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Rec Amt \$37.00 Aud Amt \$5.00

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ANNO  
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DOV# 341

LISA SMITH, COUNTY RECORDER  
MADISON COUNTY IOWA

CHEK

After recording return to: Preparer

Preparer Information: Michael F. Mahoney , 615 Story Street, P.O. Box 219 Boone, IA 50036-0219, (515) 432-4510

Send tax statement to: Brian C. Myers; 455 NE Cedar Ave.; Earlham, Iowa 50072

Jordan + Mahoney Law Firm PO Box 147 Madrid IA 50156

**REAL ESTATE CONTRACT**

**IT IS AGREED** between Woodrow Myers and Betty Lou Myers, husband and wife, of Boone County, Iowa, SELLERS, and Brian C. Myers, a single person, of Polk County, Iowa, BUYER:

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

Lot Six (6) of Clearview Second Addition to the Town of Earlham, Madison County, Iowa.

with any easements and appurtenant servient estates, but subject to the following: a) any zoning and other ordinances; b) any covenants of record; and c) any easements of record for public utilities, roads and highways, upon the following terms:

**1. PURCHASE PRICE.** The total purchase price for the real estate is One hundred forty-four thousand one dollars (\$144,001.00) of which one dollar (\$1.00) has been paid. The balance in the amount of \$144,000.00 to be paid in monthly installments of \$687.48 each, commencing September 1, 2012, and continuing on the 1<sup>st</sup> day of each month thereafter until paid in full, however the parties hereto agree that the balance of this Contract shall become due and payable six months after the date of the last of Woodrow Myers and Betty Lou Myers to die. Interest as provided in paragraph two hereof shall first be deducted from said monthly payments and the balance applied to principal. Buyers shall have the option to prepay on this contract at any time without penalty.

**2. INTEREST.** Buyers shall pay interest from August 1, 2012, on the unpaid balance, at the rate of 4.00% per annum, payable as set out in paragraph 1 above. Buyers shall also pay interest at the rate of 9.00% 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.** Buyers shall assume all real estate taxes for the property, beginning with the payment which, if unpaid, becomes delinquent October 1, 2012. Buyers shall pay all subsequent real estate taxes.

4. **SPECIAL ASSESSMENTS.** Buyers shall assume all special assessments which are a lien on the real estate as of the date of this Contract.

5. **POSSESSION.** Buyers have been given possession of the real estate.

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, Buyers shall keep the improvements on the real estate insured against loss by fire, tornado and extended coverage for a sum not less than the balance owing under this contract with insurance payable to the Sellers and Buyers as their interests may appear. On or before date of possession Buyers shall deliver to Sellers a paid insurance policy for one year and thereafter shall provide Sellers with evidence of such insurance on an annual basis.

7. **ABSTRACT OF TITLE.** Sellers, at their expense, shall obtain an abstract of title to the real estate at such time as the balance owing under this Contract is \$135,000.00 or less. It shall show merchantable title in Sellers in conformity with this contract, Iowa law and the Title Standards of the Iowa State Bar Association. After examination by Buyers, the abstract shall be held by Jordan & Mahoney Law Firm, P.C., as escrow agent, until delivery of Deed which is also being held in escrow by Jordan & Mahoney Law Firm, P.C. 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.

8. **FIXTURES.** All property that integrally belongs to or is part of the real estate, whether attached or detached, such as light fixtures, fixtures, water heaters, water softeners, automatic heating equipment, air conditional 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.

9. **CARE OF PROPERTY.** Buyers shall take good care of the property; shall keep the buildings and other improvements now or later placed upon

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.** Sellers have contemporaneously with the execution of this Contract, executed a Warranty Deed free and clear of all liens, restrictions, and encumbrances except as provided herein, to Buyers which Deed shall be held in trust by Jordan & Mahoney Law Firm, P.C. as escrow agent, until all sums due and owing by Buyers to Sellers have been paid. Upon payment of the purchase price, Buyers shall be entitled to receive said deed from the escrow agent. Any general warranties of title shall extend only to the date of this contract.

**11. REMEDIES OF THE PARTIES.**

a. If Buyers fail to timely perform this contract, Seller may, at Sellers' option, forfeit Buyers' rights in this Contract as provided in Chapter 656, Code of Iowa, and all payments made by Buyers shall be forfeited. If this contract is forfeited, the relationship of the parties shall be that of Landlord-Tenant rather than Sellers-Buyers, and the provisions of Chapter 648, Code of Iowa, shall be available to Landlord (Seller) to obtain possession of the property. 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, Code of Iowa. 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 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 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 the 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 share or in compliance with Section 561.13 of the Iowa Code and agrees to execute the deed for this purpose.

**14. CONDITION OF PROPERTY AT CLOSING AND CARE OF PROPERTY.** The property is sold in "as is" condition.

**15. DUTY OF DISCLOSURE.** Buyers agree that they inspected the property prior to purchase by the Seller to Woodrow Myers and Betty Lou Myers and waive any Duty of Disclosure as to Sellers herein.

**16. ENVIRONMENTAL WARRANTY.** This contract is conditioned upon Sellers providing a Ground Water Hazard Statement upon closing which warrants the following:

- a. There are no known wells situated on this property.
- b. There is no solid waste disposal site on this property.
- c. There is no hazardous waste on this property.
- d. There are no underground storage tanks on this property.
- e. There are no known private burial sites on this property.

Sellers further warrant that a good faith investigation of the property has been made in order to determine that the representations made herein are true. In addition, Sellers further warrant that there are no "hazardous conditions" as defined in Iowa Code §455B.411 or successor section present on or in the subject property and that prior to delivering possession, Sellers agree to remove from the property and properly dispose of all solid wastes, industrial wastes, and other wastes, and hazardous substances as defined in Iowa Code Chapter 455B. These warranties shall survive the closing.

**17. TIME IS OF THE ESSENCE.** Time is of the essence in this contract.

**18. 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.

**19. LEAD BASED PAINT.** Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known

lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

**20. RADON.** Buyers acknowledge that Sellers have provided Buyers the Iowa Department of Public Health "Iowa Radon Home Buyers and Sellers Fact Sheet."

**21. ESCROW AGREEMENT.** The parties will execute an escrow agreement contemporaneously with the execution of this contract, to place in escrow the deed and abstract as herein above mentioned.

**22. CERTIFICATION.** Buyers and Sellers 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.

**23. 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.

Dated this 5th day of SEPT., 2012.

SELLERS:

BUYERS:

Woodrow M. Myers  
Woodrow Myers

Brian C. Myers  
Brian C. Myers

Betty Lou Myers  
Betty Lou Myers

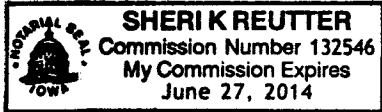
"I understand that homestead property is in many cases protected from the claims of creditors and exempt from judicial sale; and that by signing this contract I voluntarily give up my right to this protection for this property with respect to claims based upon this contract."

Dated: 9-5-2012

Brian C. Myers  
Brian C. Myers

STATE OF IOWA, COUNTY OF BOONE, ss:

This instrument was acknowledged before me on 12<sup>th</sup> day of September, 2012, by Woodrow Myers and Betty Lou Myers.



Sheri K. Reutter  
Notary Public

STATE OF IOWA, COUNTY OF BOONE, ss:

This instrument was acknowledged before me on 5 day of SEPTEMBER, 2012, by Brian C. Myers.



Dusty Morrison  
Notary Public