

63779

Vol. <sup>m</sup> 72 Page 4733

This Indenture, made this 20th day of April, 1972, between

KONO INC., an Oregon Corporation and SWAN LAKE MOULDING COMPANY-----

-----, an Oregon corporation,  
hereinafter called "Mortgagor", and FIRST NATIONAL BANK OF OREGON, a national banking association,  
hereinafter called "Mortgagee";

## WITNESSETH:

For value received by the Mortgagor from the Mortgagee, the Mortgagor has bargained and sold and does hereby grant, bargain, sell and convey unto the Mortgagee, all the following described property situate in

KLAMATH County, Oregon, to wit:

A piece or parcel of land in the NW $\frac{1}{4}$  of Section 3, Township 39 South, Range 9 E.W.M., Oregon, more particularly described as follows:

Starting at the Northwest corner of Section 3, Township 39 South, Range 9, E.W.M. and running thence South 0 degrees 00 $\frac{1}{2}$ ' East along the Westerly boundary of Section 3, 977.8 feet, more or less, to its intersection with a line parallel with and 50 feet distant at right angles Southwesterly from the center line of the Dalles-California State Highway, also known as South Sixth Street, as the same is now located and constructed; thence South 55 degrees 52 $\frac{1}{2}$ ' East along said parallel line 2080.4 feet; thence at right angles to South Sixth Street South 34 degrees 07 $\frac{1}{2}$ ' West 58 feet to Point "A" the true beginning point of this description, from which a cross chiseled in the concrete sidewalk bears North 34 degrees 07 $\frac{1}{2}$ ' East 70.00 feet; thence South 55 degrees 52 $\frac{1}{2}$ ' East parallel to South Sixth Street 80 feet to point "B"; thence South 34 degrees 07 $\frac{1}{2}$ ' West 139.34 feet to point "C"; thence North 66 degrees 57 $\frac{1}{2}$ ' West 81.52 feet to Point "D"; thence North 34 degrees 07 $\frac{1}{2}$ ' East 155.02 feet to the point of beginning.

together with the tenements, hereditaments and appurtenances now or hereafter thereunto belonging or in anywise appertaining; also all such apparatus, equipment and fixtures now or hereafter situate on said premises, as are ever furnished by landlords in letting unfurnished buildings similar to the one situated on the real property hereinabove described, including, but not exclusively, all fixtures and personal property used or intended for use for plumbing, lighting, heating, cooking, cooling, ventilating or irrigating, linoleum and other floor coverings attached to floors, and shelving, counters, and other store, office and trade fixtures; also the rents, issues and profits arising from or in connection with the said real and personal property or any part thereof.

To Have and To Hold the same unto the Mortgagee, its successors and assigns, forever.

And the Mortgagor does hereby covenant to and with the Mortgagee, that it is lawfully seized in fee simple of the said real property, that it is the absolute owner of the said personal property, that the said real and personal property is free from encumbrances of every kind and nature, and that it will warrant and forever defend the same against the lawful claims and demands of all persons whomsoever.

N-128X 2-70 CORPORATE (TAXES, INSURANCE, ETC., INCLUDED)

1972 APR 20

This conveyance is intended as a mortgage to secure performance of the covenants and agreements herein contained, to be by the Mortgagor kept and performed, and to secure the payment of the sum of \$ 48,000.00 and interest thereon in accordance with the tenor of a certain promissory note executed by KONO INC., an Oregon Corporation

dated April 20, 19 72, payable to the order of the Mortgagee in installments not less than \$ 595.14, each, including interest, on the 1st day of each Month commencing September 1, 19 72 until August 1, 19 82, when the balance then remaining unpaid shall be paid.

