IOWA STATE BAR ASSOCIATION
Official Form No. 143

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5-2386

Tracey Law Office

DELAWARE COUNTY IOWA
FILED
90 APR 11 PM 2 56
BOOK 49 PAGE 247
JOAN SHEPPARD
RECORDER
$10.00

RICHARD D. SCHMITT & WF.
TO
DAVID D. GARLOW

SPACE ABOVE THIS LINE
FOR RECORDER

REAL ESTATE CONTRACT (SHORT FORM)

IT IS AGREED between Richard D. Schmitt and Deborah S. Schmitt, husband and wife, ("Sellers"), and David D. Garlow ("Buyers")

Sellers agree to sell and Buyers agree to buy real estate in Delaware County, Iowa, described as:

The North One Half (N½) of Lot Thirty Two (32), A. R. Loomis Addition to Manchester, Iowa, according to plat recorded in Book 15, L.D., Page 410;

with any easements and appurtenant servient estates, but subject to the following: a. any zoning and other ordinances, b. any covenants of record; c. any easements of record for public utilities, roads and highways; and d. (consider: liens; mineral rights; other easements; interests of others.)

(the "Real Estate"), upon the following terms:

1. **PRICE.** The total purchase price for the Real Estate is - TWENTY EIGHT THOUSAND AND NO/100 - - - - - - - - - - - - - - - Dollars ($ 28,000.00) of which TEN AND NO/100 - - - - - - - - - - - - - - - - - - Dollars ($ 10.00) has been paid. Buyers shall pay the balance to Sellers at residence of Sellers, or as directed by Sellers, as follows: the balance of $27,990.00 payable at $350.00 per month commencing on June 10, 1990, and $350.00 on the 10th day of each month thereafter to and including December 10, 1992; thereafter Buyer shall pay $250.00 per month commencing on January 10, 1993, and continuing on the 10th day of each month thereafter until May 10, 2000, when all sums due under this contract shall be paid in full. All payments shall be applied first to interest and then to principal. Buyer reserves the right to pre-pay any or all of the balance due at any time without penalty.

2. **INTEREST.** Buyers shall pay interest from date of possession on the unpaid balance, at the rate of 10 percent per annum, payable monthly, commencing June 10, 1990

Buyers shall also pay interest at the rate of 10 percent per annum on all delinquent amounts and any sum reasonably advanced by Sellers to protect their interest in this contract, computed from the date of the delinquency or advance.

3. **REAL ESTATE TAXES.** Sellers shall pay all taxes for the fiscal year July 1, 1988-June 30, 1989, and a pro-rata share up to date of possession of the taxes for the fiscal year July 1, 1989-June 30, 1990, and any unpaid real estate taxes payable in prior years. Buyers shall pay all subsequent real estate taxes. Any proration of real estate taxes on the Real Estate shall be based upon such taxes for the year currently payable unless the parties state otherwise.

4. **SPECIAL ASSESSMENTS.** Sellers shall pay all special assessments which are a lien on the Real Estate as of the date of this contract. All other special assessments shall be paid by Buyers.

5. **POSSESSION.** Sellers shall give Buyers possession of the Real Estate on May 18, 19 90, provided Buyers are not in default under this contract.

6. **INSURANCE.** Sellers shall maintain existing insurance upon the Real Estate until the date of possession. Buyers shall accept insurance proceeds instead of Sellers replacing or repairing damaged improvements. After possession and until full payment of the purchase price, Buyers shall keep the improvements on the Real Estate insured against loss by fire, tornado, and extended coverage for a sum not less than 80 percent of full insurable value payable to the Sellers and Buyers as their interests may appear. Buyers shall provide Sellers with evidence of such insurance.

For Release, See Book ___ Page ___

FILE No. 5-2386	FILED FOR RECORD THE 11 DAY OF April, 19 90 AT 2:56	STATE OF IOWA, DELAWARE COUNTY
RECORDING FEE $ 10.00	O'CLOCK P. M. BOOK 49 PAGE 247	Joan Sheppard, Recorder
TRANSFER FEE $		TLD

7. **ABSTRACT AND TITLE.** Sellers, at their expense, shall promptly obtain an abstract of title to the Real Estate continued through the date of this contract _____, and deliver it to Buyers for examination. It shall show merchantable title in Sellers in or conformity with this contract, Iowa law and the Title Standards of the Iowa State Bar Association. The abstract shall become the property of the Buyers when the purchase price is paid in full, however, Buyers reserve the right to occasionally use the abstract prior to full payment of the purchase price. Sellers shall pay the costs of any additional abstracting and title work due to any act or omission of Sellers, including transfers by or the death of Sellers or their assignees.

