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ATC 29271

Vol. 185 Page 17337ASSIGNMENT AGREEMENT

THIS AGREEMENT is made and entered into this 21st day of October, 1985, by and between RICKY J. ALLEN and VIRGINIA E. ALLEN, husband and wife, hereinafter referred to as "Assignors", and SYBIL G. INGRAM, hereinafter referred to as "Assignee".

R E C I T A L S

1. By means of this instrument, Assignors are assigning their sellers' interest in an Agreement of Sale dated June 5, 1985, wherein Henry Kinney was the buyer. This is a wraparound agreement having a total outstanding principal balance of \$ 78,569.44 with interest paid thereon to October 9th, 1985. Sellers' equity in said agreement is the sum of \$ 29,363.11. Said agreement covers the following described real property:

Lots 16, 17 and 18 in Block 6 of Second Hot Springs Addition to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

Said agreement is evidenced by a Memorandum of Contract recorded June 25, 1985, in Book M-85 at page 9701 in the Official Records of Klamath County, Oregon. A copy of said agreement is attached hereto as Exhibit "A" and by this reference incorporated herein.

2. Assignors are also assigning their interest in a purchase money security agreement dated June 5, 1985, wherein Henry Kinney was the buyer. This purchase money security agreement was executed contemporaneously with the aforementioned agreement of sale and was given to secure certain items of personal property which were located upon the above described real property. A copy of said purchase money security agreement

is attached hereto as Exhibit "B" and by this reference incorporated herein.

3. Said agreement of sale is subject to a first Note and Mortgage with Klamath First Federal Savings and Loan, Loan No. 6-40895, having an unpaid balance of \$ 8263.62 and a contract of sale wherein Darwin Don Dowding and Marthela H. Dowding, husband and wife, are vendors, having an unpaid vendors' equity of \$ 40,942.71.

4. Assignors are purchasing Assignee's real property located at 7440 Wagner Creek Road, Talent, Oregon, and are using their equity interest in the aforementioned agreement of sale as a down payment.

For the reasons recited above and in consideration of the following mutual promises and covenants, the parties hereby agree as follows:

A. Assignors hereby assign all of their right, title and interest in and to the aforementioned Agreement of Sale dated June 5, 1985, which is evidenced by a Memorandum of Contract recorded June 25, 1985, in Book M-85 at page 9701 in the Official Records of Klamath County, Oregon. Assignors further assign all of their right, title and interest in and to the aforementioned purchase money security agreement dated June 5, 1985.

B. To carry out the provisions of this Assignment Agreement, Assignors agree to execute and deliver to Assignee the following documents:

1. UCC-3 Assignment form assigning Assignors' interest in the UCC-1 Financing Statement with Henry Kinney which was filed on June , 1985, as No. with the Oregon Secretary of State.

2. Bargain and Sale Deed covering the above described real property from Assignors to Assignee.

3. Bill of Sale from Assignors to Assignee covering the personal property which is the subject of the purchase money security agreement.

C. It is understood and agreed that Assignors are not personally guaranteeing payment of the equity balance owed to sellers pursuant to the terms of the aforementioned agreement of sale and purchase money security agreement. In the event there is a default on the aforementioned agreements, then Assignee's sole remedy shall be against the real and personal property or the buyer, Henry Kinney. Assignors represent that the agreement of sale, purchase money security agreement and Klamath First Federal Savings & Loan mortgage are in good standing and that neither Assignors or Henry Kinney are in default thereunder.

D. Both parties agree to execute whatever documents may be necessary in order to assign Assignors' interest in the collection escrow with Aspen Title & Escrow, Inc., Collection Escrow No. 740- 06084 . Assignee agrees to contemporaneously execute and place into the collection escrow a bargain and sale deed to Kinney, a bill of sale to Kinney and a UCC-3 Termination Statement, with the understanding that these documents will be released to the contract buyer upon the fulfillment of the terms of the agreement of sale.

E. Both parties agree to execute whatever documents which may be necessary to carry out the provisions of this Agreement.

