

43720

Aspen # M-28264  
ASSIGNMENT BY LESSEE

WITH CONSENT OF LESSOR

GLENDA <sup>S.M.B.</sup> BOURGOYNE, assignor herein and lessee of premises described as follows: The Roundup Tavern, 2532 South Sixth Street, Klamath Falls, Oregon, which were demised by a lease dated April 1, 1980, copy of which is attached hereto marked Exhibit "A" and incorporated herein by reference, in consideration of SIXTY THOUSAND and NO/100 DOLLARS (\$60,000.00) paid by MARY LOU BAILEY, CHRISTIE SHAW and JOHN SHAW, assignee of the lease, assigns the lease to assignee subject to all the terms and conditions thereof, and assignee accepts the assignment and shall perform all the terms and conditions thereof, including payment of all rent required by the provisions of the lease.

H. TOM NEEL of Klamath Falls, Oregon, lessor under the lease, accepts the assignment to assignee, and releases assignor from all further obligations under the lease. H. TOM NEEL further acknowledges his intention to renegotiate the existing lease on April 14, 1985.

IN WITNESS WHEREOF, the parties have executed this assignment at Klamath Falls, Klamath County, Oregon, this 20th day of November, 1984.

Glenda M. Bourgoyne  
GLENDA M. BOURGOYNE

STATE OF OREGON       )  
                                  ) ss.  
County of Klamath    )

On this 20th day of November, 1984, personally appeared before the above named Glenda M. Bourgoyne and acknowledged the foregoing instrument to be her voluntary act and deed.

Barlene I. Addington  
NOTARY PUBLIC for Oregon  
My Commission expires: 3-22-85

H. Tom Neel  
H. TOM NEEL

STATE OF OREGON       )  
                                  ) ss.  
County of Klamath    )

On this 20th day of November, 1984, personally appeared the above named H. Tom Neel and acknowledged the foregoing instrument to be his voluntary act and deed.

Barlene I. Addington  
NOTARY PUBLIC for Oregon  
My Commission expires: 3-22-85

Mary Lou Bailey  
MARY LOU BAILEY

STATE OF OREGON     )  
                              ) ss.  
County of Klamath    )

On this 26th day of November, 1984, personally appeared the above named Mary Lou Bailey and acknowledged the foregoing instrument to be her voluntary act and deed.

Barlene I. Addington  
NOTARY PUBLIC for Oregon  
My Commission expires: 3-22-88

Christie Shaw  
CHRISTIE SHAW

John Shaw  
JOHN SHAW

STATE OF OREGON     )  
                              ) ss.  
County of Klamath    )

On this 27th day of November, 1984, personally appeared the above named Christie Shaw and John Shaw acknowledged the foregoing instrument to be their voluntary act and deed.

Barlene I. Addington  
NOTARY PUBLIC for Oregon  
My Commission expires: 3-22-88

Return To: Aspen Title

## EXHIBIT "A"

## LEASE AGREEMENT

THIS AGREEMENT made this 1 day of April, 1980, between H. TOM NEEL, of Klamath Falls, Oregon, hereinafter referred to as "Lessor", and DAVID G. HEIN and GLENDA M. HEIN ALBERT, of Klamath Falls, Oregon, hereinafter referred to as "Lessee".

1. DESCRIPTION: Lessor leases to Lessee the certain premises situate in the City of Klamath Falls, County of Klamath, State of Oregon, commonly known as the "ROUNDUP TAVERN BUILDING" located at 2532 South Sixth Street, Klamath Falls, Oregon, the legal description of which is attached hereto and hereby referred to as Exhibit "A".

HTN 2H  
C.H.H. 2. TERM OF LEASE: Lessor agrees to lease for a term of FIVE (5) ~~three~~ (3) years, commencing with the 15th day of April, 1980; and ending with the 14th day of April, 1985. HTN - 5 PH

3. RENTAL: For the twelve (12) months from April 15, 1980 through the 14th day of April, 1981, Lessee shall pay Lessor the sum of \$550.00 per month, plus 1/12th of the annual real property taxes and insurance on said property. The first of such payments to be made on the 15th day of April, 1980, and the last of such payments to be made on the 15th day of March, 1981. For the twelve (12) months commencing with the 15th day of April, 1981 through the 15th day of March, 1982, the monthly payments shall be computed as follows: The monthly rent will be based on the Consumer Price Index for Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor, using the period 1967=100% as the base period. The monthly rental shall be computed by dividing the sum of the monthly payments for the first twelve (12) months of this lease agreement adjusted to

1 current real property tax and insurance increases, if any, by the  
2 index number for April, 1980 and then multiplying that amount by  
3 the index number for March, 1981.

