

REC 222
AUD \$

REAL ESTATE CONTRACT - INSTALLMENTS

IT IS AGREED this 16 day of October, 1992, by and between Jeanne S. Jennings, as trustee for the Diane Marie Jennings First Trust, Seller, and Jeanne S. Jennings, as trustee for the Paul Steven Jennings First Trust, Johnston, Polk County, Iowa, Buyer:

That the Seller, as in this contract provided, agrees to sell to the Buyer, and the Buyer in consideration of the premises, hereby agree with the Seller to Purchase the Seller's undivided one-fourth interest in the following described real estate situated in the County of Madison, State of Iowa, to-wit:

See attached legal description

together with any easements and servient estates appurtenant thereto, but with such reservations and exceptions of title as may be stated, and certain personal property if and as may be herein described or if and as an itemized list is attached hereto and marked "Exhibit A" all upon the terms and conditions following:

1. **TOTAL PURCHASE PRICE.** The Buyer agrees to pay for said property the principal amount of Eighteen Thousand Two Hundred and Forty Dollars (\$18,240.00) together with interest at the rate of 6% per annum on the unpaid balance from January 1, 1993 until paid in full. Buyer will pay according to the following schedule:

- (a) DOWN PAYMENT of \$0.00 RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED; and
- (b) BALANCE OF PURCHASE PRICE, as follows:

Principal	Interest	Total	Date Due
\$ 4,560.00	\$.00	\$4,560.00	1-1-93
4,560.00	820.40	5,380.40	1-1-94
4,560.00	547.20	5,107.20	1-1-95
4,560.00	273.60	4,833.60	1-1-96

CONFIRMED
✓
✓
✓

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RECORDER
MADISON COUNTY, IOWA

2. **POSSESSION.** Buyer, concurrently with due performance on their part shall be entitled to possession of said premises on the 31st day of December 1992; and thereafter so long as they shall perform the obligations of this contract. If Buyer are taking subject to the rights of lessees and are entitled to rentals therefrom on and after date of possession, so indicate by "yes" in the space following: yes.

3. **TAXES.** Seller shall pay all real estate taxes payable in 1992-93 fiscal year, and the installment of real estate taxes that would be delinquent if not paid by 10-1-93 and any unpaid taxes thereon payable in prior years. Buyer shall pay any taxes not assumed by Seller and all subsequent taxes before same become delinquent. Whoever may be responsible for the payment of said taxes, and the special assessments, if any, each year, shall furnish to the other parties evidence of payment of such items not later than July 15 of each year. Any proration of taxes shall be based upon the taxes for the year currently payable unless the parties state otherwise.

4. **SPECIAL ASSESSMENTS.** Seller shall pay the special assessments against this property: (Strike out either (a) or (b) below.)

- (a) Stricken
- (b) Which are a lien thereon as of date of this contract.
- (c) Including all sewage disposal assessments for overage charge heretofore assessed by any municipality having jurisdiction as of date of possession. Buyer, except as above stated, shall pay all subsequent special assessments and charges, before they become delinquent.

5. **MORTGAGE.** Any mortgage or encumbrance of a similar nature against the said property shall be timely paid by Seller so as not to prejudice the Buyer's equity herein. Should Seller fail to pay, Buyer may pay any sums in default and shall receive credit on this contract for such sums so paid. **MORTGAGE BY SELLER.** Seller, her successors in interest or assigns may, and hereby reserve the right to at any time mortgage their right, title or interest in such premises or to renew or extend any existing mortgage for any amount not exceeding 0% of the then unpaid balance of the purchase price herein provided. The interest rate and amortization thereof shall be no more onerous than the installment requirements of this contract. Buyer hereby expressly consents to such a mortgage and agrees to execute and deliver all necessary papers to aid Seller in securing such a mortgage which shall be prior and paramount to any of Buyer's then rights in said property. **DEED FOR BUYER SUBJECT TO MORTGAGE.** If Buyer has reduced the balance of this contract to the amount of any existing mortgage balance on said premises, it may at its option, assume and agree to pay said mortgage to its terms, and subject to such mortgage shall receive a deed to said premises; or Seller, at her option, any time before Buyer has made such a mortgage commitment may reduce or pay off such mortgage. **ALLOCATED PAYMENTS.** Buyer, in the event of acquiring this property from an equity holder instead of a holder of the fee title or in the event of a mortgage against said premises, reserve the right, if reasonably necessary for her protection to divide or allocate the payments to the interested parties as their interests may appear. **SELLER AS TRUSTEE.** Seller agrees that she will collect no money hereunder in excess of the amount of the unpaid balance under the terms of this contract less the total amount of the encumbrance on the interest of Seller or her assigns in said real estate; and if Seller shall hereafter collect or receive any monies hereunder beyond such amount, she shall be considered and held as collecting and receiving said money as the agent and trustee of the Buyer for the use and benefit of the Buyer.

