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AUD \$ 5.00  
R.M.F. \$ 1.00

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NICKI HITSLER  
RECORDER  
MADISON COUNTY, IOWA

Prepared by: A. Zane Blessum, 113 N. John Wayne Drive, Winterset, Iowa 50273 (515) 462-1666  
Address Tax Statement to: 2712 N. John Wayne Dr., Winterset, IA 50273

### CONTRACT OF SALE

Jan-Cat, Inc, a corporation organized under the laws of the State of Iowa, (Jan-Cat, Inc.), 113 North John Wayne Drive, Winterset, Madison County, Iowa; and Elton A. and Cinda L. Root, husband and wife, and ROOT, Inc., (Root), 408 W. Buchanan, Winterset, Madison County, Iowa, hereby agree as follows:

1. **SALE OF BUSINESS:** Jan-Cat, Inc. shall sell to Root and Root shall purchase from Jan-Cat, Inc., free from all liability and encumbrances, the real and personal property described on Exhibits "A" and "B", attached hereto and by this reference made a part hereof, plus all additional items necessary to encompass the entire business and assets of the Winterset Apple Orchard owned and operated by Jan-Cat, Inc. at 2712 John Wayne Drive, Winterset, Madison County, Iowa, including buildings, trees, equipment, fixtures, and trade name of "Winterset Apple Orchard", and all other property owned and used by Jan-Cat, Inc. at such business address, other than accounts receivable and payable. Purchase price of said property located at 2712 John Wayne Drive, Winterset, Madison County, Iowa is **THREE HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$325,000.00).**

2. **ALLOCATION OF PURCHASE PRICE.** Jan-Cat, Inc. and Root agree that the purchase price for the assets purchased by Root will be allocated in the following manner:

a)	Land	\$ 14,750.00
b)	Trees	\$ 118,675.00
c)	Equipment	\$ 130,075.00
d)	Buildings	\$ 56,500.00
e)	Covenant Not To Compete	\$ 5,000.00

3. Jan-Cat, Inc. shall take a second mortgage on the property located at 2712 N. John Wayne Drive, Winterset, Madison County, Iowa legally described as:

Parcel "C" in the Northeast Quarter (1/4) of the Northeast Quarter (1/4) of Section Twenty-five (25), Township Seventy-six (76) North, Range Twenty-eight (28) West of the 5<sup>th</sup> P.M., Madison County, Iowa, more particularly described as follows: Commencing at the NE corner of said Section 25; thence N89°45'49"W, 614.04 feet to the point of beginning; thence S00°14'11"W, 406.30 feet; thence N89°45'49"W, 218.94 feet;

thence N00°14'11"E, 406.30 feet; thence S89°45'49"E, 218.94 feet to the point of beginning. Parcel "C" contains 3.00 acres.

for security on the contract of the property and inventory located at 2712 N. John Wayne Drive, Winterset, Madison County, Iowa. Said second mortgage will be released on the property after Root has paid TWENTY THOUSAND DOLLARS (\$20,000.00) of the principal on said contract.

4. **CONTRACT PRICE.** Root shall pay the balance to Jan-Cat, Inc. at its address or as directed by Jan-Cat, Inc., as follows:

Said contract will be set up on a fifteen (15) year amortization with three (3) year balloon increments with interest to be paid on or before December 15th of each subsequent year and principal to be paid a minimum of one (1) year out of the first three (3) years. All balances are to be paid in full on or before December 15, 2018. Root shall pay interest from May 1, 2003 on the unpaid balance, at the rate of seven percent (7%) per year. Root can prepay any and all principal and interest amounts at any time without penalty.

5. **POSSESSION.** Jan-Cat, Inc. shall give Root possession of the business and all real and personal property listed on Exhibits "A" and "B" on or before May 15, 2003.

6. **TAXES.** Property taxes shall be prorated from date of contract.

7. **BUSINESS NAME.** Root shall be entitled to the exclusive use of the name "Winterset Apple Orchard" after the closing of this sale.

