

Fill in this information to identify the case:

Debtor Premier Kings, Inc.

United States Bankruptcy Court for the: Northern District of Alabama
(State)

Case number 23-02871

**Official Form 410
Proof of Claim**

04/22

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 or 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

<p>1. Who is the current creditor?</p>	<p><u>ARC CAFEUSA001, LLC</u></p> <p>Name of the current creditor (the person or entity to be paid for this claim)</p> <p>Other names the creditor used with the debtor _____</p>	
<p>2. Has this claim been acquired from someone else?</p>	<p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. From whom? _____</p>	
<p>3. Where should notices and payments to the creditor be sent?</p> <p>Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)</p>	<p>Where should notices to the creditor be sent?</p> <p>ARC CAFEUSA001, LLC c/o Kutak Rock LLP Attn: Lisa M. Peters, Esq. 1650 Farnam Street Omaha, Nebraska 68102-2104</p> <p>Contact phone <u>4023466000</u></p> <p>Contact email <u>lisa.peters@kutakrock.com</u></p>	<p>Where should payments to the creditor be sent? (if different)</p> <p>ARC CAFEUSA001, LLC c/o Realty Income Corporation Attn: Legal Department 2325 East Camelback Road, 9th Floor Phoenix, Arizona 85016</p> <p>Contact phone <u>602.778.6000</u></p> <p>Contact email _____</p> <p>Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____</p>
<p>4. Does this claim amend one already filed?</p>	<p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY</p>	
<p>5. Do you know if anyone else has filed a proof of claim for this claim?</p>	<p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Yes. Who made the earlier filing? _____</p>	



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? \$ 130086.22. 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.
Rejection of non-residential real property lease

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.
Nature or property:
 Real estate: If the claim is secured by the debtor's principle 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 the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount 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. \$ 17735.50

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)?

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

No

Yes. Check all that apply:

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> 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).	\$ _____
<input type="checkbox"/> 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).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> 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.

13. Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. 503(b)(9)?

No

Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

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

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

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.

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.

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

I have examined the information in this *Proof of Claim* and have 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 12/29/2023
MM / DD / YYYY

/s/Lisa M. Peters
Signature

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

Name Lisa M. Peters
First name Middle name Last name

Title Counsel to Claimant

Company Kutak Rock LLP
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____

Contact phone _____ Email _____



KCC ePOC Electronic Claim Filing Summary

For phone assistance: Domestic (866) 927-7089 | International (310) 751-2656

Debtor: 23-02871 - Premier Kings, Inc.		
District: Northern District of Alabama, Birmingham Division		
Creditor: ARC CAFEUSA001, LLC c/o Kutak Rock LLP Attn: Lisa M. Peters, Esq. 1650 Farnam Street Omaha, Nebraska, 68102-2104 Phone: 4023466000 Phone 2: Fax: Email: lisa.peters@kutakrock.com	Has Supporting Documentation: Yes, supporting documentation successfully uploaded	
	Related Document Statement:	
	Has Related Claim: No	
	Related Claim Filed By:	
Filing Party: Authorized agent		
Disbursement/Notice Parties: ARC CAFEUSA001, LLC c/o Realty Income Corporation Attn: Legal Department 2325 East Camelback Road, 9th Floor Phoenix, Arizona, 85016 Phone: 602.778.6000 Phone 2: Fax: E-mail: DISBURSEMENT ADDRESS		
Other Names Used with Debtor:	Amends Claim: No Acquired Claim: No	
Basis of Claim: Rejection of non-residential real property lease	Last 4 Digits: No	Uniform Claim Identifier:
Total Amount of Claim: 130086.22	Includes Interest or Charges: Yes	
Has Priority Claim: No	Priority Under:	
Has Secured Claim: No	Nature of Secured Amount:	
Amount of 503(b)(9): No	Value of Property:	
Based on Lease: Yes, 17735.50	Annual Interest Rate:	
Subject to Right of Setoff: No	Arrearage Amount:	
	Basis for Perfection:	
	Amount Unsecured:	
Submitted By: Lisa M. Peters on 29-Dec-2023 11:32:54 a.m. Eastern Time Title: Counsel to Claimant Company: Kutak Rock LLP		

EXHIBIT A

The Claim set forth herein is for lease amounts under that certain Lease dated as of December 20, 2005 between GE Capital Franchise Finance Corporation (“GECFFC”), as predecessor-in-interest by assignment to ARC CAFEUSA001, LLC (“Landlord” or “Claimant”), as landlord, and GoldCo, Inc. (“GoldCo”), as indirect predecessor-in-interest by assignment to Premier Kings, Inc. (“Debtor”), as tenant, as amended by that certain Master First Lease Amendment dated November 14, 2013 to be effective November 15, 2013 between Landlord, as landlord, and GoldCo, as tenant (as amended and assigned and collectively with all other amendments, assignments, addenda, attachments and exhibits thereto, the “Lease”). GECFFC assigned to Landlord all of GECFFC’s right, title, and interest in and to, *inter alia*, the Lease pursuant to that certain Master Assignment and Assumption of Lease Documents effective as of July 31, 2013 between GECFFC, as assignor, and Landlord, as assignee. GoldCo assigned to Burger Gulf Coast, LLC (“BGC”) all of GoldCo’s right, title, and interest in and to the Lease pursuant to that certain Assignment, Assumption and Consent Agreement effective as of June 30, 2014 by and among Landlord, as landlord, GoldCo, as tenant, and BGC, as assignee. BGC subsequently assigned to Debtor all of BGC’s right, title, and interest in and to the Lease pursuant to that certain Assignment, Assumption, and Consent Agreement effective as of October 26, 2016 by and among Landlord, as lessor, BGC, as lessee, and Debtor, as assignee.

The Lease relates to the real property and improvements located at 505 East Cummings Avenue, Opp, Alabama 36467 (the “Property”), as is more particularly described therein. A true and correct copy of the Lease is attached hereto as ***Exhibit B*** and is incorporated herein by this reference. Upon information and belief, Debtor identifies the premises formerly occupied by the Debtor at the Property as Store No. 8457.

The Lease was rejected effective as of October 25, 2023, pursuant to that certain *First Omnibus Motion of the Debtors and Debtors-in-Possession for Entry of an Order (I) Authorizing Rejection of Unexpired Leases, and (II) Setting a Deadline for the Filing of Rejection Claims* filed on October 26, 2023 at Docket No. 44, as approved by that certain *Order (I) Authorizing Rejection of Certain Unexpired Leases and (II) Setting a Deadline for the Filing of Rejection Claims* entered on November 27, 2023 at Docket N. 250.

The Claim set forth herein is calculated pursuant to, and limited by, 11 U.S.C. § 502(b)(6).

Claim Amount Calculation

I.	502(b)(6)(B) Calculation		
A.	Outstanding Base Rent for the Period Ending October 24, 2023	\$	17,735.50
B.	Estimated Costs to Remove and Dispose of Abandoned Personal Property	\$	<u>3,000.00</u>
	Total 502(b)(6)(B) Claim	\$	20,735.50

II. 502(b)(6)(A) Calculation

A. Remaining Rent (*See* 11 U.S.C. § 502(b)(6)(A))

Total Base Rent Remaining for October 25, 2023 – December 31, 2028 \$ 569,481.26¹

Total Property Taxes Remaining for October 25, 2023 – December 31, 2028 \$ 17,167.80²

Total Remaining Rent \$ 586,649.06

B. One Year Rent (*See* 11 U.S.C. § 502(b)(6)(A)) \$ 109,350.72³

C. Three Years Rent (*See* 11 U.S.C. § 502(b)(6)(A)) \$ 334,230.66⁴

D. 15% of Remaining Rent (*See* 11 U.S.C. § 502(b)(6)(A)) \$ 95,764.27⁵

III. Section 502(b)(6) Claim

A. Total 502(b)(6)(B) Claim \$ 20,735.50

B. Total 502(b)(6)(A) Claim \$ 109,350.72

Total Section 502(b)(6) Claim \$ 130,086.22

Reservation of Rights

Claimant reserves the right to amend this Proof of Claim at any time and in any manner, including without limitation, (a) to update the actual costs to remove abandoned personal property from the Property, once the same become known, and (b) with respect to any insurance proceeds due or owing to Landlord or that belong to Landlord on account of a certain fire casualty at the Property prior to the Petition Date.

In the event the Debtor or anyone on the Debtor's behalf asserts a claim against Claimant in these proceedings, this claim may be secured by a right of setoff pursuant to sections 506(a) and 553 of the Bankruptcy Code.

Claimant further reserves all rights, remedies and claims with respect to (a) the personal property abandoned at the Property, including without limitation, any claims, liens, or encumbrances thereon claimed or asserted by non-Debtor third parties and any disputes with respect to the storage or removal of such encumbered personal property at or from the Property; and (b) any insurance proceeds due or owing to Landlord or that belong to Landlord on account of a certain fire casualty at the Property prior to the Petition Date, and nothing herein shall prejudice or be deemed to waive any of the foregoing rights, remedies, or claims.

¹ $(\$105,917.16 \times (2 / 12)) + (\$105,917.16 \times 2) + (\$113,331.36 \times 3) = \$569,481.26$. This is the remaining base rent for the period October 25, 2023 through December 31, 2028.

² $(\$3,433.56 \times 6) = \$17,167.80$. This is the remaining property taxes for the period October 25, 2023 through December 31, 2028, based on the actual 2023 property taxes with respect to the Property.

³ $\$105,917.16 + 3,433.56 = \$109,350.72$. This is one year of base rent and property taxes (based on the actual 2023 property taxes with respect to the Property).

⁴ $(\$105,917.16 \times (2 / 12)) + (\$105,917.16 \times 2) + (\$113,331.36 \times (10/12)) + (\$3,433.56 \times 3) = \$334,230.66$. This is three years of base rent and property taxes (based on the actual 2023 property taxes with respect to the Property).

⁵ $(\$105,917.16 \times (319.65 / 365)) + (\$3,433.56 \times (319.65 / 365)) = \$95,764.27$. This is 15% of remaining base rent and property taxes (based on the actual 2023 property taxes with respect to the Property), based on 15% of the remaining term of the Lease. The remaining term of October 25, 2023 through December 31, 2028 is 2,131.00 days and 15% thereof is 319.65 days.

EXHIBIT B

LEASE

[SEE ATTACHED]

LEASE

This **LEASE** (this "**Lease**") is made and entered into as of December 20, 2005 (the "**Effective Date**"), by and between **GE CAPITAL FRANCHISE FINANCE CORPORATION**, a Delaware corporation ("**Lessor**"), and **GOLDCO, INC.**, an Alabama corporation ("**Lessee**").

In consideration of the mutual covenants and agreements contained in this Lease, Lessor and Lessee covenant and agree as follows:

BASIC LEASE INFORMATION

Premises Address: 505 East Cummings Avenue
Opp, Alabama

Initial Term
Expiration Date: December 31, 2025.

Extension Periods: Up to four (4) periods of five (5) years each, as set forth in **Section 2.3**.

Base Annual Rent: \$85,658.28 as adjusted on each Adjustment Date, as provided in **Section 3.2**.

Adjustment Date: The first day of the month following the month in which the fifth anniversary of the Effective Date occurs, and every subsequent five year anniversary of such date during the Lease Term.

Adjustment
Percentage: 7.5%

Permitted Concept: The Premises will be used solely as a Burger King restaurant.

Discount Rate: 6% per annum.

Franchisor: Burger King Corporation, and its successors.

Lessor's Address: GE Capital Franchise Finance Corporation
17207 North Perimeter Drive
Scottsdale, AZ 85255
Attention: General Counsel
Telephone: (480) 585-4500
Facsimile: (480) 585-2225

Lessee's Address: Goldco, Inc.
2330 Montgomery Highway
Dothan, Alabama 36303
Attention: Bryan M. Applefield, President
Telephone: (334) 793-0997
Facsimile: (334) 677-6240

Right of First
Offer: **See Article 16.**

Contract No. 29264
GE No. 8004-3217
Opp, Alabama
609742 v5

ARTICLE 1 DEFINITIONS

Defined Terms. The following defined terms have the following meanings:

"ADA" means the Americans with Disabilities Act of 1990, as such act may be amended from time to time.

"Additional Rent" means all sums of money required to be paid by Lessee under this Lease, other than Base Annual Rent.

"Affiliate" means any Person that directly or indirectly controls, is under common control with, or controlled by any other Person. For purposes of this definition **"controls"**, **"under common control with"** and **"controlled by"** means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or otherwise.

"Anti-Money Laundering Laws" means all applicable laws, regulations and government guidance on the prevention and detection of money laundering, including 18 U.S.C. §§ 1956 and 1957, and the BSA.

"Applicable Regulations" means all applicable statutes, regulations, rules, ordinances, codes, licenses, permits, orders and approvals of each Governmental Authority having jurisdiction over the Premises, including, without limitation, all health, building, fire, safety and other codes, ordinances and requirements, all applicable standards of the National Board of Fire Underwriters and the ADA and all policies or rules of common law, in each case, as amended, and any judicial or administrative interpretation, including any judicial order, consent, decree or judgment applicable to any of the Lessee Parties.

"Base Monthly Rent" means an amount equal to 1/12 of the applicable Base Annual Rent.

"BSA" means the Bank Secrecy Act (31 U.S.C. §§ 5311 et. seq.), and its implementing regulations, Title 31 Part 103 of the U.S. Code of Federal Regulations.

"Business Day" means any day on which Lessor is open for business other than a Saturday, Sunday or a legal holiday, ending at 5:00 P.M. Phoenix, Arizona time.

"Change of Control" means a change in control of any of the Lessee Parties, including, without limitation, a change in control resulting from direct or indirect transfers of voting stock or partnership, membership or other ownership interests, whether in one or a series of transactions. For purposes of this definition, **"control"** means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any of the Lessee Parties, as applicable, and a Change of Control will occur if any of the following occur: (a) any merger or consolidation by any of the Lessee Parties, as applicable, with or into any other entity; or (b) if any **"Person"** as defined in **Section 3(a)(9)** of the Securities and Exchange Act of 1934, as amended (the **"Exchange Act"**), and as used in **Section 13(d)** and **14(d)** of the Exchange Act, including a **"group"** as defined in **Section 13(d)** of the Exchange Act, subsequent to the Effective Date, becomes the **"beneficial owner"** (as defined in Rule 13d-3 under the Exchange Act) of securities of any of the Lessee Parties, as applicable, representing 50% or more of the combined voting power of Lessee's then outstanding securities (other than indirectly as a result of the redemption by any of the Lessee Parties, as applicable, of its securities).

"Code" means Title 11 of the United States Code, 11 U.S.C. Sec. 101 *et seq.*, as amended.

"Default Rate" means the lesser of the highest rate for which Lessee may legally contract or the rate of 14% per annum.

"Environmental Indemnity Agreement" means the environmental indemnity agreement dated as of the Effective Date executed by Lessee for the benefit of the Indemnified Parties, as the same may be amended from time to time.

"Franchise Agreement" means, collectively, the franchise, license or area development agreements with Franchisor for the conduct of business at the Premises as a Permitted Concept, together with all amendments, modifications, supplements and extensions.

"GAAP" means generally accepted accounting principles consistently applied.

"Governmental Authority" means any governmental authority, agency, department, commission, bureau, board, instrumentality, court or quasi-governmental authority having jurisdiction or supervisory or regulatory authority over the Premises (including past or present activities or conditions at or under the Premises) or any of the Lessee Parties.

"Indemnified Parties" means Lessor, Lender and their respective directors, officers, shareholders, trustees, beneficial owners, partners and members; any directors, officers, shareholders, trustees, beneficial owners, partners, members of any shareholders, beneficial owners, partners or members of Lessor or Lender; and all employees, agents, servants, representatives, contractors, subcontractors, affiliates, subsidiaries, participants, successors and assigns of any of the foregoing, including, but not limited to, any successors by merger, consolidation or acquisition of all or a substantial portion of the assets and business of Lessor, or Lender, as applicable.

"Lease Term" means the time period commencing on the Effective Date and ending on the Lease Term Expiration Date.

"Lease Term Expiration Date" mean the Initial Term Expiration Date unless this Lease has been extended pursuant to **Section 2.3**, in which case the Lease Term Expiration Date is the last day of the applicable extension term; **provided, however**, that if this Lease is terminated prior to the Initial Term Expiration Date or prior to the end of an applicable extension term, then the Lease Term Expiration Date is the date of such earlier termination.

"Lender" means any lender in connection with any loan secured by Lessor's interest in the Premises, and any servicer of any loan secured by Lessor's interest in the Premises.

"Lessee Parties" means, collectively, Lessee and all Affiliates of Lessee.

"Lessor Parties" means, collectively, Lessor (including any predecessor-in-interest to Lessor) and any Affiliate of Lessor (including any Affiliate of any predecessor-in-interest to Lessor).

"Loan Documents" means, collectively, all documents, instruments and agreements executed in connection with any Mortgages, all as amended, modified and supplemented from time to time and any and all replacements or substitutions.

"Losses" means any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, diminutions in value, fines,

penalties, charges, fees, expenses, judgments, awards, amounts paid in settlement and damages of whatever kind or nature (including, without limitation, reasonable attorneys' fees, court costs and other costs of defense).

"Material Adverse Effect" means a material adverse effect on (a) the Premises, including, without limitation, the operation of the Premises as a Permitted Concept; or (b) Lessee's performance of its obligations under this Lease.

"Mortgages" means, collectively, the mortgages, deeds of trust or deeds to secure debt, assignments of rents and leases, security agreements and fixture filings executed by Lessor for the benefit of Lender with respect to the Premises, as such instruments may be amended, modified, restated or supplemented from time to time and any and all replacements or substitutions.

"OFAC Laws and Regulations" means Executive Order 13224 issued by the President of the United States of America, the Terrorism Sanctions Regulations (Title 31 Part 595 of the U.S. Code of Federal Regulations), the Terrorism List Governments Sanctions Regulations (Title 31 Part 596 of the U.S. Code of Federal Regulations), the Foreign Terrorist Organizations Sanctions Regulations (Title 31 Part 597 of the U.S. Code of Federal Regulations), and the Cuban Assets Control Regulations (Title 31 Part 515 of the U.S. Code of Federal Regulations), and all other present and future federal, state and local laws, ordinances, regulations, policies, lists (including, without limitation, the Specially Designated Nationals and Blocked Persons List) and any other requirements of any Governmental Authority (including, without limitation, the United States Department of the Treasury Office of Foreign Assets Control) addressing, relating to, or attempting to eliminate, terrorist acts and acts of war, each as supplemented, amended or modified from time to time after the Effective Date, and the present and future rules, regulations and guidance documents promulgated under any of the foregoing, or under similar laws, ordinances, regulations, policies or requirements of other states or localities.

"Other Agreements" means, collectively, all agreements and instruments now or at any time after the Effective Date entered into between, among, by, or for the benefit of, on the one hand, any of the Lessee Parties, and, on the other hand, any of the Lessor Parties, including, without limitation, the Environmental Indemnity Agreement, the Purchase Agreement, and the Related Leases, but excluding this Lease.

"Person" means any individual, corporation, partnership, limited liability company, trust, unincorporated organization, Governmental Authority or any other form of entity.

"Personal Property" means all tangible personal property now or at any time after the Effective Date located on or at the Premises or used in connection with the Premises, including, without limitation, all machinery, appliances, furniture, equipment and inventory; **provided, however**, the term Personal Property shall not include the HVAC, walk-in coolers, walk-in freezers, supply fans, exhaust fans, air ducts, hoods, vents, built-in sinks, built-in countertops, plumbing and electrical fixtures, sign poles and lighting poles, all of which items are intended to be fixtures as such term is used within the definition of Premises.

"Premises" means the real property legally described in **Exhibit A**, together with all rights, privileges and appurtenances thereto and all buildings, fixtures and other improvements now or after the Effective Date located thereon (whether or not affixed to such real property).

"Purchase Agreement" means that certain Purchase Agreement dated as of the Effective Date between Lessor and Applefield Two SPE, LLC, a Delaware limited liability company, and Denver SPE, LLC, a Delaware limited liability company with respect to the Premises.

"Related Leases" means the other leases dated as of the Effective Date between any of the Lessee Parties and any of the Lessor Parties.

"Rent" means Base Monthly Rent and Additional Rent.

"Unmatured Default" means any event or circumstance which, with the giving of notice or the passage of time, or both, would constitute an Event of Default.

"U.S. Publicly-Traded Entity" is an entity whose securities are listed on a national securities exchange or quoted on an automated quotation system in the U.S. or a wholly-owned subsidiary of such an entity.

ARTICLE 2 LEASE OF PREMISES

2.1 Demise of Premises. In consideration of the rentals and other sums to be paid by Lessee and of the other terms, covenants and conditions on Lessee's part to be kept and performed, Lessor leases to Lessee, and Lessee takes and hires, the Premises for the Lease Term. The Premises are leased to Lessee **"AS IS"** and **"WHERE IS"** without representation or warranty by Lessor and subject to the rights of parties in possession, to the existing state of title, any state of facts which an accurate survey or physical inspection might reveal, and all Applicable Regulations now or after the Effective Date in effect. Lessee has examined the Premises and title to the Premises and has found all of the same satisfactory for all of Lessee's purposes.

2.2 Lease Characterization. Lessor and Lessee intend that: (a) this Lease is a **"true lease"** and not a financing lease, capital lease, mortgage, equitable mortgage, deed of trust, trust agreement, security agreement or other financing or trust arrangement, and the economic realities of this Lease are those of a true lease; and (b) the business relationship created by this Lease and any related documents is solely that of a long-term commercial lease between landlord and tenant and has been entered into by both parties in reliance upon the economic and legal bargains contained in this Lease. Lessor and Lessee acknowledge and agree that the Lease Term, including any term extensions provided for in this Lease, is less than the remaining economic life of the Premises. Lessee waives any claim or defense based upon the characterization of this Lease as anything other than a true lease and irrevocably waives any claim or defense that asserts that this Lease is anything other than a true lease. Lessee covenants and agrees that it will not assert that this Lease is anything but a true lease. Lessee stipulates and agrees not to challenge the validity, enforceability or characterization of the lease of the Premises as a true lease and further stipulates and agrees that nothing contained in this Lease creates or is intended to create a joint venture, partnership (either de jure or de facto), equitable mortgage, trust, financing device or arrangement, security interest or the like. Lessee shall support the intent of the parties that the lease of the Premises pursuant to this Lease is a true lease and does not create a joint venture, partnership (either de jure or de facto), equitable mortgage, trust, financing device or arrangement, security interest or the like, if, and to the extent that, any challenge occurs. Lessee represents and warrants to Lessor that (i) the Base Annual Rent (including Base Annual Rent payable during any Extension Period) is the fair market value for the use of the Premises and was agreed to by Lessor and Lessee on that basis, and (ii) the execution, delivery and performance by Lessee of this Lease does not constitute a transfer of all or any part of the Premises. The expressions of intent, the waivers, the representations and warranties, the covenants, the agreements and the stipulations set forth in this Section are a material inducement to Lessor entering into this Lease.

2.3 Option To Extend.

(a) Extension Period. Lessee shall have the option to continue this Lease for each of the Extension Periods; **provided, however,** that Lessee shall not be entitled to exercise any extension option if, at the time of exercise or at the time the extension term would commence, an Unmatured Default or Event of Default shall have occurred and be continuing.

(b) Exercise of Option. Lessee shall exercise such extension option by giving written notice to Lessor of Lessee's intention to do so not more than 270 days or less than 210 days prior to the expiration of the Lease Term then in effect and upon receipt of such notice Lessor shall within 90 days, at Lessee's expense, cause an appraisal of the fair market rental value of the Premises to be made by an independent MAI appraiser. If within 20 days after being notified of the result of such appraisal, Lessee elects to reject that appraisal, then Lessor shall deliver to Lessee a list of not less than three independent MAI appraisers who are experienced with appraising property similar to the Premises, and Lessee shall select one such appraiser. Within 60 days of such selection an appraisal shall be made of the Premises by that appraiser and within 20 days after the results of that appraisal shall have been delivered to Lessee, Lessee shall notify Lessor of Lessee's election to exercise its option to extend this Lease and shall pay the rental so established by that appraisal which shall be absolutely net to Lessor as provided in **Section 3.3**. All appraisals pursuant to this Section shall take into account the customary market conditions then in effect for the lease of comparable properties for a period of time equal to the extension term, including, to the extent applicable, CPI adjustments or fixed bump increases.

(c) Failure to Give Notice. If Lessee fails to give written notice of exercise of an extension option within the applicable time periods set forth above, then this Lease shall terminate on the last day of the Lease Term as in effect prior to the time during which Lessee could have exercised the option to extend for the particular Extension Period at issue.

(d) Terms of Extension. If Lessee properly extends this Lease for an Extension Period, such extension shall be on all of the same terms and conditions as then in effect, except that Base Annual Rent for the Extension Period shall be determined as provided in **Section 2.3(e)**.

(e) Base Annual Rent. During the applicable Extension Period, the Base Annual Rent shall be equal to the then annual fair market rental value of the Premises at the commencement of such Extension Period as determined pursuant to **Section 2.3(b)**, subject to increases each year of 1.5%, compounded annually.

2.4 Quiet Enjoyment. Conditioned upon Lessee paying the Base Annual Rent and all Additional Rent and performing and fulfilling all of the covenants, agreements, conditions, and provisions in this Lease to be kept, observed or performed by Lessee, Lessee may at all times during the Lease Term peaceably, quietly, and exclusively have, hold, and enjoy the Premises, subject to the terms and conditions of this Lease. Notwithstanding the foregoing, however, in no event shall Lessee be entitled to bring any action against Lessor to enforce its rights under this Lease if an Unmatured Default or Event of Default shall have occurred and be continuing.

