

Fill in this information to identify your case:

Debtor name Premier Kings, Inc.

United States Bankruptcy Court for the: NORTHERN DISTRICT OF ALABAMA

Case number 23-02871-TOM-11
(if known)

**Official Form 410
Proof of Claim**

4/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>GESWI 2, LLC</u> <small>Name of the current creditor (the person or entity to be paid for this claim)</small>	
	Other names the creditor used with the debtor <u>N/A</u>	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent?	Where should notices to the creditor be sent? <u>GESWI 2, LLC</u> <small>Name, Number, Street, City, State & Zip Code</small> 16 Palmer Court Drums, PA 18222 Contact phone <u>570-233-2889</u> Contact email <u>sugarloaf2479@gmail.com</u>	Where should payments to the creditor be sent? (if different) <u>GESWI 2, LLC</u> <small>Name, Number, Street, City, State & Zip Code</small> 16 Palmer Court Drums, PA 18222 Contact phone <u>570-233-2889</u> Contact email <u>sugarloaf2479@gmail.com</u>
	Federal Rule of Bankruptcy Procedure (FRBP) 2002(g) Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ 33,256.39 as of 11/27/2023 Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
 Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
 Limit disclosing information that is entitled to privacy, such as health care information.

October 2023 Rent for leased premises located at 20 Springville Station, Springville, Alabama 35146, plus late charges and interest on late charges and attorney fees and 2023 property taxes. (See attached Table 1) (See attached Lease Agreement).

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.
Nature of property:
 Real Estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____
Basis for perfection: _____
 Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ _____
Amount of claim that is secured: \$ _____
Amount of claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition: \$ 33,256.39 (including late charges, interest and attorneys fees)

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

No
 Yes. *Check one:*

Amount entitled to priority

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

- Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). \$ _____
- Up to \$3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ _____
- Wages, salaries, or commissions (up to \$15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ _____
- Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ _____
- Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ _____
- Other. Specify subsection of 11 U.S.C. § 507(a)(____) that applies. \$ _____

* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

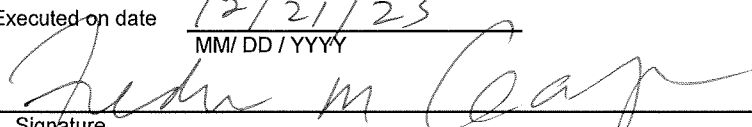
If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 12/21/23
MM/DD/YYYY


Signature

Print the name of the person who is completing and signing this claim:

Name Fred M. Garfield
Title Attorney for Claimant
Company Spain & Gillon, LLC
Identify the corporate servicer as the company if the authorized agent is a servicer.
Address 505 North 20th Street
Suite 1200 The Financial Center
Birmingham, AL 35203
Number, Street, City, State and Zip Code
Contact phone (205) 328-4100 Email fgarfield@spain-gillon.com

Table 1

			TOTAL CLAIM FOR CURE AS OF 11/25/23
MONTHLY RENT OCTOBER 2023	\$8854.17		\$8854.17
LATE CHARGE 5%	\$442.71		\$442.71
INTEREST 10% ANNUM/PER DAY	2.43		
DAYS SINCE 10/1/23			
AS OF 12/31/2023	91		
TOTAL INTEREST	221.13		\$221.13
2023 PROPERTY TAXES			\$13738.98
LEGAL EXPENSE			\$10000.00
GEWSI CURE AS OF 11/25/23			\$33256.99
DATE CALCULATED 11/27/23			

LEASE AGREEMENT

THIS AGREEMENT (the "Lease"), is made this 21st day of May, 2020 (the "Lease Date"), by and between **GEWSI 2 LLC**, a Pennsylvania limited liability company ("Lessor"), whose address is 32 Aristocrat Circle Sugarloaf, PA 18249, and **PREMIER KINGS, INC.**, an Alabama corporation ("Lessee"), whose address is 3300 Eastern Boulevard, Montgomery Alabama 36116.

In consideration of the covenants contained in this Lease, the parties agree as follows:

I. **PROPERTY LEASED**

§1.1 DEMISE. Lessor Leases to Lessee and Lessee leases from Lessor the following property (the "Land") along with the BURGER KING® restaurant (the "Building") and other improvements constructed on it (collectively called the "Premises").

Legal Description: See Exhibit "A" attached hereto and made a part hereof, and commonly described as:

Site Address: 20 SPRINGVILLE STATION LANE, SPRINGVILLE, AL 35146
Parcel No. (APN): 13-08-33-0-000-001.014

Premises located

Subject to any and all reservations, restrictions, easements, rights of way, limitations and conditions of record, if any.

§1.2 COVENANT OF QUIET ENJOYMENT. The lessor promises, subject to Lessee's performance of all of the terms and conditions of the Lease, that Lessee shall be entitled to the quiet and peaceful enjoyment and undisturbed possession of the Premises for the term of this Lease.

II. **TERM**

§2.1 TERM. The term of this Lease (the "Term") shall commence on May 21st, 2020, the date the lease is fully executed (the "Commencement Date"). The Term of this lease shall expire at midnight on May 31st, 2040, 20 years after the execution date (the "Original Term Expiration Date") unless sooner terminated as provided in this Lease. The Commencement Date shall be designated by the parties in a form capable of being recorded among the public records of the county where the Premises are located.

20 Years

§2.2 POSSESSION. Lessee and Lessor acknowledge that Lessee was in possession of the Premises at the time of purchase of the Premises by Lessor. "Possession" for the purpose of this Lease shall mean that Lessee is shall be entitled to possession pursuant to this Lease at the time of full execution of this Lease.

§2.3 HOLDOVER. Any holdover by Lessee at the expiration of the Term of this Lease, with the written consent of Lessor, shall be on a month-to-month basis. During such holdover tenancy, Lessee agrees to pay Lessor, each and every month after termination, all increased rentals and other charges that would have been due under this Lease and agrees to be bound by all terms of this Lease which are applicable at the expiration of the term.

In the event Lessee holds over without consent of Lessor, the monthly base rent during the holdover period shall be 150% the last monthly base rent due pursuant to the terms of this Lease.

§2.4 END OF TERM.

(a) **Fixtures and Person Property.** At the expiration or earlier termination of this Lease, any fixtures, as defined in Section 15.15(e) herein, located on the Premises and not already owned by Lessor shall become the property of the Lessor. If, at termination of this Lease Lessee has fully complied with the terms and conditions of this Lease, Lessor shall waive any right to claim any personal property owned or leased by Lessee and located on the Premises. The personal property may then be removed by Lessee provided that the Premises are restored to their original condition. Any personal property not removed within fifteen (15) days after the Lease termination shall be deemed abandoned and become the property of Lessor.

(b) **Joint Inspection.** During a period no earlier than three (3) weeks and no later than one (1) week prior to the end of the Term, Lessor and Lessee shall conduct a joint inspection of the Premises and Lessor shall make a list of any items of repair and maintenance which may be needed to put the Premises in good condition and repair for issues which are related to Lessee's removal of its personal property. If the items on such list cannot be completed by Lessee by the end of the Term, then Lessee shall pay to Lessor by the end of the Term the cost of such repairs as estimated by Lessor. Lessee's obligation to make such payment shall survive the termination of this Lease. Any failure by the parties to conduct the joint inspection shall not constitute a waiver of Lessee's obligations under this Section 2.4, Section 5.2 and Article VI of this Lease.

**III.
CONSIDERATION**

§3.1 RENT. Lessee agrees to pay, and Lessor agrees to accept, guaranteed minimum annual rent ("GMAR) as shown in the "Base Rent Schedule" below, for each period stated in the schedule. GMAR shall be paid in monthly installments, in advance, on the first day of each and every month during the Term of this Lease, as reflected in the Monthly Rent column of the schedule. The first monthly rent installment shall be due on the Commencement Date, and shall be due and payable on the first day of each and every month thereafter. If this Lease shall commence on any day other than the first day of a calendar month, the monthly installment for the first month of the lease period shall be prorated for the first month. Thereafter, the Monthly Rent shall be for the entire month for the remainder of the Lease.



GMAR shall increase by 7.5% on the first month of each subsequent five (5) year period and shall

remain fixed for the five (5) year term as reflected in the rent schedule below.

BASE RENT SCHEDULE

Net-Net-Net

Lease Year(s)*	GMAR	Monthly Rent
6/1/2020 - 5/31/2025	\$106,250.00	\$8,854.17
6/1/2025 - 5/31/2030	\$114,218.75	\$9,518.23
6/1/2030 - 5/31/2035	\$122,785.16	\$10,232.10
6/1/2035 - 5/31/2040	\$131,994.04	\$10,999.50

*The term "Lease Year" shall mean and refer to the first consecutive twelve (12) month period beginning on the Commencement Date of the Lease and each succeeding twelve (12) month period thereafter, whether fiscal or annual.

Option to Extend. Provided Lessee is not in default (beyond the expiration of any applicable notice and cure period) under this Lease on the date of exercise, Lessee shall have the option (each, an "Extension Option"), by giving a written notice to Lessor at least one hundred eighty (180) days prior to lease expiration, to extend the term of this Lease for four additional five-year periods (each, an "Extension Term"), as follows:

- Option 1: June 1, 2040 – May 31, 2045
- Option 2: June 1, 2045 – May 31, 2050
- Option 3: June 1, 2050 – May 31, 2055
- Option 4: June 1, 2055 – May 31, 2060

If Lessee exercises an Extension Option, GMAR shall increase by 7.5% on the first month of each subsequent five (5) year Extension Term and shall remain fixed for the five (5) year Extension Term as reflected in the rent schedule below. The lease of the Premises during the Extension Terms shall be on the same terms and conditions set forth in this Lease, except that Lessee shall have no further renewal rights after the expiration of the fourth Extension Term. All references in this Lease to the "Lease Term" shall be deemed to include the properly-exercised Extension Terms, unless the context clearly indicates a different meaning.

