

THIS AGREEMENT, entered into this 9 day of May, 1978,  
by and between DALE L. McCORD, hereinafter called Seller, and  
HARVEY J. BEENY, hereinafter called Buyer;

W I T N E S S E T H :

That the Seller agrees to sell to Buyer, and Buyer agrees  
to purchase the following real and personal property, to-wit:

Beginning at the Northwest corner of Section 34, in Township 38 South,  
Range 11½ East of the Willamette Meridian, Klamath County, Oregon, thence  
South along said Western boundary of said Section distant 1320 feet;  
thence East 1062 feet to a point; thence South 616 feet to center of a  
natural ditch; thence Southerly and Easterly along said ditch a distance  
of 593 feet; thence North 430 feet; thence West 91 feet; thence North  
258 feet; thence West 502 feet to point of beginning, all being a part  
of Northwest quarter of said Section 34 in Township 38 South, Range 11½  
East of the Willamette Meridian;

SAVING AND EXCEPTING therefrom that portion conveyed to State of Oregon  
for highway purposes by deed recorded in Book 107 at page 23 and also  
that portion conveyed to Charles Inman by deed recorded in Book 130 at  
page 581 and ALSO SAVING AND EXCEPTING that portion conveyed to James M.  
Barnes by Deed recorded in Book 133 at page 513 and also that portion  
conveyed to Olive Mounts by Deed recorded in Book 133 at page 245 and  
also that portion conveyed to John A. Jones by deed recorded in Book 217  
at page 165; and also SAVING AND EXCEPTING that portion conveyed to  
Elizabeth L. Bell by Deed recorded in Book 189 at page 12, all Book and  
page references being Deed Records of Klamath County, Oregon.

TOGETHER WITH the following described property:

Beginning at a point where the boundary of that certain tract conveyed  
to Olive Fraley by Deed recorded in Book 182 at page 253, Deed Records  
of Klamath County, Oregon, intersects the fence line marking the Westerly  
boundary of the property conveyed to A. L. Michael by Deed recorded in  
Book 66, page 552 of Deed Records of Klamath County, Oregon, which point  
of beginning bears South 1° 45' East along said fence line a distance of  
180 feet, more or less, from the Southeasterly right of way line of the  
Klamath Falls-Lakeview Highway; thence North 62° 29' East along the  
Northwesterly boundary of said Olive Fraley property, a distance of 51  
feet; thence North 4° 00' West 75 feet; thence South 89° 25' West, 43 feet to  
a point in said fence line marking the Westerly boundary of said A. L.  
Michael property; thence South 1° 45' East along said fence line, a distance  
of 98 feet to the point of beginning; being a portion of SW¼ Section  
34, Township 38 South, Range 11½ East of the Willamette Meridian, Klamath  
County, Oregon.

Subject, however, to the following:

1. The premises herein described are within and subject to the statutory  
powers, including the power of assessment, of Horsefly Irrigation District.
2. Rights of the public in and to any portion of the herein described  
premises lying within the limits of streets, roads or highways.
3. Subject to an easement over and across the Westerly 16 feet of said  
property as disclosed by Deed recorded December, 1959 in Volume 317,  
page 526, Deed Records of Klamath County, Oregon.
4. Unrecorded Contract of Sale dated November 5, 1971, by and between

Louis Anderson and Ruth Anderson, Sellers, and Dale L. McCord, Buyer, which Buyer herein assumes and agrees to pay according to the terms and conditions thereof to United States National Bank of Oregon, Town and Country Branch.

TOGETHER WITH all of the equipment, furnishings, fixtures and inventory now used by Seller in carrying on and conducting that certain business known as "Jonesies Tavern", Box 23, Dairy, Oregon 97625, a more particular description of said personal property having been marked Exhibit "A" and attached hereto and by this reference incorporated herein and made a part hereof.

SUBJECT TO: Personal property taxes for 1977-1978.

ALSO TOGETHER with the assumed business name "Jonesies Tavern".

ALL at and for a total purchase price of Thirty-Nine Thousand and no/100th (\$39,000.00) Dollars payable as follows:

(a) By assuming that certain unrecorded Contract of Sale dated November 5, 1971 by and between Louis Anderson and Ruth Anderson, husband and wife, as sellers, and Dale L. McCord, a single man, as buyer, which Buyer herein assumes and agrees to pay according to the terms and provisions thereof. The present unpaid principal balance is \$8,168.26 with interest paid to June 1, 1978, and described as Escrow Number 227, which is the escrow number of the United States National Bank of Oregon, Town and Country Branch, 3720 South Sixth Street, Klamath Falls, Oregon 97601.

(b) Payment of Five Hundred and no/100th (\$500.00) Dollars which has previously been paid as earnest money, and the sum of Six Thousand Five Hundred and no/100th (\$6,500.00) Dollars which is paid upon closing of this transaction.