2.5 Holding Over. If Lessee remains in possession of the Premises after the expiration of the Lease Term, Lessee, at Lessor's option and within Lessor's sole discretion, may be deemed a tenant on a month-to-month basis and shall continue to pay rentals and other sums in the amounts provided in this Lease, except that the Base Monthly Rent shall be automatically doubled, and to comply with all the terms of this Lease; provided that nothing in this Lease nor the acceptance of rent by Lessor shall be deemed a consent to such holding over. Lessee shall defend, indemnify, protect and hold the Indemnified Parties harmless for, from and against any and all Losses resulting from Lessee's failure to

surrender possession upon the expiration of the Lease Term, including, without limitation, any claims made by any succeeding lessee.

2.6 Removal of Lessee's Property. At the expiration of the Lease Term and provided that no Unmatured Default or Event of Default has occurred and is continuing, Lessee may remove from the Premises all personal property belonging to Lessee. Lessee shall repair any damage caused by such removal and shall leave the Premises broom clean and in good and working condition and repair inside and out.

2.7 Lessee's Property Left on the Premises. If any personal property (including trade fixtures) of Lessee is left on the Premises following the Lease Term Expiration Date, Lessor may treat such property as abandoned by Lessee. In addition to any other rights and remedies available to Lessor, Lessor, at Lessor's option and without any further notice to Lessee, may either sell any such property and retain all of the proceeds of sale without any accounting to Lessee or Lessor may store such property, on or off of the Premises, in Lessee's name and at Lessee's expense. Lessee agrees to pay such amounts to Lessor within ten (10) days of receipt of an invoice from Lessor.

2.8 Delivery of Certain Documents to Lessor. On or prior to the end of the Lease Term, Lessee will deliver to Lessor, for Lessor's use at no cost to Lessor, copies of all engineering, environmental, architectural and site plans, inspection reports, tests, feasibility reports, and other documents relating to the Premises and prepared for or on behalf of Lessee and which are non-confidential to Lessee, as reasonably determined by Lessee.

ARTICLE 3 RENT

3.1 Rental Payments. On or before the first day of each calendar month during the Lease Term, Lessee shall pay Lessor in advance the Base Monthly Rent then in effect without any setoff, abatement, deferment, deduction or counterclaim whatsoever. If the Effective Date is a date other than the first day of the month, Lessee shall pay Lessor on the Effective Date the Base Monthly Rent prorated on the basis of the ratio that the number of days from the Effective Date through the last day in the month containing the Effective Date bears to the number of days in such month.

3.2 Adjustments. Commencing on the first Adjustment Date and on each Adjustment Date after the first Adjustment Date, the Base Annual Rent shall increase by an amount equal to the product of the then current Base Annual Rent and the Adjustment Percentage. The increased Base Annual Rent shall constitute the Base Annual Rent due and payable until the next Adjustment Date.

3.3 Rentals to Be Net to Lessor. This Lease is a net lease and, notwithstanding any present or future law to the contrary, this Lease shall not terminate except as otherwise expressly provided in this Lease, nor shall Lessee be entitled to any abatement, reduction, diminution, set-off, counterclaim, defense or deduction with respect to any Base Annual Rent, Additional Rent or other sums payable under this Lease, nor shall the obligations of Lessee under this Lease be modified, waived, or otherwise affected, by reason of: (a) any damage to or destruction of the Premises or any portion of the Premises; (b) any defect in the condition, design, operation or fitness for use of the Premises or any portion of the Premises; (c) any partial or temporary taking of the Premises or any part of the Premises by condemnation or otherwise; (d) any prohibition, limitation, interruption, cessation, restriction or prevention of Lessee's use, occupancy or enjoyment of the Premises, or any interference with such use, occupancy or enjoyment by any person; (e) any eviction by paramount title or otherwise; (f) any default by Lessor under this Lease or under any other agreement; (g) the impossibility or illegality of performance by Lessor, Lessee or both; (h) any action of any

Governmental Authority; (i) construction on or renovation of the Premises; (j) any failure in the Premises to comply with Applicable Regulations; or (k) any other cause whether similar or dissimilar to the foregoing. All costs, expenses and obligations of every kind and nature whatsoever relating to the Premises and the appurtenances to the Premises and the use and occupancy of the Premises which may arise or become due and payable with respect to the period which ends on the Lease Term Expiration Date (whether or not the same shall become payable during the Lease Term or after the Lease Term Expiration Date) shall be paid by Lessee except as otherwise expressly provided in this Lease. It is the purpose and intention of Lessor and Lessee that the Base Annual Rent and the Additional Rent due under this Lease shall be absolutely net to Lessor and that this Lease shall yield, net to Lessor, the Base Annual Rent and the Additional Rent provided in this Lease. The parties intend that the obligations of Lessee under this Lease shall be separate and independent covenants and agreements and shall continue unaffected unless such obligations shall have been modified or terminated pursuant to an express provision of this Lease. Lessee shall remain obligated under this Lease in accordance with its terms and shall not take any action to terminate, rescind or avoid this Lease, notwithstanding any bankruptcy, insolvency, reorganization, liquidation, dissolution or other proceeding affecting Lessor or any action with respect to this Lease which may be taken by any trustee, receiver or liquidator or by any court. Except as otherwise expressly provided in this Lease, Lessee waives all rights to terminate or surrender this Lease, or to any abatement or deferment of Base Annual Rent, Additional Rent or other sums payable under this Lease.

3.4 Payments by Automated Clearing House Debit. Upon execution of this Lease, Lessee shall authorize Lessor to establish arrangements pursuant to which payments of the Base Monthly Rent and impound payments, if any, are transferred by Automated Clearing House Debit initiated by Lessor or its designee directly from an account at a U.S. bank in the name of Lessee to such account as Lessor may designate or as Lessor may otherwise designate; **provided, however**, upon notice from Lender to Lessee and Lessor delivered in the manner set forth in **Section 15.3**, Lessee shall deliver all payments of Base Monthly Rent as specified in such notice from Lender.

3.5 Late Charges; Default Interest. Any delinquent payment (that is, any payment not made within five calendar days after the date when due) of Rent shall, in addition to any other remedy of Lessor, incur a late charge of 5% (which late charge is intended to compensate Lessor for the cost of handling and processing such delinquent payment and should not be considered interest) and bear interest at the Default Rate, such interest to be computed from and including the date such payment was due through and including the date of the payment; **provided, however**, in no event shall Lessee be obligated to pay a sum of late charge and interest higher than the maximum legal rate then in effect.

3.6 Additional Rent. Lessor shall have the same remedies for nonpayment of Additional Rent as those provided in this Lease for the nonpayment of Base Annual Rent.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF LESSEE

4.1 Representations and Warranties of Lessee. The representations and warranties of Lessee contained in this Section are being made to induce Lessor to enter into this Lease and Lessor has relied, and will continue to rely, upon such representations and warranties. Lessee represents and warrants to Lessor as of the Effective Date as follows:

(a) Organization, Authority and Status. Each of the Lessee Parties (other than individuals) is duly organized or formed, validly existing and in good standing under the laws of its state of incorporation or formation. Lessee is qualified as a foreign corporation, partnership or limited liability company, as applicable, to do business in the state where the Premises are located, and each of the Lessee Parties is qualified as a foreign corporation, partnership or

limited liability company, as applicable, to do business in any other jurisdiction where the failure to be qualified would reasonably be expected to result in a Material Adverse Effect. All necessary action has been taken to authorize the execution, delivery and performance by Lessee of this Lease and by each of the Lessee Parties of the Other Agreements being executed by each Lease Party concurrently with the execution of this Lease. Lessee is not a “**foreign corporation**”, “**foreign partnership**”, “**foreign trust**”, “**foreign limited liability company**” or “**foreign estate**”, as those terms are defined in the Internal Revenue Code and the regulations promulgated pursuant to the Internal Revenue Code. The person(s) who have executed this Lease on behalf of Lessee are duly authorized to do so. None of the Lessee Parties, and no individual or entity owning directly or indirectly any interest in any of the Lessee Parties, is an individual or entity whose property or interests are subject to being blocked under any of the OFAC Laws and Regulations or is otherwise in violation of any of the OFAC Laws and Regulations; **provided, however**, the representation contained in this sentence shall not apply to any Person to the extent such Person’s interest is in or through a U.S. Publicly Traded Entity.

(b) Enforceability. Upon execution by Lessee, this Lease shall constitute the legal, valid and binding obligation of Lessee, enforceable against Lessee in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, liquidation, reorganization and other laws affecting the rights of creditors generally and general principles of equity.

(c) Litigation. There are no suits, actions, proceedings or investigations pending, or, to the best of its knowledge, threatened against or involving any of the Lessee Parties or the Premises before any arbitrator or Governmental Authority, except for such suits, actions, proceedings or investigations which, individually or in the aggregate, have not had, and would not reasonably be expected to result in, a Material Adverse Effect.

(d) Absence of Breaches or Defaults. The Lessee Parties are not, and the authorization, execution, delivery and performance of this Lease and the documents, instruments and agreements provided for in this Lease will not result in, any breach or default under any document, instrument or agreement to which any of the Lessee Parties is a party or by which any of the Lessee Parties, the Premises or any of the property of any of the Lessee Parties is subject or bound, except for such breaches or defaults which, individually or in the aggregate, have not had, and would not reasonably be expected to result in, a Material Adverse Effect. The authorization, execution, delivery and performance of this Lease and the documents, instruments and agreements provided for in this Lease will not violate any applicable law, statute, regulation, rule, ordinance, code, rule or order. Lessee has not assigned, transferred, mortgaged, hypothecated or otherwise encumbered this Lease or any rights or interest in this Lease.

(e) Financial Information. Lessee has delivered to Lessor certain financial statements and other information concerning the Lessee Parties in connection with this Lease (collectively, the “**Financial Information**”). The Financial Information is true, correct and complete in all material respects; there have been no amendments to the Financial Information since the date such Financial Information was prepared or delivered to Lessor. Lessee understands that Lessor is relying upon the Financial Information and Lessee represents that such reliance is reasonable. All financial statements included in the Financial Information were prepared in accordance with GAAP, and fairly present as of the date of such financial statements the financial condition of each individual or entity to which they pertain. No change has occurred with respect to the financial condition of any of the Lessee Parties or the Premises as reflected in the Financial Information that has not been disclosed in writing to Lessor or has had, or could reasonably be expected to result in, a Material Adverse Effect.

(f) Solvency. Both before and immediately after the consummation of the transactions contemplated by this Lease and after giving effect to such transactions, (i) the fair value of the assets of Lessee, at a fair valuation, will exceed the debts and liabilities, subordinated, contingent or otherwise, of Lessee; (ii) the present fair saleable value of the assets of Lessee will be greater than the amount that will be required to pay the probable liability of Lessee on its debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (iii) Lessee will be able to pay its debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured; and (iv) Lessee will not have unreasonably small capital with which to conduct the business in which it is engaged as such business is now conducted and as proposed to be conducted after the Effective Date. Lessee does not intend to and does not believe that it will incur debts beyond its ability to pay such debts as they mature, taking into account the timing of and amounts of cash to be received by it and the timing of the amounts of cash to be payable on or in respect of its debts and other liabilities, subordinated, contingent, or otherwise.

(g) No Reliance by Lessee. Lessee specifically acknowledges that neither Lessor nor any agent, officer, employee or representative of Lessor has made any representation or warranty regarding the projected profitability of the business to be conducted on the Premises and that Lessor did not prepare or assist in the preparation of any of the projected figures used by Lessee in analyzing the economic viability and feasibility of the business to be conducted by Lessee at the Premises. Lessee specifically acknowledges that neither Lessor nor any agent, officer, employee or representative of Lessor has made any representation or warranty regarding the treatment of this Lease for accounting purposes.

ARTICLE 5 TAXES AND ASSESSMENTS; INSURANCE

5.1 Taxes and Assessments.

(a) Nature of Taxes and Assessments to be Paid. Lessee shall pay, prior to the earlier of delinquency or the accrual of interest on the unpaid balance, all taxes and assessments of every type or nature assessed against, imposed upon or arising with respect to Lessor, the Premises, this Lease, the rental or other payments due under this Lease or Lessee during the Lease Term which affect in any manner the net return realized by Lessor under this Lease, including, without limitation, the following:

(i) All taxes and assessments upon the Premises or any part of the Premises and upon any Personal Property, whether belonging to Lessor or Lessee, or any tax or charge levied in lieu of such taxes and assessments;

(ii) All taxes, charges, license fees and or similar fees imposed by reason of the use of the Premises by Lessee; and

(iii) All excise, transaction, privilege, license, sales, use and other taxes upon the rental or other payments due under this Lease, the leasehold estate of either party or the activities of either party pursuant to this Lease.

(b) Excluded Taxes. Notwithstanding the foregoing, but without limiting the preceding obligation of Lessee to pay all taxes which are imposed on the Rent due under this Lease, in no event will Lessee be required to pay any net income taxes (i.e., taxes which are

determined taking into account deductions for depreciation, interest, taxes and ordinary and necessary business expenses) or franchise taxes (unless imposed in lieu of other taxes that would otherwise be the obligation of Lessee under this Lease, including, without limitation, any "**gross receipts tax**" or any similar tax based upon gross income or receipts of Lessor which does not take into account deductions from depreciation, interest, taxes or ordinary or necessary business expenses) of Lessor, or any tax imposed with respect to the sale, exchange or other disposition by Lessor, in whole or in part, of the Premises or Lessor's interest in this Lease (other than transfer or recordation taxes imposed in connection with the transfer of the Premises to Lessee or the termination of this Lease pursuant to the provisions of this Lease).

(c) Notices; Tax Contests. All taxing authorities shall be instructed to send all tax and assessment invoices to Lessee and Lessee shall promptly provide Lessor and any Lender with copies of all tax and assessment invoices received by Lessee. Upon request, Lessee shall also provide Lessor and any Lender with evidence that such invoices were paid in a timely fashion. Lessee may, at its own expense, contest or cause to be contested, by appropriate legal proceedings conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any taxes or assessments specified in this Section or lien imposed in connection with such taxes or assessments, provided that (i) Lessee shall provide written notice to Lessor of any contest involving more than \$25,000.00, (ii) such proceeding shall suspend the collection from the Premises or any interest in the Premises, (iii) neither the Premises nor any interest in the Premises would be in any danger of being sold, forfeited or lost by reason of such proceedings, (iv) no Event of Default has occurred and is continuing, (v) Lessee shall have deposited with Lessor adequate reserves for the payment of such taxes or assessments, together with all interest and penalties on such taxes or assessments, unless paid in full under protest, or Lessee shall have furnished the security as may be required in the proceeding or as may be required by Lessor to insure payment of any contested taxes, and (vi) any such contest would not cause any material adverse effect to Lessor.

5.2 Insurance.

(a) Types and Amounts. Throughout the Lease Term, Lessee shall maintain with respect to the Premises, at its sole expense, the following types and amounts of insurance (which may be included under a blanket insurance policy if all the other terms of this Section are satisfied), in addition to such other insurance as Lessor may reasonably require from time to time:

(i) Insurance against loss, damage or destruction by fire and other casualty, including theft, vandalism and malicious mischief, flood (if the Premises is in a location designated by the Federal Emergency Management Administration as a Special Flood Hazard Area), earthquake (if the Premises is in an area subject to destructive earthquakes within recorded history), boiler explosion (if there is any boiler upon the Premises), plate glass breakage, sprinkler damage (if the Premises has a sprinkler system), all matters covered by a standard extended coverage endorsement, all matters covered by a special coverage endorsement commonly known as an "**all risk**" endorsement, and such other risks as Lessor may reasonably require, insuring the Premises for not less than 100% of their full insurable replacement cost.

(ii) Commercial general liability insurance, including a products liability clause, insuring Lessor and Lessee against bodily injury liability, property damage liability and automobile bodily injury and property damage liability, including without limitation any liability arising out of the ownership, maintenance, repair, condition or operation of the Premises or adjoining ways, streets or sidewalks and, if applicable, insurance covering

Lessor and Lessee against liability arising from the sale of liquor, beer or wine on the Premises. Such insurance policy or policies shall contain a broad form contractual liability endorsement under which the insurer agrees to insure Lessee's obligations under **Section 7.1** to the extent insurable, and a "**severability of interest**" clause or endorsement which precludes the insurer from denying the claim of Lessee or Lessor because of the negligence or other acts of the other, shall be in amounts of not less than \$2,000,000.00 per injury and occurrence with respect to any insured liability, whether for personal injury or property damage, or such higher limits as Lessor may reasonably require from time to time, and shall be of form and substance reasonably satisfactory to Lessor.

(iii) Business income insurance equal to 100% of the Base Annual Rent for a period of not less than twelve months.

(iv) To the extent required by Applicable Regulations, state worker's compensation insurance in the statutorily mandated limit, and employer's liability insurance with limits not less than \$500,000 or such greater amount as Lessor may from time to time reasonably require and such other insurance as may be necessary to comply with applicable laws.

(b) Policy Provisions. All insurance policies shall:

(i) Provide for a waiver of subrogation by the insurer as to claims against Lessor, Lender and their respective employees and agents and provide that such insurance cannot be unreasonably cancelled, invalidated or suspended on account of the conduct of Lessee, its officers, directors, employees, agents, contractors, or subtenants, even if negligent.

(ii) Provide that any "**no other insurance**" clause in the insurance policy shall exclude any policies of insurance maintained by Lessor or Lender and that the insurance policy shall not be brought into contribution with insurance maintained by Lessor or Lender;

(iii) Contain a standard without contribution mortgage clause endorsement in favor of Lender and its successors and assigns as their interests may appear and any other party designated by Lessor;

(iv) Provide that the policy of insurance shall not be terminated, cancelled or substantially modified without at least 30 days' prior written notice to Lessor, Lender and to any other party covered by any standard mortgage clause endorsement;

(v) Provide that the insurer shall not have the option to restore the applicable Premises if Lessor or Lessee elects to terminate this Lease in accordance with the terms of this Lease; and

(vi) Be issued by insurance companies licensed to do business in the state in which the Premises is located and which are rated A:VIII or better by Best's Key Rating or are otherwise approved by Lessor.

5.3 Lessee Obligations. It is expressly understood and agreed that the foregoing minimum limits of insurance coverage shall not limit the liability of Lessee for its acts or omissions as provided in this Lease. All liability insurance policies (with the exception of worker's compensation insurance to the

extent not available under statutory law), shall designate Lessor and Lender and their respective successors and assigns as additional insureds as their interests may appear and shall be payable as set forth in **Article 8**. All such policies shall be written as primary policies, with deductibles not to exceed \$10,000.00. Any other policies, including any policy now or after the Effective Date, carried by Lessor or Lender, shall serve as excess coverage. Lessee shall procure policies for all insurance for periods of not less than one year and shall provide to Lessor and Lender certificates of insurance or, upon the request of Lessor or Lender, duplicate originals of insurance policies evidencing that insurance satisfying the requirements of this Lease is in effect at all times. In the event of any transfer by Lessor of Lessor's interest in the Premises or any financing or refinancing of Lessor's interest in the Premises, Lessee shall, upon not less than 10 days' prior written notice, deliver to Lessor or any Lender providing such financing or refinancing, as the case may be, certificates of all insurance required to be maintained by Lessee under this Lease naming such transferee or such Lender, as the case may be, as an additional named insured to the extent required in this Lease effective as of the date of such transfer, financing or refinancing.

5.4 Tax and Insurance Impound. If an Event of Default shall have occurred because of Lessee's failure to make any payment of Base Monthly Rent or Additional Rent required under this Lease, Lessor may thereafter require Lessee to pay to Lessor sums which will provide an impound account (which shall not be deemed a trust fund) for paying up to the next one year of taxes, assessments or insurance premiums for the Premises. Upon such requirement, Lessor will estimate the amounts needed for such purposes and will notify Lessee to pay the same to Lessor in equal monthly installments, as nearly as practicable, in addition to all other sums due under this Lease. Should additional funds be required at any time, Lessee shall pay the same to Lessor on demand. Lessee shall advise Lessor of all taxes and insurance bills that are due and shall cooperate fully with Lessor in assuring that the same are paid. Lessor may deposit all impounded funds in accounts insured by any federal or state agency and may commingle such funds with other funds and accounts of Lessor. Interest or other gains from such funds, if any, shall be the sole property of Lessor. Upon the occurrence of an Event of Default after the creation of the impound account, Lessor may apply all impounded funds against any sums due from Lessee to Lessor. Lessor shall give to Lessee an annual accounting showing all credits and debits to and from such impounded funds received from Lessee.

ARTICLE 6
USE OF THE PREMISES; ALTERATIONS AND IMPROVEMENTS

6.1 Use.

(a) Permitted Use. The Premises shall be used solely for the operation of a Permitted Concept. Except as set forth below, and except during periods when the Premises is untenable by reason of fire or other casualty or condemnation (***provided, however***, during all such periods while the Premises is untenable, Lessee shall strictly comply with the other terms and conditions of this Lease), Lessee shall at all times during the Lease Term occupy the Premises and shall diligently operate its business on the Premises. Lessee may cease diligent operation of business at the Premises for a period not to exceed 90 days and may do so only once within any five-year period during the Lease Term. If Lessee does discontinue operation as permitted by this Section, Lessee shall (i) give written notice to Lessor within 10 days after Lessee elects to cease operation, (ii) provide adequate protection and maintenance of the Premises during any period of vacancy, (iii) comply with all Applicable Regulations and otherwise comply with the terms and conditions of this Lease other than the continuous use covenant set forth in this Section, and (iv) pay all costs necessary to restore the Premises to their condition on the day operation of the business ceased at such time as the Premises is reopened for Lessee's business operations or other substituted use approved by Lessor as contemplated below.

(b) Conversion to Alternative Use. Lessee shall not, by itself or through any assignment, sublease or other type of transfer, convert the Premises to an alternative use during the Lease Term without Lessor's consent, which consent shall not be unreasonably withheld or delayed. Lessor may consider any or all of the following in determining whether to grant its consent, without being deemed to be unreasonable: (i) whether the rental paid to Lessor would be equal to or greater than the anticipated rental assuming continued existing use, (ii) whether the proposed rental to be paid to Lessor is reasonable considering the converted use of the Premises and the customary rental prevailing in the community for such use, (iii) whether the converted use will be consistent with the highest and best use of the Premises, and (iv) whether the converted use will increase Lessor's risks or decrease the value of the Premises.

6.2 Compliance With Laws, Restrictions, Covenants and Encumbrances.

(a) Use and Occupation. Lessee's use and occupation of the Premises, and the condition of the Premises, shall, at Lessee's sole cost and expense, comply in all material respects with all Applicable Regulations now or after the Effective Date in effect and all restrictions, covenants and encumbrances of record with respect to the Premises. In addition, the Lessee Parties shall comply in all material respects with all Applicable Regulations now or after the Effective Date in effect, including, without limitation, the OFAC Laws and Regulations and Anti-Money Laundering Laws. Without limiting the generality of the other provisions of this Section, Lessee shall comply in all material respects with the ADA, and all regulations promulgated under the ADA, as it affects the Premises. Lessee will not permit any act or condition to exist on or about the Premises that will increase any insurance rate applicable to the Premises, except when such acts are required in the normal course of its business, and Lessee shall pay for such increase.

(b) Licenses and Permits. Lessee shall maintain in full force and effect all licenses and permits, both governmental and private, required to use and operate the Premises as a Permitted Concept.

6.3. Condition of Premises: Maintenance. Lessee shall (a) maintain the Premises in good condition and repair, subject to reasonable and ordinary wear and tear, free from actual or constructive waste, (b) operate, remodel, update and modernize the Premises in accordance with those standards adopted from time to time on a system-wide basis for the Permitted Concept, with such remodeling and modernizing being undertaken in accordance with system-wide timing schedules for such activities, and (c) pay all operating costs of the Premises in the ordinary course of business. Lessee waives any right to require Lessor to maintain, repair or rebuild all or any part of the Premises or make repairs at the expense of Lessor pursuant to any Applicable Regulations at any time in effect.

6.4 Alterations and Improvements. Lessee shall not alter the exterior, structural, plumbing or electrical elements of the Premises in any manner without the consent of Lessor, which consent shall not be unreasonably withheld or conditioned; **provided, however,** Lessee may undertake nonstructural alterations to the Premises costing less than \$100,000 without Lessor's consent. For purposes of this Lease, alterations to the exterior, structural, plumbing or electrical elements of the Premises shall mean:

- (a) Alterations that affect the foundation or "**footprint**" of the improvements at the Premises;
- (b) Alterations which involve the structural elements of the improvements at the Premises, such as a load-bearing wall, structural beams, columns, supports or roof;
- (c) Alterations which materially affect any of the building systems, including, without limitation, the electrical systems, plumbing, HVAC and fire and safety systems;

Any work at any time commenced by Lessee on the Premises shall be prosecuted diligently to completion, shall be of good workmanship and materials and shall comply fully with all the terms of this Lease. All alterations, additions and repairs to the Premises, including any items attached or affixed to the Premises that are not readily removable, shall be made only in compliance with all Applicable Regulations, including Internal Revenue Service guidelines, shall be free and clear of all liens and shall automatically be deemed a part of the Premises and belong to Lessor. Lessee shall execute and deliver to Lessor such instruments as Lessor may require to evidence the ownership by Lessor of such alterations, additions, repairs and items. No such alterations, additions, repairs or items shall cause the Premises to have diminished current value, residual value, utility or remaining economic useful life by more than a *de minimis* amount or cause the Premises to become "limited use property" within the meaning of Revenue Procedure 2001-28.