4 For the twelve (12) months commencing with the 15th day  
5 of April, 1982 through the 14th day of March, 1983, the monthly  
6 payments shall be computed as follows: The monthly rent will be  
7 based on Consumer Price Index for Urban Consumers published by the  
8 Bureau of Labor Statistics of the United States Department of  
9 Labor, using the period 1967=100% as the base period. The monthly  
10 rental shall be computed by dividing the sum of the monthly rent  
11 payments for the first year of this lease agreement by the index  
12 number for April, 1981 and then multiplying that amount by the  
13 index number for March, 1982. To that amount shall be added 1/12th  
14 of the increase in real property taxes and insurance on the subject  
15 premises over the first year's taxes and insurance in this lease  
16 agreement.

17 4. UTILITIES: Lessee shall pay all utility costs, includ-  
18 ing, but not limited, air conditioning, electricity, gas, heat and  
19 water throughout the term of this lease.

20 5. OREGON LIQUOR CONTROL COMMISSION LICENSE: Lessee shall  
21 not conduct or permit any conduct on the demised premises which is  
22 contrary to the laws of any governmental authority, including, but  
23 not limited to, rules and regulations of the Oregon Liquor Control  
24 Commission. Lessee shall use said demised premises during the  
25 term of this lease for the conduct of the retail tavern and food  
26 business, and for no other purpose whatsoever without the written  
27 consent of Lessors first being obtained.

28 6. ACCESS: Lessee shall allow Lessor free access to the

LEASE AGREEMENT - Page 2

1 demised premises for the purpose of examining the premises to  
2 ascertain that the premises are in good repair and in clean and  
3 sanitary condition upon 24 hour written notice from Lessor to  
4 Lessee.

5 7. ASSIGNMENT: Lessee may not assign or sell all or any  
6 portion of this business or lease without obtaining the written  
7 consent of the Lessor herein, such consent shall not be unreason-  
8 ably withheld.

9 8. OWNERSHIP OF IMPROVEMENTS AT END OF LEASE: Lessee  
10 shall not be permitted to remove any improvements made by Lessee  
11 which would materially damage the demised premises by their re-  
12 moval. At the expiration of said term or upon any sooner termi-  
13 nation thereof, Lessee will quit and deliver up said leased pre-  
14 mises and all future erections or additions to or upon the same to  
15 Lessor or those having Lessor's estate in the premises, peaceably,  
16 quietly and in as good order and condition, reasonable wear and  
17 tear excepted, as the same are now in or hereinafter may be put in.  
18 However, it is understood and agreed that the personal property,  
19 listed in Exhibit "B", attached hereto and made a part hereof,  
20 is the property of Lessee and may be removed upon termination of  
21 lease. It is further understood and agreed that any remodeling  
22 made to the premises shall be made solely at the expense of Lessee.  
23 Lessee shall not allow any liens of any nature to attach to the  
24 premises.

25 9. MAINTENANCE: Lessee shall keep the demised premises in  
26 clean and sanitary condition and in good repair during the term  
27 of this lease, and shall comply with all state statutes and local  
28 ordinances, and Lessee shall not make any changes, alterations,

1 or additions without the prior written consent of Lessor. Lessee  
2 agrees to keep exterior areas, including, but not limited to,  
3 sidewalks, garbage disposal areas, and the adjoining graveled  
4 parking lot adjacent to the Northerly wall of said building, in  
5 clean, sanitary and orderly condition and in compliance with all  
6 state statutes and local ordinances. Lessee shall keep and main-  
7 tain the interior of said leased premises in clean and orderly  
8 condition and in good repair, including, but not limited to, all  
9 glass (interior or exterior), plumbing, electrical wiring, fix-  
10 tures, and other personal property demised as part of this agree-  
11 ment during the term of this lease agreement.

12 (a) Lessee agrees to be responsible for snow removal  
13 from sidewalks, the above-described parking lot and the rest of  
14 the premises during the term of this lease, and agrees to remove  
15 any accumulation of snow promptly so as to prevent damage to the  
16 demised premises, and in compliance with local ordinances, state  
17 statutes and applicable rules and regulations.

