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LEASE

STATE OF ALABAMA
SHELBY COUNTY

19761116000111510 1/6 \$.00
Shelby Cnty Judge of Probate, AL
11/16/1976 12:00:00AM FILED/CERT

This Lease, made this 12th day of Oct, 1976
by and between B. H. Cadle, hereinafter called "Lessor", of the
one part, and by Jerry M. Bingham, hereinafter called "Lessee",
of the other part:

WITNESSETH: That the Lessor does hereby demise and let
unto the Lessee the following described premises in the County
of Shelby, Alabama, to-wit:

Lots 6 and 7 of Block 32, according to a map of
the South Calera Land and Improvement Company.

Subject to existing easements, if any, and the regulatory
laws and ordinances of the political subdivision in
which the property is situated.

This lease is for and during the term of one (1) year and is
automatically renewable for five years unless either party gives
notice of cancellation within ninety days of the end of the
current contract year or the end of each contract year thereafter,
beginning on the 13 day of Oct, 1976, and ending on
the 13 day of Oct, 1977, and each year thereafter.

IN CONSIDERATION WHEREOF, the Lessee agrees to pay on the
first day of each month of said term, in advance, as rent for
said premises, the sum of Two Hundred Dollars (\$200.00), being
at the rate of Two Thousand Four Hundred Dollars (\$2400.00) per
annum. Said rent to increase to Three Hundred Dollars (\$300.00)
per month when Lessee or occupant of said premises acquires a
license to sell alcoholic beverages.

This lease is made upon the following terms, conditions,
and covenants: The Lessor covenants to keep the Lessee in
possession of said premises during said term, but shall not be
liable for the loss of use by eminent domain nor the failure or
inability of the Lessee to obtain possession thereof provided
the Lessor shall exercise due diligence and effort to place the
Lessee in possession.

In the event air conditioning equipment, or a part of any
air conditioning equipment is installed on the roof of any build-
ing hereby leased, or in the event that the Lessee installs a
sign on the roof, then Lessee shall be responsible for repairing
any roof leaks, attributable to such installation, during the
term of this lease at Lessee's sole cost and expense, but no such
air conditioning equipment or sign may be installed until the
consent in writing of the Lessor is first had and obtained there-
to.

The Lessee will keep the roof and the leased grounds free
of all cans, bottles, fragments, debris and trash, and the Lessee
will keep the downspouts, gutters and drains clean, open and
free of obstruction, and in good working order.

Lessor shall not be obligated or required to make any
other repairs or do any work on or about said premises or any
part thereof, or on or about any premises connected therewith,
but not hereby leased, unless and only to the extent herein agreed.

All other portions of any building hereby leased shall be kept in good repair by Lessee and at the end of the term hereof, the Lessee shall deliver the premises to Lessor in good repair and condition, reasonable wear and tear and damage from fire or other casualty excepted. However, Lessor reserves the right to enter upon said premises and to make such repairs and to do such work on or about said premises as Lessor may deem necessary or proper, or that Lessor may be lawfully required to show said premises to prospective tenants and purchasers, and the right to display "For Sale" and "For Rent" signs on said premises.

Should the Lessee fail to make repairs agreed to by him under this lease, the Lessor may enter the premises and make such repairs and collect the cost thereof from the Lessee as additional rent. Except as herein specifically provided, the Lessee will not make or permit to be made any alterations, additions, improvements or changes in the premises, nor will the Lessee paint the outside of the building or permit the same to be painted without the written consent of the Lessor before work is contracted or let. No signs of any character shall be erected on the roof until the consent thereof in writing is first had and obtained from the Lessor. The consent to a particular alteration, addition, improvement or change shall not be deemed a consent to, nor a waiver of, a restriction against alterations, additions, improvements or changes for the future.

