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LISA SMITH, COUNTY RECORDER  
MADISON COUNTY IOWA

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## REAL ESTATE CONTRACT

### Recorder's Cover Sheet

**Preparer Information:** (name, address and phone number)

John E. Casper, 223 E. Court Avenue, P.O. Box 67, Winterset, Iowa 50273-0067  
(515) 462-4912

**Taxpayer Information:** (name and complete address)

Berdine Family Revocable Living Trust, 1878 158<sup>th</sup> Ct., Earlham, Iowa 50072

**Return Document To:** (name and complete address)

John E. Casper, 223 E. Court Avenue, P.O. Box 67, Winterset, Iowa 50273-0067

**Grantors:**

Donald J. Lynch

**Grantees:**

Sharon E. Berdine as Trustee of the Berdine Family Revocable Living Trust under Trust Agreement,  
dated October 23, 2001

**Legal Description:** Page -1-

**Document or instrument number of previously recorded documents:** N/A

## REAL ESTATE CONTRACT

IT IS AGREED by and between Donald J. Lynch, a single person, of the County of Madison, State of Iowa, Seller; and Sharon E. Berdine as Trustee of the Berdine Family Revocable Living Trust under Trust Agreement, dated October 23, 2001 of the County of Madison, State of Iowa, 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:

**Lots Two (2), Three (3) and Four (4) of Juniper Estates in the Southeast Quarter (SE ¼) of the Southeast Quarter (SE ¼) of Section Thirty - three (33), Township Seventy - seven (77) North, Range Twenty - eight (28) West of the 5<sup>th</sup> P.M., and in the Northeast Fractional Quarter (NE Fr ¼) of the Northeast Quarter (NE ¼) of Section Four (4), Township Seventy - six (76) North, Range Twenty - eight (28) West of the 5<sup>th</sup> P.M., Madison County, Iowa,**

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 as described herein all upon the terms and conditions following:

1. **TOTAL PURCHASE PRICE.** The Buyer agrees to pay for said property the total of Eighty-nine Thousand Six Hundred Seventy-five Dollars (\$89,675.00) payable at Winterset, Iowa, or as directed by the Seller, as follows:

(a) Two Thousand Dollars (\$2,000.00) due to the Seller upon the Buyer's execution of this Contract;

(b) Thirty-eight Thousand Dollars (\$38,000.00) due to the Seller upon the date of Buyer's possession of the property under this Contract; and,

(c) Balance of purchase price of \$49,675.00 shall be due and payable on January 5, 2011.

2. **INTEREST.** Buyer shall not pay interest from the date of Buyer's possession on the unpaid balances. However, see paragraph 19 hereof for the interest upon any delinquent amounts.

3. **POSSESSION.** Buyer, concurrently with due performance on their part, shall be entitled to possession of the property on August 3, 2010. Such possession is subject to the Seller retaining the right to harvest the 2010 crops upon the premises, which harvest is to be completed by no later than October 31, 2010.

4. **TAXES.** Seller shall pay the property taxes accrued to the date of Buyer possession and payable during the subsequent fiscal year, and any unpaid taxes thereon payable in prior fiscal years. Buyer shall pay any taxes not assumed by Seller and all subsequent taxes before same become

delinquent. **Any proration of taxes shall be based upon the taxes for the year currently payable.**

5. **SPECIAL ASSESSMENTS.** Seller shall pay the special assessments against this property which are a lien thereon as of the date of the Buyer possession of the property. Buyer, except as above stated, shall pay all subsequent special assessments and charges, before they become delinquent.

6. **INSURANCE.** Seller shall maintain the existing insurance upon the premises until the date of Buyer 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 eighty percent (80%) of the full insurable value payable to the Seller and Buyer as their interests may appear. Buyer shall provide Seller with evidence of such insurance.

7. **CARE OF PROPERTY.** Until delivery of possession to the Buyer, the Seller shall maintain the premises in its existing condition. Upon Buyer possession and until final payment of the purchase price to the Seller, Buyer shall keep the building and other improvements now or later placed on the real estate in good and reasonable repair; shall not injure, destroy or remove the property during the term of this contract; and, shall not make any material alteration to the real estate without the written consent of the Seller and Buyer shall not use or permit said premises to be used for any illegal purpose.

8. **LIENS.** Until final payment of the purchase price to the Seller, the Buyer shall not allow any mechanics' lien to 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 the Seller, be added to the principal amount due hereunder and so secured.

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 the Seller in said real estate, shall be and continue in the Seller 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.

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 section 561.13 Code of Iowa; and the use of the word "Seller" 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.