The Mortgagor does hereby covenant and agree to and with the Mortgagee, its successors and assigns:

1. That it will pay, when due, the indebtedness hereby secured, with interest, and all liens and utility charges upon said premises for services furnished thereto. In addition thereto, it will pay, at the time of payment of each installment of principal and interest, such amount as Mortgagee shall estimate to be sufficient to produce, at least one month prior to the time when payment thereof shall become due, the amount of (a) taxes, assessments and other governmental rates and charges against said premises and (b) premiums upon insurance against loss or damage to said premises. If the sums so paid shall be less than sufficient for said purposes, Mortgagee will also pay, upon demand, such additional sum as Mortgagee shall deem necessary therefor. If Mortgagor desires a "package" plan of insurance which includes coverage in addition to that required under this mortgage, Mortgagee may, at its option, establish and administer a reserve for that purpose. If the package plan reserve is not sufficient to pay the renewal premium on a package plan policy, then Mortgagee may use such reserve to pay premiums on a policy covering only risks required to be insured against under this mortgage and allow the package plan policy to lapse. Mortgagee shall, upon the written direction of Mortgagor, and may, without such direction, apply sums paid by Mortgagor and held by Mortgagee to the purposes aforesaid; but the receipt of such sums shall not, in the absence of such direction, impose any duty upon Mortgagee to disburse the same or relieve Mortgagor from its covenants to pay said obligations or to keep the premises insured. Mortgagee may, from time to time, establish reasonable service charges for the collection and disbursement of premiums on package type insurance policies. Mortgagee shall not, whether or not service charges are imposed, be subject to any liability for failure to transmit any premiums to any insurer or by reason of any loss growing out of any defect in any insurance policy.

2. That it will not commit or permit strip or waste of the said premises or any part thereof; that it will keep the real and personal property hereinabove described in good order and repair and in tenantable condition; that it will promptly comply with any and all municipal and governmental rules and regulations with reference thereto; that if any of the said property be damaged or destroyed by any cause, it will immediately reconstruct or repair the same so that, when completed, it shall be worth not less than the value thereof at the time of such loss or damage; provided, that if such loss or damage shall be caused by a hazard against which insurance is carried, the obligation of the Mortgagor to repair or reconstruct shall not arise unless the Mortgagee shall consent to the application of insurance proceeds to the expense of such reconstruction or repair.

3. That it will, at its own cost and expense, keep the building or buildings now or hereafter upon said premises, together with all personal property covered by the lien hereof, insured against loss by fire and against loss by such other hazards as the Mortgagee may from time to time require, in one or more insurance companies satisfactory to or designated by the Mortgagee in an aggregate amount not less than the amount of the indebtedness hereby secured (unless the full insurable value of such building or buildings is less than the amount hereby secured, in which event the Mortgagor shall insure to the amount of the full insurable value); that all policies of insurance upon said premises, including policies in excess of the amount hereinabove mentioned and policies against other hazards than those required, shall contain such provisions as the Mortgagee shall require and shall provide, in such form as the Mortgagee may prescribe, that loss shall be payable to the Mortgagee; that all such policies and receipts showing full payment of premiums therefor shall be delivered to and retained by the Mortgagee during the existence of this mortgage; that at least 5 days prior to the expiration of any policy or policies it will deliver to the Mortgagee satisfactory renewals thereof together with premium receipts in full; that if any policy or policies shall impose any condition upon the liability of the insurer or shall contain any "average clause" or other provisions by which the insurer may be liable for less than the full amount of the loss sustained, it will, as often as the Mortgagee may require, provide the Mortgagee with all such evidence as it may request concerning the performance of such condition or the existence of any facts or the value of the property insured and, if it shall appear to the Mortgagee that the insurance is prejudiced by the acts or omissions of the Mortgagor or that the coverage is inadequate, the Mortgagor will do such acts and things and obtain such further insurance as the Mortgagee may require; that the Mortgagee may, at its option, require the proceeds of any insurance policies upon the said premises to be applied to the payment of the indebtedness hereby secured or to be used for the repair or reconstruction of the property damaged or destroyed.

4. That it will execute or procure such further assurance of its title to the said property as may be requested by the Mortgagee.

