

TK

14323

BILL OF SALE

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KNOW ALL MEN BY THESE PRESENTS, That

GARY DILL

, hereinafter called the seller, in consideration of the sum of

THIRTY-FIVE THOUSAND and no cents

Dollars (\$35,000.00)

to the seller paid, the receipt whereof hereby is acknowledged, hereby does grant, bargain, sell, transfer and deliver unto

JAMES L. SMITH and DONNA R. SMITH

hereinafter called the buyer, the following described personal property now located

at Gary's Bakery, 835 Main Street, Klamath Falls, OR 97601

in Klamath County, State of Oregon, to-wit:

SEE ATTACHED EXHIBIT "A"

BILL OF SALE

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE SIDE)

TO HAVE AND TO HOLD the same unto the said buyer and buyer's heirs, executors, administrators, successors and assigns forever.

And the seller hereby covenants and agrees to and with the said buyer and to and with buyer's successors in interest and assigns that seller is the owner of the above described personal property; that the same is free from all encumbrances

that seller has a good right to sell the same; and that seller will and seller's heirs, executors, administrators and successors shall warrant and forever defend this sale against the lawful claims and demands of all persons whomsoever.

In construing this bill of sale and where the context so requires, the singular includes the plural, the masculine includes the feminine and the neuter and, generally, all grammatical changes shall be made so that this instrument shall apply equally to individuals and to corporations.

IN WITNESS WHEREOF, the seller has hereunto set his hand; and if the undersigned seller is a corporation, it has caused its corporate name to be signed and its corporate seal to be affixed hereunto by its officers duly authorized thereunto by order of its board of directors.

Dated February 19, 1988.

(If executed by a corporation,
affix corporate seal.)

Gary E Dill

STATE OF OREGON

County of Klamath

ss.

I, Gary Dill

being first duly sworn, depose and say: That I am

the seller of the property described in the foregoing bill of sale; that seller is the sole owner of said property; that the same has been paid for in full and that as of this date said personal property and each and every part thereof is free and clear of all liens, encumbrances and security interests of any kind or nature

Gary E Dill

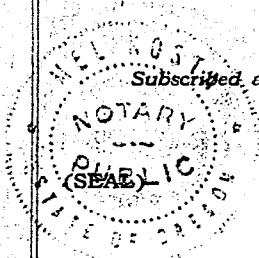
Subscribed and sworn to before me this 19th day of February, 1988.

Notary Public for

My commission expires 11-9-89

(OVER)

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CONTRACT OF SALE

THIS AGREEMENT made this 17th day of February, 1988, between Gary Dill, dba GARY'S BAKERY, hereinafter referred to as "Seller" and James L. Smith and Donna R. Smith, hereinafter referred to as "Buyers":

WITNESSETH:

IN CONSIDERATION of the mutual covenants and promises of the parties hereto, Seller and Buyers covenant and agree as follows:

SECTION ONESALE OF BUSINESS

Seller agrees to sell and Buyers agree to purchase, free from all liabilities and encumbrances, the bakery business now owned and operated by Seller at its location at 835 Main Street, City of Klamath Falls, County of Klamath, State of Oregon, including the right to conduct business under the name and style of GARY'S BAKERY, the good will of the business as a going concern, all of the equipment described in Exhibit "A" attached hereto and by this reference made a part hereof, all of the Seller's rights under Seller's contracts, licenses and agreements, and all other assets and property owned, including any and all existing contracts and the existing telephone number, and used by Seller in connection with such business other than is specifically excluded herein. This sale does not include the cash on hand or in banks at the day of closing or such other property not listed on Exhibit "A".

SECTION TWOPurchase Price

The purchase price of the business of Gary's Bakery as represented above shall be sold for the price of \$35,000.00. As full payment for the transfer of the assets by Seller, the Buyers have agreed to sign a Promissory Note to the Seller the sum of \$10,000.00 as a down payment with the first payment of \$100.00 to commence on March 18, 1988 with a like payment of \$100.00 per month until paid

in full, including interest at the rate of six percent (6%) per annum, with the balance of \$25,000.00 to be financed through South Valley State Bank at the time of signing this Agreement.

