

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

In re:

(Chapter 11)

PREMIER KINGS, INC., *et al.*,¹

Case No. 23-02871 (TOM11)

Debtors.

Jointly Administered

ORDER (I) APPROVING BIDDING PROCEDURES FOR THE SALE OF ALL OR SUBSTANTIALLY ALL THE DEBTORS' ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS; (II) APPROVING BID PROTECTIONS FOR STALKING HORSE BIDDERS; (III) APPROVING PROCEDURES FOR ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES; (IV) SCHEDULING AN AUCTION FOR, AND HEARING TO APPROVE, THE SALE OF ALL OR SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS; (V) APPROVING THE FORM AND MANNER OF SALE NOTICE; AND (VI) GRANTING RELATED RELIEF

Upon consideration of the Motion (the "Motion")² of the Debtors for entry of an order approving bidding procedures for the sale of all or substantially all of the Debtors' assets, scheduling an Auction for, and Hearing to consider, the Sale, and upon consideration of all pleadings related thereto, including the Baker Declaration and the objections and responses filed by certain creditors and other parties in interest; and it appearing that the Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that this is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2); and it appearing that venue of this proceeding and

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification numbers, are: Premier Kings, Inc. (3932); Premier Kings of Georgia, Inc. (9797); and Premier Kings of North Alabama, LLC (9282). The Debtors' address is 7078 Peachtree Industrial Blvd., Suite #800, Peachtree Corners, GA 30071.

² All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion or the Bidding Procedures.



this Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that the relief requested in this Motion is in the best interest of the Debtors, their estates, and their creditors; and after due deliberation and good and sufficient cause appearing therefor;

IT IS FOUND AND DETERMINED THAT:

- A. The Debtors have articulated good and sufficient business reasons for the Court to (i) approve the Bidding Procedures attached to this Order; (ii) approve the Bid Protections proposed in the Motion, including a uniform Break-Up Fee of 2.5% for each Stalking Horse Bidder, plus a maximum expense reimbursement of \$150,000 for substantiated expenses incurred in connection with each Stalking Horse Bidder's submission; (iii) set dates for the Auction and Sale Hearing, as well as any other dates or deadlines set forth in the Bidding Procedures attached hereto; and (iv) to authorize and approve the Assumption and Assignment Procedures and the form and manner of Sale Notice.
- B. In light of the circumstances and the nature of the relief requested, sufficient and adequate notice of the Bidding Procedures has been given, and no further notice thereof is required.
- C. The Bidding Procedures attached hereto as **Exhibit 1** and the Bid Protections contained herein are fair, reasonable, appropriate, and appear to represent the best method for maximizing the value of the Debtors' estates, considering the size and nature of the proposed Sales, the marketing efforts by the Debtors and their professionals to date and yet to be conducted, and the efforts the Court believes have been and will be expended by the Stalking Horse Bidders.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is granted with respect to the matters set forth herein, including approval of the Bidding Procedures and Bid Protections. All objections to the relief requested in the Motion that have not been withdrawn, waived, or settled as announced to the Court at the Hearing on the Motion or by stipulation filed with the Court, are overruled.

The Bid Deadline

2. In order to participate in the Auction, a Potential Bidder must submit a Qualified Bid (as defined in the Bidding Procedures), in writing or by email, so as to be actually received by the Bid Deadline, which is November 30, 2023 at 5:00 p.m. (Central), to: (a) the Debtors, c/o Aurora Management Partners, 112 South Tryon Street, Suite 1770, Charlotte, NC 28284, Attention David Baker, CRO, dbaker@auroramp.com; (b) counsel for the Debtors, Gary H. Leibowitz, Esq., Cole Schotz P.C., 1201 Wills Street, Baltimore, MD 21231, gleibowitz@coleschotz.com; (c) Raymond James, 320 Park Avenue, 12th Floor, New York, NY 10022, Attention: John Berg, john.berg@raymondjames.com, Geoffrey Richards, geoffrey.richards@raymondjames.com, and Enrique Acevedo, Enrique.acevedo@raymondjames.com; (d) the Prepetition Agent, c/o counsel for the Prepetition Agent, Jeffrey R. Dutson, Esq., 1180 Peachtree Street, NE Suite 1600, Atlanta, GA 30309, jdutson@kslaw.com; and (e) counsel for the Creditors' Committee, Bill D. Bensinger, Esquire, Christian & Small LLP, 1800 Financial Center, 505 North 20th Street, Birmingham, AL 35203, bdbensinger@csattorneys.com (the "Notice Parties").

Qualified Bids

3. The Debtors may determine, in their business judgment, and in consultation with the Prepetition Agent and Notice Parties, whether any Bids submitted by the Bid Deadline constitute Qualifying Bids in connection with the standards set forth in the Bidding Procedures.

Credit Bids

4. On or before the Bid Deadline, secured creditors may submit a credit bid for some or all of the Purchased Assets to the fullest extent permitted under section 363(k) of the Bankruptcy Code. The Prepetition Agent shall be entitled to credit bid any portion of its outstanding secured obligations pursuant to section 363(k) of the Bankruptcy Code with respect to any assets on which they hold liens. If the Prepetition Agent intends to credit bid at the Auction, they shall provide the Debtors with a “Notice of Intention to Credit Bid” by 5:00 p.m. on the Business Day prior to commencement of the Auction, which notice shall include a marked copy of an asset purchase agreement reflecting any changes from the applicable Stalking Horse Purchase Agreement of the opening bid at the Auction (provided that such Prepetition Agent will have the same rights as any other Qualifying Bidder hereunder to amend such terms during the Auction). If the Prepetition Agent shall submit a Notice of Intention to Credit Bid, the Prepetition Agent shall thereafter cease to be a consultation party hereunder. Any secured creditors that submit a credit bid at the Auction, which is or are determined to be the highest and best offer(s) and the Successful Bidder(s) or Back-Up Bidder(s) pursuant to this Order and the Bidding Procedures (the “Successful Credit Bidder”), shall be required to pay cash in the full amount of the credit bid(s) (in addition to any other cash required to pay the Purchase Price in full at closing) which shall be held in escrow by Flagstar Bank (“Escrow Agent”) pending the determination of the extent, validity, amount and priority of their secured claim; provided that, notwithstanding anything to the contrary contained herein, the Prepetition Agent shall be entitled to credit bid any portion of its outstanding secured obligations pursuant to section 363(k) of the Bankruptcy Code with respect to any assets on which they hold liens without the payment of any such cash deposit. After the secured claim is determined by final and non-appealable order, if the Successful Credit Bidder(s) obtain one or more allowed secured

claim(s), they shall be entitled to set off the amount of such claim(s) against the Purchase Price in accordance with section 363(k) and obtain a refund of that amount from the cash held by the Escrow Agent. If the Successful Credit Bidders' secured claim(s) are disallowed in full, then the Escrow Agent shall release all of the cash in escrow to the Debtors. The Debtors' acceptance of a Bid from a Successful Credit Bidder shall not be deemed to be an admission that such creditor has an allowed secured claim, or otherwise impact the determination of its claim in this case.

The Auction

5. If the Debtors, in consultation with the Notice Parties, pursuant to the Bidding Procedures, determine that they have received one or more Qualified Bids by the Bid Deadline, the Debtors shall conduct an auction (the "Auction") with respect to the Purchased Assets, which shall take place on **December 4, 2023 at 10:00 a.m. (Central)**, at the offices of Holland & Knight, LLP, located at 1901 Sixth Avenue North, Suite 1400, Birmingham, Alabama 35203. Only the Stalking Horse Bidders and Qualified Bidders, as well as their respective advisors, may participate in the Auction.

