ASSIGNMENT OF AN EQUITY IN A REAL ESTATE CONTRACT

This Assignment, made and entered into this 19th day of July, 1971 by and between Robert G. Bodwell and Mary K. Bodwell, as husband and wife, hereinafter referred to as the Assignors and the Earlham Savings Bank, hereinafter referred to as the Assignee, WITNESSETH: For a good and valuable consideration, receipt of which is hereby acknowledged, the Assignors hereby quit claim, sell, assign, and transfer all their rights, title and interest in said Contract for the Sale of Real Estate located in Town of Earlham, Madison County, Iowa, a copy of which is attached hereto, and hereby made a part hereof, to the Earlham Savings Bank, the Assignee, herein, who by acceptance of this assignment agrees that so long as the Assignors shall perform all the obligations contained in a note dated July 19, 1971 in favor of the Earlham Savings Bank, the Assignee, a copy of said Note being attached hereto, the above named Assignors shall have the exclusive right to collect the payments on said Real Estate contra ct unless the Assignors default in the payment of the note in favor of the Assignee dated July 19, 1971 in the amount of Twelve Hundred Seventy Eight and 80/100---------- (1272.80) In the event of a default in the payment of the note, or interest which this Assignment secures, by the Assignors, or either of them, then and in that event only, shall the Assignee be subrogated to all the rights of the Assignors in said Real Estate Contract, and to their equities therein.

Signed this 19 day of July, 1971 at Earlham, Iowa.

Robert G Bodwell
Robert G. Bodwell
Assignor

Mary K. Bodwell
Mary K. Bodwell
Assignor

Earlham Savings Bank
Assignee

For release of Assignment see Deed Rec 46 - 485

COMPARED

1093
FILED NO.
BOOK 44 PAGE 401
1971 AUG 12 AM 10: 24 M.M.
MARY E. WELTY
RECORDER
MADISON COUNTY, IOWA
Fee 8 50

IND ✓
REC.
PAGE ✓

STATE OF IOWA
; SS
COUNTY OF MADISON

On this 19thaday of July, 1971 before me, the undersigned, a Notary Public in and for the County of Madison, State of Iowa, personally appeared Robert G. Bodwell and Mary K. Bodwell, to me known to be the persons named in and who executed the foregoing Assignment, and acknowledged the same to be their voluntary act and deed.

JEAN DAGGETT Iowa NOTARIAL SEAL

Jean Daggett
Notary Public in and for Madison County
Iowa

STATE OF IOWA
:SS
COUNTY OF MADISON

On this 19th day of July, 1971 before me, the undersigned, a Notary Public in and for the County of Madison, State of Iowa, personally appeared Robert J. Kress, to me known to the the person named in and who executed the foregoing Assignment, and acknowledged the same to be their voluntary act and deed.

JEAN DAGGETT Iowa NOTARIAL SEAL

Jean Daggett
Notary Public in and for Madison County
Iowa.

DAYHATI If an "Offer to Buy" has been executed preliminary to this contract, see Footnote No. 1

REAL ESTATE CONTRACT—INSTALLMENTS

IT IS AGREED this 2nd day of April, 19 66, by and between Alfred Nelson, a single person

(Paragraph 10, below, may preserve an existing joint tenancy for the Sellers, but does not create a new one. To create a new joint tenancy in Sellers, see Footnote No. 2.)

of the County of Madison, State of Iowa, Sellers; and Robert G. Bodwell and Mary K. Bodwell, husband and wife, as joint tenants, not as tenants in common with full right of survivorship

(To create a joint tenancy for Buyers, use appropriate words)

of the County of Madison, State of Iowa, Buyers:

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

South One- half (S½) of Lot Two (2), and all of Lot Three (3), Block Three (3), Nicholson's Addition, Town of Earlham, 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 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 for said property is $7000.00, payable at Earlham Savings Bank Earlham, Madison County, Iowa, as follows:

(a) DOWN PAYMENT of $1000.00 RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED; and

(b) BALANCE OF PURCHASE PRICE, $6000.00, as follows $50.00 (or more at the option of the Buyers) (and more as may be increased by the provisions of the last sentence of this paragraph) on or before the 1st day of June, 1966, and $50.00 (or more, at the option of the Buyers) (and more as may be increased by the provisions of the last sentence of this paragraph) on or before the 1st day of each and every month thereafter

until all sums due under this contract are paid in full, with interest on unpaid balances thereof at the rate of Five % per annum, payable monthly from June 1st, 1966 date of possession until fully paid; said payments to be applied first to the interest then unpaid and next upon the balance of the principal. If indicated by "Yes" in the space following, or upon subsequent request by Sellers, Buyers shall on the said dates for payment, each month, in addition to the said monthly payments, pay one-twelfth of the annual taxes, annual special assessments and annual insurance to Sellers, as a trust fund, in amounts reasonably calculated by Sellers, for the timely payment of such items by Sellers to the extent of such fund ____ (Yes or not now).

