

12-24-2002

Form PTO-1594 (Rev. 03/01) OMB No. 0651-0027 (exp. 5/31/2002) Tab settings



U.S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office

102320463

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Prime Restaraunt ESM Licensing, Inc. 12-11-02

- Individual(s) Association General Partnership Limited Partnership Corporation-State Other Corporation of Canada

Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance:

- Assignment Merger Security Agreement Change of Name Other Amalgamation

Execution Date: 02/25/02

2. Name and address of receiving party(ies)

Name: Prime Restaurant Licensing, Inc. Internal Address: Emerald Business Centre

Street Address: 10 Kingsbridge Garden Circle suite 600 City: Mississauga State: Ontario, Canada

- Individual(s) citizenship Association General Partnership Limited Partnership Corporation-State Other Corporation Canada

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No (Designations must be a separate document from assignment) Additional name(s) & address(es) attached? Yes No

4. Application number(s) or registration number(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s) 1968508, 2091415

2075581, 1534777, 1802958

Additional number(s) attached Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Robert W. Sacoff

Internal Address: Pattishall, McAuliffe, Newbury

Hilliard & Geraldson

Street Address: 311 S. Wacker

Suite 5000

City: Chicago State: IL Zip: 60606

6. Total number of applications and registrations involved:

5

7. Total fee (37 CFR 3.41): \$ 140.00

- Enclosed Authorized to be charged to deposit account

8. Deposit account number:

160.650

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9. Signature.

Cindy L Bullhous Name of Person Signing

Cindy L Bullhous Signature

12/05/02 Date

Total number of pages including cover sheet, attachments, and document:

Mail documents to be recorded with required cover sheet information to: Commissioner of Patent & Trademarks, Box Assignments Washington, D.C. 20231

12/23/2002 LMUELLER 00000210 160650 1968508

01 FC:8521 40.00 CH 02 FC:8522 100.00 CH

TRADEMARK REEL: 002638 FRAME: 0728

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE  
POST REGISTRATION DIVISION**

Registrant: Prime Restaurant Licensing Inc.  
(by amalgamation with Prime Restaurant ESM Licensing Inc.)

Mark: LIFE, LIBERTY AND THE PURSUIT OF PASTA

Reg. No. 1,968,508

Reg. Date: April 16, 1996

Int'l Class: 42

**DESIGNATION OF DOMESTIC REPRESENTATIVE AND  
SUBSTITUTE POWER OF ATTORNEY**

Commissioner of Trademarks  
ATTN: BOX POST REG  
2900 Crystal Drive  
Arlington, VA 22202-3513

Designation of Domestic Representative

Prime Restaurants of Canada Inc. hereby appoints Pattishall, McAuliffe, Newbury, Hilliard & Geraldson, 311 S. Wacker Drive, Suite 5000, Chicago, Illinois 60606 as its domestic representative upon whom notice or process in proceedings affecting the mark may be served.

Substitute Power of Attorney


Prime Restaurants of Canada Inc. hereby revokes all previous powers of attorney and appoints the law firm of Pattishall, McAuliffe, Newbury, Hilliard & Geraldson as its attorneys to prosecute this registration with full power of substitution and revocation, to transact all business in the Patent & Trademark Office in connection herewith, and to receive all post-registration communications.

Please address all future communication to:

Robert W. Sacoff  
Pattishall, McAuliffe, Newbury, Hilliard & Geraldson  
311 S. Wacker Drive  
Suite 5000  
Chicago, Illinois 60606  
(312) 554-8000 – telephone  
(312) 554-8015 – facsimile  
rsacoff@pattishall.com

**PRIME RESTAURANTS OF CANADA INC.**

By: \_\_\_\_\_

  
H. Ross R. Bain  
Vice-President of Administration, Secretary  
and Legal Counsel

Date: 17 October 2002

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Ministry of  
Consumer and  
Ontario Business Services  
**CERTIFICATE**

This is to certify that these articles  
are effective on

Ministère des Services  
aux consommateurs  
et aux entreprises  
**CERTIFICAT**  
Ceci certifie que les présents statuts  
entrent en vigueur le

Ontario Corporation Number  
Numéro de la société en Ontario

**1516551**

**FEBRUARY 25 FÉVRIER, 2002**

Trans Code 19 <b>A</b>	Line No 20 <b>0</b>	Stat 28 <b>0</b>	Comp Type 29 <b>A</b>	Method incorp 30 <b>3</b>	Share 51 <b>S</b>
Notice Req'd 32 <b>N</b>	Jurisdiction <b>ONTARIO</b>			<b>A</b>	
	33	34	47	57	

*[Signature]*  
Director / Dirigeant  
Guaranteed Corporation / Société garantie par actions

**ARTICLES OF AMALGAMATION  
STATUTS DE FUSION**

Form 4  
Business  
Corporations  
Act  
Formule 4  
Loi sur les  
sociétés par  
actions

1. The name of the amalgamated corporation is: Dénomination sociale de la société issue de la fusion :

P	R	I	M	E	R	E	S	T	A	U	R	A	N	T	L	I	C	E	N	S	I	N	G	I	N	C
---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---

2. The address of the registered office is: Adresse du siège social :

**Emerald Business Centre, Suite 600, 10 Kingsbridge Garden Circle**  
(Street and No. or R.R. No. and, if multi-office building, give Room No.)  
 (Rue et numéro ou numéro de la R.R. et, s'il s'agit d'un édifice à bureaux, numéro du bureau)

**Mississauga** **L 5 R 3 K 6**  
(Name of Municipality or Post Office) (Postal Code)  
 (Nom de la municipalité ou du bureau de poste) (Code postal)

3. Number (or minimum and maximum number) of directors is: Nombre (ou nombres minimal et maximal) d'administrateurs :

**A minimum of one (1) director and a maximum of fifteen (15) directors**

4. The director(s) is/are: Administrateur(s) :

First name, initials and surname Prénom, initiales et nom de famille	Address for Service, giving Street and No. (or R.R. No.), Municipality and Postal Code Domicile élu, y compris la rue et le numéro (ou le numéro de la R.R.), le nom de la municipalité et le code postal	Resident Canadian State Yes or No Résident canadien Oui/Non
John A. Rothschild	4 Robinwood Avenue, Toronto, Ontario M5P 1X7	Yes
Nicholas M. Perpick	5 Thornbury Crescent, Etobicoke, Ontario M9A 2M1	Yes
H. Ross R. Bain	1735 Blythe Road, Mississauga, Ontario L5H 2C3	Yes

Document prepared by  
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Form 4  
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Formule 4  
Loi sur les  
sociétés par  
actions

5. A) The amalgamation agreement has been duly adopted by the shareholders of each of the amalgamating corporations as required by subsection 176 (4) of the Business Corporations Act on the date set out below.