6. The Stalking Horse Bidders and each Qualified Bidder will be entitled to make Bids at the Auction. The Debtors and their professionals shall direct and preside over the Auction and the Auction shall be transcribed. Any Stalking Horse Bidder (in its capacity as a Qualified Bidder, if applicable) and each Qualified Bidder participating in the Auction must confirm that (a) it has not engaged in any collusion with respect to the bidding or sale of any of the assets described herein and (b) it has reviewed, understands, and accepts the Bidding Procedures. In addition to the Stalking Horse Bidders and other Qualified Bidders and their representatives, the Auction may be attended by representatives of (i) the Prepetition Agent, (ii) the Creditors' Committee, (iii)

Burger King Company LLC (“BKCL”), (iv) Premier Holdings, LLC, and (v) the Bankruptcy Administrator.

Successful Bidder(s) and Back-Up Bidders(s)

7. The Debtors may (I) designate, in their sole discretion and in consultation with the Prepetition Agent and the Creditors’ Committee, in the Debtors’ business judgment, pursuant to these Bidding Procedures, the highest or otherwise best Bid(s) and the Successful Bidder or Bidders and, at the Debtors’ discretion, the second highest or otherwise best Bid(s) as the Back-Up Bidder or Bidders, and (II) reject, without liability, any Bid that the Debtors, in their reasonable discretion and after consultation with the Prepetition Agent and the Creditors’ Committee, determine to be (a) inadequate or insufficient, (b) not in conformity with the Bidding Procedures, the Bankruptcy Code, the Bankruptcy Rules, or the Local Rules, or (c) contrary to the best interests of the Debtors and their estates. For the sake of clarity, the terms “consult” or “consultation,” as used herein, shall not give the Lender Group, Creditors’ Committee, or any other party the right to veto the Debtors’ decisions concerning the Bidding Procedures and Sale Process.

8. On the next Business Day following the Auction, the Debtors shall file with the Court notice of the identity of the Successful Bidder(s) and Back-up Bidder(s), and the amount(s) of their Bids. The same day, the Debtors shall serve such notice by fax or email to all contract and lease counterparties and to all creditors who have requested the same in writing and provided their fax number or email address, as applicable, to Debtors’ counsel on or before that date and time. The Debtors may not designate a Stalking Horse Bidder as a Back-up Bidder unless such Stalking Horse Bidder has agreed to serving as Back-up Bidder in its Stalking Horse Purchase Agreement or otherwise.

Sale Hearing and Notice

9. By no later than three (3) business days after entry of this Order, the Debtors shall serve, or cause to be served, this Order, the Bidding Procedures attached hereto as Exhibit 1 and the Sale Notice attached hereto as Exhibit 2, by first-class mail, postage prepaid, or by email where available, upon (a) all known creditors of the Debtors, (b) all equity holders of the Debtors, (c) entities known to have expressed a current interest in a transaction with respect to some or all of the Purchased Assets; (d) all entities known to have asserted any lien, claim, interest, or encumbrance in or upon any of the Purchased Assets; (e) the Internal Revenue Service and all state and local taxing authorities in the states in which the Debtors have or may have any tax liability; (f) the Securities and Exchange Commission; (g) counsel to the Prepetition Agent; (h) counsel to the Creditors' Committee; (i) the Office of the Bankruptcy Administrator for the Northern District of Alabama; and (j) those parties who have filed the appropriate notice requesting notice of all pleadings filed in these chapter 11 cases.

10. The court will conduct a hearing to approve the Sale of the Purchased Assets on **December 11, 2023 at 11:00 a.m.** (Central Time) at the United States Bankruptcy Court for the Northern District of Alabama, Southern Division, at the Robert S. Vance Federal Building, 1800 Fifth Avenue North, Birmingham, Alabama 35203, in Courtroom 3, or such other location as the Bankruptcy Court may determine.

11. Objections, if any, to the Sale of the Purchased Assets ("Sale Objections") must be filed with the Clerk of the United States Bankruptcy Court for the Northern District of Alabama, Southern Division, Robert S. Vance Federal Building, 1800 Fifth Avenue North, Birmingham, AL 35203 or electronically via the Court's CM/ECF system at or before **4:00 p.m. (Central Time) on December 6, 2023** (the "Sale Objection Deadline") and served on counsel for the Debtors, Gary H. Leibowitz, Esq., 1201 Wills Street, Suite 320, Baltimore, MD 21231,

gleibowitz@coleschotz.com; the Prepetition Agent, c/o counsel for the Prepetition Agent, Jeffrey R. Dutson, Esq., 1180 Peachtree Street, NE Suite 1600, Atlanta, GA 30309, jdutson@kslaw.com; counsel for the Creditors' Committee, Bill D. Bensinger, Esquire, Christian & Small LLP, 1800 Financial Center, 505 North 20th Street, Birmingham, AL 35203; and counsel for the Stalking Horse Bidders. Failure to file a Sale Objection on or before the Sale Objection Deadline shall be deemed to be consent for purposes of Section 363(f).

Assumption and Assignment Procedures

12. By no later than three (3) business days after entry of this Order, the Debtors shall serve, or cause to be served on each counterparty to a Proposed Assumed Lease, by first-class mail, postage prepaid, a cure notice concerning each unexpired lease that is proposed to be assumed and assigned, including without limitation, a Proposed Assumed Lease (as defined and designated in the Stalking Horse Agreement or Bidder Purchase Agreement, as applicable), substantially in the form attached hereto as **Exhibit 3** (the "Cure Notice"), which shall, for each such executory contract, (i) state the cure amount that the Debtor believes is necessary to assume such executory contract or unexpired lease (the "Cure Amount"); (ii) notify the non-Debtor party that such party's contract or lease, including any amendments and subordination, non-disturbance, and attornment agreements related to the leases, may be assumed and assigned to a purchaser of the Purchased Assets (as defined in the Stalking Horse Agreement or Bidder Purchase Agreement, as applicable) at the conclusion of the Auction; (iii) state the applicable deadline, which will be **December 6, 2023 at 5:00 p.m. (Central)** (the "Cure Objection Deadline"), by which the non-Debtor party must file an objection to the Cure Amount (a "Cure Amount Objection") or to the assumption and assignment of a Proposed Assumed Lease (an "Assumption Objection"), and that the deadline to file a an objection to the Sale (a "Sale Objection") is **December 6, 2023 at 5:00**

p.m (Central); and (iv) state the date of the Sale Hearing and that Cure Amount Objections, Assumption Objections, and Sale Objections will be heard at the Sale Hearing; provided, however, that the inclusion of a lease on the Cure Notice shall not constitute an admission that such lease is an unexpired lease (as more fully described herein and including the process set forth in the Cure Notice, the “Assumption and Assignment Procedures”). The Cure Notice will further state that the Debtors reserve all rights, claims, and causes of action with respect to the leases and agreements listed on or appended to the Cure Notice or pertaining to the Proposed Assumed Leases.

