

DOV# 316

LISA SMITH, COUNTY RECORDER
MADISON IOWA

CONTRACT

Preparer Information:

Jackie Forgy, 215 East High Street, Winterset, IA 50273, Phone: (515)462-1147

Taxpayer Information:

Jerry (██████████) and Julie (██████████) DuBois, 2788 State Hwy. 92, Winterset, IA 50273, Phone: (515)-223-9070

✓ **Return Document To:**

Jerry and Julie DuBois, 2788 State Hwy. 92, Winterset, IA 50273

Grantors:

Ronald Forgy
Jacqueline Forgy

Grantee:

Jerry DuBois
Julie DuBois

IT IS AGREED this June 12, 2007, by and between Jacqueline L. Forgy and Ronald Forgy, husband and wife, as Seller, and Jerry DuBois and Julie DuBois, husband and wife as Buyer;

That the Seller, as in this contract provided, agrees to sell to the Buyer, and the Buyer in consideration of the premises, hereby agrees with the Seller to purchase the following described real estate situated in the County of Madison, State of Iowa, to-wit:

See Exhibit A hereto

Known locally as 2788 State Hwy. 92, Winterset, Iowa 50273,

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 if and as may be herein described.

1. TOTAL PURCHASE PRICE. The Buyer agrees to pay for said property the total of **\$240,000** due and payable at Seller's address, Madison County, Iowa, as follows:

(a) A down payment of \$30,000.00 to Seller with signed contract. \$210,000.00 plus 7.75% interest to be paid in 35 monthly installments with the outstanding balance due in full June 30, 2010.

(b) On or before the 1st day of each month, beginning July 1, 2007, for a total of 35 months thereafter, Buyer shall pay \$1,700.00 per month.

(c) The outstanding balance, as shown on the attached amortization schedule, shall be due in full on or before June 30, 2010.

(d) Buyer reserves the right to prepay the balance of the purchase price in whole or part at any time without any penalty.

(e) A penalty of \$25.00 shall be due to Seller if payment is not received before the 6th day of each month.

2. POSSESSION. Buyer, concurrently with due performance on their part, shall be entitled to possession of said premises on the date of closing and thereafter so long as they shall perform the obligation of this contract.

3. **TAXES.** Seller shall give credit to Buyer for real estate taxes payable September 2007 and March 2008. This credit to be given on payment of final outstanding balance at closing. Buyer shall pay any taxes not assumed by Seller hereunder before such taxes 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.

4. **SPECIAL ASSESSMENTS.** Seller shall pay the special assessments which are a lien on the real estate as of the date of possession. Buyer shall pay all subsequent special assessments and charges, before they become delinquent.

5. **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 80% of the then unpaid balance of the purchase price herein provided. 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.

6. **INSURANCE.** Seller shall maintain existing insurance upon the Real Estate until the date of possession. Buyer shall accept insurance proceeds instead of Seller replacing or repairing damaged improvements. 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, as an additional insured under the insurance policy, and Buyer as their interests may appear. Buyer shall provide Seller with evidence of such insurance not later than July 15 of each year.

7. **CARE OF PROPERTY.** Buyer shall take good care of this property. Buyer 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. Buyer shall not use or permit the premises to be used for any illegal purpose.

8. **LIENS.** No mechanic's lien shall be imposed upon or foreclosed against the real estate described herein.

9. **ADVANCEMENT BY SELLER.** If Buyer fails to pay such taxes, special assessments and insurance and effect necessary repairs, as above agreed, Seller 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 Seller, be added to the principal amount due hereunder and so secured.

10. **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.

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 14 below unless and except this paragraph is stricken from this agreement.

12. **TIME IS 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.

13. **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) spouse, if not titleholder, need not join in any warranties of the deed unless otherwise stipulated; (f) mineral reservations of record: N/A; (g) liens: N/A, easements not recorded: N/A, interests of other parties: N/A, lessees: N/A.

14. **DEED AND ABSTRACT.** If all said sums of money and interest are paid to Seller during the life of this contract, and all other agreements for performance by Buyer have been complied with, Seller will execute and deliver to Buyer a General Warranty Deed conveying said premises in fee simple pursuant to and in conformity with this contract and Seller will at this time deliver to Buyer 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 Seller as of the date of this contract; or as of such earlier date if and as designated in the next sentence. Seller shall also pay the cost of any abstracting due to any act or change in the personal affairs of Seller resulting in a change of title by operation of law or otherwise.

15. **APPROVAL OF ABSTRACT.** Buyer has examined the abstract of title to this property and such abstract is hereby accepted.

16. **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 Seller, 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 Seller 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 a lease, and may accordingly be ousted and removed as such as provided by law.

