**Office Use Only:**

Date Pmt Rec'd: \_\_\_\_\_ Fee Paid: \$ \_\_\_\_\_ Check No: \_\_\_\_\_

Police Department approval issued ☐ Notes: \_\_\_\_\_Meets applicable zoning bylaws ☐ \_\_\_\_\_Certificate of Occupancy issued ☐ \_\_\_\_\_Board of Health Permits issued ☐ \_\_\_\_\_

Board of Selectmen Decision Date \_\_\_\_\_

Approved ☐ Denied ☐

## TOWN OF NATICK

### COMMON VICTUALER LICENSE APPLICATION

*(Type or print clearly; illegible applications will not be accepted)*For Calendar Year: 2020Date Submitted: 4/8/20Fee: \$100.00

The undersigned hereby applies for a Common Victualer License in accordance with the provisions of the Statutes relating thereto:

**Common Victualer License Only****Common Victualer with Liquor License**

Name of Person, Firm, or Corporation Making Application (Licensee):

Brian Cappello Cappello, LLCName of Establishment (d/b/a) Giovanni's Home of PizzaAddress of Establishment 160 W Central Street, NatickMailing address *(if different from establishment)* \_\_\_\_\_Contact Person (to whom ALL licensing information will be sent, *including renewal notice and license*)Brian CappelloEmail Address cappello.brian@gmail.com Phone 617-901-8402Manager of Establishment Same

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

If Business is a Corporation, Corporate Name and Officers \_\_\_\_\_

If Business is an LLC, List of Members Cappello, LLC Brian Cappello

Establishment's Days and Hours of Operation W-T, 4-8:30, F 4-9:30, Sat 12-9, Sun 12-8:30

Number of Staff 4

Number of Seats 12

Has a Certificate of Occupancy been issued? Yes

If not, expected date of issuance \_\_\_\_\_

Have Board of Health Permits been issued? Yes

If not, expected date of issuance \_\_\_\_\_

**Additional Information Requested by the Town of Natick Police Department for Background Check:**

Applicant's Social Security Number or Employee I.D. Number 023647720

Date of Birth 11/27/1971

I, the Undersigned, state that the information provided in this application, and associated attachments, is true and accurate to the best of my knowledge.

**Tax Attestation:** Furthermore, Pursuant to MGL Ch. 62C, Sec 49A, I certify under the penalties of perjury that I, to the best of my knowledge and belief, have filed all state tax returns and paid all state taxes required under law.

Print Name of Applicant or Corporate Officer Brian Cappello

Signature of Applicant or Corporate Officer 

Date 04/08/2000

Please print and submit completed application and all required supporting materials as listed below to the Board of Selectmen's Office (508-647-6410), Natick Town Hall, 13 East Central Street, Natick, MA 01760. See additional important licensing information on the Town website at [natickma.gov](http://natickma.gov): click on Government, then on Board of Selectmen, then on Grants, Licenses & Permits. Contact the Community & Economic Development Office (508-647-6450) and the Board of Health (508-647-6460), both located on the second floor of Town Hall, and the Town Clerk's Office (508-647-6430), located on the first floor of Town Hall, regarding any other zoning regulations, building requirements, permits, etc. pertaining to your application for a common victualer's license. A common victualer's license, if approved, will be issued only if all zoning regulations are met and a Certificate of Occupancy and Board of Health permits are issued.

**Required documents:**

1. Proof of Workers Compensation Insurance (if applicable)
2. Workers' Compensation Insurance Affidavit
3. Set of floor plans and site plan\*\*\* (If renewing a license and changes have been made to the premises in the previous 12 months, a revised set of floor plans and site plan must be submitted) N/A
4. List of equipment and estimated cost\*\*\*
5. Copy of Bill of Sale or Lease Agreement\*\*\*
6. If a Corporation, a copy of Articles of Organization; if an LLC, a copy of the Membership Agreement and list of members\*\*\*
7. \$75.00 Application fee (checks made payable to the Town of Natick)

\*\*\* New Applicants Only (see exception for item #3)

# Corporations Division

## Business Entity Summary

ID Number: 001433033

[Request certificate](#)[New search](#)

Summary for: CAPPELLO, LLC

**The exact name of the Domestic Limited Liability Company (LLC):** CAPPELLO, LLC**Entity type:** Domestic Limited Liability Company (LLC)**Identification Number:** 001433033**Date of Organization in Massachusetts:**  
04-03-2020**Last date certain:****The location or address where the records are maintained** (A PO box is not a valid location or address):

Address: 160 W CENTRAL ST

City or town, State, Zip code, NATICK, MA 01760 USA  
Country:**The name and address of the Resident Agent:**

Name: BRIAN CAPPELLO

Address: 15 VILLAGE WAY #6

City or town, State, Zip code, NATICK, MA 01760 USA  
Country:**The name and business address of each Manager:**

Title	Individual name	Address
MANAGER	BRIAN CAPPELLO	160 W CENTRAL ST NATICK, MA 01760 UNI

**In addition to the manager(s), the name and business address of the person(s) authorized to execute documents to be filed with the Corporations Division:**

Title	Individual name	Address

**The name and business address of the person(s) authorized to execute, acknowledge, deliver, and record any recordable instrument purporting to affect an interest in real property:**

Title	Individual name	Address
REAL PROPERTY	BRIAN CAPPELLO	160 W CENTRAL ST NATICK, MA 01760 UNI

☐ Consent☐ Confidential  
Data☐ Merger  
Allowed☐ Manufacturing**View filings for this business entity:**

# NOTICE OF ASSIGNMENT - PENDING PAYMENT

**EMPLOYER:**

CAPPELLO LLC DBA GIOVANNIS PIZZA  
160 W CENTRAL STREET  
NATICK, MA 01760

**COMBO I.D.**

000966509

**STATUS OF EMPLOYER**

Limited Liability Comp

**COVERAGE GROUP**

1257248

The Waiver of Our Right to  
Recover from Others Endorsement  
is available on Pool policies.  
Contact your agent for details.

