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DELAWARE COUNTY IOWA
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BOOK 139 PAGE 106
DEBORAH L. FEYTON
DELAWARE CO. RECORDER
21.00

Prepared by: Tim A. Estlund, Attorney At Law, 123 Third Street N.E., Cedar Rapids, IA 52401 319/364-2120

REAL ESTATE CONTRACT
JOINT TENANCY

This Agreement is made this 5th day of January, 1998 by and between **JAMES F. KEPPLER AND DONNA LEE KEPPLER**, Husband and Wife ("Sellers") and **EDWARD J. BEHRENDT AND SARAH W. BEHRENDT**, Husband and Wife ("Buyers") as Joint Tenants With Full Rights of Survivorship and not as Tenants In Common.

Sellers agree to sell and Buyers agree to buy certain real estate in **DELAWARE** County, Iowa, and legally described as:

LOT NINE (9) OF LOGAN'S SECOND SUBDIVISION OF PART OF THE SOUTH ONE-HALF (S1/2) OF SECTION FOURTEEN (14) AND PART OF THE NORTHEAST QUARTER (NE1/4) OF SECTION TWENTY THREE TOWNSHIP EIGHTY EIGHT (88) NORTH, RANGE FIVE (5), WEST OF THE FIFTH PRINCIPAL MERIDAN, ACCORDING TO PLAT RECORDED IN BOOK 4 PLATS, PAGE 55. AND LOT 16 OF LOGAN-BLACK FIRST ADDITION TO DELAWARE COUNTY, IOWA. As ammended per plat Book 8 Page 97

ALSO ALL RIGHT, TITLE, INTEREST, CLAIM AND DEMAND, OF GRANTORS, IN AND TO THE LAKE FRONTAGE RUNNING TO THE MIDDLE OF THE MAQUOKETA RIVER BED WITH RESPECT TO SAID PREMISES, TITLE TO WHICH IS NOT WARRANTED BY GRANTORS.

SUBJECT TO ALL COVENANTS, RESTRICTIONS AND EASEMENTS OF RECORD

together with any easements and appurtenant servient estates, but subject to : a. any zoning and other ordinances; b. any covenants of record; c. any easements of record for public utilities, roads and highways; and d. _____
(the "Real Estate"), upon the following terms and conditions:

1. **PRICE.** The total purchase price for the Real Estate is **SEVENTY THOUSAND AND 00/100 Dollars ($70,000.00)** of which **TWENTY FIVE THOUSAND AND 00/100 Dollars ($25,000.00)** has already been paid to Sellers. Buyers shall pay the balance of **FORTY FIVE THOUSAND AND 00/1 00 Dollars——($45,000.00)** to Sellers at the following address: at the following address: 309 Iowa St - Manchester, IA. - 52057, or as directed by Sellers, in the following manner: **SIX HUNDRED THIRTY AND 45/100** (principal and interest), or more at the option of the Buyers, payable on or before the 5th day of each and every month beginning **March 5, 1998,** until all of said principal sum and interest on every part thereof at the rate of **7.75** percent per annum from **January 6, 1998,** is fully paid; said payment to be applied first in payment of all interest then accrued on the remainder of said principal sum.

2. **INTEREST.** Buyers shall pay interest at the rate of **7.75** 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 September ,1997 and March, 1998 real estate tax installments and all prior taxes when due and payable and before delinquent.. Seller will credit Buyers $1.54 per day from 7/1/97 to 1/5/98 (~~188 days~~ 189 days) for a total of ~~$289.52~~ $291.06 as final

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DATE 1-8-98 BOOK 139 PAGE 106

settlement for all subsequent taxes. Buyers to pay all subsequent taxes beginning with the September, 1998 installment before delinquent and furnish Sellers with proof of said payments.

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 when due.

5. **POSSESSION.** Sellers shall give Buyers possession of the Real Estate on January 6, 1998, provided Buyers are not in default under this contract.

6. **INSURANCE.** Sellers shall maintain insurance and risk of loss insurance upon the Real Estate until the date of possession. Thereafter 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.

