

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Chapter 7 case

Rebecca G. Wilkinson, D.V.M. &
Associates, P.A.

BKY 04-30819-DDO

Debtor.

NOTICE OF HEARING AND MOTION FOR RELIEF FROM AUTOMATIC STAY

TO: DEBTOR AND OTHER ENTITIES SPECIFIED IN LOCAL RULE 9013-3(a)

1. Gary A. Steen (“Movant”), by and through his undersigned attorneys, moves the Court for the relief requested below and gives notice of hearing herewith.
2. The Court will hold a hearing on this motion at 9:30 A.M. on October 20, 2004, before the Honorable Dennis D. O’Brien, in Courtroom No. 228A, U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota.
3. Any response to this motion must be filed and delivered not later than October 15, 2004, which is three days (excluding Saturdays, Sundays, and holidays) before the hearing, or served by mail not later than October 11, 2004, which is seven days (excluding Saturdays, Sundays, and holidays) before the hearing. **Unless a response opposing the motion is timely filed, the Court may grant the motion without a hearing.**
4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Fed. R. Bankr. P. 5004, and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this case under Chapter 11 was filed on February 13, 2004. The case was converted by the Debtor to Chapter 7 on September 3, 2004, and remains pending in this Court under Chapter 7.

5. Movant requests relief from the automatic stay to pursue his remedies against the real estate (hereinafter “Property”) commonly known as 13060 Central Avenue NE, Blaine, Minnesota, and legally described as:

The East 209.00 feet, as measured along the North and South lines thereof, of that part of the North half of the Southeast quarter of the Northwest quarter of Section 5, Township 31, Range 23, Anoka County, Minnesota, described as follows: Beginning at a point 97.01 feet West of the Northeast corner of said North half of the Southeast quarter of the Northwest quarter; thence Westerly 418.00 feet; thence Southerly 209.00 feet; thence Easterly 418.00 feet; thence Northerly 209.00 feet to the point of beginning

6. Movant is the fee owner of the real estate. Debtor conducted business at the premises until August of this year. Debtor’s occupancy was under the terms of a Purchase Agreement and Lease, the essential portions of which are submitted herewith as Exhibit B to the Verified Statement of Gary A. Steen in Support of Relief from Automatic Stay. Said purchase agreement called for execution of a contract for deed as of January 1, 2003. That instrument was never executed or recorded, but the parties acted according to its terms.
7. Debtor is in default under the terms of the Purchase Agreement, the Lease, and the (unexecuted) contract for deed, in that no monthly payments have been made, real estate taxes have not been paid for two years, and the property has been abandoned.
8. Movant has been able to verify that insurance on the property is paid only through October 16, 2004. It is likely that any coverage has lapsed or diminished by virtue of the Debtor’s abandonment of the premises more than 30 days ago.
9. Cause therefore exists to terminate the automatic stay in order to allow Movant to proceed with his remedies of eviction and of cancellation of the Debtor’s and the estate’s property rights under the purchase documentation.

10. There is no equity in the Property and the Property is not necessary for an effective reorganization.
11. Inasmuch as the property has been abandoned by the Debtor, and there is tangible risk of imminent loss, Movant requests the further order of the Court allowing him to take possession of the property immediately and to secure and insure it, for his benefit and also the benefit of the estate and other secured parties.
12. If there is a contested hearing on this motion for which testimony is required, Movant will testify as to the matters set out in his Verified Statement and otherwise as relate to the situation.
13. Inasmuch as the exhibits to this motion exceed 50 pages, they are not served herewith as allowed by local rule. They may be downloaded from the Court web site or by request from Movant's undersigned counsel.

WHEREFORE, Movant Gary A. Steen moves the Court for an Order for relief from the automatic stay provided by 11 U.S.C. § 362(a) to permit Movant to exercise his remedies with respect to the Property, and further to allow Movant to take immediate possession and control of the Property, subject to the rights of the estate and other secured parties.

Dated: October 3, 2004

THOMAS F. MILLER, P.A.

BY /E/ THOMAS F. MILLER

Thomas F. Miller, Lic. No. 73477
130 Lake Street West
Wayzata, MN 55391
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Email: Thomas@Millerlaw.com

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Debtor.

**VERIFIED STATEMENT OF GARY A. STEEN IN
SUPPORT OF RELIEF FROM AUTOMATIC STAY**

Gary A. Steen, under penalties of perjury, states:

1. I am the record owner of improved real estate in Anoka County, Minnesota, legally described on the attached "Exhibit A Regarding Legal Description." (The "Property"). The address of the Property is 13060 Central Avenue NE, Blaine, Minnesota 55434. The land is a square parcel 209 feet on a side, essentially one acre, improved by a specialty building designed to be a veterinary clinic, comprising two floors of about 3,000 square feet each, plus a parking lot sufficient for about 20 cars.

2. The Debtor claims an interest in the Property under certain transaction documents dated January, 1999, and subsequently amended, which are attached hereto as Exhibit B.

3. As regards this motion, those documents provided for a lease of the Property for the conduct of the Debtor's veterinary business, and terms of possible contract for deed for purchase of the Property. The transactions are summarized in documents on file in this matter as docket items 14-1 and 17-1, which documents comprise the cash collateral/adequate protection agreement with the Debtor in Possession which was approved by the Court on May 5, 2004, as docket item 19-1.

4. The agreement, as approved by the Court, provided that the Debtor in Possession pay to me the sum of \$4368.88 commencing in April of this year, as adequate protection of my interest in the Property.

5. The amount owing to me under the real estate contract secured by the property was \$267,221.48 as of December 31, 2003.

6. The Debtor made no payments to me of any kind in 2004 prior to the filing of the case on February 13, 2004.

7. The only payments made to me in the year 2004 were \$7,250.00 on May 13, 2004, and \$7,282.13 on June 8, 2004.

8. The Property is subject to a mortgage in favor of Community First National Bank of Ramsey, Minnesota ("Bank"), which I took out prior to the transaction with the Debtor. The balance owing to the Bank is approximately \$98,275, with monthly payments of approximately \$2300. I am required to make these payments every month, whether or not I receive income from the property. These payments are a hardship.

9. In telephone conversations today with the Bank, I was informed that the insurance policy on the Property is paid only to October 16, 2004. However, it appears that the Property was abandoned by the Debtor on August 18, 2004, more than 30 days ago. Exhibit C. It is my understanding that even if an insurance policy were otherwise in force, coverage may well have lapsed due to this period of vacancy.

10. The Property is not secure. I am attaching as Exhibit D a photograph taken by me a few weeks ago, showing an open window on the ground floor (lower left window). This window could easily be removed to allow entry by a person. Also, there is a prominent "Closed" sign, see Exhibit E, which is an invitation to vandals and thieves. A very great deal of merchandise and other personal property is visible through the windows, see photos at Exhibit F.

11. I have just learned that the Debtor did not make the real estate tax payments due in 2003, and did not make the required first-half 2004 real estate tax payment in the approximate amount of \$4,290.00 due May 15 of this year. According to Anoka County by telephone today, the amount due as of October 15, 2004, will be \$10,325 for the 2003 payable taxes, and \$9,094 for the 2004 payable taxes, with penalty, for a total of \$19,419.

12. The Debtor is therefore in default under the contract and under the terms of the adequate protection agreement.

13. The current market valuation of the real estate, for tax purposes, is \$284,300.00. This is consistent with my personal opinion of value.

14. The amount owing to me under the real estate contracts exceeds this figure. By calculation the total amount owing as of the last payment, June 8, 2004, was \$264,111.75, with a per diem thereafter of \$70.55. The principal plus interest on October 20, 2004, will be \$273,565.45. In addition, there will be \$19,419 in real estate taxes owing under the contract, plus possible additional sums for insurance that I may need to advance. Estimated attorney fees will be \$7,500. Accordingly there is in my opinion no equity in the property.

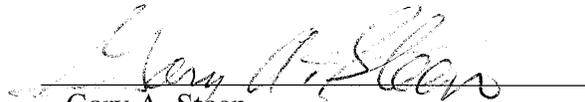

Gary A. Steen

EXHIBIT A REGARDING LEGAL DESCRIPTION

The East 209.00 feet, as measured along the North and South lines thereof, of that part of the North half of the Southeast quarter of the Northwest quarter of Section 5, Township 31, Range 23, Anoka County, Minnesota, described as follows: Beginning at a point 97.01 feet West of the Northeast corner of said North half of the Southeast quarter of the Northwest quarter; thence Westerly 418.00 feet; thence Southerly 209.00 feet; thence Easterly 418.00 feet; thence Northerly 209.00 feet to the point of beginning

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT ("**Agreement**") is made and entered into this 6th day of January, 1999, between GARY A. STEEN, D.V.M., individually, and ANIMAL INSTINCTS, LTD., a Minnesota professional corporation (individually and collectively "**Seller**") and REBECCA G. WILKINSON D.V.M. & ASSOCIATES, P.A., a Minnesota professional corporation ("**Buyer**");

WITNESSETH:

WHEREAS, Seller desires to sell all of Seller's Assets (as hereinafter defined) to Buyer; and,

WHEREAS, Buyer desires to purchase all of the Assets of Seller.

NOW, THEREFORE, in consideration of the premises and the mutual agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Sale and Purchase of Assets.** On the Closing Date (as hereinafter defined), Seller shall sell, assign, transfer and convey to Buyer and Buyer shall purchase and accept from Seller, on the terms and conditions set forth herein, all of the assets of any nature of Seller used or usable in Seller's veterinary medicine business except as expressly hereinafter provided (the "**Assets**"), including, but not limited to, the following:
 - (a) Accounts Receivable and other rights to payment from such persons and in such amounts as accrue from **and** after the Closing, except as appear on Exhibit "A" which will be retained by Seller;
 - (b) Furniture, trade fixtures, equipment, leasehold improvements and other personal property described in Exhibit "B" hereto (the "**Equipment**");
 - (c) All usable or saleable inventory of veterinary medicine drugs, animal foods and other items of inventory on hand at the Closing (the "**Inventory**");
 - (d) Customer Lists, correspondence with customers, sales and purchase records, sales proposals, office records and other books and records, except tax returns and account records retained for tax purposes;
 - (e) The lease to Buyer of the Real Property (as hereinafter defined) located at 13060 Central Avenue, N.E., Blaine, Minnesota, 55434 in the form appearing on Exhibit "C" hereto (the "**Lease**");

- (f) The real property consisting of one (1) acre and the improvements thereon legally described in Exhibit "D" hereto (the "**Real Property**") and Buyer's purchase of the Real Property from Seller pursuant to a Contract for Deed (as hereinafter defined);
 - (g) All intangible assets owned by Seller and used or usable by Seller in the conduct of Seller's veterinary medicine business including the items appearing on Exhibit "E" hereto (the "**Intangible Property**"); and,
 - (h) All other assets or properties including goodwill which are used or usable by Seller in the conduct of Seller's veterinary medicine business.
2. **Effective Dates and Closing.** The closing of the sale and purchase provided for herein (the "**Closing**") shall take place at 2:00 p.m. on January 6, 1999 at the offices of Leonard, O'Brien, Wilford, Spencer & Gale, Ltd., 800 Norwest Center, 55 East Fifth Street, St. Paul, Minnesota, 55101, or at such other time and on such other date as the parties may mutually agree to in writing (the "**Closing Date**"). Notwithstanding that the Closing Date will take place on January 6, 1999, it is understood and agreed by the parties that the effective date of Closing for sale and purchase of the Assets (except the Real Property) shall be January 1, 1999 (the "**Effective Date**") and the effective date for sale and purchase of the Real Property shall be January 1, 2003, when Buyer's Lease of the Real Property shall expire.
3. **Purchase Price.** The purchase price (the "**Purchase Price**") for the Assets shall be Seven Hundred Forty-two Thousand and no/100 (\$742,000.00) Dollars payable as follows:
- (a) Earnest Money of Zero and no/100 (\$0.00) Dollars;
 - (b) Thirty-Five Thousand and no/100 (\$35,000.00) Dollars on the Closing Date;
 - (c) Four Hundred Thirty-two Thousand and no/100 (\$432,000.00) pursuant to a Promissory Note in the form of Exhibit "F" hereto (the "**Note**") from Buyer to Seller dated January 1, 1999 with interest accruing on the unpaid principal balance at the rate of ten percent (10%) per annum for the first five (5) years and nine and three-quarters percent (9.75%) per annum for the last nine (9) years and payable in consecutive monthly installments of principal and interest sufficient to amortize repayment over a fourteen (14) year term commencing February 1, 1999 and continuing on the first (1st) day of each and every month thereafter until fully paid. Payments shall be applied first to interest and then to principal. The principal balance of the Note may not be prepaid for the first eight (8) years without the written consent of Seller; and,
 - (d) Two Hundred Seventy-Five Thousand and no/100 (\$275,000.00) Dollars by a Contract for Deed between Seller and Buyer dated January 1, 2003 in the form

of Exhibit "G" hereto (the "**Contract for Deed**") with interest on the unpaid principal balance of the Contract for Deed accruing at the rate of nine and three-quarters percent (9.75%) per annum from January 1, 2003 and payable in consecutive monthly installments of \$2,913.25 each commencing February 1, 2003 and continuing on the first (1st) day of each and every month thereafter until January 1, 2018 at which time the remaining unpaid principal balance together with any accrued interest thereon shall be due and payable in full. Payments shall be applied first to interest and then to principal. The principal balance of the Contract for Deed may not be prepaid for the first three (3) years without the written consent of Seller.