A) Les actionnaires de chaque société qui fusionne ont dûment adopté la convention de fusion conformément au paragraphe 176 (4) de la Loi sur les sociétés par actions à la date mentionnée ci-dessous.

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 A OR B A OUB

B) The amalgamation has been approved by the directors of each amalgamating corporation by a resolution as required by section 177 of the Business Corporations Act on the date set out below.

B) Les administrateurs de chaque société qui fusionne ont approuvé la fusion par voie de résolution conformément à l'article 177 de la Loi sur les sociétés par actions à la date mentionnée ci-dessous.

The articles of amalgamation in substance contain the provisions of the articles of incorporation of

Les statuts de fusion reprennent essentiellement les dispositions des statuts constitutifs de

**PRIME RESTAURANT ESM LICENSING INC.**

and are more particularly set out in these articles.

et sont énoncés textuellement aux présents statuts.

Names of amalgamating corporations Dénomination sociale des sociétés qui fusionnent	Ontario Corporation Number Numéro de la société en Ontario	Date of Adoption / Approval Date d'adoption ou d'approbation
PRIME RESTAURANT ESM LICENSING INC.	1435238	22nd February, 2002
PRIME RESTAURANT ESM LICENSING INC.	983970	22nd February, 2002

Document prepared by  
Blaney McMurtry  
Stapells, Friedman  
Barristers and Solicitors  
Toronto Ontario

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Act  
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Loi sur les  
sociétés par  
actions

6. Restrictions, if any, on business the corporation may carry on or on powers the corporation may exercise: *Limites, s'il y a lieu, imposées aux activités commerciales ou aux pouvoirs de la société :*

There shall be no restrictions on the business the Corporation may carry on or on the powers the Corporation may exercise.

7. The classes and any maximum number of shares that the corporation is authorized to issue: *Catégories et nombre maximal, s'il y a lieu, d'actions que la société est autorisée à émettre :*

- (a) an unlimited number of shares, issuable in series, designated as a class as "Class A Special Shares";
- (b) an unlimited number of shares designated as a class as "Class B Special Shares";
- (c) an unlimited number of shares designated as a class as "Common Shares".

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Formule 4  
Loi sur les  
sociétés par  
actions

8. Rights, privileges, restrictions and conditions (if any) attaching to each class of shares and directors authority with respect to any class of shares which may be issued in series:

Droits, privilèges, restrictions et conditions, s'il y a lieu, rattachés à chaque catégorie d'actions et pouvoirs des administrateurs relatifs à chaque catégorie d'actions qui peut être émise en série :

See attached

Document prepared by  
Blaney, McMurtry,  
Stuppella, Friedman  
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Rights, privileges, restrictions and conditions (if any) attaching to each class of shares (“**Preferences**”) and directors authority with respect to any class of shares which may be issued in series:

## 8A. CLASS A SPECIAL SHARES

The Class A Special Shares shall have attached thereto the following rights, privileges, restrictions and conditions:

### 8A.1 Definitions

For the purposes of these share provisions (including where applicable other classes):

- 8A.1.1 “**Act**” means the **Business Corporations Act (Ontario)**, as such statute may from time to time be amended, varied or replaced;
- 8A.1.2 “**Applicable Redemption Amount**” means when used with reference to a particular series of Class A Special Shares, the redemption amount thereof as determined in accordance with the provisions applicable to the particular series and for greater certainty shall mean:
- 8A.1.2.1 when used with reference to the First Series Class A Special Shares, the First Series Share Redemption Amount;
  - 8A.1.2.2 when used with reference to the Second Series Class A Special Shares, the Second Series Share Redemption Amount;
  - 8A.1.2.3 when used with reference to the Third Series Class A Special Shares, the Third Series Share Redemption Amount; and
  - 8A.1.2.4 when used with reference to the Fourth Series Class A Special Shares, the Fourth Series Share Redemption Amount;
- 8A.1.3 “**Board**” at any particular time means the board of directors of the Corporation then in office;
- 8A.1.4 “**Class Attributes**” means the preferences, rights, conditions, restrictions, limitations and prohibitions attached to the Class A Special Shares, as a class, as set forth in paragraphs 8A.3 through 8A.10 (inclusive) below;
- 8A.1.5 “**Junior Shares**” means any shares in the capital of the Corporation ranking after or subordinate to the Class A Special Shares as to the payment of declared dividends, on a redemption or upon Liquidation and includes, without limitation, the Common Shares and the Class B Special Shares in the capital of the Corporation;
- 8A.1.6 “**Liquidation**” means the liquidation, dissolution or winding-up of the Corporation, whether voluntary or involuntary, or other distribution of assets or property of the Corporation among shareholders for the purpose of winding-up its affairs;



## 4.2

- 8A.1.7 **“ranking as to capital”** means ranking or priority with respect to the distribution of assets in the event of a Liquidation;
- 8A.1.8 **“Redemption Notice”** with respect to a share of any particular class or series of shares, means a notice in writing sent by the Corporation to a holder of shares of the particular class or series pursuant to which the Corporation, *inter alia*, advises the holder that the Corporation is redeeming the shares of the particular class or series set out in the particular notice;
- 8A.1.9 **“Redemption Price”** means the Applicable Redemption Amount of a particular series of Class A Special Shares together with all declared and unpaid preferential non-cumulative cash dividends thereon;
- 8A.1.10 **“Retraction Date”** with respect to a particular redemption of a share of any class or series of shares, at the option of the holder, means the date set out in the applicable Retraction Notice as the date upon which the particular redemption is to occur;
- 8A.1.11 **“Retraction Notice”** with respect to a share of any particular class or series of shares, means a notice in writing sent to the Corporation by a holder of shares of the particular class or series pursuant to which the holder, *inter alia*, advises the Corporation that the holder requires the Corporation to redeem the shares of the particular class or series set out in the particular notice;
- 8A.1.12 **“Total Redemption Prices”** with respect to any class or series of shares being redeemed at the option of the Corporation means the aggregate amount deposited by the Corporation to a special account in a chartered bank or trust company named in a Redemption Notice to satisfy the claims of holders of a particular class who did not tender the certificates for shares being redeemed prior to such deposit being made.