8. **ABSTRACT AND TITLE.** Jan-Cat, Inc., at its expense, shall promptly obtain an abstract of title to the Real Estate continued through the date hereof, and deliver it to Roots for examination. It shall show merchantable title in Jan-Cat, Inc. in conformity with this agreement, Iowa Law and Title Standards of the Iowa State Bar Association. The abstract shall become the property of Root when the purchase price is paid in full. Jan-Cat, Inc. shall pay the costs of any additional abstracting and title work due to any act or omission of Jan-Cat, Inc., including transfers by or the death of Jan-Cat, Inc. or its assignees.

9. **DEED.** Upon payment of the purchase price, Jan-Cat, Inc. shall convey the Real Estate to Root or its assigns, by warranty deed, free and clear of all liens, restrictions, and encumbrances. Any general warranties of title shall extend only to the time of execution of this contract with special warranties as to acts of Jan-Cat, Inc. continuing up to time of deliver of the deed.

10. **REMEDIES OF THE PARTIES.**

a) If Root fails to timely perform this contract, Jan-Cat, Inc. may forfeit it as provided in the Iowa Code, and all payments made shall be forfeited or, at Jan-Cat,

Inc.'s option, upon thirty (30) days written notice of intention to accelerate the payment of the entire balance because of such failure (during which thirty (30) days such failure is not corrected) Jan-Cat, Inc. may declare the entire balance immediately due and payable. Thereafter, this contract may be foreclosed in equity and the court may appoint a receiver.

b) If Jan-Cat, Inc. fails to timely perform this contract, Root has the right to have all payments made returned to them.

c) Jan-Cat, Inc. and Root also are entitled to utilize any and all other remedies or actions at law or in equity available to them and shall be entitled to obtain judgment for costs and attorney fees as permitted by law.

11. CLOSING. The closing of this sale shall take place at the law office of A. Zane Blessum, 113 N. John Wayne Drive, Winterset, Iowa. At the time of closing, Jan-Cat, Inc. shall execute and deliver to Roots such bills of sale and other instruments as may be necessary to transfer title of the business and personal property referred to in paragraph one (1) and deliver possession of the real estate and the keys to the premises to Root.

12. REPRESENTATIONS BY SELLER. Jan-Cat, Inc. makes the following representations and warranties to Root, all of which shall survive the closing and the giving of the bill of sale:

a) Jan-Cat, Inc. is the owner of and has good and marketable title to the business and property referred to in paragraph one (1), free of all debts, liens, security interests and encumbrances.

b) Jan-Cat, Inc. has entered into no contracts relating to the business and property referred to in paragraph one (1).

c) There are no judgments, liens, actions or proceedings pending or threatened against Jan-Cat, Inc..

d) To its knowledge, Jan-Cat, Inc. has complied with all laws, rules and regulations of any local, state or federal government and all agencies thereof which relate to the business to be conveyed and has not knowingly violated any such laws, rules or regulations.

e) Jan-Cat, Inc. has paid in full all state and federal employee income tax withholding, federal social security tax (FICA) withholding, employment taxes, unemployment insurance, sales and use taxes, business or license fees, and any other business related taxes or governmental charges.

f) Jan-Cat, Inc. has or will have as of final payment, good and marketable title to the real and personal property, free and clear of all liens, mortgage, charges and encumbrances except as expressly permitted hereunder.

13. BUSINESS CONTRACTS. Root assumes no responsibility for any business contract made by Jan-Cat, Inc. and not listed in the attached Exhibit "A".

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

15. NOTICES. All notices, demands and requests which may be given or served or which are required to be given or served by either party to the other shall be in writing and shall be sent via United States mail, certified mail, return receipt requested, postage prepaid, addressed as follows:

If to Jan-Cat, Inc.:	Jan-Cat, Inc. 113 N. John Wayne Drive P.O. Box 309 Winterset, Iowa 50273
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If to Root :	Elton A. and Cinda L. Root 2712 N. John Wayne Drive Winterset, Iowa 50273
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16. NON-COMPETITION AGREEMENT. See attached Exhibit "C".