8. **FIXTURES.** All property that integrally belongs to or is part of the Real Estate, whether attached or detached, such as light fixtures, shades, rods, blinds, awnings, windows, storm doors, screens, plumbing fixtures, water heaters, water softeners, automatic heating equipment, air conditioning equipment, wall to wall carpeting, built-in items and electrical service cable, outside television towers and antenna, fencing, gates and landscaping shall be considered a part of Real Estate and included in the sale except: (consider: rental items.) no exceptions

9. **CARE OF PROPERTY.** Buyers shall take good care of the property; shall keep the buildings and other improvements now or later placed on the Real Estate in good and reasonable repair and shall not injure, destroy or remove the property during the term of this contract. Buyers shall not make any material alteration to the Real Estate without the written consent of the Sellers.

10. **DEED.** Upon payment of purchase price, Sellers shall convey the Real Estate to Buyers or their assignees, by _____ deed, free and clear of all liens, restrictions, and encumbrances except as provided herein. Any general warranties of title shall extend only to the date of this contract, with special warranties as to acts of Sellers continuing up to time of delivery of the deed.

11. **REMEDIES OF THE PARTIES.**

a. If Buyers fail to timely perform this contract, Sellers may, at Seller's option, either (i) forfeit Buyers' rights in this contract as provided in the Iowa Code, and all payments made by Buyers shall be forfeited or (ii) upon thirty days written notice by Sellers to Buyers of Sellers' intention to accelerate the payment of the entire balance because of such failure (during which thirty days such failure is not corrected) Sellers may declare the entire balance immediately due and payable, and thereafter this contract may be foreclosed in equity; the Court may appoint a receiver; and the period of redemption after sale on foreclosure may be reduced under the conditions of Section 628.26 or Section 628.27 of the Iowa Code.

b. If Sellers fail to timely perform their obligations under this contract, Buyers shall have the right to terminate this contract and have all payments made returned to them.

c. Buyers and Sellers are also entitled to utilize any and all other remedies or actions at law or in equity available to them.

d. In any action or proceeding relating to this contract the successful party shall be entitled to receive reasonable attorney's fees and costs as permitted by law.

12. **JOINT TENANCY IN PROCEEDS AND IN REAL ESTATE.** If Sellers, immediately preceding this contract, hold title to the Real Estate in joint tenancy with full right of survivorship, and the joint tenancy is not later destroyed by operation of law or by acts of Sellers, then the proceeds of this sale, and any continuing or recaptured rights of Sellers in the Real Estate, shall belong to Sellers as joint tenants with full right of survivorship and not as tenants in common; and Buyers, in the event of the death of either Seller, agree to pay any balance of the price due Sellers under this contract to the surviving Seller and to accept a deed from the surviving Seller consistent with paragraph 10.

13. **JOINDER BY SELLER'S SPOUSE.** Seller's spouse, if not a titleholder immediately preceding acceptance of this offer, executes this contract only for the purpose of relinquishing all rights of dower, homestead and distributive shares or in compliance with Section 561.13 of the Iowa Code and agrees to execute the deed for this purpose.

14. **TIME IS OF THE ESSENCE.** Time is of the essence in this contract.

15. **PERSONAL PROPERTY.** If this contract includes the sale of any personal property, Buyers grant the Sellers a security interest in the personal property and Buyers shall execute the necessary financing statements and deliver them to Sellers.

16. **CONSTRUCTION.** Words and phrases in this contract shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context.

17. **ADDITIONAL PROVISIONS.**

Dated: April 10, 19 90

David D. Garlow
(David D. Garlow)

Richard D. Schmitt
(Richard D. Schmitt)

Deborah S. Schmitt
(Deborah S. Schmitt)

BUYERS **SELLERS**

STATE OF IOWA, COUNTY OF DELAWARE, ss:

On this 10th day of April, 19 90, before me, the undersigned, a Notary Public in and for said State, personally appeared Richard D. Schmitt and Deborah S. Schmitt, husband and wife; David D. Garlow;

to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledged to me that they executed the same as their voluntary act and deed.

Ann Moorman

Ann Moorman, Notary Public in and for Said State.