

Deed Record, No. 78, Madison County, Iowa

The Travelers Insurance Company
To
Arthur B. Smalley and Dollie M. Smalley, husband and wife,

#2210
Fee \$4.50

Filed for record the 7 day of
May A.D. 1942 at 3:44 o'clock
P.M.
Pearl E. Shetterly, Recorder

LAND CONTRACTIowa

THIS AGREEMENT, Made and entered into this 31st day of January, 1942, by and between THE TRAVELERS INSURANCE COMPANY, a Connecticut corporation, hereinafter referred to as the "Seller," and Arthur B. Smalley and Dollie M. Smalley, husband and wife whose post office address is Norwalk, Iowa hereinafter referred to as the "Purchaser";

WITNESSETH: The Seller agrees to sell all of its right, title and interest in the following described land in Madison County, Iowa, to-wit:

The North Half of the Northeast Quarter (N $\frac{1}{2}$ NE $\frac{1}{4}$) of Section Twenty-two (22); the South Half of the Southeast Quarter (S $\frac{1}{2}$ SE $\frac{1}{4}$) and the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section Fifteen (15); the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Twenty-three (23), and the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section Fourteen (14), Township Seventy-six (76) North, Range Twenty-seven (27), West of the 5th P.M.

and the Purchaser agrees to buy the same upon the following terms and conditions, to-wit:

1. The purchase price which the Purchaser agrees to pay for the same is the principal sum of Eleven Thousand, Five Hundred and no/100 Dollars (\$11,500.00) which sum with interest on the unpaid balance thereof at the rate of five per cent (5%) per annum from March 1st, 1942 until maturity is payable as follows, to-wit:

\$500.00	at the signing of this contract, the receipt of which is hereby acknowledged by Seller, and
\$500.00	on the unpaid balance on
\$750.00	together with (plus) interest on the unpaid balance on
\$225.00	together with (plus) interest on the unpaid balance on
\$225.00	together with (plus) interest on the unpaid balance on
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The balance of the purchase price, to-wit, the principal sum of Eight Thousand, Six Hundred, Twenty-five and no/100 Dollars (\$8,625.00) shall be represented by a promissory note payable to the order of the Seller in the principal sum last above stated; dated on or about March 1st, 1947; maturing on March 1st, 1957; bearing interest from March 1st, 1947 until maturity at the rate of four and one-half per cent (4 $\frac{1}{2}$ %) per annum, payable ^{on} March 1st, 1948 and annually thereafter; and providing for annual principal reductions in the amount of \$200.00 each, beginning March 1st, 1948, and the entire balance payable at maturity.

Purchaser is given a full option of prepayment on that portion of the purchase price in excess of the principal sum of the purchase money note and mortgage described and any such prepayment shall correspondingly advance to an earlier date the date on which said purchase money note and mortgage shall be given and the maturity dates of all remaining payments, including

Deed Record, No. 78, Madison County, Iowa

the final balance, so that all principal payments under this contract and said note and mortgage shall continue to be paid annually without interruption and without decrease in amount (except any necessary adjustment in the final balance). Under said note and mortgage, Purchaser shall be given a prepayment privilege limiting optional principal reductions during any one year to one-fifth of the original principal sum of said note and mortgage, and any such prepayments shall be applied on the principal in the inverse order of its maturity and without reduction or postponement of the installments remaining to be paid.

The said note shall be secured by a first lien purchase money mortgage on the above described land, and both the said note and purchase money mortgage shall be executed by the Purchaser and his spouse (if Purchaser is married), and shall be on form of instrument provided and approved by the Seller.

It is mutually understood and agreed that if for any reason the aforesaid purchase money mortgage is not then in the opinion of the Seller a first lien on the land and premises, then, and in that event, the above provision relating to the purchase money mortgage for the unpaid principal balance shall be voidable at the election of the Seller and the Seller may refuse to deliver deed and in such case this contract shall remain in full force and effect until the entire purchase price and interest on the unpaid balance thereof have been fully paid, payment of the principal sum and interest on the unpaid balance thereof being made under this contract precisely in the manner described above under the purchase money note.

All principal and interest not paid when due shall draw interest at the rate of seven per cent (7%) per annum from due date until paid.

All sums are payable in lawful money of the United States of America at the Branch Office of Seller in Des Moines, Iowa.