17. OTHER AGREEMENTS.

17.1 Jan-Cat, Inc. shall provide Root with a statement showing the schedules used by Jan-Cat, Inc. for spraying, picking and general production of apples.

17.2 Jan-Cat, Inc. has executed any and all documents necessary to participate in the production programs for orchards of the United States Department of Agriculture or an agency thereof. Jan-Cat, Inc. agrees to cooperate with Root and execute any and all documents necessary to transfer such participation to Root.

18. BINDING EFFECT. This Agreement shall be binding upon, and inure to the benefit of the parties hereto, and their respective successors, heirs and assigns.

19. JOINT TENANCY IN PROCEEDS AND REAL ESTATE. If Jan-Cat, Inc. immediately preceding this contract, held title to the Real Estate in joint tenancy with full rights of survivorship, and the joint tenancy is not later destroyed by operation of law or by acts of Jan-Cat, Inc., then the proceeds of this sale, and any continuing or recaptured rights of Jan-Cat, Inc. in the Real Estate, shall belong to Jan-Cat, Inc. as joint tenants with full right of survivorship and not as tenants in common; and Root, in the event of the death any members of Jan-Cat, Inc., agrees to pay any balance of the price due Jan-Cat, Inc. under this contract to

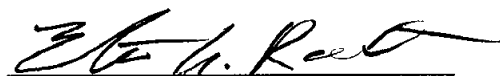
the surviving member(s) of Jan-Cat, Inc. and to accept a deed from the surviving member(s) of Jan-Cat, Inc. consistent with paragraph 8.

20. CONSTRUCTION. Words and phrases in this contract shall be construed as in the singular or plural number, and masculine, feminine or neuter gender, according to the context. This shall be the entire terms of the Agreement.

IN WITNESS WHEREOF, Jan-Cat, Inc. and Root have duly executed this agreement as of the date first written above.

BUYER:

Root, Inc.



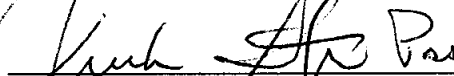
by Elton A. Root, President



by Cinda L. Root, Secretary

SELLER:

Jan-Cat, Inc.



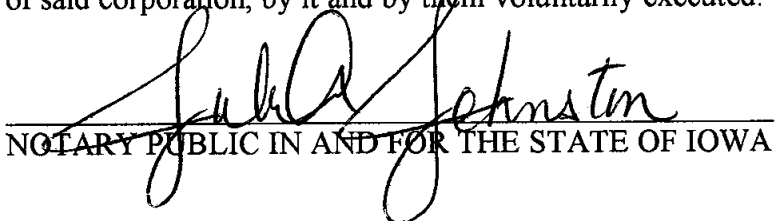
by: Mark Switzer, President



by: A. Zane Blessum, Treasurer

STATE OF IOWA :  
: SS  
COUNTY OF MADISON :

On this 24th day of April, 2003, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Mark Switzer and A. Zane Blessum, to me personally known, who, being by me duly sworn, did say that they are the President and Treasurer, respectively, of Jan-Cat, Inc.; that no seal has been procured by the corporation; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said Mark Switzer, as President of said corporation and A. Zane Blessum, as Treasurer of said corporation, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.



NOTARY PUBLIC IN AND FOR THE STATE OF IOWA

STATE OF IOWA :  
 : SS  
COUNTY OF MADISON :

On this 24th day of April, 2003, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Elton A. Root and Cinda L. Root, to me personally known, who, being by me duly sworn, did say that they are the President and Secretary, respectively, of Root, Inc.; that no seal has been procured by the corporation; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said Elton A. Root, as President of said corporation and Cinda L. Root, as Secretary of said corporation, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.



