

ORIGINAL

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MICHELLE UTSLER
RECORDER
MADISON COUNTY IOWA

REC. \$ 20.00
AUDS. _____
R.M.F. \$ 1.00

Preparer Information Lewis H. Jordan P.O. Box 230 Winterset 515/462-3731
Individual's Name Street Address City Phone

SPACE ABOVE THIS LINE FOR RECORDER

REAL ESTATE CONTRACT (SHORT FORM)

IT IS AGREED between

John D Tomlinson and Jeanette K. Tomlinson, Husband and Wife,

("Sellers"), and

Terry Lyon and Ronald D Lyon

("Buyers")

Sellers agree to sell and Buyers agree to buy real estate in Madison County, Iowa described as

See Description Attached

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 **PRICE** The total purchase price for the Real Estate is EIGHTY THOUSAND Dollars (\$ 80,000.00) of which FIVE THOUSAND Dollars (\$ 5,000.00) has been paid Buyers shall pay the balance to Sellers at _____ or as directed by Sellers as follows

\$40,000 on or before October 1, 1997; and the balance of \$35,000.00 to be paid as follows:

\$5,216.03 on December 1, 1998; and

\$5,216.03 on each December 1st thereafter until the entire unpaid balance is paid in full

2 **INTEREST** Buyers shall pay interest from December 1, 1997, on the unpaid balance at the rate of eight percent per annum, payable annually & included in payments Buyers shall also pay interest at the rate of eight percent per annum on all delinquent amounts and any sum reasonably advanced by Sellers to protect their interest in this contract computed from the date of the delinquency or advance

3 **REAL ESTATE TAXES** Sellers shall pay 5/12ths of the taxes due and payable in the fiscal year beginning July 1, 1998,

and any unpaid real estate taxes payable in prior years Buyers shall pay all 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** Sellers shall pay all special assessments which are a lien on the Real Estate as of the date of this contract or _____ All other special assessments shall be paid by Buyers

5 **POSSESSION** Sellers shall give Buyers possession of the Real Estate on December 1, 1997, provided Buyers are not in default under this contract

6 **INSURANCE** Sellers shall maintain existing insurance upon the Real Estate until the date of possession Buyers shall accept insurance proceeds instead of Sellers replacing or repairing damaged improvements After possession and until full payment of the purchase price, Buyers shall keep the improvements on the Real Estate insured against loss by fire, tornado, and extended coverage for a sum not less than 80 percent of full insurable value payable to the Sellers and Buyers as their interests may appear Buyers shall provide Sellers with evidence of such insurance

7 ABSTRACT AND TITLE Sellers, 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 Buyers for examination It shall show merchantable title in Sellers in or conformity with this contract, Iowa law and the Title Standards of the Iowa State Bar Association The abstract shall become the property of the Buyers when the purchase price is paid in full, however, Buyers reserve the right to occasionally use the abstract prior to full payment of the purchase price 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 a part of Real Estate and included in the sale except (consider rental items) _____

9 CARE OF PROPERTY Buyers 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 Buyers shall not make any material alteration to the Real Estate without the written consent of the Sellers

10 DEED Warranty Upon payment of purchase price, Sellers shall convey the Real Estate to Buyers or their assignees, by 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 Sellers continuing up to time of delivery of the deed

11 REMEDIES OF THE PARTIES a If Buyers fail to timely perform this contract, Sellers may, at Sellers' option, forfeit Buyers' rights in this contract as provided in the Iowa Code, and all payments made by Buyers shall be forfeited 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

- b 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
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

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 ADDITIONAL PROVISIONS

- A) In the event Rural Water becomes available to the five-acre tract which is an exception to the SW 1/4 of the NW 1/4 of Section 3-76-26, then the waterline easement shall terminate and revert to Buyers.
B) See Attached.

Dated August 27, 19 97

Terry Lyon (signature)

Ronald D. Lyon (signature) BUYERS

John D. Tomlinson (signature) John D. Tomlinson

Jeanette K. Tomlinson (signature) Jeanette K. Tomlinson SELLERS

STATE OF IOWA, COUNTY OF MADISON

On this 10th day of October, 19 97, before me, the undersigned, a Notary Public in and for said State, personally appeared John D. Tomlinson and Jeanette K. Tomlinson