EXTENSION TERM MINIMUM RENT SCHEDULE

Lease Term	GMAR	Monthly Rent
6/1/2040 - 5/31/2045	\$141,893.60	\$11,824.47
6/1/2045 - 5/31/2050	\$152,535.62	\$12,711.30
6/1/2050 - 5/31/2055	\$163,975.79	\$13,664.65
6/1/2055 - 5/31/2060	\$176,273.97	\$14,689.50

The **Guaranteed Minimum Annual Rental** shall sometimes hereinafter be referred to as the "Rent."

§3.2 ADDITIONAL RENT. In addition to base rent, Lessee shall pay each month as "Additional Rent,"

the items set forth in Section 3.4 below. In the event of non-payment, Lessor shall have all the rights and remedies as provided in the case of non-payment of Rent.

§3.3 UTILITIES. Lessee shall be directly responsible for the payment of all utilities including, but not limited to, electricity, water, garbage, telecommunications, and sewer services. Should any utility provider refuse to bill Lessee for utility services directly, Lessee shall add the cost of the particular service to Lessee's monthly rent payment and shall remit the utility cost with Lessee's monthly rent as "Additional Rent."

§3.4 ADDITIONAL CHARGES. Lessee and Lessor agree that Rent due under this Lease shall be net to lessor and that all taxes, costs, common area maintenance fees, expenses and charges of every kind and nature relating to the Premises (except Lessor's management fees or the taxes of Lessor referred to in Section 6.3 and any payments for interest or principal under any mortgage relating to the Premises) shall be "Additional Charges" which may arise or become due during the Term of this Lease or any extension hereof, shall be paid by Lessee, and that Lessee shall indemnify and hold harmless Lessor from and against them. All Additional Charges which Lessee assumes or agrees to pay under any provisions of this Lease, together with all interest and penalties that may accrue on these Additional Charges in the event Lessee fails to pay them, as well as all other damages, costs and expenses, including, without limitation, reasonable attorneys' fees and other legal and court costs which Lessor may incur in enforcing this Lease, and any and all other sums which may become due by reason of Lessee's default or failure to comply with its obligations under this Lease, shall be deemed to be "Additional Rent" In the event of non-payment, Lessor shall have all the rights and remedies as provided in the case of non-payment of Rent.

*Additional
Charges*

Lessor and Lessee agree that this Lease is intended to be a "net-net-net" lease and in the event of any ambiguity or lack of express language as to the scope of the obligations of either Lessor or Lessee, such ambiguity shall be resolved in a manner consistent with the obligations of a landlord and tenant under a "net-net-net" lease and the rent herein specified and reserved shall be absolutely net to Lessor so that regardless of the existence or occurrence of any event, circumstance, state of facts or casualty of any nature whatsoever, this Lease shall yield, net to Lessor, the rent specified in Section 3.1 each year during the term hereof. Except as otherwise expressly provided herein, each and every item of expense of every kind and nature whatsoever, which may be charged or imposed upon Lessor and Lessee or for which Lessor or Lessee shall or may be or become liable by reason of their estate or interest in the Premises or by reason of any right or interest of Lessor or Lessee in or under this Lease, or by reason of or in any manner connected with or arising from the ownership, leasing, operation, management, maintenance, repair, rebuilding, remodeling, renovation (including renovations resulting from building code changes), use or occupancy of the Premises shall be paid or performed by Lessee, and Lessor is hereby indemnified by Lessee against any and all such costs, expenses and obligation, unless and only to the extent such costs, expenses and obligations, are expressly assumed by Lessor under the terms of this Lease.

§3.5 FINANCIAL REPORTS

(a) **Financial Statements:** During the Term of this Lease, Lessee and any other persons or entities who are guarantors; who have personal liability, or who have joint and several liability under

this Lease ("Guarantors"), shall deliver to Lessor the following financial statements:

As to Lessee:

(i) Within ninety (90) days after the end of each of Lessee's fiscal year, balance sheets as of the end of such year and statements of income and of changes in financial condition for such year;

As to Guarantor;

(ii) Within ninety (90) days after the end of each fiscal year of Guarantors, a personal net worth statement, and a copy of the most recent federal income tax return filed as to each individual Guarantor;

As to Lessee and Guarantors;

(iii) The balance sheets and financial statements referred to in subparagraphs (i), (ii), and (iii) above shall be prepared in accordance with generally accepted accounting principles consistently applied (except as noted), and be accompanied by certificates of the Lessee and each Guarantor or the chief financial officer of the Lessee and each Guarantor, as the case may be, stating that such financial statements have been prepared in accordance with generally accepted accounting principles consistently applied (except as noted) and fairly present the financial condition of the Lessee or each Guarantor at the date thereof and for the periods covered thereby.

(iv) If requested by Lessor, the balance sheets and financial statements referred to in subparagraphs (i) and (ii) above shall be certified by the chief financial officer of Lessee or a Certified Public Accountant.

(b) Release of Financial Information. Lessee and Guarantors give permission to Lessor to release to Lessor's landlord, lenders or prospective landlord or lenders and/or any prospective purchaser of all or part of Lessor's interest in the Premises and/or the Lease, any financial and operational information relating to Lessee, Guarantors and/or the business operated at the Premises. Except as set forth above, such financial and operational information relating to Lessee will be kept confidential by Lessor and Lessors representatives.

(c) Records and Audit. Lessee agrees to keep true, accurate and complete records of the business conducted at the Premises in such form as Lessor now or hereafter may require. Lessee shall retain for a period of at least twenty-four (24) months and upon request submit to Lessor copies of all state sales tax returns and all supporting data and records relating to sales made from the business operated at the Premises and such other records as Lessor may reasonably request from time to time. Lessee agrees that Lessor or its, representatives, at Lessor's expense, shall at all reasonable times have the right to examine or audit the books, records, state sales tax returns or accounts of Lessee. Lessor shall similarly have the right to examine or audit the books, records, state sales tax returns or accounts of any and all Guarantors.

§3.6 LATE CHARGES. All Rent, Additional Charges, and any other charges shall be paid to Lessor

Late Charges

without notice or demand and without abatement, deduction or set-off, except as otherwise expressly provided in this Lease, on or before the first day of each and every month. Payments received after the fifth (5th) day of the month shall incur a late charge of five percent (5%) of the monthly rent and additional rent. Interest shall accrue on all late monthly rent and additional rent at the rate of ten percent (10%) per annum. For the purposes of this Lease, late charges and interest fees shall be considered "Additional Rent." In the event such interest rate shall be void or unenforceable under the laws of the jurisdiction where the Premises are located, the highest rate of Interest permitted within such jurisdiction shall be charged.

IV. INSURANCE

§4.1 COVERAGE. During the Term, Lessee at its own cost and expense, shall:

(a) Maintain insurance coverage on the Premises and personal property with an all risk property insurance policy in an amount sufficient to cover the cost of replacement (without deduction for depreciation). Such replacement cost shall be determined from time to time at the request of Lessor, but not more frequently than once in any twelve (12) consecutive calendar months. Replacement cost shall be determined by one of the insurers or, at the option of lessor, by an appraiser, architect or contractor who is mutually and reasonably acceptable to Lessor and Lessee, and whom shall be retained and paid by Lessee.

(b) Provide and keep in force comprehensive or commercial general liability insurance against claims for bodily injury, death or property damage occurring on, in or about the Premises or the adjoining streets and property, in limits of not less than \$1,000,000 per occurrence for bodily injury, not less than \$500,000 per occurrence for property damage, or in such other amounts as Lessor may reasonably request. The policy shall name Lessor as an additional insured.

(c) Provide and keep in force plate glass insurance covering the glass in the Premises, unless waived by Lessor.

(d) If requested by Lessor, provide and keep in force rent insurance (and/or, as the case may require, use and occupancy insurance) in an amount not less than the then current Guaranteed Minimum Annual Rental plus the estimated annual taxes, water charges, sewer rents, common area maintenance and other assessments and the annual premiums for the insurance required by this Article.

(e) If requested by Lessor or any mortgagee, provide and keep in force insurance for such other insurable hazards in such amounts as similarly situated Premises are then commonly insured.

§4.2 POLICIES. All insurance required by Lessor and provided by Lessee shall be carried in favor of Lessor and Lessee, as their respective interests may appear, and any underlying lessor, fee owner, affiliate corporation, trustee, mortgagee or other person designated by Lessor. If requested by lessor, insurance against fire or other casualty shall provide that the proceeds of any loss shall be payable to the mortgagee under a standard mortgagee clause. Subject to the rights of and approval by any secured party of Lessee with a leasehold mortgage, any rent insurance or use and occupancy

Insurance carried by Lessee shall provide that, in the event of loss or damage to the Premises, the proceeds shall be payable to Lessor to be held by Lessor as security for the payment of the Rent and Additional Charges due under this Lease until the Premises are restored. All Insurance shall be obtained from companies licensed to do business in the state in which the Premises are located and which have a rating by Bests Rating Guide of at least "A" as to financial strength and "X(10)" as to financial size. Lessee shall procure policies for all insurance for periods of not less than one year and shall deliver to Lessor all policies or certificates of insurance with evidence of payment of all premiums. Lessee shall procure renewals of these policies from time to time before their respective expiration dates. All insurance policies shall be non-assessable and shall require prior written notice (if possible such notice shall be thirty (30) day notice by registered mail) to Lessor of any cancellation or change affecting Lessor's coverage under the policies. All property damage and business interruption policies of Lessee shall contain a waiver of any subrogation rights which Lessee's insurers may have against Lessor, even if the loss suffered is caused by the act, omission or negligence of Lessor.

§4.3 ADJUSTING: PROCEEDS. Claims for loss due to damage to the Premises under and policies provided for in this Lease shall be adjusted with the insurance companies:

(a) By Lessee in the case of any particular casualty resulting in damage or destruction not exceeding \$50,000, or

(b) by Lessor and Lessee, in the case of any particular casualty resulting in damage or destruction exceeding \$50,000 in the aggregate. Subject to the rights of any mortgagee, the proceeds of any insurance shall be payable as follows:

(1) With respect to any loss not exceeding \$50,000 in the aggregate, proceeds shall be paid to Lessee, who shall hold them in trust for the purpose of paying the costs of repair and restoration; and

(2) With respect to losses exceeding \$50,000 in the aggregate, the proceeds shall be paid to lessor and shall be applied to pay costs of repair and restoration.