F. Assignee acknowledges that this Agreement has been prepared by Grantland, Smith & Grensky, Attorneys, on behalf of the Assignors, and that Assignee has had an opportunity to review this document with an attorney of her own choosing.

G. In the event suit or action is filed to enforce any of the terms or provisions of this Agreement, then the prevailing party shall be awarded their reasonable attorney fees as set by the trial court, or on appeal, by the appellate court.

17340

H. This Assignment is subject to obtaining written consent from Darwin Don Dowding and Marthela H. Dowding, holders of the underlying contract of sale.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

Ricky J. Allen
Ricky J. Allen

Virginia E. Allen
Virginia E. Allen

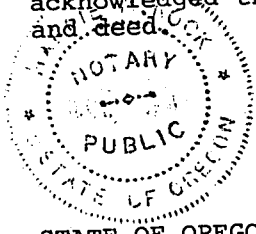
"Assignors"

Sybil G. Ingram
Sybil G. Ingram

"Assignee"

STATE OF OREGON)
) ss.
County of Jackson)

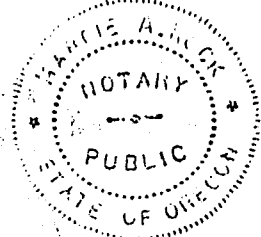
Personally appeared before me this 21st day of October, 1985, the above named RICKY J. ALLEN and VIRGINIA E. ALLEN, and acknowledged the foregoing instrument to be their voluntary act and deed.



Margie A. Rock
Notary Public for Oregon
My Commission Expires 9-19-87

STATE OF OREGON)
) ss.
County of Jackson)

Personally appeared before me this 21st day of October, 1985, the above named SYBIL G. Ingram, and acknowledged the foregoing instrument to be her voluntary act and deed.



Margie A. Rock
Notary Public for Oregon
My Commission Expires 9-19-87

ASSIGNMENT AGREEMENT -4-

Return To:

ATC

See File

AGREEMENT OF SALE

DATE:

June 5, 1985

PARTIES:

RICKY J. ALLEN and VIRGINIA E. ALLEN, Husband and Wife (hereinafter called "Sellers"), dba Western Burgers; and

HENRY KINNEY (hereinafter called "Buyer").

AGREEMENT

Sellers agree to sell the Property (real and personal) to Buyer, and Buyer agrees to buy the Property from the Sellers for the price and on the terms and conditions set forth below:

1. Property Sold.

REAL PROPERTY. Lots 16, 17 and 18 in Block 6 of Second Hot Springs Addition to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, subject to the following:

a) Regulations, including levies, liens and utility assessments of the City of Klamath Falls.

b) Mortgage, including the terms and provisions thereof to secure the amount of \$30,000 and other amounts secured thereunder in which Darwin Don Dowding and Marthela H. Dowding, Husband and Wife, are mortgagors, and Klamath First Federal Savings and Loan Assn., a Federal Corporation, is mortgagee. Said mortgage being dated August 5, 1976, recorded August 5, 1976, in the Real Property Records of Klamath County, Oregon, in Book M76, page 12073.

c) A contract of sale, including the terms and provisions thereof dated August 5, 1976, wherein Darwin Don Dowding and Marthela H. Dowding, Husband and Wife, are vendors, and James P. Woodward and Doris K. Woodward, Husband and Wife, are vendees. Said contract being recorded August 5, 1976, in Book M76, page 12075. Vendees' interest in said contract was assigned to Ricky J. Allen and Virginia E. Allen, Husband and Wife, and recorded May 8, 1979, in Book M79, page 10416 in the Real Property Records

17342

of Klamath County, Oregon. Said contract additionally being amended by instrument recorded May 8, 1979, in Book M79, page 10420 in the Real Property Records of Klamath County, Oregon.

PERSONAL PROPERTY: All that certain personal property, more particularly described and set forth on Exhibit "A" which is attached hereto and by this reference made a part hereof, and situated within the improvement located upon the real property as described above.

