

47-638

LEASE AGREEMENT

THIS LEASE, made and executed this 18th day of February, 1974, between GEORGE VICTOR CORPORATION, a Nebraska corporation, as "Lessor" and HAWAIIAN VILLAGE, INC., a Nebraska corporation, as "Lessee";

WITNESSETH:

1. That the Lessor does hereby demise, lease and grant possession unto the Lessee, the following described property situated in Sarpy County, Nebraska, subject to the conditions as hereinafter set forth in this Lease:

The North One Half (N½) of the Northwest Quarter (NW¼) and Government Lot Three (3), and Tax Lot F Two (F 2) in Section Twenty Six (26), Township Thirteen (13), Range Twelve (12), East of the Sixth Principal Meridian in Sarpy County, Nebraska, and all accretions thereto; and Government Lot One (1), and Tax Lot Twenty Two (22) in Section Twenty Seven (27), Township Thirteen (13), Range Twelve (12), Sarpy County, Nebraska, as surveyed, platted and recorded. Said property being more particularly described as Hawaiian Village, a subdivision in Sarpy County, Nebraska as surveyed, platted and recorded, subject to the easements and restrictions of record.

Lessor informs Lessee and Lessee recognizes that Lessee has leased to Edward Dudzinski a certain one-half acre tract of land located in Outlet D of Hawaiian Village subdivision, as surveyed, platted and recorded which lease is effective until May 1976.

2. The Lessee agrees and the Lessor understands that the property will be occupied for the purpose of commercial recreational and residential development for the term of Sixty Five (65) years commencing on January 1, 1974, and ending on December 1, 2039, upon the terms and conditions as hereinafter set forth.

3. It is understood and agreed by and between the parties hereto that the Lessee shall have the right and privilege of subdividing said property, subleasing portions thereof, constructing roadways, water and sewer systems, excavating, filling in, removing and planting trees, dredging and causing to be performed, all work necessary or desirable for the construction of homesites and recreational and other facilities to serve the development. It is further understood and agreed by and between the parties hereto that the Lessee shall have the right to remove and tear down any existing structures situated on the leased premises without any penalty to the Lessee.

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FILED FOR RECORD 10-15-74 AT 4:20 P. M. IN BOOK 47 OF *Miss. Records*
PAGE 638 *Carl L. Hillebrand* REGISTER OF DEEDS, SARPY COUNTY, NEB.
lect 040419 73.50

4. The Lessor further covenants with Lessee that it is vested with marketable title to all of the described property and that in the event that Lessor's attorney renders an opinion that the title to all of the described property is not marketable, that Lessor will cure any defect by means of a quiet title action.

5. In consideration of the foregoing demise, and upon the conditions set forth in the previous paragraph, the Lessee does hereby accept this Lease, hereby covenants to perform the agreements hereby imposed, and to pay Lessor the rental in the amount of \$25,000.00 per year, payable on the yearly anniversary date of this Lease and on the anniversary date of each succeeding year.

6. It is understood and agreed by and between the parties that the Lessee shall pay the real estate taxes on the captioned property for each year of this lease.

7. It is further agreed that after the expiration of the period of seven (7) years and after each 7-year period thereafter, the yearly lease payment shall be increased and decreased in an amount directly proportionate to the increase or decrease of the average of the Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Labor over the 7-year period, using the base of the first year of each 7-year period.

8. It is further agreed and understood that the Lessee may sublease homesites for such terms and on such conditions that the Lessee may sublease homesites for such terms and on such conditions as are consistent with this lease. It is further agreed and understood that the Lessee may assign the whole or part of the described premises or this lease without the consent of the Lessor.

9. Lessee or his sub-lessees may erect buildings on the premises subject to this lease, and the same may be removed from said premises by the Lessee or sub-lessees on or prior to the termination of this Lease. In the event Lessee or sub-lessees remove any structures, the Lessee shall return the property to the same condition as it was prior to the erection of the structure.

10. Lessor further warrants to Lessee that there are no tenancies except as hereinafter set forth or occupancies or uses of this property which will prevent the Lessee from enjoying use and quiet enjoyment of the property.

11. Lessor also reserves all mineral and oil rights to the captioned property, however, the rights of the Lessor shall not be detrimental to the quiet enjoyment and use of the Lessee, or sub-lessees, and Lessee's right to develop the captioned property. The mineral and oil rights of the Lessor shall not include the right of the Lessor to place a mine on the described property.

12. Lessor shall have the right to make reasonable inspections of the premises at reasonable times to satisfy his concern and interest to insure that the terms and conditions of this lease are being complied with.