2. The Seller within thirty days from the date hereof shall deliver to the Purchaser or at the office of J. B. Weede, 730 Des Moines Building, Des Moines, Iowa an abstract of title to said land extending from the United States Government to this date. The Purchaser agrees to accept the form of the abstract now owned by Seller. The Purchaser shall have fifteen days after receipt of said abstract to examine the same. If the Purchaser finds Seller's title to be acceptable, the Purchaser shall, within the time above specified, notify the Seller of his approval of the said title on a form approved by the Seller and at the same time shall return the said abstract to the Seller. If the Seller's title is not acceptable, the Purchaser agrees to return, within the time^{above} specified, the abstract to the Seller, together with a written memorandum signed by the Purchaser, or his attorney, specifying in detail his objections to the title. The Seller shall have a reasonable time (in no event less than one hundred days) thereafter in which to meet said objections. Failure by the Purchaser to make objection to said title in the manner and within the time herein specified shall constitute acceptance and approval of the title by the Purchaser and shall be conclusive evidence that the title shown is satisfactory to him.

If the Purchaser, within the time allotted to him, shall set up valid and material objections to the title which the Seller in its absolute discretion finds, after a reasonable time and by the expenditure of reasonable efforts, it cannot cure or rectify, the Seller at its election may declare this contract to be null and void, and may thereupon without further liability or responsibility return to the Purchaser such moneys as may have theretofore been paid by him to the Seller; provided, however, that if prior to such election by the Seller, the Purchaser shall have entered into possession of said land, the Seller in that event shall be entitled to retain from the moneys paid by the Purchaser such portion thereof as will be fair and reasonable compensation for the occupation of said land by him.

Upon approval of title by the Purchaser as aforesaid, the abstract shall be retained by

Deed Record, No. 78, Madison County, Iowa

ACRES-BLACKMAR CO., BURLINGTON, 23057

the Seller until this contract has been fully performed; and if any part of the purchase price is to be represented by a note executed by the Purchaser, the Seller shall retain the abstract until said note and all renewals thereof, if any, are fully paid.

3. Seller agrees to pay all installments of the general taxes levied upon said land for the year 1941, payable in the year 1942, and all prior years' general taxes; and such individual installments of special assessments as become delinquent prior to January 1st, 1942, but none other.

Purchaser agrees to pay all installments of the general taxes levied upon said land for the year 1942, payable in the year 1943, and all subsequent general taxes so levied or imposed; and to pay any and all installments of special assessments from and after January 1st, 1942, as the same shall become due and payable whether the assessment shall have been levied prior or subsequent to the date of this contract; and agrees, upon demand, to deliver to the Seller official receipts showing the payment of said taxes and assessments.

4. Purchaser agrees that from and after the signing of this contract by the Seller, Purchaser shall bear any and all risks and shall bear any and all losses (except to the extent that such losses may be diminished by the application of the proceeds available from the insurance coverage and other sources hereinafter specified) sustained by reason of damage, injuries or losses that may be suffered by the land itself and/or by the structures thereon from any cause whatever, and that notwithstanding such losses, damage or injuries, each and all of Purchaser's covenants hereunder shall remain unimpaired and in full force and effect.

In accordance with the foregoing it is understood and agreed that if any of the buildings or improvements on said premises shall be damaged or destroyed by fire, lightning, windstorm, or other causes prior to the date the Seller delivers its deed to the Purchaser as herein-after provided, the Seller shall be under no obligation whatsoever to repair or rebuild the buildings or improvements so damaged or destroyed, and it is further understood and agreed that there shall be no adjustment of the purchase price.

5. The Seller agrees to insure until March 1st, 1942, the buildings listed below against fire and windstorm loss in amounts shown as follows: House - \$1500; Barn - \$700; Corncrib & Shed, combined - \$700; Poultry House - \$200 Garage - \$125; It is also mutually agreed that no insurance coverage shall be placed upon the balance of the improvements, to-wit: 2 3-sow portable hog houses, until such time as the said insured improvements shall become insurable and thereafter the said improvements shall be insured in accordance with the remaining provisions of this section. Seller's agreement to insure the above buildings for the above stated period of time and the securing of insurance pursuant thereto shall not in any way affect the provisions under Section 4. relative to risk of loss; the provisions of said Section 4. shall remain controlling.