13. Any Cure Amount Objections must be filed in accordance with the Cure Notice, so as to actually be received by the parties listed on the Cure Notice, at or before **5:00 p.m. (Central Time) on December 6, 2023.**

14. Unless a non-Debtor party to any executory contract or unexpired lease files a Cure Amount Objection by the Cure Amount Objection Deadline, then the Cure Amount set forth in the Cure Notice shall be binding upon the non-Debtor counterparty to such agreement for all purposes and will constitute a final determination of the Cure Amount required to be paid in connection with the assumption and assignment of such agreement. In addition, all counterparties to the Proposed Assumed Leases who fail to file an objection will be (a) forever barred from objecting to the Cure Amount and from asserting any additional cure or other amounts with respect to such Proposed Assumed Leases, and the Debtors, a Stalking Horse Bidder, or a Successful Bidder or Back-Up Bidder (as applicable) shall be entitled to rely solely upon the Cure Amount set forth in the Cure Notice, and (b) be forever barred and estopped from asserting or claiming against the Debtors, a Stalking Horse Bidder, or a Successful Bidder or Back-Up Bidder (as applicable), or any other assignee of the Proposed Assumed Leases that any additional amounts are due or that

defaults exist, or conditions to assumption and assignment must be satisfied with respect to such Proposed Assumed Leases.

15. In the event that the Debtors and the non-Debtor party cannot resolve the Cure Amount, the Debtors shall segregate any disputed Cure Amounts (“Disputed Cure Amounts”) pending the resolution of any such disputes by the Court or mutual agreement of the parties.

16. The Debtors shall, by no later than **December 5, 2023** (the “Adequate Assurance Deadline”), provide the necessary financial information to demonstrate that the Successful Bidder and/or Back-Up Bidder (as defined in the Bidding Procedures), as applicable, can provide adequate assurance of future performance under Section 365 of the Bankruptcy Code (the “Adequate Assurance Information”) to those counterparties to the Proposed Assumed Leases (or their counsel) who have (x) submitted a written request (by e-mail to Debtors’ counsel is acceptable) for Adequate Assurance Information and (y) confirmed in writing to the Debtors’ counsel (by e-mail is acceptable) their agreement to keep such Adequate Assurance Information strictly confidential and use it solely for the purpose of evaluating whether a Qualified Bidder or the Stalking Horse Bidder has provided adequate assurance of future performance under the applicable Proposed Assumed Lease; provided, however, that the Stalking Horse Bidder or Qualified Bidder, as applicable, may require the counterparties to the applicable Proposed Assumed Lease to execute confidentiality agreements prior to the remittance of any confidential, non-public information to such counterparty.

17. Any objection (an “Adequate Assurance Objection”) to the provision of adequate assurance of future performance must be filed and served in accordance with the Cure Notice, so as to actually be received by the parties listed on the Cure Notice, at or before **4:00 p.m. (Central Time) on December 8, 2023** (the “Assumption Objection Deadline”). Any such objection must

also state the basis therefor. If a non-Debtor party to any executory contract or unexpired lease fails to object to the assumption or assignment and provision of adequate assurance of future performance by the Assumption Objection Deadline or at the Sale Hearing, as the case may be, such counterparty shall be forever barred from raising any such objection. Assumption Objections may be resolved by the Court at the Sale Hearing, or at a separate hearing either before the Sale Hearing or after the Sale Hearing. Any counterparty to an executory contract or unexpired lease, including, without limitation, a Proposed Assumed Lease, that fails to timely file and serve an Assumption Objection shall be forever barred from disputing the assumption and assignment of such Assumed Lease to a Stalking Horse Bidder or to a Successful Bidder or seeking adequate assurance of future performance. If the Debtors elect to exclude a Proposed Assumed Lease pursuant to the Stalking Horse Agreements, the Debtors shall provide the Stalking Horse Bidder and Qualified Bidders with notice of the excluded Proposed Assumed Lease three (3) business days before the Auction.

18. Notwithstanding anything to the contrary herein, at any time before the Auction, the Stalking Horse Bidders or any Qualified Bidders who becomes a Successful Bidder, as the case may be, shall have the right to exclude any of the Proposed Assumed Leases from the Purchased Assets (an "Excluded Contract") to the extent permitted in the applicable Stalking Horse Agreement or Bidder Purchase Agreement, and any such Excluded Contract shall constitute an Excluded Asset (as defined in the applicable Stalking Horse Agreement or Bidder Purchase Agreement) and shall not constitute, for any purpose whatsoever, a Purchased Asset, and the Purchase Price shall not be reduced absent the consent of the Debtors; provided, however, that any Excluded Contract nevertheless may be assumed and assigned, at a Successful Bidder's written request to Debtors' counsel made no later than the Closing (as defined in the Stalking Horse

Agreement or Bidder Purchase Agreement) (the “Subsequently Added Contract”) unless alternative mutual arrangements are made between the Debtors and the Stalking Horse Bidder or Successful Bidder. The Debtors shall provide notice to each counterparty to an Excluded Contract or Subsequently Added Contract within two (2) business days following the Debtors’ receipt of notice of any such election by a Stalking Horse Bidder or Successful Bidder, as the case may be, and any objection to the assumption and assignment of any such Subsequently Added Contract may be raised at the Sale Hearing. Neither the Stalking Horse Bidders nor the Successful Bidders, as applicable, shall incur any liability, obligation, or debt in connection with or related to any such Excluded Contract that constitutes an Excluded Asset.

Stalking Horse Bid Protections

19. The Bid Protections described in the Motion are hereby approved, to include a break-up fee of 2.5% of the Purchase Price proposed in each Stalking Horse Agreement (the “Break-Up Fee”), plus a maximum reimbursement of \$150,000 for substantiated expenses incurred in connection with each Stalking Horse Bidder’s submission (the “Expense Reimbursement” and, together with the Break-Up Fee, the “Bid Protections”). The Debtors shall be required to pay the Break-Up Fee and Expense Reimbursement to a Stalking Horse Bidder in the event that the Debtors complete a sale of the portion of Purchased Assets designated in the Stalking Horse Bidders Bid to a Successful Bidder other than the Stalking Horse Bidder; provided, however, that no Bid Protections shall be due and payable to a Stalking Horse Bidder that either has terminated or committed a material breach of its applicable Stalking Horse Purchase Agreement prior to the consummation of such sale to the Successful Bidder. If applicable, the Debtors shall pay the Break-Up Fee and

Expense Reimbursement to the Stalking Horse Bidder(s) three (3) business days after the closing of the Sale of the Purchased Assets to the Successful Bidder, to the extent due and payable.

Modification of Bidding Procedures

20. The Debtors may modify the Bidding Procedures (except the Stalking Horse Bid Protections), in their sole discretion and after consultation with the Prepetition Agent and the Creditors' Committee, without the need for any further order of this Court, including, without limitation, (i) extending the deadlines set forth in the Bidding Procedures, (ii) adjourning the Auction, and (iii) withdrawing any Purchased Assets from the Sale Process at any time prior to or during the Auction; provided, however, that any changes to the dates and deadlines set forth in this Order or the Bidding Procedures shall be without effect to the sale process milestones in the Final Order (A) Authorizing Postpetition Use of Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, (C) Scheduling a Final Hearing pursuant to Bankruptcy Rule 4001(b) and (D) Granting Related Relief [Doc. No. 205] or the rights and remedies of the Prepetition Agent and Prepetition Lenders (as defined and) provided therein. The Debtors must file notice of any such modifications with the Court and serve such notice upon (a) all known creditors of the Debtors; (b) all equity holders of the Debtors, (c) entities known to have expressed current interest in a transaction with respect to some or all of the Purchased Assets; (d) all entities known to have asserted any lien, claim, interest, or encumbrance in or upon any of the Purchased Assets; (e) the Internal Revenue Service and all state and local taxing authorities in the states in which the Debtors have or may have any tax liability; (f) the Securities and Exchange Commission; (g) counsel to the Prepetition Agent; (h) counsel to BKCI; (i) counsel to the Creditors' Committee; (j) the Office of the Bankruptcy Administrator for the Northern District of Alabama; (k) counsel for the Stalking

Horse Bidders; and (l) those parties who have filed the appropriate notice requesting notice of all pleadings filed in these chapter 11 cases.

21. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

22. The requirements of Bankruptcy Rule 6004(a) are waived.

23. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

24. The Court shall retain jurisdiction to hear and determine all matter arising from the implementation of this Order.

Dated: November 20, 2023.
Birmingham, Alabama

/s/TAMARA O. MITCHELL
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT 1 TO
BIDDING PROCEDURES ORDER**

BIDDING PROCEDURES

A. Due Diligence. Upon execution of a valid confidentiality agreement in form and substance reasonably acceptable to the Debtors, the Debtors will afford interested parties such due diligence access or additional information as the Debtors, in consultation with their advisors, deem appropriate. The Debtors will limit access to due diligence to those parties they believe, in the exercise of the Debtors' reasonable judgment, are pursuing the transaction in good faith and are capable of submitting a Qualified Bid (as defined below) ("Potential Bidders").

B. Bid Deadline – November 30, 2023, 5:00 p.m. (Central). Other than as set forth herein, in order to participate in the Auction, a Potential Bidder must submit a Qualified Bid (defined below), in writing or by email, so as to be actually received by the Bid Deadline, to: (a) the Debtors, c/o Aurora Management Partners, 112 South Tryon Street, Suite 1770, Charlotte, NC 28284, Attention David Baker, CRO, dbaker@auroramp.com; (b) counsel for the Debtors, Gary H. Leibowitz, Esq., Cole Schotz P.C., 1201 Wills Street, Baltimore, MD 21231, gleibowitz@coleschotz.com; (c) Raymond James, 320 Park Avenue, 12th Floor, New York, NY 10022, Attention: John Berg, john.berg@raymondjames.com, and Geoffrey Richards, geoffreyrichards@raymondjames.com, and Enrique Acevedo, enrique.acevedo@raymondjames.com; (d) the Prepetition Agent, c/o counsel for the Prepetition Agent, Jeffrey R. Dutson, Esq., 1180 Peachtree Street, NE Suite 1600, Atlanta, GA 30309, jdutson@kslaw.com; and (e) counsel for the Creditors' Committee, Bill D. Bensinger, Esquire, Christian & Small LLP, 1800 Financial Center, 505 North 20th Street, Birmingham, AL 35203, bdbensinger@csattorneys.com. (together, the "Notice Parties"). If the Prepetition Agent intends to credit bid at the Auction, they shall provide the Debtors with a "Notice of Intention to Credit Bid" by 5:00 p.m. on the Business Day prior to commencement of the Auction, which notice shall include a marked copy of an asset purchase agreement reflecting any changes from the applicable Stalking Horse Agreement of the opening bid at the Auction (provided that Prepetition Agent will have the same rights as any other Qualifying Bidder hereunder to amend such terms during the Auction). If the Prepetition Agent shall submit a Notice of Intention to Credit Bid, the Prepetition Agent shall thereafter cease to be a consultation party hereunder.

C. Qualified Bid Requirements.

To constitute a Qualified Bid, a bid must:

- i. fully disclose the identity of the Potential Bidder and include contact information for the specific person(s) the Debtors should contact if they have any questions about the Potential Bidder's Bid;
- ii. identify the Stalking Horse Agreement that the Potential Bidder seeks to overbid, including the specific store numbers and locations the Potential Bidder proposes to

purchase, including identification of any Stores included in the Stalking Horse Agreement that are excluded from the bid, and any other Stores not included in the Stalking Horse Agreement that are included in the bid; or if the bid is for Other Assets, provide the required information for the Stores the bidder seeks to purchase;

- iii. include a signed writing that the Potential Bidder's offer is formal, binding, unconditional, and irrevocable until (i) the closing of the transaction with the Successful Bidder (as defined below) and (ii) for two (2) business days after the earlier of the closing of the sale transaction with the Successful Bidder or the termination of the Successful Bid, if such bidder is designated the Back-Up Bidder (as defined below) at the conclusion of the Auction;
- iv. confirm that there are no conditions precedent to the Potential Bidder's ability to enter into a definitive agreement and that all necessary internal and shareholder approvals have been obtained prior to the bid;
- v. include a duly authorized and executed copy of an asset purchase agreement, including the purchase price (the "Purchase Price") for the Stores and other Purchased Assets for which the bid is submitted (a "Bidder Purchase Agreement"), together with all exhibits and schedules thereto and copies marked to show any amendments and modifications to the Stalking Horse Agreement the bid seeks to overbid; provided, however, that such Bidder Purchase Agreement shall not include any financing or diligence conditions;
- vi. include written evidence of sufficient cash on hand to fund the Purchase Price or sources of immediately available funds that are not conditioned on further third party approvals or commitments, that will allow the Debtors to make a reasonable determination as to the Potential Bidder's financial and other capabilities to consummate the transaction contemplated by the Bidder Purchase Agreement, and such other financial information of the Potential Bidder as may be acceptable to the Debtors in their reasonable discretion (collectively, the "Financials"), or, if the Potential Bidder is an entity formed for the purpose of acquiring the Purchased Assets, the Financials of the Potential Bidder's equity holder(s) or other financial backer(s);
- vii. (a) where a Potential Bidder seeks to submit a Bid for the purchase of the same Stores contemplated in a particular Stalking Horse Agreement or multiple Stalking Horse Agreements, provide for a cash Purchase Price of at least 2.5% more than the value of the total combined Purchase Price offered in the respective Stalking Horse Agreement or Stalking Horse Agreements, as the case may be, *plus* \$250,000 per Stalking Horse Bidder, and/or otherwise have a Purchase Price and value to the Debtors that, in the Debtors' business judgment, is greater or otherwise better than the Purchase Price and value offered under the Stalking Horse Agreement(s); and

(b) where a Potential Bidder seeks to submit a Bid for a portion of the Purchased Assets that is not the same as that contemplated in one or more Stalking Horse

Agreements, and includes a different combination of Stores than those designated in any or all of the Stalking Horse Agreements, provide greater or otherwise better value than the value offered under the Stalking Horse Agreement(s), in the Debtors' business judgment, including consideration of the total combined sale price of the Purchased Assets, the specific Restaurants' marketability, practical matters concerning Restaurant-level issues, and such other considerations as the Debtors may deem appropriate in their business judgment (together or separately, as the case may be, a "Minimum Overbid").