If Lessor's consent is required to the making of any alterations and such consent is given, such alterations shall be made by Lessee at Lessee's sole expense by a licensed contractor and according to plans and specifications approved by Lessor and subject to such other conditions as Lessor shall reasonably require. Upon completion of any alterations for which Lessor's consent is required under this Lease, Lessee shall promptly provide Lessor with (i) evidence of full payment to all laborers and materialmen contributing to the alterations, (ii) an architect's certificate certifying the alterations to have been completed in conformity with the plans and specifications, (iii) a certificate of occupancy (if the alterations are of such a nature as would require the issuance of a certificate of occupancy), and (iv) any other documents or information reasonably requested by Lessor.

6.5 Liens. Lessee agrees to keep the Premises free from any liens arising out of any work performed on the Premises or materials furnished to the Premises. Lessor may, at any time and in accordance with applicable law, post notices of non-responsibility on the Premises and record verified copies of those notices in connection with all work of any kind upon the Premises.

6.6 Easements. During the Lease Term, Lessor shall have the right to grant utility easements on, over, under and above the Premises without the prior consent of Lessee, provided that such easements will not materially interfere with Lessee's use of the Premises in accordance with the provisions of this Lease.

6.7 Utilities. Lessee shall contract, in its own name, for and pay when due all charges for the connection and use of water, gas, electricity, telephone, garbage collection, sewer use and other utility services supplied to the Premises during the Lease Term. Under no circumstances shall Lessor be responsible for any interruption of any utility service.

ARTICLE 7 INDEMNIFICATION

7.1 General Indemnity. Lessee shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless each of the Indemnified Parties for, from and against any and all Losses (excluding Losses suffered by an Indemnified Party arising out of the gross negligence or willful misconduct of such Indemnified Party; **provided, however**, that the term "**gross negligence**" shall not include gross negligence imputed as a matter of law to any of the Indemnified Parties solely by reason of the Lessor's interest in the Premises or Lessor's failure to act in respect of matters which are or were the obligation of Lessee under this Lease) caused by, incurred or resulting from Lessee's operations of or relating in any manner to the Premises, whether relating to their original design or construction, latent defects, alteration, maintenance, use by Lessee or any other person, or otherwise, or from any breach of, default under, or failure to perform, any term or provision of this Lease by Lessee, its officers, employees, agents or other persons, or to which any Indemnified Party is subject because of Lessor's interest in the Premises, including, without limitation, Losses arising from (a) any accident, injury to or death of any person or loss of or damage to property occurring in, on or about the Premises or portion or on the adjoining sidewalks, curbs, parking areas, streets or ways, (b) any use, non-use or condition in, on or about, or possession, alteration, repair, operation, maintenance or management of, the Premises or any portion of the Premises or on the adjoining sidewalks, curbs, parking areas, streets or ways, (c) any representation or warranty made in this Lease by Lessee, in any certificate delivered in connection with this Lease or in any other agreement to which Lessee is a party or pursuant to such other agreement being false or misleading in any material respect as of the date of such representation or warranty was made, (d) performance of any labor or services or the furnishing of any materials or other property in respect to the Premises or any portion of the Premises, (e) any taxes, assessments or other charges which Lessee is required to pay under **Article 5**, (f) any lien, encumbrance or claim arising on or against the Premises or any portion of the Premises under any Applicable Regulation or otherwise which Lessee is obligated under this Lease to remove and discharge, or the failure to comply with any Applicable Regulation, (g) the claims of any invitees, patrons, licensees or subtenants of all or any portion of the Premises or any Person acting through or under Lessee or otherwise acting under or as a consequence of this Lease or any sublease, (h) any act or omission of Lessee or its agents, contractors, licensees, subtenants or invitees, (i) any contest referred to in **Section 5.1(c)**, and (j) the sale of liquor, beer or wine on the Premises.

7.2 Survival. It is expressly understood and agreed that Lessee's obligations under **Section 7.1** or any other indemnification provision of this Lease shall survive the expiration or earlier termination of this Lease for any reason, any other provision of this Lease to the contrary notwithstanding.

ARTICLE 8 CASUALTY AND CONDEMNATION

8.1 Notice of Taking or Casualty. In the event of a taking of all or any part of the Premises for any public or quasi-public purpose by any lawful power or authority by exercise of the right of condemnation or eminent domain or by agreement between Lessor, Lessee and those authorized to exercise such right ("**Taking**") or the commencement of any proceedings or negotiations which might result in a Taking, or any material damage to or destruction of the Premises or any part of the Premises (a "**Casualty**"), Lessee will promptly give written notice to Lessor, generally describing the nature and extent of such Taking, proceedings, negotiations or Casualty and including copies of any documents or notices received in connection with such event. Lessee shall promptly send Lessor copies of all other correspondence and pleadings relating to any such Taking, proceedings, negotiations or Casualty. During all periods of time following a Casualty, Lessee shall ensure that the Premises is secure and does not pose any risk of harm to adjoining property owners or occupants or third-parties.

8.2 Total Taking. In the event of a Taking of the whole of the Premises, other than for temporary use ("**Total Taking**"), this Lease shall terminate as of the date of the Total Taking except for those provisions in this Lease that expressly survive any such termination. If the date of such Total Taking is other than the first day of a month, the Base Annual Rent payable for the month in which such Total Taking occurs shall be apportioned based on the date of the Total Taking. Lessee's obligations to Lessor under **Section 7.1** and Lessee's obligation to pay all other sums of money under this Lease (whether payable to Lessor or to a third-party) that accrue prior to the date of such Total Taking shall survive the termination of this Lease. A Total Taking shall include a Taking, other than for a temporary use, of such a substantial part of the Premises as shall result in the portion of the Premises remaining after such Taking being unsuitable for use as a Permitted Concept, as determined by Lessee in the exercise of good faith business judgment. Lessor shall be entitled to receive the entire award or payment in connection with a Total Taking without deduction for any estate vested in Lessee by this Lease. Lessee expressly assigns to Lessor all of its right, title and interest in and to every such award or payment and agrees that Lessee shall not be entitled to any award or payment for the value of Lessee's leasehold interest in this Lease. Lessee shall be entitled to claim and receive any award or payment from the condemning authority expressly granted for the taking of Personal Property, the interruption of its business and moving expenses, but only if such claim or award does not adversely affect or interfere with the prosecution of Lessor's claim for the Total Taking or otherwise reduce the amount recoverable by Lessor for the Total Taking.

8.3 Temporary Taking. In the event of a Taking of all or any part of the Premises for a temporary use ("**Temporary Taking**"), this Lease shall remain in full force and effect without any reduction of Base Annual Rent, Additional Rent or any other sum payable under this Lease. Except as provided below and subject to the terms and provisions of the Mortgages, Lessee shall be entitled to the entire award for a Temporary Taking, whether paid by damages, rent or otherwise, unless the period of occupation and use by the condemning authorities shall extend beyond the date of expiration of this Lease, in which case the award made for such Taking shall be apportioned between Lessor and Lessee as of the date of such expiration. At the termination of any such Temporary Taking, Lessee will, at its own cost and expense and pursuant to the terms of **Section 6.4**, promptly commence and complete the restoration of the Premises.

8.4 Partial Taking or Casualty. In the event of a Taking which is not a Total Taking or a Temporary Taking ("**Partial Taking**") or of a Casualty, all awards, compensation or damages shall be paid to Lessor, and Lessor shall have the option to (i) subject to the right of Lessee to elect otherwise as set forth in the following sentence, terminate this Lease by notifying Lessee within 60 days after Lessee gives Lessor notice of such Casualty or that title has vested in the taking authority or (ii) continue this

Lease in effect, which election may be evidenced by either a notice from Lessor to Lessee or Lessor's failure to notify Lessee that Lessor has elected to terminate this Lease with respect to the Premises within such 60-day period. Lessee shall have a period of 60 days after Lessor's notice that it has elected to terminate this Lease during which to elect to continue this Lease. If Lessor elects to terminate this Lease and Lessee does not elect to continue this Lease or shall fail during such 60-day period to notify Lessor of Lessee's intent to continue this Lease, then this Lease shall terminate as of the last day of the month during which such period expired. Lessee shall then immediately vacate and surrender the Premises and all obligations of either party under this Lease with respect to the Premises shall cease as of the date of termination; **provided, however**, Lessee's obligations to pay Base Annual Rent, Additional Rent and all other sums (whether payable to Lessor or a third party) accruing under this Lease with respect to the Premises prior to the date of termination shall survive such termination. If Lessor elects not to terminate this Lease, or if Lessor elects to terminate this Lease but Lessee elects to continue this Lease, then this Lease shall continue in full force and effect on the following terms: (i) all Base Annual Rent, Additional Rent and other sums and obligations due under this Lease shall continue unabated, and (ii) Lessee shall promptly commence and diligently prosecute restoration of the Premises to the same condition, as nearly as practicable, as prior to such Partial Taking or Casualty as approved by Lessor. Subject to the terms and provisions of the Mortgages, Lessor shall promptly make available in installments as restoration progresses an amount up to but not exceeding the amount of any award, compensation or damages received by Lessor after deducting all costs, fees and expenses incident to the collection of such award, compensation or damages, including all costs and expenses incurred by Lessor and Lender in connection with such Partial Taking or Casualty (the "**Net Restoration Amount**"), upon request of Lessee accompanied by evidence reasonably satisfactory to Lessor that such amount has been paid or is due and payable and is properly a part of such costs and that Lessee has complied with the terms of **Section 6.4** in connection with the restoration. Prior to the disbursement of any portion of the Net Restoration Amount with respect to a Casualty, Lessee shall provide evidence reasonably satisfactory to Lessor of the payment of restoration expenses by Lessee up to the amount of the insurance deductible applicable to such Casualty. Lessor shall be entitled to keep any portion of the Net Restoration Amount that may be in excess of the cost of restoration, and Lessee shall bear all additional costs, fees and expenses of such restoration in excess of the Net Restoration Amount. If this Lease is terminated as a result of a Casualty, simultaneously with such termination Lessee shall pay Lessor an amount equal to the insurance deductible applicable to such Casualty.

8.5 Adjustment of Losses. Any loss under any property damage insurance required to be maintained by Lessee shall be adjusted by Lessor and Lessee. Subject to the terms and provisions of the Mortgages, any award relating to a Total Taking or a Partial Taking shall be adjusted by Lessor or, at Lessor's election, Lessee. Notwithstanding the foregoing or any other provisions of this Section to the contrary but subject to the terms and provisions of the Mortgages, if at the time of any Taking or Casualty or at any time after any Taking or Casualty an Event of Default shall have occurred and be continuing under this Lease, Lessor is authorized and empowered but shall not be obligated, in the name and on behalf of Lessee and otherwise, to file and prosecute Lessee's claim, if any, for an award on account of such Taking or for insurance proceeds on account of such Casualty and to collect such award or proceeds and apply the same, after deducting all costs, fees and expenses incident to the collection of such award or proceeds, to the curing of such default and any other then existing default under this Lease or to the payment of any amounts owed by Lessee to Lessor under this Lease, in such order, priority and proportions as Lessor in its discretion shall deem proper.

ARTICLE 9 ADDITIONAL COVENANTS OF LESSEE

9.1 Inspection. Lessor and its authorized representatives shall have the right upon reasonable prior notice (or at any time without prior notice in the event of an emergency) to enter any part

of the Premises at reasonable times in order to inspect the same and make photographic or other evidence concerning Lessee's compliance with the terms of this Lease or in order to show the Premises to prospective purchasers and lenders. Lessee waives any claim for damages for any injury or inconvenience to or interference with Lessee's business, any loss of occupancy or quiet enjoyment of the Premises and any other loss occasioned by such entry so long as Lessor shall have used reasonable efforts not to unreasonably interrupt Lessee's normal business operations.

9.2 Books and Records. Lessee shall keep and maintain at the Premises or Lessee's chief executive office full, complete and appropriate books of account and records of Lessee's business relating to the Premises in accordance with GAAP. Lessee's books and records shall at all reasonable times be open for inspection by Lessor, Lender and their respective auditors or other authorized representatives.

9.3 OFAC Laws and Regulations. Lessee shall immediately notify Lessor in writing if any individual or entity owning directly or indirectly any interest in any of the Lessee Parties or any director, officer, member, manager or partner of any of such holders is an individual or entity whose property or interests are subject to being blocked under any of the OFAC Laws and Regulations or is otherwise in violation of any of the OFAC Laws and Regulations, or is under investigation by any Governmental Authority for, or has been charged with, or convicted of, drug trafficking, terrorist-related activities or any violation of Anti-Money Laundering Laws, has been assessed civil penalties under these or related laws, or has had funds seized or forfeited in an action under these or related laws; **provided, however**, the covenant contained in this sentence shall not apply to any Person to the extent that such Person's interest is in or through a U.S. Publicly-Traded Entity.

9.4 Financial Statements. Within 45 days after the end of each fiscal quarter and within 120 days after the end of each fiscal year of Lessee, Lessee shall deliver to Lessor and Lender (a) complete financial statements of Lessee including a balance sheet, profit and loss statement, statement of cash flow and all other related schedules for the fiscal period then ended; and (b) income statements for the business at the Premises. All such financial statements shall be prepared in accordance with GAAP from period to period, and shall be certified to be accurate and complete by Lessee (or the Treasurer or other appropriate officer of Lessee). Lessee understands that Lessor and Lender will rely upon such financial statements and Lessee represents that such reliance is reasonable. If Lessee's property and business at the Premises is ordinarily consolidated with other business for financial statement purposes, such financial statements shall be prepared on a consolidated basis showing separately the sales, profits and losses, assets and liabilities pertaining to the Premises with the basis for allocation of overhead of other charges being clearly set forth. The financial statements delivered to Lessor and Lender need not be audited, but Lessee shall deliver to Lessor and Lender copies of any audited financial statements of Lessee that may be prepared, as soon as they are available. Lessee acknowledges and agrees that Lessor may disclose to any prospective purchaser of the Premises the financial statements of Lessee delivered to Lessor pursuant to this Section.

9.5. Compliance Certificate. Within 60 days after the end of each fiscal year of Lessee, at the request of Lessor, Lessee shall deliver a compliance certificate to Lessor in a form to be provided by Lessor in order to establish that Lessee is in compliance in all material respects with all of its obligations, duties and covenants under this Lease.

9.6. Disclosures Regarding Premises and Lessee Parties. Lessee authorizes Lessor and its employees, officers, agents, representatives and designees to (i) discuss the affairs, finances and accounts of Lessee, the other Lessee Parties or the business operations at the Premises with any prospective purchaser or security interest holder in the Premises, and (ii) obtain from, and disclose to, any such prospective purchaser or security interest holder any information regarding Lessee, the other

Lessee Parties or the business operations at the Premises, including, without limitation, financial information about Lessee or the other Lessee Parties or the business operations at the Premises. Lessee shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless each of the Indemnified Parties for, from and against any and all Losses arising as the result of any disclosures of information, financial or otherwise, made by Lessor or Lessor's employees, officers, agents and designees as contemplated by this Section.

9.7 Franchise Agreement.

(a) Representations and Warranties. Lessee represents and warrants to Lessor as follows: (i) Lessee has delivered to Lessor a true, correct and complete copy of the Franchise Agreement; (ii) the Franchise Agreement is the only agreement in effect with Franchisor with respect to the Premises; (iii) the Franchise Agreement is in full force and effect and constitutes the legal, valid and binding obligation of Lessee, enforceable in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, liquidation, reorganization and other laws affecting the rights of creditors generally and general principles of equity; (iv) none of the Lessee Parties has assigned, transferred, mortgaged, hypothecated or otherwise encumbered the Franchise Agreement or any rights or any interest in the Franchise Agreement; (v) no notice of default from Franchisor has been received under the Franchise Agreement which has not been cured and no notice of default to Franchisor has been given under the Franchise Agreement which has not been cured; and (vi) no event has occurred and no condition exists which, with the giving of notice or the lapse of time or both, would constitute a default under the Franchise Agreement.

(b) Covenants. Lessee covenants to Lessor throughout the Lease Term as follows: (i) Lessee shall maintain the Franchise Agreement in full force and effect; (ii) no event shall occur nor shall any condition exist which, with the giving of notice or the lapse of time or both, would constitute a breach or default under the Franchise Agreement; (iii) Lessee shall give prompt notice to Lessor of any claim of default by or to Lessee under the Franchise Agreement and shall provide Lessor with a copy of any default notice given or received by Lessee under the Franchise Agreement and any information submitted or referenced in support of such claim of default; and (iv) Lessee shall also give prompt notice to Lessor of the expiration or termination of the Franchise Agreement.

(c) Notices. Lessee consents to Lessor providing information it obtains to Franchisor and to Lessor obtaining from Franchisor information which Franchisor receives relating to Lessee's operation of its business on the Premises.

(d) Event of Default. In addition to the Events of Default set forth elsewhere in this Lease, an Event of Default shall be deemed to have occurred under this Lease if there is a breach or default, after the passage of all applicable notice and cure or grace periods, under the Franchise Agreement or if the Franchise Agreement terminates or expires prior to the end of the Lease Term and a substitute agreement for the terminated or expired agreement is not entered into prior to such expiration or termination, which substitute agreement shall be in form and substance reasonably satisfactory to Lessor and shall expire after the scheduled expiration date of this Lease.

(e) Extension Periods. In addition to any condition precedent set forth in **Section 2.3** with respect to the exercise of the Extension Period options, it shall be a condition precedent to the exercise of such options that the Franchise Agreement is extended for a period of not less than the applicable Extension Period.

(f) Disclosures; Indemnity. Lessee authorizes Lessor and its employees, officers, agents, representatives and designees to: (i) discuss the affairs, finances and accounts of Lessee or the other Lessee Parties with Franchisor and the employees, officers, agents and representatives of Franchisor; and (ii) obtain from, and disclose to, Franchisor any information regarding the status of the Franchise Agreements, Lessee or the other Lessee Parties or the business operations at the Premises, including, without limitation, financial information about Lessee or the other Lessee Parties or the business operations at the Premises. Lessee shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless each of the Indemnified Parties for, from and against any and all Losses arising as the result of any disclosures of information, financial or otherwise, made by (i) Lessor or Lessor's employees, officers, agents and designees to Franchisor as contemplated by this Section or (ii) any employee, officer, agent or representative of Franchisor to Lessor or any of the other Indemnified Parties.

ARTICLE 10 DEFAULT AND REMEDIES

10.1. Default. Each of the following shall be an event of default under this Lease (each, an "**Event of Default**"):

(a) If any representation or warranty of any of the Lessee Parties set forth in this Lease or any of the Other Agreements is false in any material respect when made, or if any of the Lessee Parties renders any statement or account to Lessor that is false in any material respect when made;

(b) If any Rent is not paid within five days after the date due; **provided, however,** notwithstanding the occurrence of such an Event of Default, Lessor shall not be entitled to exercise its remedies set forth below unless and until Lessor shall have given Lessee notice of such Event of Default and a period of five days from the delivery of such notice shall have elapsed without such Event of Default being cured;

(c) If any of the Lessee Parties become insolvent within the meaning of the Code, files or notifies Lessor that it intends to file a petition under the Code, initiates a proceeding under any similar law or statute relating to bankruptcy, insolvency, reorganization, winding up or adjustment of debts (collectively, an "**Action**"), becomes the subject of either a petition under the Code or an Action, or is not generally paying its debts as the same become due;

(d) Subject to the provisions of **Section 6.1(a)**, if Lessee vacates or abandons the Premises;

(e) If Lessee fails to maintain insurance in accordance with the requirements of **Section 5.2**;

(f) If Lessee fails to observe or perform any of the other covenants, conditions, or obligations of this Lease; **provided, however,** if any such failure does not involve the payment of any monetary sum, is not willful or intentional, does not place any rights or property of Lessor in immediate jeopardy, and is within the reasonable power of Lessee to promptly cure after receipt of notice of such failure, all as determined by Lessor in its reasonable discretion, then such failure shall not constitute an Event of Default under this Lease, unless otherwise expressly provided in this Lease, unless and until Lessor shall have given Lessee notice of such failure and a period of 30 days shall have elapsed, during which period Lessee may correct or cure such failure, upon failure of which an Event of Default shall be deemed to have occurred under this Lease without further notice

or demand of any kind being required. If such failure cannot reasonably be cured within such 30-day period, as determined by Lessor in its reasonable discretion, and Lessee is diligently pursuing a cure of such failure, then Lessee shall have a reasonable period to cure such failure beyond such 30-day period, which shall in no event exceed 90 days after receiving notice of such failure from Lessor. If Lessee shall fail to correct or cure such failure within such 90-day period, an Event of Default shall be deemed to have occurred under this Lease without further notice or demand of any kind being required;

(g) If there is a breach or default, after the passage of all applicable notice and cure or grace periods, under any of the Other Agreements; or

(h) If a final, nonappealable judgment is rendered by a court against Lessee which has a Material Adverse Effect and is not discharged or provision made for such discharge within 60 days from the date of entry of such judgment.

10.2 Remedies. Upon the occurrence of an Event of Default, with or without notice or demand, except the notice prior to default required under certain circumstances by this Lease or such other notice as may be required by statute and cannot be waived by Lessee (all other notices being waived), Lessor shall be entitled to exercise, at its option, concurrently, successively, or in any combination, all remedies available at law or in equity, including without limitation, self-help remedies, the right to seek and obtain injunctive relief or specific performance, and any one or more of the following:

(a) Termination. Lessor may terminate this Lease without any right of Lessee to reinstate Lessee's rights by payment of any rentals due under this Lease, including Base Annual Rent and Additional Rent, or other performance of the terms and conditions of this Lease, whereupon Lessee's right to possession of the Premises shall cease (and Lessee shall immediately surrender possession of the Premises to Lessor) and this Lease, except as to Lessee's liability, shall be terminated. Lessee expressly waives any and all rights of redemption granted by or under present or future law in the event this Lease is terminated or Lessee is evicted or dispossessed by reason of any breach by Lessee of any provisions of this Lease. Upon any termination of this Lease, Lessor may recover from Lessee the following:

(i) The worth at the time of award of all unpaid Rent that had been earned at the time of termination;

(ii) The worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Lessee proves could be reasonably avoided;

(iii) The worth at the time of award of the amount by which the unpaid Rent for the balance of the Lease Term after the time of award exceeds the amount of such rental loss that Lessee proves could be reasonably avoided; and

(iv) Any other amount reasonably necessary to compensate Lessor for all the detriment proximately caused by Lessee's failure to perform its obligations under this Lease.

The "worth at the time of the award" of the amounts referred to in **subsections (i) and (ii)** above will be computed by allowing interest at the rate of Default Rate. The "worth at the time of the award" of the amount referred to in **subsection (iii)** above will be computed by discounting such amount at the Discount Rate.

(b) Re-Enter and Retake Possession. Lessor may reenter and take possession of the Premises, any or all Personal Property and, to the extent permissible, all franchises, licenses, area development agreements, permits and other rights or privileges of Lessee pertaining to the use and operation of the Premises and to expel Lessee and those claiming under or through Lessee, without being deemed guilty in any manner of trespass or becoming liable for any loss or damage resulting from such actions, without resort to legal or judicial process, procedure or action. No such re-entry and retaking of possession shall be construed as an election by Lessor to terminate this Lease as provided in **Section 10.2(a)** unless a notice of such termination is given to Lessee. No notice from Lessor under this Lease or under a forcible entry and detainer statute or similar law shall constitute an election by Lessor to terminate this Lease unless such notice specifically so states. If Lessee shall, after the occurrence of an Event of Default, voluntarily give up possession of the Premises to Lessor, deliver to Lessor or its agents the keys to the Premises, or both, such actions shall be deemed to be in compliance with Lessor's rights and the acceptance of the Premises or the keys to the Premises by Lessor or its agents shall not be deemed to constitute a termination of this Lease. Lessor reserves the right following any reentry or reletting to exercise its right to terminate this Lease by giving Lessee written notice of such termination, in which event this Lease will terminate as specified in said notice.

(c) Disposition of Personal Property. Lessor may seize all Personal Property, and to dispose of the Personal Property in accordance with the laws prevailing at the time and place of such seizure or to remove all or any portion of such property and cause the same to be stored in a public warehouse or elsewhere at Lessee's sole expense, without becoming liable for any loss or damage resulting from such actions and without resorting to legal or judicial process, procedure or action.

(d) Action for Damages. Lessor may bring an action against Lessee for any damages sustained by Lessor or any equitable relief available to Lessor.

(e) Reletting. Lessor may relet the Premises or any part of the Premises for such term or terms (including a term which extends beyond the original Lease Term), at such rentals and upon such other terms as Lessor, in its sole discretion, may determine, with all proceeds received from such reletting being applied to the Rent due from Lessee in such order as Lessor, may, in its sole discretion, determine, which other sums include, without limitation, all repossession costs, brokerage commissions, reasonable attorneys' fees and expenses, employee expenses, alteration, remodeling and repair costs and expenses of preparing for such reletting. Except to the extent required by applicable law, Lessor shall have no obligation to relet the Premises or any part of the Premises and shall in no event be liable for refusal or failure to relet the Premises or any part of the Premises, or, in the event of any such reletting, for refusal or failure to collect any rent due upon such reletting, and no such refusal or failure shall operate to relieve Lessee of any liability under this Lease or otherwise to affect any such liability. Lessor reserves the right following any such reentry or reletting to exercise its right to terminate this Lease by giving Lessee written notice of such termination, in which event this Lease will terminate as specified in said notice.

(f) Correcting Lessee's Breach. Lessor may immediately or at any time after the occurrence of such Event of Default, and with or without notice, at Lessor's sole option but without any obligation to do so, correct such breach or default and charge Lessee all costs and expenses incurred by Lessor in connection with such breach or default. Any sum or sums so paid by Lessor, together with interest at the Default Rate, shall be deemed to be Additional Rent under this Lease and shall be immediately due from Lessee to Lessor. Any such acts by Lessor in correcting Lessee's breaches or defaults under this Lease shall not be deemed to cure said breaches or

defaults or constitute any waiver of Lessor's right to exercise any or all remedies set forth in this Lease.

