


Fill in this information to identify the case:

Debtor 1 Premier Kings, Inc.

Debtor 2 _____
(Spouse, if filing)

United States Bankruptcy Court for the: Northern District of Alabama 

Case number 23-02871-TOM11

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 of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

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

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

Part 1: Identify the Claim

1. Who is the current creditor?	<u>DPI Group, LLC and P. DeSantis</u> <small>Name of the current creditor (the person or entity to be paid for this claim)</small> Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent? <small>Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)</small>	Where should notices to the creditor be sent? <u>Thomas Humphries</u> <small>Name</small> <u>2311 Highland Avenue S.</u> <small>Number Street</small> <u>Birmingham</u> <u>AL</u> <u>35205</u> <small>City State ZIP Code</small> Contact phone <u>205-930-5331</u> Contact email <u>thomas.humphries@dentons.com</u>	Where should payments to the creditor be sent? (if different) <u>Angela DeSantis</u> <small>Name</small> <u>P.O. Box 3377</u> <small>Number Street</small> <u>Fresno</u> <u>CA</u> <u>93650</u> <small>City State ZIP Code</small> Contact phone _____ Contact email _____
Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____		
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	



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

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

7. How much is the claim? \$ 130,910.39. 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).

***See Exhibit 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.
Lease Rejection Damages

9. Is all or part of the claim secured? ☒ No
☐ Yes. The claim is secured by a lien on property.
Nature of property:
☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
☐ Motor vehicle
☐ Other. Describe: _____
Basis for perfection: _____
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)
Amount necessary to cure any default as of the date of the petition: \$ _____
Annual Interest Rate (when case was filed) _____ %
☐ Fixed
☐ Variable

10. Is this claim based on a lease? ☐ No
☒ Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

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

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

☒ No

☐ Yes. Check one:

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

☐ Up to \$3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

☐ Wages, salaries, or commissions (up to \$15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

Amount entitled to priority

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

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

Part 3: Sign Below

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

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 acknowledgment 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 a reasonable belief that the information is true and correct.

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

Executed on date 01/02/2024

MM / DD / YYYY

Signature

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

Name Thomas B. Humphries
First name Middle name Last name

Title Counsel for Creditor

Company Dentons Sirote PC
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 2311 Highland Avenue S.
Number Street

Birmingham AL 35205

City State ZIP Code

Contact phone 205-930-5331 Email thomas.humphries@dentons.com

EXHIBIT A

Rejection Damages Calculation for claim of landlord DPI Group, LLC:

<u>Prepetition Amounts Owed:</u>	
• Balance owed under the Lease as of October 25, 2023 (see attached ledger):	• <u>\$13,146.59</u>
<u>Rent Reserved under the Lease</u>	
• Rent reserved under the Lease for one (1) year:	• <u>\$117,763.80</u> (\$9,813.65/month)
<u>Total Claim as capped by § 502(b)(6):</u>	<u>\$130,910.39</u>

- This claim relates to closed Store 16460 (529 Claxton Ave., Elba, Alabama 36323)
- See First Omnibus Motion for 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 (Doc. 44); Order (I) Authorizing Rejection of Certain Unexpired Leases and (II) Setting a Deadline for the Filing of Rejection Claims (Doc. 250).

Transactions

Date Range: 7/05/20 - 12/04/23

Tenant	Account	Property	Unit	Active Start	Active End
Burger King #16460	480	Burger King	529-Burger King	1/31/2008	

Date	Reference	Description	Comment	Amount	Balance
09/01/22		Rent Charge		9,258.16	9,258.16
09/01/22	Ch 36392	Payment Received	Sept Rent	-9,258.16	0.00
10/01/22		Rent Charge		9,258.16	9,258.16
10/01/22	Ch 36616	Payment Received	Oct Rent	-9,258.16	0.00
11/01/22		Rent Charge		9,258.16	9,258.16
11/07/22	Ch40058	Payment Received	Nov Rent	-9,258.16	0.00
12/01/22		Rent Charge		9,258.16	9,258.16
12/26/22	Ch 40192	Payment Received	Dec Rent	-9,258.16	0.00
01/01/23		Rent Charge		9,258.16	9,258.16
01/05/23	Ch 010523	Payment Received	Jan Rent	-9,258.16	0.00
02/01/23		Rent Charge		9,258.16	9,258.16
02/15/23	Ch 40485	Payment Received	Feb Rent	-9,258.16	0.00
03/01/23		Rent Charge		9,258.16	9,258.16
03/13/23	Ch 40711	Payment Received	Mar Rent	-9,258.16	0.00
04/01/23		Rent Charge		9,813.65	9,813.65
04/05/23	Ch 409988	Payment Received	April Rent	-9,258.16	555.49
05/01/23		Rent Charge		9,813.65	10,369.14
05/08/23	Ch 91186	Payment Received	May Rent	-9,258.16	1,110.98
06/01/23		Rent Charge		9,813.65	10,924.63
06/05/23	Ch 41370	Payment Received	June Rent	-9,258.16	1,666.47
07/01/23		Rent Charge		9,813.65	11,480.12
07/02/23	Ch 41529	Payment Received	July REnt	-9,258.16	2,221.96
08/01/23		Rent Charge		9,813.65	12,035.61
08/05/23	Ch 41697	Payment Received	Aug Rent	-9,258.16	2,777.45
09/01/23		Rent Charge		9,813.65	12,591.10
09/21/23	Ch 41902	Payment Received	Sept Rent	-9,258.16	3,332.94
10/01/23		Rent Charge		9,813.65	13,146.59
11/01/23		Rent Charge		9,813.65	22,960.24

BK 16460

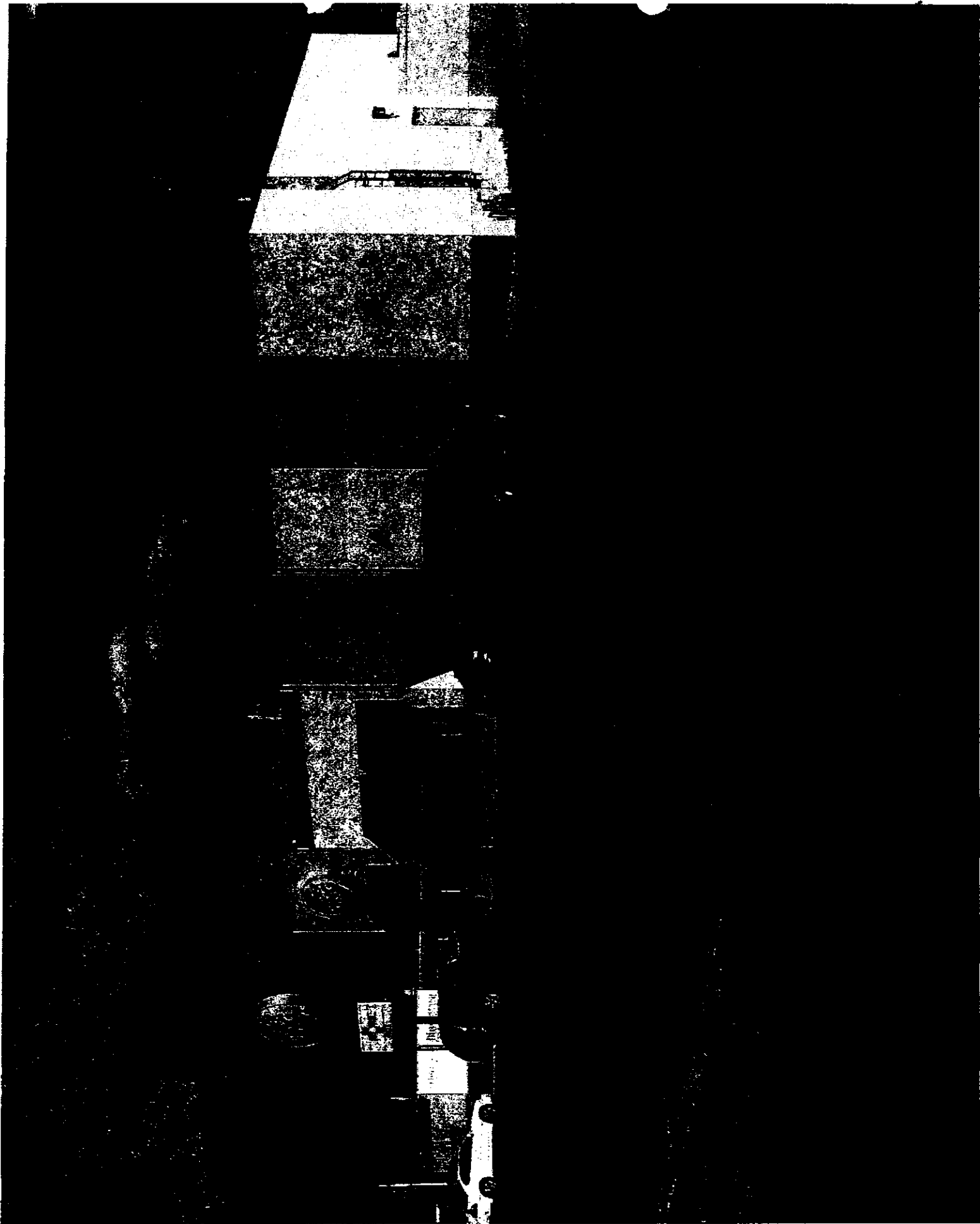
Address: 529 Claxton Avenue
Elba, AL 36323

Date opened: Jan. 2008¹

Additional Info: 0.736 acre
32,054 sq. ft.
86 seats
Redesigned, remodeled and opened as
a Burger King in 2008.

Sales:	2009	\$1,165,509
	2010	\$1,034,510
	YTD 2011	\$ 774,934
	Projected 2011	\$1,033,245

¹ This was a former Hardee's that was totally rebuilt and reimaged for Burger King.



LEASE ABSTRACT

LOCATION: 729 Claxton Avenue
Elba, Alabama

BK UNIT NO.: BK 16460

LESSOR: Applefield Six Family L.P. and Denver L.P.

LESSEE: Goldco LLC

DATE OF LEASE: January 31, 2008

TERM: Twenty (20) years
Commencing from January 31, 2008, and expiring at midnight
on January 30, 2028.

OPTION OF RENEW: Lessee shall have the option of extended terms for four (4)
additional periods of five (5) years each

RENTAL (BASE):

	Annual	Monthly
March 26, 2008 - March 25, 2011	\$88,000.00	\$7,333.33
March 26, 2011 - March 25, 2014	\$93,280.00	\$7,773.33 ✓
March 26, 2014 - March 25, 2017	\$98,876.80	\$8,239.73
March 26, 2017 - March 25, 2020	\$104,809.41	\$8,734.11
March 26, 2020 - March 25, 2023	\$111,097.97	\$9,258.16
March 26, 2023 - March 25, 2026	\$117,763.85	\$9,813.65
March 26, 2026 - March 25, 2028	\$124,829.68	\$10,402.47

SECURITY DEPOSIT:

TAX DEPOSIT:

INSURANCE:

OPTION TO PURCHASE:

FRANCHISE TERMS:

FRANCHISE FEE:

RESTAURANT INFO:

Seats:

Parking Spaces:

Playground:

Lot Square Footage:

City Of Elba

"A City on the Grow"

200 BUFORD STREET • ELBA, ALABAMA 36323

334-897-2333 • 334-897-2261

FAX 334-897-3337

E-Mail: elbacity@charter.net

JAMES E. GRIMES
MAYOR
N. WAYNE GRANTHAM
CITY CLERK

COUNCIL MEMBERS
DAVID BANDSTRA
RONNIE L. HAMMOND
TOM G. HOOKS
MIKE McKEE
HAROLD SPICER

March 26, 2008

Myers Construction
1701 Nearing Hills Circle
Chipley, FL 32428

TO WHOM IT CONCERN:

Certificate of Occupancy

The Burger King, 529 N. Claxton Ave., Elba, Alabama, has been inspected by the City of Elba building inspector. The building or premises has been found to conform with the provisions of the City of Elba Code of Ordinances.