Until a change is requested, all tax statements shall be sent to the following address:

Ricky J. Allen
P. O. Box 243
Talent, OR 97540

2. Purchase Price. Buyer agrees and promises to pay as the total purchase price for the above described real and personal property the sum of \$88,500, which has been allocated as follows: \$8797 to equipment and \$25,750 to land and \$53,953 to improvements. Said sum shall be paid as follows:

a. The sum of \$9,323.44 consisting of the balance due as of May 7, 1985, upon that certain mortgage between the Dowdings and Klamath First Federal Savings and Loan Assn., as described above, and which the Buyer expressly agrees to assume and pay, shall be credited to the purchase price. This loan is a pre-pay (accrual loan).

The mortgage payments are \$279.65 per month, and the mortgage provides for an additional payment per month to provide a reserve account for the payment of taxes and assessments. Said amount is currently \$150.35. Said payments are due on the 20th day of each month, and Buyer agrees to pay said sum to Klamath First Federal Savings and Loan Assn. on or before the due date of each month. The next payment shall be made by Buyer on or before ~~May 20, 1985.~~ JUNE 20, 1985.

b. The balance of \$79,176.56 shall be payable in variable monthly installments, including interest at the rate of 9.5% per annum. Interest shall commence ~~May 1, 1985.~~ JULY 1, 1985. The first installment shall be due at date of closing and thereafter shall be paid on the first day of each and every month. Buyer shall pay the entire April 1985 payment at closing. The monthly installments shall be as follows:

JULY

May 1985 through July 1988, at the rate of \$820.35 per month. Thereafter the payments shall increase to \$1100 per month until paid.

17343

c. Buyer shall maintain with Sellers reserves for payment of taxes and assessments (both real and personal property), which reserves shall be created by monthly payments of a sum estimated by Sellers to be sufficient to produce, at least 15 days before due, amounts at least equal to the taxes and assessments to be paid. The initial amount of such monthly payments shall be \$167 and Buyer shall pay on demand any additional amount which may be necessary for the payment of such taxes or assessments. At least thirty days before it is due, Buyer shall complete and forward to Sellers each year the State Personal Property Tax Return. Sellers shall file the return with the personal property tax reserve account funds and any further sums they have collected from Buyer for any reserve account deficiency. Buyer shall make the reserve payments at the same time said payments are due pursuant to Paragraph 2(a) and shall forward payments to the escrow holder. If 15 days before the payments are due the reserve funds are insufficient, Buyer shall upon demand pay any deficiency to the escrow holder. The escrow holder shall forward all such payments to Sellers without application to principal or interest on this contract balance. The reserve funds shall be held by Sellers as a general deposit from Buyers and shall constitute a non-interest bearing debt from Sellers to Buyer, which Sellers may satisfy by payment of taxes and assessments required to be paid by Buyer as they become due. Sellers do not hold the reserve funds in trust for Buyer and Sellers are not the agent of Buyer for payment of the taxes and assessments required to be paid by Buyer. Upon full payment of the purchase price due under this Agreement, Sellers shall refund to Buyer the balance remaining in the reserve account, if any. Buyer may satisfy the requirement of his payment of the real property portion of the taxes and assessments by payment to the reserve account established by the mortgagee as referred to in Paragraph 2.a, so long as such an account is maintained by mortgagee.

3. Prepayment. Buyer shall have the right and privilege of increasing any annual payment or prepaying the entire balance at any time.

4. Possession. Buyer shall be entitled to possession of said real and personal property on immediately; provided, however, that Sellers may enter upon the property at reasonable times during the term hereof for the purpose of inspecting the property.

5. Creditors. Sellers have paid all creditors of the business known as Western Burgers, which is currently located on the Premises, to March 8, 1985, except as noted herein. The parties, upon the execution hereof, agree to notify in writing all creditors of the business change of ownership and Buyer agrees to pay all creditors of the business promptly for credit extended him after the date of March 8, 1985. After said date, Buyer shall assume and pay all said monthly accounts, punctually when due, through the term of this Agreement, and shall likewise after said date pay for all charges incurred by him for water, electricity, gas, telephone and garbage disposal, including but not limited to, all other licenses and assessments, all in connection with said real and personal property and business sold herein. Buyer shall take all steps necessary in order to have trade and other business accounts transferred to his name. Buyer shall indemnify and hold Sellers harmless from all such creditors.

