

In that certain Short Form Lease dated
June 4, 1997, recorded as Document #1997-
17730, Shelby County, Alabama Records.

STATE OF ALABAMA)
SHELBY COUNTY)

SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT

THIS SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT (this "Agreement"), made and entered into as of the 19th day of ~~January~~ February, 1998, is by and among **CHICK-FIL-A, INC.**, a Georgia Corporation (the "Tenant"), **B. V. KUMAR**, an individual (the "Landlord"), and **FIRST COMMERCIAL BANK**, a State Bank (the "Lender").

RECITALS:

as amended by letter
agreement dated May 22, 1997

Tenant is the present tenant under that certain Ground Lease dated March 14, 1997, (hereinafter referred to as the "Lease"), with respect to approximately 1.928 acres, more or less, of real property located in Shelby County, Alabama, more particularly described in ~~Exhibit "A" attached hereto and made a part hereof.~~ The premises demised to Tenant under the Lease, as more particularly described therein, are referred to herein as the "Premises". Landlord, ~~as the successor landlord under the Lease,~~ has obtained a loan from Lender which is secured by a first-priority mortgage covering the property upon which the Premises are located, and by an assignment of all leases relating thereto, including the Lease. Said mortgage and assignment of leases, as the same may hereafter be amended, extended, modified or renewed (the consent of Tenant to which shall not be required), are referred to herein as the "Security Instruments." As a condition to making such loan, Lender has required that Landlord and Tenant execute this agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, and as an inducement to Lender to extend financing to the Landlord, the parties hereto do mutually covenant and agree as follows:

1. Subject to the terms and conditions of this Agreement, the Lease shall at all times be subject and subordinate in all respects to the Security Instruments and to all renewals, modifications and extensions thereof.

2. Tenant shall give prompt written notice to Lender of all defaults by Landlord under the Lease which are of such a nature as to give Tenant a right to terminate the Lease, to reduce rent, or to credit or offset any amounts against future rents, and Lender shall have a reasonable opportunity, but shall not be required, to cure the same.

3. ~~So long as Tenant is not in default in the payment of rent, additional rent or other charges or conditions of the Lease, Tenant shall not be disturbed by Lender in Tenant's possession, enjoyment, use and occupancy of the Premises during the original or any renewal term of the Lease or any extension or modification thereof.~~ (SEE ATTACHED PAGE 1A)

4. Upon Lender's written request, ~~and without regard to contrary instructions from Landlord,~~ Tenant agrees that it shall make the payments to be made by Tenant under the Lease directly to Lender. Landlord agrees that all such payments made by Tenant to Lender shall be fully credited against the obligations of Tenant under the Lease, as though the same had been made directly to Landlord. Prior to the time that Lender shall succeed to the interest of Landlord in the Premises as described in Section 5 below, receipt of such payments by Lender shall not relieve Landlord of its obligations under the Lease, nor operate to make Lender responsible for the performance thereof, and Tenant shall continue to look solely to Landlord for performance of such obligations.

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3. Lender hereby covenants and agrees that so long as no default exists, nor any event has occurred which has continued to exist for such period of time (after notice and expiration of all cure periods, if any, required by the Lease) as would entitle the Landlord (or any other party, including Lender, succeeding to Landlord's interest under the Lease; such party being hereinafter referred to as "Successor Landlord") to terminate the Lease, the Lease shall not be terminated, nor shall Tenant's use, possession or enjoyment of the Demised Premises be interfered with, nor shall the leasehold estate granted by the Lease be affected in any other manner, in any exercise of the private power(s) of sale contained in any one or more of the Security Documents, or by any foreclosure or other action or proceeding instituted by Lender or any Successor Landlord under or in connection with the Security Documents, or in case the Lender takes possession of the Property described in the Security Documents pursuant to any provisions thereof, and Lender agrees that it shall not join Tenant as a party defendant in any action or proceeding for the purpose of terminating the Lease because of any default on the part of Landlord under the Security Documents.

5. If the interest of Landlord in the Premises shall be acquired by Lender through foreclosure, deed in lieu of foreclosure or by any other method, and Lender shall succeed to the interest of Landlord under the Lease, then the Lease shall continue in full force and effect and shall not be terminated or disturbed except in accordance with the terms thereof. Tenant shall thereupon be bound to Lender, and Lender shall be bound to Tenant, under all the terms, covenants and conditions of the Lease for the balance of the term thereof remaining, and any extensions or renewals thereof, with the same force and effect as if Lender was the original landlord under the Lease. Tenant does hereby attorn to Lender as its landlord, said attornment to be effective and self-operative immediately upon Lender's succeeding to the interest of Landlord under the Lease, and without the execution of any additional documents by the parties hereto.