**8A.2 Directors' Rights to Issue Class A Special Shares in One or More Series**

The directors of the Corporation may at any time and from time to time issue Class A Special Shares in one or more series, each series having, in addition to the Class Attributes, such other Preferences as shall, unless specified herein, be determined by resolution of the Board passed prior to the issue thereof but no Class A Special Shares of any series, other than the First Series Class A Special Shares, the Second Series Class A Special Shares, the Third Series Class A Special Shares and the Fourth Series Class A Special Shares (as hereinafter defined), shall be issued before the issue of a certificate of amendment setting forth the designation and the Preferences attaching to the Class A Special Shares of such series.

**8A.3 Preference with Respect to Class A Special Shares**

The Class A Special Shares (and each series thereof) shall be entitled to preference over the Junior Shares with respect to the payment of declared dividends and with regard to ranking as to capital.

#### **8A.4 Parity of Each Series of Class A Special Shares as to Dividends and Distribution**

Class A Special Shares of each series shall rank on a parity with Class A Special Shares of every other series with respect to priority in the payment of dividends declared and in the distribution of assets upon Liquidation. When any dividends declared or amounts payable on a repayment of capital are not paid in full, the Class A Special Shares of all series shall participate rateably in respect of such dividends including accumulations (if any) in accordance with the sums that would be payable on such shares if all such declared dividends were paid in full and on any repayment of capital in accordance with the sums that would be payable on such repayment of capital if all sums so payable were paid in full.

#### **8A.5 Voting Rights with respect to Class A Special Shares**

Subject to the Act, the holders of Class A Special Shares shall not (except as herein expressly provided) be entitled to receive notice of any meetings of the shareholders of the Corporation and shall not be entitled to vote thereat. The holders of Class A Special Shares shall be entitled to receive notice of meetings of shareholders called for the purpose of authorising the dissolution of the Corporation or the sale of its undertaking or a substantial part thereof.

The holders of Class A Special Shares and the holders of any series of Class A Special Shares shall not be entitled to vote separately as a class or as a series, as the case may be, or to dissent upon a proposal to amend the articles of the Corporation or on any other action which may affect the Class Attributes or the Preferences attaching to any series of Class A Special Shares, in the case of an amendment referred to in clauses 170(a), 170(b) or 170(e) of the Act.

#### **8A.6 Dividends**

The holders of each series of Class A Special Shares shall be entitled to receive and the Corporation shall pay thereon, if, as and when declared by the board of directors of the Corporation, and out of the monies of the Corporation properly applicable to the payment of dividends, non-cumulative cash dividends at such times and in such amounts as the board of directors may from time to time determine. The board of directors may in its discretion declare dividends on shares of series of Class A Special Shares without declaring dividends on shares of other series. Notwithstanding the generality of the foregoing, the board of directors shall not, in respect of any fiscal year of the Corporation, declare dividends on any series of Class A Special Shares in excess of nine (9%) percent per annum on the Applicable Redemption Amount thereof. If, within three (3) months after the expiration of any fiscal year of the Corporation the board of directors in its discretion shall not declare a dividend or dividends on any series of Class A Special Shares for such fiscal year, then the rights of the holders of the shares of such series of Class A Special Shares to dividends for such fiscal year shall be forever extinguished. The holders of the Class A Special Shares shall not be entitled to any dividends other than or in excess of the non-cumulative cash dividends hereinbefore provided.

In no event shall any dividend be declared or paid on any Junior Shares if, in the opinion of the board of directors of the Corporation, the payment of such dividend would reduce the realisable value of the assets minus all of the liabilities of the Corporation as determined by the board of directors of the Corporation, to an amount which is less than the product of the Redemption Price

for each Class A Special Share times the number of such Class A Special Shares issued and outstanding immediately before the time of payment of such dividend.

#### **8A.7 Rights on Liquidation, Etc.**

In the event of a Liquidation, the holders of the Class A Special Shares shall be entitled to receive from the assets and property of the Corporation, for each Class A Special Share held by them respectively, an amount equal to the Redemption Price thereof, before any amount shall be paid or any property or assets of the Corporation be distributed to the holders of any Junior Shares. After payment to the holders of the Class A Special Shares of the amounts so payable to them as above provided, they shall not be entitled to share in any further distribution of the assets or property of the Corporation.

#### **8A.8 Purchase for Cancellation**

Subject to the Act, the Corporation may at any time and from time to time purchase (if obtainable) for cancellation all or part of the Class A Special Shares outstanding from time to time at the lowest price at which, in the opinion of the Board, such shares are obtainable but not exceeding for each Class A Special Share held an amount equivalent to the Redemption Price thereof plus costs of purchase. Except where all of the holders of shares of a particular series of Class A Special Shares consent to the purchase, the Corporation may purchase Class A Special Shares of that series only pursuant to tenders received by the Corporation upon request for tenders addressed to all the holders of shares of that particular series and the Corporation shall accept only the lowest tenders. Where, in response to the invitation for tenders, two or more holders of shares of that particular series submit tenders at the same price and the tenders are accepted by the Corporation as to part only of the shares offered, the Corporation shall accept part of the particular series of Class A Special Shares offered in each tender in proportion as nearly as may be to the total number of shares of the particular series of Class A Special Shares offered in each tender (disregarding fractions).

#### **8A.9 Redemption at the Option of the Corporation**

Subject to the Act, the Corporation may, upon giving notice as hereinafter provided, redeem at any time, the whole or from time to time any part of the then outstanding Class A Special Shares on payment for each share to be redeemed of the Redemption Price thereof. In the case of redemption of the Class A Special Shares under the provisions of this paragraph, the Corporation shall at least twenty (20) days before the date specified for redemption, mail to each person who at the date of mailing is a registered holder of the Class A Special Shares to be redeemed a notice in writing of the intention of the Corporation to redeem such Class A Special Shares. Such notice shall be mailed by letter, postage prepaid, addressed to each such shareholder at the address of such shareholder as it appears in the records of the Corporation, or not so appearing, then to the last known address of such shareholder; provided, however, that no such notice need be sent to any holder of a Class A Special Share to be redeemed where such shareholder has waived notice in writing and provided further, that the accidental failure to give any such notice to one (1) or more of such shareholders shall not affect the validity of such redemption. Such notice shall set out the Redemption Price and the date on which redemption is to take place and if part only of the Class A Special Shares held by the person to whom it is addressed is to be

