

## REAL ESTATE CONTRACT

**IT IS AGREED** this Real Estate Contract is executed by and between Mary V. Marshall, by her attorney-in-fact, Kimberly D. Thompson, ("Sellers"); and \_\_\_\_\_ ("Buyers") on the date set forth below and upon the following terms:

1. **PROPERTY.** Sellers agree to sell and Buyers agree to buy real estate legally described as

The westerly part of Outlot 19 of the Original Town of Montrose, Lee County, Iowa, bounded on the north by Grand Avenue; on the south by Walnut Street; On the east by Sixth Street; and on the west by Seventh Street (308 North 6<sup>th</sup> Street)

together with any easements and appurtenant servient estates (the "Real Estate"), but subject to the following:

- a. Any zoning and other ordinances;
- b. Any covenants of record;
- c. Any easements of record for public utilities, roads and highways; and
- d. The leasehold rights of a month-to-month tenant at will in and to storage space in the outbuilding (whose rights it shall be Buyers' obligation to terminate if termination is desired).

2. **PRICE.** The total purchase price for the Real Estate is \$\_\_\_\_\_ of which 10% thereof (\$ \_\_\_\_\_) has been paid contemporaneously with the execution of this Contract and which includes Buyers' premium as advertised (Buyers' winning bid multiplied by .05). In addition to the dollar amounts set forth above, Buyers shall also pay the cost of any surveying required by any entity.

3. **DEFAULT INTEREST.** Buyers shall pay interest at the rate of 10 percent 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.

4. **REAL ESTATE TAXES.** Sellers shall pay real estate taxes prorated to the date of Possession, it being understood the September 2021 real estate tax installment paid taxes to January 1, 2021 and any unpaid real estate taxes payable in prior years. Buyers shall pay all subsequent real estate taxes. The proration of real estate taxes on the Real Estate shall be based upon such taxes for the year currently payable.

**5. SPECIAL ASSESSMENTS.** Sellers shall pay all special assessments which are a lien on the Real Estate as of the date of this Contract. All other special assessments shall be paid by Buyers.

**6. POSSESSION AND CLOSING.** Sellers shall give Buyers possession of the Real Estate at Closing provided that Buyers are not in default under this Contract. Closing shall be on tender of merchantable abstract and deed on or before November 24, 2021 unless the inability of an abstract company to complete abstracting work prior to that date renders the closing date an impossibility in which case the parties shall cooperate to extend the Closing to a date within 7 business days of the completion of said abstracting. The Closing shall occur at a place mutually acceptable to the parties and, in the absence of such an agreement, at Fehseke & Gray Law Offices in Fort Madison, Iowa. Sellers may leave items of personal property on or about the Real Estate and the same shall become the property of Buyers at Closing.

**7. INSURANCE.** Sellers shall maintain existing insurance upon the Real Estate until the date of possession. Buyers shall accept insurance proceeds instead of Sellers replacing or repairing damaged improvements.

**8. ABSTRACT AND TITLE.** Sellers, at their expense, shall promptly obtain an abstract of title to the Real Estate continued through the date of this contract and deliver it to Buyers for examination. It shall show merchantable title in Sellers in conformity with this contract, Iowa law and the Title Standards of the Iowa State Bar Association. Sellers shall pay the costs of any additional abstracting and title work due to any act or omission of Sellers, including transfers by or the death of Sellers or their assignees. Buyers shall have the right to occasionally use the abstract prior to full payment of the purchase price. When the purchase price is paid in full, the abstract shall become the property of the Buyers.

**9. FIXTURES/EXCLUDED PROPERTY.** All property that integrally belongs to or is part of the Real Estate, whether attached or detached, such as light fixtures, shades, rods, blinds, awnings, windows, storm doors, screens, plumbing fixtures, water heaters, water softeners, automatic heating equipment, air conditioning 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 the Real Estate and shall be included in the sale.

**10. CARE OF PROPERTY.** Sellers shall take good care of the property, shall keep the buildings and other improvements now or later placed on the Real Estate in good and reasonable repair and shall not injure, destroy or remove the property during the term of this contract. Sellers shall not make any material alteration to the Real Estate without the written consent of Buyers.

**11. DEED.** Upon payment of the purchase price, Sellers shall convey the Real Estate to Buyers or their assignees by Warranty Deed. Said conveyance shall be free and clear of all liens, restrictions, and encumbrances except as provided herein. Any general warranties of title shall extend only to the date of this contract, with special warranties as to the acts of Sellers continuing up to time of delivery of the deed.

**12. REMEDIES OF THE PARTIES.** a. 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 Real Estate or assessed against the Real Estate by any taxing body before any of such items become delinquent; or (c) fail to keep the Real Estate insured; or (d) fail to keep the Real Estate 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 and at their sole 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 Sellers as compensation for the use of said property and/or as liquidated damages for breach of this contract. Upon completion of such a forfeiture, if Buyers or any other person(s) shall be in possession of the 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 in accordance with the laws of the State of Iowa.

b. If Buyers fail to timely perform this contract, Sellers, at their sole option, may elect to declare the entire balance immediately due and payable after such notice, if any, as may be required by Chapter 654 of the Code of Iowa. Thereafter this contract may be foreclosed in equity and a 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. Such a 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 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 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 or occur: (1) The Real Estate is less than ten (10) acres in size; (2) a 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, 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 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. Upon completion of such forfeiture Buyers shall have no right of reclamation or compensation for money paid or improvements made; but such payments and 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. Upon completion of such forfeiture, if Buyers or any other person(s) shall be in possession of the 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 and as provided by laws of the State of Iowa.

c. 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.

d. Buyers and Sellers are also entitled to utilize any and all other remedies or actions at law or in equity available to them.

e. In any action or proceeding relating to this contract the successful party shall be entitled to an award of reasonable attorney's fees and costs.

