

CONDITIONAL SALES CONTRACT AND SECURITY AGREEMENT

THIS CONDITIONAL SALES CONTRACT AND SECURITY AGREEMENT entered into the 2nd day of November 1979, between TERRY A. WALTERS, hereinafter called the "Secured Party," and RICHARD C. JORGUSEN and VICKIE L. JORGUSEN, husband and wife, hereinafter called the "Debtor";

W I T N E S S E T H :

The parties mutually agree as follows:

1. Definitions. The parties agree that the following definitions shall apply to the terms herein defined:

a. "Secured Party": The term "Secured Party" shall mean TERRY A. WALTERS.

b. "Debtor": The term "Debtor" shall mean RICHARD C. JORGUSEN and VICKIE L. JORGUSEN, husband and wife.

c. "Drumstick Tavern": The term "Drumstick Tavern" shall mean the operation or ownership or both of the business in Klamath County, Oregon, engaged in the serving of beverages and all other businesses conducted on the premises located at 1038 East Main Street, Klamath Falls, Oregon.

d. "Collateral": The term "Collateral" as used in this Contract shall mean: (1) the property herein conditionally sold and the items, instruments, and documents deposited in escrow; (2) all replacements of any of the property sold; (3) inventory of all classes and kinds, presently or hereafter used in the conduct of the Drumstick Tavern; (4) all property of Debtor used or hereafter used in the operation of the business of the Drumstick Tavern, whether tangible or intangible in character, including but not limited to licenses, franchises, bank certificates, insurance policies, choses in action, and judgments in connection with the operation of the Drumstick Tavern; and (5) the proceeds and products of any of the foregoing business activities, including but not limited to the proceeds from any insurance on any of the assets of said business activities.

e. "Indebtedness": The term "Indebtedness" shall mean all obligations, debts, and liabilities of Debtor to Secured Party arising out of or in connection with the Promissory Note attached hereto, marked as Exhibit "A," and by this reference made a part hereof. The term shall also include all obligations and debts between Secured Party and Debtor and liabilities of the Debtor, or

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any one or more of them, now or hereafter made, incurred, or created, whether voluntarily or involuntarily, and however arising, whether due or not due, absolute or contingent, liquidated or unliquidated, or whether Debtor may be liable individually or jointly with others, and whether recovery upon said indebtedness may hereinafter become otherwise enforceable.

2. Purchase and Sale Agreement: Secured Party hereby agrees to sell to Debtor and Debtor hereby agrees to purchase from Secured Party on the terms and conditions hereinafter set forth, all of the property described in Paragraph "a" below.

a. Description of Property--Drumstick Tavern: The Bar business owned and conducted by Secured Party at the premises known as 1038 East Main Street, Klamath Falls, Oregon, including the goodwill of the business as a going concern, the stock in trade, furniture, fixtures, and equipment, transferable insurance policies, and all contracts which have been entered into by the Secured Party in connection with such business, and all other property (except cash) used by the Secured Party in such business. The furniture, fixtures, equipment, and contracts are more particularly described in Exhibit "B," attached hereto and by this reference made a part hereof.

b. Secured Party's Representations and Warranties: Secured Party, in order to induce Debtor to enter into this Contract, hereby represents, warrants, covenants, and agrees with Debtor as follows:

(1) Secured Party is the sole owner of the Drumstick Tavern, and upon being paid in full the principal and interest secured hereby shall transfer and convey to Debtor the property herein described by way of the documents and instruments deposited with the escrow holder as hereinafter provided.

(2) No action at law or in equity or other proceedings whatsoever have ever been nor will any meritorious proceeding or action by November 2, 1979, be instituted against Secured Party as owner of the Drumstick Tavern, nor will any action or proceeding be pending on November 2, 1979, to dissolve any of said business. Secured Party will hold Debtor harmless from any and all suits or actions arising out of Secured Party's operation of said business.

(3) There are no bankruptcy, receivership, or tax deficiency proceedings pending or, to the knowledge of Secured Party, threatened against said Secured Party doing business as Drumstick Tavern.