redeemed, the number thereof so to be redeemed. On or after the date so specified for redemption, the Corporation shall pay or cause to be paid to or to the order of the registered holders of the Class A Special Shares to be redeemed, the Redemption Price thereof for each share being redeemed on presentation and surrender at the registered office of the Corporation or at any other place designated in such notice, of the certificates representing the Class A Special Shares called for redemption and such Class A Special Shares shall thereupon be redeemed. If a part only of the Class A Special Shares represented by any certificate is to be redeemed, a new certificate for the balance shall be issued at the expense of the Corporation. From and after the date specified for redemption in any such notice, the Class A Special Shares called for redemption shall cease to be entitled to dividends and the holders thereof shall not be entitled to exercise any of the rights of shareholders in respect thereof unless payment of the redemption price for each share being redeemed shall not be made upon presentation of certificates in accordance with the foregoing provisions, in which case, the rights of such shareholders shall remain unaffected. The Corporation shall have the right at any time after the mailing of notice of its intention to redeem the Class A Special Shares, to deposit the aggregate redemption prices of the Class A Special Shares so called for redemption, or of such of the said Class A Special Shares represented by certificates as have not at the date of such deposit been surrendered by the holders thereof in connection with such redemption, to a special account in any chartered bank or any trust company in Canada, named in such notice, to be paid without interest to or to the order of the respective holders of such Class A Special Shares called for redemption upon presentation and surrender to such bank or trust company of the certificates representing the same, and upon such deposit being made or upon the date specified for redemption in such notice, whichever is the later, the Class A Special Shares in respect whereof such deposit shall have been made shall be deemed to be redeemed and the rights of the holders thereof after such deposit or such redemption date, as the case may be, shall be limited to receiving, without interest, their proportionate part of the Total Redemption Prices so deposited against presentation and surrender of the said certificates held by them, respectively.

#### **8A.10 Redemption at the Option of the Holder**

Subject to the Act, a registered holder of Class A Special Shares may, upon giving the Retraction Notice as hereinafter provided, require the Corporation to redeem at any time, the whole or from time to time any part of the outstanding Class A Special Shares owned by him by payment for each Class A Special Share to be redeemed of the Redemption Price thereof. In the case of a redemption of Class A Special Shares under the provisions of this paragraph, the holder requiring his shares to be redeemed shall mail to the Corporation by prepaid mail, a Retraction Notice requiring the Corporation to redeem his Class A Special Shares and setting out the Retraction Date and, if part only of the Class A Special Shares held by such holder are to be redeemed, the number thereof so to be redeemed; provided that, unless the Corporation otherwise agrees, the Retraction Date set forth in the Retraction Notice may not be less than Twenty (20) days nor more than Ninety (90) days after the date on which the Retraction Notice is mailed. On the Retraction Date, the Corporation shall pay or cause to be paid to, or to the order of, the registered holder of the Class A Special Shares to be redeemed, the Redemption Price for each Class A Special Share to be redeemed on presentation and surrender at the registered office of the Corporation of the share certificates representing the Class A Special Shares so called for redemption and such Class A Special Shares shall thereupon be redeemed. If a part only of the Class A Special Shares represented by any certificate are to be redeemed, a

new certificate for the balance shall be issued at the expense of the Corporation. From and after the Retraction Date, the Class A Special Shares called for redemption shall cease to be entitled to dividends and the holders thereof shall not be entitled to exercise any of the rights of shareholders in respect thereof unless payment of the applicable Redemption Price shall not be made upon presentation of certificates in accordance with the provisions of this paragraph, in which case, the rights of the holders of the Class A Special Shares which would otherwise have been redeemed shall remain unaffected.

#### 8A.11 First Series Class A Special Shares

The first series of the Class A Special Shares shall consist of One Thousand (1,000) shares which shall be designated as "First Series Class A Special Shares" (hereinafter collectively called the "**First Series Shares**" and individually called a "**First Series Share**"), and which, in addition to the Class Attributes have attached thereto the Preferences hereinafter set forth, namely:

##### 8A.11.1 Issuance of First Series Shares

The First Series Shares shall only be issued for the purpose of payment by the Corporation of the purchase price (or a portion thereof) payable by the Corporation for the purchase by the Corporation of property. No First Series Share shall be issued for a consideration other than property.

##### 8A.11.2 First Series Share Redemption Amount

8A.11.2.1 The redemption price of each First Series Share (the "**First Series Share Redemption Amount**") shall be the amount which is one-one thousandth (1/1000th) (in this paragraph the "**fraction**") of the amount by which the fair market value of the property (in this paragraph the "**Property**") to be purchased by the Corporation in consideration, in whole or in part, of the issuance to the vendor thereof of First Series Shares on the effective date of the purchase of the Property by the Corporation (in this paragraph the "**Valuation Date**"), as determined by the Board, exceeds the portion of the purchase price payable by the Corporation for the Property, if any, to be satisfied by consideration (in this paragraph the "**Non-Share Consideration**") other than First Series Shares. The Board shall determine the fair market value of the Property (in consultation with the accountants of the Corporation or other parties acceptable to the Board), and the First Series Share Redemption Amount, by no later than 3 months following the Valuation Date. If notwithstanding this determination any taxing authority shall allege that the fair market value of the Property on the Valuation Date is other than as so determined or should make or propose to make an assessment on the basis that any benefit or advantage is conferred on any person by reason of the issuance of the First Series Shares in exchange for the Property then the First Series Share Redemption Amount shall be deemed to be and to have always been the amount equal to the fraction of the amount by which the fair market value of the Property as at the Valuation Date, as determined by the Board after the professional advisors

## 4.7

of the Corporation at that time have consulted with such taxing authority or after a judicial determination has been made of the fair market value of the Property if so recommended by counsel for the Corporation, exceeds the Non-Share Consideration, if any; any dividend paid prior to such a further determination by the Board shall not be affected thereby;

8A.11.2.2 If the First Series Share Redemption Amount provided for in clause 8A.11.2.1 hereof in effect after the Board has made a further determination of the fair market value of the Property under the provisions of clause 8A.11.2.1. hereof exceeds the amount previously paid on the redemption of any First Series Share pursuant to the provisions hereof the excess in the aggregate (in this paragraph the "aggregate excess") in respect of all First Series Shares so previously redeemed shall, with respect to those persons to whom First Series Shares were originally issued, be dealt with as follows:

