

Deed Record, No. 77, Madison County, Iowa

J. H. WELCH PRtg. CO., DES MOINES 7889

The Federal Land Bank of Omaha	#939	Filed for record the 6 day of February A.D. 1941 at 4:10 o'clock P.M.
To	Fee \$2.40 ✓	
E. V. Fairholm & wife		Pearl E. Shetterly, Recorder
	Original Borrower	Loan Number
	O.S. Rutherford	5260 I 125

AGREEMENT

THIS AGREEMENT made this 13th day of December, 1940, between THE FEDERAL LAND BANK OF OMAHA, hereinafter referred to as the Seller, and E. V. Fairholm and Florence Fairholm, his wife, of

St. Charles, Madison, Iowa hereinafter referred to as the Buyer,
Post Office Address County State

WITNESSETH:

(1) The Seller hereby sells to the Buyer and the Buyer hereby purchases from the Seller, the following described real estate, situated in Madison County, State of Iowa, subject to any existing highways, easements and ^{any} reservations in the United States and State patents, to-wit:

The west half of northeast quarter of section twenty-eight in township seventy-five north, range twenty-seven west, fifth P.M., except a piece of land twenty-six feet wide lying on the south side of the southwest quarter of northeast quarter of section twenty-eight, township seventy-five north, range twenty-seven west, fifth P.M., described as follows: Commencing at the southwest corner of the said SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 28-75-27, thence east thirteen hundred twenty feet, thence north twenty-six feet, thence west thirteen hundred twenty feet, thence south twenty-six feet to place of beginning.

together with the buildings and improvements thereon, except: one frame brooder house 8' x 12' one round, steel, water tank, 5' in diameter for a total consideration of \$3200.00 which

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Buyer agrees to pay to Seller at its office in Omaha, Nebraska, with interest on the balance of such purchase price remaining from time to time unpaid, payable semi-annually on the hereinafter designated principal payment dates, to be computed at the rate of 4% per annum from the 1st day of March, 1941 for the first year thereafter, and at the rate of 4½% per annum for the next year thereafter, and at the rate of 5% per annum from the expiration of said second year until said balance is fully paid. Seller acknowledges receipt of \$200.00 cash in hand paid. It is agreed that the balance of said purchase price, to-wit: \$3,000.00 with interest as hereinbefore provided, shall be paid in installments, in the following manner:

\$	200.00	on or before the	1st day of	February,	1941;
		Interest only on	1st day of	September, 1941,	
\$	100.00	on or before the	1st day of	March,	1942;
\$	50.00	on or before the	1st day of	September,	1942;
		and a like sum on or before the first day of each March and September			
		up to and including September 1, 1961 and			
\$	750.00	on or before the	first day of	March,	1962;

It is agreed that any and all such payments, either principal or interest, not paid when due shall bear interest at 7% per annum from due date until paid.

(2) It is agreed the Seller, at its option, may convey title to the Buyer at any time during the existence of this agreement, and require Buyer to execute a note(s) and mortgage(s), payable in accordance with amortization plan and tables prescribed by the Seller and the Farm Credit Administration for a regular amortized Federal Land Bank loan, for so much of balance of purchase price as will not exceed loanable per cent of normal appraised value of above lands, and note(s) and mortgage(s) for such balance of purchase price as is not eligible for^{regular} amortized Federal Land Bank loan(s), payable on amortized basis, conditioned that any such semi-annual payment(s), on any such note(s) and mortgage(s) shall not exceed in amount the semi-annual payments required to be paid by this agreement, and for this purpose the Buyer agrees to execute the necessary application(s) for such Federal Land Bank loan(s), pay the usual fees and charges of the Seller and the proper national farm loan association incident to the making thereof, subscribe and pay for stock in the proper national farm loan association in an amount equal to 5 per cent of such loan(s) and execute necessary note(s) and mortgage(s), and procure execution of any such note(s) and mortgage(s) by any other required signatories and pay all recording fees incident thereto, PROVIDED, upon tender of conveyance, the Buyer may, in lieu of execution of note(s) and mortgage(s) pay the balance of purchase price in cash, and in event of Buyer's failure and refusal to provide the Seller with note(s) and mortgage(s) duly executed by all required parties, such balance of purchase price shall, at the option of the Seller, immediately become due and payable.