6. **INSURANCE.** Buyer as and from said date of possession, shall constantly keep in force, insurance, premiums therefor to be prepaid by Buyer (without notice or demand) against loss by fire, tornado and other hazards, casualties and contingencies as Seller may reasonably require on all buildings and improvements now on or hereafter placed on said premises and any personal property which may be the subject of this contract, in companies to be reasonably approved by Seller in an amount not less than the full insurable value of such improvements and personal property or not less than the unpaid purchase price herein whichever amount is smaller with such insurance payable to Seller and Buyer as their interests may appear. Buyer SHALL PROMPTLY DEPOSIT SUCH POLICY WITH PROPER RIDERS WITH SELLER for the further security for the payment of the sums herein mentioned. In the event of any such casualty loss, the insurance proceeds may be used under the supervision of the Seller to

replace or repair the loss if the proceeds be adequate; if not, then some other reasonable application of such funds shall be made; but in any event such proceeds shall stand as security for the payment of the obligations herein.

7. **CARE OF PROPERTY.** Buyer shall take good care of this property; shall keep the buildings and other improvements now or hereafter placed on the said premises in good and reasonable repair and shall not injure, destroy or remove the same during the life of this contract. Buyer shall not make any material alteration in said premises without the written consent of the Seller. Buyer shall not use or permit said premises to be used for any illegal purposes.

8. **LIENS.** No mechanics' lien shall be imposed upon or foreclosed against the real estate described herein.

9. **ADVANCEMENT BY SELLER.** If Buyer fails to pay such taxes, special assessments, and insurance and effect necessary repairs as above agreed, Seller may but need not, pay such taxes, special assessments, insurance and make necessary repairs, and all sums so advanced shall be due and payable on demand or such sums so advanced may, at the election of Seller, be added to the principal amount due hereunder and so secured.

10. **JOINT TENANCY IN PROCEEDS AND SECURITY RIGHTS IN REAL ESTATE.** If, and only if, the Seller immediately preceding this sale, holds the title to the above described property in joint tenancy, and such joint tenancy has not later been destroyed by operation of law or by acts of the Seller, this sale shall not constitute such destruction and the proceeds of this contract, and any continuing and/or recaptured rights of Seller in said real estate, shall be and continue in Seller as joint tenants with rights of survivorship and not as tenants in common; and Buyer, in the event of the death of one of such joint tenants, agrees to pay any balance of the proceeds of this contract to the surviving Seller (or Seller) and to accept deed solely from him or them consistent with paragraph 13 below unless and except this paragraph is stricken from this agreement.

10%. **"SELLER."** Spouse, if not titleholder immediately preceding this sale, shall be presumed to have executed this instrument only for the purpose of relinquishing all rights of dower, homestead and distributive share and/or in compliance with section 561.13 Code of Iowa; and the use of the word "Seller" in the printed portion of this contract, without more, shall not rebut such presumption, nor in any way enlarge or extend the previous interest of such spouse in said property, or in the sale proceeds, nor bind such spouse except as aforesaid, to the terms and provisions of this contract.

11. **TIME IS OF THE ESSENCE** of this Agreement. Failure to promptly assert rights of Seller herein shall not, however, be a waiver of such rights or a waiver of any subsequent default.

12. **EXCEPTIONS TO WARRANTIES OF TITLE.** The warranties of title in any Deed made pursuant to this contract (See paragraph 13) shall be without reservation or qualification EXCEPT: (a) zoning ordinances; (b) such restrictive covenants as may be shown of record; (c) Easements of record, if any; (d) A limited by paragraphs 1, 2, 3 and 4 of this contract; (e) Seller shall give Special Warranty as to the period after-equitable title passes to Buyer; (f) Spouse if not a titleholder, need not join in any warranties of the deed unless otherwise stipulated: (g) none.

