

NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS AGREEMENT, dated this 15 day of November, 1982, between SWAN LAKE MOULDING COMPANY, an Oregon corporation, hereinafter referred to as "Prime Lessor" and BURGER KING CORPORATION, a Florida corporation, hereinafter referred to as "Sub-Lessee".

WITNESSETH:

WHEREAS, the Prime Lessor is owner of the premises in the City of Klamath Falls, County of Klamath and State of Oregon, more particularly described on Exhibit "A" attached hereto and incorporated herein by reference and is the Prime Lessor of said property described herein under a certain Lease Agreement dated May 1, 1979 by and between Swan Lake Moulding Company, an Oregon corporation Prime Lessor, and Fredrick D. Ehlers and Helen Ann Ehlers, his wife hereinafter referred to as Prime Lessee-Sub-Lessor.

WHEREAS, a Memorandum of Lease encompassing the foregoing was recorded May 2, 1979 in Book M-79, Page 22862 of the Official Records of the County Recorder of Klamath County, and

WHEREAS, Prime Lessee-Sub-Lessor did in turn lease a portion or the whole of the premises more particularly described on Exhibit "A" attached hereto and incorporated herein by reference to BURGER KING CORPORATION, a Florida corporation by Lease dated October 23, 1982 for a term of Twenty (20) years, with the privilege to renew for a further term of Four (4) Five Year periods, which Lease contains various other covenants and conditions, and

WHEREAS, the parties hereto desire to assure BURGER KING CORPORATION'S possession of the premises upon the terms and conditions prescribed in its Lease for the full balance of the term therein mentioned, irrespective of the termination of the Prime Lease, and

WHEREAS, Prime Lessee-Sub-Lessor has covenanted and agreed that it, as Prime Lessee-Sub-Lessor, shall not disturb Sub-Lessee's quiet possession of the premises by virtue of its Lease from the Prime Lessor.

NOW, THEREFORE, in consideration of One Dollar (\$1.00) in hand paid by each of the parties hereto to the other and of other good and valuable consideration, receipt whereof is hereby acknowledged and of the covenants hereinafter set forth, the parties hereto covenant and agree as follows:

1. The Prime Lessor does hereby covenant and agree that the Prime Lessor shall not disturb Sub-Lessee's and its successors' or assigns' quiet possession of the premises under its Lease nor deprive Sub-Lessee of any of its rights, privileges or immunities thereunder, including ownership of the building and improvements thereof if the Lease so provides, provided that Sub-Lessee, its successors or assigns, is not in default thereunder, and so long as Sub-Lessee, its successors and assigns, shall pay the rent and observe and perform all of the provisions of the Lease as therein provided unless Sub-Lessee's Lease is otherwise terminated pursuant to its terms.

2. If the Prime Lease from the Prime Lessor to Prime Lessee-Sub-Lessor dated May 1, 1979 shall terminate for any reason before the expiration of the term of the Lease from Prime Lessee-Sub-Lessor to Sub-Lessee, then Sub-Lessee's Lease, if then in existence shall continue with the same force and effect as if

the Prime Lessor and Sub-Lessee had entered into a Lease Agreement for a term equal to the then unexpired term of the Sublease and all other terms and conditions in said Sublease, including the rights of renewal therein.

3. From and after such termination of the Prime Lease, Sub-Lessee's right of possession shall be reserved as aforesaid and;

(a) Sub-Lessee will attorn as Lessee to the Prime Lessor and the Prime Lessor will accept such attornment;

(b) Prime Lessor and Sub-Lessee will enter into an Agreement supplemental hereto containing the same terms and conditions as those contained in the Sub-Lease Agreement but with such changes as may be necessary by reason of the substitution of the Prime Lessor in the place and stead of the Prime Lessee-Sub-Lessor, as Lessor.

4. The term Prime Lessor as used in this Agreement means only the owner for the time being of the aforesaid premises, so that in the event of any sale of said premises the owner shall be and is entirely free and relieved of all covenants and obligations of the Prime Lessor hereunder. However, this Agreement shall bind any subsequent owner of the premises, their successors or assigns.

5. Except as herein specifically modified and amended, all of the covenants, agreements, restrictions, right, privileges and obligations of the aforesaid Prime Lease and Sub-Lease shall remain in full force and effect.