4. **Allocation of Purchase Price.** The Purchase Price shall be allocated as follows:

(a) Equipment	\$ 35,000.00
(b) Intangible Property including goodwill	\$405,000.00
(c) Non-Compete	\$ 10,000.00
(d) Inventory	\$ 17,000.00
(e) Real Property	<u>\$275,000.00</u>
	\$742,000.00

Seller and Buyer agree to report this transaction for tax purposes in accordance with this allocation of the Purchase Price.

5. **Assumption of Liabilities.** Except as described in Exhibit "H" hereto (the "**Assumed Contracts**"), Buyer does not assume any liabilities, contracts and obligations of Seller, and Seller shall defend, indemnify and hold Buyer harmless from and against any and all such liabilities, contracts and obligations of Seller which currently exist or are threatened or pending as of the Closing Date. Any existing indebtedness owed by Seller which is secured by any of the Assets shall continue to be paid by Seller as and when due. Should Seller default with respect to repayment of any such indebtedness, Buyer shall receive the same notice of default as is provided to Seller and Buyer shall have the option, but not the obligation, to cure any such default(s) and deduct the amount paid from amounts due or to come due to Seller pursuant to this Agreement.

6. **Items to be Delivered at Closing by Seller.** At the Closing, Seller shall perform all acts necessary to put Buyer in actual and complete possession and control of the Assets, including, but not limited to the delivery to Buyer of such instruments of sale, assignment, lease, transfer and conveyance duly executed and in form and content satisfactory to counsel for Buyer as are necessary to vest in Buyer as applicable, good and marketable title to and/or possession of the Assets, subject to Buyer's performance as required in this Agreement. Without limiting the generality of the foregoing, Seller shall deliver the following at Closing:

- (a) A Conditional Bill of Sale in the form of Exhibit "I" hereto;
 - (b) Releases of all financing statements or other evidences of security interests or liens filed or otherwise perfected with respect to any of the Assets (except the Real Property) and not theretofore released, terminated or satisfied of record;
 - (c) Consents of any third parties necessary to consummate this Agreement;
 - (d) The Non-Compete Agreement in the form of Exhibit "J" hereto;
 - (e) The Assignment of Names in the form of Exhibit "K" hereto;
 - (f) The Lease duly executed and delivered by the fee owner(s) of the Real Property; and,
 - (g) Consent by Seller's lender(s) to this transaction and waiver of any right to accelerate any indebtedness owed by Seller to such lender(s) due to this transaction together with the agreement of such lender(s) to provide notice and opportunity to Buyer to cure any default by Seller with respect to such indebtedness in the same manner as would be provided to Seller.
7. **Items to be Delivered at Closing by Buyer.** At Closing, Buyer shall deliver the following to Seller:
- (a) The amount of Thirty-Five Thousand and no/100 (\$35,000.00) Dollars;
 - (b) The Lease duly executed and delivered by Buyer;
 - (c) A Security Agreement in the form of Exhibit "L" hereto (the "**Security Agreement**");
 - (d) Such UCC-1 Financing Statements as Seller may reasonably request; and,
 - (e) The Non-Compete Agreement in the form of Exhibit "M", which shall take effect only (i) upon Seller's lawful termination of this Agreement due to Buyer's default; (ii) upon foreclosure, repossession or other lawful recovery of the Assets due to Buyer's default; or (iii) upon Buyer's sale of the Assets or assignment of Buyer's rights and/or obligations hereunder pursuant to Section 29 below.
8. **Items to be Delivered After Closing.** The Contract for Deed duly executed and delivered to each other by Buyer and the fee owner(s) of the Real Property shall be executed and delivered on or about January 1, 2003.

9. **Further Assurances.** Seller and Buyer shall from time to time after the Closing, at the request of either party, and without further consideration, execute and deliver such other instruments and take such other action as either party may reasonably request to more effectively carry out the terms of this Agreement.
10. **Representations and Warranties of Seller.** Seller represents and warrants as follows:
- (a) The corporate Seller is a professional corporation duly organized, validly existing and in good standing under the laws of the State of Minnesota;
 - (b) Seller has all licenses, permits and governmental approvals necessary to carry on Seller's veterinary medicine business as presently conducted;
 - (c) True, correct and complete copies of all contracts, leases, agreements, licenses and permits relating to the Assets or the veterinary medicine business conducted by Seller including, but not limited to the Assumed Contracts, have heretofore been provided by Seller to Buyer, and all such documents are genuine and in all respects what they purport to be;
 - (d) This Agreement and all agreements and instruments contemplated by this Agreement to which Seller is a party or signatory have been duly executed and delivered by Seller and constitute the legal, valid and binding obligations of Seller enforceable in accordance with their terms;
 - (e) There are no unpaid charges, debts, liabilities, claims or obligations arising from the ownership, operation, maintenance or repair of the Assets which could give rise to any mechanics' or materialmen's or other statutory or constitutional lien against the Assets or any part thereof or for which Buyer would be responsible;
 - (f) There is no litigation, action, claim, proceeding or governmental investigation pending or, to the knowledge of Seller, threatened against Seller or Seller's employees or agents which may have an adverse effect upon the Assets, the veterinary medicine business conducted by Seller or the transactions contemplated by this Agreement or upon the ability of Seller to perform Seller's obligations hereunder or under the agreements or instruments contemplated by this Agreement, nor is there any basis known for any such litigation, action, claim, proceeding or governmental investigation;
 - (g) Seller has paid all applicable federal, state and local taxes and assessments, including, but not limited to, ad valorem, sales, use, excise, franchise, income, real property and personal property taxes and any sales or use taxes arising out of the transactions contemplated hereby;

- (h) The execution and performance of this Agreement and the agreements and instruments contemplated by this Agreement do not and will not violate the provisions of any note, indenture, mortgage, lease or other agreement or instrument to which Seller is a party or by which Seller is bound or result in the creation of any lien, charge or encumbrance upon the Assets;
- (i) Seller has obtained all licenses, permits and governmental approvals required by applicable law or governmental regulations necessary or appropriate in the conduct of Seller's veterinary medicine business. Seller has complied with and has not violated any law or regulation applicable to the conduct of Seller's veterinary medicine business;
- (j) Seller has obtained in writing all consents, if any, of third persons and governmental agencies necessary to permit the valid and effective sale, assignment, transfer and conveyance of the Assets to Buyer pursuant to this Agreement;
- (k) Seller's corporate Federal Income Tax Returns provided to Buyer fairly reflect the financial condition of the veterinary medicine business being acquired by Buyer as part of the Assets;
- (l) Seller owns or possesses adequate permits, licenses or other rights and other Intangible Property necessary to conduct Seller's veterinary medicine business and operations as now conducted or as proposed to be conducted. Seller shall cooperate with Buyer in connection with application for and transfer of all licenses and permits necessary for Buyer's operation of the veterinary medicine business included in the Assets;
- (m) Seller has no knowledge or information that any present customer intends or is contemplating a material reduction in the amount of business to be done with Seller in the future;
- (n) To the best of Seller's knowledge, no representation or warranty by Seller in this Agreement nor in any certificate, schedule, exhibit, letter or other instrument furnished or to be furnished to Buyer or Buyer's representatives pursuant hereto, or in connection with the transactions contemplated hereby, contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary in order to make the statements contained therein not misleading. There is no information of a material nature concerning the Assets or the veterinary medicine business operations, customers or employees of Seller which has not heretofore been disclosed to Buyer or Buyer's representatives in writing;

- (o) Seller knows of no hazardous substances or petroleum products having been placed, stored or released from or on the Real Property by any person in violation of any law, nor of any underground storage tanks having been located on the Real Property at any time;
- (p) If sale of the Real Property constitutes or requires a subdivision of land, Seller shall pay all subdivision expenses and obtain all necessary governmental approvals. Seller warrants that the legal description of the Real Property will be approved for recording as of the Closing; and,
- (q) Seller certifies that Seller does not know of any wells on the Real Property and that there is no individual sewage treatment system serving the Real Property.

Seller's representations and warranties in this Section 10 are true as of the date of execution of this Agreement and shall be true as of the Date of Closing and shall survive the Closing.

11. **Representations and Warranties of Buyer.** Buyer represents and warrants as follows:

- (a) Buyer is a professional corporation duly organized, validly existing and in good standing under the laws of the State of Minnesota;
- (b) Buyer will inspect the Assets prior to Closing. Upon Closing, Buyer shall be deemed to have purchased the Assets (except the Real Property) and to have leased the Real Property in "AS IS" physical condition;
- (c) Buyer has and will continue to properly file Federal and State Income Tax Returns required to be filed by Buyer and to pay all taxes due and payable which arise out of Buyer's operation of the veterinary medicine business included in the Assets.

12. **Insurance.** Until the Note and the Contract for Deed are fully paid, Buyer shall procure and pay the premiums for the following policies of insurance and shall provide Seller with timely proof of payment of the premiums for such insurance:

- (a) Comprehensive General Public Liability Insurance, providing for limits of coverage of not less than \$2,000,000/\$2,000,000 and naming Seller as an additional insured.
- (b) Hazard Insurance, insuring the Assets against loss by fire, lightning, theft, vandalism, malicious mischief and other risks customarily covered by a standard extended coverage endorsement, in an amount not less than the full insurable value thereof and naming Seller as an additional loss payee.

- (c) Workers' Compensation Insurance, with statutory coverage covering all persons employed by Buyer.

All such insurance shall be written by a company or companies licensed to do business in the State of Minnesota. Such insurance shall be subject to approval by Seller, which approval may not be unreasonably withheld. A certificate of insurance for each such policy shall be provided by Buyer to Seller and Seller shall receive written notice at least thirty (30) days prior to cancellation, termination, amendment or non-renewal thereof. It is understood by the parties that during the term of the Lease, the insurance relating to the Real Property shall be procured pursuant to the Lease. Thereafter, such insurance shall be procured pursuant to the Contract for Deed.