Coverage under this assignment  
applies to Massachusetts  
operations only. For coverage  
outside of Massachusetts, contact  
the appropriate Pool or Plan for  
that state.

**AGENT OR PRODUCER:** FAIR & YEAGER INSURANCE AGENCY INC  
BRENDA HOVEY  
10 MAIN ST  
NATICK, MA 01760

**AGENCY FEIN:** 043029188

CLASSIFICATION OF OPERATION	CLASS CODE	ESTIMATED TOTAL ANNUAL REMUNERATION	RATE	ESTIMATED PREMIUM
RESTAURANT NOC	9079	\$50,000	1.03	\$515
EMPLOYERS LIABILITY 500/500/500	9807			\$50
STANDARD PREMIUM				\$565
EXPENSE CONSTANT	0900			\$250
TERRORISM CHARGE	9740			\$15
TOTAL POLICY MINIMUM PREMIUM				\$265
TOTAL ESTIMATED PREMIUM				\$830
DIA ASSESS. 3.51%				\$18
TOTAL EST. PREMIUM PLUS ASSESSMENT				\$848
INSTALLMENT BASIS: Annual			DEPOSIT PREMIUM:	\$848
THIS IS NOT A BILL				

**COMMENTS**

CARRIER NOTE: Certain information on the electronic application was initially reported incorrectly or has changed. For the corrected information, refer to the attachments to this application included in your application bundle.

**DATE OF NOTICE:** 04/15/20

**PREPARED BY:**

Alison Doucette  
EXT 531

**LETTER ID:** 5438492



Brian Cappello &lt;cappello.brian@gmail.com&gt;

---

**Payment Confirmation for WCRIBMA Online Application**

1 message

**WCRIBMA** <epaynoreply@usbank.com>

Fri, Apr 17, 2020 at 2:25 PM

To: cappello.brian@gmail.com

\*\*\* PLEASE DO NOT RESPOND TO THIS EMAIL \*\*\*

Thank you for your payment.

This email is to confirm your payment submitted on Apr-17-2020 for WCRIBMA Online Application.

Confirmation Number: WCBTRV000162167

Payment Amount: \$848.00

Scheduled Payment Date: Apr-20-2020

Amount Due: \$848.00

Account Nickname: N/A

Name of Employer: Capello LLC DBA Giovanni's Famous Pizza

Routing Transit Number: 211371227

Account Number: \*9030

Account Type: Checking

Account Category: Business

If you have questions about this payment or need assistance, please view the payment online at <https://www.wcribma.org>, or call Customer Service at (617)439-9030.

Thank you for using the Workers Comp Ins Online Payments electronic payment system.

U.S. BANCORP made the following annotations

-----  
Electronic Privacy Notice. This e-mail, and any attachments, contains information that is, or may be, covered by electronic communications privacy laws, and is also confidential and proprietary in nature. If you are not the intended recipient, please be advised that you are legally prohibited from retaining, using, copying, distributing, or otherwise disclosing this information in any manner. Instead, please reply to the sender that you have received this communication in error, and then immediately delete it. Thank you in advance for your cooperation.  
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## SCHEDULE 1.4

NUMBER	ITEM	PURCHASE PRICE
--------	------	----------------

4	Take-out pizza <sup>pouches</sup> hots at \$65/each	\$260.00
1/2	5' Desert cases - glass - removing 1	\$2,000.00
4	Stainless steel tables	\$1,200.00
	Assortment of pots and pans	\$100.00
	Dinner Plats	\$75.00/each
4	Tables	\$75.00/each
1	<del>Tomato sauce blender</del> Not used - blend by hand	\$300.00
12	Steel chairs w/cushions	\$65.00/each
1	<u>Microwave oven</u>	\$75.00
	Assortment of short pans full, hotel pans & pizza pans, and storage containers	\$3,000.00
12	Aluminum racks on wheels	\$150.00/each
<del>1</del>	<del>Computer machine and two printers</del> Not used	<del>\$2,000.00</del>
1	Stand-up refrigerator <del>freezer</del> getting rid of	\$1,000.00
1	Flat screen TV 36"	\$500.00
1	<u>Food processor</u>	\$50.00
5	Large stainless-steel racks	\$250.00
8	Stainless steel pizza racks	\$45.00
4	Stainless steel shelves	\$500.00
	Assortment of utensils and silverware	\$500.00
1	<del>Coca cola frig</del> Being returned to Cage	<del>\$1,800.00</del>
2	Sets of outside tables and standup chairs with umbrellas	
1	Convair pizza oven	\$5,000.00
1	Flat grill	\$1,000.00
1	Floor burner oven	\$1,200.00
1	Salad unit 5' <sup>Does not exist</sup>	\$1,600.00
1	Slicing machine	\$2,000.00

(non depreciated amounts)

Being replaced w/a <sup>used</sup> Small salad chiller \$300

A

Equipment list

**SETTLEMENT STATEMENT**  
**ASSET PURCHASE**

David Sanchioni  
DBA  
"Giovanni's Famous Pizza"  
to  
Cappello, LLC  
160 West Central Street  
Natick, Massachusetts  
April 8, 2020

