Divestiture Agreement shall constitute a violation of this Order; *provided, however*, that the Divestiture Agreement shall not limit, or be construed to limit, the terms of this Order. To the extent any provision in the Divestiture Agreement varies from or conflicts with any provision in this Order such that Respondents cannot fully comply with both, Respondents shall comply with this Order.
- B. Respondents shall not modify or amend the terms of the Divestiture Agreement after the Commission issues this Order without the prior approval of the Commission, except as otherwise provided in Commission Rule 2.41(f)(5), 16 C.F.R. § 2.41(f)(5).

V. Transition Assistance

IT IS FURTHER ORDERED that:

- A. Until Respondents have transferred all Business Information and divested the Three Square Market Assets to the Acquirer, Respondents shall ensure that the Business Information is maintained and updated in the ordinary course of business and shall provide the Acquirer with access to that Business Information (wherever located and however stored) that Respondents have not yet transferred to the Acquirer, and to employees who possess the records and information.

- B. At the option of the Acquirer, Respondents shall provide the Acquirer with Transitional Assistance sufficient to (1) transfer efficiently the Three Square Market Assets to the Acquirer, and (2) allow the Acquirer to operate the Three Square Market Business with the related Three Square Market Assets in a manner that is equivalent in all material respects to the manner in which Respondent Cantaloupe did so prior to the Acquisition.
- C. Respondents shall provide Transitional Assistance:
 - 1. As set forth in a Divestiture Agreement, or as otherwise reasonably requested by the Acquirer (whether before or after the Divestiture Date);
 - 2. At the price set forth in the Divestiture Agreement, or if no price is set forth, at Direct Cost; and
 - 3. For a period sufficient to meet the requirements of this Section V.
- D. Respondents shall allow the Acquirer to terminate, in whole or part, any Transitional Assistance of the Divestiture Agreement upon commercially reasonable notice and without cost (other than fees accrued through the date of termination) or penalty.
- E. Respondents shall not cease providing Transitional Assistance due to a breach by the Acquirer of the Divestiture Agreement, and shall not limit any damages (including indirect, special, and consequential damages) that the Acquirer would be entitled to receive in the event of Respondents' breach of the Divestiture Agreement.

VI. Employees

IT IS FURTHER ORDERED that:

- A. Until one year after the Divestiture Date, Respondents shall cooperate with and assist the Acquirer to evaluate independently and offer employment to any Relevant Employee.
- B. For 90 days after the Divestiture Date, Respondents shall:
 - 1. No later than 10 days after a request from the Acquirer, provide a list of the requested Relevant Employees and provide Employee Information for each;
 - 2. No later than 10 days after a request from the Acquirer, provide an opportunity to privately interview any of the Relevant Employees outside the presence or hearing of any employee or agent of Respondents, and to make offers of employment to any of the Relevant Employees;
 - 3. Remove any impediments within the control of Respondents that may deter Relevant Employees from accepting employment with the Acquirer, including removal of any non-compete or confidentiality provisions of employment or other

contracts with Respondents that may affect the ability or incentive of those individuals to be employed by the Acquirer, and shall not make any counteroffer to any Relevant Employee who receives an offer of employment from the Acquirer; *provided, however*, that nothing in this Order shall be construed to require Respondents to terminate the employment of any employee or prevent Respondents from continuing the employment of any employee;

4. Continue to provide Relevant Employees with all employee benefits offered by Respondents, including regularly scheduled or merit raises and bonuses, and regularly scheduled vesting of all benefits while they are employed by Respondents;
 5. Provide reasonable financial incentives to encourage Relevant Employees to continue in their positions, and as may be necessary, to facilitate the employment of such Relevant Employees by the Acquirer; and
 6. Not interfere, directly or indirectly, with the hiring, recruiting, or employing by the Acquirer of any Relevant Employee, including not offering any incentive to such employees to decline employment with the Acquirer.
- C. Respondents shall not, for at least a period of one year after the Divestiture Date, directly or indirectly, solicit or otherwise attempt to induce any Person employed by the Acquirer to terminate his or her employment with the Acquirer.