- (a) the amount of such aggregate excess will be allocated among such persons pro rata in proportion to the number of First Series Shares redeemed from each one of them;
- (b) the redemption price of each First Series Share still held by any such person at the date of the aforesaid further determination will be increased by an amount which is equal to his share of the aggregate excess as determined by subclause 8A.11.2.2(a) above, divided by the number of such First Series Shares still held by him;
- (c) if any such person entitled to a proportionate share of the aggregate excess determined as aforesaid holds no First Series Shares at the date of the aforesaid further determination because all of such person's First Series Shares have been previously redeemed such proportionate share shall be paid to such person as a further payment on account of the redemption price which was payable to such person on such previous redemption of First Series Shares; and
- (d) if any such person entitled to a proportionate share of the aggregate excess determined as aforesaid holds no First Series Shares at the date of the aforesaid further determination because such person has disposed of such shares, such proportionate share of the aggregate excess shall be a debt payable on demand by the Corporation to such person;

8A.11.2.3 If the First Series Share Redemption Amount provided for in clause 8A.11.2.1 hereof in effect after the Board has made a further determination of the fair market value of the Property under the provisions of clause 8A.11.2.1 hereof is less than the amount previously paid on the redemption of any First Series Share pursuant to the provisions hereof the deficiency in the aggregate (in this paragraph the "aggregate deficiency") in respect of

all First Series Shares so previously redeemed shall, with respect to those persons to whom First Series Shares were originally issued, be dealt with as follows:

- (a) the amount of such aggregate deficiency will be allocated among such persons pro rata in proportion to the number of First Series Shares redeemed from each one of them;
- (b) the redemption price of each First Series Share still held by any such person at the date of the aforesaid further determination will be reduced by an amount which is equal to his share of the aggregate deficiency as determined by subclause 8A.11.2.3(a) above divided by the number of such First Series Shares still held by him;
- (c) if the share of the aggregate deficiency which is allocated to any such person is greater than the aggregate reduction capable of being made pursuant to subclause 8A.11.2.3(b) above, the difference shall be a debt payable on demand to the Corporation by the person whose First Series Shares were so previously redeemed; and
- (d) if any such person to whom a proportionate share of the aggregate deficiency has been allocated as aforesaid holds no First Series Shares at the date of the aforesaid further determination, his proportionate share of the aggregate deficiency shall be a debt payable on demand to the Corporation by such person.

#### **8A.12 Second Series Class A Special Shares**

The second series of the Class A Special Shares shall consist of One Thousand (1,000) shares which shall be designated as "Second Series Class A Special Shares" (hereinafter collectively called the "Second Series Shares" and individually called a "Second Series Share"), and which, in addition to the Class Attributes shall have attached thereto the Preferences hereinafter set forth, namely:

##### **8A.12.1 Issuance of Second Series Shares**

The Second Series Shares shall only be issued for the purpose of payment by the Corporation of the purchase price (or a portion thereof) payable by the Corporation for the purchase by the Corporation of property. No Second Series Share shall be issued for a consideration other than property.

##### **8A.12.2 Second Series Share Redemption Amount**

- 8A.12.2.1 The redemption price of each Second Series Share (the "Second Series Share Redemption Amount") shall be the amount which is one-one thousandth (1/1000th) (in this paragraph the "fraction") of the amount by

which the fair market value of the property (in this paragraph the "**Property**") to be purchased by the Corporation in consideration, in whole or in part, of the issuance to the vendor thereof of Second Series Shares on the effective date of the purchase of the Property by the Corporation (in this paragraph the "**Valuation Date**"), as determined by the Board, exceeds the portion of the purchase price payable by the Corporation for the Property, if any, to be satisfied by consideration (in this paragraph the "**Non-Share Consideration**") other than Second Series Shares. The Board shall determine the fair market value of the Property (in consultation with the accountants of the Corporation or other parties acceptable to the Board), and the Second Series Share Redemption Amount, by no later than 3 months following the Valuation Date. If notwithstanding this determination any taxing authority shall allege that the fair market value of the Property on the Valuation Date is other than as so determined or should make or propose to make an assessment on the basis that any benefit or advantage is conferred on any person by reason of the issuance of the Second Series Shares in exchange for the Property then the Second Series Share Redemption Amount shall be deemed to be and to have always been the amount equal to the fraction of the amount by which the fair market value of the Property as at the Valuation Date, as determined by the Board after the professional advisors of the Corporation at that time have consulted with such taxing authority or after a judicial determination has been made of the fair market value of the Property if so recommended by counsel for the Corporation, exceeds the Non-Share Consideration, if any; any dividend paid prior to such a further determination by the Board shall not be affected thereby;

8A.12.2.2 If the Second Series Share Redemption Amount provided for in clause 8A.12.2.1 hereof in effect after the Board has made a further determination of the fair market value of the Property under the provisions of clause 8A.12.2.1. hereof exceeds the amount previously paid on the redemption of any Second Series Share pursuant to the provisions hereof the excess in the aggregate (in this paragraph the "**aggregate excess**") in respect of all Second Series Shares so previously redeemed shall, with respect to those persons to whom Second Series Shares were originally issued, be dealt with as follows:

- (a) the amount of such aggregate excess will be allocated among such persons pro rata in proportion to the number of Second Series Shares redeemed from each one of them;
- (b) the redemption price of each Second Series Share still held by any such person at the date of the aforesaid further determination will be increased by an amount which is equal to his share of the aggregate excess as determined by subclause 8A.12.2.2(a) above, divided by the number of such Second Series Shares still held by him;



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- (c) if any such person entitled to a proportionate share of the aggregate excess determined as aforesaid holds no Second Series Shares at the date of the aforesaid further determination because all of such person's Second Series Shares have been previously redeemed such proportionate share shall be paid to such person as a further payment on account of the redemption price which was payable to such person on such previous redemption of Second Series Shares; and
- (d) if any such person entitled to a proportionate share of the aggregate excess determined as aforesaid holds no Second Series Shares at the date of the aforesaid further determination because such person has disposed of such shares, such proportionate share of the aggregate excess shall be a debt payable on demand by the Corporation to such person;

8A.12.2.3 If the Second Series Share Redemption Amount provided for in clause 8A.12.2.1. hereof in effect after the Board has made a further determination of the fair market value of the Property under the provisions of clause 8A.12.2.1. hereof is less than the amount previously paid on the redemption of any Second Series Share pursuant to the provisions hereof the deficiency in the aggregate (in this paragraph the "aggregate deficiency") in respect of all Second Series Shares so previously redeemed shall, with respect to those persons to whom Second Series Shares were originally issued, be dealt with as follows:

- (a) the amount of such aggregate deficiency will be allocated among such persons pro rata in proportion to the number of Second Series Shares redeemed from each one of them;
- (b) the redemption price of each Second Series Share still held by any such person at the date of the aforesaid further determination will be reduced by an amount which is equal to his share of the aggregate deficiency as determined by subclause 8A.12.2.3(a) above divided by the number of such Second Series Shares still held by him;
- (c) if the share of the aggregate deficiency which is allocated to any such person is greater than the aggregate reduction capable of being made pursuant to subclause 8A.12.2.3(b) above, the difference shall be a debt payable on demand to the Corporation by the person whose Second Series Shares were so previously redeemed; and
- (d) if any such person to whom a proportionate share of the aggregate deficiency has been allocated as aforesaid holds no Second Series Shares at the date of the aforesaid further determination, his

4.11

proportionate share of the aggregate deficiency shall be a debt payable on demand to the Corporation by such person.