**BUYER'S TRANSACTION**

**PURCHASE PRICE** **\$18,000.00**

**Adjustments:**

Cable to Verizon (POC)	(\$579.28)	
Dough to Original Pizza (POC)	(\$1,698.83)	
Total Adjustments	(\$2,278.11)	(\$2,278.11)
*Water/Sewer to City of Natick		<b>\$500.00</b>

**Amount due from Buyer:** **\$16,221.89**

**SELLER'S TRANSACTION**

**PURCHASE PRICE** **\$18,000.00**

**Adjustments:**

Cable to Verizon (POC)	(\$579.28)	
Dough to Original Pizza (POC)	(\$1,698.83)	
Total Adjustments	(\$2,278.11)	(\$2,278.11)

**Amount due to Seller:** **\$15,721.89**

\*Seller will pay the balance due on the water/sewer bill to the City of Natick and the total amount due to Eversource (gas and electric utilities) through 4-8-20.

The undersigned agree to above disbursements and authorizes Rudolph Friedmann LLP to disburse accordingly.

**BUYER:**

**CAPPELLO, LLC**

DocuSigned by:

By:

Name:

Title:

*Brian Cappello*

Brian Cappello

Manager

**SELLER:**

DocuSigned by:

Name:

*David Sanchioni*

David Sanchioni

**SETTLEMENT AGENT:**

Rudolph Friedmann LLP

DocuSigned by:

By:

Name:

*Jocelyn Campbell, Esq.*

Jocelyn J. Campbell, Esq.

Disbursements		
Cappello, LLC	Funding	\$16,221.89
David Sanchioni	Sellers Proceeds	(\$15,721.89)
	City of Natick	(\$500.00)
Total		\$0.00

DS  
BL

DS  
[Signature]



## ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (this "**Agreement**") is made and entered into as of this day 8th of April 2020, by and between **David Sanchioni** with an address of \_\_\_\_\_ (the "**Seller**") and **Cappello, LLC**, a Massachusetts limited liability company with an address of 15 Village Way Natick, Massachusetts (the "**Purchaser**").

### RECITALS

WHEREAS, Seller owns and operates a retail pizza establishment known as "Giovanni's Famous Pizza" situated at 160 West Central Street, Natick, Massachusetts (the "**Business**"); and

WHEREAS, Seller desires to sell to Purchaser and Purchaser desires to buy from Seller certain assets of the Business.

NOW, THEREFORE, in consideration of the premises and the agreements, representations and warranties hereinafter set forth, Seller and Purchaser hereby agree as follows:

#### 1. PURCHASE AND SALE OF ASSETS

On the terms and subject to the conditions set forth in this Agreement, Seller hereby agrees to sell, assign, convey, transfer and deliver to Purchaser and Purchaser hereby agrees to purchase from Seller, free and clear of all Liens (as defined in Section 5.3 hereof), all of Seller's right, title and interest in and to the following assets used in the Seller's operation of its Business (the assets described in Sections 1.1 through 1.5 hereof shall hereinafter be referred to collectively as the "**Purchased Assets**"):

- 1.1. General Intangibles. All right, title, and interest in and to Seller's trade and business names and logos, all goodwill associated therewith, the Seller's website, and Seller's telephone and facsimile numbers pertaining to the Business.
- 1.2. Books and Records. All business records, books and data in the possession of or used by Seller relating to the Business, including, without limitation, customer files, correspondence with customers, vendors and account histories, sales literature and promotional or other material pertaining to the products and services provided for and by the Business, material relating to the purchase of materials, supplies and services, research and commercial data, credit information, catalogs, brochures, and training and other manuals provided, however, that the Seller may retain copies of any or all of such records.
- 1.3. Intentionally deleted.
- 1.4. Equipment and Fixtures. All of the Seller's right, title, and interest in and to the equipment, fixtures tools, machinery, computers (including all hardware and software), furniture, spare parts and any and all drawings, blueprints, plans and specifications

relating to the Business including, without limitation, that set forth on Schedule 1.4 attached hereto and made a part hereof (collectively, the "**Equipment**").

- 1.5. Licenses and Permits. To the extent transferable to Purchaser, all approvals, permits, orders, certificates, variances and product licenses and license applications, permits and other governmental authorizations and approvals (federal, state and local) relating to the Business (collectively, the "**Licenses and Permits**"). Purchaser shall apply for its own common victualers license(s).
- 1.6. Excluded Assets. Seller is not selling, and Purchaser is not purchasing, Seller's cash on hand or on deposit, Seller's accounts receivable or any other assets of Seller except as set forth in Sections 1.1 through 1.5 hereof.
- 1.7. Recipes. Seller will provide all menu food recipes in writing prior to the closing.
- 1.8. Seller Consult. In addition, the Seller shall make himself available for the purposes of consulting with regard to operation of the business. Such consultations shall take place within thirty (30) days of closing and shall not exceed five hours of telephone time or in person visits.
- 1.9. Allocation of the Purchase Price. The Seller and the Purchaser shall allocate the purchase price of the acquired assets pursuant to the Allocation of Purchase Price Schedule 1.8 attached hereto.

## 2. **LIABILITIES**

### 2.1. Assumption of Obligations.

- 2.1.1. On the terms and subject to the conditions set forth in this Agreement, Purchaser agrees to assume, perform and discharge only those obligations and liabilities arising after the Closing Date (as defined in Article 3 hereof) and arising out of Purchaser's performance under and relating to the Lease (as defined in Article 7 hereof).
- 2.1.2. Purchaser expressly does not assume and does not agree to assume any liability or obligation to Seller, direct or indirect, known or unknown, absolute or contingent, not expressly assumed by Purchaser pursuant to Section 2.1.1 hereof.