(g) Set-Off. Lessor may immediately or at any time after the occurrence of such Event of Default, and with or without notice, except as required in this Lease, set off any money of Lessee held by Lessor under this Lease against any sum owing by any of the Lessee Parties.

10.3 Lessee Waiver; No Custom; Cumulative Powers and Remedies. Lessee expressly waives any right of defense that Lessee may have based on any purported merger of any cause of action, and neither the commencement of any action or proceeding nor the settlement or entering of judgment with respect to any action or proceeding shall bar Lessor from bringing subsequent actions or proceedings from time to time. Any law, usage or custom to the contrary notwithstanding, Lessor shall have the right at all times to enforce all terms, conditions and covenants of this Lease in strict accordance with this Lease, notwithstanding any conduct or custom on the part of Lessor in refraining from so doing at any time or times. Further, the failure of Lessor at any time or times to enforce its rights under this Lease strictly in accordance with the same shall not be construed as having created a custom in any way or manner contrary to any specific term, condition or covenant of this Lease, or as having in any way or manner modified the same. All powers and remedies given by this **Article 10** to Lessor, subject to applicable law, shall be cumulative and not exclusive of one another or of any other right or remedy or of any other powers and remedies available to Lessor under this Lease or the Other Agreements, by judicial proceedings or otherwise, to enforce the performance or observance of the covenants and agreements of Lessee contained in this Lease, and no delay or omission of Lessor to exercise any right or power accruing upon the occurrence of any Event of Default shall impair any other or subsequent Event of Default or impair any rights or remedies with respect to any Event of Default. Every power and remedy given by this Section or by law to Lessor may be exercised from time to time, and as often as may be deemed expedient, by Lessor, subject at all times to Lessor's right in its sole judgment to discontinue any work commenced by Lessor or change any course of action undertaken by Lessor.

10.4 Lessor's Liability. Notwithstanding anything to the contrary provided in this Lease, it is specifically understood and agreed, such agreement being a primary consideration for the execution of this Lease by Lessor, that (a) there shall be absolutely no personal liability on the part of Lessor, its successors or assigns and the trustees, members, partners, shareholders, officers, directors, employees and agents of Lessor and its successors or assigns, to Lessee with respect to any of the terms, covenants and conditions of this Lease, (b) Lessee waives all claims, demands and causes of action against the trustees, members, partners, shareholders, officers, directors, employees and agents of Lessor and its successors or assigns in the event of any breach by Lessor of any of the terms, covenants and conditions of this Lease to be performed by Lessor, and (c) Lessee shall look solely to the Premises for the satisfaction of each and every remedy of Lessee in the event of any breach by Lessor of any of the terms, covenants and conditions of this Lease to be performed by Lessor, or any other matter in connection with this Lease or the Premises, such exculpation of liability to be absolute and without any exception whatsoever.

10.5 Bankruptcy Provisions.

(a) Lessor's Reliance. As a material inducement to Lessor executing this Lease, Lessee acknowledges and agrees that Lessor is relying upon (i) the financial condition and specific operating experience of Lessee and Lessee's obligation to use the Premises specifically in accordance with system-wide requirements imposed from time to time on the Permitted Concept; (ii) Lessee's timely performance of all of its obligations under this Lease notwithstanding the entry of an order for relief under the Code for Lessee; and (iii) all defaults under this Lease being cured promptly and this Lease being assumed within 60 days of any order for relief entered under the Code

for Lessee, or this Lease being rejected within such 60 day period and the Premises surrendered to Lessor. Accordingly, in consideration of the mutual covenants contained in this Lease and for other good and valuable consideration, Lessee agrees that:

(i) All obligations that accrue or become due under this Lease (including the obligation to pay rent), from and after the date that an Action is commenced shall be timely performed exactly as provided in this Lease and any failure to so perform shall be harmful and prejudicial to Lessor;

(ii) Any and all obligations under this Lease that accrue or become due from and after the date that an Action is commenced and that are not paid as required by this Lease shall, in the amount of such rents, constitute administrative expense claims allowable under the Code with priority of payment at least equal to that of any other actual and necessary expenses incurred after the commencement of the Action;

(iii) Any extension of the time period within which Lessee may assume or reject this Lease without an obligation to cause all obligations accruing or coming due under this Lease from and after the date that an Action is commenced to be performed as and when required under this Lease shall be harmful and prejudicial to Lessor;

(iv) Any time period designated as the period within which Lessee must cure all defaults and compensate Lessor for all pecuniary losses that extend beyond the date of assumption of this Lease shall be harmful and prejudicial to Lessor;

(v) Any assignment of this Lease must result in all terms and conditions of this Lease being assumed by the assignee without alteration or amendment, and any assignment which results in an amendment or alteration of the terms and conditions of this Lease without the express written consent of Lessor shall be harmful and prejudicial to Lessor;

(vi) Any proposed assignment of this Lease to an assignee: (A) that will not use the Premises specifically as a Permitted Concept, (B) that does not possess financial condition, operating performance and experience characteristics equal to or better than the financial condition, operating performance and experience of Lessee as of the Effective Date, or (C) that does not provide guarantors of this Lease obligations with financial condition equal to or better than the financial condition of the original guarantors of this Lease as of the Effective Date, if any, shall be harmful and prejudicial to Lessor; and

(vii) The rejection (or deemed rejection) of this Lease for any reason whatsoever shall constitute cause for immediate relief from the automatic stay provisions of the Code, and Lessee stipulates that such automatic stay shall be lifted immediately and possession of the Premises will be delivered to Lessor immediately without the necessity of any further action by Lessor.

(b) No Waiver by Lessor. No provision of this Lease shall be deemed a waiver of Lessor's rights or remedies under the Code or applicable law to oppose any assumption or assignment of this Lease, to require timely performance of Lessee's obligations under this Lease, or to regain possession of the Premises as a result of the failure of Lessee to comply with the terms and conditions of this Lease or the Code.

(c) Rent under the Code. Notwithstanding anything in this Lease to the contrary, all amounts payable by Lessee to or on behalf of Lessor under this Lease, whether or not expressly denominated as such, shall constitute "rent" for the purposes of the Code.

(d) Lessee's Successors in Bankruptcy. For purposes of this Section addressing the rights and obligations of Lessor and Lessee in the event that an Action is commenced, the term "Lessee" shall include Lessee's successor in bankruptcy, whether a trustee, Lessee as debtor in possession or other responsible person.

ARTICLE 11 MORTGAGES

11.1 No Liens. Lessor's interest in this Lease or the Premises shall not be subordinate to any encumbrances placed upon the Premises by or resulting from any act of Lessee, and nothing in this Lease contained shall be construed to require such subordination by Lessor. EXCEPT AS OTHERWISE CONSENTED TO BY LESSOR PURSUANT TO **SECTION 13.2**, NOTICE IS GIVEN THAT LESSEE IS NOT AUTHORIZED TO PLACE OR ALLOW TO BE PLACED ANY LIEN, MORTGAGE, DEED OF TRUST OR ENCUMBRANCE OF ANY KIND UPON ALL OR ANY PART OF THE PREMISES OR LESSEE'S LEASEHOLD INTEREST IN THE PREMISES, AND ANY SUCH PURPORTED TRANSACTION SHALL BE VOID. FURTHERMORE, ANY SUCH PURPORTED TRANSACTION SHALL BE DEEMED A TORTIOUS INTERFERENCE WITH LESSOR'S RELATIONSHIP WITH LESSEE AND LESSOR'S FEE OWNERSHIP OF THE PREMISES.

11.2 Subordinate. This Lease at all times shall automatically be subordinate to the lien of any and all ground leases and Mortgages now or after the Effective Date placed upon the Premises by Lessor, and Lessee covenants and agrees to execute and deliver, upon demand, such further instruments subordinating this Lease to the lien of any or all such ground leases and Mortgages as shall be desired by Lessor, or any present or proposed mortgagees or trustees under trust deeds, upon the condition that Lessee shall have the right to remain in possession of the Premises under the terms of this Lease, notwithstanding any default in any or all such ground leases or Mortgages, or after foreclosure of any such Mortgages, so long as no Event of Default shall have occurred and be continuing. Lessor agrees to use its best efforts to provide Lessee with a subordination, nondisturbance and attornment agreement ("**SNDA**") executed by each Lender holding a Mortgage, and Lessee agrees to promptly execute and return such SNDA to Lessor.

11.3 Election to Declare Lease Superior. If any mortgagee, trustee, receiver or other secured party elects to have this Lease and the interest of Lessee under this Lease be superior to any Mortgage and evidences such election by notice given to Lessee, then this Lease and the interest of Lessee under this Lease shall be deemed superior to such Mortgage, whether this Lease was executed before or after such Mortgage and in that event such mortgagee, trustee, receiver or other secured party shall have the same rights with respect to this Lease as if it had been executed and delivered prior to the execution and delivery of such Mortgage and has been assigned to such mortgagee, trustee or other secured party.

11.4 Attornment. In the event any purchaser or assignee of any Lender at a judicial or nonjudicial foreclosure sale acquires title to the Premises, or in the event any Lender or any purchaser or assignee otherwise succeeds to the rights of Lessor as landlord under this Lease, Lessee shall attorn to such Lender or such purchaser or assignee, as the case may be (a "**Successor Lessor**"), and recognize the Successor Lessor as lessor under this Lease, and, subject to the provisions of this Section, this Lease shall continue in full force and effect as a direct lease between the Successor Lessor and Lessee, provided that the Successor Lessor shall only be liable for any obligations of the lessor under this Lease

which accrue after the date that such Successor Lessor acquires title. The foregoing provision shall be self operative and effective without the execution of any further instruments.

11.5 Execution of Additional Instruments. Although the foregoing provisions shall be self-operative and no future instrument of subordination shall be required, upon request by Lessor, Lessee shall execute and deliver whatever instruments may be reasonably required for such purposes.

11.6 Notice to Lender. Lessee shall give written notice to any Lender having a recorded lien upon any of the Premises or any part of the Premises which Lessee has been notified of any breach or default by Lessor of any of its obligations under this Lease simultaneously with the giving of such notice to Lessor, and Lessee shall give such Lender at least 60 days beyond any notice period to which Lessor might be entitled to cure such default before Lessee may exercise any remedy with respect to such default.

ARTICLE 12 ESTOPPEL CERTIFICATES

12.1. Lessee Estoppel Certificate. At any time, and from time to time, Lessee shall, promptly and in no event later than 15 days after a request from Lessor or Lender, execute, acknowledge and deliver to Lessor or Lender a certificate in the form supplied by Lessor, Lender or any present or proposed mortgagee or purchaser designated by Lessor, certifying: (a) that Lessee has accepted the Premises (or, if Lessee has not done so, that Lessee has not accepted the Premises, and specifying the reasons for not accepting the Premises); (b) that this Lease is in full force and effect and has not been modified (or if modified, setting forth all modifications), or, if this Lease is not in full force and effect, the certificate shall so specify the reasons why this Lease is not in full force and effect; (c) the commencement and expiration dates of the Lease Term, including the terms of any extension options of Lessee; (d) the date to which the rentals have been paid under this Lease and the amount then payable; (e) whether there are then any existing defaults by Lessor in the performance of its obligations under this Lease, and, if there are any such defaults, specifying the nature and extent of such defaults; (f) that no notice has been received by Lessee of any default under this Lease which has not been cured, except as to defaults specified in the certificate, and that Lessee is in compliance in all material respect with all of its obligations under this Lease; (g) the capacity of the person executing such certificate, and that such person is duly authorized to execute the same on behalf of Lessee; (h) that neither Lessor nor Lender has actual involvement in the management or control of decision making related to the operational aspects or the day-to-day operations of the Premises; and (i) any other information reasonably requested by Lessor, Lender or such present or proposed mortgagee or purchaser.

12.2 Lessor Estoppel Certificate. At any time, and from time to time, Lessor shall, promptly and in no event later than 15 days after a request from Lessee, execute, acknowledge and deliver to Lessee a certificate in the form supplied by Lessee certifying: (a) that this Lease is in full force and effect and has not been modified (or if modified, setting forth all modifications), or, if this Lease is not in full force and effect, the certificate shall so specify the reasons why this Lease is not in full force and effect; (b) the commencement and expiration dates of the Lease Term, including the terms of any extension options of Lessee; (c) the date to which the rentals have been paid under this Lease and the amount then payable; (d) whether Lessor has any actual knowledge of any existing defaults by Lessee in the performance of its obligations under this Lease, and, if there are any such defaults, specifying the nature and extent of such defaults; (e) that no notice has been given to Lessee of any default under this Lease which has not been cured, except as to defaults specified in the certificate; (f) the capacity of the person executing such certificate, and that such person is duly authorized to execute the same on behalf of Lessor; and (g) any other information reasonably requested by Lessee.

ARTICLE 13
ASSIGNMENTS AND SUBLEASES

13.1 Assignment by Lessor. Lessor shall have the right to sell or convey the Premises subject to this Lease or to assign its right, title and interest as Lessor under this Lease in whole or in part. In the event of any such sale or assignment other than a security assignment, Lessee shall attorn to such purchaser or assignee and Lessor shall be relieved, from and after the date of such transfer or conveyance, of liability for the performance of any obligation of Lessor contained in this Lease, except for obligations or liabilities accrued prior to such assignment or sale.

13.2 Assignment by Lessee; Subletting; Lessee Encumbrances. Lessee acknowledges that Lessor has relied both on the business experience and creditworthiness of Lessee and upon the particular purposes for which Lessee intends to use the Premises in entering into this Lease. Without the prior written consent of Lessor: (a) Lessee shall not assign, transfer, convey, pledge or mortgage this Lease or any interest in this Lease, whether by operation of law or otherwise; (b) no Change of Control shall occur; (c) no interest in any of the Lessee Parties shall be pledged, encumbered, hypothecated or assigned as collateral for any obligation of any of the Lessee Parties, and (d) Lessee shall not sublet all or any part of the Premises (each of **items (a)** through **(d)** are referred to in this Lease as a "**Prohibited Transaction**"). In addition, no interest in any of the Lessee Parties, or in any individual or person owning directly or indirectly any interest in any of the Lessee Parties, shall be transferred, assigned or conveyed to any individual or person whose property or interests are subject to being blocked under any of the OFAC Laws and Regulations or who is in violation of any of the OFAC Laws and Regulations, and any such transfer, assignment or conveyance shall not be effective until the transferee has provided written certification to Lessor that (x) the transferee or any person who owns directly or indirectly any interest in transferee, is not an individual or entity whose property or interests are subject to being blocked under any of the OFAC Laws and Regulations or is otherwise in violation of the OFAC Laws and Regulations, and (y) the transferee has taken reasonable measures to assure that any individual or entity who owns directly or indirectly any interest in transferee, is not an individual or entity whose property or interests are subject to being blocked under any of the OFAC Laws and Regulations or is otherwise in violation of the OFAC Laws and Regulations; **provided, however**, the covenant contained in this sentence shall not apply to any Person to the extent that such Person's interest is in or through a U.S. Publicly Traded Entity.

13.3 Lessor's Consent. Lessor's consent to a Prohibited Transaction shall be subject to the satisfaction of such conditions as Lessor shall determine in its sole discretion, including, without limitation, (a) Lessee having executed and delivered such modifications to the terms of this Lease as Lessor shall reasonably request, (b) the proposed transferee, as applicable, having assumed this Lease, (c) payment to Lessor of any rentals owing under a sublease which are in excess of any rentals owing under this Lease, and (d) the proposed transferee having satisfactory creditworthiness and satisfactory experience operating a Permitted Concept. In addition, any such consent shall be conditioned upon the payment by Lessee to Lessor of (x) a fee equal to one percent (1%) of Lessor's Total Investment, and (y) all out-of-pocket costs and expenses incurred by Lessor in connection with such consent, including, without limitation, reasonable attorneys' fees.

13.4 Applicability. The provisions of this **Article 13** shall apply to every Prohibited Transaction regardless of whether voluntary or not, or whether or not Lessor has consented to any previous Prohibited Transaction. No assignment of this Lease or subletting of the Premises shall relieve Lessee of its obligations under this Lease or any Guarantor of this Lease of any of its obligations under its Guaranty. Any Prohibited Transaction in violation of this **Article 13** shall be voidable at the sole option of Lessor.

**ARTICLE 14
MEMORANDUM OF LEASE**

14.1 Memorandum of Lease. Concurrently with the execution of this Lease, Lessor and Lessee are executing a memorandum or short form of this Lease to be recorded in the applicable real property records with respect to the Premises. Further, upon Lessor's request, Lessee agrees to execute and acknowledge a termination of lease or quit claim deed in recordable form to be held by Lessor in trust until the expiration or sooner termination of the Lease Term.

**ARTICLE 15
GENERAL PROVISIONS**

15.1 Force Majeure. Any prevention, delay or stoppage due to strikes, lockouts, acts of God, enemy or hostile governmental action, civil commotion, fire or other casualty beyond the control of the party obligated to perform shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage, except the obligations imposed with regard to Rent to be paid by Lessee pursuant to this Lease and any indemnification obligations imposed upon Lessee under this Lease.

15.2 Administrative Processing and Review. If Lessee makes any request upon Lessor requiring Lessor or the attorneys of Lessor to (a) review or prepare (or cause to be reviewed or prepared) any documents, plans, specifications or other submissions in connection with or arising out of this Lease, (b) consent to any request of Lessee, or (c) waive or amend any provision of this Lease, then Lessee shall (i) reimburse Lessor upon demand for all out-of-pocket costs and expenses incurred by Lessor in connection with such review or preparation, including, without limitation, reasonable attorneys' fees, and (ii) pay Lessor a reasonable processing and review fee.

15.3 Notices. All notices, consents, approvals or other instruments required or permitted to be given by either party pursuant to this Lease shall be in writing and given by (a) hand delivery, (b) facsimile, (c) express overnight delivery service or (d) certified or registered mail, return receipt requested, and shall be deemed to have been delivered upon (w) receipt, if hand delivered, (x) transmission, if delivered by facsimile, (y) the next Business Day, if delivered by express overnight delivery service, or (z) the third Business Day following the day of deposit of such notice with the United States Postal Service, if sent by certified or registered mail, return receipt requested. Notices shall be provided to the parties and addresses (or facsimile numbers, as applicable) specified in the Basic Lease Information above, or to such other address or such other person as either party may from time to time after the Effective Date specify to the other party in a notice delivered in the manner provided above.

15.4 Time of Essence; Time Periods. Time is of the essence of this Lease. The time for performance of any obligation or taking any action under this Lease shall be deemed to expire at 5:00 P.M. Phoenix, Arizona time on the last day of the applicable time period provided for in this Lease. If the time for the performance of any obligation or taking any action under this Lease expires on a day other than a Business Day, the time for performance or taking such action shall be extended to the next succeeding Business Day.

15.5 Consent of Lessor. Unless specified otherwise in this Lease, Lessor's consent to any request of Lessee may be conditioned or withheld in Lessor's sole discretion. Lessor shall have no liability for damages resulting from Lessor's failure to give any consent, approval or instruction reserved to Lessor, Lessee's sole remedy in any such event being an action for injunctive relief. It is understood and agreed that to the extent Lessor is required to obtain the consent, approval, agreement or waiver of Lender with respect to a matter for which Lessor's approval has been requested under this Lease, Lessor shall in no

event be deemed to have unreasonably withheld such approval if Lender shall not have given its consent, approval, agreement or waiver if required.

15.6 Waiver and Amendment. No provision of this Lease shall be deemed waived or amended except by a written instrument unambiguously setting forth the matter waived or amended and signed by the party against which enforcement of such waiver or amendment is sought. Waiver of any matter shall not be deemed a waiver of the same or any other matter on any future occasion. No acceptance by Lessor of an amount less than the Base Monthly Rent and Additional Rent stipulated to be due under this Lease shall be deemed to be other than a payment on account of the earliest such Base Monthly Rent or Additional Rent then due or in arrears nor shall any endorsement or statement on any check or letter accompanying any such payment be deemed a waiver of Lessor's right to collect any unpaid amounts or an accord and satisfaction.

15.7 Successors Bound. Except as otherwise specifically provided in this Lease, the terms, covenants and conditions contained in this Lease shall bind and inure to the benefit of the respective heirs, successors, executors, administrators and assigns of each of the parties to this Lease.

15.8 No Merger. The voluntary or other surrender of this Lease by Lessee, or a mutual cancellation of this Lease, shall not result in a merger of Lessor's and Lessee's estates, and shall, at the option of Lessor, either terminate any or all existing subleases or subtenancies, or operate as an assignment to Lessor of any or all of such subleases or subtenancies.

15.9 Interpretive Provisions. Unless the context of this Lease clearly requires otherwise or unless otherwise expressly stated in this Lease, this Lease shall be construed in accordance with the following:

(a) Use of Certain Words. References to the plural include the singular and to the singular include the plural and references to any gender include any other gender. The part includes the whole; the terms "include" and "including" are not limiting; and the term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or." The words "hereof," "herein," "hereby," "hereunder," and similar terms in this Lease refer to this Lease as a whole and not to any particular provision of this Lease.

(b) References. References in this Lease to "Sections," "Exhibits," or "Schedules" are to the Sections of this Lease and the Exhibits and Schedules to this Lease. Any reference to this Lease includes any and all amendments, extensions, modifications, renewals, or supplements to this Lease. The headings of this Lease are for purposes of reference only and shall not limit or define the meaning of any provision of this Lease.

(c) Construing the Lease. Each of the parties to this Lease acknowledges that such party has had the benefit of independent counsel with regard to this Lease and that this Lease has been prepared as a result of the joint efforts of all parties and their respective counsel. Accordingly, all parties agree that the provisions of this Lease shall not be construed or interpreted for or against any party to this Lease based upon authorship or any other factor but shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of all parties to this Lease.

(d) Partial Invalidity. If any portion of this Lease is determined to be unconstitutional, unenforceable or invalid, such portion of this Lease shall be stricken from and construed for all purposes not to constitute a part of this Lease, and the remaining portion of this Lease shall remain in full force and effect and shall, for all purposes, constitute the entire Lease.

15.10 Characterization. It is the intent of the parties to this Lease that the business relationship created by this Lease and any related documents is solely that of a long-term commercial lease between landlord and tenant and has been entered into by both parties in reliance upon the economic and legal bargains contained in this Lease. None of the agreements contained in this Lease, is intended, nor shall the same be deemed or construed, to create a partnership between Lessor and Lessee, to make them joint venturers, to make Lessee an agent, legal representative, partner, subsidiary or employee of Lessor, nor to make Lessor in any way responsible for the debts, obligations or losses of Lessee.

15.11 No Offer. No contractual or other rights shall exist between Lessor and Lessee with respect to the Premises until both have executed and delivered this Lease, notwithstanding that deposits may have been received by Lessor and notwithstanding that Lessor may have delivered to Lessee an unexecuted copy of this Lease. The submission of this Lease to Lessee shall be for examination purposes only, and does not and shall not constitute a reservation of or an option for Lessee to lease or otherwise create any interest on the part of Lessee in the Premises.

15.12 Other Documents. Each of the parties agrees to do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered all such further acts, documents and assurances as may be reasonably required or deemed advisable to carry into effect the purposes of this Lease, to perfect any lien or security interest granted in this Lease and for the better assuring and confirming of all of Lessor's rights, powers and remedies under this Lease.

15.13 Attorneys' Fees. In the event of any judicial or other adversarial proceeding between the parties concerning this Lease, to the extent permitted by law, the prevailing party shall be entitled to recover all of its reasonable attorneys' fees and other costs in addition to any other relief to which it may be entitled. In addition, Lessor shall, upon demand, be entitled to all attorneys' fees and all other costs incurred in the preparation and service of any notice or demand under this Lease, whether or not a legal action is subsequently commenced.

15.14 Entire Lease. This Lease, including all exhibits and schedules attached to this Lease, constitutes the entire Lease between the parties pertaining to the subject matter contained in this Lease. All prior and contemporaneous leases, representations and understandings of the parties, oral or written, are superseded by and merged in this Lease.

15.15 Forum Selection; Jurisdiction; Venue; Choice of Law. Lessee acknowledges that this Lease was substantially negotiated in the State of Arizona, the executed Lease was delivered in the State of Arizona, all payments under this Lease will be delivered in the State of Arizona (unless otherwise directed by Lessor or its successors) and there are substantial contacts between the parties and the transactions contemplated in this Lease and the State of Arizona. For purposes of any action or proceeding arising out of this Lease, the parties to this Lease expressly submit to the jurisdiction of all federal and state courts located in the State of Arizona. Lessee and Lessor consent that they may be served with any process or paper by registered mail or by personal service within or without the State of Arizona in accordance with applicable law. Furthermore, Lessee and Lessor waive and agree not to assert in any such action, suit or proceeding that they are not personally subject to the jurisdiction of such courts, that the action, suit or proceeding is brought in an inconvenient forum or that venue of the action, suit or proceeding is improper. The creation of this Lease and the rights and remedies of Lessor with respect to the Premises, as provided in this Lease and by the laws of the state in which the Premises is located, as applicable, shall be governed by and construed in accordance with the internal laws of the state in which the Premises is located, as applicable, without regard to principles of conflicts of law. With respect to other provisions of this Lease, this Lease shall be governed by the internal laws of the State of Arizona, without regard to its principles of conflicts of law. Nothing contained in this Section shall limit or restrict the right of Lessor or Lessee to commence any proceeding in the federal or state courts located in

the state in which the Premises is located to the extent Lessor or Lessee deems such proceeding necessary or advisable to exercise remedies available under this Lease.

