

**REAL ESTATE CONTRACT**

John D Cray

**REAL ESTATE CONTRACT (SHORT FORM)**

**IT IS AGREED** between Cheryl Marie Lancaster and Gerald Lancaster, wife and husband; Debra Ann Lien, single; Linda C Johnson, single; Robert D. Dockendorff, single; Robert Edward Johnston and Jeralyn Johnston, husband and wife; Dennis Johnston, single; Jimmy G. Johnston and Rosemary Johnston, husband and wife; Ronald Bruce Dockendorff and Phyllis Dockendorff, husband and wife, ("Sellers"); and \_\_\_\_\_ ("Buyers")

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

**TRACT NO. 3**

The Southeast Quarter of the Southeast Quarter of Section 7, Township 70 North, Range 4 West, of the 5<sup>th</sup> P.M in Des Moines County, State of Iowa, subject to established roads and easements of record, but excluding therefrom one and one-half acres approximately conveyed by Warranty Deed to Gale R Barry and Shirley J Barry, husband and wife, by Deed recorded May 15, 1995, as Document No. 95-002321 in the Recorder's Office of Des Moines County, Iowa; and, therefore, there is included in this Tract No. 3 for purposes of this Contract thirty-eight and one-half (38 ½) acres more or less,

with any easements and appurtenant servient estates, 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. (consider: liens; mineral rights; other easements; interest of others.)

(the "Real Estate"), upon the following terms:

1. **PRICE.** The total purchase price for the Real Estate is \$ \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) of which \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) or twenty

percent (20%) has been paid. Buyers shall pay the balance to Sellers at Des Moines County, Iowa or as directed by Sellers, as follows:

The remaining 80% or \$ \_\_\_\_\_ will be paid at time of closing and the granting of landlord's possession to the buyer or buyers on or before February 23, 2009, upon delivery of merchantable abstract and Warranty Deed

**2. REAL ESTATE TAXES.** Sellers shall pay the taxes due in September of 2008 and March of 2009 and will prorate to the date of possession on the basis of the last available tax statement the taxes otherwise due and payable in September of 2009 and March of 2010 and any unpaid taxes payable in prior years. Buyers shall pay all subsequent real estate taxes. Any proration of real estate taxes on the Real Estate shall be based upon such taxes for the year currently payable unless the parties state otherwise.

**3 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

**4 POSSESSION CLOSING.** Sellers shall give Buyers Landlord's possession of the Real Estate on February 23, 2009, provided Buyers are not in default under this contract. Closing shall be on February 23, 2009

**5. 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. 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 80 percent of full insurable value payable to the Sellers and Buyers as their interests may appear. Buyers shall provide Sellers with evidence of such insurance

**6. 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 or conformity with this contract, Iowa law and the Title Standards of the Iowa State Bar Association. 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. 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.

**7. FIXTURES.** 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 Real Estate and included in the sale except: (consider: rental items.)

**8. CARE OF PROPERTY.** Buyers 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. Buyers shall not make any material alteration to the Real Estate without the written consent of the Sellers.

**9. DEED.** Upon payment of purchase price, Sellers shall convey the Real Estate to Buyers or their assignees, by warranty deed, 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 acts of Sellers continuing up to time of delivery of the deed.

**10 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 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, 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 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 to do so may be treated as tenants holding over, unlawfully after the expiration of lease, and may accordingly be ousted and removed as such as provided by law.

b. 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, 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 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 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) 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 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 for 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 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.

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 receive reasonable attorney's fees and costs as permitted by law.

**11 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 shares or in compliance with Section 561.13 of the Iowa Code and agrees to execute the deed for this purpose.

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

**13. 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.

**14 RELEASE OF RIGHTS.** Each of the 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.

**15 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.

#### 16 ADDITIONAL PROVISIONS.

A This real estate is selling subject to public road easements and all other easements of record. This is one of three tracts being sold at public auction this same date. If one buyer purchases more than one tract, the Sellers shall only be obligated to furnish one abstract and deed - a husband and wife constitutes one buyer.

B It will be the obligation of the buyers to terminate the lease with the tenant, Russ Reed, prior to September 1, 2009, for the following year if they so desire. The cash rent for Tract No. 3 is paid as follows: \$2,359.00 due on March 1, 2009, and a like payment on November 1, 2009, based on 28 acres.

C. The buyers will be responsible for all desired fencing in accordance with Iowa state law. The sellers shall not be obligated to furnish any surveys.

D It will be the obligation of the buyers to report to the Des Moines County FSA Office and show filed deeds in order to participate/receive any of the following programs:

- (1) Any or all future government programs; and
- (2) Allotted share of base acres.

E. If in the future a site cleanup is required, it will be at the expense of the buyers.

F The buyers acknowledge that they have carefully and thoroughly inspected the real estate and are familiar with the premises. The buyers are buying this real estate in its "as is" condition and there are no express or implied warranties pertaining to the same.

Dated: January 22, 2009

\_\_\_\_\_  
Cheryl Marie Lancaster, Seller

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Gerald Lancaster, Seller

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Debra Ann Lien, Seller

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Linda C. Johnson, Seller

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Robert D. Dockendorff, Seller

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Dennis Johnston, Seller