6. Affirmative and Negative Covenants of Buyer. Buyer covenants with Sellers that during the period in which any portion of the purchase price remains unpaid:

a. Buyer at any and all reasonable times, shall permit Sellers agents, employees or representatives and Darwin Don Dowding and Marthela H. Dowding, their agents, representatives and employees, to enter into the facilities for the purpose of examining and inspecting the condition thereof.

b. Buyer shall not make any improvements or modifications nor cause any remodeling to be done on or to the property (real or personal) of a cost or value of over \$500 without prior written consent of Sellers and Darwin Don Dowding and Marthela H. Dowding. The request for consent shall be in writing and shall contain a specified time table for the completion of each part of any project, the estimated cost/value of the project and the name and experience of any person scheduled to perform the work. The consent shall not be unreasonably withheld by Sellers.

c. Buyer will not make loans to or invest in any entity without the express written consent of Sellers, which consent shall not be unreasonably withheld. Accounts payable of Buyer will not exceed 75% of the inventory.

d. Buyer will not guaranty the obligation of any entity.

e. Buyer will not sell, transfer or assign this contract, nor any of the related documents of this transaction to any person or entity without first having paid in full the mortgage to Klamath First Federal Savings and Loan Assn. and the contract of sale payable to Darwin Don Dowding and Marthela H. Dowding, as sellers.

f. Buyer will not rent, lease or encumber any of the real or personal property covered by this contract or any associated document of this transaction without prior written consent of Sellers and Darwin Don Dowding and Marthela H. Dowding.

7. Bill of Sale. Sellers shall execute and place in escrow as hereinafter provided a bill of sale to the personal property above described, with instructions to said escrow holder to deliver said bill of sale to Buyer upon payment in full of this Agreement.

8. Escrow. Sellers agree that upon execution hereof they shall make and execute in favor of Buyer a good and sufficient Bargain and Sale Deed conveying the real property free and clear of all liens and encumbrances, except as hereinabove set forth and will place said deed, together with one of these Agreements and said bill of sale in escrow at Aspen Title Company, Klamath Falls, Oregon. The parties hereto agree to enter into written escrow instructions in a form satisfactory to said escrow holder and to the parties hereto, whereby the escrow holder is instructed at such time as Buyer has paid the purchase price in accordance with the terms and conditions of this Agreement, said escrow holder shall deliver said deed and bill of sale to Buyer, but in case of default by Buyer, said escrow holder shall, on demand, surrender said deed and bill of sale to Sellers, either of them, or their designated agent.

9. Liens and Encumbrances/Failure to Pay. Buyer shall not permit the property to become subject to any lien or encumbrance, and, if any shall be filed, he shall pay them within ten days of filing. In the event Buyer fails to perform any obligation (including, but not limited to, the payment of taxes, assessments, insurance, liens, encumbrances, and/or the existing mortgage and/or contract, which the property is sold subject to), Sellers shall have the right, but not the obligation, to correct the default or make any part or all of the payment due. Any such payment shall then be added to the purchase price under this Contract and shall bear interest at 9.5% from the date of Seller's payment until paid by Buyer. The escrow holder is directed to add such amounts to the contract balance upon notification by Sellers. Payment of any of the aforementioned amounts by Sellers shall not prevent Sellers from exercising their rights to declare a default based on Buyer's failure to pay said sums.

