REAL ESTATE CONTRACT - INSTALLMENTS

IT IS AGREED this 11th. day of October, 1990, by and between Dorothy Tauke, single and unremarried, of the County of Dubuque, State of Iowa, Sellers; and Mark Aloysious Westhoff and Joyce Ann Westhoff, husband and wife, an undivided 50% interest as tenants in common with such undivided interest as held by Mark Aloysious Westhoff and Joyce Ann Westhoff as joint tenants with rights of survivorship; and Wayne Robert Westhoff, single an undivided 50% as tenant in common, of the County of Delaware, State of Iowa, Buyers:

That the Sellers, as in this contract provided, agree to sell to the Buyers, and the Buyers in consideration of the premises, hereby agree with the Sellers to purchase the following described real estate situated in the County of Delaware, State of Iowa, to-wit:

North Half (N 1/2) of the Southwest Quarter (SW 1/4); North Half (N 1/2) of the South Half (S 1/2) of the Southwest Quarter (SW 1/4), Section 10, Township 89 North, Range 3, Delaware County, Iowa.

Property sold as is.

together with any easements and servient estates appurtenant thereto, but with such reservations and exceptions of title as may be below stated, and certain personal property if and as may be herein described or if and as an itemized list is attached hereto and marked Exhibit "B" all upon the terms and conditions following:

1. **TOTAL PURCHASE PRICE**. The buyer agrees to pay for said property the total of $280,000.00, due and payable at Seller's residence, Dubuque County, Iowa as follows:

(a) **DOWN PAYMENT** of $10,000.00 as of date of possession if the contract is signed by all parties concerned prior to possession date. Check for said $10,000 is attached hereto, receipt of which is hereby acknowledged with stipulation that such check may be cashed by Seller on possession date if as above stated, all parties have signed this agreement. If all parties have not signed by possession date, such check shall be returned uncashed by Seller.

(b) **BALANCE OF PURCHASE PRICE** $270,000.00 as follows: $50,000.00 without interest and more as may be increased by the provisions of this paragraph on or before March 1, 1991, and interest paid to date on or before March 1, 1992, and interest paid to date on September 1, 1992, and interest paid to date on each and every March 1 and September 1, thereafter until fully paid, plus a minimum of $5000 principal each and every year beginning in the calendar year 1992, and a maximum $25,000 of principal each and every year thereafter beginning in the calendar year 1992, until March 1, 2011, when all sums due under this contract are paid in full, plus interest on unpaid balances thereof at the rate of 8.5% per annum, payable semi-annually on March 1, and September 1 as set out hereinabove from March 1, 1991, until fully paid, said payments to be applied first to the interest then unpaid and next upon the balance of the principal. Buyers may prepay any and all principal amounts within limits set out hereinabove as are due under this contract at any time without penalty.

2. **POSSESSION.**

Buyers, concurrently with due performance on their part shall be entitled to possession of said premises on the 15th day of October, 1990; and thereafter so long as they shall perform the obligations of this contract.

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52040

FILE No. 48-894
RECORDING FEE $ 30.00
TRANSFER FEE $

FILED FOR RECORD THE 11 DAY OF October, 1990 AT 11:44 O'CLOCK A. M. BOOK 127 PAGE 9

STATE OF IOWA, DELAWARE COUNTY
Joan Sheppard, Recorder
LD

3. TAXES. All regular taxes due and payable in the fiscal year ending June 30, 1990, are to be paid by SELLERS. All regular taxes for the current fiscal year ending June 30, 1991, are to be pro-rated between the BUYERS and SELLERS as of the March 1, 1991. The basis of such pro-ration shall be the last known actual taxes payable. In addition, SELLER shall pay any unpaid taxes thereon payable in prior years. BUYERS shall pay any taxes not assumed by SELLERS and all subsequent taxes before same become delinquent. Whoever may be responsible for the payment of said taxes and the special assessments, if any, each year, shall furnish to the other parties evidence of payment of such items not later than July 15, of each year.