to me 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 act and deed



(signature) Notary Public in and for said State

TOMLINSON/LYON REAL ESTATE DESCRIPTION

The West Half (W $\frac{1}{2}$) of the Northeast Fractional Quarter (NE Fr. $\frac{1}{4}$) EXCEPT the West 215 feet of the East 548 feet of the South 215 feet thereof, And EXCEPT the Southwest Quarter (SW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$), And EXCEPT a parcel of land in the Southwest Quarter (SW $\frac{1}{4}$) of the Northeast Fractional Quarter (NE Fr. $\frac{1}{4}$), Section Three (3), Township Seventy-six (76) North, Range Twenty-six (26) West of the 5th P.M., Madison County, Iowa, beginning at the southeast corner of said Southwest Quarter (SW $\frac{1}{4}$), Northeast Fractional Quarter (NE Fr. $\frac{1}{4}$), thence North 90°00'00" West (assumed for this description) along the South line of said Southwest Quarter (SW $\frac{1}{4}$) of the Northeast Fractional Quarter (NE Fr. $\frac{1}{4}$), 333.00 feet; thence North 3°50'00" East 215.00 feet; thence North 90°00'00" West 215.00 feet; thence North 3°50'00" East 1060.00 feet; thence South 90°00'00" East 548 feet to the East line of said Southwest Quarter (SW $\frac{1}{4}$) of the Northeast Fractional Quarter (NE Fr. $\frac{1}{4}$); thence South 3°50'00" West along said East line 1275.00 feet to the point of beginning, containing 14.94 acres, more or less, including 0.31 acres of road right of way along the south side thereof; AND, the Southwest Quarter (SW $\frac{1}{4}$) of the Northwest Fractional Quarter (NW Fr. $\frac{1}{4}$) of Section Three (3) in Township Seventy-six (76) North, Range Twenty-six (26) West of the 5th P.M., Madison County, Iowa, EXCEPT Parcel A described as that part of the Southwest Quarter (SW $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section Three (3), Township Seventy-six (76) North, Range Twenty-six (26) West of the 5th P.M., Madison County, Iowa, described as follows. Beginning at the southwest corner of the Southwest Quarter (SW $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of said Section Three (3), thence on an assumed bearing of North 90°00'00" East along south line of the Southwest Quarter (SW $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of said Section Three (3) a distance of 907.00 feet; thence North 03°27'22" East 240.55 feet; thence South 90°00'00" West 907.00 feet to the west line of the Southwest Quarter (SW $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of said Section Three(3), thence South 03°27'22" West along said west line a distance of 240.55 feet to the southwest corner of the Southwest Quarter (SW $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of said Section Three (3) and the point of beginning. Said tract contains 5.00 acres and is subject to a Madison County Easement over the southerly and westerly 0.98 acres thereof.

Sellers also reserve a waterline easement to be used in connection with the last-described 5-acre tract for constructing and maintaining a private waterline and well, over, under, across and 10 feet either side of the following-described centerline: Commencing at the southeast corner of the above Parcel A; thence on an assumed bearing of North 03°27'22" East along the east line of said Parcel A a distance of 183.45 feet to the point of beginning, thence North 89°16'51" East 136.37 feet to the terminus of said easement centerline.

ATTACHMENT TO TOMLINSON/LYON REAL ESTATE CONTRACT**Paragraph 17 - Additional Provisions**

- B) Sellers and Buyers understand that Buyers are obtaining a loan from Union State Bank in Winterset, Iowa; and, that as a condition of said loan Union State Bank is demanding and will receive a first mortgage upon the following-described real estate, to-wit:**

The West Half (W½) of the Northeast Fractional Quarter (NE Fr.¼) EXCEPT the West 215 feet of the East 548 feet of the South 215 feet thereof, And EXCEPT the Southwest Quarter (SW¼) of the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼), And EXCEPT a parcel of land in the Southwest Quarter (SW¼) of the Northeast Fractional Quarter (NE Fr.¼), Section Three (3), Township Seventy-six (76) North, Range Twenty-six (26) West of the 5th P.M., Madison County, Iowa, beginning at the southeast corner of said Southwest Quarter (SW¼), Northeast Fractional Quarter (NE Fr.¼), thence North 90°00'00" West (assumed for this description) along the South line of said Southwest Quarter (SW¼) of the Northeast Fractional Quarter (NE Fr.¼), 333.00 feet; thence North 3°50'00" East 215.00 feet; thence North 90°00'00" West 215.00 feet; thence North 3°50'00" East 1060.00 feet; thence South 90°00'00" East 548 feet to the East line of said Southwest Quarter (SW¼) of the Northeast Fractional Quarter (NE Fr.¼); thence South 3°50'00" West along said East line 1275.00 feet to the point of beginning, containing 14.94 acres, more or less, including 0.31 acres of road right of way along the south side thereof;

And, that the rights of Sellers shall be subordinate to the rights of Union State Bank.

- C) It is understood and agreed between the parties hereto that Sellers are executing and delivering to Union State Bank, as escrow agent, a Warranty Deed, which deed shall be held in escrow by the said Union State Bank until the entire unpaid balances of principal and interest are paid in full, at which time the deed shall be delivered to the buyers.**