§4.4 JOINT EFFORTS. Lessee and Lessor shall cooperate in attempts to collect any insurance proceeds that may be due in the event of loss, and Lessee shall execute and deliver to Lessor such proofs of loss and other instruments which may be required for the purpose of recovering these proceeds.

§4.5 WAIVER OF SUBROGATION. Lessee agrees to look solely to the proceeds of its own insurer for indemnity against exposure for loss of property or business interruption. Lessee warrants that its property and business interruption insurers shall have no rights against Lessor by virtue of assignment subrogation, loan agreement or otherwise.

§4.6 CANCELLATION OF INSURANCE. If any insurance policy covering the Premises or any part of it is canceled or is threatened by the insurer to be canceled, or if the coverage thereunder is reduced in any way by the insurer due to an act or omission by Lessee, and if Lessee fails to remedy the condition giving rise to cancellation, threatened cancellation, or reduction of coverage within three (3) business days after notice thereof by Lessor, Lessor may enter the Premises and remedy the

condition giving rise to such cancellation, threatened cancellation or reduction, and Lessee shall forthwith pay the cost thereof to Lessor (which cost may be collected by Lessor as Additional Rent) and Lessor shall not be liable for any damage or injury caused to any property of Lessee or of others located on the Premises as a result of any such entry.

§4.7 LOSS AND DAMAGE. Lessor shall not be liable for any death or injury occurring on Premises, nor for the loss of or damage to any of the personal property or other property of Lessee or of others by theft or otherwise, from any cause whatsoever, except for its own gross negligence or intentional misconduct. Without limiting the generality of the foregoing, Lessor shall not be liable for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, dampness, gas, electricity, water, rain, snow, or leaks from any part of the Premises or from the pipes, appliances or plumbing works or from the roof, street or subsurface or from any other place by any other cause whatsoever. Lessor shall not be liable for any such damage caused by other persons or occupants of adjacent property, or the public, or caused by operations in construction of any private, public or quasi-public work. All of the personal property or any other property of Lessee kept or stored on the Premises shall be kept or stored at the risk of Lessee.

**V.
THE PREMISES**

§5.1 USE AND SERVICES. During the Term of this Lease, Lessee shall continuously operate a **BURGER KING restaurant on the Premises in accordance with the terms of the BURGER KING Franchise Agreement entered into by Lessee contemporaneously with this Lease (the "Franchise Agreement")**, unless Lessee is prevented from doing so due to acts of God or other causes beyond Lessee's control, or temporarily as reasonably necessary to meet the remodel requirements of Burger King Corporation. The Premises shall not be used for any other purpose. Lessee shall not use in connection with the operation of or as additional parking for its business on the Premises any property other than the Premises, except in accordance with the provisions of Article XIII of this Lease.

Use of Premises

Except as may be otherwise specifically provided by the terms of this Lease or the Franchise Agreement, Lessor shall not be required to furnish to Lessee any facilities or services of any kind whatsoever, such as, but not limited to water, sewer, steam, heat, gas, hot water, electricity, light and power.

§5.2 LESSEE'S RESPONSIBILITY FOR MAINTENANCE AND REPAIR.

(a) Maintenance

Lessee shall at all times during the Term of this Lease, at Lessee's own cost and expense, put, keep and maintain the Premises, and all fixtures and personal property located on it, in commercially reasonable good order and operating condition. Lessee's maintenance obligation shall include, but shall not be limited to: 1) the obligation to keep in good service and repair the heating ventilation and air conditioning ("HVAC") system and any other mechanical components within the Premises; 2) maintaining all non-structural and structural components, including but not limited to roofing materials, roof sheeting, and building siding with attractive appearance and in good working

order; 3) keeping the parking lot and walkways in good repair and free of snow, ice, weeds, dirt, and debris of any kind; 4) shall maintain the landscaping in good condition and free of rubbish and other obstructions or encumbrances; and 5) keep the roof and gutters free of excessive leaves and/or other debris.

(b) Repair

Lessee shall at all times during the term of this Lease, and at Lessee's own cost and expenses, immediately repair any non-structural, structural, mechanical, or any other component of the property when repair is required, whether foreseen or unforeseen, and shall use all reasonable precaution to prevent waste, damage, or injury to any component of the Premises

In the event that Lessee fails or neglects to make all necessary Repairs or fulfill its other obligations as set forth above, Lessor or its agents may enter the Premises for the purpose of making such Repairs or fulfilling those obligations. All costs and expenses incurred as a consequence of Lessor's actions shall be repaid by the Lessee to Lessor within fifteen (15) days after Lessee receives copies of receipts showing payment by Lessor for such Repairs or other obligations. These receipts shall be prima facie evidence that a repair was necessary and of the payment of the charges paid by Lessor. Except in the case of emergency, Lessor shall give Lessee thirty (30) day notice before taking any such action.

§5.3 ALTERATIONS. Lessee agrees that it will at its own cost and expense make such reasonable alterations to the interior or exterior of the Premises as may reasonably be required by Burger King Corporation from time to time in order to modify the appearance of the Building to reflect the then current image of BURGER KING restaurants.

Lessee shall not at any time make any alteration, change, addition or improvement (hereinafter collectively called "Alterations") in or to the interior or exterior of the Premises except as required to maintain a current image Burger King restaurant without the prior written consent of Lessor (such consent shall not be unreasonably withheld, delayed, or conditioned). In the event consent is given:

- (a) the Alterations shall be performed in a first-class, workmanlike manner, at Lessee's sole expense, and shall not weaken or impair the structural strength or lessen the value of the Premises, or change the purpose for which the Premises may be used;
- (b) the Alterations shall be made according to plans and specifications therefor, which shall be first submitted to and approved in writing by Lessor;
- (c) before the commencement of work on any Alterations, such plans and specifications shall be approved by all governmental authorities having jurisdiction and any public utility company having an interest in the Alterations;
- (d) before the commencement of any Alterations, Lessee shall pay the amount of any increase in premiums on insurance policies for endorsements covering the risk during work on the Alterations and workmen's compensation insurance covering all persons employed in connection with that work;

(e) the Alterations shall comply with the requirements of the Americans With Disabilities Act of 1990 ("ADA") as same may be amended from time to time; and (ii) all state and local building codes including any disabilities related statutes or codes (collectively, the "Codes") in the applicable jurisdiction where the Premises are located; and

All buildings, additions, improvements, fixtures, and appurtenances in or on the Premises at the Commencement Date and those which may be erected, affixed or installed in or on the Premises during the Term are deemed to be and shall immediately become part of the Premises and the sole property of Lessor. All personal property installed by Lessee (except signs, trademarks, and other insignia of Lessor) shall remain the property of Lessee.

§5.4 LIENS. Should Lessee cause an Alteration of Repairs to be made to the Premises or cause any labor to be performed or material to be furnished, neither Lessor nor the Premises shall under any circumstances be liable for the payment of any expense incurred, and all such Alteration and Repairs shall be made and performed at Lessee's expense. If, because of any act or omission of Lessee, any mechanic's or other lien, charge, claim, or order for the payment of money shall be filed against the Premises or against Lessor, Lessee shall, at its own cost and expense, cause it to be canceled and discharged of record or bonded within thirty (30) days after notice of filing thereof. In the event that the Lessee fails to cause any such mechanics' or other lien, charge, or order to be canceled and discharged or bonded, then in addition to any other right or remedy of the Lessor, the Lessor may, at its option, cancel or discharge it by paying the amount claimed to be due into court or directly to any claimant and the amount so paid by Lessor and all costs and expenses including attorney's fees incurred for the cancellation or discharge of such lien shall be due from the Lessee to the Lessor as an additional charge payable on demand.

§5.5 SIGNS. Lessee shall not place any signs or symbols on any portion of the Premises except as approved or required by Burger King Corporation without the prior written approval of Lessor.

§5.6 INSPECTION. Fee owner, Lessor, or their representatives shall have the right to enter the Premises during business hours on any business day after first providing twenty-four (24) hours prior notice (except in the event of an emergency notice shall not be required) to ascertain if the Premises are in proper repair and condition.

§5.7 LICENSE AND LAWS. The Lessee shall, at its own cost and expense, obtain all necessary licenses and/or permits which may be required for the conduct of its business; and Lessee shall, at its own cost and expense, promptly observe and comply with all present and future laws, ordinances, requirements, orders, directions, rules and regulations (referred to generally as "Regulations") of governmental authorities having or claiming jurisdiction over the Premises or the conduct of Lessee's business. By way of example, and not limitation, compliance with governmental Regulations shall include, but not be limited to, the following: (i) alterations and/or additions to the Premises if required under the Americans with Disabilities Act of 1990 and (ii) testing, remediation or abatement of environmental conditions (defined as conditions affecting the air, soil, ground water and improvements) affecting the Premises or property adjacent to or near the Premises, if so required by governmental authority. Lessee may contest in good faith, after notice to Lessor, by appropriate proceedings conducted promptly at Lessee's own expense, in Lessee's name (and/or whenever

necessary and with the Lessor's consent, in Lessor's name), the validity or enforcement of any such regulation, provided that (i) such contest or any associated deferment of payment does not subject Lessor to a fine or other criminal liability, or subject the Premises to any encumbrance, (ii) Lessee diligently prosecutes such contest to a final determination by the governing authority, and (iii) Lessee furnishes Lessor with any security that Lessor may reasonably request in connection with such contest.

§5.8 DAMAGE OR DESTRUCTION. If, during the Term, the Premises or the personal property or fixtures on it are destroyed or damaged in whole or in part by fire or other cause, Lessee shall give Lessor immediate notice, and Lessee, at its own cost and expense (and utilizing all available insurance proceeds), shall cause the prompt repair, replacement and rebuilding of same ("restoration"), subject to Section 4.3, Section 5.2, and Section 5.3 of this Lease. The restored building, personal property or fixtures shall reflect the then current image of BURGER KING restaurants and conform to the then current design and specifications of the Lessor. Lessor shall in no event be called upon to repair, replace, or rebuild any such buildings, fixtures or personal property, nor to pay any of the costs or expenses thereof beyond or in excess of any insurance proceeds, as provided in this Lease.

