

# 4

## ASSIGNMENT AND ASSUMPTION OF LEASE

FOR AND IN CONSIDERATION of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned, U. S. RESTAURANT PROPERTIES OPERATING L. P., a Delaware limited partnership ("Assignor"), does hereby sell, assign, convey, transfer, set over and deliver to U. S. RESTAURANT PROPERTIES BUSINESS TRUST I, a Delaware business trust ("Assignee"), the entire interest of Assignor in and to the lease of real property more particularly described in Exhibit A attached hereto and incorporated by reference herein, between Burger King Limited Partnership II, as lessor, and Norman F. Plott, as lessee, dated May 5, 1983, and recorded in Book 347, Page 871, in the Shelby County Recorder's Office (the "Lease").

Assignee hereby assumes and agrees to perform all the terms, covenants and conditions of the Lease required to be performed by the lessor thereunder from and after the date hereof including, without limitation, the obligation to repay in accordance with the terms of the Lease to the lessee thereunder any and all security deposits and prepaid rental deposits to the extent, but only to the extent of the amount of cash delivered by Assignor to Assignee with respect to such security deposits and prepaid rental deposits and only to the extent that any such amount shall hereafter become refundable to the lessee under the Lease.

Assignee hereby indemnifies and holds Assignor harmless from and against any and all loss, cost, damage, expense (including reasonable attorney's fees), liability, claims or causes of action existing in favor of or asserted by the lessee under the Lease arising out of or relating to Assignee's failure to perform any of its obligations as lessor under the Lease on or after the date hereof. Assignor hereby indemnifies and holds Assignee harmless from and against any and all loss, cost, damage, expense (including reasonable attorney's fees), liability, claims or causes of action existing in favor of or asserted by the lessee under the Lease arising out of or relating to Assignor's failure to perform any of its obligations as lessor under the Lease prior to the date hereof.

This Assignment shall be binding upon and shall inure to the benefit of Assignor and Assignee and their respective successors and assigns.

06/04/1996-17899  
12:31 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
004 SNA 16.00

3696 Pelham, AL



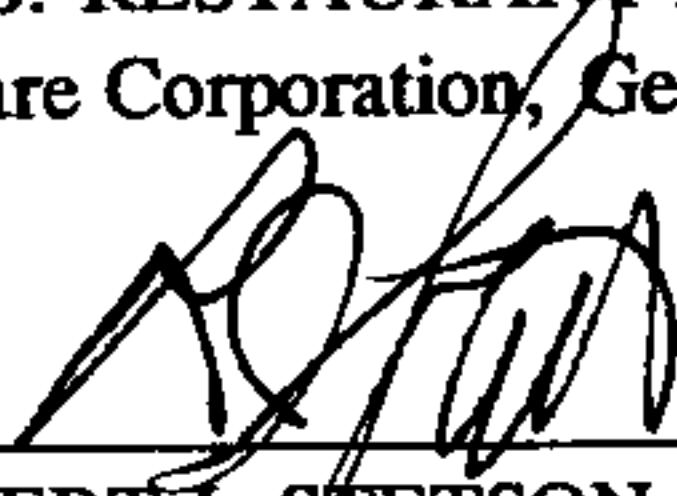
IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment and Assumption of Lease this 8<sup>th</sup> day of May, 1996.

ASSIGNOR:

[Seal]

