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LISA SMITH, COUNTY RECORDER  
MADISON COUNTY IOWA

THIS INSTRUMENT PREPARED BY/RETURN TO: Matthew J. Adam  
Simmons Perrine Moyer Bergman, PLC, 1100 5<sup>th</sup> Street, Suite 205, Coralville, IA 52241 (319)354-1019

MAIL PROPERTY TAX STATEMENT TO: Clinton and Annette Miller; 6151 Beechtree Dr, West Des Moines, IA 50266

~~\$~~533,000.00

### REAL ESTATE CONTRACT - INSTALLMENTS

IT IS AGREED this thirtieth day of June, 2014, by and between WM J Kisgen and Susan Kisgen, as Trustees of the Kisgen Family Trust, (hereinafter "Seller"), and Clinton D. Miller and Annette M. Miller, husband and wife, (hereinafter "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 locally known as Parcel Nos.: 340061760022000; 340061748010000; 340061762000000; and 340061760023000, and legally described as:

**The South Half of the Southwest Quarter (S ½ SW ¼), Except a parcel of land described as commencing at the Southwest Corner of Section Seventeen (17), Township Seventy-six (76) North, Range Twenty-eight (28), West of the 5<sup>th</sup> P.M., Madison County, Iowa, thence North 90°00' East 925.85 feet along the South line of said Section 17 to Point of Beginning; thence North 00°15' East 281.80 feet; thence South 86°56' East 394.75 feet; thence North 00°17' East 93.05 feet; thence North 86°46' East 501.00 feet; thence North 00°24' East 631.30 feet; thence South 89°38' West 290.00; thence North 00°24' East 300.60 feet; thence North 89°38' East 1106.52 feet to the centerline of a county road; thence South 00°30' West 545.08 feet; thence South 86°51' West 261.00 feet; thence South 29°46' West 875.15 feet to the South line of said Section 17; thence North 90°00' West 1019.25 feet to the Point of Beginning; and, the Northeast Quarter of the Southwest Quarter (NE ¼ SW ¼) and the Southeast Quarter of the Northwest Quarter (SE ¼ NW ¼), Except the North 343 feet of the East 635 feet thereof, all in Section Seventeen (17), Township Seventy-six (76) North, Range Twenty-eight (28), West of the 5<sup>th</sup> P.M., Madison County, Iowa.**

("Premises"),

together with any easements and servient estates appurtenant thereto, but with such reservations and exceptions of title as may be below stated all upon the terms and conditions following:

1. **TOTAL PURCHASE PRICE.** The Buyer agrees to pay for said property a total of Five Hundred Thirty-Three Thousand Dollars and 00/00 (\$533,000.00) due and payable at Seller's residence as follows:

A. Buyer shall pay a down payment of One Hundred Sixty-Eight Thousand Dollars (\$168,000.00) on or before June 30, 2014;

B. Buyer shall pay the remaining balance of Three Hundred Sixty-Five Thousand Dollars (\$365,000.00) in equal annual installments due and payable on or before July 1 of each year, with the first installment due on July 1, 2015;

C. Each installment payment shall be Twenty-Nine Thousand Two Hundred and Eighty-Eight Dollars and 54/100 (\$29,288.54);

D. Interest shall accrue on the outstanding balance at the rate of 5.0% per annum;

E. Any payments shall first apply to any outstanding interest, then to any real estate taxes due, then to any insurance due, and the balance to principal.

F. Buyer may prepay the outstanding balance at any time without penalty;

2. **POSSESSION.** Buyer, concurrently with the performance on its part, shall be entitled to possession of said premises on the June 30, 2014; and thereafter so long as they shall perform the obligations of this contract.

3. **TAXES.** Seller shall pay all real estate taxes that are due and payable as of the date of Closing, including any unpaid real estate taxes for any prior years. Seller shall also pay their prorated share of the July 1, 2013 – June 30, 2015 fiscal year real estate taxes, which are due and payable the following fiscal year, in two equal installments; the first of which is September 1, 2015, and the second of which is March 1, 2016. At Buyer's option, Buyer shall either be given a credit for such proration at Closing based on the last known actual net real estate taxes payable according to public record, or Buyer may allow Seller to pay the taxes as they become due and payable. Buyer shall pay all subsequent real estate taxes. Whoever may be responsible for the payment of said taxes, and the special assessments, if any, each year, shall furnish to the other parties evidence of payment of such items not later than July 15 of each year.

4. **SPECIAL ASSESSMENTS.** Seller shall pay the special assessments against this property which are a lien thereon as of the 30<sup>th</sup> day of June, 2014. Buyer, except as above stated, shall pay all subsequent special assessments and charges before they become delinquent.

5. **MORTGAGE.** Any mortgage or encumbrance of a similar nature against said property shall be timely paid by Seller so as not to prejudice the Buyer's equity herein. Should Seller fail to pay, Buyer may pay any such sums in default and shall receive credit on this contract for such sums so paid. **MORTGAGE BY SELLER.** 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 80% of the then unpaid principal balance of the purchase price herein provided. Buyer hereby expressly consents to such a mortgage and agrees to execute and deliver all necessary papers to aid Seller in securing such a mortgage which shall be prior and paramount to any of Buyer's then rights in said property. **DEED FOR BUYER SUBJECT TO MORTGAGE.** If Buyer has reduced the balance of this contract to the amount of any existing mortgage balance on said premises, it may at its option, assume and agree to pay said mortgage according to its terms, and subject to such mortgage shall receive a deed to said premises; or Seller, at its option, any time before Buyer has made such a mortgage commitment, may reduce or pay off such mortgage. **ALLOCATED PAYMENTS.** Buyer in the event of acquiring the property from an equity holder instead of a holder of the fee title, or in the event of a mortgage against said premises, reserves the right, if reasonably necessary for protection, to divide or

allocate the payments to the interested parties as their interests may appear. SELLER AS TRUSTEES. The Seller agrees that it will collect no money hereunder in excess of the amount of the unpaid balance under the terms of this contract less the total amount of the encumbrance on the interest of Seller or its assigns in said real estate; and if Seller shall hereafter collect or receive any moneys hereunder beyond such amount, it shall be considered and held as collecting and receiving said money as the agent and trustee of the Buyer for the use and benefit of the Buyer.