All insurance proceeds received by Lessor or by any insurance trustee on account of such damage or destruction, less the actual cost, fees and expenses, if any, incurred in connection with adjustment of the loss, shall be applied by Lessor to pay or reimburse Lessee for the payment of the cost of the Restoration, including the cost of temporary repairs or for the protection of property pending the completion of permanent Restoration, and shall be paid out from time to time as Restoration progresses upon the written request of Lessee, accompanied by evidence satisfactory to Lessor that:

- (a) (1) the sum then requested either has been paid by Lessee or its justly due to contractors, subcontractors, materialman, or other persons who have rendered services or furnished materials for the Restoration pursuant to a certificate or claim for payment ("Certificate"), and that the sum then requested does not exceed the amount, of the services and materials described in the Certificate:
- (2) except for the amount, if any, stated in the Certificate to be due for services or materials, there is no outstanding indebtedness known to the persons signing such Certificate, after due inquiry, which is then due for labor, wages, materials, supplied, or services in connection with the Restoration:
- (3) the cost of the Restoration required to be done does not exceed the insurance proceeds, and
- (b) that there have not been filed against the Premises any vendors, contractor's, mechanic's, laborers or materialman's statutory or similar lien ("Liens") which has not been discharged of record, except those that will be discharged upon payment of the sum requested in the Certificate, or bonded or contested in accordance with Section 5.4.

Upon compliance with the above provisions, Lessor or the Insurance trustee shall, out of such insurance proceeds and such other funds as may have been made available, pay or cause to be paid to Lessee or its designee, the respective amounts due.

If the insurance proceeds and other funds deposited with Lessor or the insurance trustee, less the

actual cost, fees and expenses, if any, incurred in connection with the adjustment of the loss, are insufficient to pay the entire cost of the Restoration, Lessee will pay the deficiency.

At least ten (10) days before the commencement of Restoration, Lessee shall notify Lessor of its intention to restore the Premises. During Restoration, this Lease shall not terminate, nor shall the Rent and the Additional Charges payable under this Lease be abated or be affected in any matter.

§5.9 WARRANTIES: DISCLAIMER. Lessor shall provide Lessee with the benefit of any warranties provided by the building contractor. Lessor expressly disclaims any other warranty, either express or implied, and Lessee acknowledges that neither Lessor nor its agents have made any representations or promises with respect to the Premises except as expressly set forth in this Lease, and no rights, easements or licenses are acquired by Lessee by implication or otherwise except as expressly set forth herein. The taking of possession of the Premises by Lessee shall be conclusive evidence that the Lessee has accepted the Premises "AS IS," including any latent or patent defects. Lessee acknowledges that Lessee is relying on its own independent inspection. Lessor agrees to cooperate with an assist Lessee in asserting claims against contractors or others providing work and/or services to the Premises.

§5.10 RIGHT OF FIRST REFUSAL. (a) Right of First Refusal. Subject to the exceptions in Article 5.10(d) and the provisions of Article 5.10(e) below, if Lessor receives from, or tenders to, a third party (the "Third Party"), a bona fide, arms-length proposal, which may be in the form of a letter of intent or a contract that Lessor desires to accept or otherwise accepts (the "Offer") pursuant to which Lessor proposes or agrees to sell, convey, or assign to the Third Party, or grant to the Third Party, an option to purchase all or a portion of the Leased Space or otherwise to assign to the Third Party Lessor's rights under this Lease ("Refusal Event"), then Lessor shall deliver to Lessee written notice of the Offer (the "Notice of Offer"). The Notice of Offer shall set forth the name and address of the Third Party and the purchase price associated with the Offer, along with a copy of the Offer (collectively, the "Notice Documents").

(b) Right to Purchase; Time for Acceptance. Upon the happening of a Refusal Event, Lessee shall have the right to purchase the Leased Space or portion thereof described in the Offer or accept an assignment of Lessor's interest in this Lease as described in the Offer, as the case may be, upon the same terms and conditions set forth in the Offer. Lessee shall have five (5) business days after receipt of the Notice of Offer and the Notice Documents to notify Lessor in writing of its election to exercise such right as herein provided and to provide Lessor its written agreement matching the Offer. If Lessee fails to exercise such right within such five (5) business days as herein provided, such failure shall be deemed to be a waiver of Lessee's right as to that Offer, and Lessor may proceed to consummate the transaction at not less than ninety percent (90%) of the purchase price provided in the Offer.

(c) Reinstatement of Lessee's Purchase Right. If subsequent to Lessee not accepting the price and terms in the Offer the terms and conditions of the purchase price in the Offer are modified or amended to less than ninety percent (90%) of the purchase price in the Offer, then Lessee's rights hereunder shall be reinstated as to any such modified or amended Offer.

(d) Application of Refusal Event. For purposes of this Article 5.10, except as set forth herein, the sale, transfer, conveyance, or assignment of all or a portion of the entity constituting Lessor shall be deemed a Refusal Event. In no event shall it be a Refusal Event or invoke the right of refusal by Lessee in the following circumstances:

(i) Transfers or sales to existing members, their family members, to affiliates of members or their family members, to a trust for the benefit of a member or family member, as a result of the death of any person, in connection with estate planning;

(ii) Transfer or sales to any person or entity not permitted in (i) so long as not more than fifty-one percent (51%) of ownership interest in Lessor is transferred;

(iii) Any form of financing, foreclosure sale, or deed in lieu of foreclosure; provided, however, this right of first refusal shall apply to any subsequent sale of all or a portion of the Premises or assignment of Lessor's interest in this Lease by any person or entity acquiring title through a foreclosure sale, deed in lieu of foreclosure or otherwise; or

(iv) Transfers in connection with a condemnation or under threat of condemnation.

(e) Subject to the next following sentence, the right of first refusal shall continue in full force and effect for the Term of this Lease and shall be binding upon any successor in interest to Lessor, whether by sale of all or a portion of the Premises or transfer of the Lessor's interest in this Lease or transfer of all or a portion of the entity constituting the Lessor. Notwithstanding anything contained herein to the contrary, the right of first refusal in this Article 5.10, including Lessee's right to receive a Notice of Offer and the right of Lessee to make an Offer, shall automatically cease and terminate if Manraj "Patrick" Sidhu ceases to own more than fifty percent (50%) ownership interest in the Lessee.

VI.

TAXES AND OTHER CHARGES

§6.1 PAYMENT.

(a) In the event Lessor elects, at its sole option, to pay the taxes, assessments, charges for public utilities, excises, levies, licenses, permit fees or other governmental impositions and charges of any kind and nature whatsoever ("Charges") which are payable in connection with the ownership, occupancy or possession of the Premises, rather than include such Charges as monthly "Additional Rent," Lessee shall reimburse Lessor within thirty (30) days after Lessee receives notice of such payment by Lessor and a copy of the invoice paid.

(b) In the event Lessor elects not to pay the Charges as set forth in the preceding paragraph, and said charges are not included in "Additional Rent," Lessee shall pay on or before the last day on which payment may be made without penalty or interest, all Charges which may be assessed, imposed, or become due and payable in connection with the ownership, occupancy or possession of the Premises or the fixtures or personal property on it, or any Charges which may be imposed in lieu of, or as a substitution for, any such Charges. At any time after the time for payment of each Charge, upon

Lessor's Request, Lessee shall exhibit to Lessor satisfactory evidence of payment. All Charges assessed or imposed for the fiscal period in which the Term of this Lease commences and terminates shall be apportioned.

§6.2 CONTESTS. Lessee has the right to promptly contest or review any of the Charges by appropriate proceedings ("Proceedings") at its own expense, and if necessary, with the prior written consent of Lessor, in the name of Lessor. Lessee may defer payment of a contested Charge only if, before instituting any Proceedings, Lessee furnished to Lessor security satisfactory to Lessor and sufficient to cover the amount of each contested Charge, with interest and penalties for the period which the Processing may be expected to take. Notwithstanding the furnishing of security (other than a cash deposit), Lessee shall promptly pay each contested Charge if, at any time, the Premises or any part of it are in danger of being sold, forfeited or otherwise lost or Lessor becomes subject to criminal or any other liability for such non-payment, provided that in that event, if Lessee has made a cash deposit to Lessor, Lessor may pay each contested Charge out of the deposit. When any contested Charge is paid or canceled, any balance of any cash deposit not so applied shall be repaid to Lessee without interest. All Proceedings shall be begun as soon as possible after the imposition or assessment of any contested item and shall be diligently prosecuted to final adjudication. If there is any refund with respect to any contested Charge based on a payment by Lessee, Lessee shall be entitled to it to the extent of such payment.

§6.3 LIMITATION: SUBSTITUTION. Nothing contained in this Lease shall be constructed to require Lessee to pay any inheritance, estate, succession, transfer, gift, franchise, corporation, income, or profit tax, or capital levy that is or may be imposed upon Lessor, its successors or assigns; provided, however, that if at any time during the Term of this Lease the methods of taxation prevailing at the Commencement Date are altered so that in lieu of or as a substitute for the whole or any part of the taxes, assessments, levies, impositions or charges (collectively "Assessments") now levied, assessed or imposed ("Imposed") on real estate and improvements thereon, there is imposed

- (1) An Assessment made wholly or partially as a capital levy, or
- (2) An Assessment measured by or based in whole or in part of the Premises, or
- (3) A license fee measured by the Rent payable by Lessee under this Lease,

then to the extent that such Assessments or portion thereof would be payable if the Premises were the only asset of Lessor subject to the Assessments, Lessee shall pay these Assessments in the same manner as provided in this Lease for payment of real estate taxes.