2. POSSESSION. Buyers, concurrently with due performance on their part shall be entitled to possession of said premises on the 1st day of May, 19 66, and thereafter so long as they shall perform the obligations of this contract. If Buyers are taking subject to the rights of lessees and are entitled to rentals therefrom on and after date of possession, so indicate by "yes" in the space following ____.

3. TAXES. Sellers shall pay 4/12th % of all regular taxes assessed against this property (including personal property, if any) due and payable in the year 19 66; and any unpaid taxes thereon payable in prior years. Buyers shall pay any taxes not assumed by Sellers. Buyers shall pay all subsequent taxes before same become delinquent. Whoever may be responsible for the payment of said taxes, and the special assessments, if any, to the County Treasurer each year, shall furnish to the other parties evidence of payment of such items not later than October 15 of each year.

4. SPECIAL ASSESSMENTS. Sellers shall pay the special assessments against this property: (Strike out either (a) or (b) below.)

(a) Which, if not paid in the year 19____, would become delinquent and all assessments payable prior thereto. all specials are paid

(b) Which are a lien thereon as of ____ (Date)

(c) Including all sewage disposal assessments for overage charge heretofore assessed by any municipality having jurisdiction as of date of possession.

Buyers, 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 the said property shall be timely paid by Sellers so as not to prejudice the Buyers equity herein. Should Sellers fail to so pay, Buyers may pay any such sums in default and shall receive credit on this contract for such sums so paid. MORTGAGE BY SELLERS. Sellers, their heirs, legal representatives, successors in interest or assigns may, and hereby reserve the right to at any time mortgage their right, title or interest in such premises or to renew or extend any existing mortgage for any amount not exceeding ____ (% 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 Sellers in securing such a mortgage which shall be prior and paramount to any of Buyers' then rights in said property. DEED FOR BUYERS SUBJECT TO MORTGAGE. If Buyers have reduced the balance of this contract to the amount of any existing mortgage balance on said premises, they may, at their 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 Sellers, at their option, any time before Buyers have made such a mortgage commitment, may reduce or pay off such mortgage. ALLOCATED PAYMENTS. Buyers, in the event of acquiring this property from an equity holder instead of a holder of the fee title, or in the event of a mortgage against said premises, reserve the right, if reasonably necessary for their protection, to divide or allocate the payments to the interested parties as their interests may appear. SELLERS AS TRUSTEES. Sellers agree that they 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 Sellers or their assigns in said real estate; and if Sellers shall hereafter collect or receive any moneys hereunder beyond such amount, they shall be considered and held as collecting and receiving said money as the agent and trustee of the Buyers for the use and benefit of the Buyers.

6. INSURANCE. Except as may be otherwise agreed in the last sentence of Paragraph 1 (b) above, Buyers as and from said date of possession, shall keep all buildings and improvements now on and hereafter placed upon said premises, and any personal property which may be the subject of this contract, constantly insured against loss by fire, windstorm, lightning, tornado and other hazards, casualties and contingencies as Sellers may reasonably require, in an amount not less than $6500.00, or not less than the unpaid balance of the purchase price herein, whichever sum is smaller, all in a company or companies approved by the Sellers, which approval shall not be unreasonably withheld and with appropriate endorsements or "riders" satisfactory to them. SAID POLICIES SHALL BE PROMPTLY DEPOSITED WITH THE SELLERS AND KEPT IN FORCE AND EFFECT BY AND AT THE EXPENSE OF THE BUYERS 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; but in any event such funds shall stand as security for the payment of the sum herein mentioned.

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 and shall not injure, destroy or remove same during the life of this contract. Buyers shall not make any material alteration in said premises without the written consent of the Sellers. Buyers shall not use nor 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 SELLERS. If Buyers fail to pay such taxes, special assessments and insurance and effect necessary repairs, as above agreed, Sellers 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 Sellers, be added to the principal amount due hereunder and so secured. (For Buyers' rights to make advancements, see paragraph 5 above.)

10. JOINT TENANCY IN PROCEEDS AND SECURITY RIGHTS IN REAL ESTATE. If and only if, the Sellers, 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 Sellers, this sale shall not constitute such destruction and the proceeds of this contract, and any continuing and/or recaptured rights of Sellers in said real estate, shall be and continue in Sellers 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 13 below; unless and except this paragraph is stricken from this agreement.

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10½. **"SELLERS."** Spouse, if not a 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 I.C.A., and the use of the word "Sellers" in the printed portion of this 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 thereof, nor bind such spouse except as aforesaid, to the terms and provisions of this contract.

11. **TIME IS OF THE ESSENCE** of this Agreement. Failure to promptly assert rights of Sellers 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 13) 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) Sellers shall give only Special Warranty as to period after equitable title passes to Buyers; (f) Spouse, if not a titleholder, need not join in any warranties of the deed unless otherwise stipulated; (g) _____ (Mineral reservation of record?); (h) _____ (Liens?) (Easements not recorded?) (Interests of other parties?) (Lessees?)