- viii. provide a commitment to close the transactions contemplated by the Bidder Purchase Agreement by no later than January 8, 2024;
- ix. identify with particularity the unexpired leases the Potential Bidder wishes to assume;
- x. contain sufficient information concerning the Potential Bidder's ability to provide adequate assurance of future performance with respect to unexpired leases to be assumed and assigned.
- xi. include sufficient information to satisfy the Debtors that the Potential Bidder has obtained the Franchisor's approval to become a franchisee for the Stores included in the bid or, as determined by the Debtors in their sole discretion, after consultation with the Prepetition Agent, that the Potential Bidder is reasonably likely to be able to obtain such approval prior to Closing or otherwise is willing and able to complete Closing without such prior approval;
- xii. include an acknowledgement and representation by the Potential Bidder that it: (A) has had an opportunity to conduct any and all required due diligence regarding the Purchased Assets prior to making its offer; (B) has relied solely on its own independent review, investigation and/or inspection of any documents and/or the Purchased Assets in making its Bid; (C) did not rely on any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the Purchased Assets or the completeness of any information provided in connection therewith or with the Auction (defined below), except as expressly stated in the Bidder Purchase Agreement; and (D) is not entitled to any expense reimbursement, break-up fee, or similar type of payment in connection with its Bid;
- xiii. be accompanied by a good faith deposit in the form of a wire transfer, certified check or such other form that is acceptable to the Debtors, payable to the order of the escrow agent designated by the Sellers in an amount no less than ten percent (10%) of the Purchase Price;
- xiv. state that the Potential Bidder agrees to serve as a Back-Up Bidder (as defined below) if such bidder's Qualified Bid is selected as the next highest or otherwise

next best bid after the Successful Bidder (as defined below) with respect to the Purchased Assets;

- xv. state that the Potential Bidder consents to the jurisdiction of the Bankruptcy Court; and
- xvi. contain such other information reasonably requested by the Debtor.

D. Credit Bids. On or before the Bid Deadline, parties holding a valid lien on some or all of the Debtors' assets that secures an bona fide claim may submit a credit bid for some or all of such assets to the fullest extent permitted under section 363(k) of the Bankruptcy Code. The Prepetition Agent shall be entitled to credit bid any portion of its outstanding secured obligations pursuant to section 363(k) of the Bankruptcy Code with respect to any assets on which they hold liens (a "Prepetition Credit Bid").

E. Auction. If one or more Qualified Bids (including a Prepetition Credit Bid) are received on or before the Bid Deadline, the Debtors shall conduct the Auction commencing on **December 4, 2023 at 10:00 a.m. (Central)**, at the offices of Holland & Knight, LLP, located at 1901 Sixth Avenue North, Suite 1400, Birmingham, Alabama 35203. The Auction may be adjourned or rescheduled without further notice by an announcement of the adjourned date at the Auction, or before the Auction by notice provided in the best efforts of the Debtors to all interested parties and to the Court; provided, however, that any changes to the dates and deadlines set forth herein shall be without effect to the sale process milestones in the Final Order (A) Authorizing Postpetition Use of Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, (C) Scheduling a Final Hearing pursuant to Bankruptcy Rule 4001(b) and (D) Granting Related Relief [Doc. No. 205] or the rights and remedies of the Prepetition Agent and Prepetition Lenders (as defined and) provided therein. The Debtors reserve the right to cancel the Auction (in consultation with the Prepetition Agent) if the requisite Bids described above are not received as of the Bid Deadline.

F. Auction Procedures. Only the Stalking Horse Bidders and a person or entity that has submitted a Qualified Bid (including a Prepetition Credit Bid) (a "Qualified Bidder") to the Notice Parties and such person's or entity's respective advisors are eligible to participate in the Auction. For the avoidance of doubt, representatives of (i) the Prepetition Agent, (ii) the Creditors' Committee, (iii) BKCI, (iv) Premier Holdings, LLC, and (v) the Bankruptcy Administrator are entitled to attend the Auction in person or via video conferencing. All participants shall appear in person, by telephone (with prior written authorization by the Debtors, in the Debtors' sole discretion), or through a duly authorized representative. Prior to the Auction, the Debtors, after consultation with the Prepetition Agent and the Creditors' Committee, shall select the Qualified Bids that, in the Debtors' business judgment, reflect the highest or otherwise best value for the Debtors' estate and the portion of the Purchased Assets contemplated by each Qualified Bid as the starting Bid or Bids (as the case may be, the "Starting Auction Bid(s)"), and advise all participants in the Auction of the terms of the Starting Auction Bid(s).

Where Qualified Bidders seek to submit Bids at the Auction for the purchase of the same portion of the Purchased Assets contemplated in a particular Starting Auction Bid or multiple Starting Auction Bids—including the same Restaurant locations—Qualified Bidders may submit Bids that are higher and better than the total combined Purchase Price of the Starting Auction Bid(s) in an initial increment equal to the aggregate amount of the Starting Auction Bid(s) plus \$250,000, and in subsequent increments of at least \$250,000, unless and until the Debtors, in their sole discretion and in consultation with the Prepetition Agent, lift or modify this requirement.

Where Qualified Bidders wish to submit Bids for a portion of the Purchased Assets that is not the same as that contemplated in one or more of the Starting Auction Bids, and includes a different combination of Restaurant locations than those designated in any or all of the Starting Auction Bids, Qualified Bidders may submit Bids that provide greater or otherwise better value than the Starting Auction Bid(s), in the Debtors' business judgment, including consideration of the total combined sale price of the Purchased Assets, the specific Restaurants' marketability, practical matters concerning Restaurant-level issues, and such other considerations as the Debtors may deem appropriate, and in subsequent increments as are set by the Debtors for each applicable combination of Purchased Assets and/or Restaurant locations (collectively, the "Overbid Increments"). The Debtors, in consultation with the Prepetition Agent, may adjourn, continue, re-open, or terminate the Auction, and reserve the right to adopt other and further rules and procedures for the Auction that, in their business judgment, will better promote the goals of the Auction.

Each Qualified Bidder participating in the Auction will be required to confirm on the record at the Auction that it has not engaged in any collusion with respect to the bidding and sale process.

G. Selection of Successful Bidder and Back-Up Bidder. The Debtors may designate, in their sole discretion and in consultation with the Prepetition Agent and the Creditors' Committee, in the Debtors' business judgment, pursuant to these Bidding Procedures, the highest or otherwise best Bid(s) and the Successful Bidder or Bidders. The Debtors may also designate, in their business judgment, the second highest or otherwise best Bid(s) as the Back-Up Bidder or Bidders.

H. Reservation of Rights. The Debtors reserves the right to reject, without liability, any Bid that the Debtors, in their reasonable discretion and after consultation with the Prepetition Agent and the Creditors' Committee, determine to be (a) inadequate or insufficient, (b) not in conformity with the Bidding Procedures, the Bankruptcy Code, the Bankruptcy Rules, or the Local Rules, or (c) contrary to the best interests of the Debtors and their estates. The Debtors also reserve the right to modify these Bidding Procedures, in their sole discretion and after consultation with the Prepetition Agent and the Creditors' Committee, without the need for any further order of the Bankruptcy Court, including, without limitation, (i) extending the deadlines set forth in the Bidding Procedures, (ii) adjourning the Auction, and (iii) withdrawing any Purchased Assets from the Sale Process at any time prior to or during the Auction; provided, however, that any changes to the dates and deadlines set forth herein shall be without effect to the sale process milestones in the Final Order (A) Authorizing Postpetition Use of Cash Collateral, (B) Granting Adequate Protection to

Prepetition Secured Parties, (C) Scheduling a Final Hearing pursuant to Bankruptcy Rule 4001(b) and (D) Granting Related Relief [Doc. No. 205] or the rights and remedies of the Prepetition Agent and Prepetition Lenders (as defined and) provided therein.

**EXHIBIT 2 TO
BIDDING PROCEDURES ORDER**

SALE NOTICE

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

In re:

PREMIER KINGS, INC., *et al.*,³

Debtors.

