

# Madison County, Iowa

Rebecca Hiskey

#2324

Filed for record the 4 day of  
April A.D.1941 at 1:35 o'clock  
P.M.

To

Fee \$ 2.00 ✓

W.R.& CLEO DAVIS

Pearl E. Shetterly, Recorder

## REAL ESTATE CONTRACT

THIS AGREEMENT, Made and entered into this 5th day of December A.D.1940 by and between REBECCA HISKEY, 1309 Franklin St., Cedar Falls, Iowa of the County of Blackhawk and State of Iowa, party of the first part, and W.R.Davis and Cleo Davis of the County of Madison and State of Iowa, party of the second part: WITNESSETH, That the said party of the first part, upon the performance of the agreements of the party of the second part as hereinafter mentioned, agrees to sell to the party of the second part, and the party of the second part, in consideration of the premises, hereby agrees to and with the party of the first party, to purchase the following described real estate situated in the County of Madison and State of Iowa, to-wit:

North Half (N $\frac{1}{2}$ ) of Lots One (1) and Two (2) in Block Four (4)  
of Danforth's Addition to the town of Winterset, Madison County,  
Iowa

for the sum of Six Hundred and 00/100 DOLLARS (\$600.00), payable as hereinafter stipulated to the party of the first part, his heirs or assigns, at first parties address as above stated as follows: Two Hundred and 00/100 Dollars (\$200.00) on the execution of this agreement, receipt of which is hereby acknowledged, and the balance of Four Hundred Dollars (\$400.00), and interest thereon as hereinafter provided, as follows, to-wit: Ten and 00/100 Dollars (\$10.00), or more, payable on or before the first day of each and every month beginning December 1st, 1940 until all of said principal sum and interest on every part thereof at the rate of 5% per cent per annum from December 5, 1940, payable monthly, is fully paid; said payments to be applied first in payment of all interest then accrued on the remainder of the said principal sum.

Party of the second part shall be entitled to possession of said premises on December 5 A.D.,1940, and thereafter so long as he shall perform the obligations of this contract. It is agreed in lieu of paragraph eight hereof, that the abstract to this property can not show a clear title in the first party until after the estate of Elizabeth Heater is closed at which time it will be presented to second party for examination and approval.

1. The party of the second part hereby agrees that no improvements placed upon said premises shall be removed or destroyed during the life of this contract; and agrees also to pay all taxes and assessments now on or that may later be assessed against said property as they become due or before they become delinquent, including the taxes for the 2nd $\frac{1}{2}$  1940, due and payable in the year 1941

2. And it is further agreed that the party of the second part shall keep all buildings on and hereafter placed upon said premises constantly insured against loss or damage by fire, lightning and windstorms, for the sum of \$600.00 and in such insurance companies as may be approved by the party of the first part, for the benefit of the said first party, such insurance policies to be written in the name of the title holder and placed in his keeping; and that said second party shall keep the buildings and other improvements on the said premises in good and reasonable repair; and that said second party shall not make any material alterations in said premises or create any lien thereon without the written consent of the said first party, or permit the said premises or any part thereof to be used for any unlawful purpose.

3. In default of the party of the second part paying such taxes and assessments, affecting insurance and making necessary repairs, as herein stipulated, the party of the first

## Town Lot Deed Record, No. 30

J. H. WELCH PRtg. CO., DES MOINES 7896

part may elect to pay such taxes, effect insurance and make necessary repairs, and all sums so expended, shall be due and payable on demand; or such sums so expended may, at the election of the said first party, be added to the principal amount due hereunder and bear a like rate of interest.

4. But in the event, the party of the second part fails to make the payments aforesaid, either principal or interest or any part thereof, as the same becomes due, or fails to pay the taxes and assessments or any part thereof, levied upon said property or assessed against him, before they or any of them become delinquent, or fails to keep the property insured and in reasonable repair as herein stated, or is the cause of any liens or judgments being placed against the property, or fails to perform any of the agreements herein made or required, the time and times of all payments and performances herein provided for being of the essence of this contract, then in any of said events the party of the first part, in addition to any and all remedies or rights of action which he may now have at law or in equity, shall have the right, at his option, and upon serving a thirty days' notice as provided by the Statutes of Iowa, to declare this contract null and void, in which case all the rights and interest hereby acquired or existing in favor of the said second party, his heirs, representatives or assigns, derived directly or indirectly from or under this contract, shall be forfeited and shall utterly cease and terminate, and the property above described shall immediately revert to and re-vest in the said first party as absolutely, fully and perfectly as if this contract had never been made, without any right of said second party for reclamation or compensation for money or property paid or improvements made, but such payments or improvements, if any, shall be taken by said first party as compensation for the use of said property, or as liquidated damages for the breach of this contract; and if the party of the second part, or any other person or persons shall be in the possession of said real estate or any part thereof, he or they will peaceably remove therefrom, or in default thereof he or they may be treated as tenants holding over unlawfully after the expiration of a lease, and may be ousted and removed as such by an action of forcible entry and detainer and it is agreed that the municipal court shall have jurisdiction in said action. In case the party of the second part defaults in making any of the payments herein provided for a period of sixty days after written demand therefor has been made by the party of the first part, the said first party may, without further notice, declare the entire amount of the balance unpaid hereunder, immediately due and payable; and thereafter, at the option of the said first party, a receiver may be appointed to take charge of said premises and collect the rents and profits thereof, to be applied as may be directed by the Court.