13. Lessor further agrees to join in the execution of any and all plats, dedications, requests for zoning and all documents necessary and submitted by Lessee or Lessee's designates or sub-lessees for the purpose of orderly development of the described property. The execution of any and all plats and documents shall be at no cost to the Lessor and gratuitous by the said Lessor.

14. Lessor and Lessee further agree and recognize that it will be necessary for the Lessee and Lessor to establish a Sanitary and Improvement District pursuant to the laws of the State of Nebraska for the purpose of financing and providing the installation of sewer facilities, water facilities, recreational facilities, gas facilities, and electrical facilities, for the orderly installation and development of the described premises. Lessor recognizes the desire of the Lessee to operate the Sanitary and Improvement District as if the described property were owned by the Lessee and Lessor, therefore, further agrees to execute an irrevocable power-of-attorney to the Lessee proportionate to his percentage interest, in all matters concerning the Sanitary and Improvement District for the installation and development of the utilities

to and including the sanitary and storm sewer system, electrical system, streets and by-ways, sidewalks, water system and all other documents necessary to be executed by an owner for the financing establishment and maintaining of a Sanitary and Improvement District. The Lessor, its successor assigns, heirs and executors agree that the power-of-attorney will be irrevocable and that in the event of the death of the Lessee, that the irrevocable power-of-attorney will be transferred to the heirs, successors or assigns of the Lessee.

15. Lessor further agrees and understands that in order for the Lessee, its assigns, or sub-lessees to finance the development, it will be necessary for the Lessee, its assigns, or sub-lessees to borrow money from a lending institution for that purpose. Lessor specifically agrees that it will do all other things necessary and execute all documents necessary to subordinate any encumbrance on the captioned property to any mortgage or mortgages necessary to be given in order to obtain the aforementioned financing. Lessor further agrees not to encumber the captioned property by any mortgage or lien from the date hereof and during the term of this Lease. Lessor further agrees to subordinate any mortgage or encumbrance to any of the Lessor's sub-lessees.

16. Lessor hereby grants to Lessee the privilege and option of extending this Lease for an additional period of 34 years upon giving six month's written notice, prior to expiration of this Lease. The yearly rental rate established at that date pursuant to Paragraphs 5, 6 and 7 above, and shall likewise be increased and decreased according to the plan set forth in Paragraphs 5, 6 and 7 above.

17. The Lessee shall keep said premises and operate its business in a manner which shall be in compliance with all laws, regulations, and rules, orders or ordinances of City, County, State and Federal government, and any department of either, and will not suffer or permit the premises to be used for any unlawful purpose, and Lessee will protect the Lessor and save him and the said premises harmless from any and all fines and penalties, and any and all damages or

injuries, that may result from or be due to any infraction of, with the said laws, rules, regulations, orders and ordinances. Lessee will protect the Lessor, and save it harmless against any and all claims or demands for damages, on account of injuries occurring on said premises, or arising from any accident, injury or damage whatsoever, however caused, to any person, or to the property of any person, occurring during said term in and/or about the leased premises and approaches thereto.

18. Should the default be made by any Lessee in the payment of the rental herein, or the real estate taxes, or any part thereof, and when as herein provided, or should Lessee make default in the performance, fulfillment, keeping or observing of any of the Lessee's other covenants, conditions, provisions or agreements therein contained, or should a Petition in Bankruptcy or a Receiver of any property of the Lessee be appointed, in any suit or proceeding, by or against the Lessee, or should the demised premises become vacant or abandoned, or should this Lease, by operation of law, pass to any person other than the Lessee, its successors, or should the leasehold be levied or under execution, then and in any of such events, the Lessor may, if the Lessor so desires, without demand of any kind or notice to Lessee, or any other person, at once declare this Lease terminated, and the Lessor may re-enter into said premises without formal notice or demand, and hold and enjoy the same thenceforth, as if these presents had not been made, without prejudice, however, to any right of action, or remedy of Lessor with respect to any breach of Lessee of any of the covenants herein contained, provided, however, in none of the foregoing events may the Lessor declare this lease terminated and re-enter the premises, if rental payments due Lessor by Lessee and other covenants, conditions and provisions of this Agreement herein contained for the benefit of Lessor have been paid and fulfilled by any sub-lessee. The Lessor further agrees that any default by Lessee shall be of no effect or consequence to any leases made for homesites or individual lots.

