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DEBORAH L PEYTON, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

Entered for taxation 19th day
of September A.D., 2011
Cathy Becker, Auditor
By D. Hildebrand Deputy
T-3

Nancy Kintzly
2160 210th Ave
Delhi IA
52223

REAL ESTATE CONTRACT-INSTALLMENTS

THE IOWA STATE BAR ASSOCIATION
Official Form No. 141
Recorder's Cover Sheet

Preparer Information: (name, address and phone number)
Lew Eells, 1921 51st Street NE, Cedar Rapids, IA 52402, Phone: (319) 393-1020

Taxpayer Information: (name and complete address)
Kenneth Shaffer and Traci L. Shaffer
1666 Edgewood Dr NW
Cedar Rapids IA 52405

Return Document To: (name and complete address)
Kenneth Shaffer and Traci L. Shaffer
1666 Edgewood Dr NW
Cedar Rapids IA 52405

Grantors:
Kenneth Shaffer and Traci L. Shaffer

Grantees:
Miss Daisy, Inc., an Iowa Corporation, by Gregory C. Bulicek, President

Legal Description: See Page 2

Document or instrument number of previously recorded documents: _____

Lew Eells

REAL ESTATE CONTRACT-INSTALLMENTS

IT IS AGREED this 1st **day of September, 2011**, by and between **Kenneth Shaffer and Traci L. Shaffer**, husband and wife, Joint Tenants with Full Rights of Survivorship and not as Tenants in Common, of the County Linn, State of Iowa, Sellers; and **Miss Daisy, Inc.**, an Iowa Corporation, of the County of Linn, 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-half (W ½) of the East two-thirds (E 2/3) of Lot Eleven (11), Block Four (4), Delhi, Iowa, according to plat recorded in Book A.L.D., Pages 128-129

And

The East one third of Lot Eleven (11), Block Four (4), Delhi, Iowa; same being a part of the West one half of South East quarter of Section Seventeen (17), Township Eighty Eight (88) North, Range Four (4), West of the Fifth Principal Meridian

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 if and as may be herein described or if and as an itemized list is attached hereto and marked "Exhibit A" all upon the terms and conditions following:

1. **TOTAL PURCHASE PRICE.** The Buyers agree to pay for the real estate $68,000.00, and for the personal property and business $47,000.00, for a total of **$115,000.00** due and payable at **1666 Edgewood Drive N.W., Cedar Rapids, Linn County, Iowa, 52405**, as follows:

(a) **DOWN PAYMENT** of **$10,550.00 RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED:** and

(b) **BALANCE OF PURCHASE PRICE. $104,450.00**, as follows **$1,000.00** on the 1st day of October, 2011, and **$1,000.00** on or before the 1st day of the succeeding four (4) months, including through **February 1, 2012**, plus **$550.00** on October 1, 2011, and on the 1st of each and every month thereafter until **September 1, 2016**, at which time all sums due under the contract shall be paid in full. The balance of all principal amounts owing shall bear interest at the rate of **Five Percent (5%)** per annum, payable monthly, with all balance of interest also due **September 1, 2016**. The principal and interest balance may be paid in full at any time earlier without penalty.

2. **POSSESSION.** Buyers, concurrently with due performance on their part shall be entitled to possession of said premises and have had possession since **April 28, 2011**, as per the Purchase

Agreement; 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 and after date of possession, so indicate by 'yes' in the space following: **No.**

3. **TAXES.** Sellers shall pay **real estate taxes prorated to April 28, 2011**, which was the date of Buyer's possession. Buyer and Seller will credit taxes against the purchase price, prorated to April 28, 2011, and Buyer's shall pay the September 2011 tax installment and all subsequent tax installments. 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 July 15 of each year. **Any proration of taxes shall be based upon the taxes for the 2009 fiscal year.**

4. **SPECIAL ASSESSMENTS.** Sellers shall pay the special assessments against this property which are a lien as of **May 1, 2011.**

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. **INSURANCE.** Except as may be otherwise included in the last sentence of paragraph 1(b) above, 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. Sellers' interest shall be protected in accordance with a standard or union-type loss payable clause. 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, Seller 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.)

10. **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 survivorship 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.

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 the 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 assert 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:

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, and 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. This contract supersedes the previous written offer of Buyers to buy the above described property which was accepted by Sellers on the **28th day of April, 2011**. 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. Sellers shall pay all taxes on any such personal property payable in **2010**, and all taxes thereon payable prior thereto.

15. **APPROVAL OF ABSTRACT.** Buyers **have** examined the abstract of title to this property and such abstract is **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 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 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 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 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.** 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.

20. **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.

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 personality 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 hereto against all such personal property.

