MANAGEMENT AGREEMENT

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This Management Agreement (the “Agreement”) is effective [DATE],

**BETWEEN: [YOUR COMPANY NAME]** (the "Company"), a company organised and existing under the laws of [COUNTRY], with its head office located at:

 [YOUR COMPLETE ADDRESS]

**AND: [SECOND PARTY NAME]** (the "Manager"), a company organised and existing under the laws of [COUNTRY], with its head office located at:

 [COMPLETE ADDRESS]

WHEREAS the Company is in the business of operating a [SPECIFY] (the “Business”);

WHEREAS the Manager has knowledge and expertise in the area of establishing, developing, operating and managing [SPECIFY BUSINESS TYPE], as well as in the area of the management of enterprises carrying on activities similar to those of the Company;

WHEREAS the Company considers that the Manager’s expertise will enable the Company to successfully and profitably operate its Business;

WHEREAS the Manager has represented to the Company that it shall, during the term of this Management Agreement, be primarily responsible for the performance of the services to be provided hereunder;

WHEREAS the Company wishes to engage the Manager to manage the Business on the terms and conditions set out below, and the Manager is prepared to enter into the present Management Agreement with the Company.

**NOW, THEREFORE, THE PARTIES** **AGREE AS FOLLOWS:**

**1. ENGAGEMENT**

1.1 The Company hereby engages the Manager to provide expertise in the operation of the Business and such management services as may, from time to time, be requested by the Company. Such services shall be provided by the Manager and through such other agents and supervisors employed by the Manager as may be named by the Manager.

**2. TERMS AND RENEWAL**

2.1 The terms of the present Management Agreement shall run for [NUMBER] ([NUMBER]) months from the date of the opening for business of the Business, unless sooner terminated or subsequently continued in accordance with the terms and conditions of the present Management Agreement.

2.2 The Company may, at its option, renew the present Management Agreement for an additional period of [NUMBER] ([NUMBER]) months, provided that at the end of the initial term:

2.2.1 the Company has given the Manager written notice of such election to renew not less than [NUMBER] ([NUMBER]) months and not more than [NUMBER] ([NUMBER]) months prior to the expiry of the initial term;

2.2.2 the Company has satisfied all monetary obligations owed by it to the Manager, and has timely met such obligations throughout the term of the present Management Agreement;

2.2.3 the Company shall execute not less than [NUMBER] ([NUMBER]) months prior to renewal the Manager’s then-current form of Management Agreement, which Agreement shall supersede in all respects the present Management Agreement, and the terms of which may differ from the terms of the present Management Agreement, including, without limitation, a revised Management Fee; and

2.2.4 the Company shall execute a general release, in a form prescribed by the Manager, of any and all claims against the Manager and its subsidiaries and affiliates, if any, and *in re*spect of their respective officers, directors, agents and employees.

**3. FEES AND PAYMENTS**

3.1 The Company shall pay to the Manager during the terms of this Management Agreement a fee for its management services in an amount equal to [PERCENTAGE %] percent ([PERCENTAGE %]) of the Gross Sales at the Business (the “Management Fee”), which Management Fee shall be payable monthly in arrears.

3.2 The term “Gross Sales” as used herein shall include the aggregate of the total amount of all sales, receipts, receivables, sales of merchandise made or services rendered in, at, on, or from the Business, and sales wherever made of food, beverage and products stored on the Business’s premises, including catering on and off the Business’s premises, or any other business conducted from the Business, whether made by the Company or any assignee, successor or sub-lessee, and whether made on a cash basis, or by cheque,

3.3 or on credit, paid or unpaid, collected or uncollected, including deposits not refunded to customers, and the amount of any orders received at or solicited from the Business although such orders may be filled elsewhere, in the same manner, and with the same effect as if such sales or services have been made or performed on the Business Premises. Each charge or sale upon credit shall be treated as a sale for the full price in the week during which such charge or sale shall be made, irrespective of the time when the Company shall receive payment, either full or partial, therefore. Any installation fee, continuing rental, or percentage sales or any other revenue received by the Franchisee from vending and other machines and public telephone permitted to be installed on the Business’s premises under Paragraph 5.6 hereof shall form part of Gross Sales.

3.4 The term “Gross Sales” as used herein shall not, however, include, or there shall be deducted therefrom, as the case may be the following amounts: the amount of all sales for which cash has been refunded, but only to the extent of such refund, provided that the amount of such sales shall have previously been included in Gross Sales; the amount of any gratuities to employees; the amount of any sales, retail, excise, or similar tax imposed by any federal, provincial, municipal or other governmental authority directly on sales or services and added to the price thereof, where such amounts have been collected from the customer at the point of sale by the Company acting as agent for such authority and actually in turn paid by the Company to such governmental authority; the amount of any promotional discounts approved by the Franchisor, including, without limitation, coupon redemptions and other sales of food pursuant to promotional programmes which have been approved in writing by the Franchisor prior to implementation; meals served to employees of the Company and consumed on the Business’s premises, provided an accurate list of such meals consumed is reported on the weekly report required by Paragraph 4.3 hereinabove.

