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DEBORAH L PEYTON, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

Entered for taxation 8th day
of October AD 2013
Carla K. Becker Auditor
By Deborah Deputy

Ent. Walker State Bank PO Box 37 Walker, IA 52352-0037

Prepared by & Return to: Brian S. Mensen, 111 E. Reed Street, PO Box 76, Red Oak, Iowa 51566 712-623-4844

Property Tax Statement to be mailed to: Ryan C. Benesch & Aly D. Benesch, 2508 Willow St. SW, Cedar Rapids, IA 52404

REAL ESTATE CONTRACT

IT IS AGREED between **Phyllis M. Schulte, a single person,** ("Seller"), and **Ryan C. Benesch and Aly D. Benesch, husband and wife**, as Joint Tenants with Full Rights of Survivorship and not as Tenants in Common ("Buyers").

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

> Parcel 2013-63 of the West Half of the West Half of the Northwest Quarter (W1/2 W1/2 NW1/4) of Section Eight (8), Township Eighty-seven (87) North, Range Six (6), West of the 5th P.M., as shown in Plat of Survey recorded in Book 2013 Page 2467 in the Office of the Recorder of Delaware County, Iowa,

together 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. mineral rights and all other easements of record, upon the following terms:

1. **PRICE AND INTEREST**. The total purchase price for the Real Estate is Twenty-five Thousand Five Hundred Dollars ($25,500.00) of which Zero Dollars ($0.00) has been paid. Buyers shall pay the balance to Seller at Ryan, Iowa, or as directed by Seller, as follows:

The balance of $25,500.00 payable as follows: The sum of $1,275.00 on September 23, 2013, and the sum of $24,251.02 on January 2, 2014, when the entire balance owing shall be due and payable.

Said payments include interest from August 15, 2013, upon the unpaid balances at the rate of twenty-eight one-hundredths per cent (.28%) per annum, payable annually.

Said installments shall first be applied to the payment of interest due on the date of said payment, and the balance thereof to be applied to the principal sum due and owing under this contract.

2. **REAL ESTATE TAXES.** Seller shall pay the 2011-2012 fiscal year real estate taxes which are delinquent April 1, 2013. Buyers shall pay all subsequent real estate taxes.

3. **SPECIAL ASSESSMENTS.** Seller shall pay all special assessments that are a lien on the Real Estate as of the date of this contract. Buyers shall pay all other special assessments.

4. **POSSESSION.** Seller shall give Buyers possession of the Real Estate on September 23, 2013, provided Buyers are not in default under this contract.

5. **INSURANCE.** Seller shall maintain existing insurance upon the Real Estate until the date of possession. Buyers shall accept insurance proceeds instead of Seller replacing or repairing damaged improvements. After possession and until full payment of the purchase price,

6. **ABSTRACT AND TITLE.** Buyers, at their expense, shall promptly obtain a new abstract of title to the Real Estate continued through the date of this contract, and deliver it to Buyers for examination. Buyers shall have ten days from date of receipt of abstract to deliver a copy of their attorney's title opinion to Seller, stating any objections to Title and only objections so stated shall be considered. It shall show merchantable title in Seller or in conformity with this contract, Iowa law and the Title Standards of the Iowa State Bar Association. Seller shall pay the costs of any additional abstracting and title work due to any act or omission of Seller, including transfers by or the death of Seller or her assignees.

7. **DEED.** Upon payment of purchase price, Seller shall convey the Real Estate to Buyers or their assignees, by general 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 Seller continuing up to time of delivery of the deed.

8. **REMEDIES OF THE PARTIES.** a. If Buyers fail to timely perform this contract, Seller may, at Seller's option, forfeit Buyers' rights in this contract as provided in the Iowa Code, and all payments made by Buyers shall be forfeited. If Buyers fail to timely perform this contract, Seller, at her 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 Seller, in such action files 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) Seller 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.

b. If Seller fails 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.

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

d. 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.

