

Real Estate Mortgage Record No. 87, MADISON County, Iowa

Form No. 139E—Land Bank Commissioner, Form No. 2, Omaha, Neb., Revised 8-34, containing 2922 printed words.

MATT PARROTT & SONS CO., WATERLOO, IOWA C24057

MORTGAGE

Ernest J. McNamara et al

TO  
LAND BANK COMMISSIONER  
Omaha, Nebraska

Filed for Record the 4 day of May

A. D. 1935, at 9:33 o'clock A. M.

#1573 Valda C. Bishop, Recorder

By, Deputy

Recording Fee, \$ 3.20



THIS INDENTURE, made this 29th day of April, A. D., 1935, between Ernest J. McNamara and Marguerite B. McNamara, husband and wife; Mary E. McNamara, single; Ella McNamara (also known as Ella E. McNamara) widow,

of the County of Madison, State of Iowa, (hereinafter referred to as the first party or parties) and the LAND BANK COMMISSIONER, acting pursuant to part 3 of the Act of Congress known as the Emergency Farm Mortgage Act of 1933, as amended, having an office in the City of Omaha, Nebraska, (hereinafter referred to as second party), WITNESSETH: that said first party or parties, in consideration of the sum of

TWO THOUSAND AND NO/100 DOLLARS in hand paid, the receipt of which is hereby acknowledged, do hereby grant, bargain, assign, sell and convey to said second party forever the following described real estate situated in the County of Madison, State of Iowa, to-wit:

West 100 acres of the Northwest Quarter of Section 2; and

East half of the Northeast Fractional Quarter, except one acre in the southwest corner, of Section 3;

All in Township 75 North, of Range 28, West of the 5th Principal Meridian,

Subject to easement in favor of State of Iowa, for highway purposes recorded in Book 66, Page 541,

Release of Annexed Mortgage See  
Mortgage Record 97 Page 620

containing 179.12 acres, more or less, according to the Government Survey, together with the buildings and improvements now on or hereafter placed thereon, and the privileges, hereditaments and appurtenances thereto belonging or in anywise appertaining; also all rents, issues, profits, crops, income from said premises as specified in the chattel mortgage clause hereinafter set forth; also, including any right of homestead and every contingent right and estate in said premises, the intention being to convey an absolute title in fee simple.

TO HAVE AND TO HOLD the same to said second party, his successors and assigns forever. And said first party or parties hereby covenant and agree with second party to be now lawfully seized of said premises, and to now have a good right to sell and convey the same, and warrant the title thereto against all persons

whomsoever, and waive all right of homestead therein, and that said premises are free of all liens and incumbrances, except a prior mortgage in

favor of The Federal Land Bank of Omaha, in the principal sum of \$8,000.00 dated the

29th day of April, 1935, and recorded in Book 87, Page 70 of the mortgage records of said County.

Conditioned, however, that if said party or parties of the first part, their heirs, executors, administrators or assigns, will pay or cause to be paid to said second

party, his successors or assigns, the principal sum of \$2,000.00, with interest thereon or on the unpaid balance thereof at the rate of five per centum per annum, payable semi-annually, according to the tenor and effect of a certain promissory note of even date herewith, the principal sum being payable on an

amortization plan and in twenty equal successive semi-annual installments of One Hundred and no/100 Dollars each, the first

installment being payable on the 1st day of January, 1939, and successive installments being payable each six months thereafter, and

the final installment being payable on the 1st day of July, 1948, (option being given to make payment of one or more installments of principal or the entire unpaid balance at any time, such payments, however, to operate only to discharge the mortgage debt at an earlier date and not to reduce the amount or defer the due dates of any subsequent installment of principal); and shall perform all and singular the covenants and conditions herein contained; then these presents to be void and this mortgage shall be released at the expense of said party or parties of the first part; otherwise to remain in full force.