§6.4 ESCROW FUNDS. If, during the Term of this Lease, any mortgagee of Lessor requires it, Lessee shall provide an escrow fund for payment of real estate taxes, Lessee agrees that upon such request it will promptly deposit with Lessor or its designated mortgage, for each month or portion thereof since the due date of the previous tax bill, one-twelfth (1/12) of the latest year's tax obligation (the "Monthly Escrow Sum"), and that it will continue to deposit the Monthly Escrow Sum on the first day of each subsequent month, so that as each installment of real estate taxes becomes due and payable, Lessee will have deposited a sum sufficient to pay it. All of these deposits (the "Escrow Funds") shall be

received and held in trust; provided, however, that unless otherwise required by law, Lessor or its designated mortgagee shall not be required to maintain the Escrow Funds in a segregated account nor invest them in interest bearing accounts or securities nor pay any interest on them. When the real estate taxes become due and payable, Lessor or its mortgagee shall promptly pay them from the Escrow Funds and shall promptly forward to Lessee receipts or other satisfactory evidence of payment. In the event that the amount of the real estate taxes assessed or imposed against the Premises has not been fixed at the time when any Monthly Escrow Sum is due, the Monthly Escrow Sum shall be one-twelfth (1/12) of the amount of real estate taxes assessed or imposed against the Premises for the preceding year, subject to adjustment when the actual amount of the real estate taxes is ascertained. If required by Lessor's mortgagee, the provisions of this Section 6.4 shall be applicable to any Additional Charges due under this Lease.

VII. INDEMNIFICATION

Lessee shall Indemnify and defend with counsel reasonably acceptable to Lessor, and save Lessor harmless from and against all costs, expenses, liabilities, losses, damages, injunctions, suits, actions, fines, penalties, claims and demands of every kind of nature, including reasonable attorneys' fees, by or on behalf of any person, party or governmental authority whatsoever arising out of (a) any failure or alleged failure by Lessee to perform any of its obligations under this Lease, (b) any accident, injury or damage which occurs in or about the Premises, however occurring except from Lessor's gross negligence or intentional misconduct, (c) any matter arising out of the condition, occupation, maintenance, alteration, repair, use or operation of the Premises or any part of it, (d) the contest or challenge by Lessee of any imposed tax, Assessment, or other Charges, (e) any other matter arising from or relating to Lessee's occupation of the Premises.

VIII. DEFAULT AND ENFORCEMENT

§8.1 DEFAULT. Each of the following events is a default and a breach of this Lease by Lessee:

- (a) If Lessee files any proceeding under the United States Bankruptcy Code, any other federal or state bankruptcy, reorganization, receivership, insolvency, or other similar law affecting the rights of creditors generally, or for dissolution under the laws of the United States or of any state, or voluntarily takes advantage of any such law or act or is dissolved or makes an assignment for the benefit of creditors;
- (b) If involuntary Proceedings under the United States Bankruptcy Code, any other federal or state bankruptcy, reorganization, receivership, insolvency or other similar law or for the dissolution of a corporation are instituted against Lessee, or if a receiver or trustee is appointed of all or substantially all of the property of Lessee and such Proceedings are not dismissed, or such receivership or trusteeship vacated within ninety (90) days after such institution or appointment;
- (c) If Lessee vacates, abandons or ceases doing business on the Premises or indicated its intention to do so;

(d) If this Lease or the estate of Lessee hereunder is transferred to any other person or party, except in a manner permitted by the terms of this Lease;

(e) If Lessee fails to pay Lessor any installment of the Rent, Additional Rent, or other charges within five (5) business days of when it becomes due and payable; however, Lessee shall be entitled to written notice of such failure (but not more than three (3) notices in any twelve (12) month period), giving Lessee five (5) business days from such notice to cure;

(f) If Lessee fails to perform any of its nonmonetary obligations under this Lease and such non-performance continues for a period within which performance is required to be made by specific provision of this Lease or, if no such period is provided for a period of thirty (30) days after notice thereof by Lessor to Lessee; or, if such performance cannot be reasonably had within such thirty day period, lessee has not in good faith commenced such performance within such thirty day period or has not diligently proceeded therewith to completion;

(g) If the Lessee or any agent of Lessee falsifies any report required to be furnished to Lessor pursuant to the terms of this Lease and fails to notify Lessor of such falsification within sixty (60) days of submission of such report

(h) Repeated breaches of provisions of this Lease. If Lessor intends to terminate this Lease under this Section 8.1(h), Lessor shall provide notice to Lessee that Lessor considers the Lessee to have repeatedly breached this Lease, and that Lessor intends to terminate this Lease if Lessee breaches the Lease at any time after said notice. If Lessee after receiving such notice subsequently breaches this Lease in any manner, Lessor shall have the right to terminate this lease upon notice with no further opportunity to cure.

(i) If Burger King Corporation has formally declared in writing that Lessee is in default, beyond any applicable cure period, under any Franchise Agreement relating to the Premises.

In the event of a default under this Section 8.1, Lessor shall have such remedies as are provided under this Lease and/or under applicable law.

§8.2 CURE BY LESSOR. After expiration of the applicable period of notice, or without notice in the event of any emergency, Lessor, at its option may, but shall not be obligated to, make any payment required of Lessee or perform any obligation of Lessee, and the amount Lessor pays, or the cost of its performance, together with interest thereon at the highest legal rate permitted, shall be deemed to be an additional charge payable by lessee on demand. After expiration of the applicable period of notice, or without notice in the event of any emergency Lessor shall have the right to enter the Premises for the purpose of correcting or remedying any default, but neither any expenditure nor any such performance by lessor shall be deemed to waive or release Lessee's default or the right of Lessor to take such action as may be otherwise permissible in the case of default. The Lessor shall have no liability to the Lessee for any loss or damages resulting from any such action by the Lessor, and entry by the Lessor under the provisions of Article V or Article VIII shall not constitute breach of the covenant for quiet enjoyment or an eviction.

§8.3 LESSOR'S REMEDIES. If Lessee fails to pay rent when rent is due and payable, and continues

in default beyond any applicable cure period, or if Lessee fails to promptly keep and perform any of Lessee's other covenants in accordance with the terms of this Lease and continues in default for a period of 30 days after receipt of notice from Lessor of default and demand for performance, then, Lessor may (a) declare the Term ended, and enter into the Premises and expel Lessee or any person occupying the Premises and repossess and enjoy the Premises as in Lessor's former estate; and/or (b) terminate Lessee's right of possession, re-enter and re-let the Premises, applying the rent from the new tenant to this Lease, and Lessee will be responsible for only the balance that is due, should a balance exist. If any default occurs other than in the payment of money, which cannot with due diligence be cured within a period of 30 days, and Lessee, prior to the expiration of such period, commences to eliminate the cause of such default and thereafter diligently and continuously pursues such cure to completion, then Lessor will not have the right to declare the Term ended and/or relet the Premises by reason of such default. Notwithstanding anything to the contrary, the above is not intended to provide Lessor with a right accelerate Rent due for the entire Term.

No waiver of any agreement of this Lease or of the breach thereof shall be taken to constitute a waiver of any subsequent breach of such agreement, nor to justify or authorize the non-observance of any other occasion of the same or any other agreement hereof; nor shall the acceptance of Rent by Lessor at any time when Lessee is in default be construed as a waiver of such default or of Lessor's right to terminate this Lease on account of such default; nor shall any waiver or indulgence granted by Lessor to Lessee be taken as an estoppel against Lessor, it being expressly understood that if at any time Lessee shall be in default hereunder, an acceptance by Lessor of Rent during the continuance of such default or the failure on the part of Lessor promptly to avail itself of such other rights or remedies as Lessor may have, shall not be construed as a waiver of such default, but Lessor may at any time thereafter, if such default continues, terminate this Lease on account of such default in the manner herein provided.

2.3
Should Lessee cause Lessor to incur legal fees to enforce any of the provisions of this Lease or reply to letters or other communications from Lessee's attorney, Lessee shall reimburse Lessor for such attorneys' fees within fifteen (15) days of receipt of demand from Lessor requesting such reimbursement. Lessor may collect such legal fees from the Lessee's security deposit, if any. In the event court action relating to this Lease is brought by either Party against the other, the prevailing Party shall be entitled to recover from the non-prevailing Party reasonable attorneys' fees and costs incurred in such action, the amount thereof to be fixed by the court.

§8.4 SUITS. Suits or suits for the recovery of the deficiency or damage or for any installment or installments of Rent, Additional Rent or any other charge due under this Lease may be brought by lessor at any time or, at Lessor's election, from time to time, and nothing in this Lease shall be deemed to require Lessor to wait until the Original Term Expiration Date to bring suit.

§8.5 LEASEHOLD MORTGAGE. Lessor hereby grants to Lessee and every successor and assign of Lessee approved by Lessor the right, without Lessor's prior written consent, to mortgage its interests in, to or under this Lease, or any part or parts thereof, and otherwise to assign and/or convey all or any part of Lessee's interest in or rights under this Lease to any institutional lenders as collateral for loans, and, in such event, the mortgagee or assignee shall have all the rights of Lessee hereunder. Notwithstanding anything contained herein to the contrary, the Lessor's fee interest in the Premises

will not become, in any respect subject to, considered a part of, or become subordinate to any mortgage of the Lessee, its successors and/or assigns. Nor will the Lessor's fee interest become subordinate to any sublessee of Lessee. If Lessee mortgages Lessee's leasehold estate to an institutional lender and the mortgagee or holders of the indebtedness secured by the leasehold mortgage or trust deed notify Lessor, in the manner provided for the giving of notice, of the execution of such mortgage or trust deed and name the place for service of notice upon such institutional mortgagee or holder of indebtedness, then, in such event, Lessor agrees that for the benefit of such mortgagees or holders of indebtedness from time to time:

A. Lessor will give to any such mortgagee or holder of indebtedness simultaneously with service on Lessee, a duplicate of any and all notices or demands given by Lessor to Lessee. Lessor will deliver such notices in the manner and subject to the terms of the notice provisions of this Lease.

B. Such mortgagee or holder of indebtedness will have the privilege of performing any of Lessee's covenants under this Lease, curing any Lessee default or exercising any election, option or privilege conferred upon Lessee by the terms of this Lease.

C. Lessor will not terminate this Lease or Lessee's right of possession for any Lessee default if, within a period of 20 days after the expiration of the period of time within which Lessee might cure such default under the provisions of this Lease, such mortgagee or holder of indebtedness commences to eliminate the cause of such default and proceeds diligently and with reasonable dispatch to complete such cure and actually cures such default within an additional 20 days.

