



BK 0909 PG 243



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COVENANTS, CONDITIONS, AGREEMENTS,
RESTRICTIONS AND TERMINATION OF GROUND LEASE

THIS AGREEMENT is entered into by and between Farmland Enterprises, Inc., a Nebraska corporation, hereinafter referred to as "Farmland", and Grandmother's, Inc., a Nebraska corporation, hereinafter referred to as "Grandmother's", this 23rd day of December, 1989.

WHEREAS, Farmland is the owner of certain real estate situated in Douglas County, Nebraska and is more particularly described on Exhibits A and B, attached hereto and by this reference incorporated herein; and

WHEREAS, the real estate described in Exhibit A attached hereto is hereinafter referred to as the "Real Estate"; and

WHEREAS, the real estate described on Exhibit B attached hereto is hereinafter referred to as the "Remainder Parcel"; and

WHEREAS, Grandmother's is the lessee of the Real Estate pursuant to the terms of a certain Ground Lease entered into between the parties; and

WHEREAS, Farmland and Grandmother's have entered into a certain Purchase Agreement for the purchase of said Real Estate by Grandmother's; and

WHEREAS, the Real Estate is a part of a shopping center known as Old Orchard West, hereinafter referred to as the "Shopping Center"; and

WHEREAS, Farmland and Grandmother's wish to preserve certain rights and obligations of the parties, their successors and assigns, and provide for the orderly flow of traffic on and appropriate use of the Real Estate as part of the Shopping Center subsequent to the purchase of the Real Estate by Grandmother's which shall be binding upon Farmland, Grandmother's, and their successors and assigns;

NOW, THEREFORE, the parties, on behalf of themselves and their successors and assigns, do hereby agree as follows:

1. Cross Right to Park. Customers and other persons lawfully on the Shopping Center premises shall have the right to park in the parking areas of Grandmother's and customers and other persons lawfully on the Real Estate shall have the right to park in the Shopping Center; provided, however, such right of cross parking shall be used with discretion. In the event that there should be such amount of parking of customers of the Shopping Center on the Real Estate that it would interfere with the right of Grandmother's own customers to park, then this right shall be restricted according to such rules as Farmland shall from time to time adopt.

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2. Utility Easements. In the event it is necessary to construct additional utility service lines across the Real Estate or repair or relocated existing lines, Grandmother's shall not unreasonably withhold its consent to the grant of an easement necessitated thereby in favor of Farmland or the appropriate utility company. In the event that any utility line must be constructed or an existing line relocated, it shall be constructed or relocated only through the parking and drive areas of the Real Estate and the construction or relocation shall be accomplished with a minimum disruption to the business of Grandmother's and any disruption of surface of the Real Estate and improvements constructed thereon shall be repaired in a good and workmanlike manner at the expense of Farmland or such other party desiring to install or relocate such utilities.

3. Signage. There are to be no free standing signs in the Shopping Center other than one at each main entrance to the Shopping Center, or as approved by Farmland in writing. Grandmother's shall not install or affix any sign, device, fixture, or attachment on or to the exterior of any improvements constructed on the Real Estate, including the roof or canopy of building, without first obtaining the written consent of Farmland which shall not be unreasonably withheld; and, provided further, that if such sign, device, fixture, or attachment is consistent with what has previously been approved by Farmland in the Shopping Center, then such approval shall not be withheld.

4. Ground Lease. The ground lease between Farmland, as landlord, and Grandmother's, as tenant, demising unto Grandmother's the Real Estate is hereby terminated as of December 29, 1989 and all duties, liabilities, and obligations of Grandmother's, as tenant thereunder, to Farmland, shall cease on that date. The cessation of duties, liabilities, and obligations shall include, but not be limited to, participation by Grandmother's in the Shopping Center Merchant Association.

5. Rules and Regulations. Farmland shall from time to time adopt rules and regulations or supplement, amend or modify existing rules and regulations relating to the Shopping Center and Grandmother's covenants that it and its customers and others lawfully on the Real Estate and in the Shopping Center will comply with and observe.

