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RECORDER  
MADISON COUNTY, IOWA

This document prepared by and return to:

ROSS F. BARNETT, Attorney at Law, 520 - 35<sup>th</sup> St., Suite #100, Des Moines, Iowa 50312 PH # (515) 274-7653

## REAL ESTATE CONTRACT - INSTALLMENTS

IT IS AGREED this 11<sup>th</sup> day of October, 1999, by and between **Karen S. Chesher, a single person**, of Madison County, State of Iowa, Seller; and **Russell D. Wright**, of Polk County, State of Iowa, Buyer;

That the Seller, as in the 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:

Lot Sixteen (16), of LIKENS' SECOND ADDITION to the Town of Truro, in Madison County, Iowa, and A parcel of land located in the Northwest Quarter (¼) of the Northwest Quarter (¼) of Section Fifteen (15), Township Seventy-four (74) North, Range Twenty-six (26) West of the 5<sup>th</sup> P.M., City of Truro, Madison County, Iowa, more particularly described as follows: Beginning at the Southwest Corner of the Northwest Quarter (¼) of the Northwest Quarter (¼) of Section Fifteen (15), Township Seventy-four (74) North, Range Twenty-six (26) West of the 5<sup>th</sup> P.M., City of Truro, Madison County, Iowa; thence along the West line of said Section Fifteen (15), North 00°00'00" 134.00 feet; thence North 86°30'46" East 426.52 feet; thence South 00°34'57" West 134.00 feet to the South line of said Northwest Quarter (¼) of the Northwest Quarter (¼); thence, along said South line, South 86°30'00" West 425.16 feet to the Point of Beginning. Said parcel of land contains 1.307 acres, including 0.102 acres of road right-of-way, Madison County, Iowa, and Thirty-seven and one-half (37.5) feet of ground lying immediately east of Lot Sixteen (16) LIKENS' SECOND ADDITION to Truro, Iowa, and adjacent thereto, formerly the property of the Chicago, Burlington and Quincy Railroad Company,



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 or if and as an itemized list is attached hereto and marked "Exhibit A" all upon the terms and conditions following:

1. **TOTAL PURCHASE PRICE.** The Buyer agrees to pay for said property the total of **\$ 130,000.00**, due and payable as directed by Seller, as follows:
  - a. **DOWN PAYMENT of \$ 5,000.00, receipt of which is hereby acknowledged;** and
  - b. **BALANCE OF PURCHASE PRICE. \$ 125,000.00**, as follows:

**\$ 879.03** due and payable on or before the 1<sup>st</sup> day of November, 1999; and **\$ 879.03** due and payable on or before the 1<sup>st</sup> day of each and every month thereafter, until the entire unpaid balance of the contract is paid in full.
  - c. **BALLOON PAYMENT.** The entire unpaid balance of the contract, including principal and accrued interest, shall become due and payable on December 1<sup>st</sup>, 2000.
2. **POSSESSION.** Buyer, concurrently with due performance on his part, shall be entitled to possession of said premises on the 15<sup>th</sup> day of October, 1999; and thereafter so long as he shall perform the obligations of this contract.
3. **TAXES.** Seller shall pay real estate taxes prorated to the date of closing and any unpaid taxes thereon payable in prior years. Buyer shall pay any taxes not assumed by Seller 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 parties 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.**

