



BK 0881 PG 729



MISC 1989 04958

THIS PAGE INCLUDED FOR
INDEXING
PAGE DOWN FOR BALANCE OF INSTRUMENT

F 26

4

BOOK **881** PAGE **729**

WHITE HORSE RESTAURANT PARKING LEASE

This White Horse Restaurant Parking Lease ("Lease") is made and entered into this 31st day of March, 1989, by and between CHEVAL BLANC, INC., a Nebraska corporation ("Cheval"), as lessee, and AMERICAN CHARTER FEDERAL SAVINGS AND LOAN ASSOCIATION, a federal savings and loan association ("American Charter"), as lessor, collectively hereinafter referred to as the "Parties."

WHEREAS, American Charter is the owner of a parking ramp ("Parking Facility") located on the real property described as follows:

The East 44 feet of Lot 6, together with Lot 7, except the East 1 foot in Block 140, Original City of Omaha, Douglas County, Nebraska ("Property");

and

WHEREAS, Cheval is the owner of the White Horse Restaurant, located in a mixed use building located on the following real property and adjoining the Parking Facility:

Lot 8 and the East 1 foot of Lot 7, Block 140, Original City of Omaha, Douglas County, Nebraska ("Regis Building");

and

WHEREAS, American Charter desires to lease to Cheval and Cheval desires to lease from American Charter 35 parking stalls for the benefit of customers of the White Horse Restaurant located in the Regis Building during the hours of 6:00 p.m. until 1:00 a.m., seven days per week.

NOW, THEREFORE, in consideration of the foregoing, the Parties agree as follows:

4958 F. Muc

BK 881 N _____ C/O _____ FEE 41.00
PG 729-736 N _____ DEL JA MC WC
OE Misc COMP _____ F/B 03-8000

RECEIVED
1989 MAR 31 PM 1:41
GEORGE J. BUGLEWICZ
REGISTER OF DEEDS
DOUGLAS COUNTY, NEBR.

BOOK 881 PAGE 730

1. Parking Stalls. American Charter hereby agrees to lease to Cheval and Cheval agrees to lease from American Charter 35 parking stalls (the "Parking Stalls") to be leased to Cheval after 6:00 p.m. and until 1:00 a.m., seven days per week (the "Parking Hours"), for valet parking for customers of the White Horse Restaurant or of any succeeding food service facility located in Unit B-101, Regis Commercial Condominium, which is the space now occupied by the White Horse Restaurant. American Charter shall be able to use or lease the Parking Stalls prior to 6:00 p.m. If cars are not parked in the Parking Stalls between 5:30 p.m. and 6:00 p.m., Cheval may park cars in the Parking Stalls during that time.

2. Term. The term of this Lease shall commence on the date hereof and shall terminate on the earliest to occur of the following events, unless sooner terminated as provided herein:

- (a) the date the White Horse Restaurant or any other food service facility occupying Unit B-101, Regis Commercial Condominium, shall cease business for a period of eighteen (18) consecutive months;
- (b) the date the Parking Facility is destroyed or substantially damaged, or its use as a parking facility is materially impaired by any cause outside of American Charter's control;
- (c) the date the Parking Facility is the subject of eminent domain proceedings which, in the reasonable determination of American Charter, materially impair its usefulness as a parking facility providing the number of parking stalls that it currently provides;
- (d) the expiration of 30 years from the date hereof.

3. Rent. The rental rate to be charged by American Charter to Cheval shall be an amount per car parked in said stalls per night equal to two-thirds of the customary night parking rate charged by American Charter from time to time. Cheval agrees to

BOOK 881 PAGE 731

maintain such records as American Charter reasonably requests from which the rent can be determined. Rent shall be paid by Cheval monthly. The rent for a month, along with such supporting data as American Charter requires, shall be due by the tenth day of the following month.

4. Parking Access. American Charter shall not be required to provide staffing for the Parking Facility during the Parking Hours, but shall provide Cheval with two passcards and keys for use by Cheval employees to access the Parking Facility to park the cars. If any of such passcards or keys are lost or stolen, Cheval agrees to pay the sum American Charter charges its monthly licensees to replace such items.

5. Location of Cheval Stalls. The Parking Stalls shall be located as designated by American Charter, and the location thereof may be changed from time to time by American Charter.

6. Repairs, Alterations, Improvements, Additions, and Maintenance. As between American Charter and Cheval, all decisions in regard to the repairs, alterations, improvements, additions, and maintenance of the Parking Facility or the immediately surrounding area thereof shall be made in the exclusive discretion of American Charter. American Charter shall not be liable for interruptions in Cheval's use of the Parking Stalls for periods of ten consecutive days or less for such repairs, alterations or maintenance or for any periods of interruption caused by events outside of its control.

7. Supervision. Cheval agrees to supervise, or cause to be supervised the employees who will be parking the customers' cars

BOOK 881 PAGE 732

in the Parking Stalls to prevent damage to the Parking Facility or the property or persons of others.

8. Nonliability and Indemnity. This Lease is made on the express condition that American Charter shall be free from all liabilities and claims for damages or suits for or by reason of any injury or injuries or loss to any person, persons, or property of any kind or nature whatsoever, whether to the person or property of Cheval, its lessees, agents, employees, invitees, customers, or licensees from any cause or causes whatsoever on, in or about the Parking Facility or any part thereof during the term of this Lease, except those caused by American Charter, its employees or agents, to the extent such liabilities and claims arise out of the use or attempted use of the Parking Stalls pursuant hereto. Cheval further covenants and agrees to indemnify, save, hold harmless, and defend American Charter from all liabilities, charges, expenses (including attorneys' fees) and costs on account of or by reason of any such injuries, liabilities, claims, suits, or losses however occurring or damages growing out of them to the extent they arise out of the use or attempted use of the Parking Stalls pursuant hereto.