6. This Agreement and each and every covenant, agreement and other provision hereof shall be binding upon the parties hereto and their heirs, administrators, representatives, successors and assigns.

7. The Prime Lessor does hereby consent to the Sub-Lease Agreement by and between the Prime-Lessee-Sub-Lessor and Sub-Lessee dated October 23, 1982.

IN WITNESS WHEREOF, the Prime Lessor has executed this document this 15 day of November, 1982.

Witnesses:

SWAN LAKE MOULDING COMPANY

By: [Signature] V.P.

Attest: _____

IN WITNESS WHEREOF, Sub-Lessee has executed this document this 5th day of November, 1982.

Witnesses:

BURGER KING CORPORATION

By: [Signature]

Vice President

Attest: [Signature]

Assistant Secretary

STATE OF FLORIDA
COUNTY OF DADE

BEFORE ME, the undersigned authority, personally appeared Charles P. Hueston
and Elliot C. Tunis

to me well known and known to me to be the individuals described in and who executed the foregoing instrument as Vice President and Assistant Secretary of BURGER KING CORPORATION, a Florida corporation, and severally acknowledged to and before me that they executed such instrument as such Vice President and Assistant Secretary respectively of said corporation and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that it was affixed to said instrument by due and regular corporate authority, and that said instrument is the free act and deed of said corporation.

WITNESS my hand and official seal this 5th day of November, 1982

(SEAL)

Notary Public
My Commission Expires:

STATE OF Oregon
COUNTY OF Klamath

NOTARIAL COMMISSION EXPIRATION
OCTOBER 19, 1984

BEFORE ME, the undersigned authority, personally appeared FREDERICK D. ENCK
and

to me well known and known to me to be the individuals described in and who executed the foregoing instrument as Vice President and Secretary of SOUTH LAKE HAWAII a CO-OP corporation, and severally acknowledged to and before me that they executed such instrument as such Vice President and Secretary respectively of said corporation and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that it was affixed to said instrument by due and regular corporate authority, and that said instrument is the free act and deed of said corporation.

WITNESS my hand and official seal this 15 day of November, 1982

STATE OF
COUNTY OF

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared _____

to me known and known to me to be the person(s) whose name(s) is (are) subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed.

WITNESS my hand and official seal this _____ day of _____, 19 _____

(SEAL)

Notary Public
My Commission Expires:

EXHIBIT "A"PARCEL 1:

A parcel of land lying in the Northwest quarter of Section 3, Township 39 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon, being more particularly described as follows:

Starting at the Northwest corner of Section 3, Township 39 South, Range 9 East of the Willamette Meridian; thence South $0^{\circ}00'30''$ East along the Westerly boundary of Section 3 and the centerline of Washburn Way 917.42 feet to its intersection with the centerline of South Sixth Street, formerly known as the Dalles-California Highway, at Engineer's Station 9+17.42 on Washburn Way and Engineer's Station 16+14.87 on South Sixth Street, the recorded bearing of the centerline of South Sixth Street being South $55^{\circ}52'30''$ East; thence continuing South $0^{\circ}00'30''$ East along the West line of said Section 3 and the centerline of Washburn Way 48.32 feet to a point on the South boundary of South Sixth Street which is 40.0 feet distant from, when measured at right angles to, the centerline of South Sixth Street thence South $55^{\circ}52'30''$ East parallel to said centerline 125.56 feet to the true point of beginning of this description; thence continuing South $55^{\circ}52'30''$ East parallel to said centerline 181.50 feet to a point; thence South $34^{\circ}07'30''$ West at right angles to said centerline 160.00 feet to a point; thence North $55^{\circ}52'30''$ West 150.27 feet to a point on the Easterly boundary of Washburn Way; thence North $0^{\circ}00'30''$ West along the Easterly boundary of Washburn Way 103.29 feet to the beginning of a 49.00 foot radius curve to the right; thence along said 49.00 foot radius curve, the long chord of which bears North $53^{\circ}51'50''$ East 79.16 feet, 92.14 feet, more or less, to the true point of beginning.