18 (b) Lessee agrees to maintain and keep in good order and  
19 repair the exterior walls, foundations, and roof of said building,  
20 which form a part of the demised premises, and the sidewalks  
21 thereabouts.

22 (c) Lessee shall not make any unlawful, improper or offen-  
23 sive use of said premises. Lessee shall not suffer any strip or  
24 waste thereof; Lessee shall not permit any noise or odor to  
25 escape or to be emitted from said premises or to do anything or  
26 permit anything to be done upon or about said premises in any  
27 way tending to create a nuisance. Lessee will not allow the  
28 leased premises at any time to fall in such a state of disrepair

1 or disorder so as to increase the fire hazard thereon; nor shall  
2 Lessee store or install any machinery or materials that will in-  
3 crease the fire hazard thereon.

4 10. SIGNS: Lessee shall be permitted to display such  
5 signs as Lessee may desire on or about the demised premises, pro-  
6 vided, however, that such signs shall conform with applicable laws  
7 and regulations.

8 11. INSURANCE: During the term of this lease, Lessee  
9 shall carry public liability insurance in the sum of Three Hundred  
10 Thousand and NO/100 (\$300,000.00) Dollars, naming Lessee as the  
11 co-insured. Lessee shall carry fire insurance to cover Lessee's  
12 personal property within the demised premises. Lessee shall  
13 carry Workman's Compensation Insurance and any other insurance  
14 required by governmental authority. Lessee shall, at all times  
15 during the term of this lease, indemnify Lessor for every liabili-  
16 ty that may arise in the operation of the premises and be claimed  
17 against Lessor or the leased premises by any person.

18 (a) Lessor shall carry fire insurance covering the  
19 building structure only, that is, the exterior walls, roof, found-  
20 ation and substructure.

21 12. DESTRUCTION OF PREMISES: In the event of the total  
22 destruction of said premises by fire or any other cause, either  
23 party may terminate this lease as of the date of said destruction  
24 by giving written notice to the other party within fifteen (15)  
25 days of the date of the destruction. In the event of damage to  
26 the demised premises by fire or any other cause which damage is  
27 not deemed a total destruction, Lessor may or may not elect to  
28 repair said building. Written notice of Lessor's election shall

1 be given Lessee within fifteen (15) days after said damage; if  
2 written notice is not given within fifteen (15) days after said  
3 damage, Lessor conclusively shall be deemed to have elected not  
4 to repair; in that event, this lease shall terminate upon the  
5 date of said damage, if Lessor elects to repair said damage, then  
6 the Lessor shall repair said building with all convenient speed  
7 and shall have the right to occupy said premises in order to  
8 make necessary repairs. There shall be such an abatement of rent  
9 as the nature of the injury or damage and its interference with  
10 the occupancy of said premises shall warrant; however, if the  
11 premises be slightly damaged so that it will not cause any material  
12 interference with the occupancy of the premises by Lessee, then  
13 there shall be no abatement in rental. Under this paragraph,  
14 "Total Destruction" shall be deemed to be such a damage to the  
15 premises so that the cost of restoring the premises to their prior  
16 condition would exceed the Klamath County tax assessed value of  
17 the premises.

18 13. CONDEMNATION: In the event said premises or any part  
19 thereof shall at any time be taken, acquired or purchased by any  
20 governmental agency, body, private corporation, or anybody with  
21 power of eminent domain, whether a suit or action is filed or not,  
22 the rental shall abate according to the nature and extent of the  
23 part of the premises taken, but if more than 50% of the value of  
24 the premises is taken, in that event, this lease shall terminate  
25 and shall be of no further force or effect, and Lessor shall repay  
26 to Lessee any prepaid rentals.

27 14. TERMINATION FOR A BREACH OF CONTRACT: If Lessee shall  
28 neglect to perform or observe any of the provisions hereof for



1 ten (10) days after notice of Lessor of such a breach, Lessor, may  
2 consider this lease as terminated, and, in addition to any and  
3 all other remedies herein granted by State statute, may enter upon  
4 the premises and expel Lessee and remove his effects without being  
5 deemed guilty of any manner of trespass. On such entry, the term  
6 of this lease shall be ended and Lessor may repossess and relet  
7 the premises. If Lessee fails to perform any of its obligations  
8 under this lease agreement, Lessor may, after ten (10) days prior  
9 written notice to Lessee, perform those obligations himself and the  
10 cost thereof, together with interest at the rate of 10% per annum  
11 shall become due and payable as additional rent to Lessor, together  
12 with Lessee's next rental installment.