(3) Seller agrees that, unless the option reserved to it in paragraph (2) hereof be sooner exercised, it will, when the total consideration above mentioned is fully paid, furnish to Buyer an abstract of title to said premises showing merchantable title in Seller subject to such taxes and assessments levied against said premises and other liens thereon as Buyer is by this agreement obligated to pay, and subject to any and all encumbrances which may be or become a lien upon the interest of Buyer in said premises, and will convey said premises to Buyer by a deed of conveyance containing covenants of seizen and right to convey, subject to said taxes, assessments, and encumbrances. Should Seller be unable to make said abstract show merchantable title within a reasonable time, it reserves the right to refund to Buyer all sums paid to it on said purchase price, with interest thereon at 3% per annum from date of payment by Buyer, after deducting the fair and reasonable rental value of said premises during the period Buyer may have had possession thereof, whereupon all of Buyer's rights therein shall absolutely cease and terminate, and Buyer shall have no claim or right of any kind against the Seller.

(4) It is further agreed that Buyer shall pay all taxes and assessments levied against said premises which become due and payable subsequent to March 1st, 1941 including any

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installments of special assessments which mature subsequent to said date and also any special assessments levied against said premises after the date hereof, regardless of when the same become due and payable. Seller shall pay all taxes and assessments which become due and payable on or prior to said March 1st, excepting any special assessments levied against said premises after the date hereof. Buyer shall keep all insurable improvements insured against, fire, lightning, windstorm, and tornado from and after March 1, 1941, to the satisfaction of Seller, said insurance to be payable to Seller as its interest may appear at time of loss, and to deliver the policies of insurance to Seller; said obligation to furnish insurance shall continue so long as any part of said purchase price shall remain unpaid. If Buyer fails to furnish said insurance, or to pay said taxes or assessments before the same become delinquent, Seller may, at its option, procure such insurance and/or pay such taxes and assessments, the amounts expended therefor, with interest at 7% per annum, to be added to the installment of the purchase price next falling due, and to be paid by Buyer to Seller on the date said next installment becomes due and payable.

that
(4a) It is further agreed/in case of loss or damage to said improvements by fire, lightning, windstorm, or tornado after the date of the approval and execution of this agreement by the Seller and prior to March 1, 1941, the proceeds of such insurance placed on said improvements by Seller, as may be in force upon the date of such loss, shall be accepted by Buyer as and constitute full replacement for the improvements so damaged or destroyed. Said proceeds to be used in repairing or rebuilding said improvements, or to be applied upon that portion of the principal of the purchase price last becoming due and payable, at Buyer's election. Nothing herein shall be construed to prevent Buyer from procuring additional insurance on said improvements for said period at his own expense. Seller shall not be liable to Buyer for any loss or damage to said improvements not covered by insurance which occurs after the date of the approval and execution of this agreement by the Seller.

(5) Seller shall retain possession of said premises until March 1, 1941, at which time it shall (except as hereinafter stated) deliver possession thereof to the Buyer, providing that upon said date Buyer is not in default in performance of any of the agreements herein agreed by him to be performed.

(6) Buyer covenants and agrees while he is in possession of said property to abstain from the commission of waste thereon; to keep the buildings thereon in as good repair as they now are; not to sell and remove gravel, coal, gas, oil, minerals, timber or soil therefrom without the written consent of the Seller thereto, except for use on the premises; and to assign any contract for the sale of such materials to the Seller as additional security for the payment of said purchase price; not to tear down or destroy or remove any buildings situated on said premises, and that any buildings erected thereon or improvements added thereto by the Buyer, shall become a part of said real estate.