6. Tenant hereby agrees that, except for defaults of which Lender has been notified pursuant to Section 2 hereof, but has failed to cure, Lender shall not be responsible or liable in any way for, or subject to any offsets or defenses related to, any default in the Landlord's obligations under the Lease occurring prior to the time Lender succeeds to the interest of Landlord in the Premises. Tenant further agrees that, except for defaults of which Lender has been notified pursuant to Section 2 hereof, but has failed to cure, Lender shall not be:

- (a) liable for any act or omission of any prior landlord (including Landlord); or
- (b) bound by any rent or additional rent which Tenant might have paid for more than thirty (30) days in advance to any prior landlord (including Landlord); or
- (c) ~~bound by any amendment, modification or termination of the Lease made without Lender's consent, which consent shall not be unreasonably withheld; or~~
- (d) in any way responsible for any deposit or security which was delivered to Landlord but which was not subsequently delivered to Lender.

7. Tenant hereby represents and warrants to Lender, knowing that Lender will rely hereon as an inducement to extend credit to Landlord, that to the best knowledge of the undersigned

- (a) the improvements and space constituting the Premises have been completed in all respects, and the Landlord has complied with all obligations on its part with respect to tenant finish and improvements, including, without limitation, construction, fixturing and equipping the same;
- (b) the Lease is in full force and effect and has not been modified, altered or amended, except as described herein;
- (c) there presently exists no event of default under the Lease, and there are no offsets or credits against rentals;
- (d) minimum fixed monthly rentals (exclusive of contributions for operating expenses) of \$4,875.00 are payable monthly in advance under the Lease;
- (e) all rents due under the Lease are currently paid to the Landlord, no rents have been prepaid, and Tenant will not hereafter prepay rents by more than thirty (30) days;
- (f) the lease term expires on August 31, 2012, subject to renewals as contained in the Lease;
- (g) there are no actions, either voluntary or involuntary, pending against Tenant under the bankruptcy laws of the United States, or under the bankruptcy laws of any state.

8. All notices, demands, or requests, and responses thereto, required or permitted to be given pursuant to this Agreement shall be in writing, shall be sent by United States mail, postage prepaid and registered or certified with return receipt requested, shall be deemed to have been properly given or served and shall be deemed effective as of the date of receipt or refusal indicated on such return receipt, and shall be addressed as follows:

If to Tenant: Chick-Fil-A, Inc.
5200 Buffington Road
Atlanta, Georgia 30349

If to Landlord: B. V. Kumar
2807 Woodward Avenue
Muscle Shoals, AL 35661

If to Lender: First Commercial Bank
800 Shades Creek Parkway
Birmingham, Alabama 35209
Attention: Paul M. Schabacker

or at such other single address in the United States as either party may by notice in writing designate.

9. This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective heirs, successors and assigns. This Agreement may be executed in any number of counterparts, each of which shall constitute an original for all purposes, but all of which, taken together, shall evidence but one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, or have caused this Agreement to be duly executed, as of the day and year first above written.

TENANT:

CHICK-FIL-A, INC., a Georgia Corporation

BY:  [SEAL]

Its Senior Vice President

STATE OF GEORGIA)
COUNTY OF Fulton)

I, the undersigned Notary Public in and for said County, in said State, hereby certify that Bureon E. Ledbetter, whose name as Sr. V.P. of **CHICK-FIL-A, INC.**, a Georgia Corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, acting in his capacity as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this 11th day of ~~January~~, 1998.
February


NOTARY PUBLIC

My Commission Expires 2-7-2000

[NOTARIAL SEAL]

LANDLORD:

B. V. Kumar

[SEAL]

B. V. KUMAR, an individual

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned Notary Public in and for said County, in said State, hereby certify that **B. V. KUMAR**, an individual, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this 19th day of February, 1998.

[Signature]
NOTARY PUBLIC
My Commission Expires: 12/28/99

[NOTARIAL SEAL]

LENDER:

FIRST COMMERCIAL BANK, a State Bank

BY: [Signature] [SEAL]
Paul M. Schabacker
Its Vice President

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned Notary Public in and for said County, in said State, hereby certify that Paul M. Schabacker, whose name as Vice President of **FIRST COMMERCIAL BANK**, a State Bank, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said bank.

Given under my hand and official seal, this 19th day of February, 1998.

[Signature]
NOTARY PUBLIC
My Commission Expires: 12/28/99

[NOTARIAL SEAL]

This Agreement Prepared By:

Claude McCain Moncus, Esq.
Corley, Moncus & Ward, P.C.
400 Shades Creek Parkway
Suite 100
Birmingham, Alabama 35209
(205) 879-5959

Inst # 1998-05678

5

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