## 3. **CLOSING**

- 3.1. Closing Date. The consummation of the transaction contemplated by this Agreement (the "**Closing**") shall take place at 10:00 AM prevailing local time, on April \_\_, 2020 at 160 West Central Street, Natick, Massachusetts, or at such other time and place as the parties may agree (the "**Closing Date**"). By agreement of the parties, the Closing may be effectuated electronically. At the Closing, any necessary original documents may be sent by courier to the office of the closing attorney.

## 4. **PURCHASE PRICE**

- 4.1. Purchase Price. Upon the terms and subject to the conditions contained in this

Agreement, Purchaser shall pay to Seller the total sum of Eighteen Thousand (\$18,000.00) Dollars and 00/100 (the "**Purchase Price**") in full consideration for the Purchased Assets.

- 4.2. Payment of the Purchase Price. At the Closing, Purchaser shall pay to Seller the Purchase Price, in the following manner:

4.2.1. the sum of \$18,000.00 shall be paid by cashier's or treasurer's check, or by wire transfer, in immediately available funds at the Closing.

- 4.3. Events of Default and Seller's Remedies.

4.3.1. The following shall be Events of Default under this Agreement:

4.3.1.1. A default in the performance of any of Purchaser's obligations under this Agreement, or any other agreement or document that Purchaser has executed and delivered in connection herewith, which default continues uncured for at least fourteen (14) days after written notice of such default from Seller;

- 4.4. Transaction Costs. Seller shall be responsible for all sales and similar taxes assessed or payable in connection with the transfer of the Purchased Assets to Purchaser.

## 5. **REPRESENTATIONS, WARRANTIES AND AGREEMENTS OF SELLER**

As an inducement to Purchaser to enter into this Agreement and to consummate the transactions contemplated hereby, Seller represents and warrants to Purchaser and agrees as follows:

- 5.1. Organization and Standing. Seller is an individual and the sole proprietor of the Business heretofore described, validly existing and in good standing under the laws of the Commonwealth of Massachusetts.

- 5.2. Authority.

5.2.1. Seller is the sole and exclusive owner of the Business and has full power and authority to enter into this Agreement, to consummate the transactions contemplated hereby and to comply with the terms, conditions and provisions hereof and states that there are no other persons or entities with rights of ownership therein.

5.2.2. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby or compliance with or fulfillment of the terms and provisions hereof or of any other agreement or instrument contemplated hereby, do not and will not conflict with or result in a breach of any agreement, whether oral or written, to which Seller is a party.

5.2.3. Seller is not subject to any order, writ, award, judgment, decree or determination nor a party to nor bound by any deed of trust, mortgage, trust, lease, governmental or other license, permit or other authorization, contract, agreement, note or other instrument or restriction which could conflict with or

prevent the execution, delivery or performance of this Agreement or the consummation of the transactions contemplated hereby or compliance with the terms, conditions or provisions hereof.

- 5.2.4. This Agreement has been duly executed and delivered by Seller, and is the legal, valid and binding obligation of Seller enforceable against Seller in accordance with its terms.
- 5.3. Title to Assets; Condition. Seller has good and marketable title to the Purchased Assets free and clear of any and all Liens. For purposes of this Agreement, a "**Lien**" shall mean any lien, mortgage, hypothecation, pledge, or conditional sales contract. The Inventory and Equipment shall be delivered in "AS-IS" condition at Closing.
- 5.4. Trade Names. Doing business as "**Giovanni's Famous Pizza**" is the only trade name and logo relating to the Business. Seller has not adopted or otherwise used any other corporate name, trade name or logo or any trade or brand name, trademark or logo relating thereto or use the same in any manner which would be confusing to persons doing business with Purchaser.
- 5.5. Compliance with Laws. To the best of Seller's knowledge, the conduct of the Business complies in all material respects with all statutes, laws, regulations, ordinances, rules, judgments, orders or decrees applicable thereto.
- 5.6. Taxes and Creditor Claims. Seller has paid or will pay when due or finally settled all federal, state and local, foreign income taxes and any other applicable taxes relating to the Business or to the Purchased Assets which are or become due and payable by Seller for all periods up to and including the Closing Date. Seller has filed, or will file when due, all federal, state and local and other foreign income and franchise tax reports and returns required to be filed by Seller relating to the Business or the Purchased Assets for all periods up to and including the Closing Date. There are no liens for federal, state and local and other foreign income taxes upon the Purchased Assets other than those not yet delinquent or the validity of which is being contested in good faith. Seller has paid or will pay when due or finally settled all other taxes and all assessments relating to the Business or to the Purchased Assets including, without limitation, gross receipts, property, sales, use or other similar taxes which are due and payable by Seller for or allocable to all periods up to and including the Closing Date or are being contested in good faith. The Purchaser shall have no responsibility to pay any taxes of the Seller.
- 5.6.1. Set Off. As long as the Purchaser is not in default under this Agreement, the Purchaser shall have the right to set off any payments due the Seller (a "Setoff") on and subject to the following terms and conditions:
- 5.6.1.1. A Setoff may only be utilized to pay taxes imposed on the Seller and only if (1) such taxes constitute a lien on any of the Purchased Assets and (2) only after the Seller is given reasonable written notice of the taxes and the lien, and a reasonable opportunity to obtain a release of the lien; and

5.7. Creditor Claims. Seller has paid all creditors who provide goods or services to the Business. There are no outstanding invoices or liens for goods or services related to the Purchased Assets other than those the validity of which, is being contested in good faith and provided in writing to the Purchaser prior to closing. The Purchaser shall have no responsibility to pay any creditors for goods or services incurred by the Seller or received prior to the date of the closing.

