THE IOWA STATE BAR ASSOCIATION
Official Form No. 143

Steven E. Carr ISBA # 17350

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DELAWARE COUNTY IOWA
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DEBORAH L. PEYTON
DELAWARE CO. RECORDER

RECORDER FEE $ 31.00
AUDITOR FEE $ 10.00

Entered for taxation 10th day
of May A.D. 2004
Sharon McCarthy, Auditor
By Carla Beck, Deputy
89-90

Preparer Information (X) Carr & Carr Lawyers, 117 S. Franklin Street, PO Box 333, Manchester, IA 52057, (563) 927-4164
Individual's Name | Street Address | City | Phone

Address Tax Statement: Duane Nieman, 2947 230th Street
Earlville, Iowa 52041

SPACE ABOVE THIS LINE FOR RECORDER

REAL ESTATE CONTRACT (SHORT FORM)

IT IS AGREED between
Hazel M. Nieman, a single person

("Sellers"); and
Duane D. Nieman and Karen H. Nieman, husband and wife as joint tenants with full rights of survivorship and not as tenants in common

("Buyers").

Sellers agree to sell and Buyers agree to buy real estate in Delaware County, Iowa, described as:
See attached Exhibit "A"

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; and d. (consider: liens; mineral rights; other easements; interest of others.)

(the "Real Estate"), upon the following terms:

1. **PRICE.** The total purchase price for the Real Estate is Three Hundred Thousand and 0/100 Dollars ($ 300,000.00) of which Forty Thousand and 0/100 Dollars ($ 40,000.00) has been paid. Buyers shall pay the balance to Sellers at _____ or as directed by Sellers, as follows:
$5,000.00 on or before the anniversary date of this contract and $5,000.00 on or before each anniversary date thereafter with interest at the rate of 4.5% per annum for a period of five (5) years; subsequent thereto, $10,000.00 on or before the anniversary date of the contract for the next nine (9) years with interest at 4.5% per annum; on the fifteenth (15th) year subsequent to the execution of this contract, said contract will balloon and all interest and principal will become due and payable immediately.

Buyers are granted the right to make additional payments on this contract even to the extent of the whole. All payments shall be first credited against interest accrued and then against the principal.

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2. **INTEREST.** Buyers shall pay interest from May 1, 2004 on the unpaid balance, at the rate of 4.5 percent per annum, payable annually and included in the payments set forth in the preceeding paragraph. Buyers shall also pay interest at the rate of 4.5 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 taxes pro-rated to date of possession and any unpaid real estate taxes payable in prior years. Buyers shall pay all subsequent real estate taxes. 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.** Sellers shall pay all special assessments which are a lien on the Real Estate as of the date of this contract or _____. All other special assessments shall be paid by Buyers.

5. **POSSESSION CLOSING.** Sellers shall give Buyers possession of the Real Estate on May 1, 2004, 2004, provided Buyers are not in default under this contract. Closing shall be on May 3rd, 2004.

6. **INSURANCE.** Sellers shall maintain existing insurance upon the Real Estate until the date of possession. Buyers shall accept insurance proceeds instead of Sellers replacing or repairing damaged improvements. After possession and 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. Sellers' interest shall be protected in accordance with a standard or union-type loss payable clause. Buyers shall provide Sellers with evidence of such insurance.

7. **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.

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 except: (consider: rental items.) _____

9. **CARE OF PROPERTY.** Buyers 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 term of this contract. Buyers shall not make any material alteration to the Real Estate without the written consent of the Sellers.

10. **DEED.** Upon payment of purchase price, Sellers shall convey the Real Estate to Buyers 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.

11. **REMEDIES OF THE PARTIES.** a. 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 lease, and may accordingly be ousted and removed as such as provided by law.

b. 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 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 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. Upon completion of such of such forfeiture Buyers 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 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 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.

c. 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.

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

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

12. **JOINT TENANCY IN PROCEEDS AND IN REAL ESTATE.** If Sellers, immediately preceding this contract, 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 paragraph 10.