5. This contract shall be performed by the party of the second part, his heirs, representatives or assigns, at Winterset, Iowa, and any suit brought by the party of the first part may be brought in Winterset, Iowa. Whenever any action, either at law or in equity, is brought on this contract by the party of the first part, then the said second party agrees to pay a reasonable attorney's fee to the attorney of the said first party, to be taxed as part of the costs of the suit, and further agrees that any Justice of the Peace may have jurisdiction hereof to the amount of \$300.

6. It is further agreed that no extension of time of payment or waiver of default in the payment of any installment of principal or interest due under this contract shall affect the right of said party of the first part to require prompt payment of any subsequent installment of principal or interest, or to declare a forfeiture for non-payment thereof.

7. But if all said sums of money, interest and taxes are paid, as aforesaid, promptly at the time aforesaid, and all agreements on the part of the said party of the second part have been complied with, the party of the first part will, on receiving all said money and

## Madison County, Iowa

interest, and upon the surrender of the duplicate of this contract, execute and deliver or cause to be executed and delivered, to said second party, his heirs or assigns, a good and sufficient warranty deed conveying said premises in fee simple, subject, however, to all taxes and assessments, payment of which has been assumed by the said second party, and to all liens and incumbrances imposed on said premises by the said second party or his assigns, which deed shall contain the same building restrictions, if any, contained in this contract or now of record, and the said first party will then also furnish said second party with an abstract of title beginning with the Government patent, showing a good and merchantable title to said premises in grantor. The cost of all entries shown on said abstract of transactions of date subsequent to date hereof, which are not occasioned by the said first party, shall be added to the balance due hereunder.

8. It is understood that second party has examined the abstract of title to said property at this time and has approved said abstract to the date of this contract.

9. It is further understood and agreed by the party of the second part, and this sale is made upon the express condition that, the vendor, his heirs, legal representatives or assigns, may, and hereby reserves the right to, at any time, mortgage said premises, to any loan company for any amount not exceeding 50% of the purchase price provided said loan shall not exceed the then unpaid part of the purchase price herein provided. Any such mortgage is hereby expressly consented to and authorized by the party of the second part, who further agrees to sign all necessary papers in the execution of said mortgage, which he agrees shall be a lien upon said premises paramount and superior to any rights in said property acquired by the purchaser by virtue of this contract; provided however that interest on said mortgage shall not exceed 5% %.

10. When a first mortgage loan on said premises shall be negotiated by either party with any loan company, hereto, for the amount due hereunder, the party of the second part agrees to execute and deliver such mortgage, and the party of the first part upon receipt of such sum agrees to execute and deliver deed to the said second party; or when the said second party shall have reduced the amount due hereunder to the amount of any existing mortgage on said premises and accrued interest, if any, said second party shall assume said mortgage and receive deed to said premises subject thereto; or the said first party may reduce or pay off such mortgage. First party shall pay all interest and payments becoming due on any incumbrance on said premises during the life of this contract, and should the said first party fail to pay the interest or payments on any incumbrance on said premises, the said second party may pay such interest or payments and shall receive credit hereon for the amount so paid.

11. The party of the first part covenants and agrees/<sup>that</sup> he will collect no money hereunder beyond the amount of the value of his equity in said real estate; and if said first party shall hereafter collect or receive any moneys hereunder beyond the amount of value of his said equity he shall be considered and held as collecting and receiving said money as the agent and trustee of the party of the second part and for his use and benefit.

12. It is further agreed that the stipulations herein shall apply to and bind the heirs executors, administrators and assigns of the respective parties, and all assignees shall be held personally liable for the payment of the above sums of money and for the performance of all the agreements herein contained. In case of the assignment of this contract by either party, prompt notice shall be given to the other party.

Executed in triplicate

Rebecca Hiskey  
W\_R\_Davis  
Cleo Davis

State of Iowa County of Madison)ss.

On this 5th day of December, A.D.1940 before me, Jno.F.Hartley, a Notary Public in and

Town Lot Deed Record, No. 30

J. H. WELCH PRtg. CO., DES MOINES 7396

for the County of Madison, State of Iowa, personally appeared Rebecca Hiskey, W.R.Davis and Cleo Davis 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.

(Notarial Seal)

Jno.N.Hartley  
Notary Public in and for Madison County,  
State of Iowa.

| Date     | Cr. Amt.Paid | Interest | Balance Due |
|----------|--------------|----------|-------------|
| 12-5-40  | 10.00        |          | 390.00      |
| 12-30-40 | 10.00        | 1.63     | 381.62      |
| 1-29-41  | 10.00        | 1.59     | 373.22      |
| 3-22-41  | 10.00        | 1.55     | 364.87      |
| 3-22-41  | 10.00        | 1.51     | 356.38      |

COMPARED