5.7.1. A Setoff may be utilized to pay any claims of creditors for goods and services provided to the Business prior to the date of the closing.

5.8. Litigation. There is no action, suit, proceeding, arbitration or investigation pending or, to the best of Seller's knowledge, threatened, against Seller or the directors, officers, agents or employees of Seller with respect to the Purchased Assets or the Business, and there are no orders, writs, injunctions or decrees currently in force against Seller or the directors, officers, agents or employees of Seller with respect to the conduct of the Business.

5.9. Federal Tax Identification Number. Seller's Federal Tax Identification Number is \_\_\_\_\_

## 6. **REPRESENTATIONS, WARRANTIES AND AGREEMENTS OF PURCHASER**

As an inducement to Seller to enter into this Agreement and to consummate the transactions contemplated herein, Purchaser hereby represents and warrants to Seller and agrees as follows:

6.1. Organization and Standing. Purchaser is a Massachusetts limited liability company, duly organized, validly existing and in good standing under the laws of the Commonwealth of Massachusetts. Purchaser has the corporate power and authority to own its properties and assets and to carry out its business and is qualified to do business and is in good standing in all states required to perform this Agreement.

6.2. Authority.

6.2.1. Purchaser has full power and authority to enter into this Agreement and to consummate the transactions contemplated hereby and to comply with the terms, conditions and provisions hereof. The execution, delivery and performance of this Agreement by Purchaser has been duly authorized and approved by all requisite corporate action and does not require any other authorization or consent.

6.2.2. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby or compliance with or fulfillment of the terms and provisions hereof or of any other agreement or instrument contemplated hereby, do not and will not conflict with or result in a breach of any of the provisions of the Certificate of Organization or the Operating Agreement of Purchaser, or of any agreement to which Purchaser is a party.

6.2.3. Purchaser is not subject to any order, writ, award, judgment, decree or

determination nor a party to nor bound by any deed of trust, mortgage, trust, lease, governmental or other license, permit or other authorization, contract, agreement, note or other instrument or restriction which could conflict with or prevent the execution, delivery or performance of this Agreement or the consummation of the transactions contemplated hereby or compliance with the terms, conditions or provisions hereof or would materially and adversely affect the ability of Purchaser to perform any contracts, agreements or other obligations under this Agreement.

6.2.4. This Agreement has been duly executed and delivered by Purchaser, and is the legal, valid and binding obligation of Purchaser enforceable against Purchaser in accordance with its terms.

6.3. Due Diligence. Purchaser shall complete its due diligence within sixty days following the closing.

## **7. COVENANTS AND AGREEMENTS**

7.1. Employees of Seller. Seller shall pay to its employees of the Business all salaries, commissions, vacation pay, sick pay, and all other pay earned or accrued prior to the Closing Date. Purchaser shall have no obligation to hire any employee of Seller.

## **8. CONDITIONS TO PURCHASER'S OBLIGATIONS**

The obligation of Purchaser to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment of each of the following conditions except to the extent any such condition is waived in writing by Purchaser:

8.1. Performance by Seller. Seller shall have performed and complied with all terms, provisions and conditions of this Agreement to be performed and complied with by them, and

8.2. Representations and Warranties. The representations and warranties of Seller contained in this Agreement shall be true in all material respects as of the Closing Date (except as contemplated or permitted by this Agreement); and

8.3. At the Closing the Seller shall deliver to Purchaser:

8.3.1. Those deliverables set forth on the List of Exhibits and Schedules attached hereto; and

8.3.2. Such other corporate certificates and documents that the parties reasonably deem necessary to effectuate the consummation of the transaction contemplated herein.

8.4. Lease. Performance by Purchaser is subject to the Purchaser entering into a satisfactory lease with the landlord and obtaining all necessary permits and licenses to operate.

## **9. CONDITIONS TO SELLER'S OBLIGATIONS**

The obligation of Seller to consummate the transactions contemplated by this Agreement shall

be subject to the fulfillment of the following conditions except to the extent any such condition is waived in writing by Seller:

- 9.1. Performance of Purchaser. Purchaser shall have performed and complied with all of the terms, provisions and conditions of this Agreement to be performed and complied with by Purchaser, and
- 9.2. Representations and Warranties. The representations and warranties of Purchaser contained in this Agreement shall be true in all material respects as of the Closing Date (except as otherwise contemplated or permitted by this Agreement); and
- 9.3. Licenses and Permits. Purchaser shall deliver to Seller such certificates, licenses, permits and documents (if any) that the parties reasonably deem necessary to effectuate the consummation of the transaction contemplated herein and the operation of the Business including, but not necessarily limited to, evidence of the Purchaser's receipt of a victualer's license, all Town- and State-required permits and licenses, and all necessary insurance including, but not limited to, workers' compensation insurance.
- 9.4. Purchaser's Insurance. Purchaser shall have obtained its own personal property, general liability, and workman's compensation insurance policies.
- 9.5. Closing. At closing, the Purchaser shall pay the balance due and execute all the Closing Documents and other deliverables required pursuant to the Asset Purchase Agreement.

