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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)

Larry A. Wisecup and Diane K. Wisecup, 3151 Timber Ridge Lane, Truro, IA 50257

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

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

**Grantors:**

Richard A. Yaw

**Grantees:**

Larry A. Wisecup

Diane K. Wisecup

**Legal Description:** Page -2-

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

## REAL ESTATE CONTRACT

IT IS AGREED by and between Richard A. Yaw, also known as Richard Andean Yaw, a single person, of the County of Madison, State of Iowa, Seller; and Larry A. Wisecup and Diane K. Wisecup, husband and wife, as joint tenants with full rights of survivorship and not as tenants in common, of the County of Madison, State of Iowa, Buyers:

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

**Commencing at the Southeast Corner of the Southwest Quarter (1/4) Southeast Quarter (1/4) of Section Twenty (20), Township Seventy-four (74) North, Range Twenty-six (26) West of the 5th P.M., thence North 0°00' 1117.30 feet along the east line of said Southwest Quarter (1/4) Southeast Quarter (1/4) Southeast Quarter (1/4), thence S. 89°23' W. 355.00 feet thence S. 0°58'W. 1,136 feet thence N. 86°35' E. 374.85 feet along the sectionline to the point of beginning.**

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 Buyers agree to pay for said property the total of Twenty-six Thousand Dollars (\$26,000.00) payable at Winterset, Iowa, or as directed by the Seller, as follows:

(a) One Thousand Dollars (\$1,000.00) due to the Seller upon the Buyer's execution of this Contract; and,

(b) the entire remaining balances shall be due and payable in full upon the Seller's tender of the Warranty Deed and of the abstract of title showing marketable title to the real estate.

2. **INTEREST.** Buyers shall not pay interest on the unpaid balances provided the Buyers are not delinquent. However, see paragraph 19 hereof for the interest upon any delinquent amounts.

3. **POSSESSION.** Buyers, concurrently with due performance on their part, shall be entitled to possession of the property upon the date of the Seller's tender of the Deed. The parties will attempt to close on this transaction on or about April 1, 2011.

4. **TAXES.** Buyers shall pay the property taxes accrued to the date of Buyers' possession and payable during the subsequent fiscal year, and any unpaid taxes thereon payable in prior fiscal years. Buyers shall pay any taxes not assumed by Seller and all subsequent taxes before same become delinquent. **No proration of taxes shall be necessary.**

5. **SPECIAL ASSESSMENTS.** Seller shall pay the special assessments against this property which are a lien thereon as of the date of the Buyers' possession of the property. Buyers, 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 Buyers' possession. Buyers shall accept insurance proceeds instead of Seller replacing or repairing damaged improvements.

7. **CARE OF PROPERTY.** Until delivery of possession to the Buyers, the Seller shall maintain the premises in its existing condition. Upon Buyers' possession and until final payment of the purchase price to the Seller, Buyers 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 Buyers 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 Buyers shall not allow any mechanics' lien to be imposed upon or foreclosed against the real estate described herein.

9. **ADVANCEMENT BY SELLER.** If Buyers fail 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, 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 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 Buyers have been complied with, Seller will execute and deliver to Buyers 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 Buyers 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 Buyers, Seller shall execute and deliver a Bill of Sale consistent with the terms of this contract.

**15. APPROVAL OF ABSTRACT.** Buyers have not examined the abstract of title to this property and such abstract is not yet accepted.

**16. FORFEITURE.** 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 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 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 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 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.

**17. FORECLOSURE AND REDEMPTION.** If Buyers fail 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 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 Seller, 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) 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 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 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.

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 Buyers, or imposed upon them, or upon the above described property, Buyers agree 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 Buyers' 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 Buyers hereby relinquish all rights of dower, homestead and distributive share in and to the property and waive 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 Buyers acknowledge 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. Buyers waive 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.** Buyers 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 existing septic system on the premises need not be inspected at the time of sale because the Buyers will demolish the residence on the real estate. The parties agree any future repair and/or replacement of the private sewage disposal system shall be the Buyers' responsibility. In such event the Buyers at the Buyers' cost shall apply from the County Environmental Health Officer for any licenses or permits for the repair or replacement of the septic system; and, shall be responsible for any and all costs incurred in the installation of a replacement septic system on the premises. The parties agree the closing of this sales transaction shall not be delayed to allow the installation of the replacement septic system by the Buyers.

**E. TERMITE INSPECTION.** The Seller and Buyers agree the Seller shall NOT have any duty to have the property inspected for any termite infestation. Any such Inspection shall be the responsibility of the Buyers.

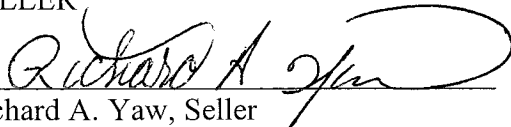
**F. LEAD-BASE PAINT CONTINGENCY.** This contract is **not** contingent upon a risk assessment or inspection of the property for the presence of lead-based paint and/or lead-based paint hazards. The Buyers acknowledge receipt of the EPA pamphlet from the Seller; agree that a risk assessment is not necessary for this transaction; and, waive any right to such assessment or inspection.

**G. BUYER PRE-CLOSING CLEANUP.** The parties agree the Buyers at their cost shall have the right to enter onto and upon this real estate at any time before the closing of this sales transaction for the purpose of cleaning up all the debris, rubbish and other iron and materials on this real estate and shall have the right to remove and/or dispose of all such items in Buyers' discretion.

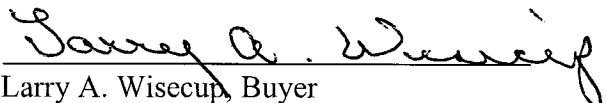
Dated: January 20, 2011.

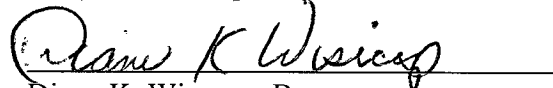
Executed in duplicate or triplicate.

SELLER

  
Richard A. Yaw, Seller

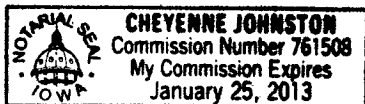
BUYER

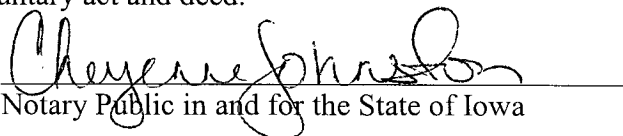
  
Larry A. Wisecup, Buyer

  
Diane K. Wisecup, Buyer

STATE OF IOWA, MADISON COUNTY, ss;

On this 20<sup>th</sup> day of January, 2011, before me, the undersigned, a Notary Public in and for said State, personally appeared Richard A. Yaw, Larry A. Wisecup and Diane K. Wisecup on 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 voluntary act and deed.



  
Notary Public in and for the State of Iowa