10. Maintenance, Insurance and Security Agreement.
Commencing with the possession date and thereafter at all times during the term of this Agreement, Buyer shall, with respect to the property:

a. Keep the personal property insured against loss or damage by fire and/or theft with extended coverage in the sum of their full insurable value. Buyer shall pay premiums for said policy and shall cause the policies to reflect the interest of Sellers and Buyer as their interests then appear. Buyer hereby covenants to and with Sellers that he will at all times during the terms hereof, keep said personal property clean and in good repair and working order, that he will not sell or dispose of any such property or permit the same to be removed from the above premises and real property without first obtaining written consent of Sellers; that if replacement of any such item of personal property shall become necessary, Buyer shall replace same with items of like quality, value and utility, free of any encumbrance, and that any such replacement or substitute item shall, immediately upon acquisition by Buyer, be subject to all the terms and conditions of this Agreement. Buyer hereby grants to Sellers a security interest in said personal property, the terms of the security interest are set forth in the Security Agreement attached hereto and incorporated by this reference as Exhibit "B". Buyer shall contemporaneously herewith execute and deliver to Sellers a UCC Financing Statement covering said property. On default of the terms and provisions of this contract, Sellers shall have all those remedies as set forth in the security agreement.

b. Keep the real property insured against fire and other casualties covered by a standard policy of insurance with extended coverage endorsements. The policy shall be written to the full replacement value with loss payable to Sellers and Buyer as their respective interests may appear. Certificates evidencing the policy shall be delivered to Sellers and shall contain a stipulation providing that coverage will not be cancelled or diminished without a minimum of twenty days' written notice to Sellers. In the event of loss, Buyer shall give immediate notice to Sellers. Sellers may make proof of loss if Buyer fails to do so within fifteen days of the casualty. In the event that the insurer will not endorse that said policy will not be cancelled or diminished without a minimum of twenty days written notice to Sellers, Buyer agrees to give such notice prior to any cancellation or diminishment of coverage.

11. Indemnification and Liability Insurance. Buyer shall indemnify and defend Sellers from any claim, loss or liability arising from or related to any activity of the Buyer connected with the property or any condition of the property. During the terms of this Agreement, Buyer shall maintain public liability and property damage insurance in a responsible company with limits of not less than \$300,000 for injury to one person and \$500,000 for injury to two or more persons in one occurrence, and \$300,000 for damage to property. Such insurance shall cover all risks arising directly or indirectly out of Buyer's activities on or any condition of the property, whether or not related to an occurrence caused or contributed to by negligence of Sellers and shall protect Sellers and Buyer against claims of third persons. Certificates evidencing such insurance shall be furnished to Sellers.

12. Alterations and Improvements. Buyer agrees that all improvements now located on or which shall hereinafter be placed on the property, shall remain a part of the real property and shall not be removed at any time prior to the expiration of this Agreement without the written consent of Sellers and Darwin Don Dowding and Marthela H. Dowding. Buyer shall not commit or suffer any waste of the property, or any improvements thereon, or alterations thereof, and shall maintain the property, improvements and alterations thereof in good condition and repair, provided Buyer shall not make or cause to be made any major improvement or alteration to the property without obtaining written consent of Sellers and Darwin Don Dowding and Marthela H. Dowding, as required in paragraph 6.d above.

13. Title Insurance. Sellers shall cause to be issued a purchaser's policy of title insurance in the amount of \$80,203 within thirty days from the date of closing, insuring Buyer against loss or damage sustained by Buyer by reason of the unmarketability of Seller's title or liens or encumbrances thereon, excepting matters herein expressly covered, and further excepting matters contained in the usual printed exceptions of such title policies.

14. Condition of the Property. Buyer accepts the land, buildings, improvements and personal property and all other aspects of the property in their present condition, AS IS, including latent defects, without any representations or warranties, express or implied, unless they are in writing signed by Sellers. Buyer agrees that he has ascertained from sources other than Sellers the applicable zoning, building, housing and other regulatory ordinances and laws, and that he accepts the property with full awareness of these ordinances and laws as they may affect the present use or any intended use of the property.

Buyer further agrees that Sellers have made no representations with respect thereto which are not set forth herein.

15. Existing Encumbrances. It is understood that the above subject real property is subject to an existing mortgage in favor of Klamath First Federal Savings and Loan Assn. of Klamath Falls, Oregon. Buyer expressly agrees to assume and pay said mortgage in full under the terms as set forth above. It is further expressly understood that the subject real and personal property are subject to an existing contract of sale, security agreement and UCC filing in favor of Darwin Don Dowding and Marthela H. Dowding, Husband and Wife, and James P. Woodward and Doris K. Woodward, Husband and Wife. } Sellers agree that all net proceeds received from Buyer shall be first applied to the payment of said contract until the same is paid in full, pursuant to the paragraphs set forth above.]