22. **CONSTRUCTION.** Words and phrases herein, including acknowledgments 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. **RELEASE OF RIGHTS.** Each of the Sellers 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.

24. **LEAD-BASED PAINT NOTICE.** If applicable, see attached Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazard.

25. **CERTIFICATION.** Buyers and Sellers each certify that they are not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and are not engaged in this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Each party hereby agrees to defend, indemnify and hold harmless the other party from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to my breach of the foregoing certification.

26. **INSPECTION OF PRIVATE SEWAGE DISPOSAL SYSTEM.** Seller represents and warrants to Buyer that the Property is not served by a private sewage disposal system, and there are no known private sewage disposal systems on the property.

27. **SPECIAL PROVISIONS.** See Addendum attached.

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: 9-1-11

Gregory C. Bulicek, Personally as Guarantor

Executed in duplicate or triplicate

Kenneth Shaffer, Seller

Traci L. Shaffer, Seller

MISS DAISY, INC., By:

Gregory C. Bulicek, President

ADDENDA to REAL ESTATE CONTRACT – INSTALLMENTS

By and Between Kenneth Shaffer and Traci L. Shaffer, and Miss Daisy, Inc., an Iowa Corporation,

For the sale and purchase of:

The West one-half (W ½) of the East two-thirds (E 2/3) of Lot Eleven (11), Block Four (4), Delhi, Iowa, according to plat recorded in Book A.L.D., Pages 128-129

And

The East one third of Lot Eleven (11), Block Four (4), Delhi, Iowa; same being a part of the West one half of South East quarter of Section Seventeen (17), Township Eighty Eight (88) North, Range Four (4), West of the Fifth Principal Meridian

27.1 This real estate contract is guaranteed by Gregory C. Bulicek personally. He acknowledges that he is personally liable for any obligations that should fall into default on this contract.

27.2 Sellers may drop insurance from casualty and liability on the real estate after closing. Buyer shall keep the building and contents constantly insurance and shall, at all times, name Sellers as additional loss payees in the event of a loss of any kind. Proof of such insurance shall be provided to Sellers.

27.3 Buyer may not permit any mechanics' liens on the property. Any and all repairs or improvements shall be fully paid for by Buyer. Buyer shall give Sellers lien waivers for any and all improvements or repairs to the building. If Buyer has installed a security system on the premises, they shall provide Sellers with a lien waiver or receipt for full payment for the security system and its installation.

27.4 Until the balance owing on this real estate contract is fully paid to Sellers by Buyer, Buyer may not dispose of any personal property or fixtures without Sellers' written consent allowing them to do so.

27.5 A late fee of Ten Percent (10%) of the amount that was due to be paid from Buyer to Sellers will be due to the Sellers once a payment is five days late, and the 5th of the month has been reached.

27.6 Buyer is purchasing the property without any warranties as to its condition and is purchasing the property "as is". Buyer assumes all responsibility for any needed repairs or improvements to the property.

27.7 Buyer will receive a bill of sale for all equipment, furnishings, business records, and transfer of any Delhi Steakhouse & Lounge on full payment of this real estate contract. During the interim period during which the contract is unpaid, Buyer may use the name Delhi Steakhouse & Lounge, and use the business records, equipment, and furnishings for their own business use, all of which right to use same can be forfeited if this real estate contract is forfeited under the law.

27.8 Buyer will receive a bill of sale for all inventory on hand which the parties value at $ 1,000.00 and is considered to be fully paid in the down payment.

INDIVIDUAL ACKNOWLEDGEMENT

STATE OF IOWA)
) ss.
COUNTY OF LINN)

This instrument was acknowledged before me on the 1ST day of September, 2011, by Gregory C. Bulicek, Personally and as Guarantor, and Kenneth Shaffer and Traci L. Shaffer, husband and wife, as Sellers.

LEW EELLS
Commission Number 156751
My Commission Expires
July 6, 2014

Notary Public in and for the State of Iowa

CORPORATE ACKNOWLEDGEMENT

STATE OF IOWA)
) ss.
COUNTY OF LINN)

On the 1st day of September, 2011, before me the undersigned Notary Public in and for said State, personally appeared Gregory C. Bulicek, to me personally known who being by me duly sworn did say he is the President of Miss Daisy, Inc., executing the within and foregoing instrument to which this is attached, that no seal has been procured by the Corporation; that the instrument was signed on behalf of the Corporation by authority of its Board of Directors; and that Gregory C. Bulicek as President acknowledged the execution of the foregoing instrument to be the voluntary act and deed of the Corporation, by it and by him voluntarily executed.

Notary Public in and for the State of Iowa

Commission Number
My Commission Expires
July 6, 2014