

50900

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THIS INDENTURE OF LEASE, Made in duplicate at Klamath Falls, Oregon,

, on this 10<sup>th</sup> day of September, 1976

by and between Mallory &amp; Mallory, Inc., an Oregon Corporation

hereinafter known and referred to as the lessor, (whether singular or plural) and Ray Gibson and

Gary Williams

, hereinafter known

and referred to as the lessee, (whether singular or plural);

WITNESSETH: That in consideration of the covenants, agreements and stipulations herein contained on the part of said lessee to be paid, kept and faithfully performed by said lessee, the said lessor does hereby lease, demise and let unto said lessee the premises known as 4418 South Sixth Street, including the entire premises, presently occupied by Don's Grub Stake, and also including any equipment located thereon owned by Lessor in the City of Klamath Falls, State of Oregon

TO HAVE AND TO HOLD said premises hereby leased for a period of one (1) year

from the 1st day of September, 1976, to and including the 31st day of August, 1977, said lessee paying and yielding as rental therefor, during

said term, the full sum of Four Thousand Two Hundred and No/100 (\$4,200.00)

Dollars,

lawful money of the United States, to be paid as follows:

Monthly rent in the sum of Three Hundred Fifty and No/100 (\$350.00) Dollars per month with the first said \$350.00 payment due on the 1st day of September, 1976, and a like payment due on the 1st day of each and every month thereafter until the full rental sum of \$4,200.00 be paid, with the last of said payments due on the 1st day of August, 1977.

Said premises shall be used by Lessee for the purpose of conducting a delicatessen known as "The Deli." Lessee shall pay for all gas, water, heat, electricity and all janitor services that may be used by the Lessee on said premises. Lessee shall be permitted to erect and maintain signs on said premises and on the building of which the premises are a part, provided, all signs comply with local ordinances.

Lessor agrees not to lease during the term hereof any premises to any person, firm or corporation conducting a business in competition with the business of lessee, except as may be otherwise stated in this lease agreement. Lessor agrees to maintain fire insurance and plate glass insurance and to pay the real property taxes on the leased premises. Lessee shall maintain insurance coverage for personal injury and property damage with limits no less than \$100,000/\$300,000 in respect of bodily injury (see below)

That said lessee will make no unlawful, improper or offensive use of the premises; that at the expiration of the said term or upon any sooner termination of this lease, said lessee will quit and deliver up the premises, and all future erections or additions to or upon the same, to the said lessor, or those having their estate therein, peacefully, quietly, in as good order and condition (reasonable use and wearing thereof, fire and other unavoidable casualties excepted) as the same now are or may be put in by the lessor or those having their estate in the premises; that said lessee will not suffer nor commit any strip or waste thereof, nor make nor suffer to be made any alterations or additions to or upon the same, nor assign this lease, nor underlet, or permit any other person or persons to occupy the same, without the consent of the said lessor or those having their estate in the premises, being first obtained in writing, and also that it shall be lawful for the said lessor and those having their estate in the premises, at reasonable times, to enter into and upon the same, to examine the condition thereof.

and \$50,000 for property damage.

Lessee shall have an option to renew this lease for a period of five years by giving lessor notice thirty days prior to the expiration of this lease of lessee's intent to exercise said option, subject, however, to the following: In the event lessor shall construct new restaurant facilities

(continued on reverse)

at the site of said leased premises, upon such time as new restaurant facilities are ready for use, this lease shall terminate. However Lessee shall be granted by Lessor the first option to lease said new restaurant facilities. 13968

Except for the failure to pay rent by Lessee as referred to herein, if Lessee shall fail to keep any of the covenants contained herein, Lessor shall give Lessee written notice of the same and shall allow Lessee fifteen (15) days to correct the same before declaring Lessee to be in default.

PROVIDED always, and these presents are upon this condition, that if the said rent shall be in arrears for the space of ten (10) days their

representatives or assigns, shall neglect or fail to do or perform, and observe any or either of the covenants hereinbefore contained, which on said lessee's part are to be performed, then and in either of the said cases, the said lessor, or those having their estate in the said premises lawfully may, immediately or at any time thereafter, and while said neglect or default continues, and without further notice or demand, enter into and upon the said premises, or any part thereof, in the name of the whole and repossess the same, of their former estate, and expel the said lessee, and those claiming under said lessee, and remove their effects (forcibly if necessary), without being taken or deemed guilty in any manner of trespass, and without prejudice to any remedies which might otherwise be used for arrears of rent, or preceding breach of covenants.

Any waiver of any breach of covenants herein contained to be kept and performed by the lessee shall not be deemed or considered as a continuing waiver, and shall not operate to bar or prevent the lessor from declaring a forfeiture for any succeeding breach, either of the same condition or covenant or otherwise.

Any holding over by the lessee after the expiration of the term of this lease, or any extension thereof, shall be as a tenancy from month to month and not otherwise.

In the event any suit or action is brought to collect any of said rents or to enforce any provision of this lease or to repossess said premises, the losing party agrees to pay such sum as the trial court may adjudge reasonable as attorney's fees to be allowed the prevailing party in such suit or action and in the event any appeal is taken from any judgment or decree in such suit or action, the losing party agrees to pay such sum as the appellate court shall adjudge reasonable as the prevailing party's attorney's fees on such appeal.

IN WITNESS WHEREOF, the respective parties have executed this instrument the day and year first hereinabove written, in duplicate.

MALLORY & MALLORY, INC.

By Harold M. Mallory

Harold Mallory, President

Christine W. Mallory

Christine Mallory, Secretary

Ray Gibson

Gary Williams

NOTE—This form is not suitable for leasing a "dwelling unit" as defined in Section 5(3), Chapter 559, Oregon Laws 1973 as follows: "'Dwelling unit' means a structure or the part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household." (See forms Nos. 244, 766, 818).

LEASE

(FORM No. 11)

FROM

TO

PREMISES

Date

Expires

STATE OF OREGON, )  
County of Klamath )

Filed for record at request of

On this 29 day of June A.D. 19 78

at 9:33 o'clock A M, and duly

recorded in Vol. 178 of Deeds

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Wm D. MILNE, County Clerk

By Bernetha White Deputy

Fee \$6.00

STATE OF Oregon

County of Klamath

ss.

BE IT REMEMBERED, That on this 10th day of September, 19 76, before me, the undersigned, a notary public in and for said County and State, personally appeared the within named Ray Gibson and Gary Williams

to me to be the identical individual 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 official seal the day and year last above written.

Carlene T. Holding  
Notary Public for Oregon  
My Commission expires 3-21-77