6. **INSURANCE.** Buyer as and from said date of possession, shall constantly keep in force insurance, premiums therefore to be prepaid by Buyer (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 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 Buyer as their interests may appear. BUYER 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.** Buyer shall take good care of the property, shall keep the buildings and other improvements now or hereafter placed on said premises in good and reasonable repair and shall not injure, destroy or remove the same during the life of this contract. Buyer shall not make any material alteration in said premises without the written consent of the Seller. Buyer 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 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 Seller, be added to the principal amount due hereunder and so secured. (For Buyer's rights to make advancements, see paragraph 5 above.)

10. **CONDITION OF PROPERTY.** Buyer acknowledges that it has inspected the property and that Buyer is purchasing the property "AS IS" without any representation or warranty by Seller.

11. **TIME IS OF THE ESSENCE.** Time is of the essence in this agreement. 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.

12. **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; and (e) Seller shall give Special Warranty as to the period after equitable title passes to Buyer.

13. **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 general Warranty Deed conveying said premises in fee simple pursuant to and in conformity with the contract. Seller has, prior to June 30, 2014, delivered to Buyer 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. Notwithstanding anything contained herein to the contrary, Seller shall, at the time of executing this contract, execute a Warranty Deed, Declaration of Value and Groundwater Hazard Statement and deliver the documents to Seller's attorney to be held in trust pending performance by Buyer of all of Buyer's obligations under this contract. If all said sums of money and interest are paid to Seller during the life on this contract and all other agreements for performance by Buyer have been complied with, Seller's attorney, upon Seller's direction, shall deliver the general Warranty Deed, Declaration of Value and Groundwater Hazard Statement to Buyer. Seller shall pay any transfer tax at the time the Warranty Deed is delivered to Buyer.

14. **APPROVAL OF ABSTRACT.** Buyer has chosen to examine the abstract of title to this property prior to entering this Contract. Any additional abstracting will be at Buyer's expense.

15. **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 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; the 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/or 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.

16. **FORECLOSURE AND REDEMPTION.** If Buyer fails to timely perform the 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 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 upon the contract obligation.

It is agreed that if the 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 months after such right of redemption shall be exclusive to the Buyer, and the time periods in Sections 626.5, 628.15 and 626.16 of the Iowa Code shall be reduced to four (4) months.

It is further agreed that the period of redemption after a foreclosure of the 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 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 its 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 creditor as provided in Section 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to forty (40) days. Entry of the appearance by pleading or docket entry by or on behalf of Buyer shall be the presumption that the property is not abandoned. Any such redemption period shall be consistent with all of the provisions of Chapter 626 of the Iowa Code. This paragraph shall not be construed to limit or otherwise affect any other redemption provisions contained in Chapter 626 of the Iowa Code.

**17. ATTORNEY'S FEES.** In case of any action, or in any proceedings of 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, including attempts to collect any sums payable in any manner other than by a proceeding in Court, from Buyer, or imposed upon them, or upon the above described property, Buyer agrees to pay reasonable attorney's fees.

**18. INTEREST ON DELINQUENT AMOUNTS.** Either party will pay interest at the rate of 15% 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.

**19. 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.

**20. 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 Buyer's rights in said real estate shall concurrently operate as the forfeiture or foreclosure hereof against all such personal property.

**21. CONSTRUCTION.** Words and phrases herein, including acknowledgements hereof, shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context. See above, for construction of the word "Seller."

**22. RELEASE OF RIGHTS.** Each of the Buyers 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.

23. **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.

24. **SUCCESSORS AND ASSIGNS.** This Contract shall inure to the benefit of the parties successors and assigns.

26. **I UNDERSTAND THAT HOMESTEAD PROPERTY IS, IN MANY CASES, PROTECTED FROM THE CLAIMS OF CREDITORS AND EXEMPT FROM JUDICIAL SALES; AND THAT BY SIGNING THIS CONTRACT, I VOLUNTARILY GIVE UP MY RIGHT TO THIS PROTECTION FOR THIS PROPERTY WITH RESPECT TO CLAIMS BASED ON THIS CONTRACT.**

Dated this 18 day of June, 2014.

SELLER: KISGEN FAMILY TRUST

By: [Signature]  
WM J Kisgen, Trustee

By: [Signature]  
Susan Kisgen, Trustee

BUYER:

[Signature]  
Clinton D. Miller

[Signature]  
Annette M. Miller

STATE OF California; COUNTY OF Riverside ) ss:

This instrument was acknowledged before me on the 18<sup>th</sup> day of June, 2014 by WM J Kisgen and Susan Kisgen, as Trustees of the Kisgen Family Trust.



[Signature]  
Notary Public in and for said State  
My commission expires 09/09/2015

STATE OF IOWA; COUNTY OF Polk ) ss:

This instrument was acknowledged before me on the 18<sup>th</sup> day of June, 2014 by Clinton D. Miller and Annette M. Miller, husband and wife.

[Signature]  
Notary Public in and for said State  
My commission expires June 10, 2015