D. Except for the termination rights contained in this Lease, no negotiated termination of this Lease will be effective unless joined in by any such mortgagee or holder of the indebtedness.

E. No liability for the payment of rent or the performance of any of Lessee's covenants and agreements will attach to or be imposed upon any mortgagee, trustee under any trust deed or holder of any indebtedness secured by any mortgage or trust deed upon the leasehold estate, unless such mortgagee, trustee or holder of indebtedness forecloses its interest and becomes the Lessee under this Lease or otherwise enters into possession of the Premises, in which instance such mortgagee, trustee, or holder of indebtedness shall bring rent current hereunder within 30 days.

§8.6 PROOF OF CLAIM. Nothing in this Article shall limit or prejudice the right of Lessor to prove and obtain as liquidated damages in any bankruptcy, insolvency, receivership, reorganization, or dissolution proceeding an amount equal to the maximum allowed by any statute or rule of law governing such proceeding, whether or not such amount is greater, equal to or less than the amount of the damages referred to in any of the preceding sections.

§8.7 INJUNCTION. In the event of a breach or a threatened breach by Lessee of any of its Lease obligations, Lessor shall have the right to enjoin and restrain the breach and to invoke any remedy allowed by law or in equity, in addition to other remedies provided on this Lease.

§8.8 INDEPENDENT RIGHTS. The rights and remedies of Lessor are distinct, separate and cumulative, and no one of them, whether or not exercised by Lessor, shall be deemed to be to the exclusion of any of the others.

§8.9 NON-WAIVER. The failure of Lessor to insist upon strict performance of any of Lessee's obligations under this Lease shall not be deemed a waiver of any rights or remedies that Lessor may have and shall not be deemed a waiver of any subsequent breach or default by Lessee. The exercise of any of the Lessor's options under the Lease "shall not be deemed to be the exclusive remedy of Lessor."

§8.10 FRANCHISE AGREEMENT. Notwithstanding anything in this Lease to the contrary, this Lease is conditioned upon the faithful performance by Lessee of the Franchise Agreement, and if Burger Corporation formally declares in writing that Lessee is in default under any Franchise Agreement beyond any applicable cure period, such default in the terms of the Franchise Agreement shall constitute a default under this Lease.

IX. NO RENT ABATEMENT

Unless specifically provided in this Lease, no abatement, diminution, or reduction of Rent, Additional Rent, Additional Charges or other compensation shall be claimed by or allowed to Lessee, or any persons claiming under Lessee, under any circumstances, whether for inconvenience, discomfort, interruption of business, or otherwise.

§9.1 FORCE MAJEURE. This Lease and the obligations of each party hereunder shall not be affected or impaired because the other party is unable to fulfill any of its obligations hereunder or is delayed in doing so unless such inability is directly caused by:

- a. An act of God (such as, but not limited to, wildfires, explosions, earthquakes, drought, tidal waves and floods); or
- b. war, hostilities (whether war be declared or not), invasion, act of foreign enemies, requisition, or embargo; or
- c. rebellion, revolution, insurrection, or military or usurped power, or civil war; or
- d. contamination by radio-activity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radio-active toxic explosive, or other hazardous properties of any explosive nuclear assembly or nuclear component of such assembly; or
- e. Local riot, local commotion that violates any law; or
- f. acts or threats of terrorism reported and documented by local law enforcement; or
- g. A pandemic that results in quarantine affecting the local area of where the property is located, of more than 15 days;

- h. Nothing within this clause shall permit or excuse performance solely because the Lessee has suffered an unpredictable downturn in business or loss of profit from otherwise normal business condition operations.

Notwithstanding anything herein to the contrary, should the local area where the premises is located be placed on quarantine by local, state, or federal officials, for a period exceeding 15 days, the Landlord agrees to abate 25% of Tenant's Rent for a period of up to three (3) months to allow the national disaster/epidemic to subside. Landlord and Tenant agree that a period equal to said abatement shall be added to the end of the Lease Term, at the same Rent as period of abatement plus an additional 25%.

**X.
CONDEMNATION**

§10.1 AWARD. In the event that the Premises or any part of it is taken in condemnation proceedings or by exercise of any right of eminent domain (or by settlement agreement in lieu thereof between Lessor and those authorized to exercise such right), Lessor shall be entitled to collect the entire amount of any award made other than as is applicable to Lessee's leasehold estate, subject also to the rights of any mortgage and to Lessee's rights as set forth in this Lease. Lessee agrees to execute any and all documents that may be required to facilitate collection by Lessor of any and all such awards. Lessee shall have no right to participate in any condemnation proceeding or arrangement except for the purposes described in Section 10.5.

§10.2 SUBSTANTIAL TAKING. If at any time during the Lease Term, the whole or substantially all of the Premises is taken or condemned, this Lease shall terminate and expire on the date on which title vests in the condemning authority, upon which the Rent provided to be paid by lessee shall be apportioned and paid to that date, and Lessee shall have no claim against Lessor for the unexpired Term of this Lease or for damage or for any other reason whatsoever except damage as to its leasehold estate. For the purposes of this Section, "substantially all of the Premises" shall be deemed to have been taken if, in the commercially reasonable opinion of Lessor, the portion of the Premises not taken cannot be repaired or reconstructed in such a way that by using only the amount of the net award available from the taking, there remains a complete, rentable structure capable of producing a proportionately fair and reasonable net annual income after payment of all operating expenses, Rent, Additional Rent and all other Additions Charges payable by Lessee, and after performance by the Lessee of all its obligations under this Lease.

§10.3 PARTIAL TAKING. In the event of a partial taking (any taking which is not "substantial"), this Lease shall not terminate, and Lessee shall promptly proceed to restore the remainder of the Building on the Land (if affected by the taking) to a complete, independent and self-contained architectural unit, usable for the purposes contemplated by this Lease, and Lessor shall pay to Lessee, the cost of restoration, which payment shall in no event exceed a sum equal to the amount of any award made for such restoration. Any deficiency will be paid by Lessee. Such restoration shall be subject to and shall be performed in accordance with the provisions of Section 5.3, except that any surety bond shall be in the amount, if any, by which the estimated cost of the work exceeds said separate award for the restoration. In the event that there is no separate award for restoration, the amount shall be fixed

and settled by mutual agreement or by arbitration as provided in this Lease.

If the taking results in the loss of parking spaces, driveways or accesses which are not or cannot be relocated or replaced elsewhere on the Premises, Lessee shall be entitled to any condemnation proceeds associated with the diminution in value of its leasehold estate as a result of such loss, and the Guaranteed Minimum Annual Rental after the date of taking shall be reduced in direct proportion to the area of the Premises taken. For example: If prior to the taking of the area of the Premises is 30,000 square feet and the Guaranteed Minimum Annual Rental is \$100,000.00, upon the taking of 750 square feet, the Guaranteed Minimum Annual Rental will be reduced by three percent (3%), resulting in a new Guaranteed Minimum Annual Rental of \$97,000.00.

§10.4 EASEMENTS. If the taking is; (i) of any existing appurtenant easement, or (ii) by easement rather than by fee, then the Lessee shall be entitled to any condemnation proceeds associated with the diminution in value of its leasehold estate as a result of such loss, and the Guaranteed Minimum Annual Rental after the date of taking shall be reduced in direct proportion to the area of the Premises taken as shown in the example above.

§10.5 LESSEE'S INDEPENDENT AWARD. Nothing in this article shall preclude Lessee from pursuing any Independent action permitted by law or from participating in the condemnation proceeding for the purpose of securing an independent award for loss of business or damage to personal property.

XI. SUBORDINATION.

This Lease shall be fully subordinate to any mortgage and/or collateral assignment of lease against the Premises which the fee owner, Lessor and/or their assigns has or subsequently obtains upon the Premises. Notwithstanding anything herein to the contrary, in the event the mortgagee or any other person acquires title to the Premises pursuant to the exercise of any remedy provided for in the mortgage, or by conveyance in lieu of foreclosure, the Lease shall not be terminated or affected by the foreclosure, conveyance or sale in any such proceeding. The mortgagee covenants that any sale of the Premises as a result of the exercise of any rights and remedies under the mortgage, or otherwise, shall be made subject to the Lease and the rights of the Lessee under the Lease, and the Lessee covenants and agrees to attorn the mortgagee, or such person, as its new landlord, and the Lease shall continue in full force and effect as a direct Lease between the Lessee and the mortgagee, or such other person, upon all of the terms, covenants, conditions and agreements set forth in the Lease. However, in no event shall the mortgagee or such person be: (i) liable for any act or omission of the Lessor, or (ii) subject to any offsets or deficiencies, which the Lessee might be entitled to assert against the Lessor.

Lessee hereby agrees to execute, without charging Lessor, any and all documents that it is requested to execute to evidence this subordination. However, Lessee shall not be required to execute any promissory notes or other evidences of indebtedness which would create any personal liability on

behalf of Lessee.

Lease Assignment

**XII.
ASSIGNMENT**

§12.1 BY LESSOR. This Lease shall be fully assignable by the Lessor or its assigns at Lessor's sole and exclusive discretion.

§12.2 BY LESSEE. Neither Lessee, not Lessee's successors or assigns, shall (unless expressly permitted in this Lease) assign, mortgage, give as security, pledge or encumber this Lease, in whole or in part, by operation of law or otherwise, or sublet the Premises, in whole or in part, or permit the Premises or any portion of it to be used or occupied by others, or enter into a management contract or other arrangement whereby the Premises shall be managed and operated by anyone other than the owner of Lessee's leasehold estate, without the prior consent in writing of Lessor in each instance.

