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MICHELLE UTSLER, COUNTY RECORDER  
 MADISON IOWA

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**REAL ESTATE CONTRACT**

Recorder's Cover Sheet

**Preparer Information:**

John E. Casper, 223 E. Court Ave., Winterset, IA 50273, 515-462-4912

**Taxpayer Information:**

Kevin Gyles  
 302 W. Carpenter  
 St. Charles, IA 50240

**Return Address**

John E. Casper  
 PO Box 67  
 Winterset, IA 50273

**Grantors:**

Sybil Witt

**Grantees:**

Kevin Gyles

**Legal Description:** See Page 2

**Document or instrument number if applicable:**

**REAL ESTATE CONTRACT (SHORT FORM)**

**IT IS AGREED** between Sybil Witt, a single person, SELLER; and Kevin Gyles, BUYER.

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

**Lot Six (6) in the Southeast Section of the Original Town of St. Charles,  
Madison County, Iowa,**

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. (consider: liens; mineral rights; other easements; interest of others.) (the "Real Estate"), upon the following terms:

1. **TOTAL PURCHASE PRICE.** The Buyers agree to pay for said property the total of \$57,400.00 due and payable at 1569 105<sup>th</sup> Street, Earlham, Madison County, Iowa 50072, as follows:

(a) The Buyer pays no downpayment: and,

(b) Balance of purchase price shall be due and payable as follows: \$579.11 shall be due and payable on February 24, 2006; \$579.11, or more, shall be due and payable on March 24, 2006; and \$579.11, or more, shall be due and payable on the 24<sup>th</sup> day of each month thereafter until February 24, 2007 when all remaining balances due under this contract shall become due and payable in full. The Buyer shall pay Seller interest upon the unpaid balances from February 24, 2006 at the rate of 4.75% per annum payable monthly as above provided. The monthly installment payments include principal and interest. All installment payments shall be first credited towards the interest accrued on the date of the payment and the balance towards the reduction in principal. In the event the Buyer prepays the contract balance, the parties agree the Buyer's total payments under this contract shall be \$60,000.00.

2. **DELINQUENT INTEREST.** Buyer shall also pay interest at the rate of 4.75 % per annum on all delinquent amounts and any sum reasonably advanced by Seller to protect their interest in this contract, computed from the date of the delinquency or advance.

3. **REAL ESTATE TAXES.** Seller shall pay any unpaid real estate taxes payable in prior fiscal years and 239/365ths of the property taxes payable upon the premises during the fiscal year commencing on July 1, 2006. Buyer shall pay all other and subsequent real estate taxes. Any proration of real estate taxes on the Real Estate shall be based upon such taxes for the year currently payable unless the parties state otherwise.

4. **SPECIAL ASSESSMENTS.** Seller shall pay all special assessments which are a lien on the Real Estate as of February 24, 2006. All other special assessments shall be paid by Buyer.

5. **POSSESSION CLOSING.** Seller shall give Buyer possession of the Real Estate on February 24, 2006, provided Buyer are not in default under this contract. Closing shall be on or about February 24, 2006.

6. **INSURANCE.** The parties acknowledge and agree that the Seller has no insurance upon the Real Estate. The Seller shall not be required to insure the property prior to delivery of possession to the Buyer. After possession and until full payment of the purchase price, Buyer shall keep the improvements on the Real Estate insured against loss by fire, tornado, and extended coverage for a sum not less than 100 percent of full insurable value payable to the Seller and Buyer as their interests may appear. Buyers shall provide Sellers with evidence of such insurance.

7. **ABSTRACT AND TITLE.** Seller, at their expense, shall promptly obtain an abstract of title to the Real Estate continued through the date of this contract, and deliver it to Buyer for examination. It shall show merchantable title in Seller in conformity with this contract, Iowa law and the Title Standards of the Iowa State Bar Association. The abstract shall become the property of the Buyer when the purchase price is paid in full, however, Buyer reserve the right to occasionally use the abstract prior to full payment of the purchase price. 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 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 a 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 Seller.

10. **DEED.** Upon payment of purchase price, Seller shall convey the Real Estate to Buyer or their assignees, by 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.

11. **REMEDIES OF THE PARTIES.** a. 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/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 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 lease, and may accordingly be ousted and removed as such as provided by law.

b. 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 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. 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 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.

c. If Sellers fail 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.

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

e. 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.

**12. 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 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 right 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 10.

**13. 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 for this purpose.

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

**15. 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.

**16. 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.

**17. 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.

**18. "AS IS" condition.** The parties agree the premises are sold in its "AS IS" condition; the Sellers make no representation or warranties, express or implied, as to the habitability, structural quality or usability of the premises; and, the Buyers acknowledge full opportunity to inspect the structural, electrical, plumbing, sewer and other conditions of the premises.

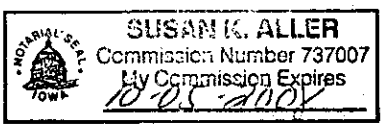
Dated: February 20, 2006.

Sybil E Witt  
Sybil Witt, Seller

Kevin Gyles  
Kevin Gyles, Buyer

STATE OF IOWA, MADISON COUNTY, ss;

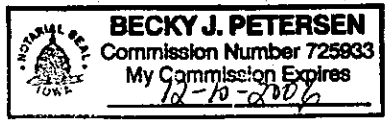
On this 15<sup>th</sup> day of February, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared Sybil Witt, to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledged to me that she executed the same as their voluntary act and deed.



Susan K. Aller  
Susan K. Aller, Notary Public in and for  
the State of Iowa

STATE OF IOWA, MADISON COUNTY, ss;

On this 20<sup>th</sup> day of February, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared Kevin Gyles, to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledged to me that she executed the same as their voluntary act and deed.



Becky J. Petersen  
Becky J. Petersen, Notary Public in and for  
the State of Iowa