Provided, however, Respondents may (i) hire any such Person whose employment has been terminated by the Acquirer; (ii) advertise for employees in newspapers, trade publications, or other media, or engage recruiters to conduct general employee search activities, in either case not targeted specifically at one or more Person employed by the Acquirer; or (iii) hire a Person who has applied for employment with Respondents, as long as such application was not solicited or induced in violation of this Section VI.

VII. Asset Maintenance

IT IS FURTHER ORDERED that until Respondents fully transfer the Three Square Market Assets to the Acquirer, Respondents shall, subject to their obligations under the Order to Maintain Assets:

- A. Operate the Three Square Market Business relating to the Three Square Market Assets in the ordinary course of business consistent with past practices and take all actions necessary to maintain the full economic viability, marketability, and competitiveness of such Three Square Market Business;

- B. Prevent the destruction, removal, wasting, deterioration, closing, or impairment (other than as a result of ordinary wear and tear) of the Three Square Market Assets, including:
 - 1. Maintaining, repairing, and replacing any Equipment to the extent and in a manner consistent with past practices;
 - 2. Not terminating, canceling, renewing, or amending any Contract, except as consistent with past practices; and
 - 3. Not entering any Contract that would restrain or restrict the ability of the Acquirers to compete against Respondents.
- C. Make any payment required to be paid under any contract or lease when due, and otherwise satisfy all liabilities and obligations associated with the Three Square Market Assets;
- D. Provide the Three Square Market Business relating to the Three Square Market Assets with sufficient funds to operate at least at current rates of operation, to meet all capital calls, to perform routine or necessary maintenance, to repair or replace facilities and equipment, and to carry on at least at their scheduled pace all capital projects, business plans, development projects, promotional activities, and marketing activities;
- E. Provide resources as may be necessary to respond to competition against the Three Square Market Business relating to the Three Square Market Assets, prevent diminution in sales of the Three Square Market Business, and maintain the competitive strength of the Three Square Market Business;
- F. Not reduce operating hours;
- G. Not reduce, change, or modify in any material respect, the level of marketing, promotional, pricing, or advertising practices, programs, and policies for the Three Square Market Business related to the Three Square Market Assets, other than changes in the ordinary course of business consistent with changes made at Respondents' other businesses that Respondents will not divest;
- H. Not target, encourage, or convert customers of the Three Square Market Business relating to the Three Square Market Assets to become customers of Respondents' other businesses that will not be divested; *provided, however*, that nothing in this Paragraph VII.H shall prevent Respondents from engaging in advertising, marketing, and promotion activities: (i) generally applicable to all of Respondents' businesses, or (ii) in the ordinary course of business and in accordance with past practice;
- I. Provide support services at levels customarily provided by Respondents;
- J. Maintain all licenses, permits, approvals, authorizations, or certifications related to or necessary for the operation of the Three Square Market Business relating to the Three

Square Market Assets, and otherwise operate such Three Square Market Business in accordance and compliance with all regulatory obligations and requirements;

- K. Not sell, transfer, encumber, or otherwise impair the Three Square Market Assets (other than in the manner prescribed in the Orders);
- L. Not take any action that lessens the full economic viability, marketability, or competitiveness of the Three Square Market Assets;
- M. Not terminate the operations of the Three Square Market Business relating to the Three Square Market Assets;
- N. Preserve the existing relationships with suppliers, customers, employees, governmental authorities, vendors, landlords, and others having business relationships with the Three Square Market Business relating to the Three Square Market Assets;
- O. Maintain the working conditions, staffing levels, and a workforce of equivalent size, training, and expertise associated with the Three Square Market Business relating to the Three Square Market Assets, including:
 - 1. When vacancies occur, replacing the employees in the regular and ordinary course of business, in accordance with past practice; and
 - 2. Not transferring any employees from the Three Square Market Business relating to the Three Square Market Assets to any of Respondents' assets or businesses that Respondents will not divest.

Provided, however, that Respondents may take actions that the Acquirer has requested or agreed to in writing and that have been approved in advance by Commission staff, in all cases to facilitate the Acquirer's acquisition of the Three Square Market Assets and consistent with the purposes of the Orders.

