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MTC 42199

ASSIGNMENT AND ASSUMPTION OF LEASEVol. 1198 Page 156Vol. 1198 Page 498

FOR AND IN CONSIDERATION of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned, Burger King Limited Partnership I, a New York limited partnership ("Assignor"), does hereby sell, assign, convey, transfer, set over and deliver to U.S. Restaurant Properties Operating, L.P., a Delaware limited partnership ("Assignee"), the entire interest of Assignor, as lessee, in and to the lease of real property more particularly described in Exhibit A attached hereto and incorporated by reference herein, between Burger King Corporation, as lessor, and Burger King Limited Partnership I, as tenant, dated January 3, 1983, a Memorandum of which was filed on March 14, 1983 and recorded at Book 83, Page 3808 in the Klamath County Registry of Deeds (the "Lease").

Assignee hereby assumes and agrees to perform all the terms, covenants and conditions of the Lease required to be performed by the lessee thereunder from and after the date hereof. Assignee hereby indemnifies and holds Assignor harmless from and against any and all loss, cost, damage, expense (including reasonable attorney's fees), liability, claims or causes of action existing in favor of or asserted by the lessor under the Lease arising out of or relating to Assignee's failure to perform any of its obligations as lessee under the Lease on or after the date hereof.

Assignor hereby indemnifies and holds Assignee harmless from and against any and all loss, cost, damage, expense (including reasonable attorney's fees), liability, claims or causes of action existing in favor of or asserted by the lessor under the Lease arising out of or relating to Assignor's failure to perform any of its obligations as lessee under the Lease prior to the date hereof.

This Assignment shall be binding upon and shall inure to the benefit of Assignor and Assignee and their respective successors and assigns.

**\*\*Re-recorded to correct page number\*\***

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment and Assumption of Lease this 16 day of December 1997.

## ASSIGNOR:

Burger King Limited Partnership I,  
a New York limited partnership

By: BK I Realty Inc.,  
a New York corporation, general partner

By: 

Kenneth Boyle  
President

## ASSIGNEE:

U.S. Restaurant Properties Operating, L.P., a  
Delaware limited partnership

By: USRP MANAGING, INC.

By: 

Name: Fred H. Margolin  
Title: Vice President

STATE OF NEW YORK )  
 )  
COUNTY OF NEW YORK )

ss.

500

I certify that I know or have satisfactory evidence that KENNETH BOYLE signed this instrument and on oath stated that he was authorized to execute the instrument as the President of BK I REALTY INC., the General Partner of BURGER KING LIMITED PARTNERSHIP, and acknowledged it to be the free and voluntary act and deed of said limited partnership, for the uses and purposes mentioned in the instrument.

WITNESS my hand and official seal hereto affixed on December 16, 1997.

Barbara A. Porter

Notary Public for New York

My commission expires:

BARBARA A. PORTER  
NOTARY PUBLIC, State of New York  
No. 31-4945930  
Qualified in New York County  
Commission Expires January 27, 1999

STATE OF TEXAS )

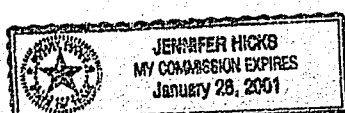
COUNTY OF DALLAS )

ss.

501

I certify that I know or have satisfactory evidence that Fred H. Marshall signed this instrument and on oath stated that he was authorized to execute the instrument as the President of USRP MANAGING, INC., the General Partner of U.S. RESTAURANT PROPERTIES OPERATING L.P., and acknowledged it to be the free and voluntary act and deed of said limited partnership, for the uses and purposes mentioned in the instrument.

WITNESS my hand and official seal hereto affixed on December 18, 1997.



Jennifer Hicks  
Notary Public for New York Texas

My commission expires: 1/28/01

## EXHIBIT A

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°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°52'30" East; thence continuing South 0°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°52'30" East parallel to said centerline 125.56 feet to the true point of beginning of this description; thence continuing South 55°52'30" East parallel to said centerline 181.50 feet to a point; thence South 34°07'30" West at right angles to said centerline, 160.00 feet to a point; thence North 55°52'30" West 150.27 feet to a point on the easterly boundary of Washburn Way; thence North 0°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°51'50" East 79.16 feet, 92.14 feet, more or less, to the true point of beginning.

EXCEPTING THEREFROM any portion lying within the right of way of the Klamath Falls-Lakeview Highway No. 140 also known as South Sixth Street and any portion lying within the right of way of Washburn Way.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Amerititle the 5th day of January 1998 at 11:20 o'clock A. M., and duly recorded in Vol. M98 on Page 156.

FEE \$50.00

By Bernetha G. Letsch, County Clerk  
Kathleen Rose

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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Amerititle the 7th day of January A.D. 1998 at 3:36 o'clock P. M., and duly recorded in Vol. M98 on Page 498.

FEE \$25.00 Re-record

By Bernetha G. Letsch, County Clerk  
Kathleen Rose