6. Maintenance of Common Areas in Shopping Center. Farmland shall operate and maintain common areas and common facilities of the Shopping Center other than the Real Estate and real estate within the Shopping Center for which separate agreements exist with owners or lessees with respect to operation and maintenance in conformity with good and safe commercial practices with respect to maintenance of shopping center's in general. Common areas and common facilities include without limitation all parking areas,

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access roads, sidewalks, malls, common public restrooms, landscaped space, and any other space used in common or available for use by Grandmother's, its customers, employees, agents, servants or other invitees of Grandmother's. Grandmother's will pay to Farmland a share of the cost of such maintenance and shall be solely responsible for and shall bear the cost of the maintenance of the Real Estate, the improvements thereon, and the parking and driving areas thereon. Grandmother's shall pay to Farmland, commencing with the year 1990, the following sums as its share of common area and facilities costs:

1990 - 1991	\$ 990.00
1992 - 1996	1,080.00
1997 - 2001	1,170.00
2002 - 2006	1,260.00
2007 - 2011	1,350.00
2012 - 2016	1,440.00
2017 - 2021	1,530.00

Commencing on January 2, 2022, Grandmother's shall pay annually the lesser of (a) \$1,620.00 per year as its share of common area maintenance and such share will increase by \$90.00 per year in five-year increments consistent with the foregoing schedule, or (b) Grandmother's pro-rata share of actual common area maintenance expenses incurred during each year. In computing Grandmother's pro-rata share of actual expenses, actual expenses for common area maintenance shall be multiplied by a fraction the numerator of which is the area contained within Lot 9, Old Orchard West Replat, as surveyed, platted and recorded in Douglas County, Nebraska, and the denominator of which fraction shall be the total area of the entire Shopping Center. Regardless of which method of computing Grandmother's share of common area maintenance expenses shall be used in accordance with the preceding provisions, Grandmother's shall be billed monthly for such charges and, in the event that estimated expenses are used for purposes of monthly billing, then adjustment will be made immediately following the close of such year to reflect Grandmother's share of such expenses as required under the provisions of this paragraph.

7. Private Streets. Farmland covenants that it shall provide streets within the Shopping Center which shall permit ingress and egress to the Real Estate from West Center Road and shall not relocate the existing entrance to the Shopping Center along 132nd Street unless required to do so by the governmental authority having jurisdiction over the Real Estate and the Shopping Center. The existing streets within the Shopping Center may be relocated at the discretion of Farmland, provided, however, that such relocation does not prohibit, inhibit, nor diminish in any way, ingress and egress to the Real Estate. Farmland may, from time to time, close such private streets temporarily to prevent the acquisition of public rights thereto.

8. Use of the Real Estate. Grandmother's shall use the Real Estate for the sole purpose of operating a full-service restaurant and lounge until the year 2001 unless Farmland grants permission, in writing, for such other and different use, provided, however, in the event Grandmother's receives a bona fide offer to purchase the Real Estate from a third party unrelated to Grandmother's, its shareholders or their successors or assigns, and such offer is accepted and a sale consummated, then, and in that event, this use restriction shall be of no force and effect, provided further, that Farmland shall have a right of first refusal to purchase the Real Estate on the same terms and conditions offered by such proposed purchaser to be exercised within ten (10) days after receiving notice of such offer. In the event the right of first refusal provided for herein is not exercised by Farmland and the Real Estate is sold to such third party, Farmland shall continue to enjoy the right of architectural control with respect to the Real Estate and improvements constructed thereon as set out in the instruments of record with respect to the Real Estate.

9. Other Covenants, Easements and Restrictions. The covenants, conditions, and restrictions set out herein shall be in addition to and not in derogation of the other covenants, easements, and restrictions of record upon the Real Estate as of the date hereof unless there is a conflict between the provisions herein and the provisions contained within such earlier agreements, in which event the provisions contained herein shall control.

10. Recording. The parties hereto agree that this instrument shall be recorded with the Register of Deeds of Douglas County, Nebraska contemporaneous with the delivery of the Warranty Deed conveying the Real Estate from Farmland to Grandmother's.

11. Binding Effect. This instrument and the covenants, conditions, agreements, and restrictions herein contained shall be binding upon the parties hereto and their respective successors and assigns and shall be deemed a covenant running with the land as to both the "Real Estate" and the "Remainder Parcel".

FARMLAND ENTERPRISES, INC., a
Nebraska corporation

By: Frank R. West
Title: President

GRANDMOTHER'S, INC., a Nebraska
corporation

By: Deann L. Schuman
Title: Secy

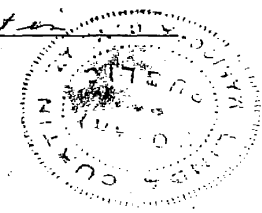


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STATE OF Arizona)
COUNTY OF Maricopa) SS.

The above and foregoing Covenants, Conditions, Agreements and Restrictions were acknowledged before me this 21st day of December, 1989, by Frank R. West of Farmland Enterprises, Inc., a Nebraska corporation, on behalf of such corporation.

Frank R. West
Notary Public



My Commission Expires:
My Commission Expires June 29, 1993

STATE OF Nebraska)
COUNTY OF Douglas) SS.