And said first party or parties hereby covenant and agree to pay all taxes and special assessments of any kind that may be levied or assessed within the State of Iowa upon said premises, or any part thereof, or upon the interest of the mortgagee, his successors or assigns, in said premises, or upon the note or debt secured by said mortgage, and procure and deliver to second party, his successors or assigns, at his office in Omaha, Nebraska, before the day fixed by law for the first interest or penalty to accrue thereon, the official receipt of the proper officer showing payment of all such taxes and assessments; and so long as any part of the debt secured hereby remains unpaid shall keep the buildings on said premises insured against loss or damage by fire, lightning and windstorm in an amount satisfactory to second party and in insurance companies acceptable to second party, (provided, however, that if the policies of such insurance contain any condition or provision as to co-insurance then the buildings shall be kept insured for a sufficient amount also to comply with such co-insurance condition), with loss, if any, payable to second party as his interest may appear, and forthwith upon issuance of said policies, assign and deliver the same, together with all renewals thereof immediately to second party, and any sum received by second party in settlement of an insured loss may be applied, at the option of second party, to discharge any portion of the indebtedness secured hereby, whether or not the same be due and payable, or to the repair or reconstruction of the buildings so damaged or destroyed, and any portion of such funds which are applied upon the principal of the note secured by this mortgage shall merely operate to discharge the debt at an earlier date and shall not reduce the amount or defer the due date of any installment of principal under such note. And said first party or parties further covenant and agree to keep all buildings and improvements now or hereafter located on said premises in good repair, and will not permit such buildings to become vacant or unoccupied, nor remove or demolish, nor permit the removal or demolition of any such buildings or improvements. And said first party or parties further covenant and agree to maintain and work said premises in good and husbandlike manner and will not cut or remove, or permit the cutting or removal of, wood or timber from said premises, except down or dead timber for his own domestic use, and will not permit waste or any unreasonable depreciation of said premises, either wilfully or by omission or neglect. And first party or parties further covenant and agree to keep said premises free from all statutory liens and all other liens of every kind and character (except such mortgage liens as may be hereinabove expressly excepted), and upon demand by second party, shall pay all such liens, and shall pay all prior liens, if any (except such mortgage liens as are hereinabove expressly excepted), which may be found to exist on said premises, and shall deliver to second party receipts, or certified copies thereof, evidencing such payment, and shall pay all expenses and attorney fees and court costs incurred by second party to protect the prior lien of this mortgage (except such mortgage liens as are hereinabove expressly excepted).

And first party or parties hereby agree that if the insurance provided for is not promptly effected and the policies immediately assigned and delivered to second party, or if the statutory liens, or other liens as hereinabove specified, or taxes, special assessments, expenses, attorney's fees or court costs, all as hereinabove specified, shall not be promptly paid as hereinbefore provided, then second party (whether electing to declare the whole indebtedness hereby secured due and collectable or not) may effect such insurance and may pay such taxes or special assessments (irregularities in the assessment or levy thereof being hereby expressly waived), and may pay such statutory or other liens, expenses, attorney's fees and court costs; and all such payments as herein mentioned, with interest thereon from date of payment at the rate of ~~eight~~ <sup>five</sup> per centum per annum, ~~payable annually~~, shall be added to and deemed a part of the indebtedness secured by this mortgage.

And first party or parties further agree that all checks or drafts delivered to second party in payment of any sum or sums secured hereby will be paid promptly upon presentment, and that all agencies used in making collections hereof, including those agencies transmitting the proceeds of such items to second party, shall be considered agents of first party or parties. And first party or parties further agree to assign to second party all income from oil, mineral or coal leases or contracts upon said premises outstanding on the date hereof or hereafter made, but no oil, mineral or coal lease or contract subsequent to the date hereof shall be made except with the written consent of the second party. And it is agreed that such income may be applied upon any existing default or unpaid principal balance as second party may elect, any applications upon principal to operate the same as other advance principal payments hereunder; and first party or parties further agree to expend the whole of the loan secured hereby for the purposes set forth in the application therefor.

And first party or parties hereby expressly covenant and agree that in case of default in the payment of said principal sum of money or of any amortization installment thereof, or of any interest thereon, or in the performance of any of the terms, provisions, covenants or agreements of this mortgage strictly in accordance herewith, then, or at any time thereafter during the continuance of such default, said second party may, without notice, declare the entire debt secured hereby immediately due and payable, and thereupon said second party shall be entitled to the immediate possession of said premises and may proceed to foreclose this mortgage; and, further, upon any such default, either before or at the commencement of an action to foreclose this mortgage or at any time thereafter, said second party shall be entitled to the appointment of a receiver, and said first party or parties hereby agree and consent that any court of competent jurisdiction shall, without notice, appoint a permanent receiver, who shall have power to take and hold possession of said premises and to rent the same, collect the rents, income and profits therefrom for the benefit of said mortgagee, and pay all taxes and special assessments levied against said premises remaining unpaid, and keep said premises in repair, and pay insurance premiums necessary to keep the buildings on said premises insured in accordance with the provisions of this mortgage, and pay the expense of said receivership, and any balance remaining of the proceeds of such rents, income and profits shall be applied upon the payment of any part of the judgment entered in such foreclosure suit and remaining unpaid by sheriff's sale of said premises; and for each and every such purpose above specified said rents, income and profits are hereby irrevocably pledged.