(Chapter 11)

Case No. 23-02871 (TOM11)

Jointly Administered

**Deadline for Objections: December 6, 2023 at
5:00 p.m. (Central)**

**Sale Hearing: December 11, 2023 at Noon
(Central)**

**NOTICE OF HEARING ON APPROVAL OF (I) SALE OF ALL OR SUBSTANTIALLY
ALL THE DEBTORS' ASSETS FREE AND CLEAR OF LIENS, CLAIMS,
ENCUMBRANCES, AND INTERESTS, AND (II) ASSUMPTION AND ASSIGNMENT
OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

PLEASE TAKE NOTICE that on October 26, 2023, the debtor and debtor-in-possession in the above-captioned chapter 11 cases (the “Debtors”), by their undersigned counsel, filed the *Motion of the Debtors and Debtors-in-Possession for Entry of an Order (I) Approving Asset Purchase Agreements and Authorizing the Sale of All or Substantially All of the Debtors’ Assets under 11 U.S.C. §§ 363(b) and 363(m); (II) Authorizing the Sale of Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests Pursuant to 11 U.S.C. § 363(f); (III) Approving the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases Pursuant to 11 U.S.C. § 365; and (IV) Granting Related Relief* (the “Sale Motion”).⁴

By the Motion, the Debtors seek, among other things, an order authorizing the sale of substantially all their assets (the “Purchased Assets,” as further defined in the Stalking Horse Agreements or Bidder Purchase Agreements, as applicable), as a going concern, to the Stalking Horse Bidders, as further designated in each Stalking Horse Agreement—or, alternatively, to any Successful Bidders designated following an Auction, as described below, on the terms contained in each applicable Bidder Purchase Agreement—free and clear of all liens, claims, encumbrances, and interests, pursuant to sections 105(a), 363, and 365 of the Bankruptcy Code (the “Sale”).

³ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification numbers, are: Premier Kings, Inc. (3932); Premier Kings of Georgia, Inc. (9797); and Premier Kings of North Alabama, LLC (9282). The Debtors’ address is 7078 Peachtree Industrial Blvd., Suite #800, Peachtree Corners, GA 30071.

⁴ All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Sale Motion or the Bidding Procedures Motion (defined below).

PLEASE TAKE FURTHER NOTICE that, concurrently with the Sale Motion, on October 26, 2023, the Debtor, by its undersigned counsel, filed the *Motion of the Debtors and Debtors-in-Possession for Entry of an Order (I) Approving Bidding Procedures for the Sale of All or Substantially All the Debtors' Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests; (II) Approving Bid Protections for Stalking Horse Bidders; (III) Approving Procedures for Assumption and Assignment of Executory Contracts and Unexpired Leases; (IV) Scheduling an Auction for, and Hearing to Approve, the Sale of All or Substantially All the Debtors' Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests; (V) Granting Related Relief* (the "Bidding Procedures Motion"). The Debtors have filed copies of the Stalking Horse Agreements with the Court under notice (the "Stalking Horse Notices"). The Bankruptcy Court entered an order on November __, 2023 granting the Bidding Procedures Motion and setting dates for the Auction (as defined below) and other key deadlines for the Sale [Doc. No. ***] (the "Bidding Procedures Order"). All interested bidders should carefully read the Bidding Procedures Order and the Bidding Procedures, as well as the Stalking Horse Notices. To the extent that there are any inconsistencies between the Bidding Procedures Order and the summary description of its terms and conditions contained in this Notice, the terms of the Bidding Procedures Order shall control.

PLEASE TAKE FURTHER NOTICE that, pursuant to the terms of the Bidding Procedures Order, if at least one Qualified Bid is duly submitted before the Bid Deadline, an auction to sell the Purchased Assets will be conducted on **December 4 2023, at 10:00 a.m. (Central Time)** (the "Auction")⁵ at the offices of Holland & Knight, LLP, located at 1901 Sixth Avenue North, Suite 1400, Birmingham, Alabama 35203. Only those who submit a Qualified Bid to the Notice Parties on or before the Bid Deadline may participate in the Auction.

PLEASE TAKE FURTHER NOTICE that, pursuant to the terms of the Bidding Procedures Order, if an Auction is conducted, the Debtors are authorized to designate the highest or otherwise best Bid(s) and the Successful Bidder(s) and the second highest or otherwise best Bid(s) and the Back-Up Bidder(s). If Successful Bidder(s) or Back-Up Bidder(s) are designated, the Debtors will file with the Court, on the next Business Day following the Auction, a notice of the identity of any Successful Bidder(s) and Back-Up Bidder(s) and the amount(s) of their Bid(s).

PLEASE TAKE FURTHER NOTICE that, on December 11, 2023 at 11:00 a.m. (Central time), the Bankruptcy Court will conduct a hearing to approve the Sale (the "Sale Hearing"). The Sale Hearing will take place before the Honorable Tamara O. Mitchell, United States Bankruptcy Judge, United States Bankruptcy Court for the Northern District of Alabama, Southern Division, at the Robert S. Vance Federal Building, 1800 Fifth Avenue North, Birmingham, Alabama 35203, in Courtroom 3, or such other location as the Bankruptcy Court may determine.

PLEASE TAKE FURTHER NOTICE that objections to the Sale or relief requested in connection with the Sale (a "Sale Objection") must (a) be in writing; (b) comply with the Federal Rules of Bankruptcy Procedures; (c) set forth the specific basis for the Sale Objection; and (d) be filed with the Clerk of the United States Bankruptcy Court for the Northern District of Alabama,

⁵ The Bidding Procedures Order authorizes the Debtor to modify certain deadlines set forth therein and to adjourn the Auction.

Southern Division, Robert S. Vance Federal Building, 1800 Fifth Avenue North, Birmingham, AL 35203 or electronically via the Court's CM/ECF system and served so as to actually be received by the following parties, at or before **5:00 p.m. (Central Time) on December 6, 2023.**

- (a) Undersigned Counsel for the Debtors;
- (b) The Prepetition Agent, c/o counsel for the Prepetition Agent, Jeffrey R. Dutson, Esq., 1180 Peachtree Street, NE Suite 1600, Atlanta, GA 30309, jdutson@kslaw.com;
- (c) Counsel for the Creditors' Committee, Bill D. Bensinger, Esquire, Christian & Small LLP, 1800 Financial Center, 505 North 20th Street, Birmingham, AL 35203, bdbensinger@csattorneys.com; and
- (d) Counsel for the Stalking Horse Bidder or Bidders to whom the Sale Objection pertains.

IF NO SALE OBJECTION IS PROPERLY FILED AND SERVED BEFORE THE DEADLINE, THE BANKRUPTCY COURT MAY ENTER THE SALE ORDER PERMITTING THE SALE OF THE PURCHASED ASSETS WITHOUT FURTHER NOTICE.

The Debtors encourage interested parties to review the Sale Motion, Bidding Procedures Motion, Stalking Horse Notices, and Bidding Procedures Order in their entireties. Parties interested in receiving more information regarding the Sale or copies of related documents may make a written request to undersigned counsel. In addition, copies of the Sale Motion, Bidding Procedures Motion, Bidding Procedures Order, and the Proposed Sale Order can be found through PACER, at <https://ecf.alnb.uscourts.gov> (registration required), and are on file with the Clerk of the Bankruptcy Court, 1800 Fifth Avenue North, Birmingham, AL 35203.

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Dated: November __, 2023
Birmingham, Alabama

/s/

Jesse S. Vogtle, Jr.
Eric T. Ray
HOLLAND & KNIGHT LLP
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Proposed Attorneys for the Debtors and Debtors-in-Possession

*Admitted *pro hac vice*

**EXHIBIT 3 TO
BIDDING PROCEDURES ORDER**

CURE NOTICE

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

In re:

PREMIER KINGS, INC., *et al.*,⁶

Debtors.