15.16 Counterparts. This Lease may be executed in one or more counterparts, each of which shall be deemed an original.

15.17 Joint and Several Liability. If Lessee consists of more than one individual or entity, each such individual or entity shall be jointly and severally liable for all obligations of Lessee under this Lease.

15.18 No Brokerage. Lessor and Lessee represent and warrant to each other that they have had no conversation or negotiations with any broker concerning the leasing of the Premises. Each of Lessor and Lessee agrees to protect, indemnify, save and keep harmless the other, for, from and against any and all liabilities, claims, losses, costs, damages and expenses, including attorneys' fees, arising out of, resulting from or in connection with their breach of the foregoing warranty and representation.

15.19 Waiver of Jury Trial and Punitive, Consequential, Special and Indirect Damages. LESSOR AND LESSEE KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY AND ALL ISSUES PRESENTED IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES TO THIS LEASE AGAINST THE OTHER OR ITS SUCCESSORS WITH RESPECT TO ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS LEASE, THE RELATIONSHIP OF LESSOR AND LESSEE, LESSEE'S USE OR OCCUPANCY OF ANY OF THE PREMISES, OR ANY CLAIM FOR INJURY OR DAMAGE, OR ANY EMERGENCY OR STATUTORY REMEDY. THIS WAIVER BY THE PARTIES TO THIS LEASE OF ANY RIGHT EITHER MAY HAVE TO A TRIAL BY JURY HAS BEEN NEGOTIATED AND IS AN ESSENTIAL ASPECT OF THEIR BARGAIN. FURTHERMORE, LESSEE AND LESSOR KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO SEEK PUNITIVE, CONSEQUENTIAL, SPECIAL AND INDIRECT DAMAGES FROM THE OTHER AND ANY OF THE OTHER'S AFFILIATES, OFFICERS, DIRECTORS OR EMPLOYEES OR ANY OF THEIR SUCCESSORS WITH RESPECT TO ANY AND ALL ISSUES PRESENTED IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER OR ANY OF THE OTHER'S AFFILIATES, OFFICERS, DIRECTORS OR EMPLOYEES OR ANY OF THEIR SUCCESSORS WITH RESPECT TO ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS LEASE OR ANY DOCUMENT CONTEMPLATED IN THIS LEASE OR RELATED TO THIS LEASE. THE WAIVER BY LESSEE AND LESSOR OF ANY RIGHT THEY MAY HAVE TO SEEK PUNITIVE, CONSEQUENTIAL, SPECIAL AND INDIRECT DAMAGES HAS BEEN NEGOTIATED BY THE PARTIES TO THIS LEASE AND IS AN ESSENTIAL ASPECT OF THEIR BARGAIN.

ARTICLE 16 RIGHT OF FIRST OFFER

16.1. Right of First Offer. If, at any time after the first anniversary of the Effective Date during the Lease Term, Lessor desires to sell its interest in the Premises to a third party then, provided that no Unmatured Default or Event of Default has occurred and is continuing, Lessor shall give Lessee the right to purchase such interest (the "**Interest**") for a price and on terms and conditions, determined by Lessor and set forth in a notice (the "**ROFO Notice**") given to Lessee. Lessee shall have 20 calendar days to elect in writing to acquire such Interest at such price and on such terms and conditions. Lessee's silence shall be deemed a waiver of its right to acquire such Interest. Any such election by Lessee shall only be effective if accompanied by Lessee's payment to Lessor of a cash down payment equal to 10% of such price. If Lessee timely and properly elects to acquire such Interest, the closing shall take place within 60 days after the ROFO Notice is given to Lessee. The balance of the purchase price shall be paid in cash at closing. If Lessee does not timely elect to acquire such Interest, Lessor shall be free to sell the Interest

to any other Person within 12 months of Lessee's rejection or deemed rejection without being required to comply again with the foregoing provisions of this Section, provided that, if Lessor intends to sell the Interest (i) after such 12 month period or (ii) within such 12 month period at a price less than 90% of the price described in the ROFO Notice or on economic terms more favorable to a purchaser than those set forth in the ROFO Notice, Lessor shall give Lessee written notice, setting forth the applicable purchase price and terms and conditions, and Lessee shall have 20 calendar days to elect in writing to purchase the Interest at such purchase price and on such terms and conditions. The right of first offer granted by this Section shall not survive the expiration or earlier termination of this Lease or, subject to the preceding sentence, the purchase of the Premises by a third party after Lessee's failure to exercise such right or Lessee's waiver of such right. Furthermore, the right of first offer granted by this Section shall not apply to a foreclosure of any of the Mortgages or the delivery to Lender of a deed-in-lieu of foreclosure and shall not survive any such foreclosure or delivery of a deed-in-lieu of foreclosure. Upon the termination of this right of first offer, Lessee shall execute such instruments as may be reasonably required by Lessor to provide constructive notice of the termination of such right.

ARTICLE 17 SECURITIZATION

17.1 Defined Terms. For purposes of this **Article 17**, the following defined terms have the following meanings:

"Loan Pool" means: (i) in the context of a Securitization, any pool or group of loans that are a part of such Securitization; (ii) in the context of a Transfer, all loans which are sold, transferred or assigned to the same transferee; and (iii) in the context of a Participation, all loans as to which participating interests are granted to the same participant.

"Participation" means one or more grants by Lender or any Affiliate of Lender to a third party of a participating interest in notes evidencing obligations to repay secured or unsecured loans owned by Lender or any Affiliate of Lender or any or all servicing rights with respect to such loans.

"Securitization" means one or more sales, dispositions, transfers or assignments by Lender or any Affiliate of Lender to a special purpose corporation, trust or other entity identified by Lender or any Affiliate of Lender of notes evidencing obligations to repay secured or unsecured loans owned by Lender or any Affiliate of Lender (and, to the extent applicable, the subsequent sale, transfer or assignment of such notes to another special purpose corporation, trust or other entity identified by Lender or any Affiliate of Lender), and the issuance of bonds, certificates, notes or other instruments evidencing interests in pools of such loans, whether in connection with a permanent asset securitization or a sale of loans in anticipation of a permanent asset securitization. Each Securitization shall be undertaken in accordance with all requirements which may be imposed by the investors or the rating agencies involved in each such sale, disposition, transfer or assignment or which may be imposed by applicable securities, tax or other laws or regulations.

"Transfer" means one or more sales, transfers or assignments by Lender or any Affiliate of Lender to a third party of notes evidencing obligations to repay secured or unsecured loans owned by Lender or any Affiliate of Lender or any or all servicing rights with respect to such loans.

17.2 Transfer, Participation or Securitization Covenants. Lessee agrees to cooperate in good faith with Lessor, and the holder of any security interest in the Premises, in connection with any sale or transfer of the Premises by Lessor or any transfer, participation, syndication or securitization of any security interest in the Premises, or any or all servicing rights with respect to the Premises, including,

without limitation, (i) providing such documents, financial and other data, and other information and materials (the "**Disclosures**") which would typically be required with respect to the Lessee Parties by a purchaser of the Premises or a purchaser, transferee, assignee, servicer, participant, co-lender, investor or rating agency involved with respect to any transfer, participation, syndication or securitization of any security interest in the Premises, as applicable; **provided, however**, the Lessee Parties shall not be required to make Disclosures of any confidential information or any information which has not previously been made public unless required by applicable federal or state securities laws; and (ii) amending the terms of this Lease to the extent necessary so as to satisfy the requirements of purchasers, transferees, assignees, servicers, participants, co-lenders, investors or selected rating agencies involved in any such transfer, participation, syndication or securitization, so long as such amendments would not have a material adverse effect upon the Lessee Parties or the transactions contemplated by this Lease. Lessor shall be responsible for causing the lender undertaking any of the transactions contemplated by this **Article 17** to prepare at no expense to Lessee any documents evidencing the amendments referred to in the preceding subitem (ii). Lessee consents to Lessor and such holder providing the Disclosures, as well as any other information which Lessor and such holder may now have or after the Effective Date acquire with respect to the Premises or the financial condition of the Lessee Parties to each prospective purchaser of the Premises as well as each prospective purchaser, transferee, assignee, servicer, participant, co-lender, investor or rating agency involved with respect to any such transfer, participation, syndication or securitization of any security interest in the Premises, as applicable. Lessee shall pay its own attorney fees and other out-of-pocket expenses incurred in connection with the performance of its obligations under this **Article 17**.

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SIGNATURES FOLLOW ON NEXT PAGE]**

EXECUTED as of the date written on the first page of this Lease.

LESSOR:

GE CAPITAL FRANCHISE FINANCE CORPORATION, a Delaware corporation

By Barbara Adam
Printed Name Barbara Adam
Its Closing Manager

STATE OF WASHINGTON)

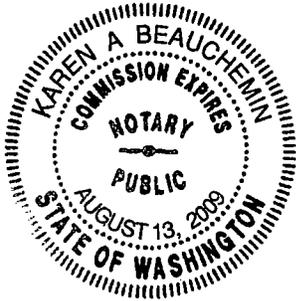
King COUNTY)

I, Karen A. Beauchemin, a Notary Public in and for said County in said State, hereby certify that Barbara Adam, whose name as Manager of GE Capital Franchise Finance Corporation, a Delaware corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily as the act and deed of said corporation on the day the same bears date.

Given under my hand this 12 day of December, 2005.

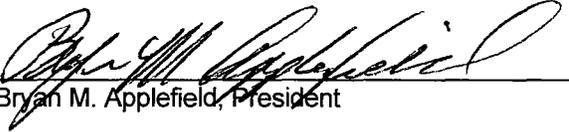
Karen A. Beauchemin
Notary Public

My Commission Expires: Aug 13, 2009



LESSEE:

GOLDCO, INC.,
an Alabama corporation

By 
Bryan M. Applefield, President

STATE OF ALABAMA)

HOUSTON COUNTY)

I, Janna F. Enfinger, a Notary Public in and for said County in said State, hereby certify that Bryan M. Applefield, whose name as President of Goldco, Inc., an Alabama corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily as the act and deed of said corporation on the day the same bears date.

Given under my hand this 7th day of December, 2005.


Notary Public

My Commission Expires: 9/6/2009

EXHIBIT A

PARCEL DESCRIPTION

A lot or parcel of land in the City of Opp, Covington County, Alabama and being more particularly described as follows:

COMMENCING at the SW Corner of the SW 1/4 of the SE 1/4 of Section 28, Township 4 North, Range 18 East, City of Opp, Covington County, Alabama; thence N 00°09'54" E along the East line of said forty a distance of 495.30 feet to a point on the South Right-of-Way (R/W) of County Highway #22 (Old Perry Store Road—Also known as Old Opp—Alberton Road) (R/W Varies); thence along said South R/W bearing N 85°38' W a distance of 223.30 feet to an Existing Iron Pin (EIP) (5/8" Open Pipe) and the POINT OF BEGINNING (P.O.B.); thence depart said South R/W bearing S 00°09'54" W a distance of 261.25 feet to a Set Iron Pin (SIP) (CA 0621LS); thence S 64°29'45" W a distance of 32.27 feet to an EIP (1" Open Pipe) on the Northerly R/W of U.S. Highway No. 331 (75' R/W); thence along said Northerly R/W of U.S. Highway #331 and a curve to the left having a radius of 602.01 feet with a chord bearing of N 36°55'43" W a chord distance of 228.76 feet to a SIP; thence along said Northerly R/W along a curve to the left having a radius of 675.79 feet with a chord bearing of N 53°51'25" W a chord distance of 199.45 feet to a Set Nail in Asphalt and the intersection of the Northerly R/W of said Highway No. 331 with the said South R/W of County Highway #22; thence along said South R/W bearing S 85°35'04" E a distance of 329.37 feet to the P.O.B. Said parcel is situated in the SW 1/4 of the SE 1/4 of Section 28, T4N, R18E, contains 0.92 acres (40057.73 sq. ft.), more or less.

MASTER FIRST LEASE AMENDMENT

THIS MASTER FIRST LEASE AMENDMENT ("*Amendment*") is entered into on Nov 14, 2013 to be effective as November 15, 2013 (the "*Effective Date*"), between ARC CAFEUSA001, LLC, a Delaware limited liability company, whose address is 405 Park Avenue, 15th Floor, New York, New York 10022 ("*Lessor*"), and GOLDCO, LLC, an Alabama limited liability company, whose address is 100 Ashford Center North, Suite 130, Atlanta, Georgia 30338 ("*Lessee*").

A. Lessor is the current landlord and fee owner and Lessee is the current tenant under Leases, dated December 20, 2005 and described on *Exhibit A* (the "*Leases*"), between Lessor, as successor to the landlord's interest through assignment, and Lessee, whereby Lessor leases to Lessee certain real property and improvements more particularly described on *Exhibit B* (the "*Premises*").

B. Lessor and Lessee desire to amend the Leases as set forth in this Amendment.

C. Capitalized terms used in this Amendment and not otherwise defined shall have the meaning ascribed to such term in the Leases.

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessor and Lessee agree as follows:

1. Amendments to Leases. Effective as of the Effective Date hereof, Lessor and Lessee agree that the Leases are amended in accordance with the following terms and conditions:

(a) The following definition is hereby added to Page 3 of the Leases between the definitions for "*Environmental Indemnity Agreement*" and "*Franchise Agreements*":

"*First Modified Adjustment Date*" means April 1, 2014.

(b) The following definition is hereby added to Page 5 of the Leases between the definitions for "*Rent*" and "*Unmatured Default*":

"*Second Modified Adjustment Date*" means January 1, 2016.

(c) The definition of "*Initial Term Expiration Date*" as set forth in the Basic Lease Information provision on page 1 of the Lease is hereby deleted in its entirety and restated as follows:

"Initial Term Expiration Date: December 31, 2028

(d) Section 3.2 of the Leases is hereby deleted in its entirety and restated as follows:

B. Commencing on the first Adjustment Date and on each Adjustment Date thereafter, with the exception of the Adjustment Date that falls on the same date as the Second Modified Adjustment Date, the Base Annual Rental shall increase by an amount equal to the product of the then current Base Annual Rental multiplied by 7.5%, and the increased Base Annual Rental shall constitute the Base Annual Rental due and payable until the next Adjustment Date. On the First Modified Adjustment Date, the Base Annual Rental shall increase by an amount

equal to the product of the then current Base Annual Rental multiplied by 3.75%, and the increased Base Annual Rental shall constitute the Base Annual Rental due and payable until the Second Modified Adjustment Date. On the Second Modified Adjustment Date, the Base Annual Rental shall increase by an amount equal to the product of the Base Annual Rental as in effect immediately prior to the First Modified Adjustment Date multiplied by 7.5%, and the increased Base Annual Rental shall constitute the Base Annual Rental due and payable until the next Adjustment Date. [See attached **Schedule 1**]

(e) The Basic Lease Information is hereby amended in accordance with the following terms and conditions as follows:

If to Lessor: American Realty Capital
200 Dryden Road, Suite 1100
Dresher, PA 19025
Attn: Asset Manager

If to the Lessee: Goldco, LLC
100 Ashford Center North
Suite 130
Atlanta, Georgia 30338

(f) Section 9.4 of the Leases is hereby amended to include the following:

Within 15 days after the end of each calendar month, Lessee shall deliver to Lessor unit level sales information for the Premises. Each such statement shall be accompanied by a written statement signed by Lessee and certified by Lessee to be true and correct.

(g) Section 13.3 of the Leases is hereby amended in accordance with the following:

The last sentence is deleted in its entirety and is of no force or effect.

(h) Section 15.15 of the Leases is hereby deleted in its entirety and restated as follows:

Forum Selection: Jurisdiction: Venue: choice of Law. For the purposes of any action or proceeding arising out of this Lease, the parties to this Lease expressly submit to the jurisdiction of all federal and state courts located in the State of New York. Lessee and Lessor consent that they may be served with any process or paper by registered mail or by personal service within or without the State of New York in accordance with applicable law. Furthermore, Lessee and Lessor waive and agree not to assert in any such action, suit or proceeding that they are not personally subject to the jurisdiction of such courts, that the action, suit or proceeding is brought in an inconvenient forum or that venue of the action, suit or proceeding is improper. The creation of this Lease and the rights and remedies of Lessor with respect to the Premises, as provided in this Lease and by the laws of the state in which the Premises is located, as applicable, shall be governed by and construed in accordance

with the internal laws of the state in which the Premises is located, as applicable, without regard to principles of conflicts of law. With respect to other provisions of this Lease, this Lease shall be governed by the internal laws of the State of New York, without regard to its principles of conflicts of law. Nothing contained in this Section shall limit or restrict the right of Lessor or Lessee to commence any proceeding in the federal or state courts located in the state in which the Premises is located to the extent Lessor or Lessee deems such proceeding necessary or advisable to exercise remedies available under this Lease.

- (i) The following Section is added to the Leases as Article 18:

Anti-Terrorism and Anti-Money Laundering Provisions. Lessee shall not take any action or engage in any activity of any nature whatsoever, and will use its best efforts to ensure that no other Lessee Party nor Affiliate of any Lessee Party takes any such action or engages in any such activity that would or could result in Lessee, such other Lessee Party or such Affiliate of any Lessee Party being (a) listed on the Specially Designated Nationals and Blocked Person List maintained by OFAC or any other similar lists maintained by OFAC or any other Governmental Authority pursuant to any authorizing statute, Executive Order or regulation; (b) designated under Section 1(b), (c) or (d) of Executive Order No. 13224 (September 23, 2001), any related enabling legislation, or any other similar Executive Orders; or (c) subject to any trade restrictions under any Applicable Law, including those referenced in clauses (a) and (b) of this Section. Neither Lessee nor any other Lessee Party shall fund any Contractual Obligation with funds derived from any Person referred to in clauses (a) and (b) of this Section. Lessee shall comply with, and will use its best efforts to ensure that each of the other Lessee Parties and each of the other Affiliates of the Lessee Parties complies with, the applicable provisions of the BSA and all other laws, regulations, and government guidance relating to the prevention and detection of money laundering violations or terrorist activities or threats.

- (j) The following Section is added to the Leases as Article 19:

Remodeling. If the remodeling of Stores 4058 (Asset # 6293 Troy, Alabama), 4848 (Asset # 6272 Enterprise, Alabama), 8457 (Asset # 6366 Opp, Alabama) and 8727 (Asset # 6367 Niceville, Florida) to the standards set forth in the Burger King Image Policy as of the date such remodel commences is not completed by or before December 31, 2014, then Lessee shall pay to Lessor a one-time fee in an amount equal (i) the difference between the (A) Base Monthly Rent in effect as of the Second Modified Adjustment Date and (B) the Base Monthly Rent in effect as of the First Modified Adjustment Date, multiplied by (ii) the number of calendar months between from April 1, 2014 through the final completion date of the Store Remodeling.

2. Representations and Warranties. As a material inducement to Lessor to enter into this Amendment, Lessee represents and warrants to Lessor:

(a) Lessee is wholly owned by Goldco Parent, LLC, a Delaware limited liability company (“*Goldco Parent*”), with approximately 67% of the equity interests in Goldco Parent, on a fully diluted basis, owned by PNC RiverArch Capital, a division of PNC Capital Finance, LLC, and the remaining 33% of the equity interests in Goldco Parent, on a fully diluted basis, owned by certain other members, including without limitation Fred B. Beilstein III and Fred B Beilstein IV.

(b) All of the representations and warranties in the Leases are true and correct in all material respects as of the Effective Date; and

(c) Other than the Event of Default being waived concurrently pursuant to that certain Consent to Prohibited Transaction and Waiver of Default between Lessor and Lessee dated as of the date hereof, no Event of Default or event with which notice or the lapse of time (or both) would become an Event of Default has occurred and is continuing as of the Effective Date. Without limiting the foregoing, Lessee represents and warrants that Lessee is in compliance with the provisions of Section 9.7 of the Leases (which Section is entitled “Franchise Agreement”).

3. Release. Lessee fully, finally and forever releases and discharges Lessor and its affiliates from any and all actions, causes of action, claims, debts, demands, liabilities, obligations and suits, of whatever kind or nature, in law or equity, that Lessee has or in the future may have, whether known or unknown, against Lessor or its affiliates: (a) in respect of the Lease, this Amendment, or the actions or omissions of Lessor or any of Lessor’s affiliates in respect of the Leases or this Amendment; and arising from events occurring prior to the date of this Amendment; or (b) relating to the making, validity, or enforceability of the Lease.

4. Binding Effect. This Amendment shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective successors and assigns.

5. Submission to Jurisdiction. Any legal action or proceeding with respect to this Amendment shall be brought exclusively in the courts of the State of New York located in New York County or of the United States for the District of New York, and each party accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts; provided, however, that nothing in this Amendment shall limit or restrict the right of either party to commence any proceeding in the federal or state courts located in the state in which the Premises are located where the sole remedy sought is specific performance. Lessor and Lessee hereby irrevocably waive any objection, including any objection to the laying of venue or based on the grounds of forum non conveniens, that either of them may now or hereafter have to the bringing of any such action or proceeding in such jurisdictions.

6. Attorneys’ Fees. Should either party institute any legal action or proceeding to enforce the provisions of this Amendment, the prevailing party shall be entitled to recover its reasonable attorneys’ fees and costs incurred in connection with the exercise of its rights and remedies hereunder as well as court costs and expert witness fees as the court shall determine.

7. Amendment Controls. Except as is specifically amended herein, the terms and conditions of the Leases are ratified and confirmed and shall remain in full force and effect. If any provision of the Leases is in conflict with any provision of this Amendment, the terms of this Amendment shall control.

8. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document. Signature pages may be detached from the counterparts and attached to a single copy of this Amendment to physically form one document. Signatures on counterparts of this Amendment that are delivered via

facsimile or by other electronic means are authorized, and this Amendment shall be deemed executed when an executed counterpart hereof is transmitted by a party to the other party physically or via any electronic means.

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[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have entered into this Amendment as of the Effective Date.

LESSOR:

ARC CAFEUSA001, LLC, a Delaware limited liability company

By: American Realty Capital Operating Partnership IV, L.P., a Delaware limited partnership, its sole member

By: 
Name: Jesse Charles Galloway
Title: Authorized Signatory

STATE OF NEW YORK

:

COUNTY OF NEW YORK

:

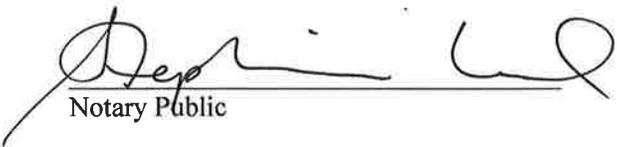
ss

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On this, the 15th day of November, 2013, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Jesse Charles Galloway who acknowledged himself/herself to be the Authorized Signatory of American Realty Capital Operating Partnership IV, L.P., a Delaware limited partnership, the sole member of ARC CAFEUSA001, LLC, a Delaware limited liability company and further acknowledged that he/she, as such authorized signatory being authorized to do so, executed the foregoing instrument as the act and deed of the limited liability company for the purposes therein contained by signing the name of the limited liability company by himself/herself as such authorized signatory.

WITNESS my hand and seal the day and year aforesaid.

STEPHANIE ALISON LEAL
Notary Public, State of New York
No. 01LE6268688
Qualified in Kings County
Commission Expires Sept. 17, 2016


Notary Public

My Commission Expires:

LESSEE:

GOLDCO, LLC, an Alabama limited liability company

By: F.B. Beilstein
Name: Frederick B. Beilstein III
Title: CFO

STATE OF GA)
) ss.
COUNTY OF DeKalb)

The foregoing instrument was acknowledged before me this 20th day of November, 2013, by F.B. Beilstein III, who is personally known to me, as the CFO of Goldco LLC, a an Alabama limited liability company, on behalf of the lessee.



Name: Robin Joseph
Notary Commission No. _____
My Commission Expires: October 22, 2017

EXHIBIT A
Description of Premises/Leases

Asset #	Store #	Address	City	State
6100	6678	3107 Mahan Dr.	Tallahassee	Florida

Asset # 6100 – 3107 East Mahan Drive, Tallahassee, Florida

Lease Agreement dated December 20, 2005, between GE Capital Franchise Finance Corporation, a Delaware corporation (“Lessor”) and Goldco, Inc. an Alabama corporation (“Lessee) , as assigned by Lessor to ARC CAFEUSA001, LLC, a Delaware limited liability company, by Assignment and Assumption of Lease Documents dated June 27, 2013.

Asset #	Store #	Address	City	State
6257	10890	1010 Liberty Hill Dr.	Evergreen	Alabama

Asset # 6257 - 1010 Liberty Hill Dr., Evergreen, Alabama

Lease Agreement dated December 20, 2005, between GE Capital Franchise Finance Corporation, a Delaware corporation (“Lessor”) and Goldco, Inc. an Alabama corporation (“Lessee) , as assigned by Lessor to ARC CAFEUSA001, LLC, a Delaware limited liability company, by Assignment and Assumption of Lease Documents dated June 27, 2013.

Asset #	Store #	Address	City	State
6272	4848	701 Boll Weevil Blvd	Enterprise	Alabama

Asset # 6272 - 701 Boll Weevil Blvd., Enterprise, Alabama

Lease Agreement dated December 20, 2005, between GE Capital Franchise Finance Corporation, a Delaware corporation (“Lessor”) and Goldco, Inc. an Alabama corporation (“Lessee) , as assigned by Lessor to ARC CAFEUSA001, LLC, a Delaware limited liability company, by Assignment and Assumption of Lease Documents dated June 27, 2013.

Asset #	Store #	Address	City	State
6276	10831	540 Hwy 84 E	Cairo	Georgia

Asset # 6276 - 540 Hwy 84 E. , Cairo, Georgia

Lease Agreement dated December 20, 2005, between GE Capital Franchise Finance Corporation, a Delaware corporation (“Lessor”) and Goldco, Inc. an Alabama corporation (“Lessee) , as assigned by Lessor to ARC CAFEUSA001, LLC, a Delaware limited liability company, by Assignment and Assumption of Lease Documents dated June 27, 2013.