19. In case Lessor does not elect to take advantage of the right to terminate this lease conferred by the foregoing provisions of this paragraph, the Lessor shall, nevertheless have, and the Lessor is hereby given, the right to re-enter said premises, without legal process, should any of the events heretofore specified, take place or occur, and to remove the Lessee's signs and all property and effects of Lessee or other occupants of said premises, and if Lessor so desires, to re-let said premises, or any part hereof on such terms, and to such person or persons and for such period or periods which may seem fit to Lessor.

20. Further, provided, however, that Lessee shall not be in default except after thirty (30) days written notice from Lessor to give Lessee and/or any sub-lessee and then only if said default or defaults have been cured or obviated within the 30-day period. Any default by the Lessee herein shall be of no effect or of any consequence to any of the sub-leases of homesites to any of the homesite sub-lessees.

21. And in case of such re-letting, by Lessor, after default by Lessee, Lessee shall be liable to Lessor for the difference between the rents or payments herein reserved and agreed upon for the residue of the entire stipulated term of the Lease, and the net amount for such residue of the term realized by such re-letting such net rent to be determined by deducting from the entire rent received by Lessor from such re-letting, the expense of recovering possession, re-letting and altering and repairing said premises and collecting rent therefrom, and the Lessee hereby agrees to pay such deficiency each month as the same may occur, and the Lessee pay the Lessor within five days of the expiration of each month during the residue of this term, the difference between rent and payments for such month as fixed by this Lease and the net amount realized by Lessor from the premises during the said month, provided however, nothing herein contained shall permit Lessor to re-enter said premises or to re-let the same if the rent due Lessor and

from Lessee in all of the covenants, conditions, provisions, and agreements to be performed by Lessee for the benefit of Lessor have been paid or been performed by any sub-lessee.

22. It is specifically agreed by and between the parties hereto that in the event the Lessor, or its successors, should desire to sell the desired premises, the Lessee will be offered the opportunity, on 30-day's written notice, to purchase said property on the same terms and conditions as it is offered to any other purchaser. In the event the Lessee fails to purchase said property on said terms and conditions, said leased premises shall be offered to any sub-lessee for purchase of the same on the same terms and conditions on ninety (90) days' written notice.

23. This Lease shall be binding upon the heirs, executors, administrators and assigns of the Lessee and Lessor.

IN WITNESS WHEREOF, the parties have executed this Lease on the 7th day of October, 1974.

GEORGE VICTOR CORPORATION, A Nebraska Corporation, Lessor,

By: Donald C. Mcgrath
Its President

ATTEST:

Carl C. Andersen
Secretary



HAWAIIAN VILLAGE, INC., A Nebraska Corporation, Lessee,

By: William G. Archibald
Its President

By: Carl C. Andersen, Jr.
Vice President

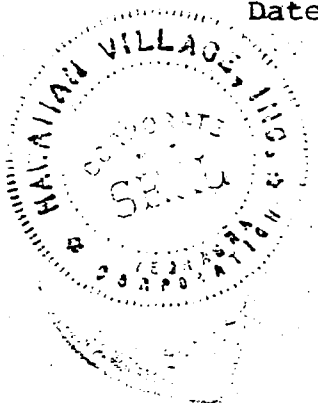
Jo Anne Archibald
Secretary

The undersigned WILLIAM G. ARCHIBALD and CARL C. ANDERSEN, JR., jointly and severally guarantee the performance of the above and foregoing Lease Agreement.

Dated this 7th day of October, 1974.

William G. Archibald
William G. Archibald

Carl C. Andersen, Jr.
Carl C. Andersen, Jr.




STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Before me, a Notary Public in and for said county and state, came Mardell Meyer and ELTON ERICKSON, known to me to be the President and Secretary of the GEORGE VICTOR CORPORATION, and who acknowledged the execution of the foregoing Lease as their voluntary act and deed.

Witness my hand and seal this 7 day of October, 1974.

John H. Fillenkamp
Notary Public


 JOHN H. FILLENKAMP
GENERAL NOTARY, State of Neb.
My Commission Expires
January 18, 1976

STATE OF NEBRASKA)
COUNTY OF DOUGLAS)

Before me a Notary Public in and for said county and state, came WILLIAM G. ARCHIBALD and CARL C. ANDERSEN, JR., known to me to be the President and Secretary of HAWAIIAN VILLAGE, INC., a corporation, and who acknowledged the execution of the foregoing Lease to be their voluntary act and deed.

Witness my hand and seal this 7 day of October, 1974.

John H. Fillenkamp
Notary Public

 JOHN H. FILLENKAMP
GENERAL NOTARY, State of Neb.
My Commission Expires
January 18, 1976