4. MORTGAGE. Any mortgage or encumbrance of a similar nature against the said property shall be timely paid by Sellers so as not to prejudice the Buyers' equity herein. Should Sellers fail to pay, Buyers may pay any such sums in default and shall receive credit on this contract for such sums so paid. MORTGAGE BY SELLERS. Sellers, their successors in interest or assigns may, and hereby reserve the right to at any time mortgage their right, title or interest in such premises or to renew or extend any existing mortgage for any amount not exceeding 40% of the then unpaid balance of the purchase price herein provided. The interest rate and amortization thereof shall be no more onerous than the installment requirements of this contract. Buyers hereby expressly consent to such a mortgage and agree to execute and deliver all necessary papers to aid Sellers in securing such a mortgage. DEED FOR BUYERS SUBJECT TO MORTGAGE. If Buyers have reduced the balance of this contract to the amount of any existing mortgage balance on said premises, they may at their option, assume and agree to pay said mortgage according to its terms, and subject to such mortgage shall receive a deed to said premises; or Sellers, at their option, any time before Buyers have made such a mortgage commitment, may reduce or pay off such mortgage. ALLOCATED PAYMENTS. Buyers, in the event of acquiring this property from an equity holder instead of a holder of the fee title, or in the event of a mortgage against said premises, reserve the right, if reasonably necessary for their protection to divide or allocate the payments to the interested parties as their interests may appear. SELLERS AS TRUSTEES. Sellers agree that they will collect no money hereunder in excess of the amount of the unpaid balance under the terms of this contract less the total amount of the encumbrance on the interest of Sellers or their assigns in said real estate; and if Sellers shall hereafter collect or receive any moneys hereunder beyond such amount, they shall be considered and held as collecting and receiving said money as the agent and trustee of the Buyers for the use and benefit of the Buyers.

5. CARE OF PROPERTY. Buyers shall not use or permit said premises to be used for illegal purposes. Buyers shall have the absolute right after date of possession to repair and/or remove any improvements located on the property at the complete discretion of Buyer.

6. IMPROVEMENTS AND LIENS. Buyers shall be permitted to make improvements to the property herein and may in good faith contest the claims and liens of third persons furnishing labor or materials for such improvements, but Buyers agree to promptly pay any such claim or lien within sixty (60) days after the entry of final judgment thereon against Buyers by a court of competent jurisdiction. The mere filing of a mechanic's lien against the property herein shall not constitute grounds for forfeiture of the contract by Buyers so long as said lien is being contested in good faith by Buyers. Subject to the foregoing, Buyers hereby agree to pay in full all mechanic's liens now or hereafter filed

against the property described herein for materials or services provided to Buyers. Buyers hereby agree to indemnify and hold harmless Sellers from and against any and all such liens, costs and expenses relating thereto and to fully pay to and reimburse Sellers for any costs which they may be required to incur arising out of or relating to the filing of any mechanic's liens against the property described herein, including the amount of any such lien, court costs, interest and attorney's fees. Additionally, the vendor's lien underlying this contract with respect to the property herein contemplated to be sold shall be prior and superior to any claims made pursuant to a mechanic's lien.

7. ADVANCEMENT BY SELLERS. If Buyers fail to pay such taxes or special assessments and effect necessary repairs, as above agreed, Sellers may, but need not, pay such taxes or special assessments, and make necessary repairs, and all sums so advanced shall be due and payable on demand or such sums so advanced may, at the election of Sellers, be added to the principal amount due hereunder and so secured.

8. JOINT TENANCY IN PROCEEDS AND SECURITY RIGHTS IN REAL ESTATE. If and only if, the Sellers immediately preceding this sale, hold the title to the above described property in joint tenancy, and such joint tenancy has not later been destroyed by operation of law or by acts of the Sellers, this sale shall not constitute such destruction and the proceeds of this contract, and any continuing and/or recaptured rights or Sellers in said real estate, shall be and continue in Sellers as joint tenants with rights of survivorship and not as tenants in common; and Buyers, in the event of the death of one of such joint tenants, agree to pay any balance of the proceeds of this contract to the surviving Seller (or Sellers) and to accept deed solely from him or them consistent with paragraph 13 below unless and except this paragraph is stricken from this agreement.

