



\$20.50

05037478

BLOCK

2005 JUL -8 A 9:14

INST. NO 2005

LANCASTER COUNTY, NE

037478

CODE
CHECKED
ENTERED
INDEXED

Lincoln, Nebraska
West "O"/Sunvalley
L/C: 026-0151
File #:43068

Prepared by Kathy Madigan
After Recorded, return to: Kim Delmedico
McDonald's USA, LLC
One McDonald's Plaza
Oak Brook, IL 60523

**NON-DISTURBANCE AND ATTORNMENT AGREEMENT
(FEE OWNER)**

THIS NON-DISTURBANCE AND ATTORNMENT AGREEMENT ("Agreement") is dated May 18, 2005 between **McDONALD'S USA, LLC**, a Delaware limited liability company ("Sublessee") and **COFCO, L.L.C.**, a NE limited liability company ("Fee Owner").

CTC 29205

PRELIMINARY STATEMENTS

- A. Sublessee has executed a Sublease dated November 24, 2004 ("Sublease") with Gas 'N' Shop, a Nebraska corporation ("Sublessor") for the premises ("Premises") described in Exhibit A attached. Fee Owner acknowledges receipt of a copy of the Sublease.
- B. Fee Owner has leased the Premises or a portion of the Premises to Sublessor by a Lease Agreement dated December 1, 2004, as amended by Addendum dated January 19, 2005 and Second Addendum dated January 26, 2005 (collectively, the "Head Lease").
- C. Fee Owner and Sublessee desire to establish certain rights, safeguards, obligations and priorities with regard to their respective interest by means of this Agreement.

Charge card 20.50

TERMS OF THE AGREEMENT

IN CONSIDERATION of the mutual covenants of the parties and other good and valuable consideration, Sublessee and Fee Owner agree as follows:

- 1. Fee Owner consents to the execution and delivery of the Sublease.
- 2. Provided the Sublease is in full force and effect and Sublessee is not in default under the Sublease, (beyond any period given Sublessee to cure the default), then:
 - a) Sublessee's right of possession to the Premises and Sublessee's other rights, duties and obligations arising out of the Sublease shall not be disturbed, modified, enlarged or otherwise affected by Fee Owner in the exercise of its rights or in the performance of its obligations, or in any other manner under the Head Lease. Further, Sublessee shall not be named as a party defendant in any proceedings resulting from a default of Sublessor nor in any other way be deprived of its rights under the Sublease.
 - b) If the current term of the Head Lease or any renewal shall terminate before the expiration of the term of the Sublease, as the Sublease may be renewed in accordance with its terms, the Sublease, if then in existence, shall continue as a Lease between Fee Owner as Landlord, and Sublessee as Tenant, with the same force and effect as if Fee Owner as Landlord, and Sublessee as Tenant, had entered into a Lease as of the date of termination of the Head Lease, containing the same terms, covenants and conditions as those contained in the Sublease, including the rights of renewal, for a term equal to the unexpired term of the Sublease.

PIONEER TITLE AND ESCROW COMPANY
10730 PACIFIC STREET SUITE 107
OMAHA NEBRASKA 68114-4700

R 6510

c) If any term, provision, covenant or condition of the Sublease is or shall be contrary, contradictory, conflicting or silent with respect to any term, provision, covenant or condition of the Head Lease, except as provided above, the Sublease shall control and determine Sublessee's rights, duties and obligations with respect to Sublessee's possession, use and enjoyment of the Premises.

d) In the event that Fee Owner exercises any of its remedies in the event of a default by Sublessor, as provided for in the Head Lease, the Sublease shall not be terminated or affected by the default or actions of either party. Sublessee covenants and agrees to attorn to Fee Owner as its new Landlord if Sublessor's rights under the Head Lease are terminated, and the Sublease shall continue in full force and effect as a direct lease between Sublessee and Fee Owner, upon all of the terms, covenants, conditions, and agreements as set forth in the Sublease. However, in no event shall Fee Owner be:

(i) liable for any act or omission of Sublessor; or

(ii) bound by any payments of rent or additional rent made by Sublessee to Sublessor for more than one month in advance unless such pre-paid or additional rent was paid pursuant to the terms of the Sublease.

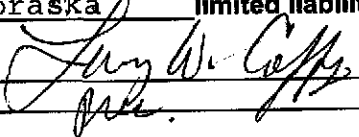
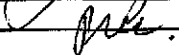
3. The above provisions shall be self-operative and effective without execution of any further instruments on the part of either party. However, Sublessee agrees to execute and deliver to Fee Owner or to any other person to whom Sublessee agrees to attorn such other instruments as either shall request in order to comply with these provisions.

