Rightway Realty
P.O. Box 818
Guttenberg IA
52052

Entered for taxation 22nd day
of May A.D. 2003
Sharon McGrath Auditor
By [illegible] Deputy
90-37

AUDITOR FEE $ 5.00
RECORDER FEE $ 31.00

BOOK 2003 PAGE 3489
DEBORAH L. PEYTON
DELAWARE CO. RECORDER

2003 MY 23 AM 9:27

DELAWARE COUNTY IOWA
FILED

Preparer Information: Gary L. Mick, SCHUSTER & MICK, P.O. Box 609, Guttenberg, IA 52052
Phone: (563) 252-1733
Address Tax Statement: Kathleen M. Heide: 413 Church Street, Colesburg, IA 52035

# ***REAL ESTATE CONTRACT***

IT IS AGREED between GILBERT D. SPRAGUE, widowed and unmarried, Seller, and KATHLEEN M. HEIDE, Buyer:

Seller agrees to sell and Buyer agrees to buy real estate in Delaware County, Iowa, described as:

413 Church Street; Colesburg, Iowa 52035

Lot Nine (9) of the Subdivision of the Northwest Quarter (NW ¼) of the Southeast Quarter (SE ¼) of Section Four (4), Township Ninety (90) North Range Three (3), West of the Fifth Principal Meridian, according to Amended and Corrected Plat of Colesburg, Iowa, recorded in Book 1, Plats, Pages 73-86, except the West Sixty (60) feet thereof and except the East One Hundred Fifty-two feet (152') thereof as measured along the North Line of said Lot Nine (9).

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;
d. this property is sold "AS IS"

designated the Real Estate, upon the following terms:

1. PRICE. The total purchase price for the real estate is TWENTY-EIGHT THOUSAND DOLLARS ($28,000.00). Buyer has made a down payment of SIX HUNDRED FOURTEEN DOLLARS AND SEVENTY-FIVE CENTS ($614.75), receipt of which is hereby acknowledged by Seller. The balance of the purchase price in the amount of TWENTY-SEVEN THOUSAND, THREE HUNDRED EIGHTY-FIVE DOLLARS AND TWENTY-FIVE CENTS ($27,385.25) shall be paid by Buyer to Seller in care of Gary

Willman, RIGHTWAY REALTY, P.O. Box 818, Guttenberg, Iowa 52052, or as directed by Seller, in equal monthly installments of TWO HUNDRED THIRTY-FOUR DOLLARS ($234.00), beginning on June 1, 2003, and continuing on the 1ST day of each month thereafter, until June 1ST, 2008, at which time all sums (a Balloon) due by reason of this Contract shall be paid in full.

2. INTEREST. Buyer shall pay interest from MAY 1ST, 2003, on the unpaid balance, at the rate of 7.94% per annum, payable MONTHLY. The aforesaid monthly payment of $234.00 shall include interest. Buyer shall also pay interest at the rate of 10% percent per annum on all delinquent amounts and any sum reasonably advanced by Seller to protect their interest in this contract, computed from the date of the delinquency or advance. All payments received above shall first be credited to the interest and the balance shall then be applied to principal.

3. REAL ESTATE TAXES. Seller shall pay a pro-rata portion of the real estate taxes for 2002/2003, payable 2003/2004, as they become due, and any unpaid real estate taxes payable in prior years. Buyer shall pay all subsequent real estate taxes before they become delinquent. 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. Seller 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 Buyer.

5. POSSESSION. Seller shall give Buyer possession of the Real Estate on MAY 1st, 2003.

6. INSURANCE. Seller shall maintain existing insurance upon the Real Estate until the date of possession. Buyer shall accept insurance proceeds instead of Seller replacing or repairing damaged improvements. After possession and until full payment of the purchase price, Buyer 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 Seller and Buyer as their interest may appear. Buyer shall provide Seller with evidence of such insurance.

7. ABSTRACT AND TITLE. Seller, at their expense, shall promptly obtain an Abstract of Title to the Real Estate continued through the recording of this Contract, and deliver it to Buyer for examination. It shall show merchantable title in Seller in conformity with this agreement, Iowa law, and the Title Standards of the Iowa State Bar Association. The abstract shall become the property of the Buyer when the purchase price is paid in full, however, Buyer reserves the right to occasionally use the abstract prior to full payment of the purchase price. Seller 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 Seller 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.

9. CARE OF PROPERTY. Buyer 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 life of this contract. Buyer shall not make any material alteration to the Real Estate without the written consent of the Seller.

10. DEED. Upon payment of the purchase price, Seller 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 the time of delivery of the deed.