on the date last above stated Purchaser shall pay to the Seller the unearned premiums (computed from such date) upon the insurance policies carried by the Seller as above provided. From and after said date, the Purchaser, at his own expense, shall keep all buildings and improvements upon said land continuously insured against loss by fire, lightning and windstorm to their full insurable value, and covenants that all insurance shall be procured in responsible insurance companies approved by the Seller, that all insurance shall be promptly procured and all policies without exception shall be delivered, when issued, to the Seller with premiums fully paid, and that all policies without exception shall name and be payable to the Seller as the insured and shall carry proper endorsement showing ~~in~~ the Purchaser's interest and providing that the proceeds in the event of loss or losses shall be payable first to the Seller to the full extent of its interest in the premises with remainder, if any, to the Purchaser.

6. Purchaser agrees that in the event all or any portion of said premises are condemned

Deed Record, No. 78, Madison County, Iowa

by reason of eminent domain proceedings, or if settlement be made without such proceedings, ~~or if settlement be made without such proceedings~~ being resorted to, the compensation or settlement proceeds payable thereunder shall be paid to the Seller and applied as hereinafter set forth; that the Seller shall be relieved from its obligation hereunder to convey the portion of said premises so condemned or otherwise acquired; and that this contract as to the remainder of said premises shall continue in full force and effect as if made originally for the sale only of such remainder. The obligation of the Purchaser to pay the full purchase price hereinbefore mentioned shall continue in full force, notwithstanding such eminent domain proceedings or any condemnation thereunder or any settlement made without such proceedings.

7. Purchaser agrees that all insurance proceeds, condemnation awards, proceeds from voluntary or amicable settlements, damage payments, and proceeds from any and all other types of settlement shall be paid to and received by the Seller and shall be applied by the Seller (unless the Seller elects, in a case by it deemed appropriate, to apply such proceeds toward restoring the improvements damaged or destroyed):(1) to the payment of the balance of principal in the inverse order of its maturity, that is, to the last maturing portion thereof first,(2) to the payment of accrued interest, (3) to the payment of all advancements and interest thereon, (4) the surplus, if any, after the above items are fully paid and discharged, to be paid to the Purchaser.

Purchaser agrees that the obligation and responsibility of the Seller with respect to losses and settlements of any sort or description shall always be strictly limited and restricted to the application, as above set forth, of the amount of loss or settlement proceeds paid to and received by it; and that all losses not recouped through the receipt and application of such available proceeds shall be borne and sustained by the Purchaser.

8. Purchaser certifies that he has examined said premises prior to his execution of this contract, that he is satisfied with the physical condition of said premises and agrees that his execution of this contract shall be conclusive evidence that the condition of said premises is satisfactory to him. Purchaser further certifies that no representation as to the condition of said premises has been made by the Seller or its agent and that no agreement or promise to alter, repair or improve said premises has been made by the Seller or its agent, except as it may be expressly stated herein.

Purchaser further represents that he has not negotiated for the sale or resale of these premises to any third parties whatsoever and that he has not represented himself, in any transaction concerning these premises, to be the agent of the Seller.

9. Purchaser agrees that he will in no manner whatsoever cause any impairment of title to the above described premises.

10. Seller agrees to deliver possession of the above described premises on March 1st, 1942 (there being a current agricultural lease terminating March 1st, 1942), or, if it does not have possession thereof on said date, as soon thereafter as it can obtain possession by legal process. It is mutually agreed that the Seller shall not be held accountable for any unpaid rents nor for any damages for delay in delivering possession.

It is mutually agreed that the rents, income and profits from the premises shall be divided, prorated, or distributed between the parties hereto as follows:
The current agricultural lease, expiring March 1, 1942, together with all accruals thereunder, shall be retained by the Company.

11. Purchaser agrees that buildings and improvements on said land and any and all appurtenances to such structures and fixtures thereon belonging to or used as a part thereof, shall not be removed from the land but shall be and remain a part of the real estate and as such the Property of the Seller until this contract shall be fully performed by the Purchaser, and

Deed Record, No. 78, Madison County, Iowa

ACRES-BLACKMAR CO., BURLINGTON, 23057

shall pass
to the Seller as part and parcel of the premises in the event of termination or cancellation of Purchaser's rights hereunder.