13. **Workers' Compensation Rating.** If Buyer assumes Seller's workers' compensation insurance rating and Buyer's workers' compensation insurance premiums are rated up or down due to the claims experience attributable to Seller prior to Closing, there shall be no adjustment to the Purchase Price due to such rating up or down.
14. **Title.** Within thirty (30) days of Closing, Seller shall furnish Buyer with an Abstract of Title or a Registered Property Abstract (the "**Abstract**") covering the Real Property, certified to date including proper searches covering bankruptcies and state and federal judgments, liens and levied and pending special assessments. Buyer shall have ten (10) business days after receipt by Buyer's attorney of the Abstract to have Buyer's attorney examine title and provide Seller with written objections or, at Buyer's own expense, to make an application for a title insurance policy and notifies Seller of the application. Buyer shall have ten (10) business days after receipt by Buyer's attorney of the commitment for title insurance to provide Seller with a copy of the commitment and written objections. Buyer shall be deemed to have waived any title objection not made within the applicable ten (10) day period, except this shall not operate as a waiver of Seller's covenant to deliver a statutory Warranty Deed upon Buyer's full payment of the Contract for Deed. Seller shall have ninety (90) days from receipt of Buyer's written title objections to make title marketable. Cure of the defects by Seller shall be reasonable, diligent and prompt. Pending correction of title, all payments required herein and the Closing shall be postponed. If title is not made marketable as provided herein, Buyer may declare this Agreement void as to Buyer's purchase of the Real Property and/or the remaining Assets. If Buyer voids this Agreement as to all of the Assets due to the preceding sentence, then the Earnest Money shall be refunded to Buyer.
15. **Real Estate Taxes and Assessments.** Seller shall pay all real estate taxes and assessments due and payable in years prior to the year of Closing. Real estate taxes due and payable in the year 1999 shall be Buyer's responsibility per the Lease. Seller shall pay all assessments levied, pending or of record as of January 1, 1999. Thereafter, Buyer shall pay all real estate taxes and assessments pursuant to the Lease during the term thereof and thereafter pursuant to the Contract for Deed.

16. **Default.** If either party defaults with respect to the terms of this Agreement and such default(s) is not cured within thirty (30) days after written notice thereof from the non-defaulting party to the defaulting party, then the non-defaulting party may seek one or more of the following remedies:
- (a) If such default(s) occurs prior to Closing, then the non-defaulting party may: (i) proceed to Closing without waiver or merger and may seek damages, costs and reasonable attorneys' fees; (ii) rescind this Agreement whereupon any Earnest Money shall be refunded to Buyer if rescission is due to a Seller default or retained by Seller as liquidated damages if due to a Buyer default; and/or (iii) seek specific performance within six (6) months after such right of action arises.
 - (b) If such default(s) occurs after Closing, then the non-defaulting party may: (i) seek damages from the defaulting party including costs and reasonable attorneys' fees; and, (ii) seek such other relief in law and equity as a court of competent jurisdiction may deem reasonable.
17. **No Brokers.** All negotiations relevant to this Agreement and the transactions contemplated hereby have been carried on by Seller directly with Buyer and without the intervention of any other persons, and there are no brokerage or finders' fees or commissions payable to any parties as a result of this Agreement or the transactions contemplated hereby. Seller shall defend, indemnify and hold Buyer harmless from and against any and all damages, losses, claims, liabilities and expenses, including reasonable attorneys' fees, which may be incurred by Buyer as a result of any claims asserted against Buyer by any broker or other person on the basis of any such arrangements made or alleged to have been made by Seller; and Buyer shall defend, indemnify and hold Seller harmless from and against any and all damages, losses, liabilities, claims and expenses, including reasonable attorneys' fees, which may be incurred by Seller as a result of any claims asserted against Seller by any broker or other person on the basis of any such arrangements or agreements made or alleged to have been made by Buyer.
18. **Creditor Indemnification.** Seller shall defend, indemnify and hold Buyer harmless from and against any and all damages, losses, liabilities, claims and expenses, including reasonable attorneys' fees, arising out of or relating to non-payment of Seller's creditors. Any amounts owed by Seller to Seller's creditors relating to the Assets shall be paid by Seller in full on or before Closing.
19. **Indemnification.** In addition to the other indemnities provided for herein, Seller shall defend, indemnify and hold Buyer harmless from, against and respect of:
- (a) Any and all liabilities and obligations of Seller, absolute or contingent, known or unknown, foreseen or unforeseen, existing at the Closing Date or arising out of any acts, omissions or state of facts occurring or existing prior to the Closing

Date except those which have been expressly assumed by Buyer pursuant to this Agreement;

- (b) Any and all liabilities, losses, damages, deficiencies, claims or expenses, including reasonable attorneys' fees, arising in connection with or resulting from any breach of warranty, misrepresentation or non-fulfillment of any agreement on the part of Seller under this Agreement or any agreement or instrument delivered pursuant to this Agreement; and
- (c) Any and all actions, suits, proceedings, claims, demands, assessments, judgments, costs and expenses, including reasonable attorneys' fees, incident to any of the foregoing.

In the event of the occurrence of any circumstances giving rise to a right of indemnity by Buyer hereunder for an amount which is liquidated or reasonably certain, Buyer shall have the right to set-off any such amount against the payments to be made by Buyer to Seller pursuant to the Note or the Contract for Deed, and any exercise of the right of set-off by Buyer shall not result in a default or breach under this Agreement.

- 20. **Expenses.** Each party to this Agreement shall pay each party's own expenses incidental to the negotiation, preparation, execution and performance of this Agreement and the transactions contemplated hereby, including, but not limited to, the fees and expenses of their respective legal counsel and accountants.
- 21. **Notices.** Any notice or demand desired or required to be given hereunder shall be in writing and deemed given when personally delivered or three days after it is deposited in the United States mail, postage prepaid, sent certified or registered and addressed as follows:
 - (a) If to Seller: Gary A. Steen, D.V.M.
2745 Bunker Lake Boulevard, N.E.
Ham Lake, MN 55304
 - (b) If to Buyer: Rebecca G. Wilkinson, D.V.M.
13060 Central Avenue, N.E.
Blaine, MN 55434

or to such other address or person as hereafter shall be designated in writing by the applicable party.

- 22. **Entire Agreement.** This Agreement and the Exhibits hereto and the certificates delivered pursuant hereto constitute the entire agreement between the parties hereto pertaining to the subject matter hereof, and supersede all negotiations, preliminary agreements and all prior and contemporaneous discussions and understandings of the parties in connection

with the subject matters hereof. All Exhibits hereto are hereby incorporated into and made a part of this Agreement.

23. **Amendments.** No amendment, waiver, change or modification of any of the terms, provisions or conditions of this Agreement shall be effective unless made in writing and signed or initialed by the parties or by their duly authorized agents. Waiver of any provision of this Agreement shall not be deemed a waiver of future compliance therewith and such provisions shall remain in full force and effect.
24. **Severability.** In the event any provision of this Agreement is held invalid, illegal or unenforceable, in whole or in part, the remaining provisions of this Agreement shall not be affected thereby and shall continue to be valid and enforceable, and if, for any reason, a court finds that any provision of this Agreement is invalid, illegal or unenforceable as written, but that by limiting such provision it would become valid, legal and enforceable, then such provisions shall be deemed to be written and shall be construed and enforced as so limited.
25. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.
26. **Headings and Captions.** The titles or captions of paragraphs in this Agreement are provided for convenience of reference only, and shall not be considered a part hereof for purposes of interpreting or applying this Agreement, and such titles or captions do not define, limit, extend, explain or describe the scope or extent of this Agreement or any of its terms or conditions.
27. **Gender and Number.** Words and phrases herein shall be construed as in the singular or plural number and as masculine, feminine or neuter gender, according to the context.
28. **Counterparts.** This Agreement may be executed in any number of counterparts and by facsimile signatures, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument, and in making proof hereof, it shall not be necessary to produce or account for more than one such counterpart.
29. **Binding Effect on Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective legal representatives, heirs, successors and assigns; provided, however, none of the parties to this Agreement may assign their rights or obligations hereunder without the prior written consent of the other parties, which consent shall not be unreasonably withheld, and in the event of any such assignment, all of the terms, covenants, agreements and conditions of this Agreement shall continue to be in full force and effect and the parties hereto shall continue to remain respectively liable and responsible for the due performance of all of the terms, covenants, agreements and conditions of this Agreement which they are respectively obligated to observe and perform. Notwithstanding the foregoing, Seller

shall have the right to unreasonably withhold consent to Buyer's assignment of Buyer's rights or obligations hereunder during the eight (8) year period after Closing except to the extent that such assignment is necessitated by Rebecca G. Wilkinson's death or Total Disability. The term "**Total Disability**" shall mean Rebecca G. Wilkinson's inability while under a medical doctor's care and while not working at any other occupation to perform all of the substantial and material duties as a Doctor of Veterinary Medicine for a period of at least twelve (12) consecutive months due to accident or illness, but not including pregnancy as opposed to complications from pregnancy. Nothing in this Agreement, express or implied, is intended to confer upon any party, other than the parties hereto (and their respective legal representatives, heirs, successors and assigns), any rights, remedies, obligations or liabilities.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

SELLER:

Gary A. Steen
Gary A. Steen, D.V.M., individually

ANIMAL INSTINCTS, LTD.

By: *Gary A. Steen*
Gary A. Steen
Its President

BUYER:

REBECCA G. WILKINSON D.V.M.
& ASSOCIATES, P.A.

By: *Rebecca G. Wilkinson*
Rebecca G. Wilkinson
Its President

Ann M. Steen, the spouse of Gary A. Steen, joins in the execution of this Agreement for the sole purpose of consenting to the Lease referenced in Paragraph 1(e) and the Contract for Deed referenced in Paragraph 1(f) of this Agreement.

Ann M. Steen
Ann M. Steen

EXHIBIT "C"
(Lease)

LEASE

THIS INDENTURE OF LEASE (this "Lease") is entered into this 6th day of January, 1999, between GARY A. STEEN, D.V.M., individually, and ANIMAL INSTINCTS, LTD., a Minnesota professional corporation (hereinafter referred to individually and collectively as the "Landlord") and REBECCA G. WILKINSON D.V.M. & ASSOCIATES, P.A., a Minnesota professional corporation (hereinafter referred to as the "Tenant").

WITNESSETH:

That the Landlord, in consideration of the covenants, agreements and stipulations herein contained to be kept, observed and performed by the Tenant, the Tenant's successors or assigns, does hereby demise, let and lease to the Tenant, the Premises (as hereinafter defined) upon the terms and conditions hereinafter set forth.

1. **DESCRIPTION OF LEASED PREMISES.** The Landlord hereby leases to the Tenant and the Tenant leases from the Landlord, the Premises and improvements located at 13060 Central Avenue, N.E., Blaine, Minnesota, 55434, particularly described as follows (the "Premises"):

Building, land, signs, parking lot and access

The Landlord hereby warrants that the Premises will be available to the Tenant no later than the Commencement Date (as hereinafter defined).

2. **TERM.**

(a) **Duration.** The term of this Lease shall commence effective on the Commencement Date and shall terminate at midnight on the 31st day of December, 2002 (the "Term").

(b) **Commencement Date.** The Commencement Date of this Lease shall be the 1st day of January, 1999, regardless of the date on which this Lease is actually executed.

3. **RENT.**

(a) **Base Rent.** The Tenant covenants and agrees to pay to the Landlord, or agents of the Landlord, as the Base Rent for the Premises, the sum of TWO THOUSAND SEVEN HUNDRED FIFTY AND NO/100 (\$2,750.00) DOLLARS per month, payable in advance on the first (1st) day of each month during the Term hereof.

(b) **Payment.** All rent required to be paid by the Tenant pursuant to the terms of this Lease shall be paid to the Landlord, in lawful money of the United States of America, at 2745 Bunker Lake Boulevard, N.E., Ham Lake, Minnesota 55304, or at such other place as the Landlord may from time to time designate in writing.

4. **USE OF PREMISES.** The Tenant shall use the Premises for the purpose of conducting the Tenant's general veterinary medicine practice, and shall not use the Premises or any portion thereof for other purposes without first obtaining the Landlord's written consent thereto, which consent shall not be unreasonably withheld or delayed.
5. **INITIAL CONDITION OF PREMISES.** The Tenant acknowledges that Tenant has examined the Premises and that they are now in good, tenantable and sanitary condition. The Landlord represents that the Landlord is aware of no substantial defect in the Premises which was not reasonably observable by the Tenant upon the Tenant's inspection of the Premises.