17. **FORECLOSURE AND REDEMPTION.** If Buyer fails to timely perform this contract, Seller, at its 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 Iowa 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 at all parties concerned, and such receiver shall be liable to account to Buyer only for the net profits, after application of rents, issues and profits from the costs and expenses of the receivership and foreclosure end 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 file an election to waive any deficiency judgment against Buyer 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 Buyer, 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 Buyer or their successor in interest in such action. If the redemption period is so reduced, Buyer 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 Buyer 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.

18. 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 became delinquent, and/or on cash reasonably advanced by either party pursuant to the terms of this contract, as protective disbursements.

19. ASSIGNMENT. This contract shall not be assigned by Buyer without the prior written consent of Seller. Any 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.

20. **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 "Seller."

21. **RELEASE OF RIGHTS.** Each Buyer 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. **PERSONAL GUARANTY.** Performance of Buyer under this real estate contract shall be personally guaranteed by N/A in accordance with the Guaranty attached at Exhibit B and incorporated herein by this reference.

[Signature Page Follows]

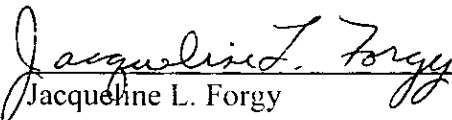
SELLER:



Ronald J. Forgy

BUYER:

Jerry DuBois

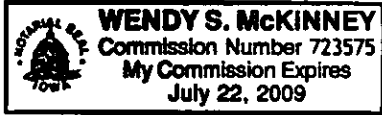


Jacqueline L. Forgy

Julie DuBois

STATE OF IOWA, COUNTY OF MADISON)ss:

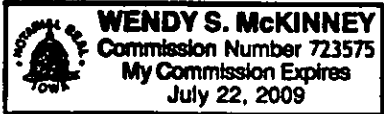
On this 12th day of June, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared Ronald Forgy and Jackie Forgy to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.



Wendy S. McKinney
Printed Name: Wendy McKinney
Notary Public in and for said State

STATE OF IOWA, COUNTY OF MADISON)ss:

On this 12th day of June, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared Jackie Forgy 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.



Wendy S. McKinney
Printed Name: Wendy S. McKinney
Notary Public in and for said State

STATE OF IOWA, COUNTY OF _____)ss:

On this _____ day of _____, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared _____ 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.

Printed Name: _____
Notary Public in and for said State

STATE OF IOWA, COUNTY OF _____)ss:

On this _____ day of _____, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared _____ 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.

Printed Name: _____
Notary Public in and for said State

perform, unless a specific release in writing is given and signed by the other party to this contract.

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22. **PERSONAL GUARANTY.** Performance of Buyer under this real estate contract shall be personally guaranteed by N/A in accordance with the Guaranty attached at Exhibit B and incorporated herein by this reference.

SELLER:

Ronald J. Forgy

Jacqueline L. Forgy

BUYER:



Jerry DuBois



Julie DuBois

STATE OF IOWA, COUNTY OF MADISON)ss:

On this 11th day of JUNE, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared JERRY & JULIE DUBOIS 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.



Lisa Schachtner

Printed Name: LISA SCHACHTNER
Notary Public in and for said State

STATE OF IOWA, COUNTY OF MADISON)ss:

On this _____ day of _____, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared _____ 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.

Printed Name: _____
Notary Public in and for said State

STATE OF IOWA, COUNTY OF _____)ss:

On this _____ day of _____, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared _____ 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.

Printed Name: _____
Notary Public in and for said State

STATE OF IOWA, COUNTY OF _____)ss:

On this _____ day of _____, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared _____ 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.

Printed Name: _____
Notary Public in and for said State

EXHIBIT A
LEGAL DESCRIPTION

A parcel of land described as commencing at the southeast corner of the northeast quarter (NE1/4) of the northeast quarter (NE1/4) of Section Twenty-five (25), Township Seventy-six (76) North, Range Twenty-seven (27) West of the 5th P.M. Madison County, Iowa; thence South 00 degrees 00' 99.2 feet; thence North 89 degrees 05' W 40.0 feet to point of beginning thence N. 00 degrees 00' 415.6 feet to the South right-of-way line of Highway 92; thence North 88 degrees 25' West 811.1 feet; thence South 00 degrees 00' 425.0 feet; thence South 89 degrees 05' East 810.9 feet to the point of beginning containing 7.86 Acres.

Note: The east line of the NE ¼ of Section 25, Township 76 North, Range 27 West of the 5th P.M. Madison County, Iowa is assumed to bear North and South.