Purchaser agrees to maintain the land in a good state of cultivation, and neither to commit nor permit waste. Purchaser agrees to use all manure produced by the stock on said premises as fertilizer thereon and to keep said premises free from foul and noxious weeds and growths and to observe at all times the best practices as to crop rotation, fertilizing the soil and the prevention of erosion.

12. Purchaser agrees that in case he fails to pay any tax or assessment or imposition or installment thereof, or to keep said premises insured as above provided, the Seller may, at its option, and without waiver of any right arising from Purchaser's breach of any of these covenants, pay such taxes or assessments or impositions or installments thereof, or effect such insurance, and all moneys paid for any such purpose shall be forthwith due and payable, with interest thereon at the rate of seven per cent (7%) per annum as an additional amount due the Seller hereunder.

13. Purchaser agrees that until all of the terms of this contract have been strictly complied with by the Purchaser, and deed is issued by the Seller, the Seller shall have a first lien on all rents or profits and whatever other income may accrue from said land as security for the payments hereinbefore set out.

14. Upon payment in full by the Purchaser to the Seller of the cash principal payments hereinabove specified totaling Two Thousand, Eight Hundred, Seventy-five and no/100 Dollars (\$2,875.00), and upon payment of all accrued interest then due, and upon execution and delivery by the Purchaser and his spouse (if married) to the Seller of the aforesaid promissory note and first lien purchase money mortgage (if such note and mortgage are to be executed and delivered as part of the purchase consideration under the foregoing terms of this contract), and upon full performance by the Purchaser of all other covenants and obligations imposed upon him by this contract, and upon surrender by the Purchaser of his copy of this contract to the Seller, then the Seller shall execute and deliver to the Purchaser its special warranty deed, naming Arthur B. Smalley and Dollie M. Smalley, husband and wife as grantee therein, conveying its title to the said lands and premises to the said grantee subject to: (a) the current agricultural lease, (b) any and all existing mineral reservations or grants, (c) any and all existing or unreleased oil and gas or other mineral leases, (d) all roads and highways and the rights of the public therein, whether established by grant in fee, or by way of easement grant or by use, (e) any and all easements and rights-of-way, (f) all taxes and assessments and impositions and installments thereof, either general or special, which the Seller under this contract does not agree to pay, (g) all unpaid bonded and/or certificate indebtedness for drainage or other purposes, (h) such encumbrances as parties other than the Seller may hereafter place or cause to be placed upon the premises, (i) any physical diminution that may hereafter be suffered by the premises, and further subject to: ----

Purchaser agrees to pay all expenses in connection with the recordation of Seller's deed and the aforesaid mortgage, if any, and all expenses incurred in connection with extending the abstract of title to show the entire sales transaction completed and of record.

It is understood and agreed that if the Purchaser is to execute the aforesaid note and first lien purchase money mortgage for any portion of the purchase price the said instruments shall be delivered to the Seller duly executed by the Purchaser and his spouse (if married) simultaneously with the delivery of Seller's deed to the Purchaser.

15. It is mutually agreed that all fixtures now or hereafter owned or claimed by the tenant and all portable objects and personal property items are not part of the premises herein bargained for, and are hereby expressly excluded from this sales transaction.

Deed Record, No. 78, Madison County, Iowa

Furthermore, the Purchaser hereby assumes all responsibility for making whatever arrangements may be necessary with said tenant with respect to the items above mentioned.

16. The Purchaser certifies that he was caused to purchase the above described property by J.B.Weede, 730 Des Moines Building, Des Moines, Iowa who acted as the real estate broker in inducing him to make the purchase, and that no other broker had any connection whatsoever with the transaction.

17. This contract shall not be assigned without the prior written consent of the Seller having been obtained; provided, however, that if the Purchaser shall assign or attempt to assign the same without having first obtained the written consent therefor from the Seller then and in that event the entire principal balance under this contract shall, at the election of the Seller, at once become due and payable.

18 (Special Provisions) The purchaser agrees to pay for all plowing which may have been done on the premises at the rate of \$1.50 per acre upon delivery of the contract.