13 15. WAIVER: No waiver by Lessor of any provision hereof  
14 shall be deemed a waiver of any other provision hereof or of any  
15 subsequent breach by Lessee by the same or any other provision.  
16 Lessor's consent to or approval of any act shall not be deemed to  
17 render unnecessary the obtaining of Lessor's consent to or approval  
18 of any subsequent act by Lessee. The acceptance of rent hereunder  
19 by Lessor shall not be a waiver of any preceeding breach by  
20 Lessee of any provision hereof, regardless of Lessor's knowledge  
21 of preceeding breach at the time or the acceptance of said rent.

22 16. HOLD-OVER: In the event that Lessee, for any reason  
23 shall hold over after the expiration of this lease, such holding  
24 over shall not be deemed to operate as a renewal or extension of  
25 this lease, but shall only create a tenancy from month to month  
26 which may be terminated at will at any time by the Lessors.

27 17. TERMINATION ON BANKRUPTCY: In the event that Lessee  
28 shall become bankrupt or shall make voluntary assignment for the

benefit of creditors or in the event that a receiver is appointed, then, at the option of Lessor, and on ten (10) days written notice to Lessee of the exercise of such option, this lease shall cease.

18. ATTORNEYS' FEES: In the event suit or action is instituted to enforce compliance with any of the terms, covenants or conditions of this lease, or to collect the rent which may become due hereunder, or any portion thereof, the prevailing party, in addition to costs and disbursements provided by statute, shall be entitled to such additional sum as the Court may adjudge reasonable for attorney's fees, including attorney's fees on any appeal.

19. OPTION: Lessor hereby agrees with Lessee that Lessee shall have a one year option at the end of this three year lease for renewal payments to be agreed upon at the time of exercise of option. Said option shall be exercised by Lessee giving Lessor notice in writing not less than thirty (30) days prior to the expiration of this lease agreement.

DATED THIS 12 day of MAY, 1980.

LESSOR:

H. Tom Neel  
H. TOM NEEL

LESSEE:

David G. Hein  
DAVID G. HEIN

Glenda M. Hein Albert  
GLENDA M. HEIN ALBERT

## EXHIBIT "A"

The Roundup Tavern Building at 2532 South 6th Street, Klamath Falls, Klamath County, Oregon, which is more particularly described as follows: Beginning at a point on the Southwesterly line of South 6th Street as widened in 1946, North 55°50'30" West, 190 feet from the intersection of said line with the Westerly line of Washburn Way; thence North 55°50'30" West 50 feet along said line of South 6th Street; thence South 34°09'30" West 110 feet; thence South 55°50'30" East 50 feet; thence North 34°09'30" East 110 feet to the point of beginning, being a portion of Tract 805 of Enterprise Tracts, Klamath County, Oregon, according to the official plat thereof. SUBJECT TO: Liens and assessments of Klamath Project and Klamath Irrigation District, and regulations, easements and water and irrigation rights in connection therewith; Rights conveyed by Klamath Basin Cooperative to State of Oregon, by and through its State Highway Commission by deed recorded on page 240 of Deed Volume 191, Records of Klamath County, Oregon; Agreement between Klamath Basin Cooperative and George F. Hays et ux, dated Nov. 18, 1947, recorded Dec. 31, 1947, on page 243 of Deed Volume 215, Records of Klamath County, Oregon.

## EXHIBIT "B"

## INVENTORY

- 3 - beer coolers
- 1 - refrigerator
- 10 - tables
- 1 - big round table
- 28 - chairs
- 1 - pool table
- all of the cue sticks
- 23 - bar stools
- 1 - coffee pot
- 1 - television
- 1 - cash register
- 1 - adding machine
- 1 - dishwasher
- 1 - poker machine (joker wild)
- compressors outside of building
- all of the glasses and pitchers
- 1 - safe
- all of the beer signs
- 2 - fans
- 1 - phone

STATE OF OREGON, )

County of Klamath )

Filed for record at request of

on this 30th day of Nov. A.D. 19 84  
at 3:43 o'clock P M, and duly  
recorded in Vol. M84 of Deeds  
Page 20179

EVELYN BIEHN, County Clerk

By *Pat Smith* DeputyFee 49.00