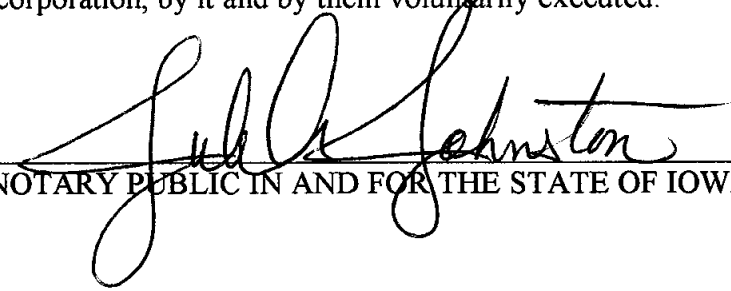
  
NOTARY PUBLIC IN AND FOR THE STATE OF IOWA

Exhibit A

INVENTORY LIST

Of Property Located At:

2712 John Wayne Drive, Winterset, Madison County, Iowa

1996 Kobota M 4030 Tractor  
Belarus 925 Tractor  
1999 Mustang 2040 Skid Steer  
20-ft. flatbed trailer  
10-ft. trailer  
2000 Woods Offset Mower (10 ft.)  
1995 John Deere Mower (5 ft.)  
Bush Hog Mower (9 ft.)  
5-ft. snowblade  
Kinder 250 gallon sprayer  
Irrigation equipment  
3-Wheel air compressor/pruner  
1997 Chain Saws (3)  
300 gallon fuel barrel  
10-ft. picking ladders (2)  
Apple picking bags  
20 bushel crates (approximately 25)  
1 bushel crate (approximately 100)  
Pallet jacks (2)  
Hand carts (3)  
Apple sorting table  
Reach-in cooler  
Wall-in coolers (2)  
Freezers (2)  
Shelving (approximately 50 ft.)  
Display shelves (8)  
Office desk/chairs (2)  
Cash register  
Cider press  
Cider tank  
Cider grinder

Exhibit "B"

REAL PROPERTY

The Northeast Quarter (¼) of the Northeast Quarter (¼) of Section Twenty-five (25) in Township Seventy-six (76) North, Range Twenty-eight (28) West of the 5<sup>th</sup> P.M., Madison County, Iowa, EXCEPT a parcel of land located in the Northeast Quarter (¼) of the Northeast Quarter (¼) of Section Twenty-five (25), Township Seventy-six (76) North, Range Twenty-eight (28) West of the 5<sup>th</sup> P.M., Madison County, Iowa, more particularly described as follows: Commencing at the Northeast Corner of Section Twenty-five (25), Township Seventy-six (76) North, Range Twenty-eight (28) West of the 5<sup>th</sup> P.M., Madison County, Iowa, thence along the East line of said Section Twenty-five (25), South 00°00'00" 1008.62 feet to the Point of Beginning, thence continuing along said East line, South 00°00'00" 300.00 feet, thence North 89°41'48" West 655.55 feet, thence North 20°38'42" West 40.67 feet, thence North 36°17'13" East 135.41 feet, thence North 61°06'57" East 70.84 feet, thence North 47°15'30" East 99.59 feet, thence North 55°03'15" East 54.80 feet, thence North 82°53'44" East 114.09 feet, thence North 77°03'57" East 15.64 feet, thence South 89°41'48" East 281.20 feet to the Point of Beginning, said parcel of land contains 3.828 acres, including 0.874 acres of State Highway right-of-way.



Prepared by: A. Zane Blessum, 113 N. John Wayne Dr., P.O. Box 309, Winterset, IA 50273

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**NON-COMPETITION AGREEMENT**

THIS Non-Competition Agreement made as of the 24th day of April, 2003, by and between Jan-Cat, Inc., (hereinafter referred to as "Sellers"), and Root, Inc., (hereinafter referred to as "Buyer").