Lessee will replace all plate and other glass, if and when broken, and failing so to do the Lessor may replace the same and the Lessee will pay the Lessor the cost and expense thereof upon demand. Lessee will replace all keys lost or broken, and will pay all bills for water, light and heat used on said premises, including any sewer rental or sewer service charge. Lessee will keep all air conditioning equipment, electric wiring, water pipes, water closets, drains, sewer lines and other plumbing on said premises in such good order and repair and will do all repairs, modifications and replacements which may be required by the applicable laws or ordinances. Lessor shall not be liable for any damages caused by, or growing out of, any breakage, leakage, getting out of order or defective conditions of said air conditioning equipment, electric wiring, pipes, water closets, drains, and sewer lines or plumbing, or any of them. Lessee will comply, at all times and in all respects with all the applicable laws and ordinances relating to nuisance, insofar as the building and premises hereby let, and the streets and highways bounding the same, are concerned, and the Lessee will not, by any act, or omission render the Lessor liable for any violation thereof. Lessee will not commit any waste of property, or permit the same to be done, and will take good care of said building and said premises at all time.

Lessor shall not be liable for any injury or damage caused by, or growing out of, any defect in said building, or its equipment, drains, plumbing, wiring, electric equipment or appurtenances, or in said premises, or caused by, or growing out of fire, rain, wind, leaks, seepage or other cause.

If the leased premises, or any part thereof, consist of first floor space, adjacent upon the street, or ground adjacent to the street, the Lessee will keep the sidewalk, curb and gutter in front thereof or adjacent thereto clean and free from snow, ice, debris and obstructions and will hold the Lessor harmless from all damages or claims arising out of the Lessee's failure to so do.

Upon the happening of any one or more of the events as expressed in this paragraph, the Lessor shall have the right, at the option of the Lessor, to either annul and terminate this

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lease upon two days written notice to Lessee and thereupon re-enter and take possession of the premises; or the right upon two days written notice to the Lessee to re-enter and re-let said premises, from time to time, as agents of the Lessee, and such re-entry or re-letting or both, shall not discharge the Lessee from any liability or obligation hereunder, except that rents (That is, gross rents less the expense of collecting and handling, and less commission) collected as a result of such re-letting shall be credited on the Lessee's liability to the amount due under the terms of this lease and the balance, if any, credited to the Lessor. Nothing herein, however, shall be construed to require the Lessor to re-enter and re-let, nor shall anything herein be construed to postpone the right of the Lessor to sue for rents, whether matured by acceleration or otherwise, but on the contrayr, the Lessor is hereby given the right to sue therefor at any time after default. The events of default referred to herein are: failure of the Lessee to pay any one or more of the installments of rent, or any other sum, provided for in this lease as and when the same becomes due, within ten (10) days after written demand for the payment thereof is made by the Lessor upon Lessee; the removal, attempt to remove or permitting to be removed from said premises, except in the usual course of trade, the goods, furniture, effects or other property of the Lessee or any assignee, or sub-tenant of the Lessee; the levy of an execution or other legal process upon the goods, furniture, effects or other property of the Lessee brought on the leased premises or upon the interest of the Lessee in this lease; the filing of a petition in Bankruptcy, a petition for an arraignment or reorganization by or against the Lessee; the appointment of a receiver or trustee, or other court officer, for the assets of the Lessee; the execution of an assignment for the benefit of creditors of the Lessee; the vacation or abandonment by the Lessee of the leased premises or the use thereof for any purpose other than the purpose for which the same are hereby let or (if the rental herein is based in whole or in part on the percentage of Lessee's sales) failure of the Lessee to exercise diligent effort to produce the maximum volume of sales; the assignment by Lessee of this lease or the re-letting or sub-letting by the Lessee of the leased premises or any part thereof without the written consent of the Lessor first had and obtained; the violation by the Lessee of any other of the terms, conditions, or covenants on the part of the Lessee herein contained and failure of the Lessee to remedy such violation within ten (10) days after written notice thereof is given by the Lessor to the Lessee.

The Lessee shall not remove any of the goods, wares or merchandise of the Lessee from said premises other than in the regular course of Lessee's trade or business without having first paid all rent due or to become due under the terms of this lease.

Upon termination of the lease or re-entry upon said premises for any one or more of the causes set forth above, or upon any termination of this lease or re-entry of said premises, the rents provided for in this lease for the balance of the original rental term and all other indebtedness to the Lessor owed by the Lessee, shall be and become immediately due and payable at the option of the Lessor and without regard to whether or not possession of the premises shall have been surrendered to or taken by the Lessor.