The Landlord covenants and agrees that the heating plant for the Premises will be in good working order on the Commencement Date.

6. **MAINTENANCE, REPAIR OR REPLACEMENT.** During the Term hereto, the Tenant shall have the following responsibilities to maintain, repair or replace:

(a) The Tenant is to pay for all necessary repairs to the Premises reasonably satisfactory to the Landlord.

(b) The Tenant shall at all times during the Term:

(i) maintain, repair or replace the Tenant's improvements and betterments to the Premises;

(ii) maintain the Premises in a neat, clean, sanitary and orderly condition;

(iii) shall not, without the prior written consent of all insurance companies which have issued any insurance of any kind whatsoever, pursuant to any provisions of this Lease, sell, or suffer or permit to be kept, used or sold in, upon or about the Premises any gasoline, distillate or other petroleum products or any other substance or material of an explosive, inflammable or radiological nature, in such quantities which may be prohibited by any such insurance policy, or which may endanger any part of the Premises or its occupants, business patrons or invitees;

(iv) comply with all governmental rules, regulations, ordinances, statutes and laws now or hereafter in effect pertaining to the Premises;

(v) refrain from committing or suffer to be committed any waste upon the Premises or any nuisance;

(vi) make all other material repairs to the Premises.

All maintenance, repairs and replacements shall be made promptly and in a good and workmanlike manner so that the defective parts of the Premises are put in good, tenable and sanitary condition.

7. **UTILITIES.** The Tenant covenants and agrees to initiate, contract for, and obtain, in the Tenant's name, all utility services required on the Premises, including heat, electricity, telephone, water and garbage collection, and the Tenant shall pay all charges for these services as they become due.
8. **EXPENSES AND TAXES.** The Tenant further agrees to pay any and all expenses, real estate taxes and repairs. Real estate taxes, including any special assessments for the parcel of property on which the Premises are located, shall be considered an expense of the Tenant and payable by the Tenant.
9. **INSURANCE AND INDEMNIFICATIONS.**

(a) **Tenant's Public Liability Insurance.** The Tenant shall, at all times during the Term, at the Tenant's sole cost and expense, procure and maintain in force and effect a policy or policies of comprehensive insurance insuring against loss, damage or liability for injury to or death of persons and loss or damage to property occurring from any cause whatsoever in, upon or about the Premises. Such liability insurance shall be in amounts of not less than Two Million and no/100 (\$2,000,000.00) Dollars for personal injuries to or death of any two (2) or more persons whomsoever arising from the same occurrence, and Three Hundred Thousand and no/100 (\$300,000.00) Dollars for damage to property, including property of the Tenant. The Tenant's insurance coverage shall be deemed to be primary and the Landlord shall be a named insured (and at the Landlord's option any other person, firms or corporations designated by the Landlord shall be the additional named insureds) under each such policy of insurance. The Tenant may use blanket insurance coverage to satisfy this requirement.

(b) **Tenant's Extended Coverage Insurance.** The Tenant shall, at all times during the Term, procure and maintain in force and effect a policy or policies of standard form of fire, all risk, with extended coverage, insurance covering the Premises and the improvements thereon in an amount not less than the full replacement cost. The Tenant shall maintain similar coverage for the contents the Tenant maintains at the Premises. The Landlord and the Tenant shall each be named insureds.

(c) **Certificates of Insurance.** A certificate issued by the insurance carrier for each policy of insurance required to be maintained by the Tenant hereunder shall be delivered

to the Landlord on or before the Commencement Date and thereafter, as to policy renewals, within thirty (30) days prior to the expiration of the term of each such policy. Each certificate of insurance and each policy of insurance required to be maintained by the Tenant hereunder shall expressly evidence insurance coverage as required by this Lease.

(d) **Indemnification.** The Tenant shall save harmless and indemnify the Landlord for any loss, liability or expense incurred by reason of any accident on the Premises, or from negligence arising from or growing out of the use of the Premises on the part of the Tenant, the Tenant's agents or employees. All personal property and equipment of any kind brought upon the Premises by the Tenant in the conduct of the Tenant's business shall be at the risk of the Tenant, and the Landlord shall not be liable to the Tenant or any person for injury, loss or damage to property or person resulting therefrom. The Tenant shall further save harmless and indemnify the Landlord against and from any and all claims by or on behalf of any person or persons for personal injuries, wrongful death or property damage arising out of any act or occurrence committed or happening in or about the Premises except claims based on the negligent or willful conduct of the Landlord, or the Landlord's agents, employees or independent contractors. The Tenant shall be financially responsible for physical damage to the Premises committed by the Tenant, the Tenant's employees, agents, independent contractors, invitees or customers, as well as vandals.

10. **ALTERATIONS AND IMPROVEMENTS.** The Tenant may make material alterations and improvements to the Premises only with the Landlord's written consent, which consent the Landlord agrees to not unreasonably withhold. Such alterations and improvements shall be made in a good and workmanlike manner in compliance with all laws and regulations of any governmental agency having jurisdiction over the Premises. The Tenant shall hold the Landlord and the property of which the Premises are a part, harmless against all claims and demands of every kind and character which result from or arise out of the making of such alterations and improvements. The Landlord may enter the Premises upon reasonable notice during business hours to inspect any such alterations and improvements and verify compliance with the terms and conditions of the Landlord's consent.

All alterations, changes and improvements built or constructed or placed on the Premises by the Tenant, with the exception of fixtures removable without damage to the Premises, and movable personal property shall become the property of the Landlord at the expiration of this Lease, but shall be deemed included in the \$275,000.00 sale price for the Tenant's purchase of the Premises from the Landlord on January 1, 2003.

11. **SIGNS AND PARKING.** The Tenant shall not place on the exterior of the building on the Premises or upon the roof or any exterior door, wall or window thereof any sign, awning, canopy, marquee, advertising matter, decoration, lettering, or other thing of any kind (exclusive of signage, if any, which may be in existence as of the Commencement

Date or is usual or customary as part of the Tenant's business) without the consent of the Landlord, which consent shall not be unreasonably withheld or delayed.

12. **CONDEMNATION.** "Condemnation" shall mean the taking of any portion of the Premises by a governmental body under eminent domain. Any award paid to Landlord shall result in a credit to Tenant towards Tenant's purchase of the Premises pursuant to the Contract for Deed to be executed by Landlord and Tenant on January 1, 2003.
13. **DAMAGE TO PREMISES.** Any damage or destruction to the Premises shall be repaired or replaced by Tenant using Landlord's insurance proceeds and there shall be no abatement or offset for Rent during the period of repair or replacement.
14. **DAMAGE OR DESTRUCTION BY TENANT.** If the Premises or any part thereof, or any part of the improvements of which they form a part, are damaged or destroyed by the willful, negligent conduct of the Tenant or the Tenant's agents, employees or independent contractors, the Tenant shall promptly repair such damage or replace such improvements so destroyed; provided that, if such damage or destruction is caused by negligence and is covered by the insurance procured and maintained under the terms of this Lease, then, to the extent that the costs of repairing or replacing such damage or destruction does not exceed the amount actually received from such insurance, the Tenant shall be relieved from such obligation to repair or replace.
15. **RIGHT OF ACCESS.**
 - (a) **Notices, Inspection and Liability.** The Landlord, and the Landlord's authorized agents and representatives, shall be entitled to enter the Premises at all reasonable times upon reasonable notice for the purpose of serving, posting or keeping posted thereon notices to lien claimants or for the purpose of inspecting the Premises or any portion thereof.
 - (b) **Sale and Leasing.** Purchase of real estate at end of Lease by the Tenant is required pursuant to the Purchase Agreement between the parties of even date herewith.
16. **DEFAULT BY TENANT.**
 - (a) **Non-Payment.** Non-payment or default of the Purchase Agreement or this Lease shall be considered a default as to both the Purchase Agreement and this Lease.
 - (b) **Notice and Termination, Landlord's Options.** In the event that:
 - (i) the Tenant shall default in the payment of any sum of money required to be paid hereunder and such default continues for twelve (12) days after written notice thereof from the Landlord to the Tenant, except, however, that no such

notice, written or otherwise, shall be required in the event of the Tenant's failure to pay the monthly gross rent when due; or,

(ii) the Tenant shall default in the performance of any other provision, covenant, or condition of this Lease on the part of the Tenant to be kept and performed and such default continues for twenty-five (25) days after written notice thereof from the Landlord to the Tenant, provided, however, that if the default complained of is of such a nature that the same can be rectified or cured, but cannot with reasonable diligence be done within said twenty-five (25) day period, the Tenant shall commence to rectify and cure the same and shall, thereafter, complete such rectification and cure with all due diligence; or,

(iii) the Tenant should vacate or abandon the Premises during the Term; or,

(iv) the filing of any petition in bankruptcy, or the adjudication of the Tenant as a bankrupt or insolvent, or the appointment of a receiver or trustee to take possession of all or substantially all of the assets of the Tenant, or a general assignment by the Tenant for the benefit of creditors, or any action taken or suffered by the Tenant under any State or Federal insolvency or bankruptcy act, or any similar law now or hereafter in effect, including, without limitation, the filing of any petition for or in reorganization, or should the Premises or any portion thereof be taken or seized under levy of execution or attachment against the Tenant;

then and in any such event, and in addition to all other rights and remedies the Landlord may have according to this Lease or by law provided, the Landlord, at the Landlord's option, shall have the following rights:

(i) the right to declare the Term of this Lease ended and to re-enter the Premises and take possession thereof, and to terminate all of the rights of the Tenant in and to the Premises; and thereupon said Premises may be re-rented by the Landlord, subject to provisions herein set forth, for such rent and upon such terms as the Landlord deems satisfactory, and if a sufficient sum shall not then be realized monthly to satisfy the rent reserved herein, the Tenant agrees to satisfy and to pay all deficiencies monthly during the period of this Lease. All rent received by the Landlord as a result of such reletting shall be applied as follows:

(a) to reimburse the Landlord for all expenses incurred in re-entering and reletting;

(b) to reimburse the Landlord for costs of curing any breach of this Lease by the Tenant;

(c) to arrearages in rent due hereunder.

(ii) the right, even though it may have relet all or any portion of the Premises, to thereafter at any time elect to terminate this Lease for such previous default on the part of the Tenant, and to terminate all of the rights of the Tenant in and to the Premises.

17. **DEFAULT BY LANDLORD.** It is agreed that in the event the Landlord fails or refuses to perform any of the provisions, covenants, or conditions of this Lease on the Landlord's part to be kept or performed, that the Tenant, prior to exercising any right or remedy the Tenant may have against the Landlord on account of such default, shall give a thirty (30) day written notice to the Landlord of such default, specifying in said notice the default with which the Landlord is charged; provided, that if the default complained of in the notice provided for by this Paragraph 18 is of such a nature that the same can be rectified or cured by the Landlord, but cannot with reasonable diligence be rectified or cured within said thirty (30) day period, and if the Landlord shall have commenced the rectification and curing thereof and shall continue thereafter with all due diligence to cause such rectification and curing to proceed and so does complete the same, with the use of diligence as aforesaid, the Landlord shall not be deemed to have defaulted.
18. **TERMINATION.** On January 1, 2003, the Tenant purchases the Premises which terminates this Lease.
19. **ESTOPPEL CERTIFICATE.** The parties agree that at any time and from time to time during the Term, and within ten (10) days after demand thereof by the other party, to execute and deliver to the other, a certificate in recordable form certifying that this Lease is in full force and effect and that there are no defenses or offsets thereto, or stating such defenses or offsets as may be claimed, the dates to which all rentals have been paid and any other similar matter which may be reasonably requested.
20. **SALE OR ASSIGNMENT BY LANDLORD.** It is agreed that the Landlord may at any time assign or transfer the Landlord's interest or agree to assign or transfer the Landlord's interest in or to this Lease, or any part thereof, and may sell or transfer the Landlord's interest in the fee of the Premises, subject to the Tenant's rights hereunder and under the Purchase Agreement between the parties of even date herewith.
21. **ASSIGNMENT AND SUBLETTING BY TENANT.** Without the Landlord's prior written consent, the Tenant shall not assign this Lease, or sublet or grant any concession or license to use the Premises or any part of the Premises. A consent by the Landlord to one (1) assignment, subletting, concession or license shall not be deemed to be consent to any subsequent like actions by the Tenant.
22. **QUIET POSSESSION.** The Landlord agrees that the Tenant, upon paying the rent and other payments herein required from the Tenant, and upon the Tenant's performance of

all of the provisions, covenants and conditions of this Lease on the Tenant's part to be kept and performed, may quietly have, hold and enjoy the Premises during the Term.