VIII. Confidentiality

IT IS FURTHER ORDERED that:

- A. Respondents shall not (x) disclose (including to Respondents' employees) or (y) use for any reason or purpose, any Confidential Information received or maintained by Respondents; *provided, however,* that Respondents may disclose or use such Confidential Information in the course of:
 - 1. Performing their obligations or as permitted under the Orders or any Divestiture Agreement; or
 - 2. Complying with financial reporting requirements, obtaining legal advice, prosecuting or defending legal claims, investigations, or enforcing actions

threatened or brought against the Three Square Market Assets or any Three Square Market Business, or as required by law or regulation, including any applicable securities exchange rules or regulations.

- B. If disclosure or use of any Confidential Information is permitted to Respondents' employees or to any other Person under this Section VIII, Respondents shall limit such disclosure or use (1) only to the extent such information is required; (2) only to those employees or Persons who require such information for the purposes permitted under Paragraph VIII.A; and (3) only after such employees or Persons have signed an agreement to maintain the confidentiality of such information.
- C. Respondents shall enforce the terms of this Section VIII and take necessary actions to ensure that their employees and other Persons comply with the terms of this Section VIII, including implementing access and data controls, training their employees, and other actions that Respondents would take to protect their own trade secrets and proprietary information.

IX. Monitor

IT IS FURTHER ORDERED that:

- A. The Commission appoints Edward Buthusiem as the Monitor to observe and report on Respondents' compliance with their obligations as set forth in the Orders.
- B. Respondents and the Monitor may enter into an agreement relating to the Monitor's services. Any such agreement:
 - 1. Shall be subject to the approval of the Commission;
 - 2. Shall not limit, and the signatories shall not construe it to limit, the terms of this Section IX of this Order or the Section relating to the Monitor in the Order to Maintain Assets ("Monitor Sections"), and to the extent any provision in the agreement varies from or conflicts with any provision in the Monitor Sections, Respondents and the Monitor shall comply with the Monitor Sections; and
 - 3. Shall include a provision stating that the agreement does not limit, and the signatories shall not construe it to limit, the terms of the Orders in this matter, and to the extent any provision in the agreement varies from or conflicts with any provision in the Orders, Respondents and the Monitor shall comply with the Orders.
- C. The Monitor shall:
 - 1. Have the authority to monitor Respondents' compliance with the obligations set forth in the Orders;
 - 2. Act in consultation with the Commission or its staff;

3. Serve as an independent third party and not as an employee or agent of Respondents or of the Commission;
4. Serve without bond or other security;
5. At the Monitor's option, employ such consultants, accountants, attorneys, and other representatives and assistants as are reasonably necessary to carry out the Monitor's duties and responsibilities;
6. Enter into a non-disclosure or other confidentiality agreement with the Commission related to Commission materials and information received in connection with the performance of the Monitor's duties and require that each of the Monitor's consultants, accountants, attorneys, and other representatives and assistants shall also enter into a non-disclosure or other confidentiality agreement with the Commission;
7. Notify staff of the Commission, in writing, no later than 5 days in advance of entering into any arrangement that creates a conflict of interest, or the appearance of a conflict of interest, including a financial, professional, or personal conflict. If the Monitor becomes aware of such a conflict only after it has arisen, the Monitor shall notify the Commission as soon as the Monitor becomes aware of the conflict;
8. Report in writing to the Commission concerning Respondents' compliance with this Order on a schedule as determined by Commission staff and at any other time requested by the staff of the Commission; and
9. Unless the Commission or its staff determine otherwise, the Monitor shall serve until Commission staff determines that Respondents have satisfied all obligations under Sections II and V, and files a final report.

D. Respondents shall:

1. Cooperate with and assist the Monitor in performing his or her duties for the purpose of reviewing Respondents' compliance with their obligations under the Orders, including as requested by the Monitor, (a) providing the Monitor full and complete access to personnel, information, and facilities; and (b) making such arrangements with third parties to facilitate access by the Monitor;
2. Not interfere with the ability of the Monitor to perform his or her duties pursuant to the Orders;
3. Pay the Monitor's fees and expenses as set forth in an agreement approved by the Commission, or if such agreement has not been approved, pay the Monitor's customary fees, as well as expenses the Monitor incurs performing his or her duties under the Orders, including expenses of any consultants, accountants, attorneys, and other representatives and assistants that are reasonably necessary to assist the Monitor in carrying out his or her duties and responsibilities;