The Lessee will pay Lessor a reasonable attorney's fee in the event Lessor employs an attorney to collect any rents due hereunder by Lessee, or to protect the interest of Lessor in the event the Lessee is adjudged a bankrupt, or legal process is

levied upon the goods, furniture, effects or personal property of the Lessee in this lease or in said premises, or in the event the Lessee violates any of the terms, conditions, or covenants on the part of the Lessee herein contained. In order to further secure the prompt payments of said rents, as and when the same mature, and the faithful performance by the Lessee of all and singular the terms, conditions and covenants on the part of the Lessee herein contained, and all damages, and costs that the Lessor may sustain by reason of the violation of said terms, conditions and covenants, or any of them, the Lessee does hereby waive any and all rights to claim personal property as exempt from levy and sale.

In the event the Lessee abandons the leased premises before the expiration of the term, whether voluntarily or involuntarily, or violates any of the terms, conditions or covenants hereof, the Lessor shall have the privilege at Lessor's option of re-entering and taking possession of said premises and leasing all or any portion of said premises for such term and for such use deemed satisfactory to the Lessor, applying each month the net proceeds obtained from said leasing to the credit of the Lessee herein, up to the amount due under the terms of this lease and the balance to the Lessor and said leasing shall not release the Lessee from liability hereunder for the rents reserved for the residue of the term hereof, but Lessee shall be responsible each month for the difference, if any, between the net rents obtained from such leasing and the monthly rent reserved hereunder, and said difference shall be payable to the Lessor on the first day of each month for the residue of the term hereof.

No re-entry hereunder shall bar the recovery of rent or damages for the breach of any of the terms, conditions, or covenants on the part of the Lessee herein contained. The receipt of rent after breach or condition broken, or delay on the part of Lessor to enforce any right hereunder, shall not be deemed a waiver of forfeiture, or a waiver of the right of the Lessor to annul the lease or to re-enter said premises or to re-let the same, or to accelerate the maturity of the rents hereunder.

All the improvements and additions to the leased premises shall adhere to the leased premises, and become the property of the Lessor, with the exception of such additions as are usually classed as furniture and trade fixtures; said furniture and trade fixtures are to remain the property of the Lessee, and may be removed by the Lessee two (2) weeks prior to the expiration of this lease, provided all terms, conditions and covenants of within contract have been complied with by Lessee and provided said Lessee restores the building and premises to its original condition, normal wear and tear excepted.

In the event of the total destruction of, or partial damage to, the buildings upon the demised premises by fire or other casualty, Lessor shall proceed with due diligence and dispatch to repair and restore the buildings to the conditions to which they existed immediately prior to the occurrence of such casualty, at Lessor's cost and expense, provided such cost does not exceed the proceeds of insurance collected on the building, by reason of such casualty, the application of which insurance proceeds are not prohibited, by reason of any mortgage provision, from being used toward the cost of restoration and repairing the same; provided, further, that if the unexpired portion of the term or any extension thereof shall be two (2) years or less on the date of such casualty and the cost of such repair or restoration exceeds twenty percent (20%) of the then then replacement value of said damaged leased premises, as estimated by two or more



reputable contractors, Lessor may, by written notice to the Lessee, within thirty (30) days after the occurrence of such casualty, terminate this lease. If Lessor exercises the above right to terminate this lease and Lessee elects to exercise an option of renewal privilege which Lessee may have under this lease, which if exercised, would extend the unexpired term beyond two (2) years, Lessee may void such above notice of Lessor's right to terminate this lease by exercising such option renewal privilege within such thirty (30) day period. If the insurance proceeds are insufficient to effect such restoration or repairs, Lessor at its option may cancel this lease by written notice to Lessee within thirty (30) days after the occurrence of such casualty.

In the event the repairing and restoring of the buildings cannot be completed within four (4) months after the date of occurrence of such casualty, as estimated by two or more reputable contractors, the Lessee shall have the right to terminate this lease upon giving written notice to Lessor within thirty (30) days from the date of occurrence of said casualty. From the date of such damage or destruction until said building has been substantially repaired or restored, an equitable abatement of rent shall be allowed the Lessee.