If you need any further information, please call me.

Sincerely,



Troy Gideon
Building Inspector

TG/tm

LEASE/SUBLEASE AGREEMENT

THIS AGREEMENT (the "Lease"), is made as of January 31, 2008 (the "Lease Date"), by and between **Applefield Six Family Limited Partnership**, a Florida limited partnership and **Denver Limited Partnership**, an Alabama limited partnership (hereinafter, collectively, referred to as "Lessor"), whose address is 106 Adris Place, Dothan, Alabama 36303, and **GOLDCO, LLC., an Alabama Limited Liability Company** ("Lessee"), whose address is 2330 Montgomery Highway, Dothan, Alabama 36303. (The terms "Lessor" and "Lessee" shall mean respectively "Sublessor" and "Sublessee" whenever the context requires or permits it.)

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

I. PROPERTY LEASED

1.1 DEMISE. Lessor leases to Lessee and Lessee leases from Lessor the following property (the "Land") along with the Burger King® Restaurant (the "Building" or the "Restaurant") and the other improvements to be constructed thereon and the appurtenances thereto (collectively called the "Premises").

Legal Description: See **Exhibit "A"** attached hereto and made a part hereof.

Commonly described as: **Hardees Conversion, 529 Claxton Avenue, Elba, AL**

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

1.2 ERECTION OF BUILDING. Commencement of this Lease is conditioned on the completion of the Building in accordance with plans and specifications prepared by Lessor's architect. Lessor shall construct or contract for the construction of the Building promptly and to complete or contract to complete it as promptly as conditions will permit, but in any event before one hundred eighty (180) days from the Lease Date; provided, however, that this period shall be extended by any time lost in construction due to delays caused by strike, lockout, acts of God, shortage of materials, or other conditions beyond the control of Lessor. In the event the Building is not completed within one (1) year from the date of this Lease, this Lease may be terminated at the option of either party, on fifteen (15) days' notice to the other party.

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

II. TERM

2.1 TERM.

(a) *Original Term.* The term of this Lease (the "Term") shall commence on the date the Building and the other site improvements are substantially completed by Lessor, which shall be the date that a final certificate of occupancy has been issued by the appropriate governing authority for the Premises (the "Commencement Date") and shall expire at midnight on the twentieth (20th) anniversary date hereof (the "Original Term Expiration Date") unless sooner terminated as provided in this Lease. The Commencement Date shall be designated by the parties in a form capable of being recorded among the public records of the county where the Premises are located.

(b) *Extension.* Provided that the Lessee is not in default of its obligations under this lease, Lessee shall have the option of extended terms hereof for four (4) additional periods of five (5) years, each, commencing at midnight on

Lease Agreement
Hardees Conversion
#544422

3-26-08

the date on which the original term of any extended term of this lease terminates. The lease extensions shall be automatic so that unless the Lessee shall give to the Lessor notice that it does not intend to renew this Lease, which notice must be given not later than one hundred eighty (180) days prior to the expiration of the preceding term, the parties shall be bound to the agreements of this Lease for such additional term of years as set forth.

2.2 POSSESSION. Possession of the Premises shall be delivered to the Lessee on the Commencement Date.

2.3 HOLDOVER. Any holdover at the expiration of the Term with the written consent of Lessor shall be on a month to month basis, which tenancy may be terminated by Lessor giving Lessee not less than fifteen (15) days notice. During such holdover tenancy, Lessee agrees to pay Lessor on a monthly basis all increased rentals and other charges that would have been due under this Lease and agrees to continue to be bound by all of the terms of this Lease which are applicable at that time. In the event Lessee holds over without consent of Lessor, the rent during any holdover period shall be double the average rent that was due during the last year of the Lease Term.

2.4 END OF TERM.

(a) *Fixtures and Personalty.* At the expiration or earlier termination of this Lease, any Fixtures, as defined in Section 16.13 of this Lease, located on the Premises and not already owned by Lessor shall become the property of the Lessor. If, at that time, Lessee has fully complied with Lease terms and conditions, Lessor hereby waives any right to claim any personalty owned or leased by Lessee and located on the Premises. The personalty may then be removed by Lessee or the Lessor of such personalty provided that the Premises are restored to their original condition. Any such personalty not removed within fifteen (15) days after the Lease expiration or termination shall be deemed abandoned and become the property of Lessor.

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

III. CONSIDERATION

3.1 RENT. Lessee agrees to pay and Lessor agrees to accept a annual rental as indicated below, for each year of the Term of this Lease (such being hereinafter referred to as "Annual Rental"), the Annual Rental to be payable in monthly installments in advance on the first day of each month during the Term of this Lease. The Annual Rental shall be increased by six percent (6%) every three years. The first monthly installment shall be due on the Commencement Date. If this Lease shall commence on any day other than the first day of a calendar month, the monthly installment for the first and last month of the Lease Term shall be prorated.

Annual Rental: \$88,000.00

Monthly Annual Rental: \$7,333.33

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

3.2 PERCENTAGE RENTAL. (Intentionally omitted)

3.3 FINANCIAL REPORTS

(a) Within 120 days after the end of each fiscal year of Lessee, Lessee shall deliver to Lessor the consolidated balance sheet of Lessee's and related consolidated statements of income and cash flow for such year, prepared in accordance with generally accepted accounting principles and reviewed, or audited if available, by Lessee's independent certified public accountants. In addition, Lessee shall provide the annual operating report for the Restaurant.

(b) Within 60 days after the end of each of the first three fiscal quarters of each fiscal year, Lessee shall deliver to Lessor the Lessee prepared but un-reviewed consolidated balance sheet of Lessee and related consolidated statements of income and cash flow for such quarter, certified by Lessee as having been prepared in accordance with generally accepted accounting principles, subject to normal, recurring year-end adjustments. In addition, Lessee shall provide the quarterly operating report for the applicable restaurant leased.

(c) Financial Statements. Intentionally omitted.

(d) Records and Audit. Intentionally omitted.

(e) Release of Financial Information. Lessee and Guarantors give permission to Lessor to release to Lessor's landlord, lenders or prospective landlord or lenders and/or any prospective purchaser of all or part of Lessor's interest in the Premises and/or the Lease, any financial and operational information relating to Lessee, Guarantors and/or the business operated at the Premises; provided such person agrees, in writing, to keep the information confidential.

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

3.5 ALTERNATIVE METHOD OF PAYMENT. Lessor or its assigns, Mortgagee or designated agent, may, at its/their option, require payment of (i) the Annual Rental established in Section 3.1 of the Lease, and/or (ii) the monthly escrow sum described in Section 6.4 of the Lease and/or (iii) if applicable, any common area maintenance or similar charge assessed pursuant to the Lease and/or (iv) any Additional Charges due pursuant to Section 3.4 of this Lease by making direct monthly withdrawals in the appropriate amount(s) from Lessee's bank account. In the event that this option is exercised, Lessee agrees to execute and deliver to its bank and to Lessor those documents necessary to authorize such withdrawals and to make payment or deposit as directed by Lessor. Lessee further agrees that it will not thereafter terminate such authorization so long as this Lease is in effect. Lessee also agrees that in the event that a direct monthly withdrawal program is not available at the bank at which Lessee then does its business, it will take all reasonable and necessary steps to establish an account at a bank, which does have such a program.

3.6 LATE CHARGES. All rent, Additional Charges and any other charges shall be paid to Lessor without notice or demand and without abatement, deduction or set-off, except as otherwise expressly provided in this Lease. All payments not paid when due shall incur a late fee equal to 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 simple interest until the date paid at the prime or base rate of interest as published from time to time in the Wall Street Journal

floating daily plus two (2) percentage points per annum. In the event such interest rate shall be void or unenforceable under the laws of the jurisdiction where the Premises are located, the highest rate of interest permitted within such jurisdiction shall be charged.

IV. INSURANCE

4.1 INSURANCE COVERAGE. 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 hereof are satisfied), in addition to such other insurance as Lessor may reasonably require from time to time:

(a) Insurance against loss, damage or destruction by fire, windstorm and other casualty, including theft, vandalism and malicious mischief, flood (if the improvements on the Premises are located in an area 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, except for foundations and footings.

(b) Commercial general liability insurance, including a products liability clause, covering 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 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 \$3 million in the aggregate 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 satisfactory to Lessor.

(c) Business income insurance of a minimum of 100% of the Annual Rental for a period of not less than six months.

(d) State Worker's compensation insurance in the statutorily mandated limits, 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.

4.2 INSURANCE POLICIES. All insurance policies shall:

(a) With the exception of the worker's compensation insurance coverage, provide for a waiver of subrogation by the insurer as to claims against Lessor, Lessor's lender ("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 or agents;

(b) 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;

(c) Contain a standard without contribution mortgage clause endorsement in favor of Lender and its successors and assigns as their interests may appear;

(d) Provide that the policy of insurance shall not be terminated, cancelled or materially modified without at least thirty (30) days' prior written notice to Lessor and Lender;

(e) 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 hereof;

(f) Be issued by insurance companies licensed to do business in the state in which the Premises is located and which have a claims paying ability rating by A.M. Best of "A-X" or better or are otherwise approved by Lessor and Lender; and

(g) Provide that the insurer shall not deny a claim because of the negligence of Lessee, anyone acting for Lessee or any tenant or other occupant of the Premises.

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 insurance policies (with the exception of worker's compensation insurance to the extent not available under statutory law) shall designate Lessor, Lender and any other parties designated by Lessor and their respective successors and assigns as additional insureds as their interests may appear. All such policies shall be written as primary policies, with deductibles not to exceed \$50,000. Any other policies, including any policy now or hereafter 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 (except that Lessee's general liability, worker's compensation and auto insurance policies in effect as of the Commencement Date have a remaining term of less than one year, provided that all replacement policies for such coverage shall have effective 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 ten (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 hereunder naming such transferee or such Lender, as the case may be, as an additional named insured to the extent required herein effective as of the date of such transfer, financing or refinancing.

V. THE PREMISES

5.1 USE AND SERVICES. During the Term of this Lease, Lessee shall continuously operate a Burger King Restaurant on the Premises in accordance with the terms of the Burger King Franchise Agreement, unless Lessee is prevented from doing so due to acts of God or other causes beyond Lessee's control. The Premises shall not be used for any other purpose. Lessee shall not use in connection with the operation of or as additional parking for its business on the Premises any property other than the Premises, except in accordance with the provisions of Article XIII of this Lease.

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

5.2 REPAIRS AND MAINTENANCE. Lessee shall, at all times during the Term, at its own cost and expense, put, keep and maintain the Premises and all Fixtures and personalty located on it in good order and condition, and subject to all applicable terms of paragraphs 5.3 and 5.8, shall make all necessary and desirable repairs, restorations

and replacements thereof, structural and nonstructural, foreseen or unforeseen (hereinafter collectively called "Repairs"), and shall use all reasonable precaution to prevent waste, damage or injury. Lessee shall also put, keep and maintain in good repair and free from dirt, snow, ice, rubbish and other obstructions or encumbrances, the sidewalks, parking areas, yards, plantings, gutters and curbs in front of and adjacent to the Premises.

In the event that Lessee fails or neglects to make all necessary Repairs or fulfill its other obligations as set forth above, Lessor or its agents may enter the Premises for the purpose of making such Repairs or fulfilling those obligations. All costs and expenses incurred as a consequence of Lessor's action shall be repaid by Lessee to Lessor within 15 days after Lessee receives copies of receipts showing payment by Lessor for such Repairs or other obligations. These receipts shall be prima facie evidence of the payment of the charges paid by Lessor. Except in the case of emergency, Lessor shall give Lessee ten (10) days notice before taking any such action.