13. **DEED AND ABSTRACT, BILL OF SALE.** If all said sums of money and interest are paid to Seller during the life of this contract, and all other agreements for performance by Buyer have been complied with, Seller will execute and deliver to Buyer a Trustee's Deed conveying said premises in fee simple pursuant to and in conformity with this contract; and Seller will at this time deliver to Buyer an abstract showing merchantable title, in conformity with this contract. Such abstract shall begin with the government patent (unless pursuant to the Iowa State Bar Association title standards there is a lesser requirement as to period of abstracting) to said premises and shall show title thereto in Seller as of the date of this contract; or as of such earlier date if and as designated in the next sentence. This contract supplements the previous written Mediation Agreement in Case #1-0513292EV, Seller also pays the cost of any abstracting due to any act or change in the personal affairs of Seller resulting in a change of title by operation of law or otherwise. If any personal property is a part of this agreement, then upon due performance by Buyer, Seller shall execute and deliver a Bill of Sale consistent with the terms of this contract. Seller shall pay all taxes on any such personal property payable in 1992, and all taxes thereon payable prior thereto.

14. **APPROVAL OF ABSTRACT.** Buyer has not examined the abstract of title to this property and such abstract is not accepted.

15.1. **FORFEITURE.** Buyer and Seller agree that the following forfeiture and foreclosure provisions shall apply only in the event the payment of EFCO stock as set forth in the Mediation Agreement 1-0513292EV fails to satisfy any of the defaults set forth below in subparagraphs (a)-(e). If Buyer (a) fails to make the payments aforesaid, or any part thereof, as same become due; or (b) fails to pay the taxes or special assessments or charges, or any part thereof, levied upon said property, or assessed against it, by any taxing body before any of such items become delinquent; or (c) fails to keep the property insured; or (d) fails to keep it in reasonable repair as herein required; or (e) fails to perform any of the agreements as herein made or required; then Seller, in addition to any and all other legal and equitable remedies which they may have, at their option, may proceed to forfeit and cancel this contract as provided by law (Chapter 656 Code of Iowa). Upon completion of such forfeiture Buyer shall have no right of reclamation or compensation for money paid, or improvements made; but such payments and/or improvements if any shall be retained and kept by Seller as compensation for the use of said property and/or as liquidated damages for breach of this contract; and upon completion of such forfeiture, if the Buyer, or any other person or persons shall be in possession of said real estate or any part thereof, such party or parties in possession shall at once peacefully remove therefrom, or failing to do so may be treated as tenants holding over, unlawfully after the expiration of a lease, and may accordingly be ousted and removed as such as provided by law.

15.2. **FORECLOSURE.** If Buyer fails, in any one or more of the specified ways to comply with this contract, as in (a), (b), (c), (d), or (e) of numbered paragraph 15.1 above provided, Seller may upon thirty (30) days written notice of intention to accelerate the payment of the entire balance, during which thirty days such default or defaults are not removed, declare the entire balance hereunder immediately due and payable; and thereafter at the option of the Seller this contract may then be foreclosed in equity and 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.

If this is homestead property, Buyer acknowledges by its execution hereof that I UNDERSTAND THAT HOMESTEAD PROPERTY IS IN MANY CASES PROTECTED FROM THE CLAIMS OF CREDITORS AND EXEMPT FROM JUDICIAL SALE; AND THAT BY SIGNING THIS CONTRACT I VOLUNTARILY GIVE UP ANY RIGHT TO THIS PROTECTION FOR THIS PROPERTY WITH RESPECT TO CLAIMS BASED UPON THIS CONTRACT.

16. ATTORNEY'S FEES. In case of any action, or in any proceedings in any Court to collect any sums payable or secured herein, or to protect the lien or title herein of Seller, or in any other case permitted by law in which attorney's fees may be collected from Buyer, or imposed upon them, or upon the above described property, Buyer agrees to pay reasonable attorney's fees.