(c) The remaining balance of ~~Twenty-Three Thousand Eight Hundred Thirty-One and 74/100th (\$23,831.74)~~ <sup>23,626.53</sup> Dollars with interest at the rate of 8% per annum from June 1, 1978, is payable in installments as follows: Buyer to pay interest only in the sum of \$158.57 per month, the first installment to be paid on July 1, 1978, and a further installment on the 1st day of each month thereafter. Buyer to increase the monthly payments of \$158.57 to \$250.00 per month upon payment in full of that certain escrow described as number 227 with the United States National Bank of Oregon, inclusive of interest of 8% per annum and continuing on the 1st day of each month thereafter until the full balance of principal and interest are paid.

The purchase price of the property is allocated as follows: Real property, \$33,000.00 and personal property, \$6,000.00.

Buyer shall have the privilege of increasing any monthly payment or prepaying the whole consideration at any time provided that additional payments shall not excuse Buyer from making the regular monthly payments provided for in this contract until the remaining balance has been paid in full.

Buyer covenants and agrees as follows: That he will make said payments promptly on the dates above named to the order of Seller at: United States National Bank of Oregon, Town and Country Branch, 3720 South Sixth Street, Klamath Falls, Oregon 97601; that he will keep all of said real and personal property insured for the

CONTRACT OF SALE

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full amount of their insurable value in companies approved by the Seller, and with loss payable to the parties as their interest may appear. Said policies shall be held by the Seller until this agreement has been completely performed; and Buyer agrees to furnish Seller with a paid receipt for said insurance each year; that he will pay regularly and seasonably as the same shall become payable and before the same shall become delinquent all taxes, assessments, liens and encumbrances of every kind and nature; that he will not suffer or permit any of said property to become subject to any taxes, assessments, liens, charges or encumbrances whatsoever having precedence over the rights of Seller in and to said property.

Seller covenants and agrees as follows: That said real property is free and clear of all liens and encumbrances, except as set forth above, and that said personal property is free and clear of all liens and encumbrances, except as set forth above; that he has good right to sell said real and personal property to Buyer, and that he will furnish Buyer with his good and sufficient bulk sales affidavit that he has no creditors. Seller covenants and agrees to indemnify and hold Buyer harmless with respect to any and all indebtedness of Seller.

It is expressly understood and agreed that this is a conditional sales agreement and that full title to all of said real and personal property shall remain in Seller until said balance and interest are paid in full. It is further understood and agreed that any and all equipment, furnishings, fixtures and inventory which may at any time hereafter be placed upon said premises by the Buyer shall become subject to the lien of this agreement as further security to the Seller for the payment and performance of this agreement, and that any replacements to present equipment when the same wears out will also be secured hereby. It is also further understood and agreed that any replacements of equipment, furnishings and fixtures or additions thereto which shall be placed on the premises by the Buyer shall be purchased by the Buyer, and not leased or rented, which said replacements or additions shall become subject to the lien of this agreement.

It is further expressly understood and agreed that upon the execution of this agreement and the approval from the Oregon Liquor Control Commission that Seller shall make and execute in favor of Buyer a good and sufficient warranty deed conveying said real property free and clear of all liens and encumbrances, except as set forth above, and a good and sufficient bill of sale conveying said personal property free and clear of all liens and encumbrances, except as set forth above; and that Buyer shall execute his certificate of withdrawal of the assumed business name, "Jonesies Tavern", and that said deed and bill of sale together with the original recorded Contract of Sale shall be placed in escrow at United States National Bank of Oregon, Town and Country Branch, 3720 South Sixth Street, Klamath Falls, Oregon 97601.

The real and personal property taxes and the insurance currently in force and effect on the premises will be prorated by and between Seller and Buyer as of June 1, 1978. Personal property taxes will be prorated based on the 1977-1978 taxes when payable.

Buyer shall be entitled to possession of said tavern and personal property upon approval of the license from the Oregon Liquor Control Commission and shall be entitled to possession of the same fifteen (15) days after the close of escrow.

Seller shall record his certificate of withdrawal of assumed business name of "Jonesies Tavern" forthwith upon transfer.

of possession of said real and personal property to Buyer.

It is understood between the parties that there exists a merchandise inventory. The parties agree to take said inventory as of the date of transfer to Buyer. The Buyer agrees to pay the Seller the wholesale value of said inventory separate from the terms of this agreement.

In case Buyer shall fail to make the payments aforesaid, or any of them punctually and upon the strict terms and at the time above specified, or fail to keep any of the other terms or conditions of this agreement, time of payment and strict performance being declared to be the essence of this agreement, then Seller shall have the following rights: (1) To foreclose this contract by strict foreclosure in equity; (2) To declare the full unpaid balance immediately due and payable; (3) To specifically enforce the terms of this agreement by suit in equity; (4) To declare this contract null and void, and in any of such cases, except exercise of the right to specifically enforce this agreement by suit in equity, all of the right and interest hereby created or then existing in favor of Buyer derived under this agreement shall utterly cease and determine, and the premises aforesaid shall revert and revest in Seller without any declaration of forfeiture or act of re-entry, and without any other act by Seller to be performed and without any right of Buyer of reclamation or compensation for money paid or for improvements made, as absolutely, fully and perfectly as if this agreement had never been made.