4. This Agreement may not be modified other than by an agreement in writing signed by the parties or by their respective successors in interest.

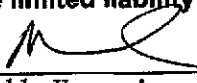
5. This Agreement shall run with the land and inure to the benefit of and be binding upon the parties and their successors and assigns.

To indicate their agreement to the above, the parties or their authorized representatives or officers have signed this Agreement.

FEE OWNER
COFCO, LLC,
a Nebraska limited liability company

By 
Its 

SUBLESSEE
McDONALD'S USA, LLC,
a Delaware limited liability company

By  #10
Its Mahrukh Hussain, Senior Counsel

(ACKNOWLEDGMENTS OF ALL SIGNATURES AND EXHIBIT A)

ACKNOWLEDGEMENT

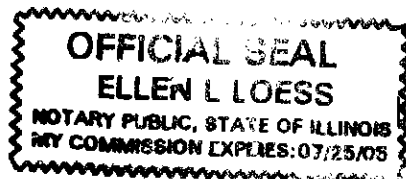
STATE OF ILLINOIS)
) SS:
COUNTY OF DUPAGE)

I, Ellen L. Loess, a Notary Public in and for the county and state aforesaid, DO HEREBY CERTIFY that Mahrukh Hussain, Senior Counsel of McDonald's USA, LLC, a Delaware limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Senior Counsel appeared before me this day in person and acknowledged that she signed, sealed and delivered the said instrument as her free and voluntary act as such Senior Counsel as the free and voluntary act of said company for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 30 day of March, 2005.

Ellen L. Loess
My commission expires 7/25/05

ACKNOWLEDGEMENT



STATE OF Nebr.)
) SS:
COUNTY OF LANCASTER)

I, Penny A. Kremer, a Notary Public in and for the county and state aforesaid, DO HEREBY CERTIFY that Larry W. Coffey, President of Gas-N-Shop, Inc. COFCO, LLC, a limited liability company Nebraska corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President appeared before me this day in person and acknowledged that ~~he~~ ~~she~~ signed, sealed and delivered the said instrument as ~~this~~ ~~her~~ free and voluntary act as such President as the free and voluntary act of said ~~corporation~~ for the uses and purposes therein set forth.

limited liability company
Given under my hand and notarial seal, this 18th day of MAY, 2005.

Penny A. Kremer
My commission expires 1-19-07

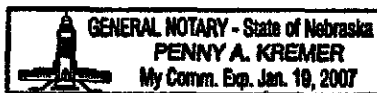


EXHIBIT A

LEGAL DESCRIPTION OF PREMISES

EXHIBIT "A"

A tract of land out of and a part of Lot 98, Irregular Tracts in the Northeast Quarter of Section 27, Township 10 North Range 6 East of the 6th P.M., Lincoln, Lancaster County, Nebraska, and being more particularly described by metes and bounds as follows to wit; Beginning at a 5/8 inch x 30 inch rebar for the Northeast corner of the tract herein described on the South right of way line of West "O" Street, said point also being the Northeast corner of said Lot 98, Irregular Tracts, and being South 89 degrees 28 minutes 18 seconds West 754.10 feet, and South 00 degrees 31 minutes 42 seconds East 92.32 feet from the Northeast corner of the aforesaid Section 27; thence South 00 degrees 09 minutes 09 seconds East (assumed bearing) a distance of 79.10 feet along and with the East line of said Lot 98, Irregular Tracts to the point of curvature of a curve to the right, having a central angle of 07 degrees 40 minutes 00 seconds, a radius of 2172.01 feet, an arc length of 290.63 feet, and a chord bearing South 03 degrees 41 minutes 00 seconds West 290.42 feet; thence Southwesterly along and with the arc of said curve, a distance of 290.63 feet to the point of tangency thereof; thence South 07 degrees 31 minutes 00 seconds West, continuing along the aforesaid East line of Lot 98, Irregular Tracts, a distance of 150.79 feet, to a point thereon for the Southeast corner of the tract herein described; thence North 89 degrees 54 minutes 00 seconds West, a distance of 708.04 feet, to the Southeast corner of Lot 70, Irregular Tracts and being the Southwest corner of the tract herein described; thence North 00 degrees 06 minutes 00 seconds East, a distance of 518.50 feet along and with the East line of said Lot 70, Irregular Tracts, to the Northeast corner thereof and the Northwest corner of the tract herein described, on the South right of way line of "O" Street; thence South 89 degrees 53 minutes 55 seconds East, a distance of 745.31 feet along and with the said South right of way line to the place of beginning.