4. Not require the Monitor to disclose to Respondents the substance of the Monitor's communications with the Commission or any other Person or the substance of written reports submitted to the Commission pursuant to the Orders; and
 5. Indemnify and hold the Monitor harmless against any loss, claim, damage, liability, and expense (including attorneys' fees and out of pocket costs) that arises out of, or is connected with, a claim concerning the performance of the Monitor's duties under the Orders, unless the loss, claim, damage, liability, or expense results from gross negligence or willful misconduct by the Monitor.
- E. Respondents may require the Monitor and each of the Monitor's consultants, accountants, attorneys, and other representatives and assistants to enter into a customary confidentiality agreement, so long as the agreement does not restrict the Monitor's ability to access personnel, information, and facilities or provide information to the Commission, or otherwise observe and report on Respondents' compliance with the Orders.
- F. If the Monitor resigns or the Commission determines that the Monitor has ceased to act, has failed to act diligently, or is otherwise unable to continue serving as a Monitor due to the existence of a conflict or other reasons, the Commission may appoint a substitute Monitor. The substitute Monitor shall be afforded all rights, powers, and authorities and shall be subject to all obligations of the Monitor Paragraphs of the Orders. The Commission shall select the substitute Monitor, subject to the consent of Respondents who:
1. Shall not unreasonably withhold consent to the appointment of the selected substitute Monitor;
 2. Shall be deemed to have consented to the selection of the proposed substitute Monitor if, within 10 days of notice by staff of the Commission of the identity of the proposed substitute Monitor, Respondents have not opposed in writing, including the reasons for opposing, the selection of the proposed substitute Monitor; and
 3. May enter into an agreement with the substitute Monitor relating to the substitute Monitor's services that either (a) contains substantially the same terms as the Commission-approved agreement referenced in Paragraph IX.B; or (b) receives Commission approval.
- G. The Commission may on its own initiative or at the request of the Monitor issue such additional orders or directions as may be necessary or appropriate to ensure compliance with the requirements of the Orders.

X. Divestiture Trustee

IT IS FURTHER ORDERED that:

- A. If Respondents have not fully complied with the obligations to assign, grant, license, divest, transfer, deliver, or otherwise convey the Three Square Market Assets as required by this Order, the Commission may appoint a trustee (“Divestiture Trustee”) to assign, grant, license, divest, transfer, deliver, or otherwise convey these assets in a manner that satisfies the requirements of this Order. In the event that the Commission or the Attorney General brings an action pursuant to § 5(*I*) 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 Divestiture Trustee in such action to assign, grant, license, divest, transfer, deliver, or otherwise convey these assets. Neither the appointment of a Divestiture Trustee nor a decision not to appoint a Divestiture Trustee under this Paragraph X.A shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed Divestiture Trustee, pursuant to § 5(*I*) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by Respondents to comply with this Order.
- B. The Commission shall select the Divestiture Trustee, subject to the consent of Respondents which consent shall not be unreasonably withheld. The Divestiture 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 Divestiture Trustee within 10 days after notice by the staff of the Commission to Respondents of the identity of any proposed Divestiture Trustee, Respondents shall be deemed to have consented to the selection of the proposed Divestiture Trustee.
- C. Not later than 10 days after the appointment of a Divestiture Trustee, Respondents shall execute a trust agreement that, subject to the prior approval of the Commission, transfers to the Divestiture Trustee all rights and powers necessary to permit the Divestiture Trustee to affect the divestitures required by this Order. Any failure by Respondents to comply with a trust agreement approved by the Commission shall be a violation of this Order.
- D. If a Divestiture Trustee is appointed by the Commission or a court pursuant to this Section X, Respondents shall consent to the following terms and conditions regarding the Divestiture Trustee’s powers, duties, authority, and responsibilities:
 1. Subject to the prior approval of the Commission, the Divestiture Trustee shall have the exclusive power and authority to assign, grant, license, divest, transfer, deliver, or otherwise convey the assets that are required by this Order to be assigned, granted, licensed, divested, transferred, delivered, or otherwise conveyed;

2. The Divestiture Trustee shall have one year from the date the Commission approves the trustee trust agreement described herein to accomplish the divestitures, which shall be subject to the prior approval of the Commission. If, however, at the end of the one-year period, the Divestiture Trustee has submitted a plan of divestiture or the Commission believes that the divestitures can be achieved within a reasonable time, the divestiture period may be extended by the Commission;

provided, however, the Commission may extend the divestiture period only 2 times;

