

## Mortgage Record, No. 86, Madison County, Iowa

J. H. WELCH, PRtg. CO., DES MOINES 7116

John K. Witherow et ux

#4855

Filed for record the 18 day of  
December A.D. 1936 at 10:35 o'clock  
A.M.To  
The Equitable Life Assurance  
Society of the United States

Fee \$ 1.90 ✓

Valda C. Bishop, Recorder

M O R T G A G E

THIS INDENTURE, Made the 1st day of June A.D. 1936 between John K. Witherow and Marguerite Witherow, husband and wife parties of the first part, hereinafter called Mortgagor, and THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES, a corporation, organized and existing under the laws of the State of New York, having its principal office at No. 393 Seventh Avenue, New York City, New York, hereinafter called Mortgagee;

WITNESSETH, That the said Mortgagors, in consideration of Thirty-five hundred dollars, to them in hand paid, the receipt whereof is hereby acknowledged, do by these presents grant, bargain, sell and convey unto the said mortgagee, and its successors and assigns forever, the following described Real Estate situated in the County of Madison, and State of Iowa, to-wit:

The North West Quarter of the North East Quarter and the North East Quarter of the North West Quarter and the East Twenty (20) Acres of the North West Quarter of the North West Quarter of Section Ten (10) in Township Seventy-six (76) North, Range Twenty-seven (27) West of the Fifth Principal Meridian

and containing one hundred acres, more or less.

Together with the privileges and appurtenances to the same belonging and also all of the rents, issues, use, and profits of said land and the crops raised thereon from now until the debt secured hereby shall be paid in full.

TO HAVE AND TO HOLD the same to the said mortgagee, its successors and assigns, forever.

And said mortgagors covenant with said mortgagee, its successors and assigns that they are lawfully seized of said premises, that the same are free from encumbrances and will warrant and defend the same against the lawful claims and demands of all persons, and do hereby relinquish all contingent rights in and to said premises, including the right of dower and homestead to said mortgagee.

CONDITIONED, HOWEVER, that if said mortgagors, heirs, executors, administrator or assigns shall pay or cause to be paid to the said party of the second part, its successors or assigns, the sum of Thirty-five hundred Dollars, with interest according to the terms of one promissory note bearing even date herewith, said note being executed by John K. Witherow and Marguerite Witherow, husband and wife, together with all other indebtedness secured here-

For Release of annexed Mortgage  
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by, then these presents to be void, otherwise to be and remain in full force and effect.

And the said mortgagors do hereby covenant, promise and agree to and with the said mortgagee as follows:

FIRST: So long as any of the indebtedness hereby secured shall remain outstanding and unpaid, the mortgagors agree to pay all taxes and assessments of any kind that may be levied or assessed within the State of Iowa upon said premises, or any part thereof, before the same become delinquent, and to procure and deliver to said mortgagee, its successors or assigns, on demand thereafter, the official receipt of the proper officer showing payment of all such taxes and assessments.

SECOND: The mortgagors further agree to pay all other debts that may become liens upon or charges against said property for repairs or improvements that are now or may hereafter be made thereon, and not to permit any lien of any kind to accrue and remain on said premises or any part thereof, or the improvements thereon, which might take precedence over the lien of this mortgage.

THIRD: The mortgagors herein further agree to keep said premises and the improvements thereon in good condition and repair, and not to commit or suffer waste thereof, and to procure and maintain policies of fire tornado and windstorm insurance on the buildings erected and to be erected upon the above described premises in some reliable insurance company or companies satisfactory to the mortgagee to their full insurable value which shall be not less than Twenty-five hundred Dollars (\$2,500.00), until the indebtedness hereby secured is fully repaid; provided, however, that if the policies of such insurance contain any condition or provision as to co-insurance the buildings shall be kept insured for a sufficient amount also to comply with such co-insurance condition, loss if any payable to the mortgagee or its assigns as its or their interest may appear. It is further agreed that all policies of insurance of whatever nature and of whatever amount, taken out on said improvements or fixtures thereto attached during the existence of the debt hereby secured, shall be delivered to said mortgagee, premiums paid. The mortgagors also agree to deliver all renewal policies, premiums paid, to the mortgagee at least three days before the expiration of the old policies. In<sup>v</sup> case of loss and payment by any insurance company, the amount of the insurance money paid shall be applied either on the indebtedness secured hereby or in rebuilding or restoring the damaged building as the mortgagee may elect.

FOURTH: And in the event the mortgagors shall fail to insure said property or to deliver the policies, premiums paid, as herein agreed, or to pay the taxes or assessments which may be assessed against the same, or the liens or claims which may accrue thereon, the mortgagee is hereby authorized at its election to insure the same and to pay the cost of such insurance, and also to pay said taxes, assessments, liens and claims, or any part thereof, or redeem from sale therefor, (irregularities in the levy or assessment thereof being expressly waived,) without said mortgagee waiving its right of foreclosure or any other right hereunder, and the mortgagors hereby agree to refund on demand the sum or sums so paid, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, and this mortgage shall stand as security therefor; and any such sum or sums so paid shall become a part of the indebtedness hereby secured.