7. **MORTGAGE.** Any mortgage or encumbrance of a similar nature against the Real Estate 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. Sellers, their successors in interest or assigns may, and hereby reserve the right at any time to mortgage their right, title or interest in the Real Estate or to renew or extend any existing mortgage for any amount not exceeding 100 % of the then unpaid balance of the purchase price herein. 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 documents to aid Sellers in securing such a mortgage which shall be prior and paramount to any of Buyers' then rights in the Real Estate. If Buyers have reduced the balance of this contract to the amount of any existing mortgage balance, they may at their option, assume and agree to pay mortgage according to its terms, and subject to such mortgage shall receive a deed to the Real Estate; or Sellers, at their option, any time before Buyers have made such a mortgage commitment, may reduce or pay off such mortgage. Buyers, in the event of acquiring the Real Estate 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 agree 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 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.

8. **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. Upon payment of purchase price, Sellers shall convey the Real Estate to Buyer or their assignees, by Warranty 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.

9. **CARE OF PROPERTY.** Buyers shall take good care of the Real Estate; shall keep the buildings and other improvements now or later placed on the Real Estate in good and reasonable repair..

10. **REMEDIES OF THE PARTIES.**

a. If Buyers fail to timely perform this contract, Sellers may, at Sellers' option, forfeit Buyers' rights in this contract as provided in Chapter 656 of the Iowa Code (the "Code"), and all payments made by Buyers shall be forfeited. 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 of the Code. Thereafter this contract may be foreclosed in equity and a court may appoint a receiver to take immediate possession of the Real Estate 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 upon the contract obligation.

b. 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 Real Estate 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 files an election to waive any deficiency judgment against Buyers which may arise out of the foreclosure proceedings; consistent with the provisions of Chapter 628 of the 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 628.15 and 628.16 of the Code shall be reduced to four (4) months.

c. 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 following contingencies apply: (1) the Real Estate is less than ten (10) acres in size; (2) a court finds affirmatively that the 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. If the redemption period is so reduced, Buyers or their successors in interest or the owner 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 Code shall be reduced to forty (40) days. Entry of appearance by pleading or docket entry by or on behalf of Buyers shall be a presumption that the Real Estate is not abandoned. Any such redemption period shall be consistent with all of the provisions of Chapter 628 of the Code. This paragraph shall not be construed to limit or otherwise affect any other redemption provisions contained in Chapter 628 of the Code.

d. 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.

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

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

11. **JOINT TENANCY IN PROCEEDS AND IN REAL ESTATE.** If, immediately preceding this contract, Sellers 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 this contract.

12. **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 Code and agrees to execute the deed for this purpose.

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

14. **PERSONAL PROPERTY.** If this contract includes the sale of any personal property, in the event of forfeiture or foreclosure, such personalty shall be considered indivisible with the Real Estate, and any termination of Buyer's rights in the Real Estate shall also automatically forfeit or foreclose the Buyer's interest in the personalty.

15. **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 their context.

16. **ASSIGNMENT.** If the contract is assignable, Buyer or Seller must give notice to the other party of the assignment. Any such assignment shall not terminate the liability of the assigning party, unless a specific release in writing is given and signed by the other party to the contract.

17. **ADDITIONAL PROVISIONS.**

This contract shall be paid in full on or before February 1, 2006. There will be no penalty for early cashout of this contract. In the event that Buyer sell, trade, lease, or assign in any way this property to another party during the contract period, written consent is to be obtained from Seller. If consent is not obtained, the contract balance becomes due and payable in full.

At time of contract cashout, in addition to Lot 9, Seller to provide a Quit Claim Deed to the Buyers for Lot 16 of Logan-Black First Addition to Delaware county, Iowa.

Taxes and Hazard Insurance to be paid by Buyer before delinquent and provide proof of said payments to Seller.

Dated: January 5, 1998

James F. Keppler

Donna Lee Keppler

Edward J. Behrendt

Sarah W. Behrendt

STATE OF IOWA)
) ss:
COUNTY OF DELAWARE)

On this 6 day of January, 1998, before me, a Notary Public in and for said State, personally appeared James F. Keppler and Donna Lee Keppler, husband and wife, 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.

Notary Public in and for Said State
Expires Mar 22, 1998

STATE OF OREGON)
) ss.
COUNTY OF Lane)

On this 5th day of January, 1998, before me, a Notary Public in and for said State, personally appeared Edward J. Behrendt and Sarah W. Behrendt, Husband and Wife, 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.

OFFICIAL SEAL
TRACIE M. LEBSOCK
NOTARY PUBLIC - OREGON
COMMISSION NO. 042929
MY COMMISSION EXPIRES APRIL 5, 1999

Notary Public in and for Said State