23. **NO PARTNERSHIP.** Anything contained herein to the contrary notwithstanding, the Landlord does not in any way or for any purpose become a partner of the Tenant in the conduct of the Tenant's business, or otherwise, or a joint venturer or member of a joint enterprise with the Tenant hereunder.
24. **REMEDIES CUMULATIVE.** Except as otherwise expressly provided, the various rights, options, elections and remedies of the Landlord and the Tenant, respectively contained in this Lease shall be cumulative and no one of them shall be construed as exclusive of any other, or of any right, priority or remedy allowed or provided for by law and not expressly waived in this Lease.
25. **PARTIAL INVALIDITY.** If any term, provision, covenant or condition of this Lease should be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of this Lease shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby.
26. **TIME OF THE ESSENCE.** Time is of the essence of this Lease and all of the terms, provisions, covenants and conditions hereof.
27. **SUCCESSORS AND ASSIGNS.** The terms, provisions, covenants and conditions contained in this Lease shall apply to, bind and inure to the benefit of the heirs, executors, administrators, legal representatives, successors and assigns of the Landlord and the Tenant, respectively, provided, however, this shall not in any way be interpreted as granting permission or otherwise contemplating the assignment of this Lease or the Premises by the Tenant, except in accordance with other provisions contained herein.
28. **NOTICES.**

(a) **Notices to be in Writing.** Any and all notices and demand by or from the Landlord to the Tenant, or from the Tenant to the Landlord, required or desired to be given hereunder shall be in writing and shall be validly given or made if served either personally or if deposited in the United States Mail, certified or registered, postage prepaid, return receipt requested. If such notice or demand be served personally, service shall be conclusively deemed made at the time of such personal service. If such notice or demand be served by registered or certified mail in the manner herein provided, service shall be conclusively deemed made forty-eight (48) hours after the deposit thereof in the United States Mail addressed to the party to whom such notice or demand is to be given as hereinafter set forth.

(b) **Notices to Landlord.** Any notice or demand to the Landlord shall be addressed to the Landlord at:

Gary A. Steen, D.V.M.
2745 Bunker Lake Boulevard, N.E.
Ham Lake, MN 55304

(c) **Notices to Tenant.** Any notice or demand to the Tenant shall be addressed to the Tenant at:

Rebecca G. Wilkinson, D.V.M.
13060 Central Avenue, N.E.
Blaine, MN 55434

(d) **Change of Address.** Any party hereto may change its address for the purpose of receiving notices or demands as herein provided by a written notice given in the manner aforesaid to the other party hereto, which notice of change of address shall not become effective, however, until the actual receipt thereof by the other party.

29. **CONSENT.** Except as expressly stated elsewhere herein, whenever the consent of either party is required hereunder, such consent shall not be unreasonably withheld or delayed.

30. **RECORDATION.** This Lease shall not be recorded, but the parties shall execute and deliver a memorandum hereof, in recordable form, sufficient to give constructive notice of the leasehold estate hereby created, and said memorandum may be filed for record in the County Recorder of the County in which the Premises are located.

31. **CAPTIONS, PRONOUNS AND INTERPRETATION.**

(a) **Captions.** the captions appearing at the commencement of the major paragraphs hereof, and in any subsection thereof, are descriptive only and for convenience in reference to this Lease. Should there be any conflict between any such caption and the paragraph or subparagraph thereof at the head of which it appears, the paragraph or subparagraph thereof, as the case may be, and not such caption, shall control and govern in the construction of this Lease.

(b) **Pronouns.** Masculine or feminine pronouns shall be substituted for the neuter form or vice versa, and plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context required such substitution or substitutions.

(c) **Interpretation.**

(i) **Law.** The laws of the State of Minnesota shall govern the validity, construction and effect of this Lease.

(ii) **Covenants.** Whenever in this Lease any words of obligation or duty are used in connection with either party, such words shall have the same force and effect as though framed in the form of express covenants on the part of the party obligated.

(iii) **Joint and Several Liability.** In the event either party hereto now or hereafter shall consist of more than one (1) person, firm or corporation, then and in such event all such persons, firms or corporations shall be jointly and severally liable as parties hereunder.

(iv) **Construction.** No term or provision of this Lease shall be construed against either party by virtue of such party having drafted such provision.

IN WITNESS WHEREOF, the parties hereto have executed this document the date or dates below written.

LANDLORD:

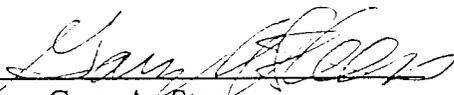


Gary A. Steen, D.V.M., individually

TENANT:

REBECCA G. WILKINSON D.V.M.
& ASSOCIATES, P.A.

ANIMAL INSTINCTS, LTD.

By: 

Gary A. Steen
Its President

By: _____
Rebecca G. Wilkinson
Its President

Ann M. Steen, the spouse of Gary A. Steen, joins in the execution of this Lease for the sole purpose of subjecting and subordinating all of her right, title and interest in the Premises to the provisions hereof.

Ann M. Steen

EXHIBIT "D"
(Real Property)

The real property in Anoka County, Minnesota, legally described as follows:

The east 209.00 feet, as measured along the north and south lines thereof, of that part of the North Half of the Southeast Quarter of the Northwest Quarter of Section 5, Township 31, Range 23, Anoka County, Minnesota, described as follows: Beginning at a point 97.01 feet west of the northeast corner of said North Half of the Southeast Quarter of the Northwest Quarter; thence westerly 418.00 feet; thence southerly 209.00 feet; thence easterly 418.00 feet; thence northerly 209.00 feet to the point of beginning.

EXHIBIT "E"
(Intangible Property)

1. Ham Lake-Blaine Pet Clinic.
2. Blaine Animal Hospital.
3. Ham Lake Veterinary Clinic and Hospital.

EXHIBIT "F"
(Promissory Note)

PROMISSORY NOTE

\$432,000.00

St. Paul, Minnesota
January 1, 1999

1. FOR VALUE RECEIVED, REBECCA G. WILKINSON D.V.M. & ASSOCIATES, P.A., a Minnesota professional corporation (the "**Borrower**"), hereby promises to pay to the order of GARY A. STEEN, D.V.M. and ANIMAL INSTINCTS, LTD., a Minnesota professional corporation (individually and collectively the "**Lender**"), at such place as the Lender may designate, the principal sum of FOUR HUNDRED THIRTY-TWO THOUSAND AND NO/100 (\$432,000.00) DOLLARS, together with interest on the unpaid principal balance (calculated on the basis of the actual number of days elapsed and a 365 day year) accruing from the date of this Note until five (5) years after the date of this Note at the rate of ten percent (10%) per annum, and, thereafter, at the rate of nine and three-quarters percent (9.75%) per annum shall be payable in consecutive equal monthly installments of principal and interest sufficient to amortize repayment of this Note over a fourteen (14) year term commencing February 1, 1999 and continuing on the first (1st) day of each and every month thereafter until January 1, 2013, at which time the unpaid principal balance of this Note and any accrued interest shall be due and payable in full (the "**Maturity Date**").
2. This Note may be prepaid in whole or in part at any time without penalty, except the principal balance of this Note may not be prepaid for the first eight (8) years without the written consent of the Lender.
3. All payments and prepayments shall, at the option of the Lender, be applied first to any costs of collection, second to any late charges, third to accrued interest on this Note, and lastly to principal (and, in the case of prepayments, to installments of principal in the inverse order of their maturity).
4. The outstanding principal balance hereof and accrued interest and all other amounts due hereon shall, at the option of the Lender, become immediately due and payable, without notice or demand, upon the occurrence and during the continuance of an Event of Default (as defined below).
5. Upon the occurrence and during the continuance of an Event of Default, the Borrower promises to pay all costs of collection of this Note, including but not limited to reasonable attorney's fees paid or incurred by the Lender on account of such collection, whether or not suit is filed with respect thereto and whether such cost or expense is paid or incurred, or to be paid or incurred, prior to or after the entry of judgment.

6. As used herein, the term "**Event of Default**" shall mean the occurrence or existence of one or more of the following events, whatever the reason, whether voluntary, involuntary or effected by operation of law, namely:

- (a) Default in the payment when due, whether by acceleration of maturity or otherwise, of any principal of this Note; or
- (b) Default in the payment when due, whether by acceleration of maturity or otherwise, of any interest on this Note or any fee or other sum payable to the Lender under this Note or Mortgage; or
- (c) The Borrower shall become insolvent or fail generally to pay the Borrower's debts as they mature or shall apply for, consent to, or acquiesce in the appointment of a trustee, custodian or receiver thereof or the property thereof; or, in the absence of such application, consent or acquiescence, a trustee, custodian or receiver shall be appointed for the Borrower or for a substantial part of the Borrower's property; or, the Borrower is voluntarily or involuntarily the subject of any bankruptcy, reorganization, debt arrangement or other proceedings under any bankruptcy or insolvency law.

9. Demand, presentment, protest and notice of non-payment and dishonor of this Note are hereby waived.

10. This Note shall be governed by and construed in accordance with the laws of the State of Minnesota.

BORROWER:

REBECCA G. WILKINSON D.V.M.
& ASSOCIATES, P.A.

By: _____

Rebecca G. Wilkinson
Its President

EXHIBIT "G"
(Contract for Deed)

CONTRACT FOR DEED--INDIVIDUAL SELLER

Form No. 54-M CONTRACT FOR DEED

Minnesota Uniform Conveyancing Blanks (1978)

Individual Seller

MORTGAGE REGISTRY TAX DUE HEREON:

\$ _____

Date: January 1, 2003

THIS CONTRACT FOR DEED is made on the above date by GARY A. STEEN and ANN M. STEEN, husband and wife, Seller, and REBECCA G. WILKINSON D.V.M. & ASSOCIATES, P.A., a Minnesota professional corporation, Purchaser.

Seller and Purchaser agree to the following terms:

1. PROPERTY DESCRIPTION. Seller hereby sells, and Purchaser hereby buys, real property in Anoka County, Minnesota, described as follows:

The east 209.00 feet, as measured along the north and south lines thereof, of that part of the North Half of the Southeast Quarter of the Northwest Quarter of Section 5, Township 31, Range 23, Anoka County, Minnesota, described as follows: Beginning at a point 97.01 feet west of the northeast corner of said North Half of the Southeast Quarter of the Northwest Quarter; thence westerly 418.00 feet; thence southerly 209.00 feet; thence easterly 418.00 feet; thence northerly 209.00 feet to the point of beginning.

together with all hereditaments and appurtenances belonging thereto (the Property).

2. TITLE. Seller warrants that title to the Property is, on the date of this contract, subject only to the following exceptions:
 - (a) Covenants, conditions, restrictions, declarations and easements of record, if any;
 - (b) Reservations of minerals or mineral rights by the State of Minnesota, if any;
 - (c) Building, zoning and subdivision laws and regulations;

- (d) The lien of real estate taxes and installments of special assessments which are payable by Purchaser pursuant to paragraph 6 of this contract; and
- (e) The following liens or encumbrances: Indebtedness owed by Seller with an unpaid balance not to exceed \$160,000.00 which is secured by a mortgage against the Property, which indebtedness and mortgage Purchaser does not assume or agree to pay and which shall be paid as and when due by Seller.