16. Merger. This document is the entire, final and complete agreement of the parties pertaining to the sale and purchase of the property and supercedes or replaces all written or oral agreements heretofore made or existing by and between the parties or their representatives insofar as the property is concerned.

17. Worker's Compensation. Buyer agrees that during the term hereof, he shall carry Workmen's Compensation Insurance from the Oregon State Industrial Accident Commission or from a responsible private carrier, and in the event he obtains private insurance, such insurance shall provide the schedule of employee benefits required by law and shall provide employer's liability coverage with limits of at least \$250,000 for injury to one person and \$1,000,000 for injury for two or more persons in one occurrence.

18. Inventory. No inventory of the previously existing Western Burgers business is included within the terms of sale of this Agreement.

19. Default. Time is of the essence of this Agreement. Default shall occur if:

a. Buyer fails to make payment on the date due, including payment of taxes and/or insurance;

b. Buyer fails to perform any other obligation imposed by this Agreement and does not correct or commence correction of such failure within ten days after receipt of written notice from Sellers specifying the manner in which Buyer is in default; or

c. Buyer becomes insolvent, a receiver is appointed to take possession of all or a substantial part of Buyer's property, Buyer makes an assignment for the benefit of creditors, or files a voluntary petition in bankruptcy, or Buyer is subject to an involuntary petition in bankruptcy, which is not dismissed within 90 days. The occurrence of any of these events as to Buyer shall constitute a default hereunder.

20. Remedies on Default. In the event of default, Sellers may take any one or more of the following steps:

- a. Foreclose this contract by strict foreclosure in equity;
- b. Declare the full unpaid balance immediately due and payable;
- c. Specifically enforce the terms of this Agreement by suit in equity;
- d. Declare this contract null and void. In such case, all Buyer's rights hereunder shall cease without further act by Sellers. Sellers shall be entitled to immediate possession of the property.

In any of the above mentioned cases, except the exercise of the right to specifically enforce this Agreement by suit in equity, all 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 Sellers without any declaration of forfeiture or act of re-entry, and without any other act of Sellers 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.

The remedies provided above shall be non-exclusive in addition to any other remedies as provided by law.

Should Buyer, while in default, permit the premises to become vacant, Sellers may take possession of the same for the purpose of protecting and preserving the property and their security interest herein, and in the event possession is so taken by Sellers, they shall not be deemed to have waived their right to execute any of the foregoing remedies.

21. Notice. Any notice under this Agreement shall be in writing and shall be effective when actually delivered or sent by regular mail, postage prepaid, addressed as follows:

TO SELLERS:

Ricky and Virginia Allen
P. O. Box 243
Talent, OR 97540

TO BUYER:

Henry Kinney
1434 Esplanade
Klamath Falls OR 97601

22. Waiver. Failure of Sellers at any time to enforce performance of any provision of this Agreement shall not limit the right of Sellers to enforce the provision in the future, nor shall any waiver by Sellers of any breach of any provision be a waiver of any succeeding breach of that provision or a waiver of that provision itself, or any other provisions.

23. Attorney Fees. In the event suit or action is instituted to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover from the other party such sums as the court adjudge reasonable as attorney fees at trial or on any appeal of such suit or action, in addition to all other sums provided by law.

24. Closing Costs and Fees. The following closing costs shall be paid equally by Sellers and Buyer at closing: Escrow set-up fees, closing fees, recording fees (UCC and Klamath County) and title insurance. Buyer shall be obligated to pay

such costs only to the maximum of \$500 for his share. Each party shall pay their own attorney fees, if any incurred, in this sale.

25. Tax Prorates and Fees. Seller shall pay their attorney charges for drafting the documents. Real and personal property taxes shall be prorated as of May 1, 1985. Buyer shall pay the note and mortgage assumption fees.