## 10. **INDEMNIFICATION AGREEMENT/SURVIVAL OF REPRESENTATIONS AND WARRANTIES**

- 10.1. Indemnification by Seller. Seller agrees to indemnify and hold Purchaser and Purchaser's officers, directors and employees harmless from any and all liabilities, losses, claims, judgments, damages, expenses and costs (including, without limitation, reasonable attorneys' fees and costs and expenses incurred in connection therewith) (collectively, the "Indemnifiable Damages") which it may suffer or incur by reason of: (i) the material breach or inaccuracy of any of the representations and warranties of Seller contained in this Agreement or in any document or instrument delivered pursuant to this Agreement; (ii) the material breach by Seller of any of the covenants or agreements made by it herein; (iii) any claims, liabilities or obligations of Seller arising out of the performance or nonperformance by Seller of the Lease or any other agreements or contracts prior to the Closing Date; and (iv) any claims, liabilities or obligations arising out of Seller's use, ownership or operation of the Purchased Assets prior to the Closing Date.
- 10.2. Indemnification by Purchaser. Purchaser agrees to indemnify and hold Seller and Seller's officers, directors and employees harmless from any and all Indemnifiable Damages which it may suffer or incur by reason of: (i) the material breach or inaccuracy of any of the representations or warranties of Purchaser contained in this Agreement or in any document or instrument delivered pursuant to this Agreement; (ii) the material breach by Purchaser of any of the covenants or agreements made by it herein; (iii) any claims, liabilities or obligations arising on or after the Closing Date

arising out of Purchaser's performance or nonperformance of the Lease or any other agreements or contracts, subsequent to the Closing Date; and (iv) any claims, liabilities or obligations arising out of Purchaser's use, ownership or operation of the Purchased Assets on or after the Closing Date.

- 10.3. Survival. The representations and warranties contained in this Agreement and in any schedules or certificates delivered pursuant hereto and the indemnification obligations of the parties hereto shall survive consummation of the transactions contemplated by this Agreement and shall remain in full force and effect for a period of two (2) years from the Closing Date regardless of any investigation made by or on behalf of any party hereto, but subject to all limitations and other provisions contained in this Agreement provided, however, that such time limitations shall not apply to matters relating to title to the Purchased Assets.

## 11. **SELLER'S ACKNOWLEDGMENT AND NON-COMPETITION AGREEMENT**

As a further inducement to Purchaser to enter into this Agreement and to consummate the transactions contemplated herein:

- 11.1. Seller's Acknowledgment. Seller acknowledges that the transactions contemplated in Section 11.2 hereof are commercially reasonable.
- 11.2. Seller's Covenant Not to Compete. For good and valuable consideration, Seller and the Principals agree that for a period of five (5) years from the Closing Date, and ten miles (10) miles from 160 West Central Street, Natick, Massachusetts provided that no Event of Default by the Purchaser has occurred, the Seller will not, directly or indirectly, as an employee, principal, agent, partner, member, director, consultant, shareholder, lender, owner, investor, advisor, contractor or joint venture or in any other capacity, on their own behalf or on behalf of any other person or entity, own, operate or be involved in any way with a pizza business that competes with the Business within an area of ten (10) miles from the Business location.

## 12. **GENERAL PROVISIONS**

- 12.1. Further Assurances. From time to time after the execution of this Agreement, Seller shall execute and deliver to Purchaser such other instruments of conveyance and transfer and such other documents as Purchaser may reasonably request or as may be otherwise necessary to more effectively convey and transfer to, and vest in, Purchaser and to put Purchaser in possession of the Purchased Assets and each part thereof, and Seller shall also cooperate with Purchaser in identifying non-listed contracts, providing support in employee transitional matters (if any), and any other transitional matters related to the transfer of the Business to Purchaser.
- 12.2. Notices. All notices or other communications required or permitted hereunder shall be in writing and shall be given by hand or by certified mail, return receipt requested, or by facsimile or e-mail addressed as follows:



<p>If to Seller:</p> <p>David Sanchioni</p>	<p>With a copy to:</p> <p>Mayer, Antonellis, Jachowicz &amp; Haranas, LLP ATTN: Joseph M. Antonellis, Esq. 288 Main Street Milford, MA 01757</p>
<p>If to Purchaser:</p> <p>Cappello LLC ATTN: Brian Cappello 15 Village Way Natick, Massachusetts 01760</p>	<p>With a copy to:</p> <p>Rudolph Friedmann LLP ATTN: Jocelyn Campbell, Esq. 92 State Street, 4<sup>th</sup> floor Boston, MA 02109</p>

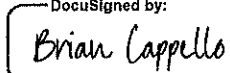
- 12.3. All such notices or other communications given hereunder shall be effective (a) if delivered by hand, when delivered; (b) if mailed in the manner provided herein, three (3) business days after deposit with the United States Postal Service; or (c) if sent via facsimile or e-mail, upon receipt by sender of confirmation notice.
- 12.4. Expenses. Each party hereto will pay all costs and expenses incident to its negotiation and preparation of this Agreement and to its performance and compliance with all agreements contained herein on its part to be performed, including the fees, expenses and disbursements of its counsel and accountants.
- 12.5. Governing Law. This Agreement shall be governed exclusively by and construed exclusively in accordance with the laws of the Commonwealth of Massachusetts.
- 12.6. Partial Invalidity. In case any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.
- 12.7. Assignment. This Agreement or any right hereunder shall not be assigned by either party without the written consent of the other party.
- 12.8. Successors and Assigns. Subject to the provisions of Section 12.7 hereof, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors or assigns.