#### CHattel Mortgage Clause

And, further, in consideration of the making of said loan secured by this mortgage and in order to furnish said mortgagee additional security for the payment of said loan, and to give second party a present lien upon the crops growing, grown or to be grown on said premises, said first party or parties hereby bargain and sell, and do by these presents grant and convey, unto said second party the following property, to-wit: All crops grown, growing or to be grown on the land hereinabove described during the entire term of this mortgage and until the indebtedness secured hereby is fully paid, including all ripened crops that have been severed from the soil, said crops to be and include wheat, corn, oats, rye, flax, barley, clover, alfalfa, timothy, fruit, vegetables, and all other farm crops of every kind and character whatsoever. To Have and to Hold the same forever; and said first party or parties will warrant and defend the same against all persons whomsoever. Upon condition, however, that if said first party or parties, their heirs, executors, administrators, or assigns, shall pay to second party the principal and interest in accordance with the terms of said promissory note referred to in the foregoing real estate mortgage and shall also fully and strictly perform each and every term, covenant and condition contained in said real estate mortgage, then this chattel mortgage shall be void; otherwise to remain in full force and effect. And, further to secure the payment of said promissory note and in consideration of the making of the loan secured by this real estate mortgage, said first party or parties do hereby sell, transfer and assign unto said second party, as additional security for said loan, all rents from the premises hereinabove described during the entire term of this mortgage and until the indebtedness secured hereby is fully paid; and said first party or parties do hereby constitute and appoint said second party their true and lawful attorney in fact for the purpose of collecting all of said rents and to execute receipts therefor, hereby empowering said attorney in fact to pay from the proceeds of said rent the unpaid taxes and insurance premiums on said premises and to apply the balance, after deducting the expense of collection thereof, on said mortgage indebtedness, said first party or parties hereby ratifying and confirming all acts and things done by said attorney in fact, or by any person, firm or corporation representing said attorney in fact, in connection therewith. It being hereby expressly understood and agreed by and between the parties hereto that the above chattel mortgage and said assignment of rents shall not be intended, construed nor have the effect in any manner of altering, changing, waiving or modifying any of the terms, covenants or conditions of this real estate mortgage, nor be in lieu thereof, nor in conflict therewith, but is intended and shall be construed merely as additional thereto, and shall not prevent said second party from enforcing any or all of the terms, covenants and conditions contained in said real estate mortgage strictly in accordance therewith; and said second party shall not be required to elect to enforce the provisions of either said real estate mortgage or chattel mortgage or assignment of rents prior to the enforcement of the provisions of either of the other of said instruments, but shall have the right and privilege of enforcing all said instruments at once and in their entirety or any part of or all the provisions of any one of said instruments at any time at his sole discretion and in the order which he prefers.

It is hereby specifically agreed that the failure or delay of second party to exercise any of its rights or privileges under said promissory note or real estate mortgage or chattel mortgage or assignment of rents shall not be held a waiver of any of the terms, covenants or conditions of said instruments nor of any rights or privileges of second party under the same; and any act of second party waiving, or which may be held to have waived, any specific default of said first party or parties shall not be construed nor held a waiver of any future defaults.

It is hereby further agreed that in case of default in the payment of any one or more of the installments of the principal sum as provided in said note, or of any interest as provided in said note, or in case of the payment by second party of taxes, special assessments or insurance premiums, or costs and expenses to secure the discharge of any statutory or other lien, all as provided for in this mortgage to be paid by first party or parties, then and in either of such events, said second party shall have the right and privilege, without declaring the entire indebtedness due and payable, to institute foreclosure proceedings on account of such specific default, and such foreclosure proceedings may be had and the land described herein may be sold thereunder, subject to the unpaid balance of the principal indebtedness hereby secured, and this mortgage shall continue as security and as a lien for the payment of the unpaid balance of the principal notwithstanding such foreclosure.

It is further agreed that if said note and this mortgage, or either of them, are placed in the hands of an attorney for collection or foreclosure or for any legal proceedings said first party or parties will pay a reasonable attorney's fee for any service rendered by second party's attorney in connection therewith and cost of procuring abstract of title for purpose of foreclosure suit, and such attorney's fee and expense shall be considered part of the indebtedness secured by this mortgage and collectable accordingly.

First party or parties in making application for this loan have made certain representations to second party as to the purpose for which the money loaned is borrowed and such representations are hereby specifically referred to and by such reference made a part hereof.

This mortgage and the loan secured hereby are made pursuant to the provisions of Part Three of the Act of Congress known as the Emergency Farm Mortgage Act of 1933, and the parties hereto agree to be in all respects subject to and governed by the terms of said Act and all amendments and substitutions thereto or thereof.

All of the rights and benefits under this instrument existing in favor of second party shall extend also to his successors or assigns; and all the terms, conditions and provisions of this instrument shall be binding upon the heirs, executors, administrators, assigns, lessees and grantees of first party or parties.

IN WITNESS WHEREOF, said party or parties of the first part have hereunto set their hand the day and year first above written.

In the presence of:

Carl H. Lane.....of.....Indianola Ia

Ernest J. McNamara

Marguerite B. McNamara

Mary E. McNamara

Ella Mc Namara

STATE OF Iowa

COUNTY OF Madison

ss.

On this 3 day of May, A. D., 1935, before me, Carl H. Lane,

a Notary Public in and for the state and county aforesaid, personally appeared Ernest J. McNamara and Marguerite

B. McNamara, husband and wife; Mary E. McNamara, single; Ella McNamara (also known

as Ella E. McNamara), widow

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

Carl H. Lane

Notary Public in and for the County of Madison, State of Iowa

My Commission expires July 4, 1936