26. Business Name. Sellers consent to the use by Buyer of the Assumed Business Name of Western Burger. Buyer will execute a change of Assumed Business Name at the time of closing. Buyer will also execute a Withdrawal of said Assumed Business Name in favor of Sellers and shall deposit it with this escrow holder. Upon any default, Sellers may withdraw said Withdrawal of Assumed Business Name from escrow and file with the Secretary of State, transferring the name back to Sellers

27. Successor Interests. This Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns, but no interest of Buyer shall be assigned, subcontracted or otherwise transferred, voluntarily or involuntarily, without the prior written consent of Sellers. Consent by Sellers to one transfer shall not constitute consent to other transfers or waiver of this action. Consent shall not be unreasonably withheld.

28. Governing Law. The rights and obligations of such parties hereunder shall be governed by the laws of the State of Oregon.

29. Modifications. The terms of this Agreement may be modified at any time by mutual agreement of all parties in writing, subscribed by all the parties hereto. No modification, except in writing, and subscribed by all parties shall be valid or effective for any purpose.

This Agreement is signed by the parties on the day and year first above written.

SELLERS:

Ricky J. Allen
RICKY J. ALLEN

Virginia E. Allen
VIRGINIA E. ALLEN

BUYER:

Henry Kinney
HENRY KINNEY

STATE OF OREGON)
County of Klamath) SS.

This instrument was acknowledged before me on the 5th day of June, 1985, by RICKY J. ALLEN and VIRGINIA E. ALLEN.

Dusan P. [Signature]
NOTARY PUBLIC FOR OREGON
My Commission Expires: 6-31-88

STATE OF OREGON)
County of Klamath) SS.

This instrument was acknowledged before me on the 19th day of June, 1985, by HENRY KINNEY.

Dusan P. [Signature]
NOTARY PUBLIC FOR OREGON
My Commission Expires: 6-31-88

Buyer(s) HENRY "HANK" KINNEY
 (Hereinafter called buyer)
1434 Esplanade

Klamath Falls, OR 97601

(Buyer's residence or other address specified by him)

Creditor(s) RICKY J. ALLEN and VIRGINIA E. ALLEN
 (Hereinafter called seller)
P. O. Box 243

Talent, OR 97540

(Seller's place of business)

17352

Section 1. The above named buyer (and if more than one, then all buyers jointly and severally), hereinafter sometimes called the debtor, hereby purchases from the above named seller, and seller sells to the buyer the following described goods:

See Exhibit "A" attached hereto and incorporated by this reference.

with all accessories, additions, replacements, parts and accessions now or hereafter affixed to or used in connection therewith as well as the proceeds thereof (all herein collectively called "collateral"), at and for the sum of \$ 89,000 which buyer promises to pay to seller's order at the following times: \$_____ on the signing hereof and at such times thereafter as shall be determined by seller; and the balance, including interest, in monthly installments of not less than \$_____ each, payable on the _____ day of each month hereafter beginning with the month of _____, 19____, and continuing until said sum together with the interest most mentioned is fully paid; all unpaid installments shall bear interest at the rate of _____% per annum from date hereof until paid; interest payable monthly, the same being included in the minimum monthly payments above; and pursuant to the Contract to which this Agreement is attached.

or any part of said price may be paid in advance at any time. If any payment is not paid when due and such default continues for a period of 10 days or longer, seller shall be entitled to collect, and buyer agrees to pay, in addition to the foregoing, seller's collection costs, including reasonable attorney's fees. To secure buyer's performance hereof buyer grants to seller a security interest in said collateral and in all thereof.

Section 2. The buyer hereby warrants and covenants that:

2.1 The collateral is primarily for buyer's ☐ personal, family, household or agricultural purposes, ☒ business or commercial, other than agricultural, purposes (indicate which; see instant notice below).

2.2 At all times the collateral will be kept at
434 Esplanade, Klamath Falls, OR Klamath
 (No. and Street) (City or Town) (County)
 and, shall not be removed from said location, in whole or in part, until such time as seller's written consent thereto shall have been obtained.