(Chapter 11)

Case No. 23-02871 (TOM11)

Jointly Administered

Deadline for Objections to Assumption and Assignment: December 6, 2023.

Deadline for Objections to the Provision of Adequate Assurance of Future Performance: December 8, 2023

Sale Hearing: December 11, 2023.

**NOTICE OF POSSIBLE ASSUMPTION AND
ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS
AND UNEXPIRED LEASES IN CONNECTION WITH SALE**

YOU ARE RECEIVING THIS NOTICE BECAUSE YOU MAY BE A COUNTERPARTY TO A CONTRACT OR LEASE WITH THE PREMIER KINGS, INC., PREMIER KINGS OF GEORGIA, INC., OR PREMIER KINGS OF NORTH ALABAMA, LLC, THE DEBTORS AND DEBTORS-IN-POSSESSION IN THE ABOVE-CAPTION CHAPTER 11 CASES. PLEASE READ THIS NOTICE CAREFULLY AS YOUR RIGHTS MAY BE AFFECTED BY THE TRANSACTIONS DESCRIBED HEREIN.

PLEASE TAKE NOTICE that on October 26, 2023, Premier Kings, Inc. and its debtor affiliates, the debtors and debtors-in-possession in the above-captioned chapter 11 cases (the “Debtors”), by its undersigned counsel, filed the *Motion of the Debtors and Debtors-in-Possession for Entry of an Order (I) Approving Asset Purchase Agreements and Authorizing the Sale of All or Substantially All of the Debtors’ Assets under 11 U.S.C. §§ 363(b) and 363(m); (II) Authorizing the Sale of Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests Pursuant to 11 U.S.C. § 363(f); (III) Approving the Assumption and Assignment of Certain Executory*

⁶ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification numbers, are: Premier Kings, Inc. (3932); Premier Kings of Georgia, Inc. (9797); and Premier Kings of North Alabama, LLC (9282). The Debtors’ address is 7078 Peachtree Industrial Blvd., Suite #800, Peachtree Corners, GA 30071.

*Contracts and Unexpired Leases Pursuant to 11 U.S.C. § 365; and (IV) Granting Related Relief (the “Sale Motion”).*⁷

By the Motion, the Debtors seek, among other things, an order authorizing the sale of substantially all their assets (the “Purchased Assets,” as further defined in the Stalking Horse Agreements or Bidder Purchase Agreements, as applicable), as a going concern, to the Stalking Horse Bidders, as further designated in each Stalking Horse Agreement - or, alternatively, to any Successful Bidder designated following an Auction, as described below, on the terms contained in each applicable Bidder Purchase Agreement - free and clear of all liens, claims, encumbrances, and interests, pursuant to sections 105(a), 363, and 365 of the Bankruptcy Code (the “Sale”).

PLEASE TAKE FURTHER NOTICE that, concurrently with the Sale Motion, on October 26, 2023, the Debtors, by their undersigned counsel, filed the *Motion of the Debtors and Debtors-in-Possession for Entry of an Order (I) Approving Bidding Procedures for the Sale of All or Substantially All the Debtors’ Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests; (II) Approving Bid Protections for Stalking Horse Bidders; (III) Approving Procedures for Assumption and Assignment of Executory Contracts and Unexpired Leases; (IV) Scheduling an Auction for, and Hearing to Approve, the Sale of All or Substantially All the Debtors’ Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests; (V) Granting Related Relief (the “Bidding Procedures Motion”).* The Debtors have filed copies of the Stalking Horse Agreements with the Court under notice (the “Stalking Horse Notices”). The Bankruptcy Court entered an order on November __, 2023 granting the Bidding Procedures Motion and setting dates for the Auction (as defined below) and other key deadlines for the Sale [Doc. No. ___] (the “Bidding Procedures Order”). All interested bidders should carefully read the Bidding Procedures Order and the Bidding Procedures, as well as the Stalking Horse Notices. To the extent that there are any inconsistencies between the Bidding Procedures Order and the summary description of its terms and conditions contained in this Notice, the terms of the Bidding Procedures Order shall control.

PLEASE TAKE FURTHER NOTICE that, pursuant to the terms of the Bidding Procedures Order, if at least one Qualified Bid is duly submitted before the Bid Deadline, an auction to sell the Purchased Assets will be conducted on **December 4, 2023, at 10:00 a.m. (Central Time)** (the “Auction”)⁸ at the offices of Holland & Knight, LLP, located at 1901 Sixth Avenue North, Suite 1400, Birmingham, Alabama 35203. Only those who submit a Qualified Bid to the Notice Parties on or before the Bid Deadline may participate in the Auction.

PLEASE TAKE FURTHER NOTICE that, pursuant to the terms of the Bidding Procedures Order, if an Auction is conducted, the Debtors are authorized to designate the highest or otherwise best Bid(s) and the Successful Bidder(s) and the second highest or otherwise best Bid(s) and the Back-Up Bidder(s). If Successful Bidder(s) or Back-Up Bidder(s) are designated,

⁷ All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion or the Bidding Procedures Motion (defined below).

⁸ The Bidding Procedures Order authorize the Debtors to modify certain deadlines set forth therein and to adjourn the Auction.

the Debtors will file with the Court, on the next Business Day following the Auction, a notice of the identity of any Successful Bidder(s) and Back-Up Bidder(s) and the amount(s) of their Bid(s).

PLEASE TAKE FURTHER NOTICE that, on December 11, 2023 at 11:00 a.m. (Central time), the Bankruptcy Court will conduct a hearing to approve the Sale (the “Sale Hearing”). The Sale Hearing will take place before the Honorable Tamara O. Mitchell, United States Bankruptcy Judge, United States Bankruptcy Court for the Northern District of Alabama, Southern Division, at the Robert S. Vance Federal Building, 1800 Fifth Avenue North, Birmingham, Alabama 35203, in Courtroom 3, or such other location as the Bankruptcy Court may determine.

PLEASE TAKE FURTHER NOTICE that, to facilitate the Sale, the Debtors are seeking to assume and assign to the Stalking Horse Bidder(s) or Successful Bidder(s), as applicable, the Proposed Assumed Leases (as defined and designated in the Stalking Horse Agreement(s) or Bidder Purchase Agreement(s), as applicable, and attached thereto as Schedule 1). A list of the Proposed Assumed Leases, including the amounts the Debtors believe are necessary to be paid to each counterparty (the “Counterparties” and, each, a “Counterparty”) to cure any applicable payment arrearages (the “Cure Amount(s)”), if any, is attached hereto as Schedule 1. If the Court grants the Motion and approves the Sale, each Counterparty’s contract or lease, including any amendments or subordination, non-disturbance, and attornment agreements, may be assumed and assigned to the applicable Stalking Horse Bidder or Successful Bidder.

PLEASE TAKE FURTHER NOTICE that objections to the Cure Amount (“Cure Amount Objections”) or to the assumption or assignment of a Proposed Assumed Leases (an “Assumption Objection”) must be filed with the Clerk of the United States Bankruptcy Court for the Northern District of Alabama, Southern Division, Robert S. Vance Federal Building, 1800 Fifth Avenue North, Birmingham, AL 35203 or electronically via the Court’s CM/ECF system and served so as to actually be received by the following parties, at or before **5:00 p.m. (Central Time) on December 6, 2023**; and objections to the provision of adequate assurance of future performance must be filed in accordance with the procedures provided herein at or before **4:00 p.m. (Central Time) on December 8, 2023**.

