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LISA SMITH, COUNTY RECORDER

MADISON COUNTY IOWA

CHEK

REAL ESTATE CONTRACT-INSTALLMENTS

Recorder's Cover Sheet

\$150,000

Preparer Information: (name, address and phone number)

Jane E. Rosien, 114 E. Jefferson Street, P.O. Box 67, Winterset, IA 50273-0067;
Telephone: (515) 462-4912

Taxpayer Information: (name and complete address)

Rodney D. Wheeler and Laurie A. Wheeler, 2306 Vintage Lane, St. Charles, IA 50240

Return Document To: (name and complete address)

Jane E. Rosien, 114 E. Jefferson Street, P.O. Box 67, Winterset, IA 50273-0067

Grantors:

Rodney D. Wheeler
Laurie A. Wheeler
d/b/a Air Cooled Engines

Grantees:

Air-Cooled Engines Iowa, LLC

Legal Description: See Page 2

Document or instrument number of previously recorded documents: N/A



REAL ESTATE CONTRACT-INSTALLMENTS

IT IS AGREED on the 23rd day of March 2021, by and between Rodney D. Wheeler and Laurie A. Wheeler, a married couple, d/b/a Air Cooled Engines of the County of Madison, State of Iowa, Sellers; and Kenton Frank and Alison Frank, Member-Managers of Air-Cooled Engines Iowa, LLC, of the County of Madison, 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 Madison, State of Iowa, to-wit:

Lots 3, 4 and 5 in Block Two (2) of Jenkins Addition to the Town of Winterset, Madison County, Iowa, except the South 36 feet of Lots 4 and 5 and except that part thereof constituting and used as a public highway,

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 and other items as itemized on Exhibit "A" attached hereto, all upon the terms and conditions following:

1. **TOTAL PURCHASE PRICE.** The Buyers agree to pay for said property the total of \$360,000.00 due and payable at 2306 Vintage Lane, St. Charles, Madison County, Iowa 50240, as follows:
 - a) **DOWN PAYMENT** of \$10,000.00 **RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED:** and
 - b) **BALANCE OF PURCHASE PRICE.** \$350,000.00 as follows:
 - i) \$35,000.00 due at Closing;
 - ii) \$35,000.00 due December 1, 2021;
 - iii) \$2,384.36, including interest, or more at the option of the Buyers, on or before April 1, 2021, and \$2,384.36, or more at the option of the Buyer, on or before the 1st day of each and every month thereafter until March 31, 2028. Interest on unpaid balances thereof shall accrue at the rate of 4.5% per annum through March 31, 2028. Said payments shall be applied first to the interest then unpaid and next upon the balance of the principal; and,
 - iv) \$2,483.20 including interest, or more at the option of the Buyers, on April 1, 2028, and \$2,483.20, or more at the option of the Buyers, on or before the 1st day of each and every month thereafter until April 1, 2034 when all remaining sums due under this Contract shall be due in full, including interest on unpaid balances thereof at the rate of 6.5% per annum. Said payments shall be applied first to the interest then unpaid and next upon the balance of the principal.

2. **ALLOCATION OF PURCHASE PRICE.** The purchase price for the assets shall be allocated as follows:

Cash	\$ 10,000.00
Land, Buildings, Fixtures and Improvements	\$150,000.00
Inventory, Machinery, Equipment and Tangible Assets	\$100,000.00
Goodwill and Intangible Assets	\$100,000.00

Buyers acknowledge receipt from Sellers of \$10,000.00 cash.

3. **POSSESSION.** Buyers, concurrently with due performance on their part shall be entitled to possession of said premises on March 2, 2021; and thereafter so long as they shall perform the obligations of this Contract.
4. **TAXES.** Sellers shall pay the property taxes accrued to the date of Buyers' possession and payable during the subsequent fiscal year, and any unpaid taxes thereon payable in prior years. Buyers shall pay any taxes not assumed by Sellers and all subsequent taxes before same become delinquent. Whoever may be responsible for the payment of said taxes, and the special assessments, if any, each year, shall furnish to the other party 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 year currently payable unless the parties state otherwise.**
5. **SPECIAL ASSESSMENTS.** Sellers shall pay the special assessments against this property which are a lien thereon as of March 2, 2021, including all sewage disposal assessments for overage charge heretofore assessed by any municipality having jurisdiction as of date of possession. Buyers, except as stated above, shall pay all subsequent special assessments and charges before they become delinquent.
6. **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 100% 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.

7. **INSURANCE.** Buyers as and from date of Closing, 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.
8. **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.
9. **LIENS.** No mechanics' lien shall be imposed upon or foreclosed against the real estate described herein.
10. **ADVANCEMENT BY SELLERS.** If Buyers fail to pay such taxes, special assessments and insurance and effect necessary repairs, as above agreed, Sellers 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.

11. **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 15 below.
12. **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.
13. **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.
14. **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.
15. **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 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. This contract supersedes the previous written offer of Buyers to buy the above-described property which was accepted by Sellers. 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. For all personal property that is a part of this agreement, upon due performance by Buyers, Sellers shall execute and deliver a Bill of Sale consistent with the terms of this Contract. This contract supersedes the previous written Asset Purchase Agreement

executed by the parties.

16. **APPROVAL OF ABSTRACT.** Buyers have not examined the abstract of title to this property and such abstract is not accepted.

17. **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.

18. **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.

19. **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.
20. **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.
21. **ASSIGNMENT.** This Contract may not be assigned by either party without the prior written consent of the other party. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of the parties to this Agreement and their respective successors in interest and permitted assigns. 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.
22. **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 personal property 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.
23. **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."
24. **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.

