First State Bank

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DELAWARE COUNTY IOWA
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PEYTON
RECORDER
$41.00

Robert J. Stone 1080 9th Ave. P.O. Box 388, Marion, Ia. 52302-0388 Ph. 319-377-1509

REAL ESTATE CONTRACT - INSTALLMENTS

IT IS AGREED this 17th day of June, 1996, by and between Barry B. Smith and Janet E. Smith, husband and wife, of the County of Linn, State of Iowa, Sellers; and Roland Chuong and Jenny Chuong, 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:

> The West one-third (W 1/3) of Lot One Hundred Thirty Eight (138), Manchester, Iowa according to plat recorded in Book I, L.D., Page 284.

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 consisting of two used apartment-sized refrigerators and two used apartment-sized stoves all upon the terms and conditions following:

1. **TOTAL PURCHASE PRICE.** The Buyers agree to pay for said property the total of $25,000.00 due and payable at Sellers' place of business, 818 Dows Road SE, Cedar Rapids, Iowa 52403, Linn County, Iowa, or wherever Sellers direct as follows:

(a) **Down payment** of $5,000.00, receipt of which is hereby acknowledged: and

(b) **Balance of purchase price.** $20,000.00, as follows: $264.00 including interest or more at the option of the Buyers on or before the first day August, 1996, and $264.00 or more on or before the first day of each and

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every month thereafter until all sums due under this contract are paid in full with interest on unpaid balances thereof at the rate of ten percent per annum payable monthly from July 1, 1996, 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, however, that the balance of the purchase price, together with accrued interest, shall be paid in full on or before July 1, 1999.

2. **POSSESSION.** Buyers, concurrently with due performance on their part shall be entitled to possession of said premises on the 1st day of July, 1996; and thereafter so long as they shall perform the obligations of this contract. If Buyers are taking subject to the rights of lessees and are entitled to rentals therefrom on or after the date of possession, so indicate by "yes" in the space following: Yes, one tenant, Rhonda Whiting, is in possession of one of the two second floor apartments. Written Lease Agreement will be assigned at settlement and security deposit delivered along with any proration of rent paid in advance to Sellers.

3. **TAXES.** Sellers shall pay all of the 1994 fiscal year real estate taxes payable one-half in September of 1995 and the remaining one-half in March of 1996. Buyers shall assume and pay all subsequent taxes before same become delinquent. Buyers shall furnish evidence of the payment of each tax installment beginning with the September 1996 tax installment. Evidence shall be furnished by sending a copy of the tax receipt not later than thirty days after the payment deadlines of September 30 and March 31. There is no proration of taxes in this real estate sale irrespective of the date of settlement and date of possession.

4. **SPECIAL ASSESSMENTS.** Sellers shall pay the special assessments against this property.

(a) Which are a lien thereon as of June 1, 1996, and;

(b) All city fees, charges and assessments for services to the premises, assessed or accrued as of date of possession.

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 100% 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. **INSURANCE.** Sellers shall keep the premises insured prior to date of possession and shall bear the risk of any loss prior to date of possession.

Buyers as and from said date of possession shall constantly keep in force, insurance, premiums therefore to be prepaid by Buyers (without notice or demand) against loss by fire, tornado and other hazards, casualties and contingencies as Sellers may reasonably require on all buildings and improvements, now on or hereafter placed on said premises and any personal property which may be the subject of this contract, in companies to be reasonably approved by Sellers in an amount not less than the full insurable value of such improvements and personal property or not less than the unpaid purchase price herein whichever amount is smaller with such insurance payable to Sellers and Buyers as their interests may appear. BUYERS SHALL PROMPTLY DEPOSIT SUCH POLICY WITH PROPER RIDERS WITH SELLERS for the further security for the payment of the sums herein mentioned. In the event of any such casualty loss, the insurance proceeds may be used under the supervision of the Sellers to replace or repair the loss if the proceeds be adequate; if not, then some other reasonable application of such funds shall be made; but in any event such proceeds shall stand as security for the payment of the obligations herein.

7. **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.

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

9. **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.)

11. **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.

12. **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.

13. **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 or record?)

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

None

(Interests of other parties?)

Yes, tenant in possession stated Paragraph 2 above.

(Lessees?)

(i) **The condition of the real estate improvements and the personal property consisting of the two stoves and two refrigerators are all sold "as is" and there is no warranty as to condition.**

14. 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. 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 of Sale consistent with the terms of this contract.

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

16. 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.

17. **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.

18. 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.

19. INTEREST ON DELINQUENT AMOUNTS AND LATE CHARGE. Either party will pay interest at the contract rate on all amounts herein as and after they become delinquent after ten (10) days grace period, and/or on cash reasonably advanced by either party pursuant to the terms of this contract, as protective disbursements. Buyer shall pay a late charge of $25.00 for any payment unpaid ten (10) days after the due date, in addition to interest.

20. ASSIGNMENT. No sale of any portion of the real estate or assignment of all or any portion of the contract is permitted without the written consent of the Sellers unless the balance of the purchase price is to be immediately paid in full. Sellers will not unreasonably withhold consent to an assignment or sale so long as the purchaser is credit worthy; however, any such sale or assignment shall not terminate the liability of the Assignors to perform, unless a specific release in writing is given and signed by the Sellers.

21. PERSONAL PROPERTY. If this contract includes the sale of any personal property, then in the event of the forfeiture or foreclosure of this contract, such personalty shall be considered indivisible with the real estate above described; and any such termination of Buyers' rights in said real estate shall concurrently operate as the forfeiture or foreclosure hereof against all such personal property.

22. 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."

23. SPECIAL PROVISIONS.

Price allocation is $400.00 to the personal property included in the down payment and $24,600.00 to the real estate for the total price of $25,000.00.

Executed in triplicate on the dates indicated below.

Roland Chuong — Buyer

Jenny Chuong — Buyer

Barry B. Smith — Seller

Janet E. Smith — Seller

818 Dows Road SE
Cedar Rapids, IA 52403

STATE OF IOWA)
) SS:
COUNTY OF LINN)

On this 20th day of June, A.D. 1996, before me, the undersigned, a Notary Public in and for said State, personally appeared Barry B. Smith and Janet E. Smith, husband and wife, 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.



Mary J Ehret
Notary Public in and for said State

STATE OF IOWA)
) SS:
COUNTY OF Delaware)

On this 17th day of June, A.D. 1996, before me, the undersigned, a Notary Public in and for said State, personally appeared Roland Chuong and Jenny Chuong, 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.

Loretta Maria Holtz
Notary Public in and for said State

Loretta Maria Holtz
Sept 16, 1997

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