



Document 2013 3536

Book 2013 Page 3536 Type 03 010 Pages 8

Date 11/22/2013 Time 2:25 PM

Rec Amt \$42.00 Aud Amt \$5.00

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LISA SMITH, COUNTY RECORDER
MADISON COUNTY IOWA

**AMENDED AND SUBSTITUTED
REAL ESTATE CONTRACT-INSTALLMENTS
Recorder's Cover Sheet**

Preparer Information: (name, address and phone number)

Kelly D. Hamborg, 666 Grand Avenue, Suite 2000, Des Moines, Iowa 50309; (515) 242-2447

Taxpayer Information: (name and complete address)

Castle Development Co., L.L.C., 5730 NE 17th Street, Des Moines, Iowa 50313

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

Kelly D. Hamborg, 666 Grand Avenue, Suite 2000, Des Moines, Iowa 50309;

Grantors:

Castle Development Co., L.L.C.

Grantees:

Charles R. Broeker and Amber J. Broeker

Legal Description: See Page 2

Document or instrument number of previously recorded documents: Book 2008, Page 3485

AMENDED AND SUBSTITUTED REAL ESTATE CONTRACT-INSTALLMENTS

IT IS AGREED this 1st day of November, 2013, by and between Castle Development Co., L.L.C., an Iowa limited liability company ("Seller"); and Charles R. Broeker and Amber J. Broeker, formerly known as Amber J. Breakbill, husband and wife, residents of Madison County, 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 Madison County, Iowa, to-wit:

A parcel of land located in the Southwest Quarter (1/4) of the Southwest Quarter (1/4) of Section Ten (10), Township Seventy-seven (77) North, Range Twenty-seven (27) West of the 5th P.M., Madison County, Iowa, containing 3.000 acres, as shown in Plat of Survey filed in Farm Plat Book 2, Page 77 on July 14, 1987, in the Office of the Recorder of Madison County, Iowa,

together with any easements and servient estates appurtenant thereto (the "Property"), 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 Buyers agree to pay for the Property the total of One Hundred Twenty Thousand Nine Hundred Eighty Seven and 72/100 Dollars (\$120,987.72) (the "Purchase Price"), due and payable at 5730 NE 17th Street, Des Moines, Iowa 50313, as follows:

(A) **DOWN PAYMENT** of \$0; and

(B) **BALANCE OF PURCHASE PRICE.** \$120,987.72 due as follows:

\$1,004.69 (including interest) on December 10, 2013, and \$1,004.69 on the tenth day of each month thereafter until November 1, 2018, when the entire remaining principal balance and accrued interest shall be due and payable in full.

The outstanding principal balance shall accrue interest at five and three quarters percent (5-3/4%) per annum.

The principal balance may be prepaid partially or in full at any time prior to November 1, 2018 without penalty.

Notwithstanding any other provision herein to the contrary, this Contract shall be due and payable in full upon sale or transfer of the Property by the Buyers, or upon assignment of this Contract by Buyers.

(C) **TAX AND INSURANCE ESCROW.** Buyers shall pay to Seller with each monthly installment, in addition to such monthly installment, an amount representing one-twelfth (1/12th) of the amount due and payable in that year for real estate taxes and hazard insurance. Seller shall in turn, pay the real estate taxes and hazard insurance premiums from such account, as such items become due and payable.

2. CONDITION OF PROPERTY AND POSSESSION. Buyers have made an inspection of the Property and have had the Property inspected and previously received a Property inspection report. Buyers acknowledge that they are purchasing the Property in its existing condition, on an as-is basis. Buyers, concurrently with due performance on their part shall be entitled to possession of the Property on November 1 2013 and thereafter so long as they shall perform the obligations of this Contract.

3. TAXES. Buyers shall pay the semiannual installment due March 31, 2014 and all subsequent installments pursuant to the escrow arrangement set forth in Section 1(C) above. There shall be no proration of taxes at the time of delivery of deed.

Seller shall pay any unpaid taxes thereon payable in prior years.

4. SPECIAL ASSESSMENTS. Seller shall pay the special assessments against this Property which are certified as liens as of the date of this Contract: Buyers shall pay all subsequent special assessments and charges, before they become delinquent.

5. MORTGAGE. Any mortgage or encumbrance of a similar nature against the Property shall be timely paid by Seller so as not to prejudice the Buyers' equity herein. Should Seller fail to pay, Buyers may pay any such sums in default and shall receive credit on this Contract for such sums so paid. Seller, its successors in interest or assigns may, and hereby reserve the right to at any time mortgage its right, title or interest in such premises or to renew or extend any existing mortgage for any amount not exceeding 100% 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. Buyers hereby expressly consent to such a mortgage and agree to execute and deliver all necessary papers to aid Seller in securing such a mortgage which shall be prior and paramount to any of Buyers' then rights in the Property.