(4) Within a reasonable time following November 2, 1979, Secured Party shall execute and deposit in the escrow hereinafter provided the documents to be executed by Secured Party and

placed in escrow as provided in Paragraph "3h" below.

(5) On November 2, 1979, to execute any and all documents or instruments required to transfer to Debtor the assumed business name of the Drumstick Tavern.

Because Debtor has been afforded full opportunity to examine the property, books, records, and business operation of the Drumstick Tavern, no representations or warranties whatever with respect thereto are made by Secured Party except as contained in this Paragraph.

c. Debtor's Representations and Warranties: In addition to the covenants, terms, and conditions herein contained, Debtor further represents, warrants, covenants, and agrees with Secured Party as follows:

(1) Debtor shall keep all payables, regardless of form, of the Drumstick Tavern current and shall permit examination of the business records thereof by Secured Party or his authorized representative at all reasonable times.

(2) Debtor shall maintain the financial condition of the Drumstick Tavern, to be measured by the net worth of said business as of the date of closing of this Conditional Sales Contract and Security Agreement.

(3) Until the principal and interest due Secured Party hereunder is fully paid, Debtor shall not pledge, hypothecate, mortgage, assign, or otherwise transfer, alienate, or encumber their equity in the assets of the Drumstick Tavern or otherwise dispose of the same, nor permit any lien or security interest therein or a financing statement to be filed thereon, other than that of Secured Party, without the written consent of Secured Party first had and obtained. Secured Party's said written consent shall not be unreasonably withheld.

(4) Secured Party may appear in or defend any action or proceeding at law, in equity, or in bankruptcy affecting in any way the security hereof, and in such event Secured Party shall be allowed and paid, and Debtor hereby agrees to pay, all costs, charges, and expenses, including costs of evidence of title or validity and priority of the security and attorney's fees in a reasonable sum incurred in any such action or proceeding in which Secured Party may appear, which shall bear interest at ten percent (10%) per annum from date of demand therefor. Failure of Debtor to pay Secured Party for such costs, charges, and expenses within ninety (90) days from the date of demand therefor shall constitute a breach of this Contract.

(5) Within a reasonable time following November 2, 1979, Debtor shall execute and deposit in the escrow hereinafter

provided for such documents as are required to be executed by Debtor and deposited in escrow contained in Paragraph "3b" hereof; and shall execute and file such other documents as are to be executed and filed by Debtor as provided in Paragraph "3b" hereof. In addition to the foregoing, Debtor shall join Secured Party in executing, filing, and doing whatever may be necessary under applicable law to perfect and continue Secured Party's security interest created hereby; all at Debtor's expense.

(6) Debtor shall not while this Agreement is in effect make through the operation of the Drumstick Tavern any loan to employees of the aforesaid business from the assets of the aforesaid business, nor shall Debtor during the term of this Agreement loan money to the aforesaid business unless any such loan is subordinate to the security interests of Secured Party. If any such loan shall be made, it shall not be repaid by the transfer to Debtor of any of the property used or useful in the operation of the Drumstick Tavern provided, however, that this restriction shall not prohibit the use of cash for any such repayment.

(7) To the extent that it shall be necessary for Debtor to sell or dispose of any property used or useful in the operation of the Drumstick Tavern, such property shall be replaced by property of like kind with a value equal to or higher than the value of the property so sold or disposed of and shall become subject to the security interest of Secured Party.

(8) Debtor shall comply with city, county, state, and federal laws, regulations, and rules pertaining to the operation of the Drumstick Tavern, including, but not limited to, the payment of license fees and taxes.

(9) Debtor agrees to fully and faithfully perform the terms, covenants, and conditions of any Lease between Debtor and Secured Party and the Lessor of the premises, who currently is PATTY L. NEEL, during the term of this Agreement. Debtor further agrees that a breach of any Lease between Debtor and said Lessor or her successors in interest shall constitute a breach of this Agreement.