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.** Sellers represent and warrant to Buyers 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.**

A. **“AS IS” CONDITION.** Buyers acknowledge that they have made a satisfactory inspection of the Property and Assets and are purchasing the Property and Assets subject to this Contract in their existing condition.

B. **COVENANT NOT TO COMPETE.** Through March 2, 2024, Seller shall not engage in, control or be employed by any firm or corporation that is engaged in a venture or business substantially similar to or in competition with Air-Cooled Engines, LLC within a radius of one hundred (100) miles of Winterset, Iowa. Seller shall not induce, directly or indirectly, any employee of Buyer to terminate their employment with Buyer. Seller shall not solicit the business of any customer of Buyer.

C. **CONTROLLING AGREEMENT.** The parties acknowledge and agree that this Contract supersedes all other forms of agreement signed by them prior to the date of execution of this Contract, including, but not limited to, the Offer to Buy Real Estate and Acceptance, Asset Purchase Agreement, Business Purchase Letter of Intent and Non-Compete Agreement previously executed. The terms and provisions of this Contract shall be controlling and all terms and provisions of all previously executed agreement shall be null and void.

D. **ESCROW FOR DEED AND ABSTRACT.** Upon execution this Contract Seller shall deliver the abstract of title, together with the duly executed deed and escrow agreement, to Jane E. Rosien at Flander Rosien, P.C., 114 E. Jefferson Street, P.O. Box 67, Winterset, IA 50273 to be held in escrow by her until Buyer has fully performed all terms and provisions of this Contract. Upon full and complete performance of the terms and provisions of this Contract by Buyer, Seller, or their assigns or representatives, shall advise said Escrow Agent to deliver the deed and abstract to Buyer.

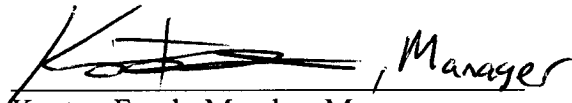
E. PERSONAL GUARANTY. To induce the Sellers to enter into this Contract for the sale of the real property and other assets on an installment basis, the parties agree that Kenton Frank and Alison Frank shall sign this Contract, in their individual capacity, for the sole purpose of jointly and severally guaranteeing to the Sellers the full and prompt payment when due, whether at maturity or earlier by reason of acceleration or otherwise, of the Buyer's full liabilities and obligations under this Contract. The parties understand the Guarantors are making an absolute, unconditional and continuing guaranty of payment of all amounts owed the Sellers and shall continue to be in force and be binding upon the Guarantors until all amounts owed the Sellers are paid in full. This Guaranty shall be in addition to and shall be cumulative with other lawful remedies of the Sellers. The Buyer's full satisfaction of its liabilities and obligations under this Sales Contract shall exonerate the Guarantors and shall release their liability under this guarantee agreement. This guaranty agreement shall not be changed, modified or amended except by a writing signed by the Sellers and Buyer and the Guarantors.


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.

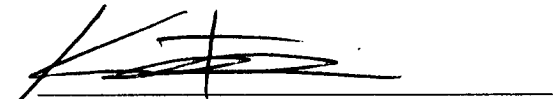
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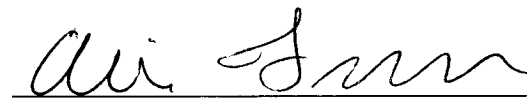

Rodney D. Wheeler, Seller


Laurie A. Wheeler, Seller


Kenton Frank, Member-Manager
Air-Cooled Engines, Iowa, LLC, Buyer


Alison Frank, Member-Manager
Air-Cooled Engines, Iowa, LLC, Buyer


Kenton Frank, Individually


Alison Frank, Individually

STATE OF IOWA, COUNTY OF MADISON

This instrument was acknowledged before me on March 23, 2021 by Rodney D. Wheeler and Laurie A. Wheeler.



Carla J Vasey
Signature of Notary Public

STATE OF IOWA, COUNTY OF MADISON

This record was acknowledged before me on March 19, 2021 by Kenton Frank individually and as Member-Manager of Air-Cooled Engines Iowa, LLC.



Carla J Vasey
Signature of Notary Public

STATE OF IOWA, COUNTY OF MADISON

This record was acknowledged before me on March 19, 2021 by Alison Frank individually and as Member-Manager of Air-Cooled Engines Iowa, LLC.



Carla J Vasey
Signature of Notary Public

RODNEY D. WHEELER AND LAURIE A. WHEELER - KENTON FRANK AND ALISON FRANK, MEMBER-MANAGERS OF AIR-COOLED ENGINES, LLC.

REAL ESTATE CONTRACT - INSTALLMENTS

EXHIBIT "A"

1. **Cash.** Cash or cash equivalent in the amount of \$10,000.
2. **Inventory.** All inventories of raw materials, work-in-progress and finished goods in existence as of Closing Date.
3. **Accounts Receivable.** All Seller's accounts receivable in existence of as Closing Date.
4. **Machinery, Equipment and other Tangible Assets.** All Seller's furniture, fixtures, machinery, equipment, tools, supplies, stores, computer hardware and software, and other similar miscellaneous tangible assets.
5. **Records.** All customer lists, sales and purchase records, office records and other books and records relating to the operation of the Business.
6. **Intangibles.** All Seller's goodwill, going concern value, trade secrets, know-how, processes, corporate names, trade names, trademarks and logos.
7. **Miscellaneous Assets.** All other assets or property of Seller, real or personal, which are used or usable in the operation of the business.

EXCEPT AS FOLLOWS:

Notwithstanding the foregoing or any other provision of the Agreement to the contrary the following assets of Seller are not included in the sale and are retained by Seller.

1. All cash or cash equivalents in excess of \$10,000.
2. Safe.
3. Trucks and trailers.
4. Acetylene torch set with cart.
5. Bell Bench saw grinder and stand