Should Buyer while in default permit the premises to become vacant, Seller may take possession of the same for the purpose of protecting and preserving the property and his security interest therein, and in the event possession is so taken by Seller, he shall not be deemed to have waived his right to exercise any of the foregoing rights.

In case suit or action is instituted to foreclose this contract or to enforce any of the provisions hereof, the parties agree to pay reasonable costs of title report and title search and such sum as the trial Court may adjudge reasonable as attorney's fees to be allowed the prevailing party in said suit or action, and if an appeal is taken from any judgment or decree of such trial Court, the parties further promise to pay such sum as the appellate Court shall adjudge reasonable as attorney's fees to the prevailing party on such appeal.

Buyer further agrees that failure by Seller at any time to require performance by Buyer of any provision hereof shall in no way affect Seller's right hereunder to enforce the same, nor shall any waiver by Seller of any breach of any provision hereof be held to be a waiver of any succeeding breach of any such provision, or as a waiver of the provision itself.

PROVIDED FURTHER, that the personal property herein sold is subject to terms and provisions of Uniform Commercial Code of the State of Oregon, and that all of the terms herein, the right, duties and remedies of the parties shall be governed by the laws of Oregon. That Seller's address is Box 23, Dairy, Oregon 97625. That Buyer's address is 722 North 10th Street, Klamath Falls, Oregon 97601. That each demand, notice or other communication shall be served or given by mail or telegram addressed to the parties at their mailing addresses as set forth herein, or by personal service upon the parties. Reasonable notice, when notice is required, shall be five days.

Buyer acknowledges that he has personally inspected

the personal property and real property and accepts it in its present condition. Buyer further acknowledges that Seller has made no representation as to the amount of income that can be realized from the operation of this business.

Buyer agrees to keep said property at all times in as good condition as the same now are, that no improvement, now on or which may hereinafter be placed on said property shall be removed or destroyed before the entire purchase price has been paid.

This agreement shall bind and inure to the benefit of, as the circumstances may require, the parties hereto and their respective heirs, executors, administrators, successors and assigns.

It is further agreed by and between the parties hereto that in the event the Oregon Liquor Control Commission does not approve this sale prior to June 1, 1978, that all balances referred to in this contract shall be adjusted on closing said escrow.

It is expressly understood and agreed that this agreement is contingent upon the approval of the Oregon Liquor Control Commission and upon its consenting to the transfer of all permits and licenses required for the operation of said business to Buyer. In the event that the said Oregon Liquor Control Commission fails or refuses to issue said permits and license to the Buyer, this agreement shall be null and void and of no force or effect and any consideration paid by Buyer to Seller except costs incurred herein shall be forthwith returned by the Seller to the Buyer.

As soon as practicable after the execution of this agreement, the parties shall deliver to United States National Bank of Oregon, Town and Country Branch, 3720 South Sixth Street, Klamath Falls, Oregon, in escrow the following documents:

- (a) A full warranty deed covering the above described real property.
- (b) A fully executed and recorded original Contract of Sale.
- (c) Such escrow instructions as shall meet with the approval of the above named escrow agent.

The parties instruct the above named escrow agent to receive for collection the installments provided for herein and to remit the same to Seller as Seller may from time to time direct. Seller retains a lien on said properties to secure Buyer's payment and performance hereof; but upon full and faithful payment and performance hereby by Buyer, title shall pass, and the escrow agent shall then deliver to Buyer all instruments deposited in escrow.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

*Dale L. McCord*  
DALE L. MCCORD

SELLER

*Harvey J. Heaney*  
HARVEY J. HEANEY

BUYER

12367

STATE OF OREGON     )  
                          ) ss.  
County of Klamath    )

May 9, 1978.

Personally appeared before me the above named DALE L. McCORD and HARVEY J. BEENEY and acknowledged the foregoing instrument to be their voluntary act and deed.

*Donald R. [Signature]*  
Notary Public for Oregon  
My Commission Expires: 3 2 82

Tax statements to: Harvey J. Beeney  
P.O. Box 1164  
Klamath Falls, Ore. 97601

Return to: MTC

1 Pool Table w/cue sticks  
1 Poker Table w/chairs  
3 Beer Coolers  
1 Cash Register  
1 Pop Cooler  
1 Small Ice Maker  
1 Deep Freezer  
2 Mirrors  
2 Compressors  
1 Wood Stove  
2 Small Tables

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Mountain Title Co.

this 9th day of June A. D. 19 78 at 3:31 o'clock P. M., and

duly recorded in Vol. M78, of Deeds on Page 12362

Wm D. MILNE, County Clerk

By Bernetha M. Helich

Fee \$21.00