### **8A.13 Third Series Class A Special Shares**

The third series of the Class A Special Shares shall consist of Ten Thousand (10,000) shares which shall be designated as "**Third Series Class A Special Shares**" (hereinafter collectively called the "**Third Series Shares**" and individually called a "**Third Series Share**"), and which, in addition to the Class Attributes, shall have attached thereto the Preferences hereinafter set forth, namely:

#### **8A.13.1 Issuance of Third Series Shares**

The Third Series Shares shall only be issued for the purpose of payment by the Corporation of the purchase price (or a portion thereof) payable by the Corporation for the purchase by the Corporation of property. No Third Series Share shall be issued for a consideration other than property.

#### **8A.13.2 Third Series Share Redemption Amount**

8A.13.2.1 The redemption price of each Third Series Share (the "**Third Series Share Redemption Amount**") shall be the amount which is one-ten thousandth (1/10,000th) (in this paragraph the "**fraction**") of the amount by which the fair market value of the property (in this paragraph the "**Property**") to be purchased by the Corporation in consideration, in whole or in part, of the issuance to the vendor thereof of Third Series Shares on the effective date of the purchase of the Property by the Corporation (in this paragraph the "**Valuation Date**"), as determined by the Board, exceeds the portion of the purchase price payable by the Corporation for the Property, if any, to be satisfied by consideration (in this paragraph the "**Non-Share Consideration**") other than Third Series Shares. The Board shall determine the fair market value of the Property (in consultation with the accountants of the Corporation or other parties acceptable to the Board), and the Third Series Share Redemption Amount, by no later than 3 months following the Valuation Date. If notwithstanding this determination any taxing authority shall allege that the fair market value of the Property on the Valuation Date is other than as so determined or should make or propose to make an assessment on the basis that any benefit or advantage is conferred on any person by reason of the issuance of the Third Series Shares in exchange for the Property then the Third Series Share Redemption Amount shall be deemed to be and to have always been the amount equal to the fraction of the amount by which the fair market value of the Property as at the Valuation Date, as determined by the Board of Directors after the professional advisors of the Corporation, at that time have consulted with such taxing authority or after a judicial determination has been made of the fair market value of the Property if so recommended by counsel for the Corporation exceeds the Non-Share Consideration, if any; any dividend

## 4.12

paid prior to such a further determination by the Board shall not be affected thereby;

- 8A.13.2.2 If the Third Series Share Redemption Amount provided for in clause 8A.13.2.1. hereof in effect after the Board has made a further determination of the fair market value of the Property under the provisions of clause 8A.13.2.1. hereof exceeds the amount previously paid on the redemption of any Third Series Share pursuant to the provisions hereof the excess in the aggregate (in this paragraph the "aggregate excess") in respect of all Third Series Shares so previously redeemed shall, with respect to those persons to whom Third Series Shares were originally issued, be dealt with as follows:
- (a) the amount of such aggregate excess will be allocated among such persons pro rata in proportion to the number of Third Series Shares redeemed from each one of them;
  - (b) the redemption price of each Third Series Share still held by any such person at the date of the aforesaid further determination will be increased by an amount which is equal to his share of the aggregate excess as determined by subclause 8A.13.2.2(a) above, divided by the number of such Third Series Shares still held by him;
  - (c) if any such person entitled to a proportionate share of the aggregate excess determined as aforesaid holds no Third Series Shares at the date of the aforesaid further determination because all of such person's Third Series Shares have been previously redeemed such proportionate share shall be paid to such person as a further payment on account of the redemption price which was payable to such person on such previous redemption of Third Series Shares; and
  - (d) if any such person entitled to a proportionate share of the aggregate excess determined as aforesaid holds no Third Series Shares at the date of the aforesaid further determination because such person has disposed of such shares, such proportionate share of the aggregate excess shall be a debt payable on demand by the Corporation to such person;
- 8A.13.2.3 If the Third Series Share Redemption Amount provided for in clause 8A.13.2.1. hereof in effect after the Board has made a further determination of the fair market value of the Property under the provisions of clause 8A.13.2.1. hereof is less than the amount previously paid on the redemption of any Third Series Share pursuant to the provisions hereof the deficiency in the aggregate ("aggregate deficiency") in respect of all Third Series Shares so previously redeemed shall, with respect to those persons to whom Third Series Shares were originally issued, be dealt with as follows:

## 4.13

- (a) the amount of such aggregate deficiency will be allocated among such persons pro rata in proportion to the number of Third Series Shares redeemed from each one of them;
- (b) the redemption price of each Third Series Share still held by any such person at the date of the aforesaid further determination will be reduced by an amount which is equal to his share of the aggregate deficiency as determined by subclause 8A.13.2.3(a). above divided by the number of such Third Series Shares still held by him;
- (c) if the share of the aggregate deficiency which is allocated to any such person is greater than the aggregate reduction capable of being made pursuant to subclause 8A.13.2.3(b) above, the difference shall be a debt payable on demand to the Corporation by the person whose Third Series Shares were so previously redeemed; and
- (d) if any such person to whom a proportionate share of the aggregate deficiency has been allocated as aforesaid holds no Third Series Shares at the date of the aforesaid further determination, his proportionate share of the aggregate deficiency shall be a debt payable on demand to the Corporation by such person.

**8A.14 Fourth Series Class A Special Shares**

The fourth series of the Class A Special Shares shall consist of an unlimited number of shares which shall be designated as "**Fourth Series Class A Special Shares**" (hereinafter collectively called the "**Fourth Series Shares**" and individually a "**Fourth Series Share**"), and which, in addition to the Class Attributes, shall have attached thereto the Preferences hereinafter set forth, namely:

**8A.14.1 Fourth Series Share Redemption Amount**

The redemption price of each Fourth Series Share (the "**Fourth Series Share Redemption Amount**") shall be the sum of one (\$1.00) dollar.