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

Lessee shall not at any time make any alteration, change, addition or improvement (hereinafter collectively called "Alterations") in or to the interior or exterior of the Premises without the prior written consent of Lessor. In the event consent is given:

(a) the Alterations shall be performed in a first class workmanlike manner at Lessee's sole expense, and shall not weaken or impair the structural strength or lessen the value of the Premises, or change the purpose for which the Premises may be used;

(b) the Alterations shall be made according to plans and specifications therefor, which shall be first submitted to and approved in writing by Lessor;

(c) before the commencement of work on any Alterations, such plans and specifications shall be approved by all governmental authorities having jurisdiction and any public utility company having an interest in the Alterations;

(d) before the commencement of any Alterations, Lessee shall pay the amount of any increase in premiums on insurance policies for endorsements covering the risk during work on the Alterations, and workmen's compensation insurance covering all persons employed in connection with that work.

(e) if the estimated cost of the alteration exceeds \$25,000.00, Lessee shall furnish to Lessor a surety bond of a company acceptable to Lessor, in an amount equal to the estimated cost of such work, or other security satisfactory to Lessor, guaranteeing the completion of such work, free and clear of all liens and encumbrances.

(f) before the commencement of any Alterations which involve a contract for labor, services, materials, or supplies in excess of \$5,000.00, Lessee shall deliver to Lessor, where permitted by law, either (1) a duplicate original of the contract, if in writing, which shall provide that no lien or claim against the Premises or the equipment on it shall be created or filed as a result of performance of work under the contract or (2) a written waiver by the architect, engineer, contractor, subcontractor, materialman, mechanic, or other person contracting to furnish such labor, services, materials or supplies, of all lien rights which he or it might otherwise have against the Premises or Lessor's interest in it.

All buildings, additions, improvements, Fixtures and appurtenances in or on the Premises at the Commencement Date and those which may be erected, affixed or installed in or on the Premises during the Term are deemed to be and shall

immediately become part of the Premises and the sole property of Lessor. All personalty installed by Lessee (except signs, trademarks and other insignia of Lessor) shall remain the property of Lessee.

5.4 LIENS. Should Lessee cause any Alterations or Repairs to be made to the Premises, or cause any labor to be performed or material to be furnished, neither Lessor nor the Premises shall under any circumstances be liable for the payment of any expense incurred, and all such Alterations and Repairs shall be made and performed at Lessee's expense. If, because of any act or omission of Lessee, any mechanic's or other lien, charge, claim or order for the payment of money shall be filed against the Premises or against Lessor, Lessee shall, at its own cost and expense, cause it to be cancelled and discharged of record or bonded within fifteen (15) days after notice of filing thereof. In the event that the Lessee fails to cause any such mechanics' or other lien, charge or order to be cancelled and discharged or bonded, then, in addition to any other right or remedy of the Lessor, the Lessor may, at its option, cancel or discharge it by paying the amount claimed to be due into Court or directly to any claimant and the amount so paid by Lessor and all costs and expenses including attorneys' fees incurred for the cancellation or discharge of such lien shall be due from the Lessee to the Lessor as an additional charge payable on demand.

5.5 SIGNS. Lessee shall not place any signs or symbols on any portion of the Premises without the prior written approval of Lessor except signs approved and or required by the franchisor.

5.6 INSPECTION. Lessor or their representatives shall have the right to enter the Premises at reasonable hours of any business day to ascertain if the Premises are in proper repair and condition; provided, however Lessee's business operations being conducted in the Premises shall not be unreasonably disturbed or interfered with during such entry.

5.7 LICENSE AND LAWS. The Lessee shall, at its own cost and expense, obtain all necessary licenses and/or permits which may be required for the conduct of its business; and Lessee shall, at its own cost and expense, promptly observe and comply with all present and future laws, ordinances, requirements, orders, directions, rules and regulations (referred to generally as "Regulations") of governmental authorities having or claiming jurisdiction over the Premises or the conduct of Lessee's business. By way of example, and not limitation, compliance with governmental Regulations shall include, but not be limited to, the following: (a) Alterations and/or additions to the Premises if required under the Americans with Disabilities Act of 1990 and (b) testing, remediation or abatement of environmental conditions (defined as conditions affecting the air, soil, ground water and improvements) affecting the Premises or properly adjacent to or near the Premises, if so required by governmental authority. Lessee may contest in good faith, after notice to Lessor, by appropriate proceedings conducted promptly at Lessee's own expense, in Lessee's name (and/or whenever necessary and with Lessor's consent, in Lessor's name), the validity or enforcement of any such regulation; provided that (i) such contest or any associated deferment of payment does not subject Lessor to a fine or other criminal liability, or subject the Premises to any encumbrance, (ii) Lessee diligently prosecutes such contest to a final determination by the governing authority, and (iii) Lessee furnishes Lessor with any security that Lessor may reasonably request in connection with such contest.

5.8 DAMAGE OR DESTRUCTION. If, during the Term, the Premises or the personalty or Fixtures on it are destroyed or damaged in whole or in part by fire or other cause, Lessee shall give Lessor immediate notice, and Lessee, at its own cost and expense, shall cause the prompt repair, replacement and rebuilding of same ("Restoration"), subject to paragraphs 5.2 and 5.3 of this Lease. The restored Building, personalty or Fixtures shall reflect the then current image of Burger King Restaurants and conform to the then current design and specifications of Lessor. Lessor shall in no event be called upon to repair, replace or rebuild any such buildings, Fixtures or personalty, nor to pay any of the costs or expenses thereof beyond or in excess of any insurance proceeds, as provided in this Lease.

All insurance proceeds received by Lessor or by any Insurance Trustee on account of such damage or destruction, less the actual cost, fees and expenses, if any, incurred in connection with adjustment of the loss, shall be applied by Lessor to

pay or reimburse Lessee for the payment of the cost of the Restoration, including the cost of temporary Repairs or for the protection of property pending the completion of permanent Restoration, and shall be paid out from time to time as Restoration progresses upon the written request of Lessee, accompanied by evidence satisfactory to Lessor that:

(a) (1) the sum then requested either has been paid by Lessee or is justly due to contractors, subcontractors, materialmen, or other persons who have rendered services or furnished materials for the Restoration pursuant to a certificate or claim for payment ("Certificate"), and that the sum then requested does not exceed the amount of the services and materials described in the Certificate;

(2) except for the amount, if any, stated in the Certificate to be due for services or materials, there is no outstanding indebtedness known to the persons signing such Certificate, after due inquiry, which is then due for labor, wages, materials, supplies, or services in connection with the Restoration;

(3) the cost of the Restoration required to be done does not exceed the insurance proceeds, and;

(b) that there have not been filed against the Premises any vendor's, contractor's, mechanic's, laborer's or materialman's statutory or similar lien ("Liens") which has not been discharged of record, except those that will be discharged upon payment of the sum requested in the Certificate, or bonded or contested in accordance with paragraph 5.4.

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

If the insurance proceeds and other funds deposited with Lessor or the Insurance Trustee, less the actual cost, fees and expenses, if any, incurred in connection with the adjustment of the loss, are insufficient to pay the entire cost of the Restoration, Lessee will pay the deficiency.

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

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

5.10 CONTRACTS. Lessee shall not without Lessor's consent enter into any service contract or agreement relating to the furnishing of any services to the Premises or the occupants of it unless such contract or agreement shall by its terms be terminable on no more than thirty (30) days notice or shall expressly provide that it shall not become binding on Lessor in the event that this Lease is terminated or expires

VI. TAXES AND OTHER CHARGES

6.1 PAYMENT.

(a) In the event Lessor elects, at its sole option, to pay the taxes, assessments, charges for public utilities, excises, levies, licenses, permit fees or other governmental impositions and charges of any kind and nature whatsoever ("Charges") which are payable in connection with the ownership, occupancy or possession of the Premises, Lessee shall reimburse Lessor within fifteen (15) days after Lessee receives an invoice for the payment of such Charges.

(b) In the event Lessor elects not to pay the Charges as set forth in the preceding paragraph, Lessee shall pay on or before the last day on which payment may be made without penalty or interest, all Charges which may be assessed, imposed, or become due and payable in connection with the ownership, occupancy or possession of the Premises or the Fixtures or personalty on it, or any Charges which may be imposed in lieu of, or as a substitution for, any such Charges. At any time after the time for payment of each charge, upon Lessor's request, Lessee shall exhibit to Lessor satisfactory evidence of payment. All Charges assessed or imposed for the fiscal periods in which the Term of this Lease commences and terminates shall be apportioned.

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

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

- (a) an assessment made wholly or partially as a capital levy, or
- (b) an assessment measured by or based in whole or in part on the Premises, or
- (c) a license fee measured by the rent payable by Lessee under this Lease,

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

6.4 ESCROW FUNDS. If, during the Term of this Lease, Lessor or any Mortgagee requests Lessee to provide an escrow fund for payment of real estate taxes, Lessee agrees that upon such request it will promptly deposit with Lessor or its designated Mortgagee, for each month or portion thereof since the due date of the previous tax bill, one-

twelfth (1/12) of the latest year's tax obligation (the "Monthly Escrow Sum"), and that it will continue to deposit the Monthly Escrow Sum on the first day of each subsequent month, so that as each installment of real estate taxes becomes due and payable, Lessee will have deposited a sum sufficient to pay it. All of these deposits (the "Escrow Funds") shall be received and held in trust; provided, however, that unless otherwise required by law, Lessor or its designated Mortgagee shall not be required to maintain the Escrow Funds in a segregated account nor invest them in interest bearing accounts or securities nor pay any interest on them. When the real estate taxes become due and payable, Lessor or its Mortgagee shall promptly pay them from the Escrow Funds and shall promptly forward to Lessee receipts or other satisfactory evidence of payment. In the event that the amount of the real estate taxes assessed or imposed against the Premises has not been fixed at the time when any Monthly Escrow Sum is due, the Monthly Escrow Sum shall be one-twelfth (1/12) of the amount of real estate taxes assessed or imposed against the Premises for the preceding year, subject to adjustment when the actual amount of the real estate taxes is ascertained. If required by Lessor or any Mortgagee, the provisions of this paragraph shall be applicable to any additional Charges due under this Lease.

VII. INDEMNIFICATION

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

VIII. ENFORCEMENT

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

(a) If Lessee files any proceeding under the United States Bankruptcy Code, any other federal or state bankruptcy, reorganization, receivership, insolvency or other similar law affecting the rights of creditors generally, or for dissolution under the laws of the United States or of any state, or voluntarily takes advantage of any such law or act or is dissolved or makes an assignment for the benefit of creditors;

(b) If involuntary proceedings under the United States Bankruptcy Code, any other federal or state bankruptcy, reorganization, receivership, insolvency or other similar law or for the dissolution of a corporation are instituted against Lessee or if a receiver or trustee is appointed of all or substantially all of the property of Lessee and such proceedings are not dismissed or such receivership or trusteeship vacated within ninety (90) days after such institution or appointment;

(c) Hold the Lessee liable for all Rent payable under this Lease through the Original Term Expiration Date, Lessee agreeing that Lessor shall have no obligation to re-let the Premises for the benefit of Lessee or otherwise mitigate Lessor's damages resulting from Lessee's Default hereunder; provided, however, that Lessor shall use reasonable efforts to mitigate Lessor's damages resulting from the Lessee's Default hereunder;

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

(e) If Lessee fails to pay Lessor any rent, additional or other charge when it becomes due and payable and fails to make such payment within ten (10) days after written notice thereof by Lessor to Lessee;

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

(g) If the Lessee or any agent of Lessee falsifies any material report required to be furnished to Lessor pursuant to the terms of this Lease and fails to notify Lessor of such falsification within sixty (60) days of Lessee's knowledge that such submission was false.