The above and foregoing Covenants, Conditions, Agreements and Restrictions were acknowledged before me this 28th day of December, 1989, by Dean Rasmussen, President of Grandmother's, Inc., a Nebraska corporation, on behalf of such corporation.

Suzanne J. Graveline
Notary Public

My Commission Expires:
December 10, 1993



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EXHIBIT "A" TO REAL ESTATE PURCHASE AGREEMENT
DATED OCTOBER 12, 1989 BY AND BETWEEN
FARMLAND ENTERPRISES, INC.
GRANDMOTHER'S, INC. AND SPENCE TITLE SERVICES, INC.

Part of Lot 3, in OLD ORCHARD WEST, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska, more particularly described as follows:

Commencing at the point of intersection of the West right-of-way line of 132nd Street and the South right-of-way line of Montclair Drive; thence South 0°10'40" East (assumed bearing) along said West right-of-way line of 132nd Street, a distance of 627.18 feet to the Point of Beginning; thence continuing South 00°10'40" East, along said West right-of-way line of 132nd Street, a distance of 239.48 feet; thence South 89°49'20" West, a distance of 220.00 feet; thence North 00°10'40" West, a distance of 239.48 feet; thence North 89°49'20" East, a distance of 220.00 feet to the Point of Beginning; also known as Lot 9 in OLD ORCHARD WEST REPLAT, an Addition to the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska.

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EXHIBIT "B"

LEGAL DESCRIPTION

PARCEL 1: Part of Lots 1 and 2, in OLD ORCHARD WEST, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska, more particularly described as follows:

Commencing at the Northeast corner of said Lot 1; thence South 00°10'40" East (assumed bearing), along the West right-of-way line of 132nd Street, a distance of 55.14 feet to the Point of Beginning; thence continuing South 00°10'40" East along said West right-of-way line of 132nd Street, a distance of 176.47 feet; thence South 89°49'20" West, a distance of 255.00 feet; thence North 00°10'40" West, a distance of 176.47 feet; thence North 89°49'20" East, a distance of 255.00 feet to the Point of Beginning.

PARCEL 2: Part of Lot 2, in OLD ORCHARD WEST, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska, more particularly described as follows:

Commencing at the Northwest corner of said Lot 2; thence South 00°10'40" East (assumed bearing), along the West line of said Lot 2, a distance of 44.61 feet to the Point of Beginning; thence North 89°49'20" East, a distance of 246.72 feet; thence South 00°10'40" East, a distance of 142.39 feet; thence South 89°49'20" West, along said East line of Lot 5, a distance of 142.39 feet, to the Point of Beginning.

PARCEL 3: Part of Lots 2 and 3, in OLD ORCHARD WEST, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska, more particularly described as follows:

Commencing at the Northeast corner of said Lot 2; thence South 00°10'40" East (assumed bearing), along the West right-of-way line of 132nd Street, a distance of 44.61 feet to the Point of Beginning; thence continuing South 00°10'40" East, along said West right-of-way line of 132nd Street, a distance of 146.89 feet; thence South 89°49'20" West, a distance of 140.00 feet; thence South 84°10'04" West, a distance of 101.49 feet; thence South 89°49'20" West, a distance of 14.00 feet; thence North 00°10'40" West, a distance of 156.89 feet; thence North 89°49'20" East, a distance of 255.00 feet, to the Point of Beginning.

PARCEL 4: Those part of Lots 1 and 2, in OLD ORCHARD WEST, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska, not included within Parcels 1, 2 and 3 above.

PARCEL 5: Those parts of Lot 3, in OLD ORCHARD WEST, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska, more particularly described as follows:

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Commencing at the point of intersection of the North right-of-way line of West Center Road and the West right-of-way line of 132nd Street; thence North 87°52'22" West (assumed bearing), along said North right-of-way line of West Center Road, a distance of 200.16 feet to the Point of Beginning; thence continuing North 87°52'22" West, along said North right-of-way line of West Center Road, a distance of 251.92 feet; thence North 00°10'40" West, a distance of 127.33 feet; thence North 04°13'41" West, a distance of 117.28 feet; thence North 89°49'20" East, a distance of 240.00 feet; thence South 00°10'40" East, a distance of 12.50 feet; thence North 89°49'20" East, a distance of 20.00 feet; thence South 00°10'40" East, a distance of 241.95 feet, to the Point of Beginning;

and;

Commencing at the point of intersection of the West right-of-way line of 132nd Street and the South right-of-way line of Montclair Drive; thence South 00°10'40" East (assumed bearing), along said West right-of-way line of 132nd Street, a distance of 814.87 feet; thence South 89°49'20" West, a distance of 220.00 feet, to the Point of Beginning; thence South 00°10'40" East, a distance of 239.30 feet; thence South 89°49'20" West, a distance of 240.00 feet; thence North 00°10'40" West, a distance of 232.00 feet; thence North 59°36'18" East, a distance of 18.84 feet; thence North 89°49'20" East, a distance of 202.72 feet; thence South 84°14'33" East, a distance of 21.11 feet, to the Point of Beginning.