SECTION THREE

Time of Closing

The closing shall take place at the office of the Buyers, 835 Main Street, Klamath Falls, OR 97601, County of Klamath, on or before the _____ day of February, 1988. Upon payment of the \$25,000.00 to Seller, Seller shall deliver to Buyers such instruments of transfer as are necessary to transfer to Buyers the business and the property referred to in Section One. Such instruments of transfer shall effectively transfer to Buyers full title of the business and property referred to in Section One, free of all liens and encumbrances.

SECTION FOUR

Covenant Not to Compete

Seller shall not engage in a business similar to that involved in this transaction in any capacity, directly or indirectly within Klamath County for a period of three (3) years from the date of closing of this Agreement. For purchases of this Agreement, "business similar to that involved in this transaction" includes within its scope involvement in any wholesale delivery business.

SECTION FIVE

Operation of the Business Pending Closing

From the execution of this Agreement to the time of closing, the Seller shall continue to operate the business covered by this Agreement in a manner that is consistent with good business practices. All profits or losses generated during such operation between the date of execution of this Agreement at the time of closing shall belong to the Seller.

SECTION SIX**Representations of Seller**

Seller represents and warrants that:

- a. He is duly qualified under the laws of the State of Oregon to carry on the business now owned and conducted within Klamath County.
- b. He is the owner of and has good and marketable title to the property referred to in Section One, free of all restrictions on transfer or assignment and of all encumbrances.
- c. He has to his knowledge operated the business in accordance with all laws, ordinances and rules relating to the business.
- d. No proceedings, judgments or liens are now pending or threatened against him or against the business.
- e. He will, up to the date of closing, operate his business in the usual and ordinary manner and will not enter into any contracts except as may be required in the regular course of business.
- f. He will duly comply with the provisions of Uniform Commercial Code of the State of Oregon, dealing with bulk transfers.

SECTION SEVEN**Indemnification**

Seller shall indemnify Buyers against any and all claims, demands, losses and liabilities respecting the business or otherwise, including interest, penalties and reasonable attorney's fees, that Buyers shall incur or suffer by reason of Seller's breach of any representation, warranty, covenant, promise or agreement covered by this Agreement or in any exhibit, schedule or other instrument attached hereto or furnished, or to be furnished, by Seller under this Agreement.

SECTION EIGHTBill of Sale

Seller agrees to execute and deliver to Buyers at closing or such other date as may be fixed, a proper Bill of Sale conveying to the Buyers all of the goods, merchandise, chattels and other personal properties covered by this Agreement.

SECTION NINECondition of the Equipment and Inventory

The Seller represents to the Buyers that the equipment and inventory are in good condition and that there are no hidden defects in the equipment or inventory, that have not been disclosed to the Buyers.

SECTION TENAttorney's Fees

In the event that legal proceedings are instituted by either party or enforce any of the provisions of this Agreement, then in addition to such costs as may be awarded by the Court, the prevailing party in such proceedings shall be entitled to recover from the other party, such amounts as the Court shall deem reasonable as attorney's fees in connection with such proceedings.

SECTION ELEVENAttorney's Fees and Representation

The parties recognize that this Agreement has been prepared by Mel Kosta as attorney for the Buyers. The Seller is advised to seek independent legal counsel in connection with his rights and responsibilities under this Agreement. Each of the parties shall pay their own attorney fees in connection with this transaction.

DATED this 19th day of February, 1988 in Klamath Falls, Oregon.

GARY'S BAKERY

Gary Dill
Seller

Donna L. Smith
Buyers
James L. Smith
Buyers

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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Gary Dill the 2nd day
of May A.D., 19 90 at 11:46 o'clock AM., and duly recorded in Vol. M90
of Miscellaneous on Page 8271.

Evelyn Biehn County Clerk

By Pauline Mulendore

FEE \$30.00