5. That in case the Mortgagor shall fail, neglect or refuse to do or perform any of the acts or things herein required to be done or performed, the Mortgagee may, at its option, but without any obligation on its part so to do, and without waiver of such default, procure any insurance, pay any taxes or liens or utility charges, make any repairs, or do any other of the things required, and any expenses so incurred and any sums so paid shall bear interest at 8% per annum and shall be secured hereby.

6. That it will not, without the prior written consent of Mortgagee, transfer its interest in said premises or any part thereof, whether or not the transferee assumes or agrees to pay the indebtedness hereby secured. Upon any application for Mortgagee's consent to such a transfer, Mortgagee may require from the transferee such information as would normally be required if the transferee were a new loan applicant. Mortgagee shall not unreasonably withhold its consent. As a condition of its consent to any transfer, Mortgagee may, in its discretion, impose a service charge not exceeding one percent of the original amount of the indebtedness hereby secured and may increase the interest rate on the indebtedness hereby secured by not more than one percent per annum.

6A. Exhibit A

EXHIBIT A

NOTWITHSTANDING anything herein contained to the contrary, it is expressly agreed by and between and among the parties hereto as follows, to-wit:

NOTWITHSTANDING anything herein contained to the contrary, it is expressly agreed by and between and among the parties hereto as follows, to-wit:

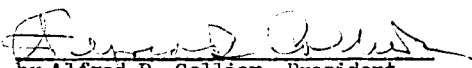
1. That Swan Lake Moulding Company, of Mortgagors, is the owner of the above described real property.

2. That KoNo, Inc, and Eugene E. Konopasek, Elaine Marie Konopasek, Raymond J. Novosad and Joan Beth Novosad, of Mortgagors, are the lessees under a leasehold agreement with said Swan Lake Moulding Company for a term of Forty Years and will construct thereon a restaurant, and said KoNo Inc, and Eugene E. Konopasek, Raymond J. Novosad, Elaine Marie Konopasek and Joan Beth Novosad are or will be the owner of all personal property to be placed in said restaurant.

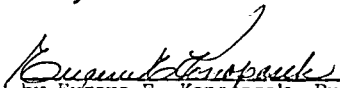
3. That Swan Lake Moulding Company, of Mortgagors, has not signed the promissory note herein described and assumes no liability for payment of same or any part thereof nor for payment of any other sums which mortgagors agree to pay by the terms of this mortgage. That Swan Lake Moulding Company in executing this mortgage pledges only its interest in said real property for payment of said note and mortgagee upon foreclosure will not be entitled to any judgement against Swan Lake Moulding Company for payment thereof. That the covenants for additional security in said mortgage apply only to KoNo Inc, Eugene E. Konopasek, Raymond J. Novosad, Elaine Marie Konopasek, and Joan Beth Novosad.

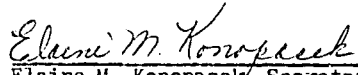
4. That Mortgagee shall give Swan Lake Moulding Company written Notice of any default by the mortgagors in its note or mortgage obligation, and notwithstanding foreclosure covenants contained in this mortgage Swan Lake Moulding Company shall have not less than 90 days after written notice from mortgagee within which it may, at its option, cure any default prior to the institution of foreclosure proceedings by mortgagee and further that until said notice to Swan Lake Moulding Company and the expiration of 90 days the balance of the unpaid principal and accrued interest and all indebtedness secured by this mortgage shall not be deemed to have been accelerated by virtue of any default so as to render the total indebtedness due and payable, but Swan Lake shall have the opportunity to reinstate by curing the then existing defaults.

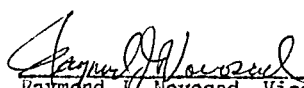
SWAN LAKE MOULDING COMPANY

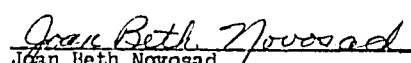
  
by Alfred D. Collier, President

KoNo, Inc.

  
by Eugene E. Konopasek, President

  
Elaine M. Konopasek, Secretary

  
Raymond J. Novosad, Vice President

  
Joan Beth Novosad

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7. That, if any default be made in the payment of the principal or interest of the indebtedness hereby secured or in the performance of any of the covenants or agreements of this mortgage, the Mortgagee may, at its option, without notice, declare the entire sum secured by this mortgage due and payable and foreclose this mortgage.