3. DELIVERY OF DEED AND EVIDENCE OF TITLE. Upon Purchaser's prompt and full performance of this contract, Seller shall:

- (a) Execute, acknowledge and deliver to Purchaser a Warranty Deed, in recordable form, conveying marketable title to the Property to Purchaser, subject only to the following exceptions:
 - (i) Those exceptions referred to in paragraph 2(a), (b), (c) and (d) of this contract;
 - (ii) Liens, encumbrances, adverse claims or other matters which Purchaser has created, suffered or permitted to accrue after the date of this contract; and
 - (iii) The following liens or encumbrances:

insert

; and

- (b) Deliver to Purchaser the abstract of title to the Property or, if the title is registered, the owner's duplicate certificate of title.

4. PURCHASE PRICE. Purchaser shall pay to Seller, at _____, the sum of TWO HUNDRED SEVENTY-FIVE THOUSAND AND NO/100 (\$275,000.00) DOLLARS, as and for the purchase price for the Property, payable as follows:

The principal balance of this Contract for Deed shall be payable with interest at the rate of nine and three-quarters percent (9.75%) per annum from January 1, 2003, in consecutive monthly installments of \$2,913.25 each commencing February 1, 2003 and continuing on the first (1st) day of each and every month thereafter until January 1, 2018 at which time the remaining unpaid principal balance together with any accrued interest thereon shall be due and payable in full. Payments shall be applied first to interest and then to principal. The

principal balance of this Contract for Deed may not be prepaid for the first three (3) years without the written consent of Seller.

5. PREPAYMENT. Unless otherwise provided in this contract, Purchaser shall have the right to fully or partially prepay this contract at any time without penalty. Any partial prepayment shall be applied first to payment of amounts then due under this contract, including unpaid accrued interest, and the balance shall be applied to the principal installments to be paid in the inverse order of their maturity. Partial prepayment shall not postpone the due date of the installments to be paid pursuant to this contract or change the amount of such installments.
6. REAL ESTATE TAXES AND ASSESSMENTS. Purchaser shall pay, before penalty accrues, all real estate taxes and installments of special assessments assessed against the Property which are due and payable in the year 2003 and thereafter. Real estate taxes and installments of special assessments which are due and payable prior to the year 2003 were governed by a lease between the parties.
7. PROPERTY INSURANCE.
 - (a) INSURED RISKS AND AMOUNT. Purchaser shall keep all buildings, improvements and fixtures now or later located on or a part of the Property insured against loss by fire, extended coverage perils, vandalism, malicious mischief and, if applicable, steam boiler explosion for at least the amount of the full insurable value thereof but not less than the Contract for Deed balance. If any of the buildings, improvements or fixtures are located in a federally designated flood prone area, and if flood insurance is available for that area, Purchaser shall procure and maintain flood insurance in amounts reasonably satisfactory to Seller.
 - (b) OTHER TERMS. The insurance policy shall contain a loss payable clause in favor of Seller which provides that Seller's right to recover under the insurance shall not be impaired by any acts or omissions of Purchaser or Seller, and that Seller shall otherwise be afforded all rights and privileges customarily provided a mortgagee under the so-called standard mortgage clause.
 - (c) NOTICE OF DAMAGE. In the event of damage to the Property by fire or other casualty, Purchaser shall promptly give notice of such damage to Seller and the insurance company.
8. DAMAGE TO THE PROPERTY.
 - (a) APPLICATION OF INSURANCE PROCEEDS. If the Property is damaged by fire or other casualty, the insurance proceeds paid on account of such damage shall be applied to payment of the amounts payable by Purchaser under this

contract, even if such amounts are not then due to be paid, unless Purchaser makes a permitted election described in the next paragraph. Such amounts shall be first applied to unpaid accrued interest and next to the installments to be paid as provided in this contract in the inverse order of their maturity. Such payment shall not postpone the due date of the installments to be paid pursuant to this contract or change the amount of such installments. The balance of insurance proceeds, if any, shall be the property of Purchaser.

- (b) **PURCHASER'S ELECTION TO REBUILD.** If Purchaser is not in default under this contract, or after curing any such default, and if the mortgagees in any prior mortgages and sellers in any prior contracts for deed do not require otherwise, Purchaser may elect to have that portion of such insurance proceeds necessary to repair, replace or restore the damaged Property (the repair work) deposited in escrow with a bank or title insurance company qualified to do business in the State of Minnesota, or such other party as may be mutually agreeable to Seller and Purchaser. The election may only be made by written notice to Seller within sixty days after the damage occurs. Also, the election will only be permitted if the plans and specifications and contracts for the repair work are approved by Seller, which approval Seller shall not unreasonably withhold or delay. If such a permitted election is made by Purchaser, Seller and Purchaser shall jointly deposit, when paid, such insurance proceeds into such escrow. If such insurance proceeds are insufficient for the repair work, Purchaser shall, before the commencement of the repair work, deposit into such escrow sufficient additional money to insure the full payment for the repair work. Even if the insurance proceeds are unavailable or are insufficient to pay the cost of the repair work, Purchaser shall at all times be responsible to pay the full cost of the repair work. All escrowed funds shall be disbursed by the escrowee in accordance with generally accepted sound construction disbursement procedures. The costs incurred or to be incurred on account of such escrow shall be deposited by Purchaser into such escrow before the commencement of the repair work. Purchaser shall complete the repair work as soon as reasonably possible and in a good and workmanlike manner, and in any event the repair work shall be completed by Purchaser within one year after the damage occurs. If, following the completion of and payment for the repair work, there remain any undisbursed escrow funds, such funds shall be applied to payment of the amounts payable by Purchaser under this contract in accordance with paragraph 8(a) above.

9. **INJURY OR DAMAGE OCCURRING ON THE PROPERTY.**

- (a) **LIABILITY.** Seller shall be free from liability and claims for damages by reason of injuries occurring on or after the date of this contract to any person or persons or property while on or about the Property. Purchaser shall defend and indemnify Seller from all liability, loss, costs and obligations, including reasonable attorneys' fees, on account of or arising out of any such injuries.

However, Purchaser shall have no liability or obligation to Seller for such injuries which are caused by the negligence or intentional wrongful acts or omissions of Seller.

(b) **LIABILITY INSURANCE.** Purchaser shall, at Purchaser's own expense, procure and maintain liability insurance against claims for bodily injury, death and property damage occurring on or about the Property in amounts reasonably satisfactory to Seller and naming Seller as an additional insured.

10. **INSURANCE, GENERALLY.** The insurance which Purchaser is required to procure and maintain pursuant to paragraphs 7 and 9 of this contract shall be issued by an insurance company or companies licensed to do business in the State of Minnesota and acceptable to Seller. The insurance shall be maintained by Purchaser at all times while any amount remains unpaid under this contract. The insurance policies shall provide for not less than ten days written notice to Seller before cancellation, non-renewal, termination or change in coverage, and Purchaser shall deliver to Seller a duplicate original or certificate of such insurance policy or policies.
11. **CONDEMNATION.** If all or any part of the Property is taken in condemnation proceedings instituted under power of eminent domain or is conveyed in lieu thereof under threat of condemnation, the money paid pursuant to such condemnation or conveyance in lieu thereof shall be applied to payment of the amounts payable by Purchaser under this contract, even if such amounts are not then due to be paid. Such amounts shall be applied first to unpaid accrued interest and next to the installments to be paid as provided in this contract in the inverse order of their maturity. Such payment shall not postpone the due date of the installments to be paid pursuant to this contract or change the amount of such installments. The balance, if any, shall be the property of Purchaser.
12. **WASTE, REPAIR AND LIENS.** Purchaser shall not remove or demolish any buildings, improvements or fixtures now or later located on or a part of the Property, nor shall Purchaser commit or allow waste of the Property. Purchaser shall maintain the Property in good condition and repair. Purchaser shall not create or permit to accrue liens or adverse claims against the Property which constitute a lien or claim against Seller's interest in the Property. Purchaser shall pay to Seller all amounts, costs and expenses, including reasonable attorneys' fees, incurred by Seller to remove any such liens or adverse claims.
13. **DEED AND MORTGAGE REGISTRY TAXES.** Seller shall, upon Purchaser's full performance of this contract, pay the deed tax due upon the recording or filing of the deed to be delivered by Seller to Purchaser. The mortgage registry tax due upon the recording or filing of this contract shall be paid by the party who records or files this contract; however, this provision shall not impair the right of Seller to collect from

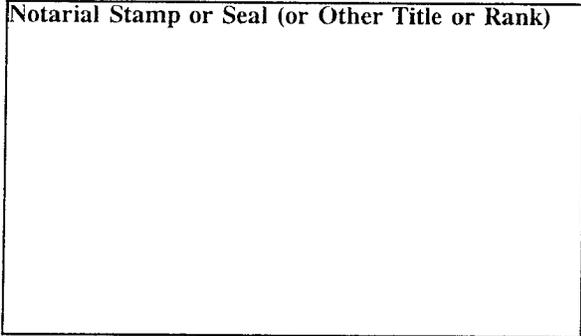
Purchaser the amount of such tax actually paid by Seller as provided in the applicable law governing default and service of notice of termination of this contract.

14. NOTICE OF ASSIGNMENT. If either Seller or Purchaser assigns their interest in the Property, a copy of such assignment shall promptly be furnished to the non-assigning party.
15. PROTECTION OF INTERESTS. If Purchaser fails to pay any sum of money required under the terms of this contract or fails to perform any of Purchaser's obligations as set forth in this contract, Seller may, at Seller's option, pay the same or cause the same to be performed, or both, and the amounts so paid by Seller and the cost of such performance shall be payable at once, with interest at the rate stated in paragraph 4 of this contract, as an additional amount due Seller under this contract. If there now exists, or if Seller hereafter creates, suffers or permits to accrue, any mortgage, contract for deed, lien or encumbrance against the Property which is not herein expressly assumed by Purchaser, and provided Purchaser is not in default under this contract, Seller shall timely pay all amounts due thereon, and if Seller fails to do so, Purchaser may, at Purchaser's option, pay any such delinquent amounts and deduct the amounts paid from the installment(s) next coming due under this contract.
16. DEFAULT. The time of performance by Purchaser of the terms of this contract is an essential part of this contract. Should Purchaser fail to timely perform any of the terms of this contract, Seller may, at Seller's option, elect to declare this contract canceled and terminated by notice to Purchaser in accordance with applicable law. All right, title and interest acquired under this contract by Purchaser shall then cease and terminate, and all improvements made upon the Property and all payments made by Purchaser pursuant to this contract shall belong to Seller as liquidated damages for breach of this contract. Neither the extension of the time for payment of any sum of money to be paid hereunder nor any waiver by Seller of Seller's rights to declare this contract forfeited by reason of any breach shall in any manner affect Seller's right to cancel this contract because of defaults subsequently occurring, and no extension of time shall be valid unless agreed to in writing. After service of notice of default and failure to cure such default within the period allowed by law, Purchaser shall, upon demand, surrender possession of the Property to Seller, but Purchaser shall be entitled to possession of the Property until the expiration of such period.
17. BINDING EFFECT. The terms of this contract shall run with the land and bind the parties hereto and their successors in interest.

_, 19_____, by Rebecca G. Wilkinson the President of Rebecca G. Wilkinson D.V.M. & Associates, P.A., a Minnesota professional corporation, for and on behalf of the corporation.

Signature of Notary Public (or Other Official)

Notarial Stamp or Seal (or Other Title or Rank)



Tax Statements for the real property described in this instrument should be sent to:

This Instrument Was Drafted By:

LEONARD, O'BRIEN
WILFORD, SPENCER & GALE, LTD.
Attorneys at Law (TN3)
800 Norwest Center
55 East Fifth Street
St. Paul, MN 55101
(651) 227-9505

FAILURE TO RECORD OR FILE THIS CONTRACT FOR DEED MAY GIVE OTHER PARTIES PRIORITY OVER PURCHASER'S INTEREST IN THE PROPERTY.