6. INSURANCE. Buyers on and from said date of possession, shall constantly keep in force insurance coverage, premiums therefore to be paid by Buyers to Seller pursuant to the escrow arrangement set forth in Section 1(C) above (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 Buyers as their interests may appear. Seller's interest shall be protected in accordance with a standard or union-type loss payable clause. Buyers 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. Buyers 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, shall maintain the Property, and shall not injure, destroy or remove the same during the life of this Contract. Buyers shall not make any material alteration in said premises without the written consent of the Seller. Buyers shall not use or permit said 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 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 Seller, be added to the principal amount due hereunder and so secured.

10. TIME IS OF THE ESSENCE. Time is of the essence in this Contract. Failure to promptly assert rights of Seller herein shall not, however, be a waiver of such rights or a waiver of any existing or subsequent default.

11. EXCEPTIONS TO WARRANTIES OF TITLE. The warranties of title in any Deed made pursuant to this Contract 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 Sections 1, 2, 3 and 4 of this Contract; (e) Seller shall give Special Warranty as to the period after equitable title passes to Buyers.

12. 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 that 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 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 Contract, then upon due performance by Buyers, Seller shall execute and deliver a Bill of Sale consistent with the terms of this Contract.

13. APPROVAL OF ABSTRACT. Buyers have not examined the abstract of title to this Property.

14. 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 the 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/or improvements if any shall be retained and kept by Seller as compensation for the use of the 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.

15. FORECLOSURE AND REDEMPTION. If Buyers fail to timely perform this Contract, Seller, at its 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 at 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 end 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) Seller 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 section shall not be construed to limit or otherwise affect any other redemption provisions contained in Chapter 628 of the Iowa Code. In addition, Seller shall also have such other rights and remedies at law or in equity.

16. ADDITIONAL SECURITY. As further security for the obligations under this Contract, Charles R. Broeker hereby pledges and grants to Seller, a security interest in three thousand (3,000) shares of Skold Door and Floor Company, Inc., an Iowa corporation. Upon execution of this Contract, Charles R. Broeker shall execute a Pledge and Security Agreement and shall deliver said pledged shares to Seller, and shall execute such further security instruments as requested by Seller. In the event of default under this Contract, Seller shall be entitled to proceed against the stock security granted under this Section 16 and the Pledge and Security Agreement, and shall be entitled to all other rights and remedies at law or in equity, including forfeiture and foreclosure of this Contract and the Property hereunder.

17. 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.

18. ASSIGNMENT. In case of the assignment of this Contract by the Seller, prompt notice shall be given to the Buyers.

19. 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 personalty 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 hereof against all such personal property.

20. 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.

21. RELEASE OF RIGHTS. Each of the Buyers 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.

22. LEAD-BASED PAINT NOTICE. If applicable, see attached Disclosure of Information on Lead-Based and/or Lead-Based Paint Hazards.

23. **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.

24. **SPECIAL PROVISIONS.** 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: 11-15-13 Charles R. Broeker

Dated: 11-15-13 Amber J. Broeker

25. **AMENDED AND SUBSTITUTED CONTRACT.** The parties hereto acknowledge and agree that this Contract constitutes an amendment, substitution and replacement of the prior real estate contract for purchase of the Property between Frieda Jensen, Seller, and Amber Breakbill, Buyer, dated November 25, 2008, filed December 1, 2008 in Book 2008, Page 3485.

26. **AUTHORITY.** The Seller is a manager-managed limited liability company under the laws of the State of Iowa, and the undersigned Manager has authority under the Seller's Operating Agreement to execute and deliver this contract with respect to real estate. This conveyance is in the ordinary course of business for the Seller.

Executed in duplicate

SELLER

CASTLE DEVELOPMENT CO., L.L.C.

By [Signature]
Steven Skold, Managing Member

5730 NE 17th Street
Des Moines, Iowa 50313

BUYERS

CHARLES R. BROEKER AND AMBER J. BROEKER

[Signature]
Charles R. Broeker

[Signature]
Amber J. Broeker
2509 120th Street
Van Meter, Iowa 50261

STATE OF IOWA, COUNTY OF POLK

This instrument was acknowledged before me on 11/15/2013, by Steven Skold, as
Managing Member of Castle Development Co., L.L.C.,

Shanna Taft
Notary Public


STATE OF IOWA, COUNTY OF Polk

This instrument was acknowledged before me on 11/15/13, by Charles R. Broeker
and Amber J. Broeker, husband and wife.

Shanna Taft
Notary Public