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

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

8.3 LESSOR'S REMEDIES. If Lessee is in default under this Lease, Lessor may, at its option, in addition to such other remedies as may be available under applicable law:

(a) Terminate this Lease and Lessee's right of possession, and retake possession for Lessor's account. In such event, Lessor may repair and alter the Premises in any manner as Lessor deems reasonably necessary or advisable. All expenses of every nature which Lessor may incur such as (by way of illustration and not limitation) those for attorneys' fees, brokerage, advertising, and refurbishing the Premises, shall become immediately due and payable by Lessee to Lessor; or

(b) Terminate Lessee's right of possession, but not this Lease, retake possession of the Premises for the Lessee's account, repair and alter the Premises in any manner as Lessor deems reasonably necessary or advisable, and relet the Premises or any part of it, as the agent of Lessee, for the whole or any part of the remainder of the Term or for a longer period, and Lessor may grant concessions or free rent or charge a higher rental than that reserved in this Lease. Out of any rent collected or received from subtenants or as a result of such letting or reletting, Lessor shall first pay to itself all expenses of every nature which Lessor may incur such as (by way of illustration and not limitation) those for attorneys' fees, brokerage, advertising, and refurbishing the Premises in good order or preparing them for-reletting; and second, Lessor shall pay to itself any balance remaining on account of the liability of Lessee for the sum equal to all rent, additional rent and other charges due from Lessee through the original Term expiration date. Should Lessor, pursuant to this paragraph, not collect rent which, after deductions is sufficient to fully pay to Lessor a sum equal to all rent, additional rent and other charges payable through the original Term expiration date, the balance or deficiency shall, at the election of Lessor, be paid by Lessee on the first of each month; or

(c) Stand by and do nothing, and hold the Lessee liable for all rent, additional rent and other charges payable under this Lease through the original Term expiration date.

If Lessor does not notify Lessee which remedy it is pursuing, or if Lessor's notice to Lessee does not expressly state that Lessor is exercising its remedies under Section 8.3(a) or Section 8.3(c), then it shall be deemed that Lessor is pursuing the remedy set forth in Section 8.3(b). If Lessor exercises option (a) or (b) above, Lessee agrees to immediately peacefully surrender the Premises to Lessor, and if Lessee refuses to do so, Lessor may without further notice reenter the Premises either by force or otherwise and dispossess Lessee by summary proceedings or otherwise, as well as the legal representative(s) of Lessee and/or other occupant(s) of the Premises, and remove their effects.

8.4 ACCELERATION. If Lessor exercises the remedies in Section 8.3(b) or (c) of this Lease, Lessee shall immediately pay to Lessor as damages for loss of the bargain caused by Lessee's default, and not as a penalty, in addition to any other damages, an aggregate sum which represents the present value of the full amount of the rent, additional rent and all other charges payable by Lessee hereunder that would have accrued for the balance of the Term. If Lessor exercises the remedy in Section 8.3(b) of this Lease, Lessor shall account to Lessee at the original Term expiration date for amounts actually collected by Lessor as a result of a reletting, net of amounts to be paid to Lessor under Section 8.3(b) of this Lease.

8.5 SUITS. Suit or suits for the recovery of the deficiency or damage or for any installment or installments of rent, additional rent or any other charge due under this Lease may be brought by Lessor at any time or, at Lessor's election, from time to time, and nothing in this Lease shall be deemed to require Lessor to wait until the original Term expiration date to bring suit.

8.6 WAIVER. Lessee hereby expressly waives service of any notice of intention to reenter. Lessee hereby waives any and all rights to recover or to regain possession of the Premises or to reinstate or to redeem this Lease as permitted or provided by any statute, law or decision now or hereafter in force and effect. No receipt of moneys by Lessor from Lessee after the cancellation or termination of the Lease shall reinstate, continue or extend the Lease, or affect any prior notice given to Lessee or operate as a waiver of the right of Lessor to enforce the payment of rent and additional rent then due or subsequently falling due, or operate as a waiver of the right of Lessor to recover possession of the Premises by suit, action, proceeding or other remedy, and any and all moneys so collected shall be deemed to be payments on account of the use and occupancy of the Premises, or at the election of the Lessor, on account of Lessee's liability under this Lease.

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

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

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

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

8.11 WAIVER OF EXEMPTION FROM DISTRESS. Lessee agrees that notwithstanding anything contained in any statute, enactment or other law of the state in which the Premises are located or of any other jurisdiction, none of the

personalty located on the Premises shall be exempt from levy for distress for rent in arrears, and that if Lessee makes any claim for such an exemption, this agreement may be pleaded as an estoppel against Lessee in any appropriate action.

8.12 FRANCHISE AGREEMENT. Notwithstanding anything in this Lease to the contrary, this Lease is conditioned upon the faithful performance by Lessee of the Franchise Agreement, and a default in the terms of the Franchise Agreement shall be a default of this Lease.

IX. NO RENT ABATEMENT

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

X. CONDEMNATION

10.1. TAKING, CASUALTY, NOTICE OF TAKING/CASUALTY. In the event of a taking of all or any part of the Premises, or any access thereto, 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 thereof ("Casualty"), Lessor and Lessee will promptly give written notice thereof to the other, generally describing the nature and extent of such Taking, proceedings, negotiations or Casualty and including copies of any documents or notices received in connection therewith. Thereafter, Lessor and Lessee shall promptly send to the other copies of all 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. Notwithstanding anything to the contrary contained in the foregoing, Lessor and Lessee agree as follows:

(a) To constitute a Taking, the governmental action must give rise to a legally valid and judicially enforceable claim for payment of money or delivery of other valuable consideration to Lessor and/or Lessee by the condemning party (even if such consideration is rejected by Lessor and/or Lessee, as the case may be).

(b) An event or circumstance which only diminishes access to and from the Premises from a public road or right of way shall not be deemed a Taking, unless the same is determined to be compensable by the condemnor. For instance, by way of example, the following types of Takings shall be a diminishment and not a total deprivation of access to the Premises: (1) the change to a street changing the access from a two-way street to a one-way street; (2) the median to the street providing access to the Premises is blocked such that traffic traveling in the other direction cannot cross over the median to enter the Premises, or (3) an overpass is built that re-directs traffic away from the street that provides access to the Premises.

10.2 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 which expressly survive any such termination, without prejudice to Lessee's right to receive condemnation damages and compensation as though the term of this Lease did not cease, including without limitation, for the value of Lessee's ground lease estate or other rights hereunder, loss of business, business enterprise value, moving expenses, Lessee improvements, trade fixtures, personal property, and for other items and matters provided or permitted by law in the event of the taking of a leasehold or a Lessee's interest ("Lessee's Condemnation Compensation"). If the date of such Total Taking is other than the first day of a month, the Annual Rental 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 this Lease and Lessee's obligation to pay all other sums of money under this Lease (whether payable to Lessor or to a third-party) which 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.

10.3. 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 Annual Rental, Additional Rental or any other sum payable hereunder. Except as provided below, Lessee shall be entitled to the proceeds for a Temporary Taking, whether paid by damages, rent or otherwise, and Lessor waives and relinquishes any claim to any award in favor of Lessee, whether paid by way of damages, rent, or otherwise. At the termination of any such Temporary Taking occurring during the term of this Lease, Lessee will, at its own cost and expense promptly commence and complete the restoration of the Premises affected by such Temporary Taking. If the period of occupation and use by the condemning authorities, or the time necessary to rebuild or restore the Premises, shall extend beyond the date of expiration of this Lease, then the award made for such Taking shall be apportioned between Lessor and Lessee as of the Lease expiration date, but Lessor shall, in that circumstance receive the entire portion of the award that is attributable to physical damage to the Premises and the restoration thereof shall be the Lessor's responsibility.

10.4 PARTIAL TAKING, CASUALTY.

(a) In the event of a Taking which is not a Total Taking and not a Temporary Taking ("Partial Taking") or of a Casualty, all awards, compensation or damages shall be paid as set forth in this Section 10, and Lessor shall have the option to (1) 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 (2) 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 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 on the terms herein provided. 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 at which time: (a) Lessee shall pay all Annual Rental, Additional Rental and all other sums (whether payable to Lessor or a third party) accruing under this Lease prior to the date of termination, (b) Lessee shall pay Lessor an amount equal to the insurance deductible applicable to such Casualty if this Lease is terminated as a result of a Casualty, (c) Lessee shall immediately vacate and surrender the Premises, and (d) all obligations of either party hereunder shall cease (provided, however, Lessee's obligations to Lessor under any indemnification provisions of this Lease and Lessee's obligations to make the payments required by this sentence 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 Annual Rental, Additional Rental and other sums and obligations due under this Lease shall continue, 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 reasonably approved by Lessor. Such Restoration shall be completed as follows:

(b) Prior to such restoration, Lessee shall deliver its reasonable estimate of the cost thereof, which shall be subject to the approval of Lessor and Mortgagee, which approval shall not be unreasonably withheld (the cost approved by Lessor and Mortgagee is referred to as the "Restoration Cost"). Except as otherwise provided herein, the proceeds of any award for a Taking and the insurance proceeds for a Casualty shall be held by Lessor (or if required by the Loan Documents, Mortgagee) and disbursed in accordance with this Section 10 to restore the improvements.

(c) The Restoration Cost shall be paid first out of Lessee's own funds to the extent that the Restoration Cost exceeds the proceeds. Any proceeds remaining after final payment has been made for such work and after Lessee has

been reimbursed for any portions it contributed to the Restoration Cost shall belong to Lessee and Lessor in the same proportion as the total award granted to each bears to the total award granted to both by the condemning authority.

(d) If an Event of Default has occurred and is continuing, Mortgagee may apply any proceeds towards payment of a Mortgage, which payment shall not relieve Lessee of any of its obligations hereunder. If the actual cost of any rebuilding, replacement or repair required to be made by Lessee pursuant to this Section shall exceed the amount of such proceeds, the deficiency shall be paid by Lessee. Lessee shall not be entitled to disbursements of the proceeds if an Event of Default has occurred and is continuing.

(e) The proceeds shall be paid out from time to time to Lessee as the work progresses (less any cost to Mortgagee or Lessor of paying out such proceeds, including, without limitation, reasonable attorneys', trustees' or escrow fees relating thereto and costs allocable to inspecting the work and the plans and specifications therefor), subject to each of the following conditions:

(1) At the time of any disbursement, no Event of Default shall exist and no mechanics' or materialmen's liens shall have been filed and remain undischarged or unbonded.

(2) Disbursements shall be made from time to time in an amount not exceeding the hard and soft cost of the work and costs incurred since the last disbursement upon receipt of reasonable evidence of cost and payment so that Lessor can verify that the amounts disbursed from time to time are represented by work that is completed in place or delivered to the site and free and clear of mechanic's lien claims.

(3) Each request for disbursement shall be accompanied by a certificate of Lessee describing the work, materials or other costs or expenses, for which payment is requested, stating the cost incurred in connection therewith and stating that Lessee has not previously received payment for such work or expense and the certificate to be delivered by Lessee upon completion of the work shall, in addition, state that the work has been substantially completed and complies with the applicable requirements of this Lease.

(4) No disbursement made prior to final completion of any item of work shall cause the aggregate amount disbursed with respect to such item of work to exceed 90% of the value of the portion of such item of work which has been completed.

(5) Proceeds held by Lessor or Mortgagee in accordance with this Section shall be held in a separate federally insured interest bearing account. Any interest earned on the Proceeds shall be a part of the Proceeds, and shall be disbursed in accordance with this Lease.

(6) Unless this Lease shall be terminated as provided in this Section 10, this Lease shall continue in full force and effect as to the remainder of said Premises, and Lessee shall promptly repair and restore the Improvements and the Premises to their condition existing prior to such taking to the extent practical.

10.5 ADJUSTMENT OF LOSSES/EVENT OF DEFAULT. Except as otherwise provided in this Section 10, any loss under any property damage insurance required to be maintained by Lessee with respect to the Premises shall be adjusted by Lessor and Lessee. Except as otherwise provided in this Section 10, 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 10 to the contrary but subject to the terms and provisions of any Mortgages encumbering the Premises placed thereon by Lessor, if at the time of any Taking or any Casualty or at any time thereafter an Event of Default shall have occurred and be continuing under this Lease, Lessor is hereby 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 thereof, to the curing of such default and any other then existing default under this Lease and/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. Notwithstanding anything to the contrary contained in this Lease, nothing in this Lease shall be deemed to require Lessee to name Lessor as an additional insured or loss payee with respect to any personal property of Lessee, and (ii) so long as Lessee is not in default hereunder, beyond any applicable notice and cure period, any such condemnation or casualty proceeds shall be made available to Lessee for restoration of the improvements and the Premises.