U. S. RESTAURANT PROPERTIES OPERATING L. P.  
a Delaware Limited Partnership

By: U. S. RESTAURANT PROPERTIES, INC.  
a Delaware Corporation, General Partner

By:   
ROBERT J. STETSON, PRESIDENT

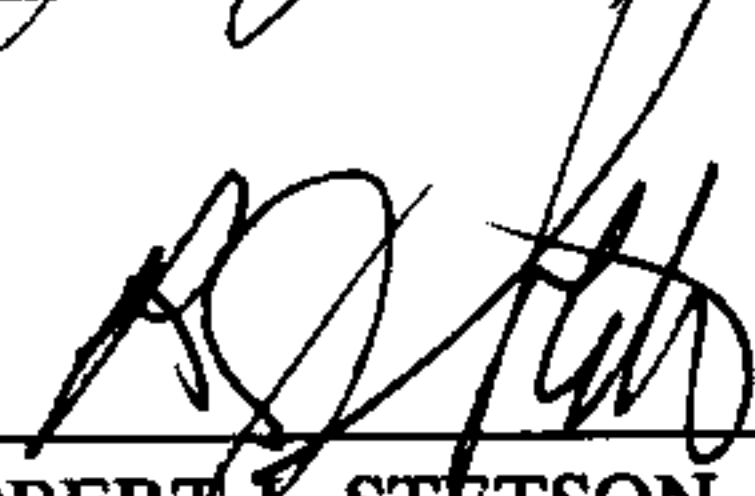
Attest:  Sec.  
FRED MARGOLIN, SECRETARY

ASSIGNEE:

[Seal]

