REAL ESTATE CONTRACT - INSTALLMENTS

IT IS AGREED this 1 day of October, 1993, by and between Daniel D. Rose and Phyllis J. Rose, husband and wife, of the County of Delaware, State of Iowa, Sellers; and James L. Simoens and Sandra M. Simoens, as husband and wife as joint tenants with full rights of survivorship and not as tenants 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:

E½ of SE¼ SW¼ of Section 23, E½ of NW¼ NW¼ of Section 26 and NE¼ NW¼ except SW¼ NE¼ NW¼ of Section 26, all of the above 3 parcels in Township 87 North, Range 4, West of 5 P.M.

together with any easements and servient estates appurtenant thereto, but with such reservations and exceptions of title as may be below stated, all upon the terms and conditions following:

1. **TOTAL PURCHASE PRICE.** The Buyer agrees to pay for said property the total of $23,300.00 due and payable at Seller's residence, RFD #2, Hopkinton, Iowa, as follows:

(a) **DOWN PAYMENT OF $2,000.00 RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED:** and

(b) **BALANCE OF PURCHASE PRICE.** $21,300.00, as follows: $3,000.00, including interest, or more at the option of the Buyers, on or before the first day of October, 1994, and $3,000.00, including interest, or more at the option of the Buyers, on the first day of October of each and every year thereafter until all sums due under this contract are paid in full with interest on unpaid balances thereof at the rate of 8% per annum payable annually from October 1, 1993, date of Possession, until fully paid, said payments to be applied first to the interest then unpaid and next upon the balance of the principal; provided that Buyers shall pay all sums due under this contract in full on or before the first day of October, 2003.

2. **POSSESSION.** Buyers, concurrently with due performance on their part shall be entitled to possession of said premises on the 1 day of October , 1993; however, Sellers retain the right to the use of the premises for pasture for livestock, but for no other purpose.

In consideration of the use of the premises for pasture for livestock, Sellers agree to pay annually the sum of $~~200~~ with the first pasture rent payment for the year 1994 due on October 1 of the year 1994. Sellers shall have the right to continue to rent the premises for pasture purposes only during the term of this contract. Thereafter, commencing with the final payment on October 1, 2003, or any year prior thereto, the pasture renal agreement shall become a year-to-year lease, commencing on the following January 1 for the calendar year starting January first unless Sellers or Buyers give notice of the nonrenewal of the rental agreement on or before October 1 to be effective on the following January first.

In consideration of the right to pasture livestock on the premises, the Sellers also agree to maintain the fences in good condition and to comply with the requirements of the Iowa Fencing Law with respect to the maintenance of legal fences for purposes of restraining livestock.

3. **TAXES.** Sellers shall pay all of the 1992 fiscal year taxes payable in September, 1993 and March, 1994 and 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 April 15 of each year.

4. **SPECIAL ASSESSMENTS.** Sellers shall pay the special assessments against this property which are a lien thereon as of October 1, 1993, and Buyers, except as above stated, shall pay all subsequent special assessments and charges, before they become delinquent.

5. **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 90% 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 which shall be prior and paramount to any of Buyers' then rights in said property. **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.

6. **CARE OF PROPERTY.** Buyers shall take good care of this property; shall keep the buildings and other improvements now or hereafter placed on the said premises in good and reasonable repair and shall not injure, destroy or remove the same during the life of this contract. Buyers shall not make any material alteration in said premises without the written consent of the Sellers. Buyers shall not use or permit said premises to be used for any illegal purpose.

7. **LIENS.** No mechanics' lien shall be imposed upon or foreclosed against the real estate described herein.

8. **ADVANCEMENT BY SELLERS.** If Buyers fail to pay such taxes, special assessments and insurance and effect necessary repairs, as above agreed, Sellers may, but need not, pay such taxes, special assessments, insurance 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. (For Buyers' rights to make advancements, see paragraph 5 above.)

9. **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 of Sellers in said real estate, shall be and continue in Sellers as joint tenants with rights of survivor-ship 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 14 below unless and except this paragraph is stricken from this agreement.

FILE No. 350-2100
RECORDING FEE $ 16.00
TRANSFER FEE $
FILED FOR RECORD THE 6 DAY OF Jan 19 94 AT 11:20 O'CLOCK A. M. BOOK 132 PAGE 227
STATE OF IOWA, DELAWARE COUNTY
Deborah L. Peyton, Recorder
LD

10. **SELLERS.** Spouse, if not titleholder immediately preceding this sale, shall be presumed to have executed this instrument only for the purpose of relinquishing all rights of dower, homestead and distributive share and/or in compliance with Section 561.13 Code of Iowa; and the use of the word "Sellers" in the printed portion of this contract, without more, shall not rebut such presumption, nor in any way enlarge or extend the previous interest of such spouse in said property, or in the sale proceeds, nor bind such spouse except as aforesaid, to the terms and provisions of this contract.

11. **TIME IS OF THE ESSENCE.** Time is of the essence in this agreement. Failure to promptly asset rights of Sellers herein shall not, however, be a waiver of such rights or a waiver of any existing or subsequent default.