17. INTEREST ON DELINQUENT AMOUNTS. Either party will pay interest at the highest legal contract rate applicable to a natural person to the other, or all amounts herein as and after they become delinquent, and/or on cash reasonably advanced by either party pursuant to the terms of this contract, as protective disbursements.

18. ASSIGNMENT BY SELLER. In case of the assignment of this Contract by the Seller, prompt notice shall be given to the other parties, who shall at the time of such notice be furnished with a duplicate of such assignment by such assignors. Any such assignment shall not terminate the liability of the assignor to perform unless a specific release in writing is given and signed by the Buyer.

19. PERSONAL PROPERTY. If this contract includes the sale of any personal property, then in the event of the forfeiture or foreclosure of this contract, such personalty shall be considered indivisible with the real estate above described; and any such termination of Buyer's rights in said real estate shall concurrently operate as the forfeiture or foreclosure hereof against all such personal property.

20. CONSTRUCTION. Words and phrases herein, including acknowledgments hereof, shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context. See paragraph 10% above, for construction of the word "Seller."

21. SALES AND ENCUMBRANCES. Buyer shall not, without the prior written consent of Seller, convey, assign, sell, mortgage, encumber, pledge, dispose of, hypothecate, grant a security interest in, grant options with respect to, or otherwise dispose of (directly or indirectly or by operation of law or otherwise, of record or not), all or any part of any legal or beneficial interest in any part or all of the Real Estate or the Leases, or any interest therein, or any or all of the rents, issues, deposits, or profits therefrom. Any assignment to which the Seller consents shall not terminate the liability of the assignor to perform unless a specific release in writing is given and signed by the Seller.

22. SPECIAL PROVISIONS. PREPAYMENT. Buyer may prepay any outstanding balance without penalty.

Executed duplicate or triplicate

Jeanne S. Jennings, trustee
Jeanne S. Jennings, as Trustee
for the Diane Marie Jennings
First Trust, SELLER
5800 NW 86th Street
Johnston, IA 50131

Jeanne S. Jennings, trustee
Jeanne S. Jennings, as Trustee
for the Paul Steven Jennings
First Trust, BUYER
5800 NW 86th Street
Johnston, IA 50131

STATE OF IOWA)
) ss.
COUNTY OF POLK)

On this 16th day of October, 1992, before me, the undersigned, a Notary Public in and for said state, personally appeared Jeanne S. Jennings, as trustee for the Diane Marie Jennings First Trust, to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that she executed the same as her voluntary act and deed.



Margaret M Keizer
Notary Public in and for said State

STATE OF IOWA)
) ss.
COUNTY OF POLK)

On this 16th day of October, 1992, before me, the undersigned, a Notary Public in and for said state, personally appeared Jeanne S. Jennings, as trustee for the Paul Steven Jennings First Trust, to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that she executed the same as her voluntary act and deed.



Margaret M Keizer
Notary Public in and for said State

EXHIBIT "A"

160 Acre Madison County Farm

The South Half (S $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section Thirteen (13) and the North Half (N $\frac{1}{2}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section Twenty-four (24) in Township Seventy-five (75) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa, and the South 25 feet of the Northwest Quarter (NW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section Twenty-four (24), Township Seventy-five (75) North, Range Twenty-eight (28) West of the 5th P.M., Madison County, Iowa.

Sellers also agree to convey unto Buyers the following-described easement:

An easement for road purposes to the Buyers herein, their heirs, and assigns, over and across the following-described real estate, to-wit: The South 30 feet of all that part of the Northeast Quarter (NE $\frac{1}{4}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section Fourteen (14), Township Seventy-five (75) North, Range Twenty-eight (28) West of the 5th P.M., which lies East of the East line of the public highway running North and South through said 40 acre tract and also across the following-described tract, to-wit: Commencing at the Southwest corner of the North Half (N $\frac{1}{2}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section Thirteen (13), Township Seventy-five (75) North, Range Twenty-eight (28), running thence N. 30 feet, thence in a Southeasterly direction to a point 30 feet East of the place of beginning, thence West to the place of beginning; all rights granted under the foregoing easements are to terminate and shall no longer exist if said right of way is not used for road purposes over a period of 2 years and the Buyer and all subsequent owners shall construct, repair and maintain all fences required for the use of said easement.