- 12.9. Execution in Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be considered an original counterpart, and shall become a binding agreement when Purchaser and Seller shall have each executed one counterpart and delivered it to the other parties hereto.
- 12.10. Titles and Headings. Titles and headings to sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.
- 12.11. Entire Agreement; Amendments and Waivers. This Agreement contains the entire understanding of the parties hereto with regard to the subject matter contained herein. The parties hereto acknowledge that neither party makes any representations or warranties except for those representations and warranties specifically provided herein. The parties hereto, by mutual agreement in writing, may amend, modify and supplement this Agreement. The failure of any party hereto to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision, nor in any way to affect the validity of this Agreement or any part hereof or the right of such party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.
- 12.12. Brokers' and Finders' Fees. Each party warrants and represents to the other that it has not incurred, and shall not incur, any liability for any brokers' or finders' fees or agents' commissions in connection with this Agreement or the transactions contemplated hereby.
- 12.13. Third Party Beneficiaries. Each party hereto intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any person or entity other than the parties hereto.
- 12.14. Negotiated Agreement. This Agreement and the instruments to be executed pursuant to this Agreement are the result of negotiations between Seller and Purchaser. Accordingly, none of the foregoing parties shall be deemed to be the author of this Agreement or the resulting documents, and there shall be no presumption that this Agreement or any of such documents are to be construed for or against any such party on the basis of the authorship of the documents.
- 12.15. WAIVERS PERTAINING TO JURY TRIAL, ETC. IN ANY CASE, CONTROVERSY OR MATTER WHICH ARISES OUT OF, OR IS IN RESPECT OF, THIS AGREEMENT, THE PROMISSORY NOTE, THE SECURITY AGREEMENT, AND/OR ANY OTHER INSTRUMENT OR DOCUMENT EXECUTED AND/OR DELIVERED PURSUANT TO AND/OR IN ACCORDANCE WITH THIS AGREEMENT, WHETHER NOW EXISTING OR HEREAFTER ARISING, THE PARTIES HERETO KNOWINGLY, VOLUNTARILY AND INTENTIONALLY: (A) WAIVE ANY RIGHT TO AND AGREE NOT TO BRING, COMMENCE, OR OTHERWISE TAKE ANY ACTION TO TRANSFER ANY PROCEEDING INCLUDING WITHOUT LIMITATION COURT ACTION, ARBITRATION, MEDIATION, ADMINISTRATIVE PROCEEDING OR OTHERWISE, OTHER THAN IN THE COMMONWEALTH OF MASSACHUSETTS; AND (B) WAIVE ANY NOW EXISTING AND/OR HEREAFTER ARISING RIGHT TO A TRIAL BY

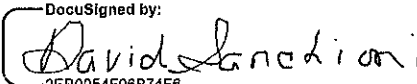
JURY.

**IN WITNESS WHEREOF**, the parties hereto have duly executed this Agreement under seal as of the day and year first above written.

PURCHASER  
CAPPELLO, LLC

By:   
A072C099FDE684EE...  
Name: Brian Cappello  
Title: Manager

SELLER

  
2EB0954F06B74F6...  
Name: David Sanchioni

**EXHIBIT A**

**BILL OF SALE**

**KNOW ALL MEN BY THESE PRESENTS:** That the undersigned, David Sanchioni (the “**Seller**”), for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby sell, convey, assign, transfer and deliver unto Cappello LLC, a Massachusetts Limited Liability Company, (“**Purchaser**”), all of Seller’s rights, title and interest in and to the Assets, as such term is defined in the Asset Purchase Agreement (the “**Agreement**”), dated April 6, 2020 by and between Seller and Purchaser.

**TO HAVE AND TO HOLD** all of the Assets hereby conveyed unto Purchaser, its successors and assigns, forever. Seller hereby represents and warrants that it is the true and lawful owner of the Assets to be conveyed hereunder with good and marketable title thereto, free and clear of all mortgages, liens, claims, pledges and encumbrances of any nature whatsoever, and Seller does for itself and its successors and assigns, covenant and agree to and with Purchaser and its successors and assigns, to warrant and defend the title to said Assets.

Seller hereby constitutes and appoints Purchaser, its successors and assigns, the true and lawful attorney of Seller, with full power of substitution, for Seller and in its name and stead or otherwise, but on behalf of and for the benefit of Purchaser, its successors and assigns, to demand and receive from time to time any and all of the Assets hereby sold, assigned, transferred and conveyed, and to give receipts and releases for and in respect of the same and any part thereof, and from time to time to institute and prosecute in the name of Seller or otherwise for the benefit of Purchaser, its successors and assigns, any and all proceedings at law, in equity or otherwise which the Purchaser, its successors and assigns, may deem proper in order to collect, assert or enforce any claim, right or title of any kind in and to the Assets hereby sold, transferred, assigned and conveyed and to defend or compromise any and all actions, suits or proceedings in respect of any of the Assets and to do all such acts and things in relation thereto as Purchaser, its successors or assigns, shall deem desirable; and Seller hereby declares that the appointment made and the powers hereby granted are coupled with an interest and are and shall be irrevocable by Seller in any manner or for any reason.

Seller hereby further undertakes that it will execute such additional documents and take such further actions as may be reasonably required in order to confirm and further effectuate the sale and assignment of the Assets to be conveyed hereunder to Purchaser.

Capitalized terms that are not otherwise defined herein shall have the meaning assigned to such terms in the Agreement.

This instrument shall be binding upon Seller, its successors and assigns, and shall inure to the benefit of Purchaser and its successors and assigns.