Each and every transfer or assignment of this lease, or any interest therein, and each and every sub-letting of said premises, or any part thereof, or any interest therein, shall be null and void, unless the written consent of the Lessor be first obtained thereto. As a condition precedent to the obtaining of such consent, the assignee or sub-lessee must assume, in writing, all the obligations of the Lessee hereunder, but such assumption shall not operate to release the Lessee from any agreement or understanding on the part of the Lessee expressed or implied in this lease.

All notices and demands authorized or required to be given to the Lessee under any provision hereof, may be delivered to the Lessee in person or shall be conclusively deemed to have been delivered to the Lessee if the same be deposited in the United States mail addressed to the Lessee at the leased premises, with the proper postage affixed thereto. All notices herein authorized are required to be given to the Lessor by certified mail, addressed to the Lessor at the address of the Lessor shown on page 1 of this lease, or in care of the Lessor's rental agent at that time authorized by the Lessor to service this lease.

Lessee will indemnify and hold Lessor free and harmless from all demands, claims and suits caused by any default committed hereunder on the part of the Lessee. Lessee will further indemnify and save harmless Lessor from any loss, cost, damage and/or expenses caused by injuries to persons or property while in, on or about the demised premises, not attributable to the willfully wrongful act of the Lessor. Any property stored in the demised premises shall be at the sole risk of Lessee.

Should the Lessee continue to occupy the premises after the expiration of the said term or after a forfeiture incurred, whether with or against the consent of the Lessor, such tenancy shall be a tenancy at sufferance and in no event a tenancy from month to month, or from year to year.

The failure of the Lessor to insist, in any one or more instances, upon a strict performance of any of the covenants of this lease, or to exercise any option herein contained, shall not be construed as a waiver, or a relinquishment for the future, of such covenant or option, but the same shall continue and remain in full force and effect. The receipt by the Lessor



of rent, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by the Lessor of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Lessor.

If there is a partial taking of the demised premises by eminent domain, as the result of which the ground floor area is reduced by not more than twenty-five percent (25%), the term of this lease will continue and Lessor, at Lessor's expense, will restore the remaining premises to a complete architectural unit with store front, signs and interior of equal appearance and utility as they had previous to the taking, but there will be a pro rata reduction in the rent payable each month and Lessee will have no right to any of the proceeds of such taking. If on the other hand, the taking exceeds twenty-five percent (25%) of the ground floor area, or in the event the improvements are condemned and ordered torn down or removed by a Lawful authority, then the term of this lease shall cease as of the date possession shall be taken by such authority, the rent will be apportioned as of the date of such taking.

The Lessee hereby agrees that upon the expiration or prior termination of this lease, the Lessee will promptly remove from the leased premises all signs, trash, debris and property of the Lessee, and the Lessee will leave the floors, stairs, passageways, elevator and shafts as clean as it is possible to clean them by means of the use of broom and shovel.

Lessor agrees to pay all ad valorem taxes on the property.

Lessor hereby waives any and all rights of action and causes of action against Lessee which may accrue to Lessor or his successor as the result of a loss of or to the leased premises from fire or other casualty, and Lessor does hereby agree to indemnify and hold Lessee free and harmless from all claims, demands, suits, fees and expenses which may arise as the result of any such loss.

Should the Lessee make use of said premises being rented hereunder in such a way as to require a high risk type of insurance, the Lessee agrees to pay the increase in the insurance premiums.

IN WITNESS WHEREOF, the Lessor and the Lessee have respectively executed these presents this 12 day of October, 1976.

LESSOR:

B. H. Cadle
B. H. Cadle

LESSEE:

Jerry M. Bingham
Jerry M. Bingham

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STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED
1976 NOV 16 AM 8:06
Deed Book 10-52
Conrad M. Jones
JUDGE OF PROBATE

STATE OF ALABAMA
SHELBY COUNTY

I, the undersigned, a Notary Public in and for said State and County, do hereby certify that B. H. Cadle and Jerry M. Bingham executed the foregoing Lease on the 12 day of October 1976.

Leone Henry
Notary Public
Notary Public, State of Alabama at Large
My Commission Expires September 1, 1979
Bonded by Western Surety

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