9. **TIME OF THE ESSENCE.** Time is of the essence in this Agreement. Failure to promptly assert rights of Seller herein shall not, however, be a waiver of such rights or a waiver of any existing or subsequent default.

10. **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.

11. **TITLE NOT MARKETABLE.** It is hereby understood and agreed that in the event the title is not marketable and the Buyers notify Seller of such fact as per the time limit set forth in the paragraph herein pertaining to abstract and title, the seller shall have the option to correct the title objections or to refund any money paid, and said contract will then be held null and void.

12. **ASSIGNMENT.** It is agreed that Buyers cannot sell or assign this contract, or rent, ~~sublease or sell this real estate without obtaining the written permission of the seller herein.~~

13. **ENVIRONMENTAL WARRANTY.** Buyers shall not cause or permit the presence, use, disposal, storage, or release of any hazardous substances in or on the property. Buyers shall not do, nor allow anyone else to do, anything affecting the property that is in violation of any Environmental Law. Buyers shall promptly give Seller written notice of any

investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the property and any hazardous substance or Environmental Law or which Buyers have actual knowledge.

14. **PAYMENT OF ENCUMBRANCES.** Any encumbrance required to be paid shall be paid at or before the time of settlement from the proceeds of this transaction or from any other source.

15. **CONTRACT BINDING ON SUCCESSORS IN INTEREST.** This contract shall apply to and bind the legal successors in interest of the respective parties.

16. **CROP.** All crops currently growing on the real estate shall remain the possession of the Seller and her tenant. The current tenant has a right of possession of the crop ground until March 1, 2014 and Buyers are purchasing the above-described real estate subject to the lease of said tenant.

17. **CRP.** Buyers understand that the real estate is enrolled in the CRP Program and that they shall be required to continue under the terms of the program until completion. If for any reason the Buyers do not comply with the terms of the CRP Program, any assessments against the Seller because of said non-compliance shall be paid by the Buyers.

18. **NO REAL ESTATE BROKER OR AGENT.** Neither party has used the services of a real estate agent or broker in connection with this transaction. Each party agrees to hold harmless and indemnify the other party from and against all claims, costs, liabilities and expense, including attorney fees and court costs, incurred by the other party as a result of a breach of this representation, which shall survive the delivery of the deed.

19. **CERTIFICATION.** Each party certifies that they are not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order of 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 court costs, arising from or related to my breach of the foregoing certification.

20. **DUPLICATE COPIES.** The parties have executed this agreement in duplicate and each executed copy thereof shall be considered an original.

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21. **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.

22. ADDITIONAL PROVISIONS.

a. Seller acknowledges that Buyers have been furnished any relevant information concerning environmental hazards present upon the real estate and Buyer acknowledges satisfaction with such disclosure and accepts the real estate in its present condition as at the date of execution of this offer.

b. Buyer acknowledges that they have made a satisfactory inspection of the property and are purchasing the property in its existing condition.

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: SEPTEMBER 23, 2013.

Phyllis M. Schulte

Phyllis M. Schulte

Ryan C. Benesch

Aly D. Benesch

SELLER

BUYERS

STATE OF IOWA

SS.

COUNTY OF LINN

On this 23RD day of SEPTEMBER, 2013, before me a Notary Public in and for said State, personally appeared Phyllis M. Schulte 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.

CHRISTOPHER A. NIELSEN
Commission Number 748428
My Commission Expires
8-16-2016

Notary Public for the State of Iowa

STATE OF IOWA

SS.

COUNTY OF Linn

On this 23rd day of September, 2013, before me a Notary Public in and for said State, personally appeared Ryan C. Benesch and Aly D. Benesch to me known to be the identical persons named in and who executed the foregoing instrument and acknowledged that they executed the same as their voluntary act and deed.

CHRISTOPHER A. NIELSEN
Commission Number 748428
My Commission Expires
6-16-2016

Notary Public for the State of Iowa