FIFTH: The mortgagors hereby agree to pay on demand all expenses and attorney's fees incurred by said mortgagee by reason of litigation with third parties to protect the lien of this mortgage; and all money paid by said mortgagee for continuation of abstract or to protect the lien of this mortgage; and all money paid by said mortgagee for continuation of abstract or to protect the lien of this mortgage shall bear interest at the rate of seven per cent. per annum, payable semi-annually, and any such sum or sums so paid shall

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become a part of the indebtedness hereby secured.

SIXTH: But if the mortgagors shall fail to pay or cause to be paid the principal of said note or any installment thereof or of interest thereon when due; or shall fail to pay said taxes or assessments before the same become delinquent, or to keep said property insured, or shall fail to perform any other act or thing herein required of or agreed to be done, or in case of the actual or threatened demolition or removal of any building erected on said premises, the entire indebtedness hereby secured by this mortgage including all payments for taxes, assessments, insurance premiums, liens, expenses and attorney's fees herein above specified, shall, at the option of the mortgagee and without notice to mortgagor, be due and collectible at once by foreclosure or otherwise; and upon commencement of any foreclosure, or at any time thereafter and prior to the expiration of the time for redemption from any sale of said premises on foreclosure, any court of competent jurisdiction, upon application of the mortgagee, its successor or assigns, or the purchaser at such sale may at once, irrespective of the solvency or insolvency of the mortgagors or the then owner of the realty herein described, and without notice to the mortgagors, or any person claiming under them, appoint a receiver for said premises to take possession thereof, to collect the rents, issues and profits of said premises during the pendency of such foreclosure and until the time to redeem the same from the foreclosure sale shall expire, and the proceeds of said receivership, shall be applied by said receiver toward the payment of the indebtedness secured by this mortgage, or toward the payment of such part of the judgment rendered thereon as may remain unsatisfied after the sale of said real estate under special execution, or to repay to the holder of this mortgage any advancements which said holder may make, after the commencement of foreclosure action and before the expiration of the period of redemption, for taxes, assessments, and insurance, together with interest thereon at seven per cent per annum, payable semi-annually from the dates of such advancements, and from the proceeds of said receivership said receiver may make necessary repairs and keep said premises in proper condition and repair pending such sale and the expiration of the time to redeem therefrom, and to pay all taxes and assessments accrued or accruing or redeem from sales therefor up to the expiration of the period for redemption and to pay insurance premiums necessary to keep said premises insured in accordance with the provisions of this mortgage, and the expense of the receivership.

SEVENTH: If, while said note and mortgage is owned by a non-resident of the State of Iowa, any law is passed by said state imposing upon such non-resident holder, any tax upon the note or mortgage, or any liability to pay any part of the tax against the mortgaged premises, such holder, if it so elects, may declare the debt due and payable and the mortgage foreclosable without notice.

EIGHTH: It is further agreed that this mortgage, and the note and indebtedness secured hereby, are made and executed under, and are, in all respects to be governed by the laws of the State of Iowa.

NINTH: And it is agreed that if said note and this mortgage, or either of them, shall be placed in the hands of an attorney for collection or foreclosure or other legal proceedings the mortgagors will pay a reasonable attorney's fee for any service rendered by such attorney to said mortgagee in connection therewith and all expenses incurred, including costs of suit, together with all expense incurred in procuring abstracts of title for purposes of the foreclosure suit, and such attorney's fee, expenses and costs shall be considered as part of the indebtedness secured by this mortgage and collectible accordingly. The cost of releasing this mortgage shall be paid by the mortgagor.

TENTH: It is further agreed, That all the covenants and agreements of the mortgagors herein contained shall extend to and bind all executors, administrators, heirs and assigns, and shall inure to the benefit of the mortgagee, its successors and assigns.

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IN WITNESS WHEREOF, the said parties, of the first part hereunto set their hands the day and year first above written.

John K. Witherow  
Marguerite Witherow

STATE OF IOWA )  
COUNTY OF MADISON ) ss.

On this 8th day of September 1936, before the undersigned, a Notary Public in and for said County and State, personally appeared John K. Witherow and Marguerite Witherow, husband and wife to me personally known to be the identical persons whose names are affixed to the foregoing mortgage as grantors and acknowledged said instrument and the execution thereof to be their voluntary act and deed.

WITNESS my hand and Notarial Seal,  the day and year last above written.

My commission expires July 4, 1939.

Daniel J. Gallery  
Notary Public