19. Time is of the essence of this contract. In case the Purchaser fails to make at the times specified any of the required payments as hereinbefore set out either as to principal or interest, or any part thereof, as the same become 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 as aforesaid, or fails to perform strictly and literally any of the covenants on his part herein made and entered into, each and every covenant being deemed material and interdependent and as going to the whole consideration, and the time and times of all payments and performances herein provided for being strictly of the essence of this contract, then the Seller shall have the immediately accruing right, at its option, either:

FIRST, to cancel and terminate the Purchaser's interest under this contract by a written notice as provided by statute, and thereupon all right, title and interest in the said real property acquired by the Purchaser herein shall cease and determine and the Seller shall be forthwith reinvested with all Purchaser's right, title and interest therein and shall have the right to re-enter and take possession of said real property, without any right of said Purchaser for reclamation or compensation for money or property paid, or improvements made, but such payments and improvements shall be taken and retained by the Seller as compensation for the use of the property and/or as liquidated damages for the Purchaser's breach of this contract; or

SECOND, to proceed by action in equity to foreclose this contract for the whole principal amount due and to become due thereon together with interest (the whole balance of the principal and accrued interest of the contract being declared immediately due and payable) and statutory attorney's fees and to secure the appointment of a receiver to take charge of the premises during the pendency of the action, or for specific performance of this contract, or for any other relief which the Court may deem equitable in the premises.

It is expressly agreed that if any default or breach be made by the Purchaser in the performance of his obligations hereunder, the failure of the Seller promptly to exercise or assert its right hereunder to terminate all of Purchaser's rights and interest hereunder or to pursue any other remedy by reason of such default or breach by Purchaser, shall not constitute nor be deemed or construed a waiver of any such right while such default or breach continues nor a waiver of any such right in connection with any future default or breach.

20. This agreement constitutes the entire agreement between the Seller and the Purchaser, and the Seller is not bound by any agreement, condition, stipulation, understanding or representation, if any, made by any of its agents and not herein contained.

Deed Record, No. 78, Madison County, Iowa

ACRES-BLACKMAR CO., BURLINGTON. 23057

21. The word "Purchaser" and all personal pronouns and relative words used herein with reference to the purchasing party or parties shall apply regardless of number or gender.

22. This agreement shall not be binding upon the Seller until the signature of a Vice-President of the Seller has been placed hereon, notwithstanding any statement of any person to the contrary.

It is agreed that the receipt and deposit by the Seller of the down payment or any check or money order therefor made or given by the Purchaser under this contract shall not be construed as an acceptance of this agreement by the Seller.

If this agreement is not accepted by the Seller in the manner above stated, all moneys, if any, received by it from the Purchaser under this contract shall be repaid to him without interest. IN TESTIMONY WHEREOF, The Seller has caused this Contract to be signed with its Corporate Seal attached and the Purchaser has subscribed his name, all the day and year first above written.

Witness:

L.F. Butler

M L Whalen

Witness:

N E Barnes

(Corporate Seal)

THE TRAVELERS INSURANCE COMPANY
By H A Giddings Vice President
And B.T.Bent Secretary
Seller
Arthur B. Smalley
Dollie M Smalley
Purchaser

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State of Connecticut, County of Hartford, ss.

On this 13th day of February, A.D., 1942, before me, F.C. Smith, a Notary Public in and for Hartford County, Connecticut, personally appeared H.A. Giddings and B.T. Bent to me personally known, who being by me duly sworn did say that they are respectively the Vice-President and Secretary of said THE TRAVELERS INSURANCE COMPANY and that the seal affixed to said instrument is the seal of said Corporation, and that said instrument was signed and sealed in behalf of said Corporation by authority of its Board of Directors and said H.A. Giddings and B.T. Bent acknowledged the execution of said instrument to be the voluntary act and deed of said Corporation by it voluntarily executed.

(Notarial Seal) F.C. Smith
My commission expires January 31, 1944 Notary Public in and for Hartford County, Connecticut.

STATE OF Iowa COUNTY OF Polk ss.

On this 31st day of January, A.D. 1942, before me Elizabeth Fisher a Notary Public in and for the County of Polk, State of Iowa, personally appeared Arthur B. Smalley and Dollie M. Smalley, husband and wife 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.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed my Notarial Seal the day and year last above written.

NOTARIAL
SEAL

Elizabeth Fisher
Notary Public in and for Polk County, State of Iowa
My commission expires July 4, 1942.