8. That, in the event of the institution of any suit or action to foreclose this mortgage, the Mortgagor will pay such sum as the trial court and any appellate court may adjudge reasonable as attorney's fees in connection therewith and such further sums as the Mortgagee shall have paid or incurred for extensions of abstracts or title searches or examination fees in connection therewith, whether or not final judgment or decree therein be entered and all such sums are secured hereby; that in any such suit, the court may, upon application of the plaintiff and without regard to the condition of the property or the adequacy of the security for this indebtedness hereby secured and without notice to the Mortgagor or any one else, appoint a receiver to take possession and care of all said mortgaged property and collect and receive any or all of the rents, issues and profits which had theretofore arisen or accrued or which may arise or accrue during the pendency of such suit; that any amount so received shall be applied toward the payment of the debt secured hereby, after first paying therefrom the charges and expenses of such receivership; but until a breach or default by the Mortgagor in one or more of his covenants or agreements herein contained, he may remain in possession of the mortgaged property and retain all rents actually paid to and received by him prior to such default.

9. The word "Mortgagor", and the language of this instrument shall, where there is more than one mortgagor, be construed as plural and be binding jointly and severally upon all mortgagors and the word "Mortgagee" shall apply to any holder of this mortgage. Masculine pronouns include feminine and neuter. All of the covenants of the Mortgagor shall be binding upon his heirs, executors, administrators, successors and assigns and inure to the benefit of the successors and assigns of the Mortgagee. In the event of any transfer of the property herein described or any part thereof or any interest therein, whether voluntary or involuntary or by operation of law, the Mortgagee may, without notice to the Mortgagor or any one else, once or often, extend the time of payment or grant renewals of indebtedness hereby secured for any term, execute releases or partial releases from the lien of this mortgage or in any other respect modify the terms hereof without thereby affecting the personal primary liability of the Mortgagor for the payment of the indebtedness hereby secured. No condition of this mortgage shall be deemed waived unless the same be expressly waived in writing by the Mortgagee. Whenever any notice, demand, or request is required by the terms hereof or by any law now in existence or hereafter enacted, such notice, demand or request shall be sufficient if personally served on one or more of the persons who shall at the time hold record title to the property herein described or if enclosed in a postpaid envelope addressed to one or more of such persons or to the Mortgagor at the last address actually furnished to the Mortgagee or at the mortgaged premises and deposited in any post office, station or letter box.

In Witness Whereof, the Mortgagor, pursuant to resolution of its Board of Directors duly and regularly adopted has caused these presents to be executed on its behalf by its duly authorized officers and its corporate seal to be affixed hereto the day and year first hereinabove written.

Eugene E. Konopasek  
Eugene E. Konopasek, Indiv.

Elaine Marie Konopasek  
Elaine Marie Konopasek, Indiv.

Raymond J. Novosad  
Raymond J. Novosad, Indiv.

Joan Beth Novosad  
Joan Beth Novosad, Indiv.

KONO, INC., an Oregon Corporation

By Eugene E. Konopasek

By Elaine Marie Konopasek

By Raymond J. Novosad

SWAN LAKE MOULDING COMPANY, an Oregon Corp.

By Stephen J. Haller, President

By Marvin H. Nelson, Secretary

STATE OF OREGON

County of Klamath

ss.