11. FORFEITURE. If Buyer (a) fails to make the payments aforesaid, or any part thereof, as same become due; or (b) fails 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 Seller, 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 Buyer shall have no right of reclamation or compensation for money paid, or improvements made; but such payments and for improvements if any shall be retained and kept by Seller 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 Buyer, 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.

12. FORECLOSURE AND REDEMPTION. If Buyer fail to timely perform this contract, Seller, 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

Buyer 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 Seller, in such action file an election to waive any deficiency judgment against Buyer 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 Buyer, 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) Seller in such action file an election to waive any deficiency judgment against Buyer or their successor in interest in such action. If the redemption period is so reduced, Buyer or their successor 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 Iowa Code shall be reduced to forty (40) days. Entry of appearance by pleading or docket entry by or on behalf of Buyer 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.

13. 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 Buyer, or imposed upon them, or upon the above described property, Buyer agree to pay reasonable attorney's fees.

14. JOINT TENANCY IN PROCEEDS AND IN REAL ESTATE. If Seller, immediately preceding this contract, hold title to the Real Estate in joint tenancy with full rights of survivorship, and the joint tenancy is not later destroyed by operation of low or by acts of Seller, then the proceeds of this sale, and any continuing or recaptured rights of Seller in the Real Estate, shall belong to Seller as joint tenants with full right of survivorship and not as tenants in common; and Buyer, 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.

15. LEAD-BASED PAINT. Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead-based paint that may place young children at risk of developing poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligent quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the Buyer with any information on lead-based paint hazards from risk assessments or inspections in the Seller' possession and notify the Buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

16 LEAD-BASED PAINT RISK ASSESSMENT AND INSPECTION WAIVER. Buyer acknowledge receipt of the "Protect Your Family From Lead in Your Home" pamphlet. Buyer further acknowledge and state they have been given the opportunity to conduct a risk assessment or inspection of the property for the presence of lead-based paint and/or lead-based paint hazards and hereby WAIVE their right to do so.

17 TIME IS OF THE ESSENCE. Time is of the essence in this contract. No extension of time of payment or waiver of default, either in the payment of any installment or principal or interest due under this contract or otherwise, shall affect the right of Sellers to require prompt payment of any subsequent installment of principal or interest or other specified payment, or to declare a forfeiture for nonpayment thereof.

18. PERSONAL PROPERTY. If this contract includes the sale of any personal property, Buyer grants the Seller a security interest in the personal property and Buyer shall execute the necessary financing statements and deliver them to Seller.

19. CONSTRUCTION. Words or 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.

20. LIENS. No mechanic's lien shall be imposed upon or foreclosed against the real estate described herein. However, the filing of a lien shall not constitute a default hereunder if Buyer, in good faith, is contesting the legitimacy or amount of said lien and pays same upon an adverse judicial determination.

21. ADVANCEMENTS. In default of the Buyer paying such taxes and assessments, effecting insurance and making necessary repairs as herein stipulated, Seller may elect to pay such taxes and assessments, effect insurance and make necessary repairs, and all sums so expended shall be due and payable on demand. Such sums so expended may, at the election of the said Seller, be added to the principal amount due hereunder and bear a like rate of interest.

22. **WAIVER OF HOMESTEAD EXEMPTION. I understand that homestead property is in many cases protected from the claim of creditors and exempt from judicial sale; and that by signing this contract, I voluntarily give up my right to this protection for this property with respect to claims based upon this contract.**

**Dated this 6th day of May, 2003.**

Kathleen M. Heide

**Kathleen M. Heide, Buyer**

23. "AS IS" CLAUSE. The property subject of this contract, and all improvements, including the well and sewage disposal system are sold "AS IS". No representations by or on behalf of the Sellers have been made to Buyer as to the condition of the premises, or the suitability of the property for any purpose whatsoever. Buyer has made its own independent investigation of the premises and is relying solely on that investigation.

Kathleen M. Heide

Kathleen M. Heide, Buyer

Gilbert D. Sprague

Gilbert D. Sprague, Seller

STATE OF IOWA, COUNTY OF Clayton, ss:

On this 6th day of May, 2003, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Kathleen M. Heide, to me known to be the identical person named in and who executed the foregoing instrument and acknowledged that she executed the same as her voluntary act and deed.

GARY K WILLMAN
Notarial Seal - Iowa
Commission # 109235
My Commission Expires 10/3/05

Notary Public

STATE OF IOWA, COUNTY OF Clayton, ss:

On this 9th day of May, 2003, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Gilbert D. Sprague, to me known to be the identical person named in and who executed the foregoing instrument and acknowledged that he executed the same as his voluntary act and deed.

GARY K WILLMAN
Notarial Seal - Iowa
Commission # 109235
My Commission Expires 10/3/05

Notary Public