EXHIBIT "I"
(Conditional Bill of Sale)

CONDITIONAL BILL OF SALE

FOR VALUABLE CONSIDERATION, GARY A. STEEN, D.V.M., individually, and ANIMAL INSTINCTS, LTD., a Minnesota professional corporation, individually and collectively, Seller, hereby sell and convey to REBECCA G. WILKINSON D.V.M. & ASSOCIATES, P.A., a Minnesota professional corporation, Buyer, the Assets (other than the real estate) described in the Purchase Agreement between the parties dated January 6, 1999 (the "**Purchase Agreement**"), but excluding the item(s) in Exhibit "A" to the Purchase Agreement and specifically including the following property located at 13060 Central Avenue, N.E., Blaine, Minnesota, 55434:

- (a) All Inventory;
- (b) All Accounts;
- (c) All Chattel Paper and Instruments;
- (d) All Documents;
- (e) All Contracts;
- (f) All Equipment;
- (g) All General Intangibles;
- (h) Any and all balances, credits, deposits, accounts or monies of or in the Seller's name in the possession or control of, or in transit to, any bank or other financial institution;
- (i) All other rights to the payment of money, including, without limitation, amounts due from any person, tax refunds and insurance proceeds, rents and other sums payable to the Seller under leases, rental agreements and other Chattel Paper;
- (j) All books, correspondence, credit files, records, invoices, bills of lading and other documents, including, without limitation, all tapes, cards, computer runs and other papers and documents in the possession or control of the Seller or any computer bureau from time to time acting for the Seller;
- (k) All accessions to, substitutions for, and replacements, proceeds and products of any of the foregoing, including, without limitation, all rights in, to and under all

policies of insurance, including, without limitation, claims of rights to payments thereunder and proceeds therefrom, and any credit insurance.

Seller agrees that Seller is the owner of the personal property described above and has the right to sell and convey the same to Buyer.

The foregoing Bill of Sale is conditional until Buyer pays in full all amounts due and owing pursuant to that certain Contract for Deed of even date herewith between Seller and Buyer (the "**Contract for Deed**"). When Buyer pays in full all amounts due pursuant to the Contract for Deed, this Bill of Sale shall be unconditional and constitute an absolute conveyance of the personal property to Buyer.

DATE: January 1, 1999.

SELLER:

Gary A. Steen, D.V.M., individually

ANIMAL INSTINCTS, LTD.

By: _____
Gary A. Steen
Its President

EXHIBIT "J"
(Seller Non-Compete Agreement)

NON-COMPETE AGREEMENT

AGREEMENT made this 1st day of January, 1999, between GARY A. STEEN, D.V.M., individually, and ANIMAL INSTINCTS, LTD., a Minnesota professional corporation (individually and collectively "**Seller**") and REBECCA G. WILKINSON D.V.M. & ASSOCIATES, P.A., a Minnesota professional corporation ("**Buyer**").

WHEREAS, Seller has sold certain assets to Buyer pursuant to that certain Purchase Agreement dated January 6, 1999 (the "**Purchase Agreement**"); and,

WHEREAS, the terms of the Purchase Agreement require Seller not to compete with the Buyer on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the sum of Ten Thousand and no/100 (\$10,000.00) Dollars allocated from the purchase price set forth in the Purchase Agreement and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Seller and Buyer agree as follows:

1. **AGREEMENT NOT TO COMPETE.** Seller agrees for a period of three (3) years from the date hereof within the Counties of Anoka and Isanti, Minnesota that Seller shall not engage in or be interested in any veterinary medicine business. Seller shall be deemed to be interested in a veterinary medicine business if Seller is an officer, employee, agent, partner, individual proprietor, consultant or otherwise in any such business, except Seller may treat Seller's own animals.
2. **INDIRECT COMPETITION.** Seller agrees that for a period of three (3) years from the date hereof, Seller will not, directly or indirectly, assist or encourage any other person in carrying out, directly or indirectly, any activity that would be prohibited by the provisions of Section 1 if such activity were carried out by Seller either directly or indirectly. In particular, but not as a limitation, Seller agrees not to, directly or indirectly, induce any person to carry out, directly or indirectly, any such activity.
3. **NECESSARY AND REASONABLE.** Seller agrees that the covenants provided for in Sections 1 and 2 hereof, including the term and geographic area encompassed therein, are necessary and reasonable in order to protect Buyer in the conduct of Buyer's business and to protect Buyer in the utilization of Buyer's assets, tangible and intangible, including the good will of Buyer.

4. **INJUNCTIVE RELIEF.** Seller agrees that it would be difficult to compensate Buyer fully for damages for any violation of the provisions of this Agreement. Accordingly, Seller specifically agrees that Buyer shall be entitled to temporary and permanent injunctive relief to enforce the provisions of this Agreement and that such relief may be granted without the necessity of proving actual damages. This provision with respect to injunctive relief shall not, however, diminish the right of Buyer to claim and recover money damages in addition to injunctive relief.
5. **SEVERABILITY.** To the extent that any provision of this Agreement shall be determined to be invalid or unenforceable, the invalid or unenforceable portion of such provision shall be deleted from this Agreement, and the validity and enforceability of the remainder of such provision and of this Agreement shall be foregoing, it being expressly agreed that should the duration of or geographic extent of, or business activities covered by, the provisions contained herein be determined to be in excess of that which is valid or enforceable under applicable law, then such provision shall be construed to cover only that duration or extent where those activities may validly or enforceably be covered. Seller acknowledges the uncertainty of the law in this respect and expressly stipulates that this Agreement shall be construed in a manner which renders its provisions valid and enforceable to the maximum extent possible under applicable law.
6. **ENTIRE AGREEMENT.** This Agreement contains the entire agreement between the parties relating to its terms and supersedes all prior agreements and understandings, whether written or oral, between the parties relating to the same. This Agreement may not be amended or changed except in writing executed by all parties.
7. **ASSIGNMENT.** The rights and obligations of Seller hereunder are not assignable or delegable by Seller.
8. **GOVERNING LAW.** This Agreement has been entered into by the parties in the State of Minnesota and shall be construed and enforced in accordance with the laws of the State of Minnesota.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the day and year first above written.

SELLER:

Gary A. Steen, D.V.M., individually

ANIMAL INSTINCTS, LTD.

By: _____
Gary A. Steen
Its President

BUYER:

REBECCA G. WILKINSON D.V.M.
& ASSOCIATES, P.A.

By: _____
Rebecca G. Wilkinson
Its President

EXHIBIT "K"
(Assignment of Names)

ASSIGNMENT OF NAMES

THE UNDERSIGNED hereby assigns and transfers to REBECCA G. WILKINSON D.V.M. & ASSOCIATES, P.A. the exclusive right to use of the following names:

1. Ham Lake-Blaine Pet Clinic;
2. Blaine Animal Hospital; and,
3. Ham Lake Veterinary Clinic and Hospital.

IN WITNESS WHEREOF, the undersigned has made the foregoing assignment to be effective the 1st day of January, 1999.

Gary A. Steen, D.V.M.

ANIMAL INSTINCTS, LTD.

By: _____
Gary A. Steen
Its President

EXHIBIT "L"
(Security Agreement)

SECURITY AGREEMENT

REBECCA G. WILKINSON D.V.M. & ASSOCIATES, P.A., a Minnesota professional corporation, whose address is 13060 Central Avenue, N.E., Blaine, Minnesota, 55434 (hereinafter called the "**Debtor**") and GARY A. STEEN, D.V.M., and ANIMAL INSTINCTS, LTD., a Minnesota professional corporation, whose address is 2745 Bunker Lake Boulevard, N.E., Ham Lake, Minnesota, 55304 (hereinafter called the "**Secured Party**"), agree as follows: The Debtor grants to the Secured Party a first position security interest in the property described below together with any additions and accessions thereto, replacements thereof, and all insurance, condemnation and other proceeds thereof, to secure prompt payment when due of the sum of FOUR HUNDRED THIRTY-TWO THOUSAND AND NO/100 (\$432,000.00) DOLLARS as evidenced by that certain \$432,000.00 Promissory Note of even date herewith from the Debtor to the Secured Party (the "**Note**"):

- (a) all fixtures, equipment, and personal property of every kind and nature whatsoever now owned or hereafter owned by the Debtor and used, useable or arising from the Debtor's veterinary medicine business; (b) all Accounts and General Intangibles of the Debtor, and used, useable or arising from the Debtor's veterinary medicine business, as those terms are defined in Minnesota Statutes Section 336.9-106; (c) all inventory now owned or hereafter owned by the Debtor and used, useable or arising from the Debtor's veterinary medicine business; and, (d) all insurance and other proceeds of the foregoing.

The above-described property hereinafter referred to as the "**Collateral**".

DEBTOR HEREBY AGREES, WARRANTS AND COVENANTS THAT:

1. The Collateral will be kept at 13060 Central Avenue, N.E., in the City of Blaine, in the County of Anoka and State of Minnesota. The Debtor will not remove the Collateral from the above location without the prior written consent of the Secured Party. The Secured Party may examine and inspect the Collateral at any time, wherever located.
2. The Collateral is for business use and is specifically to be used in operation of the Debtor's business.
3. The Debtor's place of business in this State is 13060 Central Avenue, N.E., in the City of Blaine, in the County of Anoka and State of Minnesota.
4. The Collateral shall not be attached to real estate without the Secured Party's prior written consent. If any of the Collateral is or is to become a fixture, the Debtor agrees

to furnish the Secured Party with a statement signed by all persons who have or claim an interest in the real estate concerned, which statement shall provide that the signer consents to the security interest created hereby and disclaims any interest in the Collateral as fixtures.

5. Except for the first position security interest granted hereby, the Debtor is the owner of the Collateral, free and clear of all liens, security interests or encumbrances, and the Debtor will defend the Collateral against all claims and demands of all persons at any time claiming the same or any interest therein.
6. The Debtor will not sell or offer to sell or otherwise transfer or encumber the Collateral without the prior written consent of the Secured Party, and will keep the Collateral in good order and repair, and will not waste or destroy the Collateral.
7. No financing statement covering the Collateral is on file in any public office other than the financing statements filed by or at the direction of the Secured Party and at the request of the Secured Party, the Debtor will join with the Secured Party in executing one or more financing statements pursuant to the Uniform Commercial Code in form satisfactory to the Secured Party for filing in all public offices wherever filing is deemed necessary or desirable by the Secured Party.
8. The Debtor will keep the Collateral insured at all times against loss by fire and other hazards concerning which, in the judgment of the Secured Party, insurance protection is necessary, in a company or companies satisfactory to the Secured Party and in amounts sufficient to protect the Secured Party against loss or damage to the Collateral and will pay the premiums therefor. Such policy or policies of insurance will be delivered to and held by the Secured Party, together with loss payable clauses in favor of the Secured Party as its interest may appear, in form satisfactory to the Secured Party. The Secured Party may act as attorney-in-fact for the Debtor in obtaining, adjusting, settling and canceling such insurance and endorsing any drafts.
9. At its option, the Secured Party may discharge taxes, liens, or security interests or other encumbrances placed on the Collateral, may pay for insurance on the Collateral, and may pay for the maintenance and preservation of the Collateral. The Debtor agrees to reimburse the Secured Party on demand for any payment made, or any expense incurred by the Secured Party pursuant to the foregoing authorization.
10. UNTIL DEFAULT, the Debtor may retain possession of the Collateral and use the same in any lawful manner not inconsistent with the agreements herein or with the terms and conditions of any policy of insurance thereon.
11. Upon the Debtor's default, the Secured Party shall have the right, at its option and without demand or notice, in addition to all other rights and remedies available in law and equity, to exercise all of the rights and remedies of a Secured Party under the

Uniform Commercial Code or any other applicable law. The Debtor agrees that upon default, the Debtor will make the Collateral available to the Secured Party at a place to be designated by the Secured Party which is reasonably convenient. The Debtor further agrees to pay all costs and expenses of the Secured Party, including reasonable attorney's fees, in collection of any amount due from the Debtor to the Secured Party herein or for the enforcement hereof. If any notice of sale, disposition or other intended action by the Secured Party is required by law to be given to the Debtor, such notice shall be deemed reasonably and properly given if mailed to the Debtor at the address specified at Paragraph 3, or at such other address of the Debtor as may be shown on the Secured Party's records, at least ten (10) days before such sale, disposition or other intended action. Waiver of any default hereunder by the Secured Party shall not be a waiver of any other default or of the same default on a later occasion. No delay or failure by the Secured Party to exercise any right or remedy shall be a waiver of any such right or remedy and no single or partial exercise by the Secured Party of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy at any time.