12. **EXCEPTIONS TO WARRANTIES OF TITLE.** The warranties of title in any Deed made pursuant to this contract (See paragraph 14) shall be without reservation or qualification EXCEPT: (a) Zoning ordinances; (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 Special Warranty as to the period after equitable title passes to Buyers; (f) Spouse if not titleholder, need not join in any warranties of the deed unless otherwise stipulated:

(g) none
(Mineral reservations of record?)

(h) none (Liens?) none (Easements not recorded?)

none
(Interests of other parties?)

none, except as stated in paragraph 2 on page 1.
(Lessees?)

13. **DEED AND ABSTRACT, BILL OF SALE.** If all said sums of money and interest are paid to Sellers during the life of this contract, an all other agreements for performance by Buyers have been complied with, Sellers will execute and deliver to Buyers a General 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.

14. **APPROVAL OF ABSTRACT.** Buyers have not examined the abstract of title to this property and such abstract is not accepted. Sellers shall deliver abstract showing marketable title by November 1, 1993.

15. **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 the property insured; or (d) fail to keep it in reasonable repair as herein required; or (e) 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). 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.

16. **FORECLOSURE AND REDEMPTION.** If Buyers fail to timely perform this contract, Sellers, at their option, may elect to declare the entire balance immediately due and payable after such notice, if any, as may be required by Chapter 654, The Code. Thereafter this contract may be foreclosed in equity and the court may appoint a receiver to take immediate possession of the property and of the revenues and income accruing therefrom and to rent or cultivate the same as the receiver may deem best for the interest of all parties concerned, and such receiver shall be liable to account to Buyers only for the net profits, after application of rents, issues and profits from the costs and expenses of the receivership and foreclosure and upon the contract obligation.

It is agreed that if this contract covers less than ten (10) acres of land, and in the event of the foreclosure of this contract and sale of the property by sheriff's sale in such foreclosure proceedings, the time of one year for redemption from said sale provided by the statutes of the State of Iowa shall be reduced to six (6) months provided the Sellers, in such action file an election to waive any deficiency judgment against Buyers which may arise out of the foreclosure proceedings; all to be consistent with the provisions of Chapter 628 of the Iowa Code. If the redemption period is so reduced, for the first three (3) months after sale such right of redemption shall be exclusive to the Buyers, and the time periods in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to four (4) months.

It is further agreed that the period of redemption after a foreclosure of this contract shall be reduced to sixty (60) days if all of the three following contingencies develop: (1) The real estate is less than ten (10) acres in size; (2) the Court finds affirmatively that the said real estate has been abandoned by the owners and those persons personally liable under this contract at the time of such foreclosure; and (3) Sellers in such action file an election to waive any deficiency judgment against Buyers or their successor in interest in such action. If the redemption period is so reduced, Buyers or their successors in interest or the owners shall have the exclusive right to redeem for the first thirty (30) days after such sale, and the time provided for redemption by creditors as provided in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to forty (40) days. Entry of appearance by pleading or docket entry by or on behalf of Buyers shall be presumption that the property is not abandoned. Any such redemption period shall be consistent with all of the provisions of Chapter 628 of the Iowa Code. This paragraph shall not be construed to limit or otherwise affect any other redemption provisions contained in Chapter 628 of the Iowa Code.

17. **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 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.

18. **INTEREST ON DELINQUENT AMOUNTS AND LATE CHARGE.** Either party will pay interest at the highest legal contract rate applicable to a natural person to the other on all amounts herein as and after they become delinquent, and/or on cash reasonably advanced by either party pursuant to the terms of this contract, as protective disbursements.

19. **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.

20. **CONSTRUCTION.** Words and phrases herein, including acknowledgements hereof, shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context. See paragraph 11 above, for construction

of the word "Sellers."

21. **SPECIAL PROVISIONS.** None

Daniel D. Rose — James L. Simoens

Daniel D. Rose — James L. Simoens

Phyllis J. Rose — Sandra M. Simoens

Phyllis J. Rose — Sandra M. Simoens

SELLERS — BUYERS

RFD #2
Hopkinton, Iowa 52237

455 Beverly St.
Robins, Iowa 52328

STATE OF IOWA)
) SS: [redacted]
COUNTY OF LINN)

On this 4 day of October, A.D. 1993, before me, the undersigned, a Notary Public in and for said State, personally appeared James L. Simoens and Sandra M. Simoens to me known to be the identical persons named in and who executed the within and foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

Holli Dippel
Notary Public in and for said State

HOLLI J. DIPPEL
MY COMMISSION EXPIRES
11-8-93

STATE OF IOWA)
)SS:
COUNTY OF DELAWARE)

On this 4 day of October, A.D. 1993, before me, the undersigned, a Notary Public in and for said State, personally appeared Daniel D. Rose and Phyllis J. Rose to me known to be the identical persons named in and who executed the within and foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

Holli Dippel
Notary Public in and for said State

HOLLI J. DIPPEL
MY COMMISSION EXPIRES
11-8-93

REINSTAL.SIM