9. TIME IS OF THE ESSENCE of this Agreement. Failure to promptly assert rights of Sellers herein shall not, however, be a waiver of such rights or a waiver of any existing or subsequent default.

10. EXCEPTIONS TO WARRANTIES OF TITLE. The warranties of title in any Deed made pursuant to this contract shall be without reservation or qualification EXCEPT; (a) Zoning Ordinance; (b) Such restrictive covenants as may be shown of record; (c) Easements of record, if any; (d) As limited by paragraphs 1, 2, 3 and 4 of this contract; (e) Sellers shall give Warranty as to the period after equitable title passes to Buyers; (f) Spouse if not a titleholder, need not join in any warranties of the deed unless otherwise stipulated.

11. DEED AND ABSTRACT, BILL OF SALE. If all said sums of money and interest are paid to Sellers during the life of this contract, and all other agreements for performance by Buyers have been complied with, Sellers will execute and deliver to Buyers a Warranty Deed conveying said premises in fee simple pursuant to and in conformity with this contract; and Sellers will at this time deliver to Buyers an abstract showing merchantable title, in conformity with this contract. Such abstract shall begin with the government patent (unless pursuant to the Iowa State Bar Association title standards there is a lesser requirement as to period of abstracting) to said premises and shall show title thereto in Sellers as of the date of this contract; or as of such earlier date if and as designated in the next sentence. This contract supersedes the previous written offer of Buyers to buy the above described property which was accepted by Sellers. Sellers shall also pay the cost of any abstracting due to any act or change in the personal affairs of Sellers resulting in a change of title by operation of law or otherwise. If any personal property is a part of this agreement, then upon due performance by Buyers, Sellers shall execute and deliver a Bill

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of Sale consistent with the terms of this contract. Sellers shall pay all taxes on any such personal property and all taxes thereon payable prior thereto, in same manner as payment of taxes as provided in Paragraph 3 herein. At the option of the Buyers and with notice to Sellers, Buyers shall have the right to do a title opinion on an abstract brought to date within 30 days of such notice and such abstract costs shall be at the expense of Sellers. Any and all subsequent abstracting costs shall be at expense of Buyer if Buyer so elects prior to end of the term of the contract.

12. APPROVAL OF ABSTRACT. Buyers have not examined the abstract of title to this property and such abstract is not accepted.

13.1 FORFEITURE. If Buyers (a) fail to make the payments aforesaid, or any part thereof, as same become due; or (b) fail to pay the taxes or special assessments or charges, or any part thereof, levied upon said property, or assessed against it, by any taxing body before any of such items become delinquent; or (c) fail to keep it in reasonable repair as herein required; or (d) fail to perform any of the agreements as herein made or required; then sellers, in addition to any and all other legal and equitable remedies which they may have, at their option, may proceed to forfeit and cancel this contract as provided by law (Chapter 656 Code of Iowa), except that the provision requiring compliance with the terms of this contract within 30 days after the completed service of the notice shall be extended to 90 days. Upon completion of such forfeiture Buyers shall have no right of reclamation or compensation for money paid, or improvements made; but such payments and/or improvements if any shall be retained and kept by Sellers as compensation for the use of said property, and/or as liquidated damages for breach of this contract; and upon completion of such forfeiture, if the Buyers, or any other person or persons shall be in possession of said real estate or any part thereof, such party or parties in possession shall at once peacefully remove therefrom, or failing to do so may be treated as tenants holding over, unlawfully after the expiration of a lease, and may accordingly be ousted and removed as such as provided by law.