PARCEL 6: Part of Lot 3, in OLD ORCHARD WEST, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska, more particularly described as follows:

Commencing at the point of intersection of the West right-of-way line of 132nd Street and the South right-of-way line of Montclair Drive; thence South 0°10'40" East (assumed bearing) along said West right-of-way line of 132nd Street, a distance of 627.18 feet to the Point of Beginning; thence continuing South 00°10'40" East, along said West right-of-way line of 132nd Street, a distance of 239.48 feet; thence South 89°49'20" West, a distance of 220.00 feet; thence North 00°10'40" West, a distance of 239.48 feet; thence North 89°49'20" East, a distance of 220.00 feet to the Point of Beginning.

PARCEL 7: Those parts of Lot 3, in OLD ORCHARD WEST, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska, not included within Parcels 3, 5 and 8 above.

PARCEL 8: Lot 4, in OLD ORCHARD WEST, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska.

PARCEL 9: Lot 5, in OLD ORCHARD WEST, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska.

PARCEL 10: Part of Lots 1 and 2, SHERWOOD PLAZA COMMERCIAL, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska, more particularly described as follows:

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Beginning at the Northwest corner of said Lot 2, said point being the point of intersection of the Easterly right-of-way line of vacated 135th Street and the Southerly right-of-way line of Cryer Avenue; thence North 69°49'20" East (assumed bearing), along said Southerly right-of-way line of Cryer Avenue, a distance of 140.00 feet; thence Northeasterly, along said Southerly right-of-way line of Cryer Avenue, on a curve to the right with a radius of 555.00 feet, a distance of 193.73 feet, said curve having a long chord which bears North 79°49'20" East, a distance of 192.75 feet; thence North 89°49'20" East, along said Southerly right-of-way line of Cryer Avenue, a distance of 38.81 feet; thence South 00°10'40" East, a distance of 269.95 feet, to a point on the North line of Lot 5, Old Orchard West, an Addition to the City of Omaha; thence South 89°49'20" West along said North line of said Lot 5, a distance of 291.54 feet, to the Northwest corner of said Lot 5, said point being on the Easterly right-of-way line of vacated 135th Street; thence North 20°10'40" West, along said Easterly right-of-way line of vacated 135th Street, a distance of 200.70 feet, to the Point of Beginning.

PARCEL 11: That part of Lots 1 and 2, in SHERWOOD PLAZA COMMERCIAL, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska, lying between Parcel 11 shown above, Montclair Drive, 132nd Street and Lots 1 and 5, in Old Orchard West, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska.

12-26-89 TUE 13:09 McGRATH, NORTH

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EXHIBIT "B-1"

- PARCEL 1: BUSINESS VENTURES, INC., a Nebraska Corporation
- PARCEL 2: RICHARD H. HUDSON AND MARTI ANN HUDSON, husband and wife
- PARCEL 3: FARMLAND ENTERPRISES, INC., a Nebraska Corporation
- PARCEL 4: FARMLAND ENTERPRISES, INC., a Nebraska Corporation
- PARCEL 5: FARMLAND ENTERPRISES, INC., a Nebraska Corporation
- PARCEL 6: FARMLAND ENTERPRISES, INC., a Nebraska Corporation
- PARCEL 7: FARMLAND ENTERPRISES, INC., a Nebraska Corporation
- PARCEL 8: FARMLAND ENTERPRISES, INC., a Nebraska Corporation
- PARCEL 9: RICHMAN GORDMAN DEPARTMENT STORES, INC., formerly known as RICHMAN GORDMAN STORES, INC., a Nebraska Corporation.
- PARCEL 10: EVANGEL ASSEMBLY OF GOD, a Nebraska non-profit corporation
- PARCEL 11: FARMLAND ENTERPRISES, INC., a Nebraska Corporation

Misc 2/16/83

RECEIVED
 Dec 29 3 42 PM '89
 GEORGE J. BUGLEWICZ
 REGISTER OF DEEDS
 DOUGLAS COUNTY, NE

909 N _____ C/D _____ FEE 53⁵⁰
 PG 243-252 N _____ DEL 4¹⁰ MC WC
 OF Mart COMP _____ F/B 60-28398 gr.

MINNESOTA
 TITLE

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