Asset #	Store #	Address	City	State
6287	12722	3218 E Business 98	Springfield	Florida

Asset # 6287 - 3218 E Business 98, Springfield, Florida

Lease Agreement dated December 20, 2005, between GE Capital Franchise Finance Corporation, a Delaware corporation (“Lessor”) and Goldco, Inc. an Alabama corporation (“Lessee) , as assigned by Lessor to ARC CAFEUSA001, LLC, a Delaware limited liability company, by Assignment and Assumption of Lease Documents dated June 27, 2013.

Asset #	Store #	Address	City	State
6308	7564	1701 Douglas Ave	Brewton	Alabama

Asset # 6308 - 1701 Douglas Ave., Brewton, Alabama
 Lease Agreement dated December 20, 2005, between GE Capital Franchise Finance Corporation, a Delaware corporation ("Lessor") and Goldco, Inc. an Alabama corporation ("Lessee) , as assigned by Lessor to ARC CAFEUSA001, LLC, a Delaware limited liability company, by Assignment and Assumption of Lease Documents dated June 27, 2013.

Asset #	Store #	Address	City	State
6322	307	1801 N Ashley St	Valdosta	Georgia

Asset # 6322 - 1801 N Ashley St., Valdosta, Georgia
 Lease Agreement dated December 20, 2005, between GE Capital Franchise Finance Corporation, a Delaware corporation ("Lessor") and Goldco, Inc. an Alabama corporation ("Lessee) , as assigned by Lessor to ARC CAFEUSA001, LLC, a Delaware limited liability company, by Assignment and Assumption of Lease Documents dated June 27, 2013.

Asset #	Store #	Address	City	State
6344	2895	1060 W Tennessee St	Tallahassee	Florida

Asset # 6344 - 1060 W Tennessee St.,Tallahassee, Florida
 Lease Agreement dated December 20, 2005, between GE Capital Franchise Finance Corporation, a Delaware corporation ("Lessor") and Goldco, Inc. an Alabama corporation ("Lessee) , as assigned by Lessor to ARC CAFEUSA001, LLC, a Delaware limited liability company, by Assignment and Assumption of Lease Documents dated June 27, 2013.

Asset #	Store #	Address	City	State
6365	6621	1628 US Hwy 331S	Defuniak Springs	Florida

Asset # 6365 - 1628 US Hwy 331S., Defuniak Springs, Florida
 Lease Agreement dated December 20, 2005, between GE Capital Franchise Finance Corporation, a Delaware corporation ("Lessor") and Goldco, Inc. an Alabama corporation ("Lessee) , as assigned by Lessor to ARC CAFEUSA001, LLC, a Delaware limited liability company, by Assignment and Assumption of Lease Documents dated June 27, 2013.

Asset #	Store #	Address	City	State
6366	8457	505 East Cummings Ave	Opp	Alabama

Asset # 6366 -505 East Cummings Ave., Opp, Alabama
 Lease Agreement dated December 20, 2005, between GE Capital Franchise Finance Corporation, a Delaware corporation ("Lessor") and Goldco, Inc. an Alabama corporation ("Lessee) , as assigned by Lessor to ARC CAFEUSA001, LLC, a Delaware limited liability company, by Assignment and Assumption of Lease Documents dated June 27, 2013.

Asset #	Store #	Address	City	State
6367	8727	297 John Sims Parkway	Niceville	Florida

Asset # 6367 -297 John Sims Parkway, Niceville, Florida

Lease Agreement dated December 20, 2005, between GE Capital Franchise Finance Corporation, a Delaware corporation (“Lessor”) and Goldco, Inc. an Alabama corporation (“Lessee) , as assigned by Lessor to ARC CAFEUSA001, LLC, a Delaware limited liability company, by Assignment and Assumption of Lease Documents dated June 27, 2013.

Asset #	Store #	Address	City	State
6368	10549	14010 South Alabama Ave	Monroeville	Alabama

Asset # 6368 - 14010 South Alabama Ave.,Monroeville, Alabama

Lease Agreement dated December 20, 2005, between GE Capital Franchise Finance Corporation, a Delaware corporation (“Lessor”) and Goldco, Inc. an Alabama corporation (“Lessee) , as assigned by Lessor to ARC CAFEUSA001, LLC, a Delaware limited liability company, by Assignment and Assumption of Lease Documents dated June 27, 2013.

Asset #	Store #	Address	City	State
6369	11481	1137 No Bypass	Andalusia	Alabama

Asset # 6369 - 1137 No Bypass, Andalusia, Alabama

Lease Agreement dated December 20, 2005, between GE Capital Franchise Finance Corporation, a Delaware corporation (“Lessor”) and Goldco, Inc. an Alabama corporation (“Lessee) , as assigned by Lessor to ARC CAFEUSA001, LLC, a Delaware limited liability company, by Assignment and Assumption of Lease Documents dated June 27, 2013.

Asset #	Store #	Address	City	State
6370	11693	1396 West 15 th St	Panama City	Florida

Asset # 6370 - 1396 West 15th St., Panama City, Florida

Lease Agreement dated December 20, 2005, between GE Capital Franchise Finance Corporation, a Delaware corporation (“Lessor”) and Goldco, Inc. an Alabama corporation (“Lessee) , as assigned by Lessor to ARC CAFEUSA001, LLC, a Delaware limited liability company, by Assignment and Assumption of Lease Documents dated June 27, 2013.

Asset #	Store #	Address	City	State
6371	11879	1230 Shotwell St	Bainbridge	Georgia

Asset # 6371- 1230 Shotwell St., Bainbridge, Georgia

Lease Agreement dated December 20, 2005, between GE Capital Franchise Finance Corporation, a Delaware corporation (“Lessor”) and Goldco, Inc. an Alabama corporation (“Lessee) , as assigned by Lessor to ARC CAFEUSA001, LLC, a Delaware limited liability company, by Assignment and Assumption of Lease Documents dated June 27, 2013.

Asset #	Store #	Address	City	State
6372	12520	220 South Main St	Atmore	Alabama

Asset # 6372 - 220 South Main St., Atmore, Alabama

Lease Agreement dated December 20, 2005, between GE Capital Franchise Finance Corporation, a Delaware corporation ("Lessor") and Goldco, Inc. an Alabama corporation ("Lessee"), as assigned by Lessor to ARC CAFEUSA001, LLC, a Delaware limited liability company, by Assignment and Assumption of Lease Documents dated June 27, 2013.

EXHIBIT B

6100 BK 6678 3107 East Mahan Drive, Tallahassee, Florida

EXHIBIT A

LEGAL DESCRIPTION

Parcel No. 1 (Fee Simple & Easement)

A parcel of land situate in the Northwest Quarter of Section 27, Township 1 North, Range 1 East, Leon County, Florida, being more particularly described as follows: Commence at an old concrete monument marking the Southwest corner of the Northwest Quarter of the Northwest Quarter of Section 27, Township 1 North, Range 1 East and run North 00 degrees 25 minutes 42 seconds West along the Section Line 2.71 feet to the Point of Beginning. From said Point of Beginning continue thence North 00 degrees 25 minutes 42 seconds West along the Section Line 140.00 feet to the Southerly boundary line of the right of way for State Road No. 10 (East Tennessee Street) as it existed in 1974, thence run North 67 degrees 16 minutes 09 seconds East (Bearing Base) along said right of way boundary line 150.00 feet to an iron pin, thence South 22 degrees 43 minutes 51 seconds East 150.00 feet to an iron pin, thence South 67 degrees 16 minutes 09 seconds West 182.00 feet to an iron pin, thence North 68 degrees 38 minutes 06 seconds West 29.42 feet to the Point of Beginning, LESS AND EXCEPT any part lying within right of way of State Road No. 10;

TOGETHER WITH a perpetual non-exclusive easement of ingress and egress over, along and across the following described property:

Commence at a concrete monument marking the Southwest corner of the Northwest Quarter of the Northwest Quarter of Section 27, Township 1 North, Range 1 East, Leon County, Florida, and run South 00 degrees 25 minutes 42 seconds East along the West boundary of said Section 27 a distance of 7.29 feet to the Point of Beginning. From said Point of Beginning continue South 00 degrees 25 minutes 42 seconds East along said West boundary 30.00 feet to a point lying on a curve concave to the Northwesterly, thence Northwesterly along said curve with a radius of 40.00 feet, through central angle of 81 degrees 31 minutes 06 seconds, for an arc distance of 56.91 feet (the chord of said arc being North 48 degrees 48 minutes 45 seconds East 52.23 feet), thence South 67 degrees 16 minutes 09 seconds West 13.24 feet to an iron pin, thence North 68 degrees 38 minutes 06 seconds West 19.42 feet to a point lying on a curve concave to the Northwesterly, thence Southwesterly along said curve with a radius of 10.00 feet, through a central angle of 68 degrees 12 minutes 24 seconds, for an arc distance of 11.90 feet (the chord of said arc being South 55 degrees 28 minutes 06 seconds West 11.21 feet) to the Point of Beginning.

Parcel No. 2 (Easement)

A parcel of land situate in the Northwest Quarter of the Northwest Quarter of Section 27, Township 1 North, Range 1 East, Leon County, Florida, being more particularly described as follows:

Begin at an old concrete monument marking the Southwest corner of the Northwest Quarter of the Northwest Quarter of Section 27, Township 1 North, Range 1 East and run North 00 degrees 25 minutes 42 seconds West along the Section Line 142.71 feet to the Southerly boundary line of right of way for State Road No. 10 (East Tennessee Street) as it existed in 1974, thence run North 67 degrees 16 minutes 09 seconds East (Bearing Base) along said right of way boundary line 420.15 feet, thence North 22 degrees 43 minutes 51 seconds West 15.00 feet, thence North 67 degrees 16 minutes 09 seconds East along said right of way boundary line 350.00 feet, thence North 22 degrees 43 minutes 51 seconds West 17.00 feet, thence North 67 degrees 16 minutes 09 seconds East along said right of way boundary line 254.00 feet, thence South 00 degrees 12 minutes 35 seconds East along an old fence line and tree line 475.37 feet to an iron pin, thence South 00 degrees 19 minutes 57 seconds East 99.14 feet to an iron pipe, thence South 89 degrees 35 minutes 49 seconds East 385.16 feet to a concrete monument, thence South 00 degrees 01 minutes 49 seconds East 509.20 feet to an iron pin, thence North 89 degrees 37 minutes 15 seconds West 865.24 feet to an iron pin, thence North 00 degrees 25 minutes 23 seconds West 202.28 feet to an iron pin, thence South 89 degrees 40 minutes 05 seconds West 100.03 feet to an iron pipe, thence South 89 degrees 40 minutes 49 seconds West 349.83 feet to an iron pin, thence North 00 degrees 25 minutes 42 seconds West 313.00 feet to the Point of Beginning.

LESS that part lying within the right of way boundary for Weems Road (66 foot right of way) recorded in Official Records Book 1080, Page 1910 of the public Records of Leon County, Florida.

As contained in that certain Easement Agreement recorded in O.R. Book 1250, Page 370 and as modified and amended in O.R. Book 1260, Page 862 of the Public Records of Leon County, Florida.

EXHIBIT A

PARCEL DESCRIPTION

A lot or parcel of land in the City of Evergreen, Conecuh County, Alabama, and being more particularly described as follows:

Commencing at the Northwest corner of the Southwest Quarter of the Southwest Quarter of Section 28, Township 6 North, Range 11 East, Conecuh County, Alabama, as marked by a 1" iron pipe; thence S 80°09'04" E for a distance of 631.51 FT to an existing iron pin EIP (#3 Rebar) on the Southwesterly Right-of-Way (R/W) of State Highway No. 83 (Evergreen-Midway Highway) (Apparent 80' R/W) and the South R/W of Industrial Park Road (100' R/W); thence along said Southwesterly R/W bearing S 39°08'53" E a distance of 40.24 FT to an EIP (#3 Rebar) and the point of beginning (P.O.B.); thence along said Southwesterly R/W bearing S 37°23'30" E a distance of 199.91 FT to an EIP (1/2" Crimped Pipe); thence depart said Southwesterly R/W bearing S 63°59'43" W a distance of 138.60 FT to an EIP (#3 Rebar); thence S 73°00'46" W a distance of 179.87 FT to an EIP (CA 0621LS); thence N 58°07'00" W a distance of 28.94 FT to an EIP (#3 Rebar); thence N 04°47'00" W a distance of 230.61 FT to an EIP (CA 0621LS) and the said South R/W; thence N 71°28'25" E along said South R/W a distance of 109.04 FT to an EIP (CA 0621LS); thence along said South R/W along a flare bearing S 86°14'42" E a distance of 115.85 FT to the P.O.B. Said parcel being located in the SW 1/4 of Section 28, Township 6 North, Range 11 East, and containing 1.49 acres (64886.52 Sq. Ft.), more or less.

EXHIBIT A

One lot or parcel of land in the City of Enterprise, Coffee County, Alabama and being more particularly described as follows: Commencing at an existing iron pipe at the intersection of the East line of the Northeast 1/4 of the Northwest 1/4 of Section 15, Township 4 North, Range 22 East and the Westerly Right-of-Way of the Enterprise By-Pass U.S. Highway No. 84 (250 foot Right-of-Way); thence South 42 degrees 10 minutes 00 seconds East along said right-of-way a distance of 25.33 feet to an existing iron pipe; thence continue along said right-of-way bearing South 42 degrees 04 minutes 00 seconds East a distance of 100.00 feet to an existing iron pipe; thence continue along said right-of-way bearing South 39 degrees 45 minutes 30 seconds East a distance of 64.57 feet to a point; thence continue along said right-of-way bearing South 38 degrees 16 minutes 42 seconds East a distance of 35.43 feet to an existing iron pipe; thence continue along said right-of-way bearing South 36 degrees 29 minutes 00 seconds East a distance of 100.00 feet to an existing iron pipe; thence continue along said right-of-way bearing South 34 degrees 01 minutes 00 seconds East a distance of 100.00 feet to an existing iron pipe; thence continue along said right-of-way bearing South 31 degrees 26 minutes 00 seconds East a distance of 56.31 feet to an existing iron pipe and the point of beginning; thence continue along said right-of-way bearing South 31 degrees 26 minutes 00 seconds East a chord distance of 43.69 feet to an existing iron pipe; thence continue along said right-of-way bearing South 28 degrees 08 minutes 00 seconds East a chord distance of 100.00 feet to an existing nail set in asphalt drive; thence continue along said right-of-way South 27 degrees 40 minutes 00 seconds East a chord distance of 85.00 feet to an existing iron pipe; thence depart said right-of-way bearing South 61 degrees 36 minutes 03 seconds West a distance of 211.37 feet to an existing iron pipe; thence North 43 degrees 34 minutes 00 seconds West a distance of 165.55 feet to a mark on the back of the curb and the Winn-Dixie property; thence North 46 degrees 26 minutes 00 seconds East along the Southerly line of said Winn-Dixie property and the extension thereof a distance of 263.09 feet to the point of beginning. Said parcel being located in the West 1/2 of the Northeast 1/4 of Section 15, Township 4 North, Range 22 East.

6276 - BK # 10831

540 highway 84, East, Cairo, Georgia

EXHIBIT A

A lot or parcel of land in the City of Cairo, Grady County, Georgia, containing 0.838 acres more or less and being more particularly described as follows:

BEGINNING at the Northeast intersection of the north right-of-way (R/W) of 6th Ave. N.W. (60' R/W) with the East R/W of 5th St. N.E. as marked by an 3/8" rebar existing iron pin (EIP); thence along said East R/W bearing N 02°26'15" W a distance of 272.83 feet to a set iron pin (SIP); thence along said East R/W bearing N 37°23'34" E a distance of 8.49 feet to a SIP on the South R/W of U.S. Highway #84 (80' R/W); thence along said South R/W bearing S 52°35'35" E a distance of 204.90 feet to a 3/8" rebar EIP; thence depart said South R/W bearing S 02°26'15" E a distance of 162.72 feet to a 3/8" rebar EIP on the North R/W of 6th Avenue (60' R/W); thence along said North R/W bearing N 87°17'38" W for a distance of 163.42 feet to the POINT OF BEGINNING. Containing 0.83 Acres (36314.32 SF), more or less.

6287 - BK# 12722

EXHIBIT A

LEGAL DESCRIPTION

The following described in: (O.R. Book 1611, Pages 682 and 684)

Commencing at the Southwest Corner of Lot 32 of Block "B", according to W. B. Gray's Plat of the First Addition to Springfield, as recorded in Bay County, Florida, Plat Book 2, at Page 3; thence run East along the South line of said Lot 32 a distance of 75 feet to the Point of Beginning of this description; thence East 25 feet; thence North 32 feet; thence East 118.55 feet, more or less, to the Westerly R/W line of U.S. Highway 98 Business; thence Southeasterly along said Westerly R/W line a distance of 288 feet, more or less, to the North R/W line of Third Street; thence West along the North R/W line of Third Street 272 feet, more or less, to a point 20 feet West of the Southeast Corner of Lot 31 of said Block "B"; thence North 75 feet; thence West 45 feet; thence North 122 feet to the Point of Beginning.

Also known as: (O.R. Book 1902, Page 1)

Commence at the Southwest corner of Lot 29, Block "B" according to N. B. Gray's Plat of Springfield, Florida, as on file with the Clerk of the Circuit Court, Bay County, at Panama City, Florida, located in Section 11, Township 4 South, Range 14 West; thence N89°55'15"E or 100.60 feet along the North R/W line of 3rd Street (having a 60 foot R/W) to the Point of Beginning; thence N00°11'03" for 197.00 feet; thence N00°05'18"W for 31.96 feet; thence S89°30'43"E for 114.34 feet to the curving Southwesterly R/W line of U.S. Highway, (Business #98), having a 66 foot R/W; thence Southeasterly along said R/W line for an arc distance of 286.58 feet to said North R/W line of 3rd Street; said curve having a central angle of 05°33'14", a radius of 2956.48 feet, a chord of 286.47 feet bearing S37°23'30"E; thence S89°55'15"W along said R/W line for 287.61 feet to the Point of Beginning.

6308 BK 7564 1701 Douglas Avenue Brewton, Al

EXHIBIT A

A lot or parcel of land in the City of Brewton, Escambia County, Alabama, and being more particularly described as follows:

Lots 1 and 2 both being in Block 2 according to the Plat of North Brewton Subdivision prepared by Sam N. Sowell C.E. on March 7, 1934. Said Plat being recorded in Plat Book 3, Page 14 in the Office of the Judge of Probate of Escambia County, Alabama, being a portion of the Northwest Quarter of the Southwest Quarter (NW ¼ of SW ¼) of Section 16, Township 2 North, Range 10 East.

Said lots being more particularly described as follows: Beginning at the Southeast corner of Lot 1, Block 2 of said North Brewton Subdivision and the West Right-of-Way (R/W) of U.S. Highway #31 (State Highway No. 3) (Douglas Avenue) (66' R/W) as marked by an existing iron pin (EIP) (1/2" Open Pipe); thence N 03°16'00" W a distance of 199.96 FT to an EIP (1/2" Open Pipe); thence N 87°15'36" E a distance of 200.15 FT to an 'X' in Concrete on said West R/W; thence along said West R/W bearing S 03°15'08" E a distance of 200.00 FT to the Point of Beginning. Said lots being located in the NW ¼ of the SW ¼ of Section 16, Township 2 North, Range 10 East, and containing 0.92 acres (40014.34 sq. ft.), more or less.

6322 BK 307 1801 North Ashley Street Valdosta, Georgia

EXHIBIT A

A lot or parcel of land being located in the City of Valdosta, Lowndes County, Georgia, being all of lots 17, 18, and 9 in Block "D" of the Hereford-Wilson Subdivision recorded in Deed Book "KK", page 605, and being more particularly described as follows:

Begin at an Existing iron Pin (EIP) (1" Open Pipe) located where the North right-of-way (R/W) of East Alden Avenue (40' R/W) intersects with the East R/W on North Ashley Street (70' R/W); thence along said East R/W bearing N 04°08'00" W for a distance of 199.92 FT to an EIP (1" Open Pipe); thence depart said East R/W bearing N 85°52'44" E for a distance of 154.87 FT to an EIP (#3 Rebar); thence S 03°44'35" E for a distance of 99.12 FT to an EIP (#3 Rebar); thence N 86°09'33" E for a distance of 155.66 FT to an EIP (1" Open Pipe) and the West R/W of Marion Street (50' R/W); thence along said West R/W bearing S 04°02'47" E for a distance of 101.58 FT to an EIP (1" Open Pipe) located at the northwest intersection of Marion Street and East Alden Avenue; thence along said North R/W bearing S 86°09'47" W for a distance of 309.70 FT to the Point of Beginning. Said parcel being lots 17, 18 and 9 of the Hereford-Wilson Subdivision as recorded in Deed Book "KK", page 605, located in the City of Valdosta, Lowndes County, Georgia and containing 1.07 acres (46722.20 SQ. FT.), more or less.

12/20/05

6344 BK 2895 1060 Tennessee Street, Tallahassee, FL

EXHIBIT A

LEGAL DESCRIPTION

COMMENCE at the Northeast corner of the Northwest quarter of Section 35, Township 1 North, Range 1 West, and run thence due south fourteen and ninety-five (14.95) feet to a point of beginning (P.O.B.) on the South right-of-way (R/W) line of Brevard Street and marked by a P.K. nail set in concrete spillway. From said P.O.B. then run due South, two hundred three and ninety-one hundredths (203.91) feet to a point marked by a concrete monument on the North R/W line of State Road No. 90 (West Tennessee Street); then go on a chord North 66 degrees 23 minutes 19 seconds West, two hundred and two hundredths (200.02) feet of a curve to the left having a radius of 3250 feet, the arc distance of 200.02 feet to a point on said North R/W line and marked by an iron pipe; then go due North one hundred twenty-five (125.00) feet to a point on the South R/W line of Brevard Street and also marked by an iron pipe; then go South 89 degrees 39 minutes 40 seconds East along said South R/W line one hundred eighty-three (183.00) feet to the Point of Beginning.

6365 BK6621 1628 US Hwy 331S, Defuniak Springs, FL

EXHIBIT A

LEGAL DESCRIPTION

Commencing at the Northeast corner of Section 3, Township 2 North, Range 19 West, Walton County, Florida; thence go South 00 degrees 01 minute 59 seconds West, along the East line of said Section 3, a distance of 2,551.71 feet; thence departing the East line of said Section 3, go North 88 degrees 08 minutes 50 seconds West, a distance of 101.58 feet to the Westerly Right-of-Way line of U.S. Highway 331; thence go South 00 degrees 08 minutes 59 seconds West along the West Right-of-Way line of U.S. Highway 331, a distance of 150.00 feet; thence departing the West Right-of-Way line of U.S. Highway 331, go North 88 degrees 08 minutes 50 seconds West, a distance of 325.00 feet; thence go North 00 degrees 08 minutes 59 seconds East, a distance of 150.00 feet; thence go South 88 degrees 08 minutes 50 seconds East, a distance of 325.00 feet the Point of Beginning of the parcel of land herein described.

6366 BK 8457 505 East Cummings Ave, Opp, AL

EXHIBIT A

PARCEL DESCRIPTION

A lot or parcel of land in the City of Opp, Covington County, Alabama and being more particularly described as follows:

COMMENCING at the SW Corner of the SW 1/4 of the SE 1/4 of Section 28, Township 4 North, Range 18 East, City of Opp, Covington County, Alabama; thence N 00°09'54" E along the East line of said forty a distance of 495.30 feet to a point on the South Right-of-Way (R/W) of County Highway #22 (Old Perry Store Road—Also known as Old Opp—Alberton Road) (R/W Varies); thence along said South R/W bearing N 85°38' W a distance of 223.30 feet to an Existing Iron Pin (EIP) (5/8" Open Pipe) and the POINT OF BEGINNING (P.O.B.); thence depart said South R/W bearing S 00°09'54" W a distance of 261.25 feet to a Set Iron Pin (SIP) (CA 0621LS); thence S 64°29'45" W a distance of 32.27 feet to an EIP (1" Open Pipe) on the Northerly R/W of U.S. Highway No. 331 (75' R/W); thence along said Northerly R/W of U.S. Highway #331 and a curve to the left having a radius of 602.01 feet with a chord bearing of N 36°55'43" W a chord distance of 228.76 feet to a SIP; thence along said Northerly R/W along a curve to the left having a radius of 675.79 feet with a chord bearing of N 53°51'25" W a chord distance of 199.45 feet to a Set Nail in Asphalt and the intersection of the Northerly R/W of said Highway No. 331 with the said South R/W of County Highway #22; thence along said South R/W bearing S 85°35'04" E a distance of 329.37 feet to the P.O.B. Said parcel is situated in the SW 1/4 of the SE 1/4 of Section 28, T4N, R18E, contains 0.92 acres (40057.73 sq. ft.), more or less.