- (a) Undersigned Counsel for the Debtors;
- (b) The Prepetition Agent, c/o counsel for the Prepetition Agent, Jeffrey R. Dutson, Esq., 1180 Peachtree Street, NE Suite 1600, Atlanta, GA 30309, jdutson@kslaw.com;
- (c) Counsel for the Creditors’ Committee, Bill D. Bensinger, Esquire, Christian & Small LLP, 1800 Financial Center, 505 North 20th Street, Birmingham, AL 35203, bdbensinger@csattorneys.com; and
- (d) Counsel for the Stalking Horse Bidder or Bidders to whom the objection pertains.

Subject to the Bidding Procedures Order, any unresolved objections, based on any grounds, shall be heard at the Sale Hearing unless otherwise agreed by the parties.

PLEASE TAKE FURTHER NOTICE that, at the Sale Hearing, the Debtors will seek Court approval of the assumption and assignment to the Stalking Horse Bidder(s) or Successful Bidder(s), as applicable, of only those Proposed Assumed Leases that have actually been selected by the Stalking Horse Bidder(s) or Successful Bidder(s), as applicable, to be assumed and assigned. The Debtors and their estates reserve any and all rights with respect to any Proposed Assumed Leases that are not ultimately designated for assumption and/or assignment.

PLEASE TAKE FURTHER NOTICE that nothing contained in this Notice shall constitute a waiver of any rights of the Debtors or their estates or an admission with respect to the Debtors' chapter 11 cases, including, but not limited to, any issues involving objections to claims, setoff or recoupment, equitable subordination or recharacterization of debt, defenses, characterization or re-characterization of contracts, leases and claims, assumption or rejection of contracts and leases and/or causes of action arising under the Bankruptcy Code or any other applicable laws. The Debtors reserve all rights to amend this notice, including but not limited to any Cure Amount or the Proposed Assumed Leases set forth on Schedule 1 hereto.

Unless a non-Debtor party to any executory contract or unexpired lease files a Cure Amount Objection by the Cure Amount and Assumption Objection Deadline, then the Cure Amount set forth in the Cure Notice shall be binding upon the Counterparty to such agreement for all purposes and will constitute a final determination of the Cure Amount required to be paid in connection with the assumption and assignment of such agreement. In addition, all Counterparties to the Proposed Assumed Leases who fail to file an objection will (a) be forever barred from objecting to the Cure Amount and from asserting any additional cure or other amounts with respect to such Proposed Assumed Leases, and the Debtors, a Stalking Horse Bidder, or a Successful Bidder (as applicable) shall be entitled to rely solely upon the Cure Amount set forth in this Cure Notice, and (b) be forever barred and estopped from asserting or claiming against the Debtors, a Stalking Horse Bidder, or a Successful Bidder (as applicable), or any other assignee of the Proposed Assumed Leased, that any additional amounts are due or that defaults exist, or conditions to assumption and assignment must be satisfied with respect to such Proposed Assumed Leases.

The Debtors encourage interested parties to review the Sale Motion, Bidding Procedures Motion, Stalking Horse Notices, and Bidding Procedures Order in their entireties. Parties interested in receiving more information regarding the Sale or copies of related documents may make a written request to undersigned counsel. In addition, copies of the Sale Motion, the Bidding Procedures Order, and the Proposed Sale Order can be found through PACER, at <https://ecf.alnb.uscourts.gov> (registration required), and are on file with the Clerk of the Bankruptcy Court, Robert S. Vance Federal Building, 1800 Fifth Avenue North, Birmingham, AL 35203.

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Dated: November __, 2023
Birmingham, Alabama

/s/

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Proposed Attorneys for the Debtors and Debtors-in-Possession

*Admitted *pro hac vice*

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District/Off: 1126-2
Case: 23-02871-TOM11

User: admin
Form ID: pdf000

Date Created: 11/20/2023
Total: 75

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TOTAL: 43

Recipients submitted to the BNC (Bankruptcy Noticing Center):

db	Premier Kings, Inc.	7078 Peachtree Industrial Blvd #800	Peachtree Corners, GA 30071
intp	Renasant Bank	1901 Sixth Ave. N., Suite 1500	Birmingham, AL 35203
cr	Burger King Company LLC	5707 Blue Lagoon Drive	Miami, FL 33126 UNITED STATES
intp	RRG of Jacksonville, LLC	c/o Peter Haley	Nelson Mullins Riley & Scarborough LLP One Financial Center, Suite 3500 Boston, MA 02111
op	Kurtzman Carson Consultants LLC	222 N. Pacific Coast Highway	Suite #300 El Segundo, CA 90245
intp	Premier Holdings, LLC	3300 Eastern Blvd	Montgomery, AL 36116
cr	Kemco Facilities Services, LLC	5750 Bell Circle	Montgomery, AL 36116
cr	CB&S Bank	CB&S Bank P.O. Box 910	Russellville, AL 35653
crmc	Playland Maintenance Service Inc.	3935 Tamiami Trail	Cumming, GA 30041
crmc	M D Homes Alabama LLC	PO Box 6415	East Brunswick, NJ 08816
crmc	BK Collinsville LLC	4615 University Drive	Coral Gables, FL 33146
crmc	GAJ Realty Group Inc	8 Rosewood Drive	North Massapequa, NY 11758
crmc	Hudson Construction Company	1425 Market Blvd	Suite 530 318 Roswell, GA 30076
crmc	Brinks Incorporated	PO Box 101031	Atlanta, GA 30392
crmc	TK&K Unlimited Inc	8014 Cumming Hwy	Suite 403 332 Canton, GA 30115
crmc	E.S.S., Inc.	203 McMillin St	Nashville, TN 37203-2912
crmc	Hemphill Services Inc	PO Box 1234	Trussville, AL 35173
intp	Bulldog Restaurants, LLC	c/o Baker Donelson	1901 6th Ave. N., Suite 2600 Birmingham, AL 35203

cr	South Coast Enterprises, LLC	c/o Heard, Ary & Dauro, LLC	303 Williams Avenue SW	Suite
	921	Huntsville, AL 35801		
cr	Rave II Enterprises, LLC	c/o Heard, Ary & Dauro, LLC	303 Williams Avenue SW	Suite
	921	Huntsville, AL 35801		
cr	Rave Enterprises, LLC	c/o Heard, Ary & Dauro, LLC	303 Williams Avenue SW	Suite
	921	Huntsville, AL 35801		
cr	AuburnBank	c/o Parnell & Parnell, P.A.	P.O. Box 224	Montgomery, AL 36102
intp	Merit Bank	659 Gallatin St SW	Huntsville, AL 35801	
cr	DPI Group, LLC	c/o Stephen Porterfield	2311 Highland Avenue South	Birmingham, AL 35205
mv	Willie J Butler	c/o The Evans Law Firm, P.C.	1736 Oxmoor Road	Birmingham, AL 35209 UNITED STATES
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aty	Christopher K Coleman	1201 West Peachtree Street	Atlanta, GA 30309	
aty	Jacob Johnson	Alston & Bird LLP	1201 West Peachtree Street	Atlanta, GA 30309
aty	Jeffrey R. Dutson	King & Spalding LLP	1180 Peachtree Street NE	Ste 1600 Atlanta, GA 30309
aty	William P. Reily	King & Spalding LLP	110 N. Wacker Drive, Suite 3800	Chicago, IL 60606
smg	Thomas Corbett	BA Birmingham	1800 5th Avenue North	Birmingham, AL 35203

TOTAL: 32