(10) This sale is conditioned upon the approval thereof of the Oregon State Liquor Control Commission and upon the issuance to Debtor of appropriate liquor licenses. Debtor shall make application on or before the date hereof to the Oregon State Liquor Control Commission for a license for the sale of wines, beers, and related beverages and will diligently prosecute such application by furnishing all information and documents required by said Commission. Any lack of diligence on the part of Debtor in prosecuting such application shall constitute a default hereunder.

d. Purchase Price and Terms of Purchase Price:

(1) The purchase price is \$58,500.00 and shall be

Goodwill

25996

Covenant

Equipment and
Leasehold Improvements

(2) The terms of payment of the purchase price are the following: The sum of \$8,000.00 which has previously been paid as earnest money and the sum of \$13,000.00 which is paid upon the execution of this Agreement, leaving a deferred balance of \$37,500.00 payable in monthly installments, including interest, at the rate of nine percent (9%) per annum, in the amount of \$359.59, the first of such installments to be due on the 2nd day of December, 1979, and subsequent installments to be due on or before the 2nd day of each and every month thereafter until principal and interest has been paid in full. After one year from the date of this Agreement, or November 2, 1980, Debtor shall have the privilege of increasing any monthly payment or of prepaying the entire balance at any time.

3. Security Rights of Secured Party:

a. Creation of Security Interests: Contemporaneously herewith, the parties hereto shall execute the following instruments:

(1) Debtor shall execute the Promissory Note described in Exhibit "A."

(2) Debtor and Secured Party shall execute and cause to be filed at the expense of Debtor Uniform Commercial Code Financing Statement Form 1 with the Secretary of State.

(3) Debtor and Secured Party shall execute the Escrow Instructions described in Exhibit "C."

(4) Secured Party shall execute a Bill of Sale for the property described in Paragraph "2a."

(5) Debtor's signed Application for Cancellation of Assumed Business Name in a form acceptable to the Oregon State Corporation Commissioner.

(6) Secured Party's executed Uniform Commercial Code Termination Statement Form 3 in duplicate original, deposited in escrow.

b. Delivery to Escrow: To facilitate the performance of the terms of payment for and delivery of the collateral and the retention by Secured Party of title and possession of the instruments forming part of the collateral, the parties agree that an escrow shall be opened with the escrow holder, through which Debtor

f. Secured Party's Rights and Obligations with Respect to Collateral: The documents forming part of the collateral shall be held by the escrow holder for the benefit of Secured Party under the terms of this instrument until all of the indebtedness has been paid and satisfied. In addition to the holding of said documents by the escrow holder, Secured Party shall have the following rights:

(1) Secured Party shall, until the full sums secured by this Agreement have been paid, be deemed to hold all of the collateral and the escrow shall be deemed to be for the purposes of safekeeping and not constitute a delivery of the collateral to Debtor until the full sum of indebtedness secured hereby has been paid.

(2) Secured Party may, without being obliged to do so, take such steps as he determines necessary or desirable to protect, maintain, insure, or satisfy any liens against the collateral and may charge any cost incurred in so doing to Debtor, jointly or severally. Any sums which Secured Party may pay pursuant to this provision shall bear interest from the date of payment at the rate of ten percent (10%) per annum and payment thereof shall be a condition to the release of any of the collateral from the escrow with the escrow holder.

(3) Secured Party shall be entitled to receive and add to the collateral any income or increase from the collateral, the proceeds of any insurance on the collateral, and any other property given in exchange for property included in the collateral.

(4) Secured Party may at his option apply any cash which may be included in the collateral or received through liquidation, sale, or retirement of, or as income from, the collateral toward the satisfaction of the indebtedness or such portion thereof as Secured Party shall choose, whether matured or not, upon default as defined in this Contract.

(5) Secured Party may grant an extension of time or renewal to, or compound any obligation with, the maker, endorser, surety, or guarantor, or release any of the collateral as Secured Party deems advisable without obtaining the prior consent of Debtor or either of them.

g. Limitations on Obligations of Secured Party:

(1) Secured Party shall not be obligated to collect any amounts due or which may become due on any of the collateral and Debtor hereby waives presentment, protest, demand, or notice of non-payment to Debtor or to any maker, endorser, surety, guarantor, or other person who is party to the collateral.

(2) Debtor jointly and severally waives presentment, protest, demand, or notice of non-payment to Debtor of any portion of the indebtedness, and Secured Party may grant an extension of time to or renew any obligation of Debtor jointly or severally.

without first having obtained the consent of Debtor or either of them.