Cheval further agrees that it will protect, defend, save, and keep American Charter forever harmless and indemnified against and from any loss, damage or expense caused American Charter as the result of or connected with the use by Cheval, its employees and agents of the Parking Facility, the Parking Stalls, or any means of ingress or egress therefrom pursuant hereto, except that caused by American Charter, its employees or agents. Cheval

BOOK 881 PAGE 733

agrees to maintain liability insurance with limits in such amounts as American Charter reasonably requires, and with American Charter listed as an additional named insured, providing coverage against loss, damage or expense caused to the person or property of American Charter or of any other person or entity and arising out of the acts or omissions of Cheval, its employees, agents, lessees, invitees or licensees occurring on or about the Parking Facility.

9. Additional Rent. Any and all sums required to be paid to American Charter pursuant to this Lease other than the Rent shall constitute Additional Rent and shall be due upon demand by American Charter. If any such sums or the Rent is not paid when due, such sums shall bear interest at the rate of 16% per annum, or if less, the maximum rate allowed by law.

10. Action by American Charter. If Cheval fails to take any action required to be taken by this Lease, American Charter may, but shall not be obligated to, take such action and Cheval agrees to reimburse American Charter on demand for any costs or expenses incurred by American Charter in taking such action.

11. Default and Remedies. The following shall constitute Events of Default:

- (a) Cheval's failure to pay any Rent or Additional Rent within ten days after notice from American Charter of its failure to do so.
- (b) The failure to perform any other obligation of Cheval hereunder and the failure to correct such nonperformance within ten days after notice from American Charter specifying such failure.

Upon the occurrence of an Event of Default, American Charter may pursue any remedy at law or in equity it may have, and in addi-

BOOK 881 PAGE 734

tion thereto may terminate this Lease without further notice to Cheval. Upon termination of the Lease following an Event of Default or at the expiration of the Term, Cheval agrees to peacefully surrender the Parking Stalls and all passcards, keys and other items permitting access to the Parking Facility.

12. Waiver. American Charter's acceptance of any Rent or partial payment shall not be deemed a waiver of any other obligation of Cheval hereunder regardless of whether American Charter had knowledge of any breach of such obligation. The failure of American Charter to insist on compliance with the terms hereof on any one or more occasions shall not constitute American Charter's waiver or relinquishment to insist on such compliance at other times.

13. Notice and Demands. Notice, demand, or other communication mandated by this Agreement by either party to the other shall be sufficiently given or delivered if it is sent by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, to the following addresses, or to such other address as such party shall designate in writing:

Lessor:

American Charter Federal Savings and Loan Association
206 South 13th Street
P.O. Box 82459
Lincoln, Nebraska 68501
Attention: Property Manager

Lessee:

Cheval Blanc, Inc.
312 South 16th Street, Suite 304
Omaha, Nebraska 68102
Attention: M.B. Coffey

14. Binding Effect. This Lease shall be binding upon and inure to the benefit of American Charter, its successors and assigns and be binding upon and inure to the benefit of the owners of the food service facilities in Unit B-101, Regis Commercial Condominium, Omaha, Nebraska. Upon transfer of the ownership of such facility, Cheval shall notify American Charter of such transfer and shall cause the succeeding owner to assume in writing satisfactory to American Charter the obligations of Cheval hereunder. After such transfer and assumption, Cheval shall have no further liability or obligation hereunder except those liabilities and obligations accruing prior to such transfer and assumption.

15. No Partnership or Joint Venture. The Parties agree that this Lease is not intended to be, nor shall it be construed as, a joint venture or partnership between Cheval and American Charter. Nothing contained in this Lease, or in any other document or instrument made in connection with this transaction, shall be deemed or construed to create a partnership, tenancy-in-common, joint tenancy, joint venture, other common enterprise, or co-ownership.

16. Interpretations. Any uncertainty or ambiguity existing herein shall not be interpreted against either party because such party prepared any portion of this Agreement, but shall be interpreted according to the application of rules of interpretation of contracts generally. The headings of the sections herein are for the convenience of the parties and shall not be construed to limit

BOOK 881 PAGE 736

or expand the scope of such sections or to be otherwise interpretative thereof.

IN WITNESS WHEREOF, this Lease has been duly executed as of the date and year first above written.

AMERICAN CHARTER FEDERAL SAVINGS AND LOAN ASSOCIATION

By: Steven R. Caswell
Steven R. Caswell
Executive Vice President

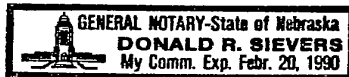
CHEVAL BLANC, INC., a Nebraska corporation

By: M. B. Coffey
(Name and Title)

State of Nebraska)
County of Lancaster) ss

The foregoing instrument was acknowledged before me this 31st day of March, 1989 by Steven R. Caswell, Executive Vice President on behalf of American Charter Federal Savings and Loan and by M. B. Coffey, President of Cheval Blanc, Inc., on behalf of the corporation.

Donald R. Sievers



SSE/L3
022289