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

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

15. **PERSONAL PROPERTY.** If this contract includes the sale of any personal property, Buyers grant the Sellers a security interest in the personal property and Buyers shall execute the necessary financing statements and deliver them to Sellers.

16. **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 the context.

17. **RELEASE OF RIGHTS.** Each of the Buyers hereby relinquishes all rights of dower, homestead and distributive share in and to the property and waives all rights of exemption as to any of the property.

18. **ADDITIONAL PROVISIONS.**

a. In one of any of the years covered by this contract, Buyers may, by giving thirty (30) days prior notice to Seller, pay only interest on the contract for the payment due on that date; any principal not paid shall be added to the ballon balance due at the contract's termination.

b. Seller shall pay fiscal year 2003-2004 first half taxes and two-thirds of said fiscal year's second half taxes as they become due in the following fiscal year.

c. The residence located on the property is being sold "as is." Buyer agrees that a satisfactory inspection of the residence has been made.

I UNDERSTAND THAT HOMESTEAD PROPERTY IS IN MANY CASES PROTECTED FROM THE CLAIMS 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: April 30 , 2004

Dated: April 30 , 2004

Hazel M. Nieman
Joanne Laxson POA
Hazel M. Nieman, by Joanne Laxson, POA

SELLERS

Duane D. Nieman
Duane D. Nieman

Karen H. Nieman
Karen H. Nieman

BUYERS

STATE OF Iowa , COUNTY OF Delaware , ss:

This instrument was acknowledged before me on April 30 , 2004

by, Duane D. Nieman and Karen H. Nieman

NOTARIAL SEAL
LISA ANNE MAIERS
Commission Number 177511
My Commission Expires
1-19-07

Lisa Anne Maiers , Notary Public

STATE OF IOWA, COUNTY OF DELAWARE, ss:

On this 30th day of April, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared Joanne Laxson, to me known to be the person who executed the foregoing instrument in behalf of Hazel M. Nieman and acknowledged that ~~(he)~~ (she) executed the same as the voluntary act and deed of said Hazel M. Nieman.

Lisa Anne Maiers

_____, Notary Public in and for said State.

LISA ANNE MAIERS
Commission Number 177511
My Commission Expires
1-19-07

(Section 558.39, Code of Iowa)

Acknowledgment: For use in the case of natural persons acting by attorney

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EXHIBIT "A"

The Northwest Quarter (NW¼) of the Northwest Quarter (NW¼), except the West two hundred sixty (260) feet thereof, and the Northeast Quarter (NE¼) of the Northwest Quarter (NW¼) and the Northwest Quarter (NW¼) of the Northeast Quarter (NE¼) of Section Thirty Five (35), Township Eighty Nine (89) North, Range Four (4), West of the Fifth P.M., except that part described as commencing at the Southeast corner of said Northwest Quarter (NW¼) of the Northeast Quarter (NE¼), thence West eight (8) rods twelve and one-half (12½) feet, thence North forty (40) rods, thence East eight (8) rods twelve and one-half (12½) feet, thence South forty (40) rods to the point of beginning, and also except commencing at a point eight (8) rods twelve and one-half (12½) feet West of the Southeast corner of said Northwest Quarter (NW¼) of the Northeast Quarter (NE¼), thence West one hundred nine (109) feet, thence North two hundred sixty five (265) feet, thence East one hundred nine (109) feet, thence South two hundred sixty five (265) feet to the point of beginning, and also except that part platted as Albert & Hazel Nieman Fireworks Field, A Subdivision in Delaware County, Iowa, according to plat recorded in Book 2001, Page 4211; also the South one-half (S½) of the Southeast Quarter (SE¼) of Section Thirty Four (34), Township Eighty Nine (89) North, Range Four (4), West of the Fifth P.M., except the West ten (10) acres thereof and also except that part conveyed to the State of Iowa by Warranty Deed recorded in Book 77 L.D., Page 633.

EXHIBIT "A"