10.6. NO LIMITATION. Notwithstanding the foregoing, nothing in this Section shall be construed as limiting or otherwise adversely affecting the representations, warranties, covenants and characterizations set forth in this Lease.

10.7. PARTIAL TAKING/LESSEE RIGHT TO TERMINATE. Notwithstanding the foregoing, if there is a Partial Taking during the last two years of the original term or any extension term and the Restoration Cost exceeds the Proceeds and Lessee believes in good faith that its payment of the excess Restoration Cost cannot be recovered from its anticipated profits during the remaining Term of the Lease, then Lessee may elect to terminate the Lease by giving notice of such election to Lessor within 30 days of the date on which Lessee first determines the amount of the Restoration Cost and the Proceeds. Lessor may elect to continue this Lease in effect by notifying Lessee (within ten days of receipt of Lessee's notice) that Lessor will pay the excess Restoration Cost in which case this Lease shall continue in full force and effect and Lessee shall restore the Premises in accordance with this Section 10 but Lessor shall pay Lessee the amount by which the Restoration Cost exceeds the Proceeds. If Lessor fails to timely notify Lessee of Lessor's intent to continue this Lease, then this Lease shall terminate as of the last day of the month during which such ten day period expired at which time: (i) Lessee shall pay all Annual Rental, Additional Rental and all other sums (whether payable to Lessor or a third party) accruing under this Lease prior to the date of termination (ii) Lessee shall immediately vacate and surrender the Premises and (iii) all obligations of either party hereunder shall cease (provided, however, Lessee's obligations to Lessor under any indemnification provisions of this Lease and Lessee's obligations to make the payments required by this sentence shall survive such termination).

10.8. RIGHTS IN CONDEMNATION AWARD/SEPARATE AWARDS. The termination of this Lease shall be without prejudice to the rights of either Lessor or Lessee to recover compensation and damages caused by condemnation from the condemnor. Neither Lessor, nor Lessee, shall have any rights in any award made to the other by any condemnation authority notwithstanding the termination of this Lease as herein provided. The court in such condemnation proceedings shall, if not prohibited by law, be requested to make separate awards to Lessor and Lessee, and Lessor and Lessee hereby agree to request such action by such court. In so petitioning such Court, Lessor and Lessee shall, and hereby agree to, request such court to consider, in determining such separate awards, the obligation of Lessee to pay Base Rent and other charges payable under this Lease during the Term had there been no such condemnation proceedings and the fact that the improvements would belong to Lessor upon the termination of this Lease or the expiration of the term. This Section 10.8 shall be construed as superseding any other provisions of Section 10 or any statutory provisions now in force or hereinafter enacted concerning condemnation proceedings to the extent permitted by law. Lessee shall be entitled to receive Lessee Condemnation Compensation as defined in Section 10.1 above, and, other damages receivable by a Lessee under applicable law; and Lessor shall be entitled to receive the value of its fee ownership interest in the land and improvements and all other damages it is entitled to receive under applicable law. Lessor and Lessee are responsible for their respective costs and expenses, including legal fees and other consultant's fees, in prosecuting their separate claims in any such proceedings.

10.9. DEFINED TERMS. The phrase or words "taking by right of eminent domain," "appropriate (d)," "taking," or "proceeding in eminent domain," or the like, include a governmental taking, a deed or transfer in lieu of condemnation or under threat of condemnation, or the loss of access to the Premises through condemnation or eminent domain proceedings.

10.10. CONTINUED OCCUPANCY. Lessee shall have the right at its election to continue to occupy the Premises, to the extent permitted by law, for all, or such part, as Lessee may elect, of the period between the time of such appropriation and the time when physical possession of the Premises is taken, subject to the provisions of this Lease insofar as the same may be made applicable to such occupancy by Lessee, but the amount, if any, charged to Lessee by the taking authority or its assigns for rent or use and occupancy shall be credited against the rent and other charges paid or payable by Lessee hereunder.

XI. SUBORDINATION

This Lease shall be fully subordinate to any Mortgage and/or collateral assignment of lease against the Premises which the fee owner, Lessor and/or their assigns has or subsequently obtains upon the Premises. This Lease shall be fully subordinate and subject to any senior lease now, or hereafter affecting the Premises. In the event Lessor transfers all or a part of its interest in the Premises to a third party and enters into a lease with said third party (with Lessor as tenant) then this Lease shall be fully subordinate to said lease between such third party and Lessor.

The Lessee hereby grants a power of attorney to the Lessor with full power to act as its attorney in fact and to execute on behalf of the Lessee any and all documents that may be required by a Mortgagee and/or assignee evidencing the Lessee's full subordination of the Lessee's interest to any Mortgage and/or collateral assignment of lease that may be entered into by Lessor, the fee owner or their assigns. Lessee hereby agrees to execute, without charging Lessor, any and all documents that it is requested to execute to evidence this subordination. However, Lessee shall not be required to execute any promissory notes or other evidences of indebtedness, which would create any personal liability on behalf of Lessee.

Notwithstanding anything contained in Article XI to the contrary, the subordination of this Lease to any such mortgage, security deed or other instrument (a "Mortgage") and Lessee's attornment hereunder with respect to a successor-in-interest to Lessor is and shall be conditioned upon the Lessor using its best efforts to obtain from the holder or beneficiary of any Mortgage agreeing, in a duly executed writing in recordable form reasonably acceptable to Lessee, that this Lease and Lessee's rights hereunder shall not be divested or in any way affected by any foreclosure, deed in lieu of foreclosure or other default proceedings so long as there exists no event of default by Lessee under this Lease which is uncured within any applicable cure period, and the party to whom Lessee is to attorn agrees to be bound by and perform as Lessor hereunder in accordance with the terms hereof.

XII. ASSIGNMENT

12.1 BY LESSOR. This Lease shall be fully assignable by the Lessor or its assigns.

12.2 BY LESSEE. Neither Lessee, nor Lessee's successors or assigns, shall (unless expressly permitted in this Lease) assign, Mortgage, give as security, pledge or encumber this Lease, in whole or in part, by operation of law or otherwise, or sublet the Premises, in whole or in part, or permit the Premises or any portion of it to be used or occupied by others, or enter into a management contract or other arrangement whereby the Premises shall be managed and operated by anyone other than the owner of Lessee's leasehold estate, without the prior consent in writing of Lessor in each instance, which consent shall not be unreasonably withheld, conditioned or delayed. If this Lease is assigned or transferred, or if all or any part of the Premises is sublet or occupied by anybody other than Lessee, Lessor may collect rent from the assignee, transferee, subtenant or occupant, and apply the net amount collected to the rent reserved in this Lease, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of any covenant or condition of this Lease, or the acceptance of the assignee, transferee, subtenant or occupant as lessee, or a release of Lessee from the performance or further performance by Lessee of its obligations under this Lease, and Lessee shall continue to be liable for all its obligations under this Lease. The consent by Lessor to an assignment, mortgage, pledge, encumbrance, transfer, management contract or subletting shall not in any way be construed to relieve Lessee from obtaining the

express consent in writing of Lessor in each instance to any subsequent similar action that the Lessee may intend to take. Providing Lessee remains liable for all its obligations under this Lease, Lessor shall consent to an assignment of this Lease to an individual, partnership, limited liability company, or corporation to which the Franchise Agreement has been assigned.

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

XIII. ADDITIONAL PROPERTY (Intentionally omitted)

XIV. ESTOPPEL CERTIFICATE

Lessor and Lessee shall from time to time, within five (5) days after being requested to do so by the Lessor or the Lessee, as the case may be (the "Requesting Party"), execute, seal, acknowledge and deliver to the Requesting Party (or, at the Requesting Party's request, to any existing or prospective purchaser, transferee, assignee or Mortgagee of any or all of the Premises, any interest therein or any of Lessor's rights under this Lease) an instrument in recordable form;

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

(b) acknowledging and agreeing that any statement contained in such certificate may be relied upon by Requesting Party and any such other addressee.

XV. HAZARDOUS SUBSTANCES

15.1 COMPLIANCE WITH LAWS. Lessee shall at all times, at its own cost and expense, comply with all federal, state and local laws, ordinances, regulations and standards ("Hazardous Substance Laws") relating to the use, analysis, production, storage, sale, disposal or transportation of any hazardous materials, including oil or petroleum products or their derivatives, solvents, PCB's, explosive substances, asbestos, radioactive materials or waste, and any other toxic, ignitable, reactive, corrosive, contaminating or pollution materials ("Hazardous Substances") which are now or in the future subject to any governmental regulation. Such compliance shall include any cleanup, removal, remedial action, testing or monitoring (including medical monitoring) which may be required under Hazardous Substance Laws, Court order or by any governmental or regulatory agency. Lessor hereby represents and warrants to Lessee that to Lessor's knowledge the Premises are free from Hazardous Substances as of the date of this Lease and Lessor shall be responsible for complying with all Hazardous Substance Laws with respect to the cleanup, removal, remedial action, testing or monitoring (including medical monitoring) which may be required under Hazardous Laws, Court order or by any government or regulatory agency with respect to any Hazardous Substances located on, in or upon the Premises as of the date of this Lease.

15.2 NOTICES.

(a) Except with respect to any substance described in Section 15.2(c) below, Lessee and Lessor, as the case may be, shall give written notice to the other within three (3) business days after the date on which Lessor or Lessee learns or first has reason to believe that:

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

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

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

(b) Any notice required under this Section 15.2 shall be accompanied by (1) a copy of all permits, licenses, proofs of disclosure to governmental agencies pertaining to Hazardous Substances that have not previously been furnished to Lessor and (2) copies of any Material Safety Data Sheets pertaining to such substances that are required by applicable law to be kept at the Premises.

(c) The notice provisions of this Article XV shall not apply to materials that are lawfully discharged from the Premises or lawfully used on the Premises in the ordinary course of Lessee's business.

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

15.4 ENVIRONMENTAL AUDITS BY LESSOR.

(a) *Rights of Lessor.* Lessor may, but shall not be required to, engage such independent contractors as Lessor determines to be appropriate to perform from time to time any audit, including environmental sampling and testing, of (i) the Premises, the surrounding soil and any adjacent areas, and any groundwater located under or adjacent to the Premises and/or any adjoining property, (ii) Lessee's compliance with all Hazardous Substances Laws and the provisions of this Lease, and (iii) the provisions made by Lessee for carrying out any remedial action that may be required by this Lease (collectively an "Environmental Audit"). All costs and expenses incurred by Lessor in connection with any such Environmental Audit shall be paid by Lessor, except that if any such Environmental Audit shows that Lessee has materially failed to comply with the provisions of this Article XV, then such costs and expenses shall be paid by Lessee to Lessor as Additional Charges pursuant to Section 3.4 of this Lease.

(b) *Conduct of Audit.* Each Environmental Audit shall be conducted (i) only after advance notice thereof has been provided to Lessee at least twenty-four (24) hours prior to the date of such audit, and (ii) in a manner reasonably designed to minimize any interference with the conduct of Lessee's business on the Premises. Lessor shall repair any damages to the Premises or to Lessee's personal property caused by any Environmental Audit conducted by or on behalf of Lessor.

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

15.5 REMEDIATION.

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

(b) *By Lessor.* If, within thirty (30) days after receiving a copy of such Environmental Audit and such written statement, Lessee fails either (i) to complete such Remediation, or (ii) with respect to any Remediation which cannot be completed within such thirty-day period, fails to proceed with reasonable diligence to complete such Remediation as promptly as practicable, then the Lessor shall be entitled to provide a copy of the Environmental Audit to any federal, state, or local governmental agency having jurisdiction over the Premises or Hazardous Substances.