**IN WITNESS WHEREOF**, Seller has duly executed this Bill of Sale this \_\_\_\_ day of April, 2020.

**SELLER:**

\_\_\_\_\_  
David Sanchioni

**List of Exhibits and Schedules**

Exhibit A: Bill of Sale

Schedule 1.4: Equipment List

Schedule 1.8: Allocation of Purchase Price

**SCHEDULE 1.4**

<b>NUMBER</b>	<b>ITEM</b>	<b>PURCHASE PRICE</b>
4	Take-out pizza hots at \$65/each	\$260.00
2	5' Desert cases – glass	\$2,000.00
4	Stainless steel tables	\$1,200.00
	Assortment of pots and pans	\$100.00
	Dinner Plats	\$75.00/each
4	Tables	\$75.00/each
1	Tomato sauce blender	\$300.00
12	Steel chairs w/cushions	\$65.00/each
1	Microwave oven	\$75.00
	Assortment of short pans full, hotel pans & pizza pans, and storage containers	\$3,000.00
12	Aluminum racks on wheels	\$150.00/each
1	Computer machine and two printers	\$2,000.00
1	Stand-up refrigerator	\$1,000.00
1	Flat screen TV 36'	\$500.00
1	Food processor	\$50.00
5	Large stainless-steel racks	\$250.00
8	Stainless steel pizza racks	\$45.00
4	Stainless steel shelves	\$500.00
	Assortment of utensils and silverware	\$500.00
1	Coca cola frig	\$1,800.00
2	Sets of outside tables and standup chairs with umbrellas	
1	Convair pizza oven	\$5,000.00
1	Flat grill	\$1,000.00
1	Floor burner oven	\$1,200.00
1	Salad unit 5'	\$1,600.00
1	Slicing machine	\$2,000.00



**SCHEDULE 1.8**

**ALLOCATION OF PURCHASE PRICE**

This allocation of purchase price schedule is pursuant to and made part of the Agreement. The Purchase Price is allocated as follows:

1.	Equipment inventory	\$9,000.00
2.	Goodwill and business terms	<u>\$9,000.00</u>
	Total Purchase Price	\$18,000.00

On this \_\_\_\_ day of April 2020, the parties hereto have agreed upon the above allocation of purchase price and shall complete any required Federal or State tax forms according to this Schedule 1.8.

PURCHASER  
CAPPELLO, LLC

SELLER

By: \_\_\_\_\_  
Name: Brian Cappello  
Title: Manager

\_\_\_\_\_  
Name: David Sanchioni

## **BILL OF SALE**

**KNOW ALL MEN BY THESE PRESENTS:** That the undersigned, David Sanchioni (the “**Seller**”), for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby sell, convey, assign, transfer and deliver unto Cappello LLC, a Massachusetts Limited Liability Company, (“**Purchaser**”), all of Seller’s rights, title and interest in and to the Assets, as such term is defined in the Asset Purchase Agreement (the “**Agreement**”), dated April 6, 2020 by and between Seller and Purchaser.

**TO HAVE AND TO HOLD** all of the Assets hereby conveyed unto Purchaser, its successors and assigns, forever. Seller hereby represents and warrants that it is the true and lawful owner of the Assets to be conveyed hereunder with good and marketable title thereto, free and clear of all mortgages, liens, claims, pledges and encumbrances of any nature whatsoever, and Seller does for itself and its successors and assigns, covenant and agree to and with Purchaser and its successors and assigns, to warrant and defend the title to said Assets.

Seller hereby constitutes and appoints Purchaser, its successors and assigns, the true and lawful attorney of Seller, with full power of substitution, for Seller and in its name and stead or otherwise, but on behalf of and for the benefit of Purchaser, its successors and assigns, to demand and receive from time to time any and all of the Assets hereby sold, assigned, transferred and conveyed, and to give receipts and releases for and in respect of the same and any part thereof, and from time to time to institute and prosecute in the name of Seller or otherwise for the benefit of Purchaser, its successors and assigns, any and all proceedings at law, in equity or otherwise which the Purchaser, its successors and assigns, may deem proper in order to collect, assert or enforce any claim, right or title of any kind in and to the Assets hereby sold, transferred, assigned and conveyed and to defend or compromise any and all actions, suits or proceedings in respect of any of the Assets and to do all such acts and things in relation thereto as Purchaser, its successors or assigns, shall deem desirable; and Seller hereby declares that the appointment made and the powers hereby granted are coupled with an interest and are and shall be irrevocable by Seller in any manner or for any reason.

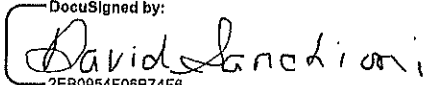
Seller hereby further undertakes that it will execute such additional documents and take such further actions as may be reasonably required in order to confirm and further effectuate the sale and assignment of the Assets to be conveyed hereunder to Purchaser.

Capitalized terms that are not otherwise defined herein shall have the meaning assigned to such terms in the Agreement.

This instrument shall be binding upon Seller, its successors and assigns, and shall inure to the benefit of Purchaser and its successors and assigns.

**IN WITNESS WHEREOF**, Seller has duly executed this Bill of Sale this 8th day of April, 2020.

**SELLER:**

DocuSigned by:  
  
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David Sanchioni

### ALLOCATION OF PURCHASE PRICE

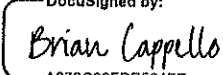
This allocation of purchase price schedule is pursuant to and made part of the Agreement. The Purchase Price is allocated as follows:

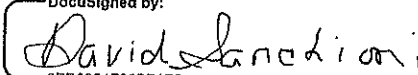
1.	Equipment inventory	\$9,000.00
2.	Goodwill and business terms	<u>\$9,000.00</u>
	Total Purchase Price	\$18,000.00

On this 8<sup>th</sup> day of April 2020, the parties hereto have agreed upon the above allocation of purchase price and shall complete any required Federal or State tax forms according to this Schedule 1.8.

PURCHASER  
CAPPELLO, LLC

SELLER

By:   
A072C90FEDE564EE  
Name: Brian Cappello  
Title: Manager

  
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Name: David Sanchioni