If this Lease is assigned or transferred, or if all or any part of the Premises is sublet or occupied by anybody other than Lessee, Lessor may collect Rent from the assignee, transferee, subtenant or occupant, and apply the net amount collected to the Rent reserved in this lease, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of any covenant or condition of this Lease, or the acceptance of the assignee, transferee, subtenant or occupant as lessee, or a release of Lessee from the performance or further performance by Lessee of its obligations under this Lease and the Lessee shall continue to be liable for all its obligations under this Lease. The consent by Lessor to an assignment, mortgage, pledge, encumbrance, transfer, management contract, or subletting shall not in any way be construed to relieve Lessee from obtaining the express consent in writing of Lessor in each instance to any subsequent similar action that the Lessee may intend to take. Providing Lessee remains liable for all its obligations under this Lease unless released by Lessor in its sole discretion, Lessor shall consent to an assignment of this Lease to an individual, partnership, or corporation to which the Franchise Agreement has been assigned. Notwithstanding anything herein to the contrary, Lessor's consent to an assignment executed in connection with sale of Lessee's business at the Leased Space to an entity or person that satisfies the Approved Assumption Conditions (as hereinafter defined) shall not be unreasonably withheld.

A person or entity that satisfies the Approved Assumption Conditions shall be: (i) an approved Burger King franchisee, and (ii) have a net worth equal or greater to that of Lessee as of the date of this Lease or the date of the proposed assignment (whichever is greater) and "liquid assets" equal or greater to those of Lessee as of the date of this Lease or the date of the proposed assignment (whichever is greater), with "liquid assets" being defined as cash, publicly traded stocks, bonds, or certificates of deposit ("Approved Assumption Conditions"). The proposed assignee or sublessee shall submit financial statements to Lessor verifying such net worth and liquid assets as a condition to the assignment or sublease. If such entity or person meeting the Approved Assumption Conditions executes an assignment and assumption agreement with Lessor and the then current Lessee in form and substance satisfactory to Lessor then same shall operate to release the current Lessee of any liability under this Lease that first arises; one (1) year after the Approved Assumption Conditions are met; provided, however, that; (i) if there is an uncured default under this Lease prior to the end of the one (1) year period after the Approved Assumption Conditions are met, then the current Lessee shall

not be released from any liability under this Lease, or (ii) if there is a default that arises during the one (1) year after the Approved Assumption Conditions are met and such default is cured during such one (1) year period, then the period of time during which Lessee shall remain liable shall be extended so that their liability expires one (1) year from and after the date such default is cured.

§12.3 ASSUMPTION BY ASSIGNEE. As assignment made with Lessor's consent or as otherwise permitted shall not be effective until Lessee delivers to Lessor an executed counterpart of such assignment containing an agreement, in recordable form, executed by the assignor and the proposed assignee, in which the assignee assumes the performance of the obligations of the assignor under this Lease to the Original Term Expiration Date.

XIII.

ESTOPPEL CERTIFICATE

Lessor and Lessee shall from time to time, within fifteen (15) days after being requested to do so by the other party execute, acknowledge and deliver to each other (or, at Lessor's or Lessee's request, to any existing or prospective purchaser, transferee, assignor or mortgagee of any or all of the Premises, any interest therein or any of Lessor's or Lessee's rights under this Lease) an instrument in recordable form;

a. Certifying (a) that the Lease is unmodified and in full force and effect (or, if there has been any modification thereof, that it is in full force and effect as so modified, stating therein the nature of such modification); (b) as to the dates to which the Rent and Additional Charges arising hereunder have been paid; (c) as to the amount of any prepaid rent or any credit due to Lessee hereunder, (d) that the Lessee has accepted possession of the Premises, and the date on which the Term commenced; (e) as to whether, to the best knowledge, information and belief of the signer of such certificate, the Lessor or the Lessee is then in default in performing any of its obligations under the Lease (and, if so, specifying the nature of each such default); and (f) as to any other fact or condition reasonably requested by the Lessor or such other addressee; and

b. Acknowledging and agreeing that any statement contained in such certificate may be relied upon by Lessor and any such other addressee.

XIV.

HAZARDOUS SUBSTANCES

§14.1 COMPLIANCE WITH LAWS. Lessee shall at all times, at its own cost and expense, comply with all federal, state and local laws, ordinances, regulations and standards ("Hazardous Substance Laws") relating to the use, analysis, production, storage, sale, disposal or transportation of any hazardous materials, including oil or petroleum products or their derivatives, solvents, PCB's, explosive substances, asbestos, radioactive materials or waste, and any other toxic, ignitable, reactive, corrosive, contaminating or pollution materials ("Hazardous Substances") which are not or in the future subject to any governmental regulation. Such compliance shall include any cleanup, removal, remedial action, testing or monitoring (including medical monitoring) which results from acts or omissions by Lessee and as may be required under Hazardous Substance Laws, court order or

by any governmental or regulatory agency:

§14.2 NOTICES TO LESSOR.

(a) Except with respect to any substance described in Section 14.2(c) below, Lessee shall give written notice to Lessor within five (5) business days after the date on which Lessee learns or first has reason to believe that:

(1) There has or will come to be located on or about the Premises any Hazardous Substance, the production, transportation, storage, use or handling of which requires a permit or license from any federal, state, or local governmental agency.

(2) Any release, discharge or emission of any Hazardous Substance has occurred on or about the Premises, including the migration of any Hazardous Substance to or from adjoining or nearby properties.

(3) Any (i) enforcement, cleanup, removal, remediation, testing, monitoring or other governmental or regulatory action has been threatened or commenced against Lessee with respect to the Premises pursuant to any Hazardous Substances Laws; or (ii) any claim has been made or threatened by any person or entity against Lessee or the Premises on account of any alleged loss or injury claimed to result from the alleged presence or release on or from the Premises of any Hazardous Substance; or (iii) any report, notice, or complaint has been made to or filed with any governmental agency concerning the presence, migration, use or disposal of any Hazardous Substances on or from the Premises. Any such notice shall be accompanied by copies of any such claim, report, complaint, notice, warning or other communication that is in the possession of or is reasonably available to the Lessee.

(b) Any notice required under this Section 14.2 shall be accompanied by (i) a copy of all permits, licenses, proofs of disclosure to governmental agencies, pertaining to Hazardous Substances that have not previously been furnished to Lessor and; (ii) copies of any Material Safety Data Sheets pertaining to such substances that are required by applicable law to be kept at the Premises.

(c) The notice provisions of this article XV shall not apply to materials that are lawfully discharged from the Premises or lawfully used on the Premises in the ordinary course of Lessee's business or which are not caused (directly or indirectly) by the acts or omissions of Lessee.

§14.3 REMOVAL AND DISPOSAL. Except for materials that are lawfully discharged from the Premises or lawfully used on the Premises in the ordinary course of Lessee's business. Lessee shall cause any Hazardous Substances to be removed from the Premises solely by duly licensed Hazardous Substances transporters to duly licensed facilities for final disposal to the extent required by and in accordance with applicable Hazardous Substances Laws and shall deliver to Lessor copies of any hazardous waste manifest reflecting the lawful transport and disposal of such substances.

§14.4 ENVIRONMENTAL AUDITS BY LESSOR.

(a) Rights of Lessor. Lessor may, but shall not be required to, engage such independent

contractors as lessor determines to be appropriate to perform from time to time any audit, including environmental sampling and testing, of (i) the Premises, the surrounding soil and any adjacent areas, and any groundwater located under or adjacent to the Premises and/or any adjoining property, (ii) Lessee's compliance with all Hazardous Substances Laws and the provisions of this Lease, and (iii) the provisions made by Lessee for carrying out any remedial action that may be required by this Lease (collectively an "Environmental Audit"). All costs and expenses incurred by Lessor in connection with any such Environmental Audit shall be paid by Lessor, except that if any such Environmental Audit shows that Lessee has failed to comply with the provision of this Article XV. Then such costs and expenses shall be paid by Lessee to Lessor as Additional Charges pursuant to Section 3.4 of this Lease.

(b) Conduct of Audit. Each Environmental Audit shall be conducted (i) only after advance notice thereof has been provided to Lessee at least forty eight (48) hours prior to the date of such audit, and (ii) in a manner reasonably designed to minimize any interference with the conduct of Lessee's business on the Premises. Lessor shall repair any damages to the Premises or to Lessee's personal property caused by any Environmental Audit conducted by or on behalf of Lessor.

(c) Submission to Governmental Agency. Notwithstanding any other provision of this Lease to the contrary, to the extent required by law, Lessor shall be entitled to submit the results of any Environmental Audit to any federal, state or local governmental agency having jurisdiction over (a) the Premises or (b) Hazardous Substances with respect to the Premises.

§14.5 REMEDIATION.

(a) By Lessee. If any Environmental Audit of the Premises (whether conducted by Lessor, Lessee or any third party) shall recommend the cleanup, abatement, removal, disposal, monitoring or further testing, including medical monitoring or testing (collectively "Remediation") of or for any Hazardous Substances found on or about the Premises, then Lessor shall provide Lessee with a copy of such Environmental Audit and Lessee shall promptly commence such Remediation, at Lessee's exclusive cost, if such matters are the result of the acts or omissions of Lessee.

(b) By Lessor.

If, within thirty (30) days after receiving a copy of such Environmental Audit and such written statement, Lessee fails either (i) to complete such Remediation, or (ii) with respect to any Remediation which cannot be completed within such thirty-day period, fails to proceed with reasonable diligence to complete such Remediation as promptly as practicable, then the Lessor shall be entitled to promptly commence (at Lessee's sole cost and expense) such Remediation if such matters are the result of the acts or omissions of Lessee.

Notwithstanding any other provision of the Lease to the contrary, if any Environmental Audit reveals a situation which, in Lessor's sole option, constitutes an emergency, then Lessor shall have the right, but not the obligation, to carry out any Remediation recommended by such audit or if required by any federal, state or local governmental agency having jurisdiction over the Premises. If Lessee is responsible for conducting such remediation, Lessor shall have the right to recover all of the costs

and expenses thereof from Lessee as Additional Charges pursuant to Section 3.4 of this Lease.

(c) Actions and Proceedings. Except in emergencies or as otherwise required by law, Lessee shall not perform any Remediation in response to the presence or release of any Hazardous Substances on or about the Premises without first giving written notice to Lessor. Lessee shall not enter into any settlement agreement, consent decree or other compromise with respect to any claims relating to any Hazardous Substances in any way connected with the Premises without first notifying Lessor or Lessee's intention to do so and affording Lessor the opportunity to participate in any such proceedings.