3. Subject to any demonstrated legally recognized privilege, the Divestiture Trustee shall have full and complete access to the personnel, books, records, and facilities related to the relevant assets that are required to be assigned, granted, licensed, divested, delivered, or otherwise conveyed by this Order and to any other relevant information, as the Divestiture Trustee may request. Respondents shall develop such financial or other information as the Divestiture Trustee may request and shall cooperate with the Divestiture Trustee. Respondents shall take no action to interfere with or impede the Divestiture Trustee's accomplishment of the divestitures. Any delays in divestitures caused by Respondents shall extend the time for divestitures under this Paragraph X.D in an amount equal to the delay, as determined by the Commission or, for a court-appointed Divestiture Trustee, by the court;

4. The Divestiture Trustee shall use commercially reasonable 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 divest expeditiously and at no minimum price. The divestitures shall be made in the manner and to Acquirers that receive the prior approval of the Commission as required by this Order;

provided, however, if the Divestiture Trustee receives bona fide offers from more than one acquiring person for a divestiture, and if the Commission determines to approve more than one such acquiring person for the divestiture, the Divestiture Trustee shall divest to the acquiring person selected by Respondents from among those approved by the Commission;

provided, further, however, that Respondents shall select such person within 5 days of receiving notification of the Commission's approval;

5. The Divestiture 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 Divestiture 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 Divestiture Trustee's duties and responsibilities. The Divestiture Trustee shall account for all

monies derived from the divestiture and all expenses incurred. After approval by the Commission of the account of the Divestiture Trustee, including fees for the Divestiture Trustee's services, all remaining monies shall be paid at the direction of Respondents, and the Divestiture Trustee's power shall be terminated. The compensation of the Divestiture Trustee shall be based at least in significant part on a commission arrangement contingent on the divestiture of all of the relevant assets that are required to be divested by this Order;

6. Respondents shall indemnify the Divestiture Trustee and hold the Divestiture Trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Divestiture 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 losses, claims, damages, liabilities, or expenses result from gross negligence or willful misconduct by the Divestiture Trustee;
7. The Divestiture Trustee shall have no obligation or authority to operate or maintain the Divestiture Assets required to be divested by this Order;
8. The Divestiture Trustee shall report in writing to Respondents and to the Commission every 30 days concerning the Divestiture Trustee's efforts to accomplish the divestiture; and
9. Respondents may require the Divestiture Trustee and each of the Divestiture Trustee's consultants, accountants, attorneys, and other representatives and assistants to sign a customary confidentiality agreement;

provided, however, that such agreement shall not restrict the Divestiture Trustee from providing any information to the Commission.

- E. The Commission may, among other things, require the Divestiture Trustee and each of the Divestiture Trustee's consultants, accountants, attorneys, and other representatives and assistants to sign an appropriate confidentiality agreement related to Commission materials and information received in connection with the performance of the Divestiture Trustee's duties.
- F. If the Commission determines that a Divestiture Trustee has ceased to act or failed to act diligently, the Commission may appoint a substitute Divestiture Trustee in the same manner as provided in this Section X.
- G. The Commission or, in the case of a court-appointed Divestiture Trustee, the court, may on its own initiative or at the request of the Divestiture Trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestitures and other obligations or action required by this Order.

XI. Respondent Prior Notice

IT IS FURTHER ORDERED that:

- A. For a period of 10 years from the date this Order is issued, Respondents shall not, without providing advance written notification to the Commission (“Notification”), acquire directly or indirectly, through subsidiaries or otherwise, any interest in any company involving Micromarket Kiosks in the United States.
- B. The Notification required by Paragraph XI.A 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, 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 30 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 30 days after substantially complying with such request. Early termination of the waiting periods in this Paragraph XI.B 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 XI.B 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.

XII. No Reacquisition

IT IS FURTHER ORDERED that for a period of 10 years from the date this Order is issued, Respondents shall not, acquire directly or indirectly, through subsidiaries or otherwise, any leasehold, ownership interest, or any other interest, in whole or in part, any of the Three Square Market Assets.