(3) Failure of Secured Party in any instance to require that any increase of the collateral be added to the escrow of the collateral shall not be deemed a waiver by Secured Party of his right to receive any further increase.

h. Events of Default: The following shall constitute events of default on the part of Debtor:

(1) Non-payment by Debtor when due of all or any part of the indebtedness.

(2) Debtor's failure to perform any one of Debtor's covenants.

(3) Insolvency of Debtor, an assignment by Debtor for the benefit of creditors, the filing by Debtor of a voluntary petition in bankruptcy, an adjudication that Debtor is bankrupt, or the appointment of a receiver of the properties of Debtor.

(4) Deterioration of the cash value of the collateral unless by the close of business on the next business day after Secured Party has mailed or delivered notice thereof to Debtor, the indebtedness has been reduced in the amount requested by Secured Party or the cash value of the collateral has been increased in the amount requested by Secured Party by the lodging of additional collateral with Secured Party by Debtor or any one or more of them.

i. Rights in the Event of Default: In the event of any default on the part of Debtor hereunder, Secured Party may take one or more of the following steps:

(1) Collect any of the collateral and after three days' written notice to Debtor, exercise the authority granted to Secured Party by Debtor's Power of Attorney;

(2) At any time after three days' written notice to Debtor, or either of them, sell any of the collateral at private sale at such price as Secured Party may consider advisable, Debtor hereby ratifying and approving any such sale;

(3) Sell any of the collateral at public sale not less than fifteen (15) days after notice in writing to Debtor of Debtor's default and after publication of one notice setting forth the time and place of sale and a brief description of the property to be sold in any newspaper of general circulation in the county in which the collateral is located;

(4) Terminate the escrow;

(5) Maintain an action in a court of equity for foreclosure and sale of the collateral or any part thereof, or otherwise exercise any rights with respect to the collateral which he

may have by law;

(6) Secured Party may require Debtor to assemble the collateral and make it available to Secured Party at a designated reasonably convenient place;

(7) Secured Party may be a purchaser of any of the collateral at any public or private sale. Secured Party may hold one or more sales of the collateral as Secured Party shall deem advisable. In the event of default of Debtor, Secured Party may apply any cash which is part of the collateral or which is received by the collection or sale of the collateral to reimbursement of any expenses, including attorney's fees, incurred by Secured Party in connection with the collection and sale of such collateral and to the payment of the indebtedness of Debtor to Secured Party with any overplus to be paid to Debtor as the interest of Debtor may appear. If Secured Party should exercise any of the foregoing rights over the collateral or any part thereof as a consequence of the default of Debtor, exercise of such rights by Secured Party shall not be deemed to be a waiver of Secured Party of his rights to exercise any of the security rights of Secured Party provided herein or by law;

(8) Declare the unpaid balance of the principal and interest immediately due and payable;

(9) Secured Party may grant an extension of time or renewal to, or compound any obligation with, the maker, endorser, surety, or guarantor of any of the collateral as he deems advisable without obtaining the prior consent of Debtor;

(10) Secured Party shall be entitled to the appointment of a receiver as a matter of right whether or not the apparent value of the property exceeds the amount of the balance due hereunder and any receiver appointed may serve without bond. Employment by Secured Party shall not disqualify a person from serving as receiver. Upon taking possession of all or any part of the property the receiver may:

(a) Use, operate, manage, control, and conduct business on the property and made expenditures for all maintenance and improvements as in his judgment are proper.

(b) Collect all rents, revenues, income, issues, and management.

(c) At Secured Party's option, complete any construction in progress on the property and in that connection pay bills, borrow funds, employ contractors, and make any changes in plans or specifications as Secured Party may deem appropriate.