U. S. RESTAURANT PROPERTIES BUSINESS TRUST I

By:   
FRED MARGOLIN, TRUSTEE

By:   
ROBERT J. STETSON, TRUSTEE

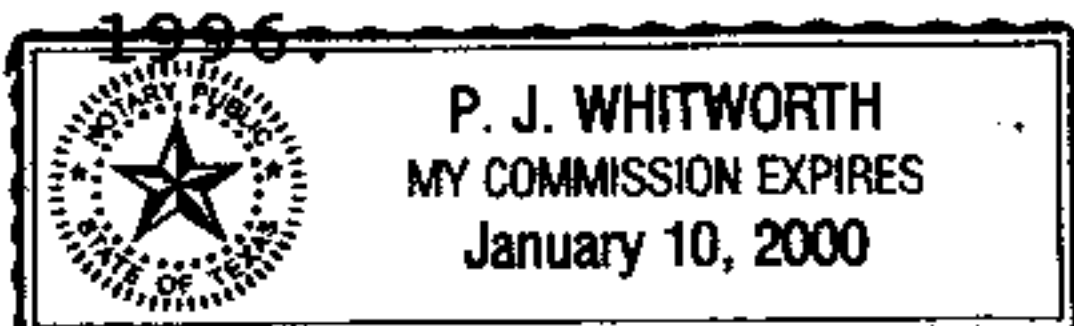


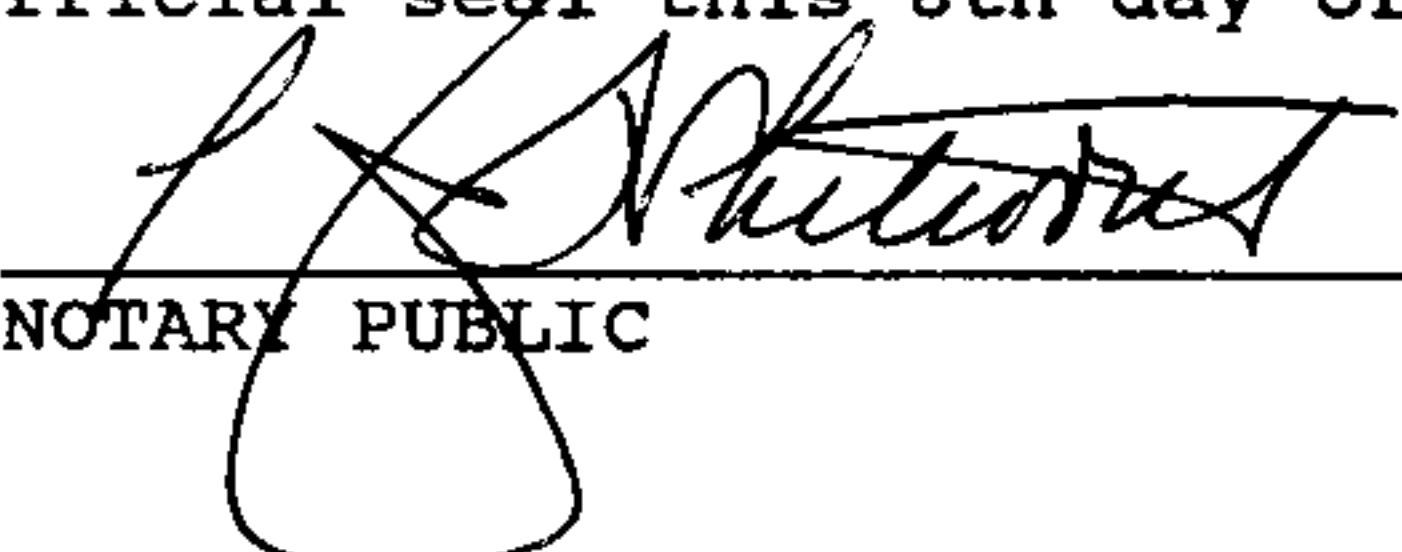
STATE OF TEXAS

COUNTY OF DALLAS

I, P.J. Whitworth, a Notary Public in and for said County, in said State, hereby certify that Robert J. Stetson, whose name he signed to the foregoing conveyance, as President of U. S. Restaurant Properties, Inc., as General partner of U. S. Restaurant Properties Operating L.P., and who is known to me, acknowledged before me on this day, that being informed of the contents of the conveyance he executed the same voluntarily on the day the same bears date in the capacity herein stated.

Given under my hand and official seal this 8th day of May  
A.D. 1996.



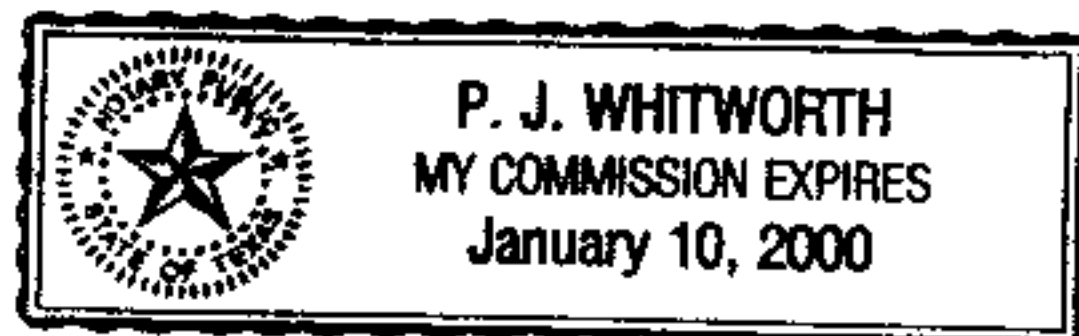
  
NOTARY PUBLIC

STATE OF TEXAS

COUNTY OF DALLAS

I, P. J. Whitworth, a Notary Public in and for said County, in said State, hereby certify that Fred Margolin, Trustee and Robert J. Stetson, Trustee of U. S. Restaurant Properties Business Trust I, and whom are known to me, acknowledged before me on this day, that being informed of the contents of the conveyance they executed the same voluntarily on the day the same bears date in the capacity stated.

Given under by hand and official seal this 8th day of May  
A.D. 1996.



  
Notary Public



## EXHIBIT A

Inst # 1996-17899

LEASE OR  
SUBLEASE AGREEMENT

06/04/1996-17899

12:31 PM Certified

SHELBY COUNTY JUDGE OF PROBATE

004 SNA 16.00

THIS AGREEMENT (the "Lease"), is made this 15<sup>th</sup> day of May, 1983 (the "lease date"), by and between BURGER KING LIMITED PARTNERSHIP II, a New York limited partnership with its principal offices located at Two World Trade Center, 105th Floor, New York, New York 10048 ("Lessor"), and NORMAN F. PLOTT ("Lessee"), whose address is 940 Montclair Road, Suite 100, Birmingham, Alabama. (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") and other improvements to be constructed on it (collectively called "the premises").

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

Commonly described as: Burger King Restaurant #3696  
Highway 31  
Pelham, Alabama

subject to conditions and restrictions 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 has agreed to 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, prior to completion, 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. The term of this Lease (the "term") shall commence upon the earliest of the following dates (the "commencement date"):

(a) the date 10 days following date of the issuance of a Certificate of Occupancy for the premises by appropriate governmental authorities; or

RS - BKLPII  
#3696  
JKT:1026:wp  
4/28/83

Inst # 1996-17899