**8B. CLASS B SPECIAL SHARES**

The Class B Special Shares shall have attached thereto the following Preferences:

**8B.1 Dividends**

The holders of the Class B Special Shares shall be entitled to receive and the Corporation shall pay thereon if, as and when declared by the Board, out of the moneys of the Corporation properly applicable to the payment of dividends, fixed non-cumulative cash dividends at the rate of eight percent (8%) per annum of the amount determined by dividing the total of the stated capital account for the Class B Special Shares by the number of Class B Special Shares then

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issued and outstanding. The Board shall be entitled from time to time to declare part of the said non-cumulative cash dividends for any fiscal year of the Corporation notwithstanding that such dividends for such fiscal year shall not be declared in full. If within three (3) months after the expiration of any fiscal year of the Corporation the Board in its discretion shall not declare the said dividends or any part thereof on the Class B Special Shares for such fiscal year, then the rights of the holders of the Class B Special Shares to such dividends or any undeclared part thereof for such fiscal year shall be forever extinguished. The holders of the Class B Special Shares shall not be entitled to any dividends other than or in excess of the non-cumulative cash dividends hereinbefore provided for.

#### **8B.2 Rights on Liquidation, Etc.**

In the event of the liquidation, dissolution or winding-up of the Corporation or other distribution of assets of the Corporation among shareholders for the purpose of winding-up its affairs, the holders of the Class B Special Shares shall be entitled to receive before any amount shall be paid or any property or assets of the Corporation be distributed to the holders of any Common Shares or shares of any other class ranking junior to the Class B Special Shares an amount determined by dividing the total of the stated capital account for the Class B Special Shares by the number of Class B Special Shares then issued and outstanding together with an amount equal to all dividends declared thereon and remaining unpaid. After payment to the holders of the Class B Special Shares of the amounts so payable to them, as above provided, they shall not be entitled to share in any further distribution of the assets or property of the Corporation.

#### **8B.3 Purchase for Cancellation**

Subject to the Act, the Corporation may at any time or times purchase (if obtainable) for cancellation all or any part of the Class B Special Shares outstanding from time to time at the lowest price at which, in the opinion of the directors, such shares are obtainable but not exceeding the amount determined by dividing the total of the statement capital account for the Class B Special Shares by the number of Class B Special Shares then issued and outstanding plus costs of purchase and an amount equal to all dividends declared thereon and remaining unpaid. Except where all the holders of the Class B Special Shares consent to the purchase, the Corporation may purchase Class B Special Shares only pursuant to tenders received by the Corporation upon request for tenders addressed to all the holders of the Class B Special Shares and the Corporation shall accept only the lowest tenders. Where in response to any invitation for tenders, two or more shareholders submit tenders at the same price and such tenders are accepted by the Corporation as to part only of the Class B Special Shares offered, the Corporation shall accept part of the Class B Special Shares offered in each tender in proportion as nearly as may be to the total number of shares offered in each tender (disregarding fractions).

#### **8B.4 Voting Rights with respect to Class B Special Shares**

The holders of the Class B Special Shares shall be entitled to receive notice of and to attend all meetings of the shareholders of the Corporation and shall have one (1) vote for each Class B Share held at all such meetings.

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**8B.5 Ranking**

The Class B Special Shares shall rank junior to the Class A Special Shares and shall be subject in all respects to the rights, privileges, restrictions and conditions attaching to the Class A Special Shares (and each series thereof.)

**8C. COMMON SHARES****8C.1 Right to Vote and Receive Remaining Property on Dissolution**

The Common Shares shall be subject to the prior Preferences attaching to the Class A Special Shares (and each series thereof), the Class B Special Shares and any other shares in the capital of the Corporation ranking in priority to the Common Shares, and the Common Shares shall entitle the holders thereof:

- 8C.1.1 to one (1) vote in respect of each of the Common Shares held at all meetings of the shareholders of the Corporation other than meetings of the holders of another class of shares of the Corporation;
- 8C.1.2 to receive dividends, if, as and when declared by the Board;
- 8C.1.3 subject to the foregoing, to receive the remaining property and assets of the Corporation in the event of any liquidation, dissolution or winding-up of the Corporation, whether voluntary or involuntary, or other distribution of the assets and/or property of the Corporation among its shareholders for the purpose of winding-up its affairs.

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9. The issue, transfer or ownership of shares is / is not restricted and the restrictions (if any) are as follows: L'émission, le transfert ou la propriété d'actions est / n'est pas restreint. Les restrictions, s'il y a lieu, sont les suivantes :

The right to transfer shares of the Corporation shall be restricted in that no shareholder shall be entitled to transfer any share or shares in the capital of the Corporation without the previous express approval of:

- (1) the directors of the Corporation expressed by a resolution passed by the votes of a majority of the Board then in office or by an instrument or instruments in writing signed by all of the directors of the Corporation; or
- (2) the shareholders of the Corporation expressed by a resolution passed by the shareholders holding shares carrying more than 50% of votes for the election of directors or by an instrument or instruments in writing signed by all of the shareholders of the Corporation.

10. Other provisions, if any:

Autres dispositions, s'il y a lieu :

A. The directors may:

- (a) borrow money on the credit of the Corporation;
- (b) issue, sell or pledge debt obligations of the Corporation; and
- (c) charge, mortgage, hypothecate or pledge all or any currently owned or subsequently acquired real or personal, moveable or immovable property of the Corporation, including book debts, rights, powers, franchises and undertakings, to secure any debt obligations or any money borrowed, or other debt or liability of the Corporation; the term "debt obligations" used in this section means bonds, debentures, notes or other similar obligations of the Corporation whether secured or unsecured.

B. The Board may from time to time delegate to such one or more of the directors and officers of the Corporation as may be designated by the Board all or any of the powers conferred on the directors by the provisions of subarticle 10. A. hereof to such extent and in such manner as the Board shall determine at the time of each such delegation. The powers conferred upon the directors by the provisions of subarticle 10. A. hereof shall be deemed supplementary to and not in substitution for any powers to borrow money for the purposes of the Corporation possessed by its directors and officers independently hereof.

C. The number of shareholders of the Corporation, exclusive of persons who are in the employment of the Corporation and exclusive of persons who, having been formerly in the employment of the Corporation, were, while in that employment, and have continued after the termination of that employment to be, shareholders of the Corporation, is limited to not more than fifty (50), two (2) or more persons who are the joint registered owners of one (1) or more shares being counted as one (1) shareholder.