12. **TIME IS OF THE ESSENCE.** Time is of the essence in this Agreement. Failure to promptly assert rights of the 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) Seller shall give Special Warranty as to the period after equitable title passes to 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 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 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 and the land title standards of the Iowa State Bar Association. 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. If any personal property is a part of this agreement, then upon due performance by Buyer, Seller shall execute and deliver a Bill of Sale consistent with the terms of this contract.

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 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 for 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 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 Buyer 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 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. ATTORNEY'S FEES.** In case of any action, or in any proceedings in any Court to collect any sums payable or secured herein, or to protect the lien or title herein of Seller, or in any other case permitted by law in which attorney's fees may be collected from Buyer, or imposed upon them, or upon the above described property, Buyer agrees to pay reasonable attorneys fees.

**19. 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.

20. **ASSIGNMENT.** In case of the assignment of this contract by either of the parties, prompt notice shall be given to the other parties, who shall at the time of such notice be furnished with a duplicate of such assignment by such assignors. Any such 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.

21. **PERSONAL PROPERTY.** If this contract includes the sale of any personal property, then in the event of the forfeiture or foreclosure of this contract, such personal property shall be considered indivisible with the real estate above described; and any such termination of Buyer rights in said real estate shall concurrently operate as the forfeiture or foreclosure hereto against all such personal property.

22. **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 10 above, for construction of the word "Seller."

23. **RELEASE OF RIGHTS.** The 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.

24. **SPECIAL PROVISIONS.**

A. **"AS IS".** The parties agree the premises are sold in its "AS IS" condition; the Seller makes no representation or warranties, express or implied, as to the habitability, quality or usability of the premises; and, the Buyer acknowledges full opportunity to inspect the structural, mechanical and other physical condition of the premises.

B. **ENVIRONMENTAL MATTERS.** SELLER makes no warranty or representation of any kind whatsoever about abandoned wells, solid waste disposal sites, hazardous wastes or substances, or underground storage tanks located on the Property, or the Property containing levels of radon gas, asbestos or urea-formaldehyde foam insulation which may require remediation under current governmental standards. Buyer waives any right or opportunity at their expense to obtain a report from a qualified engineer or other person qualified to analyze the existence or nature of any hazardous materials, substances, conditions or wastes located on the Property.

C. **CERTIFICATION.** Buyer and Seller each certify that they are not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control;

and are not engaged in this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Each party hereby agrees to defend, indemnify and hold harmless the other party from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to my breach of the foregoing certification.

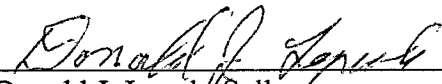
**D. PRIVATE SEWAGE SYSTEM.** In compliance with Iowa Code Chapter 455B, the parties agree the property has no existing septic system. Any future private septic system on the property is the Buyer's responsibility.

**E. DUE ON SALE PROVISION.** The Seller may, at Seller's option, declare the entire balance due under this Sales Contract to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer, or sale of all or any part of the real estate subject to this Sales Contract. This right is subject to the restrictions, if any, imposed by federal law, as applicable. This covenant shall run with the real estate subject to this Sales Contract and shall remain in effect until the balances due to the Seller under this Sales Contract are paid in full and the Deed in fulfillment of this Sales Contract is tendered to the Buyer.

Dated: August 3, 2010.

Executed in duplicate or triplicate.

SELLER

  
\_\_\_\_\_  
Donald J. Lynch, Seller

BUYER *Berdine Family Revoc.*  
*Living Trust by Sharon E.*  
*Berdine, Trustee.*  
\_\_\_\_\_  
Sharon E. Berdine, Trustee of the Berdine  
Family Revocable Living Trust under Trust  
Agreement, dated October 23, 2001

STATE OF IOWA            )  
  ) ss  
MADISON COUNTY         )

On this 3<sup>rd</sup> day of August, 2010, before me, the undersigned, a Notary Public in and for said State, personally appeared Donald J. Lynch to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged to me that he executed the same as his voluntary act and deed.

**Lawrence C Watts**  
**Notarial Seal - Iowa**  
**Commission No. 702488**  
**My Commission Expires 3/29/2012**

Lawrence C Watts  
Notary Public in and for the State of Iowa

STATE OF IOWA            )  
  ) ss  
COUNTY OF MADISON    )

On this 3<sup>rd</sup> day of August, 2010, before me, the undersigned, a Notary Public in and for the said State, personally appeared Sharon E. Berdine to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that the person, as the fiduciary, executed the instrument as the voluntary act and deed of the person and of the fiduciary.

**Lawrence C Watts**  
**Notarial Seal - Iowa**  
**Commission No. 702488**  
**My Commission Expires 3/29/2012**

Lawrence C Watts  
Notary Public in and for the State of Iowa