Notwithstanding any other provision of the Lease to the contrary, if any Environmental Audit reveals a situation which, in Lessor's sole opinion, constitutes an emergency, then Lessor shall have the right, but not the obligation, to carry out any Remediation recommended by such audit or if required by any federal, state or local governmental agency having jurisdiction over the Premises. If Lessee is responsible for conducting such Remediation, Lessor shall have the right to recover all of the costs and expenses thereof from Lessee as Additional Charges pursuant to Section 3.4 of this Lease.

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

15.6 REMEDIATION BY THIRD PARTIES.

(a) If Lessee receives a request from a third party to enter the Premises for the purposes of Remediation of Hazardous Substances, then Lessee shall so notify Lessor in accordance with the provisions of Section 15.2 above.

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

(c) If Lessor determines that the request should be honored, then Lessee shall cooperate with such Remediation so long as the third party agrees to comply with the provisions of Section 15.4(b) above and with any other reasonable conditions requested by Lessee.

(d) Lessee agrees to sign any documentation reasonably required by Lessor and/or any such third party in order to effectuate the provisions of this Section 15.6.

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

15.8 INDEMNIFICATION BY LESSEE. Lessee shall indemnify, defend with counsel reasonably acceptable to Lessor, and hold Lessor free and harmless from any and all liabilities, damages, claims, penalties, fines, settlements, causes of action, costs or expense, including reasonable attorneys' fees, environmental consultant and laboratory fees and the costs and expense of investigating and defending any claims or proceedings, resulting from or attributable to (a) the presence, disposal, migration, release or threatened release of any Hazardous Substance that is on, from or affecting the Premises including the soil, water, vegetation, buildings, personal property, persons, or otherwise; (b) any bodily injury (including wrongful death) or property damage (real or personal) arising out of or relating to such Hazardous Substance(s); (c) any lawsuits or administrative order relating to such Hazardous Substance(s); or (d) any violation of any laws applicable to any Hazardous Substance for which Lessee is responsible under this Lease. Lessee's indemnification obligations under this Section shall survive the expiration or earlier termination of this Lease.

XVI. RELOCATION RIGHT Intentionally Omitted.

XVII. MISCELLANEOUS

17.1 ARBITRATION. In the event of arbitration under §10.3 of this Lease, the arbitration shall be held in the City of Dothan, Alabama in accordance with the rules of the American Arbitration Association requiring the appointment of three (3) arbitrators.

17.2 NOTICES. Every notice, approval, consent or other communication authorized or required by this Lease shall be effective if given in writing and if hand delivered or sent by United States Registered or by Certified Mail, Return Receipt Requested, with postage prepaid, or if sent via a nationally recognized overnight courier service, and addressed directly to Lessee at its offices at 2330 Montgomery Highway, Dothan, Alabama 36303, and to Lessor at its offices at 106 Adris Place, Dothan, Alabama 36303, or at such other address as either party shall from time to time designate in writing. Every notice shall be deemed to be effective upon delivery, if delivered, or on the second business day after mailing, if mailed, or on the next business day if sent via overnight courier service.

17.3 ADDRESS FOR PAYMENTS. All payments to the Lessor shall be made at the following address unless otherwise notified in writing by Lessor: c/o Skybound Development, LLC, 106 Adris Place, Dothan, Alabama 36303.

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

17.5 SUCCESSORS. This contract shall bind Lessor and Lessee and their successors, heirs, assigns, administrators, and legal representatives, as the case may be.

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

17.7 COUNTERPARTS. This agreement is being executed simultaneously in counterparts, any one of which shall be deemed an original.

17.8 NO AGENCY. The parties hereto agree that the business relationship created by this Lease is solely that of Lessor and Lessee. Nothing contained in this Lease shall make Lessee an agent, legal representative, partner, subsidiary, joint venturer or employee of Lessor. Lessee shall have no right or power to, and shall not bind or obligate Lessor in any way, manner or thing whatsoever, nor represent that it has any right to do so.

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

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

17.11 HEADINGS. The headings and paragraphs and subparagraphs of this Lease are inserted solely for the convenience of reference and shall not constitute a part of this Lease, nor limit, define or described the scope of intent of this Lease.

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

17.13 DEFINITIONS.

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

(b) The term "Franchise Agreement" as used in this Lease means that certain agreement by and between Franchisor and Goldco, Inc., as assigned to, or assumed by, Lessee, for the operation of the Restaurant upon the Premises.

(c) The term "Franchisor" as used in this Lease means Burger King Corporation, its successors and/or assigns.

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

(e) The term "Lessor" as used in this Lease means the owner in fee of the Premises for the time being, or the owner of the leasehold estate created by an underlying lease, or the Mortgagee of the fee or of such underlying lease in possession for the time being, so that in the event of any sale or sales of the Premises, or of the making of any such underlying lease, or of any transfer or assignment or other conveyance of such underlying lease and

the leasehold estate created by it, the seller, lessor, transferor or assignor shall be and is hereby entirely freed and relieved of all agreements, covenants and obligations of Lessor herein and it shall be deemed and construed without further agreement between the parties or their successors in interest or between the parties and the purchaser, lessee, transferee or assignee on any such sale, leasing, transfer or assignment that such purchaser, lessee, transferee or assignee has assumed and agreed to carry out any and all agreements, covenants and obligations of Lessor under this Lease.

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

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

(h) The term "Permitted Concept" as used in this Lease means any Burger King restaurant and any other restaurant concept or other use approved by Landlord in writing and in advance in Landlord's reasonable discretion.

(INTENTIONALLY LEFT BLANK, SIGNATURE PAGE TO FOLLOW)

The Lessor and Lessee have respectively signed this Lease as of the date indicated on the first page of this Lease.

WITNESS:

LESSOR:

Applefield Six Family Limited Partnership
By: Skybound, Inc., its General Partner

Sheila Brock
Print Name: Sheila Brock

By: [Signature]
Bryan M. Applefield
President

WITNESS:

LESSOR:

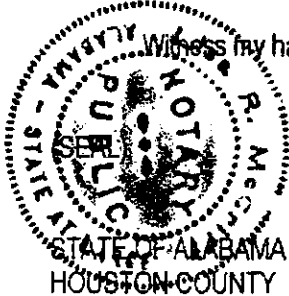
Denver Limited Partnership
By: Skybound, Inc., its General Partner

Sheila Brock
Print Name: Sheila Brock

By: [Signature]
Bryan M. Applefield
President

STATE OF ALABAMA)
HOUSTON COUNTY)

I, the undersigned, a Notary Public in and for said County and State, hereby certify that **Bryan M. Applefield**, whose name as President of Skybound, Inc. the General Partner of **Applefield Six Family Limited Partnership** and who is known to me, acknowledged to and before me on this date that, after being informed of the contents of the foregoing instrument, he, with full authority, executed the same as the act and deed of said limited liability company voluntarily on the day that the same bears date.



Witness my hand and official seal as of 1-30, 2008.

[Signature]
NOTARY PUBLIC
My Commission Expires: 1-11-2011

I, the undersigned, a Notary Public in and for said County and State, hereby certify that **Bryan M. Applefield**, whose name as President of Skybound, Inc. the General Partner of **Denver Limited Partnership** and who is known to me, acknowledged to and before me on this date that, after being informed of the contents of the foregoing instrument, he, with full authority, executed the same as the act and deed of said limited liability company voluntarily on the day that the same bears date.



Witness my hand and official seal as of 1-30, 2008.

[Signature]
NOTARY PUBLIC
My Commission Expires: 1-11-2011

[LESSEE SIGNATURE FOLLOWS ON NEXT PAGE]

WITNESS:

LESSEE:

GOLDCO, LLC

Cheryl K. Shurt
Print Name

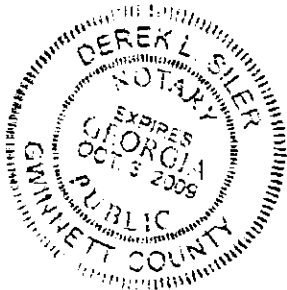
By: Frederick B. Beilstein
Frederick B. Beilstein, IV, CEO

STATE OF GEORGIA)
COBB COUNTY)

I, the undersigned, a Notary Public in and for said County and State, hereby certify that **Frederick B. Beilstein, IV**, whose name as CEO of **Goldco, LLC**, an **Alabama limited liability company**, and who is known to me, acknowledged to and before me on this date that, after being informed of the contents of the foregoing instrument, he, with full authority, executed the same as the act and deed of said limited liability company voluntarily on the day that the same bears date.

Witness my hand and official seal as of January 31, 2008.

(SEAL)



[Signature]
NOTARY PUBLIC
My Commission Expires:

EXHIBIT A
Legal Description

Elba Az

Parcel 1:

A lot or parcel of land lying on the West side of Claxton Street, in the City of Elba, Coffee County, Alabama, being more particularly described as follows: Commencing at a point on the West side of said Claxton Street, said point being 260.5 feet Northwesterly along the West side of said Claxton Street from the point of intersection of the West side of said Claxton Street and the centerline of Newton Street; thence North 38°-49' West 25.0 feet along the West side of said Claxton Street to the Southeast corner of lot of Spartan Food Systems, Inc.; thence South 47°-57' West 198.5 feet along lot of Spartan Food Systems, Inc.; thence South 29°-00' East 25.0 feet; thence North 48°-07' East 202.07 feet to the West side of said Claxton Street and the point of beginning.

Parcel 2:

A lot or parcel of land lying on the West side of Claxton Street, in the City of Elba, Coffee County, Alabama, being more particularly described as follows: Commencing at a point on the west side (30 feet from centerline of said Claxton Street, said point being 265.5 feet Northwesterly along said Claxton Street from the north side (20 feet from centerline) of Newton Street, said point of beginning also being 69.0 feet northwesterly along said Claxton Street from the northeast corner of the Eastern lot; running thence South 47°-57' West 198.5 feet; thence North 29°-00' West 66.2 feet; thence South 62°-31' West 14.0 feet; thence north 44°-10' West 72.0 feet; thence North 47°-57' East 198.8 feet to the west side of said Claxton Street; thence South 42°-26' East 140.0 feet to the point of beginning, containing 0.64 acres, more or less.

Being the same property as set forth on that certain survey dated February 6, 2007, prepared by Phillip E. Santora of Northstar Engineering Services and described as follows:

A lot or parcel of land lying on the West side of Claxton Street, in the City of Elba, Coffee County, Alabama, and being more particularly described as follows:

Beginning at an iron spike on the West side of Claxton Street, said point being 260.50 Ft. northwesterly along the West side of said Claxton Street from the point of intersection of the West side of said Claxton Street and the centerline of Newton Street; thence S46°-36'-38" W a distance of 75.36 ft to an existing iron pin (EIP); thence S49°-01'-22" W a distance of 126.26 ft to an EIP; thence N29°-42'-07" W a distance of 90.99 ft to a set iron pin (SIP); thence S59°-26'-23" W a distance of 20.92 ft to an EIP; thence N38°-10'-07" W a distance of 9.92 ft to an EIP; thence N38°-40'-48" W a distance of 61.51 ft to a SIP; thence N48°-47'-11" E a distance of 197.55 ft to an EIP on said Claxton Street; thence along said Claxton Street S42°-19'-54" E a distance of 162.08 ft to the POINT OF BEGINNING. Said parcel being located in the NE¼ of the SW¼ of Section 8, Township 5 North, Range 20 East and containing 0.74 acres, more or less.

Prepared by and return to:

Store #:16460

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

ASSIGNMENT AND ASSUMPTION OF LEASES

THIS ASSIGNMENT AND ASSUMPTION OF LEASES (this "Assignment"), is made as of the 26th day of October, 2016 (the "Effective Date") among MARY K. JOHNSON TRUST, ("Landlord"), BURGER GULF COAST, LLC, a Delaware limited liability company ("Tenant"), and PREMIER KINGS, INC., an Alabama corporation ("New Tenant").

A. Landlord and Tenant are parties to that certain Lease dated as of January 31, 2008 as assigned by that certain Assignment of Lease dated November 14, 2013 (the "Lease"), originally entered into by and between Applefield Six Family Limited Partnership, as lessor, and Goldco, LLC, as lessee, (the "Lease") with respect to real property located at 529 Claxton Avenue, Elba, Alabama, 36323 (Store #16460) 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 referenced as Exhibit C.

