

REC \$ 15<sup>00</sup>  
AUD \$ 5<sup>00</sup>  
R.M.F. \$ 1<sup>00</sup>  
5<sup>00</sup>

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Address Tax Statement To: Jo Ann Overbay 201 East North Street, Macksburg, IA 50155

MICKLITSLER  
RECORDER  
MADISON COUNTY, IOWA

### REAL ESTATE CONTRACT

IT IS AGREED This 21<sup>st</sup> day of August 2003 between Troy McKinney and Brenda McKinney, husband and wife ("Seller's") and Jo Ann Overbay, a single person ("Buyer")

That the Seller, agrees to sell and Buyer agrees to buy real estate situated in Madison County, Iowa, described as:

Lots 4,5,6,9 and 10 in Block 8 of Barkers<sup>et al</sup> Second Addition to the Town of Macksburg, Madison County, Iowa, and the Alley lying South of Lots 4,5, and 6, and the West Half of the alley lying East of said Lots 9 and 10 in said Block 8.

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. liens; mineral rights; other easements; interests of others, upon the following terms:

1. Price. The total purchase price for said Real Estate is Twenty-eight Thousand dollars (\$28,000). Buyer shall pay the purchase price to Sellers as follows: Three hundred and fifty dollars each month, beginning the first of the month following the signing of this contract and continuing thereon for 24 monthly installments. On September 1, 2005, the remaining balance shall become due and payable by Buyer to Sellers. If Buyer is unable to obtain financing on the unpaid balance on or before September 1, 2005, the Sellers, at their option, may renew this installment contract for an additional two years. At that time, if the Buyer is unable to obtain financing, the parties may negotiate a new contract. If the Buyer is unable to obtain financing and this contract is not revised, Buyer forfeits all payments made under this contract.

2. Interest. Buyer shall pay no interest on the unpaid balance.

3. Real Estate Taxes. Buyer shall pay all real estate taxes as they become due.

4. Special Assessments. Sellers shall pay all special assessments which are a lien on the Real Estate as of the date of this contract. All other special assessments shall be paid by Buyer.

5. Possession and Closing. Buyer is currently in possession of said Real Estate. Closing shall occur upon payment in full of the purchase price as set out in paragraph 1 of this contract or in a reasonable amount of time thereafter.

6. Insurance. Sellers shall maintain existing insurance upon the Real Estate until the fulfillment of said contract. If a total loss occurs, the first insurance proceeds payable will be used to satisfy all liens/mortgages on the property. Any remaining monies shall be retained by the Sellers and the Buyer shall receive the property as her interest in said property, and as fulfillment of this contract. Any removal of debris and structure will be done at the expense of the Buyer. In the event of a partial loss, the proceeds shall be used to repair the property.

7. Abstract and Title. Sellers, at their expense, shall obtain an abstract of title to the Real Estate continued through the date of closing, and deliver it to Buyer for examination. It shall show merchantable title in Sellers in or conformity with this contract, Iowa law and Title Standards of the Iowa Bar Association. The abstract shall become the property of the Buyer when the purchase price is paid in full. 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 as part of Real Estate and included in the sale.

9. Care of Property. Buyer 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. Buyer shall not make any material alteration to the Real Estate without the written consent of the Sellers.

10. Deed. Upon payment of the purchase price, Sellers shall convey the Real Estate to Buyer or their assignees, by general warranty deed, free and clear of all liens, restrictions, and encumbrances except as provided in paragraph 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. Forfeiture. If Buyer (a) fails to make the payments aforesaid, or any part thereof, as same become due; or (b) fails 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) fails to keep the property insured; or (d) fails to keep it in reasonable repair as herein required; or (e) fails 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 Buyer 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 Buyer, 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 provided by law.

**12. Remedies of the Parties.**

a. If Buyer fails to timely perform this contract, Seller may at Seller's option, forfeit Buyers' rights in the 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 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 Section 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.

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 Sellers 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.

**13. 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 the 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 rights 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 1

**14. 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 or real estate contract for this purpose.

**15. Time of the Essence.** Time is of the essence in this contract.

**16. 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.

**17. 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.

**18. 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.

**19. Additional Provisions.**


1. The parties agree the Real Estate is sold "as is". Buyers acknowledge that they have made a

satisfactory inspection of the property, have been advised and encouraged to obtain an inspection and understand the importance of an inspection and are purchasing the property in its existing condition, and voluntarily waive their right to an inspection.

2. The parties agree there will be a \$50 late charge if monthly payments are not received by the 10<sup>th</sup> of the month.
3. If monthly payments are not received by the end of the month in which the payment is due, forfeiture proceedings will begin.
4. This contract cannot be assumed.
5. This contract cannot be sold on contract.
6. The Buyer agrees to pay, at the time of the signing of this contract, \$200.00 to Forsyth Law Office as payment of legal services for the drafting and filing of this contract.
7. All filing fees shall be paid by Buyer.

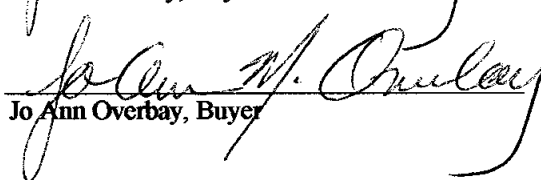
**I UNDERSTAND THAT HOMESTEAD PROPERTY IS IN MANY CASES PROTECTED FROM THE CLAIMS OF CREDITORS AND EXEMPT FROM JUDICIAL SALE; AND THAT BY SIGNING THIS CONTRACT, I VOLUNTARILY GIVE UP MY RIGHT TO THIS PROTECTION FOR THIS PROPERTY WITH RESPECT TO CLAIMS BASED UPON THIS CONTRACT.**

Dated: 08/21/03

  
Troy McKinney, Seller

Brenda S. McKinney  
Brenda McKinney, Seller

  
Jo Ann Overbay, Buyer

  
Jo Ann Overbay, Buyer

STATE OF IOWA, COUNTY OF MADISON, ss:

This 21<sup>st</sup> day of August, 2003, before me, the undersigned, a Notary Public in and for said State, personally appeared Troy McKinney and Brenda McKinney, known to be the identical persons named in and who executed the foregoing instrument and acknowledged to me that they executed the same as their voluntary act and deed.

DJ Ronnenberg  
NOTARY PUBLIC IN AND FOR SAID STATE

STATE OF IOWA, COUNTY OF MADISON, ss:

This 21<sup>st</sup> day of August, 2003, before me, the undersigned, a Notary Public in and for said State, personally appeared Jo Ann Overbay, known to be the identical person named in and who executed the foregoing instrument and acknowledged to me that she executed the same as her voluntary act and deed.

DJ Ronnenberg  
NOTARY PUBLIC IN AND FOR SAID STATE