13. **DEED AND ABSTRACT, BILL OF SALE.** If all said sums of money and interest are paid to Sellers during the life of this contract, and all other agreements for performance by Buyers have been complied with, Sellers will, upon presentation of a duplicate of this contract, execute and deliver to Buyers a _____ Warranty Deed conveying said premises in fee simple pursuant to and in conformity with this contract; and Sellers will concurrently deliver to Buyers an abstract showing merchantable title, in conformity with this contract. Such abstract shall begin with the government patent (unless pursuant to local bar association title standards there is a lesser requirement as to period of abstracting) to said premises and shall show title thereto in Sellers as of the date of this contract; or as of such earlier date if and as designated in the next sentence. This contract supersedes the previous written offer of Buyers to buy the above described property which was accepted by Sellers on the _____ day of _____, 19____. Sellers shall also pay the cost of any abstracting due to any act or change in the personal affairs of Sellers 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, Sellers shall execute and deliver a Bill of Sale consistent with the terms of this contract. Sellers shall pay all taxes on any such personal property payable in 19____, and all taxes thereon payable prior thereto.

14. **APPROVAL OF ABSTRACT.** Buyers have _____ examined the abstract of title to this property and such abstract is _____ accepted.

15.1. **FORFEITURE.** If Buyers fail (a) to make the payments aforesaid, or any part thereof, as same become due; or (b) 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 Sellers, in addition to any and all other legal and equitable remedies which they may have, may, at their option, proceed to forfeit and cancel this contract as provided by law (Chapter 656 I. C. A.). 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 Sellers 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 so to do 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.

15.2. **FORECLOSURE.** If Buyers fail, in any one or more of the specified ways to comply with this contract, as in (a), (b), (c), (d) or (e) of numbered paragraph 15.1 above provided, Sellers may upon thirty (30) days written notice of intention to accelerate the payment of the entire balance, during which thirty days such default or defaults are not removed, declare the entire balance hereunder immediately due and payable; and thereafter at the option of the Sellers this contract may then be foreclosed in equity and a receiver may be appointed to take charge of said premises and collect the rents and profits thereof to be applied as may be directed by the Court.

16. **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 Sellers, or in any other case permitted by law in which attorneys' fees may be collected from Buyers, or imposed upon them, or upon the above described property, Buyers agree to pay reasonable attorneys' fees.

17. **INTEREST ON DELINQUENT AMOUNTS.** Either party will pay interest at the highest legal contract rate 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.

18. **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. See Footnote No. 4.

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.** This contract shall be binding upon the heirs, legal representatives, successors in interest and assigns of the respective parties hereto. 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 10½, above, for construction of the word "Sellers."

21. **SPECIAL PROVISIONS.** (See Footnote No. 4.)

Executed in duplicate / triplicate

(Alfred Nelson) **Sellers** (Robert G. Bodwell) **Buyers**

(Mary K. Bodwell)

STATE OF IOWA, Madison COUNTY, ss:

On this 2nd day of April, A. D. 19 66 before me, the undersigned, a Notary Public in and for said County, in said State, personally appeared Alfred Nelson, Robert G. Bodwell and Mary K. Bodwell

to me known to be the identical persons named in and who executed the within and foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

(H. Claude Peer) Notary Public in and for said County

Please type or print names under signatures as per Sec. 335.2 I.C.A.

Footnote No. 1: If no "Offer to Buy" (Official Form No. 26) has been executed preliminary to this contract, consider the necessity of covering the subject matter in said form of Paragraphs 1, 4, last half of last sentence of 5, 6(a), 6(b), 6(c), 8, 15(a), 15(b), 16, 18, 19, together with Optional Provisions thereof.

Footnote No. 2: If the Sellers have not previously held this property in joint tenancy but now ask to so hold the proceeds of this contract, consider the advisability and necessity of having them execute a joint tenancy deed of this property to themselves (Official Form 1.3) before signing this contract, and thus bringing Paragraph 10, above, into effect.

Footnote No. 3: As may be needed, attach additional acknowledgments. For individuals use Iowa State Bar Association Official Form No. 11; for corporations use Form No. 12.

Footnote No. 4: Optional: Buyers understand that there is a mortgage of record with present balance of approximately $_____ payable to _____, which mortgage is to be timely paid by Sellers. Optional: Unless Buyers request it at the time of making optional pre-payments under paragraph 1(b) above, such payments shall not be applied as future installment payments. Optional: Buyers shall be entitled to only one abstract unless otherwise provided herein. Optional: Buyers shall not assign this contract or transfer said real estate without the written consent of Sellers, until and unless Buyers shall have paid 10___% of the total purchase price. A violation of this provision shall entitle the Sellers to proceed as in Paragraph 15.2 above. Optional: Consider six months mortgage clause in connection with Paragraph 15.2 above.

Compared 1234

Real Estate Contract Installments

Alfred Nelson

to

Robert G. Bodwell & wife

Entered upon transfer books and for taxation this _____ day of _____, 19____ Auditor

By _____ Deputy

Filed for record, indexed and delivered to County Auditor this 6 day of April 19 66 at 8:15 o'clock A. M., and recorded in Book 44 of Deeds, on page 387 of Madison County Records.

Recorder's and Auditor's Fee $ 3.50 PAID.

Mary E. Kelley Recorder

By _____ Deputy

WHEN RECORDED RETURN TO