April 20

A. D. 1972

Personally appeared Eugene E. Konopasek and ~~xxx~~ Elaine Marie Konopasek and Raymond J. Novosad

who being duly sworn did say that ~~they~~ they ~~are~~ are Directors ~~xxx~~

and ~~he~~ he, the said ~~xxx~~ is the

of KONO INC., an Oregon Corporation

and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and the said instrument

was signed and sealed in behalf of said corporation by authority of its board of directors; and ~~they~~ they acknowledged said instrument to be its voluntary act and deed. Before me:

(Notary Seal)

Susan Meehan  
Notary Public for Oregon.

My Commission Expires: 3-8-75

STATE OF Oregon } ss. 4737  
 County of Klamath  
 On this the 20th day of April, 1972, before me,  
 the undersigned  
 officer, personally appeared Alfred D. Collier,  
 who acknowledged himself to be the President of Swan Lake Moulding Co.,  
 a corporation, and that  
 he as such is, being authorized so to do, executed the foregoing instrument for  
 the purposes therein contained, by signing the name of the corporation by himself as President.  
 In witness whereof I hereunto set my hand and official seal.

Susan Meehan  
 Notary Public

TITLE OF OFFICER.

(EXCERPT FROM UNIFORM ACKNOWLEDGMENT ACT.)

My commission expires 3-8-75

(1) If the acknowledgment is taken within this state or is made without the United States by an officer of the United States, no authentication shall be necessary.

(2) If the acknowledgment is taken without this state, but in the United States, a territory or insular possession of the United States, the District of Columbia, or the Philippine Islands, the certificate shall be authenticated by a certificate as to the official character of such officer, executed, or if the acknowledgment is taken by a clerk or deputy clerk of a court, by the presiding judge of the court or, if the acknowledgment is taken by a notary public, by a clerk of a court of record of the county, parish or district in which the acknowledgment is taken.

(3) If the acknowledgment is made without the United States and by a notary or a judge or clerk of a court of record of the country where the acknowledgment is made, the certificate shall be authenticated by a certificate under the great seal of the state of the country, affixed by the custodian of such seal, or by a certificate of a diplomatic, consular or commercial officer of the United States accredited to that country, certifying as to the official character of such officer.

STATE OF Oregon } ss.  
 County of Klamath  
 On this the 2nd day of May, 1972, before me,  
 the undersigned  
 officer, personally appeared Dorothy N. Collier,  
 who acknowledged herself to be the Secretary of Swan Lake Moulding Co.,  
 a corporation, and that  
 she as such Secretary, being authorized so to do, executed the foregoing instrument for  
 the purposes therein contained, by signing the name of the corporation by herself as Secretary.  
 In witness whereof I hereunto set my hand and official seal.

Susan Meehan  
 Notary Public

My commission expires 3-8-75

TITLE OF OFFICER.

(EXCERPT FROM UNIFORM ACKNOWLEDGMENT ACT.)

(1) If the acknowledgment is taken within this state or is made without the United States by an officer of the United States, no authentication shall be necessary.

(2) If the acknowledgment is taken without this state, but in the United States, a territory or insular possession of the United States, the District of Columbia, or the Philippine Islands, the certificate shall be authenticated by a certificate as to the official character of such officer, executed, or if the acknowledgment is taken by a clerk or deputy clerk of a court, by the presiding judge of the court or, if the acknowledgment is taken by a notary public, by a clerk of a court of record of the county, parish or district in which the acknowledgment is taken.

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STATE OF OREGON,

County of Klamath

ss.

BE IT REMEMBERED, That on this 20th day of April, 1972,  
 before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within  
 named Eugene E. Konopasek, Elaine Marie Konopasek, Raymond J. Novosad and Joan Beth Novosad

known to me to be the identical individual s. described in and who executed the within instrument and  
 acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed  
 my official seal the day and year last above written.

Susan Meehan  
 Notary Public for Oregon.

My Commission expires 3-8-75

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of KLAMATH COUNTY TITLE COthis 4th day of MAY A. D., 1972 at 9:45 o'clock A M., and duly recorded inVol. M 72 of MORTGAGES on Page 4733

FEE \$10.00

1 Klam Co. Title

WM. D. MILNE, County Clerk

By Harold Drayton