12. This Agreement and the security interest in the Collateral created hereby shall terminate when the Debtor has paid the Secured Party the amount due on the Note and all other indebtedness and liability from the Debtor to the Secured Party whether now existing or hereafter existing.
13. No waiver by the Secured Party of any default shall be effective unless in writing nor operate as a waiver of any other default or of the same default on a future occasion.
14. The Secured Party is hereby appointed the Debtor's attorney-in-fact to do all things and acts necessary to perfect and to continue to perfect the security interest in the Collateral and to exercise its rights with respect to the Collateral.

IN WITNESS WHEREOF, the parties have signed this Agreement to be effective the 1st day of January, 1999.

SECURED PARTY:

Gary A. Steen, D.V.M., individually

ANIMAL INSTINCTS, LTD.

By: _____
Gary A. Steen
Its President

DEBTOR:

REBECCA G. WILKINSON D.V.M.
& ASSOCIATES, P.A.

By: _____
Rebecca G. Wilkinson
Its President

EXHIBIT "M"
(Buyer Non-Compete Agreement)

NON-COMPETE AGREEMENT

AGREEMENT made this 1st day of January, 1999, between GARY A. STEEN, D.V.M., individually, and ANIMAL INSTINCTS, LTD., a Minnesota professional corporation (individually and collectively "Seller") and REBECCA G. WILKINSON, D.V.M., individually ("Wilkinson").

WHEREAS, Seller has sold certain assets to Rebecca G. Wilkinson D.V.M. & Associates, P.A., a Minnesota professional corporation ("Buyer") pursuant to that certain Purchase Agreement dated January 6, 1999 (the "Purchase Agreement"); and,

WHEREAS, the terms of the Purchase Agreement require Wilkinson not to compete with the Seller upon lawful termination of the Purchase Agreement by Seller due to Buyer's default or upon foreclosure, repossession or other lawful recovery of the Assets as defined in the Purchase Agreement due to Buyer's default.

NOW, THEREFORE, in consideration of the Purchase Agreement and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Seller and Wilkinson agree as follows:

1. **AGREEMENT NOT TO COMPETE.** Wilkinson agrees for a period of two (2) years from Seller's lawful termination of the Purchase Agreement due to Buyer's default or upon foreclosure, repossession or other lawful recovery of the Assets as defined in the Purchase Agreement by Seller due to Buyer's default, that Wilkinson shall not engage in or be interested in any veterinary medicine business within ten (10) miles north of a half radius and five (5) miles south of a half radius from the premises commonly known as 13060 Central Avenue, N.E., Blaine, Minnesota, 55434. Wilkinson shall be deemed to be interested in a veterinary medicine business if Wilkinson is an officer, employee, agent, partner, individual proprietor, consultant or otherwise in any such business.
2. **INDIRECT COMPETITION.** Wilkinson agrees that for a period of two (2) years from the date hereof, Wilkinson will not, directly or indirectly, assist or encourage any other person in carrying out, directly or indirectly, any activity that would be prohibited by the provisions of Section 1 if such activity were carried out by Wilkinson either directly or indirectly. In particular, but not as a limitation, Wilkinson agrees not to, directly or indirectly, induce any person to carry out, directly or indirectly, any such activity.
3. **NECESSARY AND REASONABLE.** Wilkinson agrees that the covenants provided for in Sections 1 and 2 hereof, including the term and geographic area encompassed therein, are necessary and reasonable in order to protect Seller.

4. **INJUNCTIVE RELIEF.** Wilkinson agrees that it would be difficult to compensate Seller fully for damages for any violation of the provisions of this Agreement. Accordingly, Wilkinson specifically agrees that Seller shall be entitled to temporary and permanent injunctive relief to enforce the provisions of this Agreement and that such relief may be granted without the necessity of proving actual damages. This provision with respect to injunctive relief shall not, however, diminish the right of Seller to claim and recover money damages in addition to injunctive relief.
5. **SEVERABILITY.** To the extent that any provision of this Agreement shall be determined to be invalid or unenforceable, the invalid or unenforceable portion of such provision shall be deleted from this Agreement, and the validity and enforceability of the remainder of such provision and of this Agreement shall be foregoing, it being expressly agreed that should the duration of or geographic extent of, or business activities covered by, the provisions contained herein be determined to be in excess of that which is valid or enforceable under applicable law, then such provision shall be construed to cover only that duration or extent where those activities may validly or enforceably be covered. Wilkinson acknowledges the uncertainty of the law in this respect and expressly stipulates that this Agreement shall be construed in a manner which renders its provisions valid and enforceable to the maximum extent possible under applicable law.
6. **ENTIRE AGREEMENT.** This Agreement contains the entire agreement between the parties relating to its terms and supersedes all prior agreements and understandings, whether written or oral, between the parties relating to the same. This Agreement may not be amended or changed except in writing executed by all parties.
7. **ASSIGNMENT.** The rights and obligations of Wilkinson hereunder are not assignable or delegable by Wilkinson.
8. **GOVERNING LAW.** This Agreement has been entered into by the parties in the State of Minnesota and shall be construed and enforced in accordance with the laws of the State of Minnesota.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the day and year first above written.

SELLER:

WILKINSON:

Gary A. Steen, D.V.M., individually

Rebecca G. Wilkinson, D.V.M., individually

ANIMAL INSTINCTS, LTD.

By: _____

Gary A. Steen
Its President

TwinVet Hospitals
13788 Blue School Road, Fennimore, WI 53809

Effective August 18, 2004, TwinVet Hospitals will no longer be in business. To request your pet's medical records, please submit your request in writing, along with a cashier's check or money order in the amount of \$15.00 made out to,

R.E. Satterthwaite,

Please send to:

TwinVet Hospitals - Medical Records
13788 Blue School Road
Fennimore, WI 53809

Gwen & Dan Humphreys
16230 Guadal Canal St Ne
Ham Lake, MN
55304

If your veterinarian should require the use of radiographs with your pet's case, please forward a cashier's check or money order in the amount of \$25.00, of which \$15.00 is non-refundable, to the above address along with the name, address, and phone number of your pet's veterinarian. Upon their return to the above address, you will receive a check back in the amount of \$10.00. Please allow 10-15 days to process medical records requests. If your pet's records are urgently needed, please indicate this in your request.





TwinVet Hospitals
EMERGENCY



- After Hours
- Urgent Care
- Hospitalization

763-755-3200

CLOSED

Learn & Grow
PLAYHOUSE
Child Care
Center
10000 1st Ave
St. Louis, MO 63143



STEEN EXHIBIT F

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Chapter 7 case

Rebecca G. Wilkinson, D.V.M. &
Associates, P.A.

BKY 04-30819-DDO

Debtor.

MEMORANDUM IN SUPPORT OF RELIEF FROM AUTOMATIC STAY

Gary A. Steen, fee owner of one of the Debtor's veterinary buildings, moves for relief from stay in order to take possession of the property and to foreclose the equity interest, if any, of the Debtor and of the bankruptcy estate. Dr. Steen's affidavit establishes that there is no equity in the property. This is a liquidation case. Furthermore, cause exists to modify the stay, in that the property is abandoned, and either is not insured or is at imminent risk of being uninsured.

Section 362(d) of the Bankruptcy Code provides:

On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay –

- (1) for cause, including lack of adequate of an interest in property of such party in interest;
- (2) with respect to a stay of an act against property under subsection (a) of this section, if –
 - (A) the debtor does not have an equity in such property; and
 - (B) such property is not necessary for an effective reorganization

All of these criteria are satisfied in the present case. The Court should grant the relief as requested. Furthermore, inasmuch as the Property may be uninsured, and is clearly abandoned and subject to theft and vandalism, the Court should authorize Dr. Steen to retake physical possession immediately in order to insure and protect it during the foreclosure period, subject to the rights of the trustee and other secured parties to access and repossession of personal property.

Respectfully submitted,

Dated: October 3, 2004

THOMAS F. MILLER, P.A.

BY /E/ THOMAS F. MILLER

Thomas F. Miller, Lic. No. 73477

130 Lake Street West

Wayzata, MN 55391

Tel.: (952) 404-3896

Fax: (952) 404-3893

Email: Thomas@Millerlaw.com

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Chapter 7 case

Rebecca G. Wilkinson, D.V.M. &
Associates, P.A.

BKY 04-30819-DDO

Debtor.

ORDER GRANTING RELIEF FROM AUTOMATIC STAY

At St. Paul, Minnesota this ____ day of October, 2004.

This matter came on for hearing before the undersigned Judge of the above Court on October 20, 2004, upon the Motion for Relief from Automatic Stay filed by Gary A. Steen.

Upon the advice and arguments of counsel, and upon all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED:

1. Said Motion is granted, and the automatic stay in this case arising under 11 U.S.C. § 362 is hereby terminated in order to allow Gary A. Steen to exercise nonbankruptcy remedies with respect to repossession and foreclosure regarding the real estate (hereinafter "Property") commonly known as 13060 Central Avenue NE, Blaine, Minnesota, and legally described as:

The East 209.00 feet, as measured along the North and South lines thereof, of that part of the North half of the Southeast quarter of the Northwest quarter of Section 5, Township 31, Range 23, Anoka County, Minnesota, described as follows: Beginning at a point 97.01 feet West of the Northeast corner of said North half of the Southeast quarter of the Northwest quarter; thence Westerly 418.00 feet; thence Southerly 209.00 feet; thence Easterly 418.00 feet; thence Northerly 209.00 feet to the point of beginning.

2. Gary A. Steen is authorized to take immediate possession and control of the Property, subject to the rights of the bankruptcy estate and other secured parties during the period of foreclosure.

BY THE COURT:

Dennis D. O'Brien
United States Bankruptcy Judge

IN RE: REBECCA G. WILKINSON, D.V.M. & ASSOCIATES, P.A., BKY 04-30819(DDO)

UNSWORN DECLARATION FOR PROOF OF SERVICE

I, the undersigned Thomas F. Miller, hereby declare under penalty of perjury that on October 4, 2004, I served the within Notice Hearing and Motion for Relief from Automatic Stay; Verified Statement of Gary A. Steen in Support of Relief from Automatic Stay (without exhibits); Memorandum in Support of Relief from Automatic Stay; (proposed) Order Granting Relief from Automatic Stay; and this unsworn declaration, upon the following, by sending copies thereof by first class mail, postage prepaid, to them at the following addresses:

Associated Bank Minnesota, N.A.
C/o Cass S. Weil, Esq.
MOSS & BARNETT
4800 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-4129

Office of the United States Trustee
1015 United States Courthouse
300 South Fourth Street
Minneapolis, MN 55415

Michael J. Iannacone
8687 Eagle Point Blvd.
Lake Elmo, MN 55042

John Stuebner, Esq.
One Financial Plaza, Suite 2500
120 South Sixth Street
Minneapolis, MN 55402

Rebecca G. Wilkinson, D.V.M. &
Associates, P.A.
13060 Central Avenue NE
Blaine, MN 55434

Ford Motor Credit Company
C/o Stewart, Zlimen, and Jungers
430 Oak Grove St., #200
Minneapolis, MN 55403

Bankruptcy Administration
IOS Capital, LLC
1738 Bass Road
P.O. Box 13708
Macon, GA 31208-3708

Internal Revenue Service
Stop 5700
316 North Robert Street
St. Paul, MN 55101

Minnesota Department of Revenue
551 Bankruptcy Section
P.O. Box 6447
St. Paul, MN 55164

Dated: October 4, 2004

/e/ Thomas F. Miller
Thomas F. Miller, Lic. 73477