3.5 The Manager shall be reimbursed for all travelling and other expenses actually and properly incurred by it in connection with its duties hereunder. The Manager shall furnish statements and vouchers to the Company *in re*spect of all such expenses for which reimbursement is claimed.

3.6 All monthly payments required by this Article 3 must be paid by cheque drawn to the order of the Manager and received by the Manager at its address designated in sub-paragraph 9.1.1 hereof, by [HOUR] o’clock in the afternoon ([HOUR] a.m/p.m.) on the [DAY] immediately following the close of each monthly period, accompanied by a written report detailing the calculations of the Company’s Gross Sales at the Business for each such monthly period. If any payment is overdue, the Company shall pay to the Manager, in addition to the overdue amount, interest on such amount from the date it was due until the date of payment, at the rate of [PERCENTAGE %] per cent ([PERCENTAGE %]) per annum, and entitlement to such interest shall be in addition to any other remedies which the Manager may have.

**4. AUTHORITY, POWER, OBLIGATIONS AND RESPONSIBILITIES OF THE MANAGER**

4.1 The Manager shall have full power and authority to manage the Business on behalf of the Company during the terms of the present Management Agreement.

4.2 For greater certainty, the Manager’s authority, powers, duties and responsibilities hereunder towards the Company shall include:

4.2.1 the recruitment, employment, and dismissal of all employees of the Company working in the Business;

4.2.2 entering into the usual contracts necessary for carrying on the business of the Company in the ordinary course, including, without limitation, the authority to order goods, materials, supplies, and products required for the business of the Company;

4.2.3 the promotion, marketing and advertisement of the Company pursuant to the Franchise Agreement entered into between the Company and the Franchisor;

4.2.4 entering into any contract on behalf of the Company for the repair, maintenance or improvement of the Business pursuant to the Franchise Agreement entered into between the Company and the Franchisor; and

4.2.5 preparing or having prepared all accounting and other records and reports required to be prepared and remitted to the Franchisor under the Franchise Agreement between the Franchisor and the Company.

4.3 It is understood and acknowledged and agreed to by the parties, that this Management Agreement is not exclusive, and that the Manager may act as the manager of other individuals, persons, company’s, partnerships or other legal entities operating other restaurants under franchise from the Franchisor.

4.4 It is understood, acknowledged and agreed by the Company that:

4.4.1 the Manager has made no waiver, warranty or guarantee whatsoever upon which the Company may rely, including any warranty or guarantee as to the profitability of the operation of the Business during the term of this Management Agreement or any extension or renewal thereof;

**5. DEFAULT AND TERMINATION**

5.1 The Company shall be deemed to be in default under this Management Agreement upon the occurrence of any of the following events:

5.1.1 if the Company shall become insolvent, or bankrupt, or subject to the provisions of the Winding-Up Act ([COUNTRY]) or the Bankruptcy Act ([COUNTRY]), or shall go into liquidation, either voluntarily or under an order of a Court of competent jurisdiction, or shall make a general assignment for the benefit of its creditors, or otherwise acknowledge its insolvency;

5.1.2 if a liquidator or liquidators or receiver or receivers or a trustee or trustees in bankruptcy, be appointed to the Company, or if its secured creditors take possession of the property of the Company or any substantial or essential part thereof in the sole determination of the Manager;

5.1.3 if the Company ceases to do business for any reason at the Business Premises, or loses the right to possession of the said premises for any reason, or otherwise forfeits the right to do or transact business in the jurisdiction where the Business is located; or

5.1.4 if the Company fails, refuses or neglects to promptly pay any monies owing to the Manager when due under this Management Agreement.

5.2 The Manager shall be deemed to be in default under this Management Agreement upon the occurrence of any of the following events:

5.2.1 if the Manager shall become insolvent, or bankrupt, or subject to the provisions of the Winding-Up Act ([COUNTRY] or the Bankruptcy Act ([COUNTRY]), or shall go into liquidation, either voluntarily or under an order of a Court of competent jurisdiction, or shall make a general assignment for the benefit of its creditors, or otherwise acknowledge its insolvency;

5.2.2 if a liquidator or liquidators or receiver or receivers or a trustee or trustees in bankruptcy, be appointed to the Manager, or if its secured creditors take possession of the property of the Manager or any substantial or essential part thereof;

5.2.3 if the Manager ceases to do business for any reason or forfeits the right to do or transact business in the jurisdiction where the Business is located; or

5.2.4 if the Manager fails, refuses or neglects to promptly perform any obligations owing to the Company when due under this Management Agreement.