(7) The Buyer, to secure his performance of the provisions of this agreement, hereby grants and conveys to the Seller a lien upon any and all crops growing or to be grown upon said premises so long as any part of said purchase price remains unpaid, said lien to constitute and be treated in all respects as a chattel mortgage. Should the above described premises be located in a jurisdiction where a present chattel mortgage of crops to be grown in the future is invalid, then in such case the Buyer hereby specifically agrees that he will on demand by Seller, execute and deliver to Seller a chattel mortgage on the growing or harvested crops on said premises to secure his performance of the provisions of this agreement. Should Buyer lease said premises to a third person, it is agreed that Buyer will on demand by Seller, execute and deliver to Seller an assignment of all rents reserved to Buyer by the terms of said lease to secure the performance by Buyer of the provisions of this agreement.

(8) It is understood and agreed that time is the essence of this agreement and that in the

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event of failure of Buyer to perform any or all of the agreements herein agreed by him to be kept or performed or in the event Buyer shall assign his interest in this agreement without obtaining the Seller's written consent thereto, the Seller may at its option (1) declare the whole balance of said purchase price, together with any amounts expended by it pursuant to this agreement, due and payable at once, and may maintain either a suit at law for the balance due Seller, or a suit in equity for the foreclosure or for specific performance of this agreement, or (2) declare a forfeiture of this agreement and retake possession of said premises and retain all amounts paid by Buyer and all improvements by him made on said premises, as rental and liquidated damages. Seller further reserves the right upon default in the payment of any sum herein agreed to be paid by the Buyer, to sue at law for the sums so due without accelerating the date of maturity of the remainder of said purchase price and without waiver of any of its rights hereunder.

(9) It is agreed that: The Seller shall have the right at all times to enter upon said property by its representatives or employees, for the purpose of viewing the same or supervising cultivation thereof, or making improvements thereon; the Seller may enforce any of the provisions and stipulations of this agreement at any time and any forbearance by the Seller shall not be construed as a waiver of any right to enforce any of the provisions of this agreement; the Buyer shall pay the costs and expenses of any legal proceedings brought by the Seller to enforce any of its rights under this agreement, including a reasonable attorney's fee for Seller's attorney. The interest of the Buyer in this agreement can only be assigned with the written consent of the Seller, and the acceptance of payments by the Seller from any assignee of the Buyer shall not constitute a waiver by the Seller of the Buyer's personal liability to the Seller.

(10) The following shall and do constitute the sole and only special agreements between the parties, to-wit: -----

(11) It is understood and further agreed that this agreement is made expressly subject to the acquisition, by the Seller, of title to and possession of the property herein agreed to be sold, and that, if the Seller does not acquire title to, or for any reason cannot deliver possession of said premises to the Buyer at the time hereinbefore stated, then and in either of such events the Seller may, at its exclusive option, refund to the Buyer all amounts of cash paid by the Buyer on said purchase price, together with interest thereon at 3 per cent per annum from the respective dates of payment, after deducting the fair and reasonable rental value of said premises for the period during which the Buyer may have had possession of said premises, and that, upon the tender of such refund to the Buyer, this agreement shall be null and void and the Buyer shall thereafter have no right or claim of any kind against the Seller.

(12) It is specifically agreed that any representation, promise or agreement made by the representative of either of the parties hereto not contained in this agreement, shall not be binding upon the parties hereto, and shall in no wise affect ^{the} validity of this agreement or any part thereof.

(13) It is agreed that this agreement duly executed by the Buyer shall not be binding upon the Seller until approved and accepted by the Executive Committee of The Federal Land Bank of Omaha and executed by the proper officer or attorney in fact of Seller, and when so executed same shall be binding upon both parties hereto and their heirs, representatives, successors and assigns.

(14) Any party hereto who is a married woman, hereby specifically binds her separate estate both that owned on the date hereof and any that she may subsequently acquire.

(15) The sum tendered herewith and all payments made or tendered to the Seller hereunder if not in money, will be accepted by the Seller for collection only, and the Seller shall be responsible only for the application or return as the case may be of cash proceeds thereof

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received by it.

In witness whereof, the parties hereto have caused this agreement to be executed.

Witness:

B Peck
W F Wahrer

COMPARED

The Federal Land Bank of Omaha
By Leo E Manion
Vice President Seller
E. V. Fairholm
Florence Fairholm Buyer