WHEREAS, the parties acknowledge that competition by the Sellers with Buyer following Buyer's purchase could substantially diminish the business goodwill being purchased by Buyer unless Buyer is afforded a reasonable amount of time in which to stabilize and develop that existing goodwill; and

WHEREAS, to protect the value of the goodwill, Buyer desires to receive from the Sellers a covenant not to engage in competition with Buyer within the State of Iowa; and

WHEREAS, the parties agree that the dollar amount assigned to the execution of this Non-Competition agreement shall be \$5000.00 paid together with the Purchase Agreement.

WHEREAS, the Sellers and Buyer desire to confirm the terms and conditions of their agreements and understandings.

NOW, THEREFORE, the parties hereto agree as follows:

1. Covenants Against Competition.

- a. The Sellers shall not, for a period of three (3) years from the date of this agreement, own, operate, have any interest in, or in any manner be associated with an orchard located within a fifty (50) mile radius of Winterset, Iowa.
- b. The parties, recognizing that irreparable injury will result to the employer, its business and property in the event of a breach of this agreement by the Seller, agree, that in that event, the Buyer shall be entitled to an injunction, without bond, to restrain the violation by the Seller, his partners, agents, servants, employers, and employees, and all persons acting for or with him. This is not the exclusive remedy of the Buyer but shall be in addition to and not in limitation of any remedies or rights to which buyer is or may be entitled to at law or in equity. By signing this agreement Seller understands that in the event of the Buyer filing for an injunction Seller specifically is

waiving the bond requirements of Rule 327 of the Iowa Rules of Civil Procedure.

2. Compensation. The execution of this Non-Competition Agreement is an essential part of the Purchase Agreement entered into by the parties herein and is a condition underlying the Purchase Agreement, that is, if the Sellers do not agree to this Non-Competition Agreement, Buyer will not enter into the Purchase Agreement. Compensation for this Non-Competition Agreement is included in the compensation paid to Sellers under the Purchase Agreement.

3. Reasonableness of Restrictions. All parties have carefully read and considered the provisions of this agreement and, having done so, agree that the restrictions set forth in such paragraphs are fair and reasonable and are reasonably required to facilitate the sale.

4. Governing Law. It is understood and agreed that the construction and interpretation of this agreement shall at all times and in all respects be governed by the laws of the State of Iowa.

5. Severability. The provisions of this agreement shall be deemed severable and the invalidity or unenforceability of any one or more of the provisions hereof shall not affect the validity and enforceability of the other provisions hereof.

6. Entire Agreement. This agreement contains the entire agreement and understanding by and between Sellers and Buyer with respect to the covenant against competition herein referred to, and no representations, promises, agreements or understandings, written or oral, not herein contained, shall be of any force or effect .

IN WITNESS WHEREOF, Sellers and Buyer have duly executed this agreement as of the date first written above.

SELLERS:

  
Mark Switzer, President

  
A. Zane Blessum, Treasurer

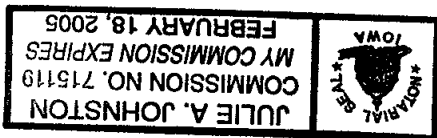
BUYER:

  
Elton A. Root, President

  
Cinda L. Root, Secretary

STATE OF IOWA :  
: SS  
COUNTY OF MADISON :

On this 24th day of April, 2003 before me, the undersigned, a Notary Public in and for said State, personally appeared Mark Switzer and A. Zane Blessum, President and Secretary of said corporation; that no seal has been procured by the said corporation; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said President as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.



*Julie A. Johnston*  
NOTARY PUBLIC IN AND FOR THE STATE OF IOWA

STATE OF IOWA :  
: SS  
COUNTY OF MADISON :

On this 24th day of April, 2003, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Elton A. Root and Cinda L. Root, to me known to be the identical persons named in and who executed the within and foregoing instrument and acknowledged that they executed the same as their voluntary act and deed.



*Julie A. Johnston*  
NOTARY PUBLIC IN AND FOR THE STATE OF IOWA