B. Landlord is the successor in interest to Applefield Six Family Limited Partnership and is the current holder of the fee estate.

C. Tenant is the current holder of the leasehold estate as evidenced by that certain unrecorded Assignment, Assumption, and Consent Agreement dated June 16, 2014, by and between Mary K. Johnson Trust, as landlord, Goldco, LLC, as original tenant and Burger Gulf Coast, LLC, as new tenant, a copy of which is attached hereto as Exhibit A.

D. Tenant and New Tenant are parties to an Asset Purchase Agreement dated as of August 18, 2016, pursuant to which certain assets of Tenant are to be assigned to New Tenant and certain liabilities of Tenant are to be assumed by New Tenant, including without limitation the Tenant's rights and obligations under the Lease. Therefore, as of the Effective Date, Tenant desires to assign the Lease to New Tenant, and New Tenant desires to assume the Lease, as set forth below.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein and in each of the Leases contained, and intending to be legally bound, it is hereby agreed as follows:

1. Defined Terms. Each capitalized term used in this Assignment shall have the same meaning ascribed to such term in the applicable Lease.

2. Assignment and Assumption. The parties hereby agree that as of the Effective Date, Tenant hereby assigns, sells and conveys to New Tenant all of Tenant's right, title and interest in and to the Lease together with any and all deposits relating thereto, to the extent the same relate to the period commencing on the Effective Date and continuing thereafter, and New Tenant hereby accepts the foregoing assignment and assumes, becomes liable for, agrees to pay, discharge, perform or otherwise satisfy in accordance with its terms, all of Tenant's obligations under each of the Leases, to the extent the same relate to the period commencing on the Effective Date and continuing thereafter.

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3. Effect of Agreement. As amended by this Assignment, all terms, covenants, conditions, and provisions of each of the Leases (a) shall remain in full force and effect and shall continue to govern the rights, duties, and obligations of the parties hereto, and (b) are ratified by Landlord and New Tenant. This Assignment contains the entire agreement of the parties with respect to the subject matter described herein, and all preliminary negotiations with respect thereto are merged into and superseded by this Assignment.

4. Landlord Consent. Landlord hereby consents to the aforesaid assignment of the Lease by Tenant to New Tenant in accordance with the terms of this Assignment. Landlord's consent contained herein shall not waive its rights as to any subsequent assignment, sublease or other transfer.

5. Release. [INTENTIONALLY OMITTED]

6. Broker. Tenant and New Tenant represent to Landlord that, except for _____ who represents Tenant, neither Tenant nor New Tenant have retained, contracted or otherwise dealt with any real estate broker, salesperson or finder in connection with this Assignment, and no such person initiated or participated in the negotiation of this Assignment. Tenant and New Tenant shall indemnify and hold Landlord harmless from and against any and all liabilities and claims for commissions and fees arising out of a breach of the foregoing representation.

7. Representations. Tenant and New Tenant each represents and warrants to Landlord that it has full power and authority to execute this Assignment.

8. Miscellaneous. This Assignment: (a) may be amended only by a writing signed by each of the parties; (b) may be executed in several counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument; (c) with respect to the Lease, shall be governed by, and construed and enforced in accordance with, the laws governing the Lease, without giving effect to any conflict of laws rules; and (d) shall be binding upon, and inure to the benefit of, the parties and their respective heirs, successors and permitted assigns. The waiver by a party of any breach or violation of any provision of this Assignment shall not operate or be construed as a waiver of any subsequent breach or violation hereof.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, this Assignment and Assumption of Leases is executed as of the day and year first written above with the intent to be legally bound.

WITNESSES:

[Signature]
Print Name: JOHN C. RUSSELL III
[Signature]
Print Name: Danielle M. Erickson

LANDLORD:

MARY K. JOHNSON TRUST

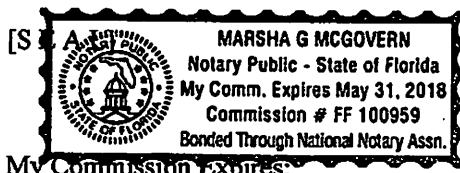
By: [Signature]
Name: MARY K. JOHNSON, TRUSTEE

STATE OF Florida

COUNTY OF Sarasota

On Sept. 26, 2016, 2016, before me, the undersigned, a Notary Public in and for said State, personally appeared Mary K. Johnson, Trustee of the Mary K. Johnson Trust, she is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument, the person or the entity upon which the person acted, executed the instrument.

WITNESS my hand and official seal.



My Commission Expires:

May 31, 2018

[Signature]
Notary Public, State of Florida

Marsha G. McGovern
Printed Name of Notary Public

Mari A. Dame
Print Name: GAIL A. DAME
Mary E. Treese
Print Name: Mary E. Treese

TENANT:

BURGER GULF COAST, LLC, a
Delaware limited liability company

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

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 as 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.

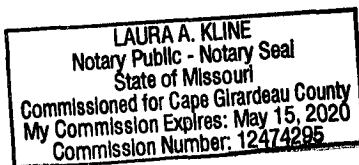
[S E A L]

Laura A Kline
Notary Public, State of Missouri

My Commission Expires:

5-15-2020

Laura A Kline
Printed Name of Notary Public



NEW TENANT:

PREMIER KINGS, INC., an Alabama corporation

Print Name: _____

By: [Signature]
Name: Manraj Sidhu
Title: President

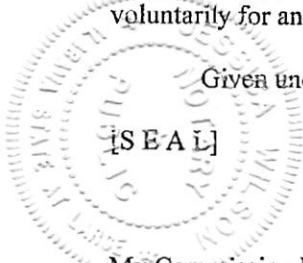
Print Name: _____

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 corporation.

Given under my hand on October 5, 2016.



My Commission Expires:

MY COMMISSION EXPIRES NOVEMBER 13, 2017

[Signature]
Notary Public, State of Alabama

Jessica Wilson
Printed Name of Notary Public

Exhibit A

Mary K
Johnson
Trust

FORM OF LEASE ASSIGNMENT

ASSIGNMENT AND ASSUMPTION OF LEASES

THIS ASSIGNMENT AND ASSUMPTION OF LEASES (this "Assignment"), is made as of the 16 day of June, 2014 (the "Effective Date") among Mary K. Johnson Trust, a _____ ("Landlord"), GOLDCO, LLC, an Alabama limited liability company ("Original Tenant"), and BURGER GULF COAST, LLC, a Delaware limited liability company ("New Tenant").

A. Landlord and Original Tenant entered into those certain real property lease agreements as listed on Exhibit A attached hereto and made a part hereof (each such agreement being a "Lease" and collectively, the "Leases") whereby Landlord leased to Original Tenant certain premises more particularly identified on Exhibit A and described in each Lease (collectively, the "Premises").

B. Original Tenant and New Tenant are parties to an Asset Purchase Agreement dated as of June 12, 2014, pursuant to which certain assets of Original Tenant are to be assigned to New Tenant and certain liabilities of Original Tenant are to be assumed by New Tenant, including without limitation the Original Tenant's rights and obligations under the Leases. Therefore, as of the Effective Date, Original Tenant desires to assign each of the Leases to New Tenant, and New Tenant desires to assume each of the Leases, as set forth below.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein and in each of the Leases contained, and intending to be legally bound, it is hereby agreed as follows:

1. Defined Terms. Each capitalized term used in this Assignment shall have the same meaning ascribed to such term in the applicable Lease.
2. Assignment and Assumption. The parties hereby agree that as of the Effective Date, Original Tenant hereby assigns, sells and conveys to New Tenant all of Original Tenant's right, title and interest in and to each of the Leases together with any and all deposits relating thereto, to the extent the same relate to the period commencing on the Effective Date and continuing thereafter, and New Tenant hereby accepts the foregoing assignment and assumes, becomes liable for, agrees to pay, discharge, perform or otherwise satisfy in accordance with its terms, all of Original Tenant's obligations under each of the Leases, to the extent the same relate to the period commencing on the Effective Date and continuing thereafter.
3. Effect of Agreement. As amended by this Assignment, all terms, covenants, conditions, and provisions of each of the Leases (a) shall remain in full force and effect and shall continue to govern the rights, duties, and obligations of the parties hereto, and (b) are ratified by Landlord and New Tenant. This Assignment contains the entire agreement of the parties with respect to the subject matter described herein, and all preliminary negotiations with respect thereto are merged into and superseded by this Assignment.
4. Landlord Consent. Landlord hereby consents to the aforesaid assignment of each of the Leases by Original Tenant to New Tenant in accordance with the terms of this Assignment. Landlord's consent contained herein shall not waive its rights as to any subsequent assignment, sublease or other transfer.
5. Release. As of the Effective Date, Landlord, for itself and its successors and assigns forever releases and discharges Original Tenant, its successors and assigns, from future obligations and liabilities under each of the Leases and

any and all claims, demands, causes of action, damages, liabilities, costs and expenses whatsoever against Original Tenant, its successor and assigns, arising or attributable to events on or after the Effective Date hereof.

6. Broker. Original Tenant and New Tenant represent to Landlord that, except for TM Capital Corp who represents Original Tenant, neither Original Tenant nor New Tenant have retained, contracted or otherwise dealt with any real estate broker, salesperson or finder in connection with this Assignment, and no such person initiated or participated in the negotiation of this Assignment. Original Tenant and New Tenant shall indemnify and hold Landlord harmless from and against any and all liabilities and claims for commissions and fees arising out of a breach of the foregoing representation.

7. Representations. Original Tenant and New Tenant each represents and warrants to Landlord that it has full power and authority to execute this Assignment.

8. Miscellaneous. This Assignment: (a) may be amended only by a writing signed by each of the parties; (b) may be executed in several counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument; (c) with respect to each Lease, shall be governed by, and construed and enforced in accordance with, the laws governing such Lease, without giving effect to any conflict of laws rules; and (d) shall be binding upon, and inure to the benefit of, the parties and their respective heirs, successors and permitted assigns. The waiver by a party of any breach or violation of any provision of this Assignment shall not operate or be construed as a waiver of any subsequent breach or violation hereof.

[Signature pages follows.]

**SIGNATURE PAGE TO ASSIGNMENT AND ASSUMPTION
OF LEASES**

IN WITNESS WHEREOF, this Assignment and Assumption of Leases is executed as of the day and year first written above with the intent to be legally bound.

LANDLORD:

By: *Mary K. Johnson*
Name: *Mary K. Johnson*
Title: *Owner*

ORIGINAL TENANT:

GOLDCO, LLC

By:
Name:
Title:

NEW TENANT:

BURGER GULF COAST, LLC

By: *Anand d. Patel*
Name: *Anand d. Patel*
Title: *MGIM*

[Signature pages follows.]

**SIGNATURE PAGE TO ASSIGNMENT AND ASSUMPTION
OF LEASES**

IN WITNESS WHEREOF, this Assignment and
Assumption of Leases is executed as of the day and year first
written above with the intent to be legally bound.

LANDLORD:

By: *MARY K. JOHNSON*
Name: *Mary K. Johnson*
Title: *Owner*

ORIGINAL TENANT:

GOLDCO, LLC

By: *[Signature]*
Name: *Bonnie A. Brown Jr.*
Title: *COO/SVP*

NEW TENANT:

BURGER GULF COAST, LLC

By:
Name:
Title:

Exhibit A

1. Store # 16460 - 529 Claxton Avenue, Elba, Alabama 36323; leased/subleased from Mary K. Johnson Trust pursuant to the Lease/Sublease Agreement between Applefield Six Family Limited Partnership and Denver Limited Partnership, as lessor, and Goldco, LLC, as lessee, dated January 31, 2008.