4. **SPECIAL ASSESSMENTS.** Seller shall pay the special assessments against this property which are a lien thereon as of the date of closing. Buyer, except as above stated, shall pay all subsequent special assessments and charges, before the same become delinquent.
5. **MORTGAGE.** Any mortgage or encumbrance of a similar nature against the said property shall be timely paid by Seller so as not to prejudice the Buyer's equity herein. Should Seller fail to pay, Buyer may pay any such sums in default and shall receive credit on this contract for such sums to paid.
  - a. **MORTGAGE BY SELLER.** Seller, her 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 90% 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. Buyer hereby expressly consents to such a mortgage and agrees to execute and deliver all necessary papers to aid Seller in securing such a mortgage which shall be prior and paramount to any of Buyer's then rights in said property.
  - b. **DEED FOR BUYER SUBJECT TO MORTGAGE.** If Buyer has reduced the balance of this contract to the amount of any existing mortgage balance on said premises, he may, at his 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 Seller, at her option, any time before Buyer has made such a mortgage commitment, may reduce or pay off such mortgage.
  - c. **ALLOCATED PAYMENTS.** Buyer, 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, reserves the right, if reasonably necessary for their protection to divide or allocate the payments to the interested parties as their interests may appear.
  - d. **SELLER AS TRUSTEE.** Seller agrees that she 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 Seller or her assigns in said real estate; and if Seller shall hereafter collect or receive any moneys hereunder beyond such amount, she shall be considered and held as collecting and receiving said money as the agent and trustee of the Buyer for the use and benefit of the Buyer.
6. **INSURANCE.** Except as may be otherwise included in the last sentence of paragraph 1(b), above, Buyer as and from said date of possession, shall constantly keep in force insurance, premiums therefor to be prepaid by Buyer (without notice or demand) against loss by fire, tornado and other hazards, casualties and contingencies as Seller 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 Seller 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 Seller and Buyer as their interests may appear. **BUYER SHALL PROMPTLY DEPOSIT SUCH POLICY WITH PROPER RIDERS WITH SELLER** 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 Seller 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.
7. **CARE OF PROPERTY.** Buyer 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. Buyer shall not make any material alteration in said premises without the written consent of the Seller. Buyer shall not use or permit the premises to be used for any illegal purpose.
8. **LIENS.** No mechanics' 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 as advanced may, at the election of Seller, be added to the principal amount due hereunder and so secured. (For Buyer's rights to make advancements, see paragraph 5, above).
10. **JOINT TENANCY IN PROCEEDS AND SECURITY RIGHTS IN REAL ESTATE.** If, and only if, the Seller immediately preceding this sale, holds 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 Seller, 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 note as tenants in common; and Buyer, 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 her or them consistent with paragraph 14 below, unless and except this paragraph is stricken from this Agreement.

11. **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 Iowa Code Section 581.13; and the use of the word "Sellers" in the printed portion of this 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.
12. **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.
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) Seller shall give Special Warranty as to the period after equitable title passes to the Buyer; (f) Spouse if not titleholder, need not join in any warranties of the Deed unless otherwise stipulated.
14. **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 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 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 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; or as of such earlier date if and as designated in the next sentence. This contract supersedes the previous written Offer of Buyers to buy the above-described property which was accepted by Sellers on the 3<sup>rd</sup> day of August, 1999. 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 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 she may have, at her option, may proceed to forfeit and cancel this contract as provided by law (Iowa Code Chapter 656). 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. **ATTORNEY'S FEES.** In case of any action, or in any proceedings in any Court by either party to enforce or protect their rights, the prevailing party shall be entitled to an award of reasonable attorney's fees against the other party.
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 become delinquent, and/or on cash reasonably advanced by either party pursuant to the terms of this contract, as protective disbursements.
19. **DUE ON SALE.** The entire unpaid balance of the contract, including principal and accrued interest thereon, shall become due and payable in full upon sale or assignment by the Buyer.
20. **CONSTRUCTION.** Words and phrases here, 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."
21. **SPECIAL PROVISIONS.**
  - a. If interest rates at the balloon date have increased above 7.5%, parties agree to negotiate a contract extension.
  - b. Adjustment for tax proration shall be made at the time of contract fulfillment. Seller acknowledges that monthly payment includes 1/12<sup>th</sup> annual taxes. Buyer shall be given credit for these payments when proration is calculated.

*Karen S. Chesher*  
 \_\_\_\_\_  
 Karen S. Chesher  
 (SELLER)

*Russell D. Wright*  
 \_\_\_\_\_  
 Russell D. Wright  
 (BUYER)

STATE OF IOWA    )  
                           )    SS:  
 COUNTY OF POLK    )

On this 11 day of October, 1999, before me, the undersigned, personally appeared **Karen S. Chesher, a single person, and Russell D. Wright**, 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.

*Leo R. Powell*  
 \_\_\_\_\_  
 Notary Public in and for the State of Iowa  
*my Commission expires 12/26/2000*