11. The statements required by subsection 178 (2) of the Business Corporations Act are attached as Schedule "A".

Les déclarations exigées aux termes du paragraphe 178 (2) de la Loi sur les sociétés par actions constituent l'annexe "A".

12. A copy of the amalgamation agreement or directors resolutions (as the case may be) is/are attached as Schedule "B".

Une copie de la convention de fusion ou les résolutions des administrateurs (selon le cas) constitue(nt) l'annexe "B".

Document prepared by  
Blaney, McMurtry,  
Stapelle, Friedman  
Barristers and Solicitors  
Toronto, Ontario

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D. Any invitation to the public to subscribe for any shares or securities of the Corporation is hereby prohibited.

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These articles are signed in duplicate.

Les présents statuts sont signés en double exemplaire.

Names of the amalgamating corporations and signatures and descriptions of office of their proper officers.

Dénomination sociale des sociétés qui fusionnent, signature et fonction de leurs dirigeants régulièrement désignés.

PRIME RESTAURANT ESM  
LICENSING INC.

PRIME RESTAURANT  
LICENSING INC.

PER:   
Authorized Signing Officer

PER:   
Authorized Signing Officer

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**SCHEDULE "A"****DIRECTOR'S/OFFICER'S STATEMENTS**

I, H. Ross R. Bain am the Secretary of PRIME RESTAURANT ESM LICENSING INC. and PRIME RESTAURANT LICENSING INC. and hereby state the following in connection with the proposed amalgamation of the [Corporations and their continuance as "PRIME RESTAURANT LICENSING INC." (the "Corporations")

- (a) There are reasonable grounds for believing that:
  - (i) each of the Corporations is and the amalgamated corporation will be able to pay its liabilities as they become due; and
  - (ii) the realisable value of the amalgamated corporation's assets will not be less than the aggregate of its liabilities and stated capital;
- (b) There are reasonable grounds for believing that no creditor of any of the Corporations will be prejudiced by the amalgamation;
- (c) No creditor has notified any of the Corporations of any objection to the proposed amalgamation; and
- (d) For the reasons set out in paragraphs (b) and (c) above it is not necessary for any of the Corporations to comply with the notice provisions contained in clause 178(2)(d) of the *Business Corporations Act* (Ontario).

Dated this 22<sup>nd</sup> day of February, 2002

---

H. Ross R. Bain

B1

**"RESOLUTIONS OF THE BOARD OF DIRECTORS****OF****PRIME RESTAURANT ESM LICENSING INC.****(the "Corporation")**

**WHEREAS** the Corporation desires to amalgamate with Prime Restaurant Licensing Inc. ("**Prime Licensing**") and continue as one corporation pursuant to the provisions of subsection 177(2) of the Business Corporations Act (Ontario):

**BE IT RESOLVED THAT:**

1. Effective as of the first possible moment on February 25<sup>th</sup>, 2002 the Corporation amalgamate with Prime Licensing and continue as one corporation (the "**Amalgamated Corporation**") under the name of PRIME RESTAURANT LICENSING INC.
2. Contemporaneously with the endorsement of a Certificate of Amalgamation pursuant to subsection 178(4) of the *Business Corporations Act* (Ontario), all shares in the capital of Prime Licensing, including all shares which have been issued and are outstanding at the date hereof, will be cancelled without any repayment of capital in respect thereof.
3. The Articles of Amalgamation shall be the same as the Articles of the Corporation.
4. The by-laws of the Amalgamated Corporation shall be the same as the by-laws of the Corporation.
5. Any officer or director of the Corporation be and he is hereby authorised to do all things and execute all instruments and documents necessary or desirable to carry out and give effect to the foregoing.
6. The directors of the Corporation may sign this resolution in one or more counterparts and/or by facsimile, each of which shall be deemed to be an original and all of which together shall be deemed to be resolutions signed by all of the directors. Any director executing this resolution by facsimile shall, as soon as practicable following execution of this resolution, provide an originally executed counterpart of this resolution."

\*\*\*\*

**CERTIFIED** to be a true copy of resolutions of all of the directors of the Corporation, approved and consented to by all the directors of the Corporation on the 22<sup>nd</sup> day of February, 2002, which resolutions are now in full force and effect and unamended at the date hereof.

DATED the 22<sup>nd</sup> day of February, 2002

---

**H. Ross R. Bain - Secretary**

B2

**"RESOLUTIONS OF THE BOARD OF DIRECTORS****OF****PRIME RESTAURANT LICENSING INC.****(the "Corporation")**

**WHEREAS** the Corporation desires to amalgamate with Prime Restaurant ESM Licensing Inc. ("**Prime ESM**") and continue as one corporation pursuant to the provisions of subsection 177(2) of the Business Corporations Act (Ontario):

**BE IT RESOLVED THAT:**

1. Effective as of the first possible moment on February 25<sup>th</sup>, 2002 the Corporation amalgamate with Prime ESM and continue as one corporation (the "**Amalgamated Corporation**") under the name of PRIME RESTAURANT LICENSING INC.
2. Contemporaneously with the endorsement of a Certificate of Amalgamation pursuant to subsection 178(4) of the *Business Corporations Act* (Ontario), all shares in the capital of the Corporation, including all shares which have been issued and are outstanding at the date hereof, will be cancelled without any repayment of capital in respect thereof.
3. The Articles of Amalgamation shall be the same as the Articles of Prime ESM.
4. The by-laws of the Amalgamated Corporation shall be the same as the by-laws of Prime ESM.
5. Any officer or director of the Corporation be and he is hereby authorised to do all things and execute all instruments and documents necessary or desirable to carry out and give effect to the foregoing.
6. The directors of the Corporation may sign this resolution in one or more counterparts and/or by facsimile, each of which shall be deemed to be an original and all of which together shall be deemed to be resolutions signed by all of the directors. Any director executing this resolution by facsimile shall, as soon as practicable following execution of this resolution, provide an originally executed counterpart of this resolution."

\*\*\*\*

**CERTIFIED** to be a true copy of resolutions of all of the directors of the Corporation, approved and consented to by all the directors of the Corporation on the 22<sup>nd</sup> day of February, 2002, which resolutions are now in full force and effect and unamended at the date hereof.

DATED the 22<sup>nd</sup> day of February, 2002  
\_\_\_\_\_  
H. Ross R. Bain - Secretary