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

**14. 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.

**15. RELEASE OF RIGHTS.** Each Seller 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.

**16. 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.

**17. CONTRACT SUPERSEDES OTHER AGREEMENTS.** This Contract replaces and supersedes all agreements made between the parties hereto, whether oral or written, prior to the date of this Contract.

**18. APPLICABLE LAW AND COURT.** Any controversy arising out of or in connection with the Contract shall be governed by the laws of the State of Iowa, and Sellers and Buyers consent to the jurisdiction of the Iowa District Court in and for Lee County as the sole and exclusive court having jurisdiction for the resolution of all matters.

**19. COUNTERPARTS, ELECTRONIC SIGNATURES AND REPRODUCTIONS ENFORCEABLE AS ORIGINALS.** This Contract may be executed in separate counterparts, all of which when taken together shall constitute one and the same Contract and any party to this Contract may execute this Contract by signing any such counterpart. A party's signature or mark on or attached to this Contract that is input on an electric signature pad, input on a display screen by means of a stylus device, represented by a digitized image of a handwritten signature, or represented as a digital signature or a mark captured as a scalable graphic electronically stored and/or displayed in any format on tangible media shall be binding on the party making or applying the same in the same manner as an original signature. Each party hereby waives any evidentiary rule or other requirement that this Contract, with "original signatures" within the meaning of the Rules of Evidence, be produced or offered into evidence in any proceeding and each party hereby further acknowledges that a copy of this Contract, howsoever legibly produced or reproduced, shall be deemed the equivalent of an original of this Contract for all evidentiary purposes.

**20. ADDITIONAL PROVISIONS.**

- A. **REVENUE STAMPS.** Sellers agree to pay the real estate transfer tax and to affix the stamps for said tax on the deed to be delivered to Buyers when all the terms of this Contract are fully satisfied.
- B. **INSPECTION BY BUYERS/PROPERTY "AS IS".** Buyers acknowledge and represent that the Real Estate has been the subject of an auction and that all of the property subject to this Contract and all of the rules and regulations governing Buyers' use of the subject property have been inspected by Buyers or by agent of Buyers and that said rules and regulations and said property are satisfactory in all respects and that this agreement is made voluntarily by Buyers, relying wholly upon the knowledge and investigation of the Buyers and not upon any statements or representations made by Sellers or by any person representing or purporting to represent the Sellers (except any statements which may be made in connection with any Sellers' Disclosure Statement delivered to the Buyers by Sellers). Buyers accept the property subject to this Contract, including all structures and fences thereon, in its present condition and "as is", and "where is". Furthermore, Buyers acknowledge that they have received a Seller's Disclosure Statement, if applicable, that they are familiar with its contents, and that its contents are consistent with Buyers' inspection of the property subject to this Contract.
- C. **PERSONAL PROPERTY.** The following personal property presently located on or about the property shall remain with the Real Estate and the respective values of said property that is not attached to the property is nominal: Dishwasher, Honeywell backup generator, Culligan Water Softener System
- D. **PRE-CLOSING TITLE SEARCH.** In the event that Buyers or Buyers' financial institution seek to obtain what is commonly referred to as a "last minute search" to prove that merchantable title to the Real Estate remains in Sellers for the period of time following the last abstract continuation for the Real Estate and Closing, the same shall be the responsibility of the Buyers who shall obtain the same and pay the costs of any expenses associated with the same.

- E. GROUNDWATER HAZARDS/NO SEPTIC TANKS. Sellers represent and warrant to Buyers that the Property is not served by a private sewage disposal system and there are no known private sewage disposal systems on the property. At or before the time of closing, Sellers shall provide Buyers with a properly executed Groundwater Hazard Statement showing no wells, solid waste disposal sites, hazardous waste or underground storage tanks or private sewage disposal systems (commonly referred to as septic tanks) on and/or required on the premises.
- F. LEAD BASED PAINT. See the attached pamphlet entitled "Protect Your Family From Lead in Your Home."

**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.**

By signing hereto, Buyers specifically acknowledge the above understanding and hereby enter into this Contract.

Dated: \_\_\_\_\_  
 \_\_\_\_\_ Buyer  
 Telephone Number: \_\_\_\_\_

Dated: \_\_\_\_\_  
 \_\_\_\_\_ Buyer  
 Telephone Number: \_\_\_\_\_

By signing hereto, Sellers specifically enter into this Contract.

\_\_\_\_\_  
 Mary V. Marshall, by her attorney-in-fact,  
 Kimberly D. Thompson  
 Dated: \_\_\_\_\_