5.3 Upon the occurrence of any event of default outlined in Paragraph 5.1 or 5.2 hereinabove, the party not in default shall be entitled, at its option, to immediately terminate the present Management Agreement.

**6. RELATIONSHIP OF THE PARTIES AND INDEMNIFICATION**

6.1 It is understood and agreed to and acknowledged by the Parties hereto that this Management Agreement does not create any fiduciary relationship between them, and that nothing in this Management Agreement is intended to, nor shall it be construed to, constitute either party a partner or joint venturer of the other, or to create any commercial or other partnership between the Parties hereto.

6.2 The Company undertakes to hold the Manager harmless from any liability under any contract entered into with any third party within the scope of the Manager’s authority and powers hereunder, and to reimburse the Manager the amount of any expense which the Manager may make or incur in connection with such contracts.

6.3 The Company further undertakes to indemnify and hold harmless the Manager from any claim made by any person for any relief whatsoever arising out of any act or omission of the Manager or of any person acting under its supervision, whether or not the said claim is well-founded.

**7. SEVERABILITY AND CONSTRUCTION**

7.1 Except as expressly provided to the contrary herein, each article, term, condition and provision of this Management Agreement shall be considered severable, and if, for any reason whatsoever, any such article, term, condition or provision herein is deemed to be invalid, illegal or incapable of being enforced as being contrary to, or in conflict with any existing or future law or regulation by any court or agency having valid jurisdiction, such shall not impair the operation or have any other effect upon such other articles, terms, conditions and provisions of this Management Agreement, and the latter shall continue to be given full force and effect by the parties hereto, and shall be construed as if such invalid, illegal or unenforceable article, term, condition or provision were omitted.

7.2 All captions, titles, headings and article numbers herein have been inserted and are intended solely for the convenience of the parties, and none such shall be construed or deemed to affect the meaning or construction of any provisions hereof, nor to limit the scope of the provision to which they refer.

7.3 All references herein to the masculine gender shall include the feminine and neuter genders, and all references herein to the singular shall include the plural, where applicable.

7.4 This Management Agreement constitutes the entire, full and complete Agreement between the Company and the Manager concerning the subject matter hereof, and shall supersede all prior agreements, no other representations having induced the Company to execute this Agreement. No representation, inducement, promises or agreements, oral or otherwise, between the parties not included herein or attached hereto, unless of subsequent date, have been made by either party and none such shall be of any force or effect with reference to this Management Agreement or otherwise. No amendment, change or variance of this Management Agreement shall be binding upon either party unless mutually agreed to by the parties and executed by them, or by their respective authorised employees, officers, or agents in writing.

**8. WAIVER**

8.1 Nor failure, delay, waiver, forbearance or omission by either of the parties hereto of the conditions or of the breach of any term, provision, covenant or warranty contained herein, whether by conduct or otherwise, and no custom or practise of the parties not in accordance with the terms and conditions hereof, shall constitute or be deemed to be or be construed as being a further or continuing waiver of any such condition or breach, or the waiver of any other condition or of the breach of any other term, provision, covenant or warranty of this Management Agreement. In particular, no acceptance by the Manager of any payments due to it hereunder shall be deemed to be a waiver by the Manager of any preceding breach by the Company of any of the terms, conditions, or provisions of this Management Agreement.

**9. NOTICES**

9.1 Any and all notices required or submitted under this Management Agreement shall be given in writing and shall be personally delivered or mailed by registered mail, postage prepaid and return receipt requested, except in the event of a postal disruption, to the respective [COMPANY NAME] at the following addresses, unless and until a different address has been designated by notice in writing to the other party:

To the Company

[YOUR COMPANY NAME]

[YOUR COMPLETE ADDRESS]

To the Manager:

[NAME]

[COMPLETE ADDRESS]

**10. LANGUAGE AND GOVERNING LAW**

10.1 This Management Agreement shall be governed by and construed and enforced in accordance with the laws of [STATE/PROVINCE] of [COUNTRY], which law shall prevail in the event of any conflict of the parties.

10.2 The parties hereto acknowledge that they requested that this Agreement and all related documents be drafted in English, that any notice to be given hereunder be given in English, and that any proceedings between the parties relating to this Agreement be drafted in English.

IN WITNESS WHEREOF, each party to this agreement has caused it to be executed at [PLACE OF EXECUTION] on the date indicated above.

# THE COMPANY THE MANAGER

Authorised Signature Authorised Signature

Print Name and Title Print Name and Title