If the revenues produced by the property are insufficient to pay expenses, the receiver may borrow from Secured Party or otherwise such sums as he deems necessary for the purposes stated in this paragraph and repayment of such sums shall be secured by this

Contract. The amounts borrowed or advanced shall bear interest at the rate of ten percent (10%) per annum from the date of expenditure until repaid and shall be payable by Debtor on demand.

j. Cumulative Remedies: All remedies of Secured Party shall at the election of Secured Party be cumulative.

k. Exemptions: Debtor waives all right to claim any of the collateral as exempt from levy, execution, sale, or other legal process under applicable laws.

l. Covenant Not To Compete: Provided this sale is consummated, Secured Party covenants with Debtor that Secured Party will not engage in the tavern business within the city limits of the City of Klamath Falls or within five miles of the city limits of the City of Klamath Falls as such boundaries exist on the date of execution of this Agreement during the five-year period immediately following the execution of this Agreement.

4. General Terms and Provisions: The following general terms and provisions shall apply to all of the specific terms and provisions of this Agreement:

a. Incorporation by Reference: Exhibits "A" through "C" attached to this Agreement are incorporated herein as though fully set forth at the place in this Agreement at which reference to said exhibit is made.

b. Waiver: No waiver of any right given Secured Party hereunder shall be deemed a waiver of any subsequent right, a waiver of this clause, or a waiver of any provision herein.

c. Notices: All notices required or permitted to be given hereunder shall be in writing. Any notice intended for Debtor shall be addressed to Debtor at 4995 Southview, Klamath Falls, OR 97601. Any such notice shall be deemed given when deposited as first class certified mail, postage prepaid, addressed to the party to whom notice is to be given.

d. Entire Agreement: This Agreement represents the entire agreement between the parties and no modification or changes thereof shall be valid unless in writing signed by the parties, PROVIDED, HOWEVER, that any Amendment of the Escrow Instructions shall likewise constitute an Amendment of this Agreement, it being further understood and agreed that the provisions of the printed form of the Escrow Instructions are for the convenience of the escrow agent and are not to be construed as modifications of this Agreement or any other instrument relating to the Escrow Instructions or this Agreement.

e. Joint and Several Obligations: The rights,

privileges, duties, and obligations of Debtor are hereby declared to be joint and several.

f. Binding Effect: This Agreement shall bind and inure to the benefit of, as the circumstances shall require, the respective heirs, executors, administrators, successors, and assigns of the parties hereto.

g. Constructions of Agreement: This Agreement is to be governed by and construed under the laws of the State of Oregon. Any provision herein which may be determined by any court of competent jurisdiction to controvene the laws of the State of Oregon shall be deemed not to be a part of this Agreement. The masculine shall include the feminine, the singular the plural, whenever the context so requires.

5. This Contract of Sale is expressly conditioned upon the granting to Debtor of a Class AMB license from the Oregon Liquor Control Commission, which license Debtor has applied for. Debtor agrees to use due diligence in making application and any lack of diligence on the part of Debtor shall be considered a breach of this Contract.

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

SECURED PARTY:

Terry A. Walters
Terry A. Walters

DEBTOR:

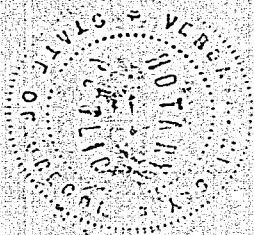
Richard C. Jorgensen
Richard C. Jorgensen

Vickie L. Jorgensen
Vickie L. Jorgensen

26003

STATE OF OREGON)
) ss.
County of Klamath)

Before me this 23 day of July, 1979, personally appeared the above-named TERRY A. WALTER and acknowledged that the foregoing instrument is his voluntary act and deed.



Verda M. Kenney
Notary Public for Oregon
My Commission expires: 2-22-81

STATE OF OREGON)
) ss.
County of Klamath)

Before me this 23 day of July, 1979, personally appeared the above-named RICHARD C. JORGUSEN and VICKI L. JORGUSEN, husband and wife, and acknowledged that the foregoing instrument is their voluntary act and deed.

Verda M. Kenney
Notary Public for Oregon
My Commission expires: 2-22-81

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Mountain Title Co.

this 5th day of November A. D. 19 79 at 9:10 o'clock A.M., and

duly recorded in Vol. N79, of Reds on Page 25992

W. D. MILNE, County Clerk

Bernetha J. Peters

Fee \$42.00

CONDITIONAL SALES CONTRACT AND SECURITY AGREEMENT
Page 12

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