13.2 ELECTION OF REMEDIES. If Buyers fail, in any one or more of the specified ways to comply with this contract, as in (a), (b), (c), or (d) of numbered Paragraph 14.1 above provided, Sellers agree their only legal or equitable remedy is to elect to forfeit and cancel this contract as provided by Chapter 656 Code of Iowa and as set forth above in Paragraph 14.1. SELLERS hereby waive any legal or equitable right to foreclose in the event of default and in all events irregardless of what remedy is available to them in law or equity, SELLERS waive any and all rights to any deficiency amount or deficiency Judgment against BUYERS.

14. ATTORNEY'S FEES. In case of any action, or in any proceedings in any Court to collect any sums payable or secured herein, or to protect the lien or title herein of Sellers, or in any other case permitted by law in which reasonable attorney's fees may be collected from Buyers, or imposed upon them, or upon the above described property, Buyers agree to pay reasonable attorney's fees.

15. ASSIGNMENT. In case of the assignment of this Contract by either of the parties, prompt notice shall be given to the other parties, who shall at the time of such notice be furnished with a duplicate of such assignment by such assignors. Any such assignment shall not terminate the liability of the assignor to perform, unless a specific release in writing is given and signed by the other party to this contract.

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

17. **PARTIAL INVALIDITY.** If any provision of this contract or any specific application shall be invalid or unenforceable, the remainder of this contract, or the application of the provision in other circumstances, shall not be affected, and each provision of this contract shall be valid and enforceable to the fullest extent permitted by law.

18. **DELIVERY OF DEED.** In the event Buyer sells any portion of the premises purchased herein, Seller agrees to deliver to Buyer a Deed pursuant to Paragraph 13 herein for said portion provided that Sellers security in the premises purchased is not threatened, jeopardized or diminished.

19. **SUBDIVISION.** In the event Buyer subdivides and plats the premises purchased herein, or any part thereof, Seller agrees to execute a Consent to Plat to accomplish and assist Buyer in same.

Dorothy Tauke
Dorothy Tauke, SELLER

Mark Aloysious Westhoff
Mark Aloysious Westhoff

Joyce Ann Westhoff
Joyce Ann Westhoff

Wayne Robert Westhoff
Wayne Robert Westhoff
BUYERS

1511 - 1st Avenue, East
Dyersville, IA 52040
Seller's Address

RFD #2, Box 73
Dyersville, IA 52040
Buyer's Address

R.R. #2, Box 73
Dyersville, IA 52040
Buyer's Address

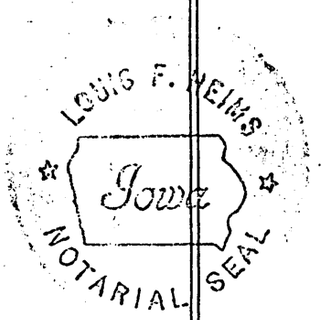
MARY A. BERTLING Iowa NOTARIAL SEAL

STATE OF IOWA, DUBUQUE COUNTY, SS:

On this 11th. day of October, A.D., 1990, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Dorothy Tauke to me known to be the identical person named in and who executed the within and foregoing instrument, and acknowledged that she executed the same as her voluntary act and deed.

Mary A. Bertling
Mary A. Bertling Notary Public
In and for said County & State

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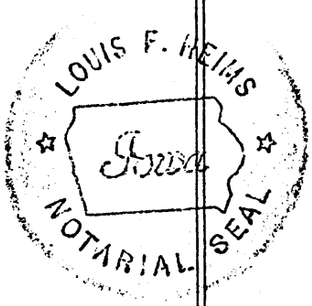
STATE OF IOWA, DUBUQUE COUNTY, SS:

On this 10th day of October, A.D., 1990, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Wayne Robert Westhoff to me known to be the identical person named in and who executed the within and foregoing instrument, and acknowledged that he executed the same as his voluntary act and deed.

Louis F. Heims, Notary Public
In and for said County & State

STATE OF IOWA, DUBUQUE COUNTY, SS:

On this 10th day of October, A.D. 1990, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Mark Aloysious Westhoff and Joyce Ann Westhoff to me known to be the persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.



Louis F. Heims, Notary Public
In and for Said County and State

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