2.3 If the collateral is bought or used primarily for business or commercial, other than agricultural, purposes, the buyer's principal place of business in Oregon is that shown at beginning of this agreement; buyer also has places of business in the following other than counties: Deschutes; if buyer's principal place of business in Oregon but resides therein, the county in which buyer resides is _____ County in said state.

2.4 If buyer is a corporation, it was organized under the laws of the State of _____, its principal office and place of business is located at _____ and its principal office and place of business in Oregon is located at the place shown at the beginning of this agreement.

2.5 If the collateral is or is to become attached to real estate, a description of the real estate is:

"Lots 16, 17, and 18, Block 6,
 SECOND HOT SPRINGS ADDITION, in the
 City of Klamath Falls, in County of
 Klamath, State of Oregon."

in Klamath County, Oregon, and buyer will on demand furnish the seller with disclaimers or subordination agreements in form acceptable to the seller, signed by all persons whose interests are or may be prior to the seller's interest.

Section 3. SPECIAL TERMS AND CONDITIONS:

- a) This security agreement is subject to all the terms and conditions of the Sale of Assets Contract to which this agreement is attached.

With reference to the above described goods, there are no warranties of merchantability, express or implied, and none as to air fitness for any purpose except as may be agreed upon between the parties in a writing of even date.

This agreement is subject to the additional provisions set forth on the reverse hereof, the same being incorporated herein by reference. The buyer acknowledges receipt of a copy of this agreement.

IN WITNESS WHEREOF, the buyer and the seller have executed this agreement in duplicate on the date first above mentioned.

Ricky J. Allen (Seller)
VIRGINIA E. ALLEN, Seller
P.O. Box 243, Talent, OR 97540

Henry Kinney
 (Signature of Buyer)

IMPORTANT NOTICE: If the above goods are primarily for buyer's personal, family, household or agricultural purposes, buyer MUST comply with the Truth-in-Lending Act by making required disclosures; for this purpose, use Stevens-Ness form 1311 or equivalent.

NOTE: This form not suitable for use in retail installment sales. The following Stevens-Ness forms of such contracts are available: No. 1204 Motor Vehicles; No. 1205 Consumer Goods; No. 1227 Consumer Goods (short term); No. 1210 Goods and Services Purchased for Home Improvements; No. 1211 Services Purchased for Personal, Family, Household or Agricultural Purposes.

Exhibit B

RICKY J. ALLEN and VIRGINIA E. ALLEN/Western Burger

17353

Erecta shelving (6 pieces)
Gas Furnace
Swamp Cooler
Customer Service Counter
Compressor for Fountain Syrups
Heat Light System
Ansul Fire System
Picnic tables (3 each)
Garbage cans
Miscellaneous kitchen utensils (pots, pans, spoons, etc.)
Preparation Tables with Shelves (7' in length, 3 each)
Compartment sinks (3 each)
Milkshake Mixer
Hot Fudge Warmer (2 each)
Food Warmer
Griddle Receptable Table
Neon Sign
Model 402 Sani-Serve
R.C. Allen Register (2 each)
Walk-In Cooler
Stainless Centerpiece
Grill Hood
Fryer Hood
Speed-O-Mix
Univ. Deep Freeze
Double Fryer Receptacle
Griddle
Starline Twin Dispenser
Aladdin 2600 Fan
Well Fryers (2 each)
Menu Wheel
Booths (8 each)
Tables (4 each)
Fountain Drink Dispenser
Chicken Fryer
Whip Machine
Milk Shake Dispenser
Walk-In Cooler Compressor
Scotsman Ice-Maker
Vendo Drink Dispenser
Dayton 500 CFM Fan
Chicken Hood
2-30 No Cntr Fryer
Electric Meat Warmer
Calculator
Donut Fryer

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of _____
of _____ October _____ A.D., 19 85 at 3:34 o'clock P M., and duly recorded in Vol. 185
of _____ Deeds _____ on Page 17337

FEE \$69.00

Evelyn Biehn,
By _____ County Clerk

[Signature]