6367 BK 8727 297 John Sims Parkway, Niceville, Florida

EXHIBIT A

LEGAL DESCRIPTION

A parcel of land in Sections 6 and 7, Township 1 South, Range 22 West, in Okaloosa County, Florida described as a portion of Lot 1 Block 4, PLAT OF NICEVILLE, as recorded in Plat Book 1, Page 39 of the Official Records along with a portion of platted right of way West of said Lot 1, and a portion of unplatted land, all lying and being South of Florida State Road 20 (John Sims Parkway), and more particularly described as: Commencing at a concrete monument marking the Northeastly corner of said Lot 1; thence South 39 degrees 37'09" West along Westerly right of way line of Armstrong Avenue, a distance of 181.46 feet to the Point of Beginning; thence continue South 39 degrees 37'09" West, 26.16 feet; thence departing said Westerly line, North 67 degrees 30'45" West, 321.10 feet to a point on the Easterly edge of Mill Creek, said point hereinafter referred to as Point "A"; thence from the Point of Beginning, North 67 degrees 30'45" West, 115.00 feet; thence North 29 degrees 59'53" East, 135.00 feet; thence North 21 degrees 25'37" East, 125.73 feet to the Southerly right of way line of said State Road 20; thence North 75 degrees 43'30" West (reference bearing) along said Southerly line, 184.20 feet to a point on said Easterly edge of Mill Creek, said point being North 32 degrees 45'45" East, 262.44 feet from said Point "A"; thence meandering Southwesterly along said Easterly edge of Mill Creek, 270 feet, more or less, to Point "A"; all in Okaloosa County, Florida.

6368 BK 10549 1410 South Alabama Avenue, Monroeville, Al

EXHIBIT A

Lots 33, 34 and 35, Block 1, of the Thompson & Lindsey Addition to the Town of Monroeville, Alabama, as per plat recorded in Volume 96 at page 167 of the Records of Monroe County, Alabama, in the Office of the Judge of Probate.

Also a portion of Lot 32, Block 1, of the Subdivision of Thompson and Lindsey Addition to Monroeville, Alabama as per plat of same as recorded in Deed Book 96 at page 167, Probate Records of Monroe County, which is described as follows:

Beginning at the Southeast Corner of said lot 32, Block 1, thence North a distance of 24.64 feet; thence S 88°14'46" W a distance of 212.97 feet to the East right-of-way (R/W) of South Alabama Avenue; thence S 11°19'30" E a distance of 40.00 feet along said East R/W; thence N 83°35'00" E a distance of 240.00 feet to the point of beginning.

Beginning at an existing concrete monument (ECM) on the Easterly Right-of-Way (R/W) of South Alabama Avenue (100' R/W); thence along said Easterly R/W a chord bearing of N 11°22'13" W a chord distance of 158.92 FT to an existing iron pin (EIP) (CA 0621LS); thence depart said Right of Way bearing N 88°18'25" E a distance of 212.97 FT to an EIP (CA 0621LS) on the Westerly R/W of an un-developed road; thence along said Westerly R/W bearing S 00°00'00" W for a distance of 180.64 FT to an EIP (CA 0621LS); thence depart said Westerly R/W bearing S 86°07'11" W a distance of 175.97 FT to an EIP (Illegible) on the said Easterly R/W of South Alabama Avenue; thence along said Easterly R/W a chord bearing of N 11°06'53" W a chord distance of 31.04 FT to the Point of Beginning. Said parcel lying in the Southeast ¼ of the Southwest ¼ of Section 1, Township 6 North, Range 7 East, and contains 0.82 acres (35788.11 sq. ft.), more or less.

EXHIBIT A

Lot 2 as shown on the Revised Plat of Andalusia Crossings Subdivision as recorded in plat book 6, page 36, of the Office of the Judge of Probate of Covington County, Alabama, and being more particularly described as follows:

Beginning at the Southeast corner of said Lot 2 and being the North Right-of-Way (R/W) of U.S. Highway No. 84 West as marked by an existing nail; thence along said North R/W bearing S 89°56'22" W for a distance of 130.17 FT to a set iron pin (SIP) on the East R/W of a Private Road through said Andalusia Crossing Subdivision; thence along said East R/W bearing N 00°03'48" E for a distance of 54.81 FT to an existing iron pin (EIP) (J.S. 21181); thence along said East R/W along a curve to the right with a chord bearing of N 34°08'33" W a chord distance of 15.15 FT to an EIP (J.S. 21181); thence along said East R/W bearing N 00°00'39" W a distance of 4.84 FT to an EIP (J.S. 21181); thence along said East R/W along a curve to the left with a chord bearing of N 06°10'57" W a chord distance of 3.85 FT to an EIP (J.S. 21181); thence along said East R/W bearing N 11°04'17" W for a distance of 13.83 FT to an EIP (J.S. 21181); thence along said East R/W along a curve to the right with a chord bearing of N 05°48'29" W a chord distance of 9.21 FT to an EIP (J.S. 21181); thence along said East R/W bearing N 00°02'23" E for a distance of 134.87 FT to an EIP (J.S. 21181); thence along said East R/W along a curve to the right with a chord bearing of N 44°53'24" E a chord distance of 33.14 FT to a SIP on the South R/W of a private road; thence along said South R/W bearing N 89°59'42" E for a distance of 55.70 FT to an EIP (J.S. 21181); thence along said South R/W bearing N 84°40'11" E a distance of 63.77 FT to an EIP (J.S. 21181); thence depart said South R/W bearing S 00°00'00" E a distance of 262.76 FT to the Point of Beginning. Said lot being located in the NW ¼ of the NW ¼ of Section 16, Township 4, North, Range 16 East, and containing 0.82 acres, more or less.

EXHIBIT A

LEGAL DESCRIPTION

PARCEL I: Beginning at the intersection of the North R/W line of 15th Street and the East R/W line of Lisenby Avenue in Panama City, Florida, and running thence North, along said East R/W line of Lisenby Avenue, 125 feet; thence East, parallel to the North R/W line of 15th Street 160 feet; thence South 125 feet, more or less, to a point on the North R/W line of 15th Street which is 160 feet, East of the Point of Beginning; thence West, along said North R/W line of 15th Street, 160 feet to the Point of Beginning; being in and a portion of the South Half of the West Half of the Southeast Quarter of Section 31, Township 3 South, Range 14 West, Bay County, Florida.

PARCEL II: Commence at the intersection of the North R/W line of 15th Street and the East R/W line of Lisenby Avenue and running along the North R/W line of 15th Street S89°34'E, 160 feet to the Point of Beginning (being the Southeast Corner of Parcel I-A); thence running along the East line of said Parcel I-A, N00°09'39"E, 125 feet; thence S89°34'E, 80 feet; thence S00°09'39"W, 125 feet to the North R/W line of 15th Street; thence along said R/W line N89°34'W, 80 feet to the Point of Beginning.

TOGETHER WITH a non-exclusive easement for ingress and egress described in O.R. Book 1783, Page 608, Public Records of Bay County, Florida: South Half of West Half of the West Half of the Southeast Quarter of Section 31, Township 3 South, Range 14 West, Bay County, Florida, less and except the R/W of 17th Street on the North, and the R/W for Lisenby Avenue on the West and the R/W for Carolina Boulevard on the East and the R/W for 15th Street on the South, and less and except Parcel I and Parcel II above.

6371 BK 11879 1230 Shotwell Street, Bainbridge, Georgia

EXHIBIT A

A lot or parcel of land in the City of Bainbridge, Decatur County, Georgia, and being more particularly described as follows:

BEGINNING at an "X" in the sidewalk on the South Right-of-Way (R/W) of Shotwell Street (60 foot R/W) at its intersection with the West R/W line of Boulevard Drive (60 foot R/W); thence along said West R/W bearing S 02°06'51" W a distance of 159.93 feet to a ½ inch iron bar; thence depart said West R/W bearing N 88°12'16" W a distance of 261.42 feet to a 5/8 inch iron bar; thence N 01°18'21" E a distance of 159.93 feet to a 5/8 inch iron bar at the back of sidewalk on the said South R/W; thence along said South R/W bearing 88°12'19" E a distance of 263.68 feet to the point of beginning. Said parcel being located in land lot 221, district number 15, City of Bainbridge, Decatur County, Georgia, and containing 0.96 acres (41988.90 SF), more or less.

6372 BK 12520 220 South Main Street, Atmore, Al

EXHIBIT A

Lots 7, 8, 9, 10, and the South one-half (1/2) of Lot 11, all in Block 6, of the original plat of the Town of Atmore, Alabama, according to map of said town dated March 14, 1914, and filed for record in the office of the Judge of Probate of Escambia County, Alabama, in Plat Book 2, Page 13, and being more particularly described as follows:

Beginning at the Northwest corner of Lot 9, Block 6, of the said Town of Atmore plat as marked by an existing iron pin (EIP) (1/2" pipe under sidewalk) on the East right-of-way (R/W) of Owens Street (66' R/W) and the South R/W of Trammel Street (66' R/W); thence along said South R/W bearing N 90°00'00" E a distance of 122.87 FT to an EIP (12" pipe under sidewalk); thence depart said South R/W bearing S 00°03'31" E a distance of 129.28 FT to an EIP (1/2" pipe under concrete); thence N 88°52'10" W a distance of 23.72 FT to an EIP (1/2" pipe); thence S 01°09'57" W a distance of 129.77 FT to an EIP (1/2" pipe) on the North R/W of Main Street (66' R/W); thence along said North R/W bearing S 89°53'01" W a distance of 97.36 FT to an EIP (1/2" pipe under sidewalk) on said East R/W; thence along said East R/W bearing N 00°14'50" W a distance of 133.04 FT to an EIP (1/2" pipe under sidewalk); thence along said East R/W bearing N 00°35'06" E a distance of 125.73 FT to the point of beginning. Said parcel being located in the SW ¼ of the NW ¼ of section 29, Township 1 North, Range 6 East, of Escambia County, Alabama, and containing 0.66 acres (28775.19 sq. ft), more or less.

SCHEDULE 1

ASSET # 6100 Tallahassee, FL

Current Annual Rent of \$98,257.80 with rent increases to \$101,942.47 on April 1, 2014 and to \$105,627.14 on January 1, 2016. Rent increases of seven and one half percent (7.5%) every five (5) years thereafter.

ASSET # 6257 Evergreen , AL

Current Annual Rent of \$74,426.88 with rent increases to \$77,217.89 on April 1, 2014 and to \$80,008.90 on January 1, 2016. Rent increases of seven and one half percent (7.5%) every five (5) years thereafter.

ASSET # 6272 Enterprise, AL

Current Annual Rent of \$94,209.84 with rent increases to \$97,742.71 on April 1, 2014 and to \$101,275.58 on January 1, 2016. Rent increases of seven and one half percent (7.5%) every five (5) years thereafter.

ASSET # 6276 Cairo, GA

Current Annual Rent of \$102,778.92 with rent increases to \$106,633.13 on April 1, 2014 and to \$110,487.34 on January 1, 2016. Rent increases of seven and one half percent (7.5%) every five (5) years thereafter.

ASSET# 6287 Springfield, FL

Current Annual Rent of \$103,618.68 with rent increases to \$107,504.38 on April 1, 2014 and to \$111,390.08 on January 1, 2016. Rent increases of seven and one half percent (7.5%) every five (5) years thereafter.

ASSET # 6308 Brewton, AL

Current Annual Rent of \$110,148.48 with rent increases to \$114,279.05 on April 1, 2014 and to \$118,409.62 on January 1, 2016. Rent increases of seven and one half percent (7.5%) every five (5) years thereafter.

ASSET # 6322 Valdosta, GA

Current Annual Rent of \$63,562.8 with rent increases to \$65,946.41 on April 1, 2014 and to \$68,330.01 on January 1, 2016. Rent increases of seven and one half percent (7.5%) every five (5) years thereafter.

ASSET # 6344 Tallahassee, FL

Current Annual Rent of \$83,757.36 with rent increases to \$86,898.26 on April 1, 2014 and to \$90,039.16 on January 1, 2016. Rent increases of seven and one half percent (7.5%) every five (5) years thereafter.

ASSET # 6365 Defuniak Springs, FL

Current Annual Rent of \$102,197.88 with rent increases to \$106,030.30 on April 1, 2014 and to \$109,862.72 on January 1, 2016. Rent increases of seven and one half percent (7.5%) every five (5) years thereafter.

ASSET # 6366 Opp, AL

Current Annual Rent of \$92,082.60 with rent increases to \$95,535.70 on April 1, 2014 and to \$98,988.00 on January 1, 2016. Rent increases of seven and one half percent (7.5%) every five (5) years thereafter.

ASSET # 6367 Niceville, FL

Current Annual Rent of \$80,140.08 with rent increases to \$83,145.33 on April 1, 2014 and to \$86,150.59 on January 1, 2016. Rent increases of seven and one half percent (7.5%) every five (5) years thereafter.

ASSET # 6368 Monroeville, AL

Current Annual Rent of \$71,284.32 with rent increases to \$73,957.48 on April 1, 2014 and to \$76,630.64 on January 1, 2016. Rent increases of seven and one half percent (7.5%) every five (5) years thereafter.

ASSET # 6369 Andalusia, AL

Current Annual Rent of \$92,728.8 with rent increases to \$96,206.13 on April 1, 2014 and to \$99,683.46 on January 1, 2016. Rent increases of seven and one half percent (7.5%) every five (5) years thereafter.

ASSET # 6370 Panama City, FL

Current Annual Rent of \$90,218.28 with rent increases to \$93,601.47 on April 1, 2014 and to \$96,984.65 on January 1, 2016. Rent increases of seven and one half percent (7.5%) every five (5) years thereafter.

ASSET # 6371 Bainbridge, GA

Current Annual Rent of \$121,563.48 with rent increases to \$126,122.11 on April 1, 2014 and to \$130,680.74 on January 1, 2016. Rent increases of seven and one half percent (7.5%) every five (5) years thereafter.

ASSET # 6372 Atmore, AL

Current Annual Rent of \$74,545.2 with rent increases to \$77,340.65 on April 1, 2014 and to \$80,136.09 on January 1, 2016. Rent increases of seven and one half percent (7.5%) every five (5) years thereafter.

MASTER ASSIGNMENT AND ASSUMPTION OF LEASE DOCUMENTS

THIS MASTER ASSIGNMENT AND ASSUMPTION OF LEASE DOCUMENTS (this "Assignment") is effective as of July 31, 2013 (the "Effective Date"), between GE CAPITAL FRANCHISE FINANCE CORPORATION, a Delaware corporation ("Assignor"), and ARC CAFEUSA001, LLC, a Delaware limited liability company ("Assignee").

A. Assignor, as the landlord, leases the real property and improvements described by address and Asset Number on *Exhibit A* (the "Premises") to the corresponding tenants of the Premises as indicated on *Exhibit A* (collectively, the "Tenants"), pursuant to leases for the Premises (such leases, together with any guaranty(ies) thereof, and any amendments, supplements or assignments thereto, collectively the "Lease Documents").

B. Assignor and American Realty Capital Operating Partnership IV, L.P., a Delaware limited partnership ("ARC"), among others, entered into that certain Purchase and Sale Agreement dated as of June 2, 2013 (the "Purchase Agreement"), whereby Assignor agreed to sell to ARC or its designee, and ARC agreed to purchase or cause its designee to purchase from Assignor the Premises.

C. ARC has designated Assignee to purchase the Premises.

D. Pursuant to the Purchase Agreement, Assignor agreed to assign to Assignee and Assignee agreed to assume Assignor's interest and obligations as landlord in, to and under the Lease Documents, subject to and in accordance with the provisions hereof.

E. In connection with the conveyance of the Premises, Assignor desires to assign to Assignee and Assignee desires to assume all of Assignor's interest and obligations as landlord in, to and under the Lease Documents, subject to and in accordance with the provisions hereof.

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. Assignment. Subject to the terms and conditions of the Purchase Agreement, Assignor hereby assigns unto Assignee all of Assignor's right, title, interest, responsibilities, liabilities and obligations in, to and under the Lease Documents from and after the Effective Date. Assignor represents and warrants to Assignee that: (a) Assignor has not assigned any of its right, title, interest, responsibilities, liabilities or obligations under the Lease Documents to any other party, and (b) Assignor has full power and authority to assign all of its right, title, interest, responsibilities, liabilities and obligations under the Lease Documents to Assignee by virtue of this Assignment.

2. Acceptance and Assumption. As of the Effective Date, Assignee hereby (a) accepts this assignment of all of Assignor's rights, title, and interest under the Lease Documents; and (b) assumes and agrees to perform and observe all of Assignor's covenants, responsibilities, and obligations set forth in the Lease Documents arising from and after the Effective Date.

3. Indemnity. Assignor and Assignee shall each have the indemnification rights and obligations with respect to the Lease Documents as are provided in Article X of the Purchase Agreement, which shall be the sole indemnification rights and obligations with respect to the assignment and assumption of the Lease Documents provided for in this Assignment.

4. As-Is Assignment. Other than and except for the express representations and warranties with respect to the Lease Documents, the Leases, the Tenants, and the Premises made by Assignor to Assignee in the Purchase Agreement, Assignee acknowledges and agrees (a) that the Lease Documents are being assigned "AS-IS", and not in reliance on any agreement, understanding, condition, warranty or representation made by Assignor or any agent or employee of Assignor as to the condition, enforceability or quality thereof, as to the rent or other amounts payable thereunder, or as to any other matter in connection therewith, and (b) that neither Assignor nor any party

acting on behalf of Assignor has made or shall be deemed to have made any such agreement, condition, representation or warranty.

5. Binding Effect. This Assignment shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective successors and assigns.

6. Governing Law. This Assignment will be governed by, and construed and enforced in accordance with, the laws of the state in which the Premise is located, regardless of the laws that might otherwise govern under applicable conflicts of law principles thereof.

7. Right to Jury Trial. ASSIGNOR AND ASSIGNEE EACH IRREVOCABLY WAIVES ITS RIGHTS TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS ASSIGNMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY.

8. Jurisdiction. Assignor and Assignee each (a) irrevocably consents to submit itself to the exclusive jurisdiction of any federal or state court sitting in Manhattan, New York in the event any dispute arises out of this Assignment or any of the transactions contemplated by this Assignment and (b) waives any objection that it may now or hereafter have to the venue or jurisdiction of any such dispute in any such court or that such dispute was brought in an inconvenient forum, and agrees not to plead or claim the same.

9. Tenant's Obligations. Notwithstanding any other provision of this Assignment but subject to the limitations contained in the Purchase Agreement, this Assignment shall not be interpreted or construed as modifying, amending, terminating, limiting or affecting in any manner, and Assignor retains any and all claims or causes of action that Assignor may have concerning, each Tenant's indemnification and hold harmless obligations to Assignor set forth in the Lease Documents.

10. Recording of Memorandum of Assignment. Concurrently with the execution of this Assignment, the parties shall execute a memorandum of this Assignment for each Premises for which a memorandum of lease is already recorded in the county records, and such memorandum of assignment shall be recorded in the applicable county recorder's office at Assignee's sole cost and expense.

11. Counterparts. This Assignment may be executed in one or more counterparts, all of which will be considered one and the same agreement and will become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties. This Assignment may be executed by facsimile signature or in portable document format (PDF).

12. Further Assurances. Assignor and Assignee agree that, from time to time, whether before, at or after the Effective Date, each of them will execute and deliver such further instruments of assignment and transfer and take such other actions as may be necessary to carry out the purposes and intents of this Assignment.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have entered into this Assignment as of the Effective Date.

ASSIGNOR:

**GE CAPITAL FRANCHISE FINANCE
CORPORATION**, a Delaware corporation

By: _____


Todd V. Jones
Authorized Signatory

[SIGNATURES CONTINUE ON NEXT PAGE]

ASSIGNEE:

ARC CAFEUSA001, LLC, a Delaware limited liability company

By: American Realty Capital Operating Partnership IV, L.P., a Delaware limited partnership, its sole member

By: _____

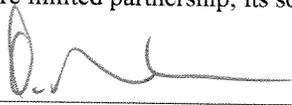
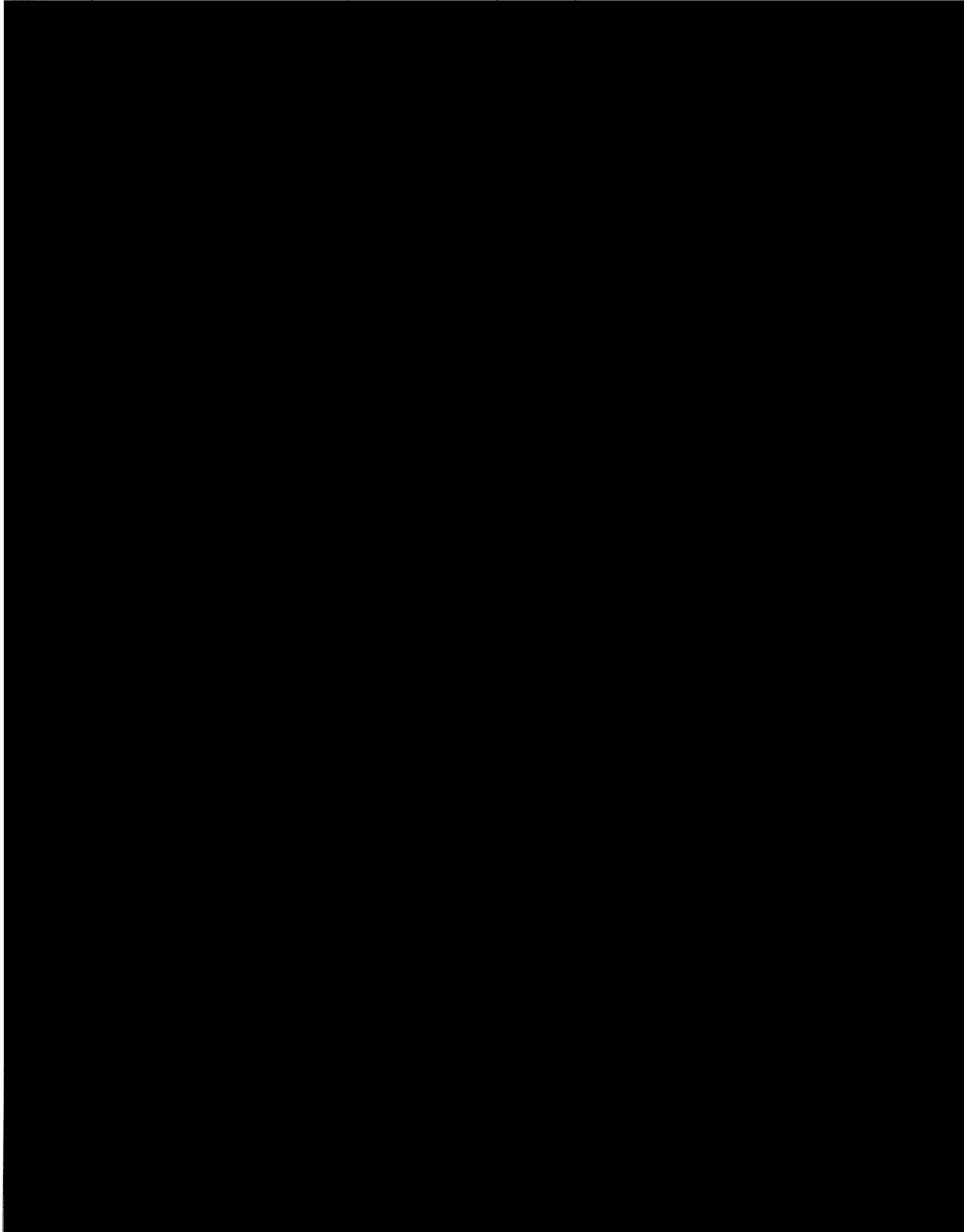

O. Akomea Poku-Kankam
Authorized Signatory

EXHIBIT A
LEASE INFORMATION

Asset No.	Street Address	City	ST	Tenant

Asset No.	Street Address	City	ST	Tenant
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Asset No.	Street Address	City	ST	Tenant
[Redacted Content]				

Asset No.	Street Address	City	ST	Tenant
6366	505 East Cummings Avenue	Opp	AL	Goldco, LLC
6367	207 Lake Street	Milledgeville	GA	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

ASSIGNMENT, ASSUMPTION AND CONSENT AGREEMENT

THIS ASSIGNMENT, ASSUMPTION AND CONSENT AGREEMENT (this "Agreement") is made effective as of June 30, 2014 (the "Effective Date"), by and among ARC CAFEUSA001, LLC, a Delaware limited liability company ("Lessor"), GOLDCO, LLC, an Alabama limited liability company ("Lessee"), and BURGER GULF COAST, LLC, a Delaware limited liability company ("Assignee").

RECITALS

Lessor and Lessee are parties to that certain Lease dated as of December 20, 2005, as amended by Master First Lease Amendment dated effective November 15, 2013, and as assigned (collectively, the "Lease"), with respect to real property located at 505 East Cummings Avenue, Opp, Alabama. Lessee desires to assign all of its right, title and interest under the Lease to Assignee and Assignee desires to accept and assume the same under the terms and conditions set forth below. Lessee and Assignee have requested that Lessor execute this Agreement to evidence its consent to such assignment.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor, Lessee and Assignee hereby agree as follows:

1. **Defined Terms.** Except for those terms expressly defined in this Agreement, all capitalized terms used herein shall have the meanings set forth in the Lease.
2. **Assignment.** As of the Effective Date, Lessee hereby assigns to Assignee all of its right, title and interest in and to the Lease (the "Assignment").
3. **Acceptance of Assignment.** Assignee hereby accepts the Assignment, agrees to be substituted in the place of Lessee as "Lessee" under the Lease and agrees to be bound by all of the terms and conditions of the Lease and this Agreement.
4. **No Release of Lessee.** Nothing contained in this Agreement will act to release Lessee from any of its duties or obligations under the Lease.
5. **Consent to Assignment.** Lessor hereby consents to the Assignment, which shall not be construed to constitute consent to any future assignment or transfer of this Agreement or the Lease by Assignee. The effectiveness of Lessor's consent set forth herein is subject to the following conditions:
 - (a) **Proof of Insurance.** On or prior to the Effective Date, Assignee shall have provided Lessor with evidence satisfactory to Lessor that all insurance required by the Lease is in full force and effect.