§14.6 REMEDIATION BY THIRD PARTIES.

(a) If Lessee receives a request from a third party to enter the Premises for the purposes of Remediation of Hazardous Substances, then Lessee shall so notify Lessor in accordance with the provisions of Section 14.2 above.

(b) Lessor, in its sole discretion, shall determine if the request should be honored and, if so, under what conditions.

(c) If Lessor determines that the request should be honored, then Lessee shall cooperate with such Remediation so long as the third party agrees to comply with the provisions of Section 14.4(b) above and with any other reasonable conditions requested by Lessee.

(d) Lessee agrees to sign any documentation reasonably required by Lessor and/or any such third party in order to effectuate the provisions of this Section 14.6.

§14.7 LEASE EXPIRATION. Upon the expiration or earlier termination of the Term of this Lease, Lessee shall (i) cause all Hazardous Substances previously owned, stored or used by Lessee to be removed from the Premises and disposed of in accordance with applicable Hazardous Substances Laws; (ii) remove any aboveground or underground storage tanks or other containers installed or used by Lessee to store any Hazardous Substances on the Premises, and repair any damage to the Premises caused by such removal; (iii) cause any soil or other portion of the Premises which has become contaminated by any Hazardous Substances stored or used by Lessee on the Premises to be decontaminated, detoxified or otherwise remediated in accordance with the requirements of any governmental authorities having jurisdiction over the Premises; and (iv) surrender possession of the Premises to Lessor free of contamination attributable to Hazardous Substances generated or used by Lessee in or on the Premises during the Term of this Lease.

§14.8 INDEMNIFICATION BY LESSEE. Lessee shall indemnify, defend with counsel reasonable acceptable to Lessor, and hold Lessor free and harmless from any and all liabilities, damages, claims, penalties, fines, settlements, causes of action, costs or expense, including reasonable attorneys' fees, environmental consultant and laboratory fees and the costs and expense of investigating and defending any claims, proceedings, resulting from or attribute to the following if such matters are the result of the acts or omissions of Lessee: (i) the presence, disposal, migration, release soil, water, vegetation, buildings, personal property persons, or otherwise; (ii) any bodily injury (including wrongful death) or property damage (real or personal) arising out of or relating to such Hazardous

Substance(s); (iii) any lawsuits or administrative order relating to such Hazardous Substance(s); or any violation of any laws applicable to any Hazardous Substance for which Lessee is responsible under this Lease, Lessee's indemnification obligations under this Section shall survive the expiration or earlier termination of this Lease. Notwithstanding anything to the contrary contained herein, Lessee shall have no liability or responsibility to Lessor for liabilities, damages, claims, penalties, fines, settlements, causes of action, cost or expense arising out of any Hazardous Substances that Lessee can demonstrate were situated on or under the Premises prior to the Lease Date, provided Lessee did not cause or exacerbate the release of any such Hazardous Substance through its negligence or willful misconduct.

**XV.
MISCELLANEOUS**

§15.1 ARBITRATION. In the event of arbitration under Section 10.3 of this Lease, the arbitration shall be held in the capital city of the state where the Premises is located, in accordance with the rules of the American Arbitration. By initialing this Arbitration provision Paragraph 15.1, the Parties acknowledge and understand that by agreeing to Arbitrate any dispute, the parties are giving up legal rights to litigate the dispute in court and may be giving up certain rights related to discovery, trial by jury and the right to appeal the decision of the Arbitrator. Arbitrations pursuant to this Paragraph 15.1 shall be conducted pursuant to the rules of the American Arbitration Association.

§15.2 FORUM SELECTION. Any disputes between Lessor and Lessee, other than those submitted to arbitration pursuant to Paragraph 15.1, shall be litigated in the state or federal courts of the capital city of state where the Premises is located.

§15.3 NOTICES. Every notice, approval, consent or other communication authorized or required by this Lease shall be effective if given in writing and if hand delivered or sent by United States Registered or Certified Mail, Return Receipt Requested, with postage prepaid, and addresses directly to Lessor at its offices at 32 Aristocrat Circle Sugarloaf, PA 18249, and to Lessee at 3300 Eastern Blvd., Montgomery, AL 36116, or at such other address as either party shall from time to time designate in writing. Every notice shall be deemed to be effective upon delivery, if delivered, or on the second business day after mailing, if mailed.

§15.4 ADDRESS FOR PAYMENTS. Payments may be made by check or via ACH or Wire Transfer. If payment is made by check it shall be sent by Priority Mail or Overnight Mail: GEWSI 2, LLC, 32 Aristocrat Circle Sugarloaf, PA 18249.

§15.5 CONSTRUCTION. In the event that any of the provisions of this Lease shall by court order be held invalid or in contravention of any of the laws of the United States or of any state having jurisdiction over the subject matter or of any dispute arising under it, such invalidation shall not serve to affect the remaining portion of this Lease. To the extent permitted by the laws of the state where the Premises are located, this Lease shall be governed by and construed in accordance with the laws of the State of Alabama.

§15.6 SUCCESSORS. This Lease shall bind Lessor and Lessee and their successors, heirs, assigns,

administrators, and legal representatives, as the case may be.

§15.7 RECORDING. Either party shall upon request by the other party execute a short form of this Lease on a written document witnesses and acknowledged in a form capable of being recorded in the public records of the county where the Premises are located. Lessee shall not record this Lease without prior consent of Lessor.

§15.8 COUNTERPARTS. This lease is being executed simultaneously in counterparts, any one of which shall be deemed an original.

§15.9 NO AGENCY. The parties hereto agree that the business relationship created by this Lease is solely that of Lessor and Lessee. Nothing contained in this Lease shall make Lessee an agent, legal representative, partner, subsidiary, joint venture or employee of Lessor. Lessee shall have no right or power to, and shall not bind or obligate Lessor in any way, manner or thing whatsoever, not represent that it has any right to do so.

§15.10 TIME OF THE ESSENCE. Time shall be of the essence in every part of this Lease.

§15.11 BINDING EFFECT. This Lease shall become immediately binding on the parties to this Lease on the date the party signs it, notwithstanding that the Term of this Lease shall commence upon a future date.

§15.12 HEADINGS. The table of contents preceding this Lease and the headings of the paragraphs and subparagraphs are inserted solely for the convenience of reference and shall not constitute a part of this Lease, not limit, define or describe the scope or intent of this Lease.

§15.13 JOINT AND SEVERAL LIABILITY. If Lessee consists of more than one person, each individual's liability under this Lease shall be joint and several.

§15.14 ENTIRE AGREEMENT. This Lease constitutes the entire agreement between the parties hereto with respect to the subject matter of this Lease, and this Lease shall not be modified, amended, altered or changed except by prior written agreement signed by both parties. If any provision herein is invalid, it shall be considered deleted from this Lease and shall not invalidate the remaining provisions.

§15.15 CONSENT STANDARD. In all instances where Lessor's consent or approval is required, such consent or approval shall not be unreasonably withheld, delayed, or conditioned.

§15.16 DEFINITIONS

(a) The term "Lessor" as used in this Lease shall mean the owner in fee of the Premises for the time being, or the owner of the leasehold estate created by an underlying lease, or the mortgage of the fee or of such underlying lease in possession for the time being, so that in the event of any sale or sales of the Premises, or of the making of any such underlying lease, or of any transfer or assignment or other conveyance of such underlying lease and the leasehold estate created by it, the seller, lessor, transferor or assignor shall be and is hereby entirely freed and relieved of all

agreements, covenants and obligations of Lessor herein and it shall be deemed and construed without further agreement between the parties or their successors in interest or between the parties and the purchaser, lessee, transferee or assignee on any such sale, leasing, transfer or assignment that such purchaser, lessee, transferee or assignee has assumed and agreed to carry out any and all agreements, covenants and obligations of Lessor under this Lease.

(b) The term "Lessee" shall mean the lessee names in this Lease, and from after any valid assignment or sublease of Lessee's interest in this Lease pursuant to its provisions, the assignee or sublessee of this Lease.

(c) The term "mortgage" shall mean any mortgage, security interest, charge, deed of trust, or other similar encumbrance resulting from the financing or refinancing of the Premises.

(d) The term "mortgagee" shall include any individual, firm, partnership, corporation, joint venture, investment trust bank or institution, or other business group or association lending funds to Lessor upon the security of the Premises demised by this Lease whether or not such mortgage is recorded, or upon Lessor's independent covenant not to otherwise encumber this Lease or the Premises.

The term "fixture(s)" as used in this Lease means such items of personal property which have been (i) installed by Lessor and/or (ii) so affixed to the Premises that removal would cause, in Lessor's sole opinion, material damage to the Premises. By way of example, and not limitation, fixtures include the following: heating, ventilating and air conditioning systems, water heaters or softeners, core-drilled tables and seating, walk-in boxes, walk-in freezers, and toilet fixtures consisting of the lavatories and water closets, but shall not include Lessee's trade fixtures specific to the operation of the restaurant which shall remain property of Lessee.

IN WITNESS THEREOF, the Lessor and Lessee have caused this Lease to be signed, in duplicate, as of the day and year first above written.

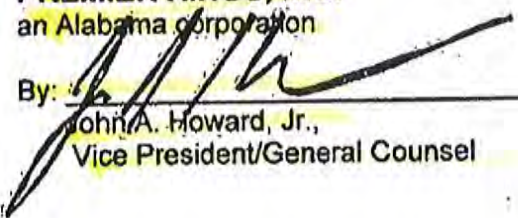
LESSOR:

GEWSI 2, LLC,
a Pennsylvania limited liability company

By: _____,
_____, Manager

LESSEE:

PREMIER KINGS, INC.
an Alabama corporation

By:  _____
John A. Howard, Jr.,
Vice President/General Counsel

IN WITNESS THEREOF, the Lessor and Lessee have caused this Lease to be signed, in duplicate, as of the day and year first above written.

LESSOR:

GWESI 2, LLC,

By: *James V. Gallagher*, Manager

LESSEE:

PREMIER KINGS, INC.

an Alabama corporation

By: _____, Manager