XIII. Compliance Reports

IT IS FURTHER ORDERED that:

- A. Respondents shall:
 - 1. Notify Commission staff via email at bccompliance@ftc.gov of the Acquisition Date and the Divestiture Date no later than 5 days after the occurrence of each; and

2. Submit the Divestiture Agreement to the Commission at ElectronicFilings@ftc.gov and bccompliance@ftc.gov no later than 30 days after the Divestiture Date.
- B. Respondents shall file verified written reports (“Compliance Reports”) in accordance with the following:
1. Respondents shall submit:
 - a. Interim Compliance Reports 30 days after this Order is issued, and every 60 days thereafter until Respondents have complied fully with Section II of this Order;
 - b. Annual Compliance Reports one year after the date this Order is issued, and annually thereafter for the next 9 years on the anniversary of that date; and
 - c. Additional Compliance Reports as the Commission or its staff may request.
 2. Each Compliance Report shall contain sufficient information and documentation to enable the Commission to determine independently whether Respondents are in compliance with this Order. Conclusory statements that Respondents have complied with their obligations under this Order are insufficient. Respondents shall include in their Compliance Reports, among other information or documentation that may be necessary to demonstrate compliance, a full description of the measures Respondents have implemented or plan to implement to ensure that they have complied or will comply with each Section of this Order.
 3. For a period of 5 years after filing a Compliance Report, Respondents shall retain all material written communications with each party identified in each Compliance Report and all non-privileged internal memoranda, reports, and recommendations concerning fulfilling Respondents’ obligations under this Order during the period covered by such Compliance Report. Respondents shall provide copies of these documents to Commission staff upon request.
 4. Respondents shall verify each Compliance Report in the manner set forth in 28 U.S.C. § 1746 by the Chief Executive Officer or another officer or employee specifically authorized to perform this function. Respondents shall file their Compliance Reports with the Secretary of the Commission at ElectronicFilings@ftc.gov and the Compliance Division at bccompliance@ftc.gov, as required by Commission Rule 2.41(a), 16 C.F.R. § 2.41(a). In addition, Respondents shall provide a copy of each Compliance Report to the Monitor if the Commission has appointed one in this matter.

XIV. Change in Respondents

IT IS FURTHER ORDERED that Respondents shall notify the Commission at least 30 days prior to:

- A. The proposed dissolution of Garage Topco LP, PEP VIII Intermediate 7 L.P., and 365 Retail Markets, LLC;
- B. The proposed acquisition, merger, or consolidation of Garage Topco LP, PEP VIII Intermediate 7 L.P., and 365 Retail Markets, LLC, or
- C. Any other change in Respondents, including assignment and the creation, sale, or dissolution of subsidiaries, if such change may affect compliance obligations arising out of this Order.

XV. Access

IT IS FURTHER ORDERED that, for purposes of determining or securing compliance with this Order, and subject to any legally recognized privilege, upon written request and 5 days' notice to Respondents, made to their principal places of business as identified in this Order, registered office of their United States subsidiary, or their headquarters office, the Respondents shall, without restraint or interference, permit any duly authorized representative of the Commission:

- A. Access, during business office hours of Respondents and in the presence of counsel, to all facilities and access to inspect and copy all business and other records and all documentary material and electronically stored information as defined in Commission Rules 2.7(a)(1) and (2), 16 C.F.R. § 2.7(a)(1) and (2), in the possession or under the control of Respondents related to compliance with this Order, which copying services shall be provided by Respondents at the request of the authorized representative of the Commission and at the expense of Respondents; or
- B. To interview officers, directors, or employees of Respondents, who may have counsel present, regarding such matters.

XVI. Purpose

IT IS FURTHER ORDERED that the purpose of this Order is to ensure the continued use of the Three Square Market Assets in the same Three Square Market Business in which such assets were engaged at the time of the announcement of the Acquisition by Respondents and to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's Complaint.

XVII. Term

IT IS FURTHER ORDERED that this Order shall terminate 10 years from the date it is issued.

By the Commission.

April J. Tabor
Secretary

SEAL

ISSUED:

NONPUBLIC APPENDIX A

[Divestiture Agreements]

[Redacted From the Public Record Version, But Incorporated By Reference]

**PUBLIC APPENDIX B
MONITOR AGREEMENT**

**NONPUBLIC APPENDIX C
MONITOR COMPENSATION**