(b) Franchise Agreement. On or prior to the Effective Date, Lessee or Assignee shall have provided Lessor with evidence satisfactory to Lessor that either Lessee's franchise agreement with Burger King Corporation ("Franchisor") has been assigned to Assignee, or that Franchisor and Assignee have entered into a new franchise agreement, and all assignment and/or franchise fees in connection therewith have been paid or waived and Assignee is in good standing with Franchisor.

(c) Fees and Expenses. Lessee and Assignee agree that the following amounts shall be paid to Lessor on or prior to the Effective Date: (i) the Base Monthly Rental due to Lessor for July, 2014, (ii) a \$500 administrative and processing fee, to be paid by Lessee, (iii) all out of pocket expenses incurred by Lessor in connection with this Agreement, including reasonable attorneys' fees, to be paid by Lessee, and (iv) all other fees and amounts required to be paid pursuant to this Agreement and together with any other outstanding unpaid fees and costs due under the Lease, to be paid by Lessee.

6. Representations and Warranties.

(a) The representations and warranties of Lessee contained in this Section are being made to induce Lessor and Assignee to execute and deliver this Agreement and Lessor and Assignee have relied, and will continue to rely, upon such representations and warranties. Lessee represents and warrants to Lessor as follows:

(i) *Organization, Authority and Status of Lessee*.

(1) Lessee has been duly organized or formed, is validly existing and in good standing under the laws of its state of formation. All necessary action has been taken to authorize the execution, delivery and performance by Lessee of this Agreement and of the other documents, instruments and agreements provided for herein.

(2) The person who has executed this Agreement on behalf of Lessee is duly authorized to do so.

(ii) *Lease*. The Lease has not been modified, amended, supplemented, assigned by Lessee or otherwise revised and is the only lease between Lessor and Lessee with respect to the Premises. The Premises is not subject to any subleases other than the Lease. The Lease is in full force and effect against Lessee and constitutes the legal, valid and binding obligation of Lessee, enforceable against Lessee in accordance with its terms. To Lessee's knowledge, no event has occurred and no condition exists which, with the giving of notice or the lapse of time or both, would constitute a default under the Lease. As of the Effective Date, to Lessee's knowledge, Lessee has no defenses, offsets, counterclaims, claims or demands of any nature which can be asserted against Lessor.

(iii) *Litigation*. There are no suits, actions, proceedings or investigations pending, or to the best of its knowledge, threatened against or involving Lessee or the Premises which might reasonably result in a material

adverse change in the contemplated business, condition, worth or operations of Lessee or the Premises.

(iv) *Absence of Breaches or Defaults.* Lessee is not in default under any document, instrument or agreement to which Lessee is a party or by which Lessee, the Premises or any of Lessee's property is subject or bound which default might reasonably result in a material adverse change in the business, condition, worth or operations of Lessee. The authorization, execution, delivery and performance of this Agreement and the documents, instruments and agreements provided for herein will not result in any breach of or default under any document, instrument or agreement to which Lessee is a party or by which Lessee or any of Lessee's property is subject or bound.

(v) *Taxes.* There are no taxes or assessments which are the responsibility of Lessee under Section 5.1(a) that are delinquent or on which there is an unpaid balance against which interest is accruing.

(b) The representations and warranties of Assignee contained in this Section are being made to induce Lessee and Lessor to execute and deliver this Agreement and Lessee and Lessor have relied, and will continue to rely, upon such representations and warranties. Assignee represents and warrants to Lessor as follows:

(i) *Organization, Authority and Status of Assignee.*

(1) Assignee has been duly organized or formed, is validly existing and in good standing under the laws of its state of formation. All necessary action has been taken to authorize the execution, delivery and performance by Assignee of this Agreement and of the other documents, instruments and agreements provided for herein.

(2) The person who has executed this Agreement on behalf of Assignee is duly authorized to do so.

(3) Assignee certifies that it is not acting, directly or indirectly, for or on the behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, "**Specifically Designated National and Blocked Person**" or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule, or regulation that is enforced or administered by the Office of Foreign Assets Control; and Assignee further certifies it is not engaged in the transaction, directly or indirectly, on behalf of, or instigation or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Assignee hereby agrees to defend, indemnify, and hold harmless Lessor from and against any and all claims, damages, losses, risks, liabilities, and expenses (including attorneys' fees and costs) arising from or related to any breach of the foregoing certification.

(ii) *Litigation.* There are no suits, actions, proceedings or investigations pending, or to the best of its knowledge, threatened against or involving Assignee or the Premises which might reasonably result in any material adverse change in the contemplated business, condition, worth or operations of Assignee or the Premises.

(iii) *Absence of Breaches or Defaults.* Assignee is not in default under any document, instrument or agreement to which Assignee is a party or by which Assignee, the Premises or any of Assignee's property is subject or bound. The authorization, execution, delivery and performance of this Agreement and the documents, instruments and agreements provided for herein will not result in any breach of or default under any document, instrument or agreement to which Assignee is a party or by which Assignee, the Premises or any of Assignee's property is subject or bound.

7. **Release.** Lessee hereby fully and forever releases and discharges Lessor and its officers, directors, employees, affiliates, successors and assigns (collectively, the "**Released Parties**"), as applicable, for, from and against any and all obligations, claims and liabilities of any nature (matured or unmatured, known or unknown), which Lessee may have or hereafter have or claim to have against Lessor by reason of any act or matter arising and accruing in connection with the Lease or the Premises on or prior to the Effective Date. Lessee hereby agrees and covenants not to sue the Released Parties (without limiting any defenses Lessee may assert with respect to any action brought by Lessor against Lessee) for any act or matter arising and accruing in connection with the Lease or the Premises on or prior to the Effective Date.

8. **Notice Addresses.** All notices that may be given under the terms of the Lease to Lessor and/or Assignee shall be in writing and given in the manner permitted under the Lease to the address of Lessor and Assignee listed below or any subsequent address that either party may notify the other party of in the manner permitted under the Lease:

To Lessor:

Lessor's Address for Payments: ARC CAFEUSA001, LLC

P.O. Box 29650
Phoenix, Arizona 85038-9650

Lessor's Address for Notices: ARC CAFEUSA001, LLC
c/o American Realty Capital Properties, Inc.
2325 East Camelback Road, Suite 1100
Phoenix, Arizona 85016
Attention: Property Manager

With a copy of all Notices to: ARC CAFEUSA001, LLC
c/o American Realty Capital Properties, Inc.
2600 Maitland Center Parkway, Suite 165
Maitland, Florida 32751
Attention: Asset Management

To Assignee: BURGER GULF COAST, LLC
196 University Parkway #200
Pomona, CA 91768
Attention: Kishan Patel

With a copy to: ANAND ENTERPRISE, INC.
648 Riviera Drive
Boynton Beach, Florida 33435
Attention: Anand Patel

And with a copy to: Lowndes, Drosdick, Doster, Kantor &
Reed, P.A.
215 North Eola Drive
Orlando, FL 32801
Attention: Jacqueline Bozzuto, ESQ

9. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

10. **Severability.** If any provision of this Agreement or the application thereof to any party or circumstance shall be determined by any court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement or the application of such provision to such person or circumstance, other than those as to which it is so determined invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law.

11. **Effect of Agreement.** Except as expressly modified herein, the Lease is unmodified and shall continue in full force and effect. In the event of any conflict between the terms of the Lease and the terms of this Agreement, this Agreement shall control.

12. **Broker.** Lessee and Assignee each represents that it has not dealt with any broker in connection with this Agreement, except for TM Capital Corp who represents Lessee, and that no broker negotiated this Agreement on behalf of Lessee or Assignee and is entitled to any commission in connection therewith, and Lessee and Assignee each hereby agrees to indemnify and hold Lessor harmless for, from and against all claims to any commission or other payments due by anyone claiming representation of Lessee or Assignee, as applicable, in connection with this Agreement.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

WHEREFORE, the parties hereto have executed this Agreement as of the day and date first above written.

LESSOR:

ARC CAFEUSA001, LLC, a Delaware limited liability company

By: ARC Operating Partnership, L.P., a Delaware limited partnership, its sole member

By:  _____
Todd J. Weiss, Authorized Signatory

Signature Date: June 30, 2014

LESSEE:

GOLDCO, LLC, an Alabama limited liability company

By _____
Printed Name _____
Its _____

Signature Date: _____, 2014

ASSIGNEE:

BURGER GULF COAST, LLC, a Delaware limited liability company

By _____
Printed Name _____
Its _____

Taxpayer Identification Number: _____

Signature Date: _____, 2014

WHEREFORE, the parties hereto have executed this Agreement as of the day and date first above written.

LESSOR:

ARC CAFEUSA001, LLC, a Delaware limited liability company

By: ARC Operating Partnership, L.P., a Delaware limited partnership, its sole member

By: _____
Todd J. Weiss, Authorized Signatory

Signature Date: _____, 2014

LESSEE:

GOLDCO, LLC, an Alabama limited liability company

By 
Printed Name Ronnie Roberts
Its President

Signature Date: June 30, 2014

ASSIGNEE:

BURGER GULF COAST, LLC, a Delaware limited liability company

By _____
Printed Name _____
Its _____

Taxpayer Identification Number: _____

Signature Date: _____, 2014

WHEREFORE, the parties hereto have executed this Agreement as of the day and date first above written.

LESSOR:

ARC CAFEUSA001, LLC, a Delaware limited liability company

By: ARC Operating Partnership, L.P., a Delaware limited partnership, its sole member

By: _____
Todd J. Weiss, Authorized Signatory

Signature Date: _____, 2014

LESSEE:

GOLDCO, LLC, an Alabama limited liability company

By _____
Printed Name _____
Its _____

Signature Date: _____, 2014

ASSIGNEE:

BURGER GULF COAST, LLC, a Delaware limited liability company

By Richard D. Patel
Printed Name Richard Patel
Its M&M

Taxpayer Identification Number 

Signature Date: 6/30, 2014

Prepared by and Return to:

John A. Howard, Esq.
5529 Carmichael Road
Montgomery, AL 36117

ASSIGNMENT, ASSUMPTION AND CONSENT AGREEMENT

THIS ASSIGNMENT, ASSUMPTION AND CONSENT AGREEMENT (this "Agreement") is made effective as of October 26, 2016 (the "Effective Date"), by and among ARC CAFEUSA001, LLC, a Delaware limited liability company ("Lessor"), BURGER GULF COAST, LLC, a Delaware limited liability company ("Lessee"), and PREMIER KINGS, INC., an Alabama corporation ("Assignee").

RECITALS

WHEREAS, Lessor and Lessee are parties to that certain Lease dated as of December 20, 2005, as amended by that certain Assignment and Assumption of Lease Documents dated July 31, 2013, that certain Master First Lease Amendment dated November 14, 2013, that certain Consent to Prohibited Transaction and Waiver of Default dated November 14, 2013, and that certain Assignment, Assumption and Consent Agreement dated June 30, 2014 ("**2014 Assignment**") (collectively, the "**Lease**"), originally entered into by and between GE CAPITAL FRANCHISE FINANCE CORPORATION, a Delaware corporation ("**Original Lessor**"), as lessor, and GOLDCO, INC., an Alabama corporation ("**Original Lessee**"), as lessee, with respect to real property located at 505 East Cummings Avenue, Opp, Alabama, 36467 (Store #8457), more particularly described in **Exhibit "B"** attached hereto and incorporated herein by reference (the "Premises"), as evidenced of record by that certain Memorandum of Lease, a copy of which is attached hereto for reference as **Exhibit "C"**.

WHEREAS, Lessor is the successor in interest to Original Lessor.

WHEREAS, Lessee is the successor in interest to Original Lessee, and is the current holder of the leasehold estate as evidenced by the 2014 Assignment, a copy of which is attached hereto as **Exhibit "A"**.

WHEREAS, Lessee desires to assign all of its right, title and interest under the Lease to Assignee and Assignee desires to accept and assume the same under the terms and conditions set forth below.

WHEREAS, Lessee and Assignee have requested that Lessor execute this Agreement to, among other things, evidence its consent to such assignment.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor, Lessee and Assignee hereby agree as follows:

3. **Acceptance of Assignment.** Assignee hereby accepts the Assignment, agrees to be substituted in place of Lessee as "Lessee" under the Lease and agrees to be bound by all of the terms and conditions of the Lease and this Agreement.
4. **No Release of Lessee.** Nothing contained in this Agreement will act to release Lessee from any of its duties or obligations under the Lease.
5. **Consent to Assignment.** Lessor hereby consents to the Assignment, which shall not be construed to constitute consent to any future assignment or transfer of the Agreement or the Lease by Assignee. The effectiveness of Lessor's consent set forth herein is subject to the following conditions:
 - (a) **Proof of Insurance.** On or prior to the Effective Date, Assignee shall have provided Lessor with evidence satisfactory to Lessor that all insurance required by the Lease is in full force and effect.
 - (b) **Franchise Agreement.** On or prior to the Effective Date, Lessee or Assignee shall have provided Lessor with evidence satisfactory to Lessor that with Lessee's franchise agreement with Burger King Corporation ("**Franchisor**") has been assigned to Assignee, or that Franchisor and Assignee have entered into a new franchise agreement, and all assignment and/or franchise fees in connection therewith have been paid or waived and Assignee is in good standing with Franchisor.
 - (c) **Fees and Expenses.** Lessee and Assignee agree that the following amounts shall be paid to Lessor on or prior to the Effective Date: (i) a \$500 administrative and processing fee, to be paid by Lessee, (ii) all out of pocket expenses incurred by Lessor in connection with this Agreement, including reasonable attorneys' fees, to be paid by Lessee, and (iii) all other fees and amounts required to be paid pursuant to this Agreement and together with any other outstanding unpaid fees and costs due under the Lease, to be paid by Lessee.
6. **Representations and Warranties.**
 - (a) The representations and warranties of Lessee contained in this Section are being made to induce Lessor and Assignee to execute and deliver this Agreement and Lessor and Assignee have relied, and will continue to rely, upon such representations and warranties. Lessee represents and warrants to Lessor as follows:
 - (i) *Organization, Authority and Status of Lessee.*
 1. Lessee has been duly organized or formed, are validly existing and in good standing under the laws of its state of formation. All necessary action has been taken to authorize the execution, delivery and performance by Lessee of this Agreement and of the other documents, instruments and agreements provided for herein.

2. The person who has executed this Agreement on behalf of the Lessee is duly authorized to do so.
 - (ii) *Lease.* The Lease has not been modified, amended, supplemented, assigned by Lessee or otherwise revised and is the only lease between Lessor and Lessee with respect to the Premises. The Premises is not subject to any subleases other than the Lease. The Lease is in full force and effect against Lessee and constitutes the legal, valid and binding obligation of Lessee, enforceable against Lessee in accordance with its terms. To Lessee's knowledge, no event has occurred and no condition exists which, with the giving of notice or the lapse of time or both, would constitute a default under the Lease. As of the Effective Date, to Lessee's knowledge, Lessee has no defenses, offsets, counterclaims, claims or demands of any nature which can be asserted against Lessor.
 - (iii) *Litigation.* There are no suits, actions proceedings or investigations pending, or to the best of its knowledge, threatened against or involving Lessee, or the Premises which might reasonably result in a material adverse change in the contemplated business, condition, worth or operations of Lessee, or the Premises.
 - (iv) *Absence of Breaches or Defaults.* Lessee is not in default under the Lease, or any document, instrument or agreement to which Lessee is a party or by which such party, the Premises or any of Lessee's property is subject or bound which default might reasonably result in a material adverse change in the business, condition, worth or operations of Lessee. The authorization, execution, delivery and performance of this Agreement and the documents, instruments and agreements provided for herein will not result in any breach of or default under any document, instrument or agreement to which Lessee is a party or by which Lessee or any of Lessee's property is subject or bound.
 - (v) *Taxes.* There are no taxes or assessments which are the responsibility of Lessee under Section 5.1 of the Lease that are delinquent or on which there is an unpaid balance against which interest is accruing.
- (b) The representations and warranties of Assignee contained in this Section are being made to induce Lessee and Lessor to execute and deliver this Agreement and Lessee and Lessor have relied, and will continue to rely, upon such representations and warranties. Assignee represents and warrants to Lessor as follows:
 - (i) *Organization, Authority and Status of Assignee.*
 1. Assignee has been duly organized or formed, is validly existing and in good standing under the laws of its state of formation. All necessary action has been taken to authorize the execution,

delivery and performance by Assignee of this Agreement and of the other documents, instruments and agreements provided for herein.

2. The person who has executed this Agreement on behalf of Assignee is duly authorized to do so.
3. Assignee certifies that it is not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specifically Designated National and Blocked Person" or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule, or regulation that is enforced or administered by the Office of Foreign Assets Control; and Assignee further certifies it is not engaged in the transaction, directly or indirectly, on behalf of, or instigation or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Assignee hereby agrees to defend, indemnify, and hold harmless Lessor from and against any and all claims, damages, losses, risks, liabilities, and expenses (including attorneys' fees and costs) arising from or related to any breach of the foregoing certification.

(ii) *Litigation.* There are no suits, actions, proceedings, or investigations pending, or to the best of its knowledge, threatened against or involving Assignee or the Premises which might reasonably result in any material adverse change in the contemplated business, condition, worth or operations of Assignee or the Premises.

(iii) *Absence of Breaches or Defaults.* Assignee is not in default under any document, instrument or agreement to which Assignee is a party or by which Assignee, the Premises or any of Assignee's property is subject or bound. The authorization, execution, delivery and performance of this Agreement and the documents, instruments and agreements provided for herein will not result in any breach of or default under any document, instrument or agreement to which Assignee is a party or by which Assignee, the Premises or any of the Assignee's property is subject or bound.

7. **Cross Default.** The parties acknowledge and agree that the Lease contains cross default provisions, and that such provisions shall only apply to the Other Agreements (as defined in the Lease) in which Assignee or its affiliate, successor or assign is the tenant/lessee. It is expressly acknowledged that the purpose of this provision is to prohibit any cross default between the Lease and another lease in which the tenant is not the Assignee or an affiliate of Assignee.

8. **Release.**

- (a) Lessee hereby fully and forever releases and discharges Lessor and its officers, directors, employees, affiliates, successors and assigns (collectively, the **“Released Parties”**), as applicable, for, from and against any and all obligations, claims and liabilities of any nature (matured or unmatured, known or unknown), which Lessee may have or hereafter have or claim to have against Lessor by reason of any act or matter arising and accruing in connection with the Lease or the Premises on or prior to the Effective Date. Lessee hereby agrees and covenants not to sue the Released Parties (without limiting any defenses Lessee may assert with respect to any action brought by Lessor against Lessee) for any act or matter arising and accruing in connection with the Lease or the Premises on or prior to the Effective Date.
 - b. Neither the Assignment nor the consent thereto contained herein shall release or discharge Lessee from any liability under the Lease and Lessee shall remain liable and responsible for the full performance and observance of, and the full compliance with, all of the provisions of the Lease to be performed, observed and complied with by Lessee thereunder.
9. **Notice Addresses.** All notices that may be given under the terms of the Lease to Lessor and/or Assignee shall be in writing and given in the manner permitted under the Lease to the address of Lessor and Assignee listed below or any subsequent address that either party may notify the other party of in the manner permitted under the Lease:

To: Lessor

Lessor’s Address for Payments
via Standard Mail:

ARC CAFEUSA001, LLC
██████████ ██████████
P. O. Box 29650
Phoenix, Arizona 85038-9650

Lessor’s Address for Payments
via Overnight Mail:

JPMorgan Chase (AZ-2170)
Restaurant (JPM) Lockbox Dept. #880044
1820 E. Sky Harbor Circle South
Phoenix, Arizona 85034

Lessor’s Address for Notices:

ARC CAFEUSA001, LLC
c/o VEREIT Operating Partnership, L.P.
2325 East Camelback Road, Suite 1100
Phoenix, Arizona 85016
Attention: Property Manager

To Assignee:

Premier Kings, Inc.
5529 Carmichael Road
Montgomery, Alabama 36117

10. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Signatures transmitted by facsimile or e-mail, through scanned or electronically transmitted .pdf, .jpg or .tif files, shall have the same effect as the delivery of original signatures and shall be binding upon and enforceable against the parties hereto as if such facsimile or scanned documents were an original executed counterpart.
11. **Severability.** If any provision of this Agreement or the application thereof to any party or circumstance shall be determined by any court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement or the application of such provision to such person or circumstance, other than those as to which it is so determined invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law.
12. **Effect of Agreement.** Except as expressly modified herein, the Lease is unmodified and shall continue in full force and effect. In the event of any conflict between the terms of the Lease and the terms of this Agreement, this Agreement shall control.
13. **Broker.** Lessee and Assignee each represents that it has not dealt with any broker in connection with this Agreement and that no broker negotiated this Agreement on behalf of Lessee or Assignee and is entitled to any commission in connection therewith, and Lessee and Assignee each hereby agrees to indemnify and hold Lessor harmless for, from and against all claims to any commission or other payments due by anyone claiming representation of Lessee or Assignee, as applicable, in connection with this Agreement.

[SIGNATURES AND ACKNOWLEDGEMENTS APPEAR ON THE FOLLOWING PAGES]

WHEREFORE, the parties hereto have executed this Agreement as of the day and date first above written.

Witnesses:

LESSOR:

Pauline Thomas
Print Name: Pauline Thomas

ARC CAFEUSA001, LLC, a Delaware limited liability company

By: VEREIT Operating Partnership, L.P., a Delaware limited partnership, its sole member

Tambre Rund
Print Name: Tambre Rund

By: [Signature]
Print Name: Todd J. Weiser
Title: Authorized Signatory

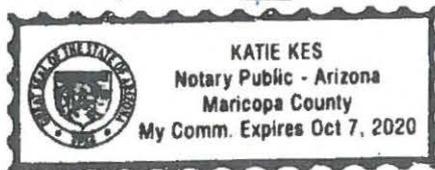
STATE OF ARIZONA

COUNTY OF MARICOPA

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Todd J. Weiser, who is named as the Authorized Signatory of VEREIT Operating Partnership, L.P., a Delaware limited partnership, the sole member of ARC CAFEUSA001, LLC, a Delaware limited liability company, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand on 10/25 2016.

[SEAL]



Katie Kes
Notary Public, State of AZ

My Commission Expires:

10/7/20

Katie Kes
Printed Name of Notary Public

Witnesses:

LESSEE:

BURGER GULF COAST, LLC, a Delaware limited liability company

Mair A. Dame
Print Name: GAIL A. DAME

By: Anand d. Patel
Name: Anand Patel
Title: Manager

Mary E. Treese
Print Name: Mary E. Treese

STATE OF MISSOURI
COUNTY OF Cape Girardeau

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Anand Patel, who is named Manager of BURGER GULF COAST, LLC, a Delaware limited liability company, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand on Oct 25, 2016.

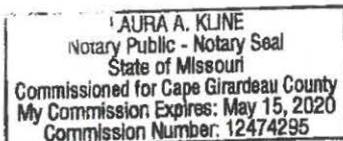
[SEAL]

Laura A. Kline
Notary Public, State of Missouri

My Commission Expires:

5-15-2020

Laura A. Kline
Printed Name of Notary Public



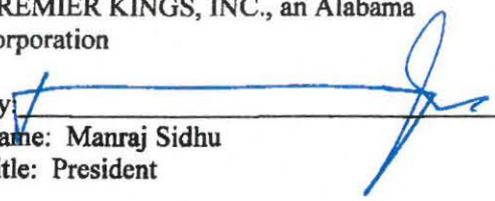
ASSIGNEE:

WITNESSES:

Print Name: _____

Print Name: _____

PREMIER KINGS, INC., an Alabama corporation

By: 
Name: Manraj Sidhu
Title: President

STATE OF Alabama

COUNTY OF Montgomery

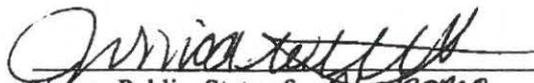
I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Manraj Sidhu, who is named as President of PREMIER KINGS, INC., an Alabama corporation, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand on October 24, 2016.

[S E A L]

My Commission Expires:

MY COMMISSION EXPIRES NOVEMBER 13, 2017


Notary Public, State of Alabama

Jessica Wilson
Print Name of Notary Public

EXHIBIT "A"**Legal Description**

A lot or parcel of land in the City of Opp, Covington County, Alabama and being more particularly described as follows:

COMMENCING at the SW corner of the SW 1/4 of the SE 1/4 of Section 28, Township 4 North, Range 18 East, City of Opp, Covington County, Alabama; thence N 00°09'54" E along the East line of said forty a distance of 495.30 feet to a point on the South Right-of-Way (R/W) of County Highway #22 (Old Perry Store Road—Also known as Old Opp—Alberton Road) (R/W Varies); thence along said South R/W bearing N 85°38' W a distance of 223.30 feet to an Existing Iron Pin (EIP) (5/8" Open Pipe) and the POINT OF BEGINNING (P.O.B.); thence depart said South R/W bearing S 00°09'54" W a distance of 261.25 feet to a Set Iron Pin (SIP) (CA 0621LS); thence S 64°29'45" W a distance of 32.27 feet to an EIP (1" Open Pipe) on the Northerly R/W of U.S. Highway No. 331 (75' R/W); thence along said Northerly R/W of U.S. Highway #331 and a curve to the left having a radius of 602.01 feet with a chord bearing of N 36°55'43" W a chord distance of 228.76 feet to a SIP; thence along said Northerly R/W along a curve to the left having a radius of 675.79 feet with a chord bearing of N 53°51'25" W a chord distance of 199.45 feet to a Set Nail in Asphalt and the intersection of the Northerly R/W of said Highway No. 331 with the said South R/W of County Highway #22; thence along said South R/W bearing S 85°35'04" E a distance of 329.37 feet to the P.O.B. Said parcel is situated in the SW 1/4 of the SE 1/4 of Section 28, Township 4 North, Range 18 E.