EXHIBIT "B"

Legal Description

Parcel 1:

A lot or parcel of land lying on the West side of Claxton Street, in the City of Elba, Coffee County, Alabama, being more particularly described as follows: Commencing at a point on the West side of said Claxton Street, said point being 260.5 feet Northwesterly along the West side of said Claxton Street from the point of intersection of the West side of said Claxton Street and the centerline of Newton Street; thence North 38°-49' West 25.0 feet along the West side of said Claxton Street to the Southeast corner of lot of Spartan Food Systems, Inc.; thence South 47°-57' West 198.5 feet along lot of Spartan Food Systems, Inc.; thence South 29°-00' East 25.0 feet; thence North 48°-07' East 202.07 feet to the West side of said Claxton Street and the point of beginning.

Parcel 2:

A lot or parcel of land lying on the West side of Claxton Street, in the City of Elba, Coffee County, Alabama, being more particularly described as follows: Commencing at a point on the west side 30 feet from centerline of said Claxton Street, said point being 265.5 feet Northwesterly along said Claxton Street from the north side (20 feet from centerline) of Newton Street, said point of beginning also being 69.0 feet northwesterly along said Claxton Street from the northeast corner of the Eastern lot; running thence South 47°-57' West 198.5 feet; thence North 29°-00' West 66.2 feet; thence South 62°-31' West 14.0 feet; thence north 44°-10' West 72.0 feet; thence North 47°-57' East 198.8 feet to the west side of said Claxton Street; thence South 42°-26' East 140.0 feet to the point of beginning.

Being the same property as set forth on that certain survey dated February 6, 2007, prepared by Phillip E. Santora of Northstar Engineering Services and described as follows:

A lot or parcel of land lying on the West side of Claxton Street, in the City of Elba, Coffee County, Alabama, and being more particularly described as follows:

Beginning at an iron spike on the West side of Claxton Street, said point being 260.50 Ft. northwesterly along the West side of said Claxton Street from the point of intersection of the West side of said Claxton Street and the centerline of Newton Street; thence S46°-36'-38" W a distance of 75.36 ft to an existing iron pin (EIP); thence S49°-01'-22" W a distance of 126.26 ft to an EIP; thence N29°-42'-07" W a distance of 90.99 ft to a set iron pin (SIP); thence S59°-26'-23" W a distance of 20.92 ft to an EIP; thence N38°-10'-07" W a distance of 9.92 ft to an EIP; thence N38°-40'-48" W a distance of 61.51 ft to a SIP; thence N48°-47'-11" E a distance of 197.55 ft to an EIP on said Claxton Street; thence along said Claxton Street S42°-19'-54" E a distance of 162.08 ft to the POINT OF BEGINNING. Said parcel being located in the NE¼ of the SW¼ of Section 8, Township 5 North, Range 20 East.

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EXHIBIT "C"

Memorandum of Lease

0145251\172435\3063921v1

RETURN TO:
John A. Howard, Jr., Esq.
5529 Carmichael Road
Montgomery, AL 36117

STATE OF ALABAMA)
COUNTY OF COFFEE)

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE (this "Memorandum"), made and entered into this _____ day of _____, 2016, by and between Mary K. Johnson as Trustee of the Mary K. Johnson Trust ("Lessor"), and Premier Kings, Inc., an Alabama corporation, ("Lessee").

WITNESSETH:

WHEREAS, Applefield Six Family Limited Partnership and Denver Limited Partnership, as lessor, and Goldco, LLC, as lessee, are parties to that certain Lease dated January 31, 2008 (the "Lease");

WHEREAS, Mary K. Johnson, as Trustee of the Mary K. Johnson Trust is the successor in interest to Applefield Six Family Limited Partnership and Denver Limited Partnership, as lessor.

WHEREAS, Burger Gulf Coast, LLC is the successor in interest to Goldco, LLC, as lessee.

WHEREAS, Burger Gulf Coast, LLC, as lessee, has assigned all of its right, title and interest in the Lease to Premier Kings, Inc., pursuant to that Assignment and Assumption of Leases dated _____, 2016 which assignment is being recorded on or about the date that this document is recorded.

WHEREAS, the parties hereto desire to file this Memorandum of Lease for record in the Records of Coffee County, Alabama, to provide record notice of the Lease, and the terms and conditions contained therein with respect to the Premises (as hereinafter defined).

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and in the Lease, Lessor and Lessee hereby agree as follows:

1. Premises. Lessor leases to Lessee and Lessee leases from Lessor the following property along with the BURGER KING® restaurant and other improvements constructed thereon (the "Premises");

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Legal Descriptions: See Exhibit "A" attached hereto and made a part hereof.

Restaurant Number and Address: BK# 16460 – 529 Claxton Avenue, Elba, Alabama 36323

2. Term. The Lease is dated January 31, 2008, and is to terminate 20 years from Commence Date, unless terminated sooner as provided in the Lease and may be extended for four periods of five years each.

3. Defined Terms. All capitalized terms and words of art which are used but not defined herein shall have the same respective meaning designated for such terms and words of art in the Lease.

[Signatures appear on following pages]

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IN WITNESS WHEREOF, Lessor and Lessee have caused this Memorandum to be executed the day, month and year first above written.

"LESSOR"

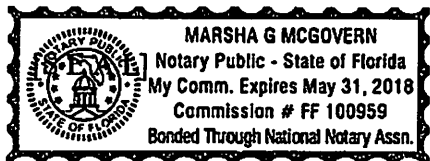
Mary K. Johnson
Mary K. Johnson as
Trustee of Mary K. Johnson Trust

STATE OF Florida

COUNTY OF Sarasota

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Mary K. Johnson, whose named as Lessor of Lease, is signed to the foregoing document, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, she, as such trustee and with full authority, executed the same voluntarily for and as the act of said trust.

Given under my hand on Sept. 26, 2016.



My Commission Expires:

May 31, 2018

Marsha G. McGovern
Notary Public, State of Florida

Marsha G. McGovern
Printed Name of Notary Public

[Signature continues on following page]

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"LESSEE"

Premier Kings, Inc.,
an Alabama corporation

By: _____

Name: Manraj "Patrick" 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 "Patrick" Sidhu, whose named as President of **Premier Kings, Inc.**, an Alabama corporation, is signed to the foregoing document, 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 corporation.

Given under my hand on October 5, 2016.

[SEAL]

My Commission Expires:

MY COMMISSION EXPIRES NOVEMBER 13, 2017

Jessica Wilson
Notary Public, State of Alabama

Jessica Wilson
Printed Name of Notary Public

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EXHIBIT "A"

Legal Descriptions of the Premises

Parcel 1:

A lot or parcel of land lying on the West side of Claxton Street, in the City of Elba, Coffee County, Alabama, being more particularly described as follows: Commencing at a point on the West side of said Claxton Street, said point being 260.5 feet Northwesterly along the West side of said Claxton Street from the point of intersection of the West side of said Claxton Street and the centerline of Newton Street; thence North 38°-49' West 25.0 feet along the West side of said Claxton Street to the Southeast corner of lot of Spartan Food Systems, Inc.; thence South 47°-57' West 198.5 feet along lot of Spartan Food Systems, Inc.; thence South 29°-00' East 25.0 feet; thence North 48°-07' East 202.07 feet to the West side of said Claxton Street and the point of beginning.

Parcel 2:

A lot or parcel of land lying on the West side of Claxton Street, in the City of Elba, Coffee County, Alabama, being more particularly described as follows: Commencing at a point on the west side 30 feet from centerline of said Claxton Street, said point being 265.5 feet Northwesterly along said Claxton Street from the north side (20 feet from centerline) of Newton Street, said point of beginning also being 69.0 feet northwesterly along said Claxton Street from the northeast corner of the Eastern lot; running thence South 47°-57' West 198.5 feet; thence North 29°-00' West 66.2 feet; thence South 62°-31' West 14.0 feet; thence north 44°-10' West 72.0 feet; thence North 47°-57' East 198.8 feet to the west side of said Claxton Street; thence South 42°-26' East 140.0 feet to the point of beginning.

Being the same property as set forth on that certain survey dated February 6, 2007, prepared by Phillip E. Santora of Northstar Engineering Services and described as follows:

A lot or parcel of land lying on the West side of Claxton Street, in the City of Elba, Coffee County, Alabama, and being more particularly described as follows:

Beginning at an iron spike on the West side of Claxton Street, said point being 260.50 Ft. northwesterly along the West side of said Claxton Street from the point of intersection of the West side of said Claxton Street and the centerline of Newton Street; thence S46°-36'-38" W a distance of 75.36 ft to an existing iron pin (EIP); thence S49°-01'-22" W a distance of 126.26 ft to an EIP; thence N29°-42'-07" W a distance of 90.99 ft to a set iron pin (SIP); thence S59°-26'-23" W a distance of 20.92 ft to an EIP; thence N38°-10'-07" W a distance of 9.92 ft to an EIP; thence N38°-40'-48" W a distance of 61.51 ft to a SIP; thence N48°-47'-11" E a distance of 197.55 ft to an EIP on said Claxton Street; thence along said Claxton Street S42°-19'-54" E a distance of 162.08 ft to the POINT OF BEGINNING. Said parcel being located in the NE¼ of the SW¼ of Section 8, Township 5 North, Range 20 East.

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EXHIBIT B**ASSIGNMENT AND ASSUMPTION OF LEASES AND CONTRACTS****ASSIGNMENT AND ASSUMPTION OF LEASES AND CONTRACTS****Seller:** Mary Kay Johnson Trust**Buyer:** Asset Preservation, Inc., as Qualified Intermediary for Pasquale DeSantis**Property (Address):** 529 Claxton Ave N, Elba, AL 36323

This Assignment and Assumption of Leases and Contracts, dated effective as of _____, is entered into between Buyer and Seller in connection with the transfer of the Property from Seller to Buyer concurrently herewith.

Seller is the landlord under those certain leases identified on Schedule 1 attached hereto (collectively, "Leases") relating to the Property. Seller desires to assign to Buyer, and Buyer desires to assume from Seller, all of Seller's right, title and interest in and to the Leases and all other transferable licenses, contracts, permits and agreements affecting the Property (collectively, "Contracts").

For valuable consideration, the receipt and sufficiency of which is acknowledged, Buyer and Seller agree as follows:

1. ASSIGNMENT. Seller hereby assigns, transfers and conveys to Buyer all of Seller's right, title and interest in and to (a) the Leases and Contracts and (b) all security deposits, letters of credit and guarantees given in connection with the Leases.

2. ASSUMPTION. Buyer hereby assumes all of Seller's obligations and liabilities under the Leases and Contracts and agrees to perform all of the landlord's obligations under the Leases, and Seller's obligations under the Contracts, arising from and after the date hereof. Buyer shall be solely responsible for notifying any tenants or occupants (a) that Seller has transferred ownership of the Property to Buyer, (b) regarding any change in place for payment of rentals, and (c) that Buyer is responsible for the security deposits of such tenants or occupants.

3. INDEMNIFICATION BY SELLER. Seller hereby indemnifies Buyer and agrees to hold Buyer harmless from and against all claims, expenses, losses or damages to the extent arising out of (a) the landlord's obligations and liabilities under the Leases accruing prior to the date hereof, and/or (b) Seller's obligations and liabilities under the Contracts accruing prior to the date hereof.

4. INDEMNIFICATION BY BUYER. Buyer hereby indemnifies Seller and agrees to hold Seller harmless from and against all claims, expenses, losses or damages to the extent arising out of (a) the landlord's obligations and liabilities under the Leases accruing from and after the date hereof, and/or (b) Seller's obligations and liabilities under the Contracts accruing from and after the date hereof.

SELLER:

Mary Kay Johnson Trust

BUYER:

Asset Preservation, Inc., as Qualified Intermediary for Pasquale DeSantis



DocuSigned by:

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Printed Name: Mary K Johnson**Title (if applicable):** Owner**Printed Name:** Pasquale Desantis**Title (if applicable):** _____**Printed Name:** _____**Title (if applicable):** _____**Printed Name:** _____**Title (if applicable):** _____**Dated:** _____**Dated:** 8/10/2022

Schedule 1 to Assignment and Assumption of Leases and Contracts

Leases

Premier Kings, Inc, dated October 26, 2016.