PARCEL 2 - a non-exclusive easement for ingress, egress, parking and utilities over the unconstructed portions of the following described property:

A parcel of land lying in the Northwest quarter of Section 3, Township 39 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon, being more particularly described as follows:

Starting at the Northwest corner of said Section 3; thence South $00^{\circ}00'30''$ East along the Westerly boundary of Section 3 and the centerline of Washburn Way 917.42 feet to the intersection with the

the present centerline of Sixth Street, formerly known as the Dalles-California Highway, recorded bearing South 55°52'30" East, at Engineer's Station 9+17.42 feet on Washburn Way and Engineer's Station 16+14.87 feet on Sixth Street present centerline, and continuing thence along said boundary and centerline 48.32 feet to Engineer's Station 9+65.74 feet on South boundary of Sixth Street, which is distant 40 feet at right angles Southwesterly from centerline of Sixth Street at Engineer's Station 16+41.99 feet; thence South 55°52'30" East parallel to said centerline 463.02 feet to the true point of beginning of this description; thence from said true beginning point continuing South 55°52'30" East parallel to said centerline 795.36 feet; thence at right angles South 34°07'30" West, 204 feet; thence South 55°52'30" East parallel to Sixth Street 145.00'; thence at right angles South 34°07'30" West, 183.80 feet; more or less, to Northerly right of way line of the Oregon, California and Eastern Railroad; thence North 66°57'30" West along said line 982.45 feet, more or less, to a point on the Easterly right of way line of Washburn Way which is 40.00 feet Easterly of said centerline; thence North 00°00'30" West, along said right of way line 503.39 feet; thence South 55°52'30" East, 306.22 feet; thence North 34°07'30" East, 160.00 feet to the true point of beginning.

PARCEL 3 - a non-exclusive easement for ingress, egress, parking and utilities over the unconstructed portions of the following described property:

A parcel of land lying in the Northwest quarter of Section 3, Township 39 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon, being more particularly described as follows:

Starting at the Northwest corner of said Section 3; thence South 00°00'30" East along the Westerly boundary of Section 3 and the centerline of Washburn Way, 917.42 feet to the intersection with the present centerline of Sixth Street, formerly known as the Dalles-California Highway, recorded bearing South 55°52'30" East, at Engineer's Station 9+17.42 feet on Washburn Way and Engineer's Station 16+14.87 feet on Sixth Street present centerline, and continuing thence along said boundary and centerline 48.32 feet to Engineer's Station 9+65.74 feet on South boundary of Sixth Street, which is distant 40 feet at right angles Southwesterly from centerline of Sixth Street at Engineer's Station 16+41.99 feet, to the true point of beginning; thence South 55°52'30" East parallel to said centerline 463.02 feet; thence South 34°07'30" West 160.00 feet; thence North 55°52'30" West 306.22 feet to the East right of way of Washburn Way; thence North to the point of beginning.

EXCEPT THEREFROM that portion deeded to State of Oregon more particularly described as follows:

A parcel of land lying in Tract 44, ENTERPRISE TRACTS, situated in Section 3, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon; the said parcel being described as follows:

Beginning at the Northwest corner of Section 3, Township 39 South, Range 9 East of the Willamette Meridian; thence South 00°00'30" East 977.8 feet along the Westerly line of said Section 3, to a point 50 feet Southwesterly of (when measured at right angles to) the centerline of the Dalles-California Highway (also known as South Sixth Street), as the same is now located and constructed; thence South 55°52'30" East parallel with said centerline 36.2 feet, more or less, to a point 30 feet Easterly of (when measured at right angles to) the centerline of the relocated Midland Highway (also known as Washburn Way), which point is marked by a railroad spike with a cross on top, embedded in the pavement and is the true point of beginning; thence South 00°00'30" East, parallel with said last mentioned centerline 227.83 feet to a point 30 feet Easterly of (when measured at right angles to) said last mentioned centerline at Engineer's Station 12+26; thence North 89°59'30" East 10 feet; thence North 00°00'30" West 143.12 feet to the point of tangency of a 49 foot radius curve right, thence North-easterly along said 49 foot radius curve right to a point South 55°52'30" East 64.26 feet from the true point of beginning; thence North 55°52'30" West 64.26 feet to the true point of beginning.

EXCEPT THEREFROM Parcel 1 above.

STATE OF OREGON, COUNTY OF KLAMATH; ss.

Filed for record

3:49

is 6 day of Jan A.D. 19 83 at o'clock P.M.

duly recorded in Vol. M83 of Mtge on Page 297

Fee \$24.00

EVLYN BIEHN, County Clerk

By

Joyce M. Gamm