THE IOWA STATE BAR ASSOCIATION
Official Form No. 127

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DELAWARE COUNTY IOWA

Preparer Information Brett W. Nagel for CSB; Po Box 77; Edgewood, Iowa 52042 (319)928-6425
Individual's Name | Street Address | City | Phone

SPACE ABOVE THIS LINE FOR RECORDER

MORTGAGE
(Open-End)

THIS MORTGAGE ("Mortgage") encumbers both real and personal property, contains an after-acquired property clause and secures present and future loans and advances.

NOTICE: This Mortgage secures credit in the amount of $ 700,000.00. Loans and advances up to this amount, together with interest are senior to indebtedness to other creditors under subsequently recorded or filed mortgages and liens.

☒ If this box is checked, this Mortgage also constitutes a Construction Mortgage as defined in the Iowa Code.

☒ If this box is checked, this Mortgage is a Purchase Money Mortgage as defined in the Iowa Code.

THIS Mortgage is made between

Beaton Holding Company, L.C. and Perry T. Beaton and Carol C. Beaton

("Mortgagors") and Community Savings Bank ("Mortgagee").

1. **Grant of Mortgage and Security Interest.** Mortgagors hereby sell, convey and mortgage unto Mortgagee, and grant a security interest to Mortgagee in the following described property:

a. **Land and Buildings.** All of Mortgagors' right, title and interest in and to the following described real estate situated in Delaware County, Iowa (the "Land");

Lot One (1), Two (2) and Three (3) of O'Connell-Boren Subdivision of the Northerly 180.0 feet of Lot 25 and the Northerly 180.0' of the Westerly 35.0' of First Street lying South of the Southerly line of West Main Street of the Ballard Subdivision of part of Lot I and of Lots M & N of the Iowa Land Company's Subdivision of part of the City of Manchester, Section Thirty-two (32), Township Eighty-Nine North (T89N), Range Five West (R5W) of the Fifth Principal Meridian, Delaware County, Iowa, according to plat recorded in Book 6 Plats, Page 112, except the West four (4) inches of the North forty eight (48) feet of said Lot One (1)

and all buildings, structures and improvements now standing or at any time hereafter constructed or placed upon the Land (the "Buildings"), including all hereditaments, easements, appurtenances, riparian rights, mineral rights, water rights, rights in and to the lands lying in streets, alleys and roads adjoining the land, estates and other rights and interests now or hereafter belonging to or in any way pertaining to the Land.

b. **Personal Property.** All fixtures and other personal property integrally belonging to, or hereafter becoming an integral part of the Land or Buildings, whether attached or detached, including but not limited to, light fixtures, shades, rods, blinds, Venetian blinds, awnings, storm windows, screens, linoleum, water softeners, automatic heating and air-conditioning equipment and all proceeds, products, increase, issue, accessions, attachments, accessories, parts, additions, repairs, replacements and substitutes of, to, and for the foregoing (the "Personal Property").

c. **Revenues and Income.** All rents, issues, profits, leases, condemnation awards and insurance proceeds now or hereafter arising from the ownership, occupancy or use of the Land, Buildings and Personal Property, or any part thereof (the "Revenues and Income").

TO HAVE AND TO HOLD the Land, Buildings, Personal Property and Revenues and Income (collectively called the "Mortgaged Property"), together with all privileges, hereditaments thereunto now or hereafter belonging, or in any way appertaining and the products and proceeds thereof, unto Mortgagee, its successors and assigns.

2. **Obligations.** This Mortgage secures the following (hereinafter collectively referred to as the "Obligations"):

a. The payment of the loan made by Mortgagee to Community Savings Bank evidenced by a promissory note dated August 13, 19 97 in the principal amount of $ 600,000.00 with a due date of February 1, 2013, any renewals, extensions, modifications or refinancing thereof and any promissory notes issued in substitution therefor; and

b. All other obligations of Mortgagors to Mortgagee, now existing or hereafter arising, whether direct or indirect, contingent or absolute and whether as maker or surety, including, but not limited to, future advances and amounts advanced and expenses incurred by Mortgagee pursuant to this Mortgage.

c.

THIS PARAGRAPH SHALL NOT CONSTITUTE A COMMITMENT TO MAKE ADDITIONAL LOANS IN ANY AMOUNT.

3. **Representations and Warranties of Mortgagors.** Mortgagors represent, warrant and covenant to Mortgagee that (i) Mortgagors hold clear title to the Mortgaged Property and title in fee simple in the Land; (ii) Mortgagors have the right, power and authority to execute this Mortgage and to mortgage, and grant a security interest in the Mortgaged Property; (iii) the Mortgaged Property is free and clear of all liens and encumbrances, except for real estate taxes not yet delinquent and except as otherwise stated in subparagraph 1a. herein; (iv) Mortgagors will warrant and defend title to the Mortgaged Property and the lien and priority of this Mortgage against all claims and demands of all persons, whether now existing or hereafter arising; and (v) all buildings and improvements now or hereafter located on the Land are, or will be, located entirely within the boundaries of the Land.

4. **Payment and Performance of the Obligations.** Mortgagors will pay all amounts payable under the Obligations in accordance with the terms of the Obligations when and as due and will timely perform all other obligations of Mortgagors under the Obligations. The provisions of the Obligations are hereby incorporated by reference into this Mortgage as if fully set forth herein.

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5. **Taxes.** Mortgagors shall pay each installment of all taxes and special assessments of every kind, now or hereafter levied against the Mortgaged Property before the same become delinquent, without notice or demand, and shall deliver to Mortgagee proof of such payment within fifteen (15) days after the date in which such tax or assessment becomes delinquent.

6. **Liens.** Mortgagors shall not create, incur or suffer to exist any lien, encumbrance, security interest or charge on the Mortgaged Property or any part thereof which might or could be held to be equal or prior to the lien of this Mortgage, other than the lien of current real estate taxes and installments of special assessments with respect to which no penalty is yet payable. Mortgagors shall pay, when due, the claims of all persons supplying labor or materials to or in connection with the Mortgaged Property.

7. **Compliance with Laws.** Mortgagors shall comply with all present and future statutes, laws, rules, orders, regulations and ordinances affecting the Mortgaged Property, any part thereof or the use thereof.

8. **Permitted Contests.** Mortgagors shall not be required to (i) pay any tax, assessment or other charge referred to in paragraph 5 hereof, (ii) discharge or remove any lien, encumbrance or charge referred to in paragraph 6 hereof, or (iii) comply with any statute, law, rule, regulation or ordinance referred to in paragraph 7 hereof, so long as Mortgagors shall contest, in good faith, the existence, amount or the validity thereof, the amount of damages caused thereby or the extent of Mortgagors' liability therefor, by appropriate proceedings which shall operate during the pendency thereof to prevent (A) the collection of, or other realization upon the tax, assessment, charge or lien, encumbrances or charge so contested, (B) the sale, forfeiture or loss of the Mortgaged Property or any part thereof, and (C) any interference with the use or occupancy of the Mortgaged Property or any part thereof. Mortgagors shall give prompt written notice to Mortgagee of the commencement of any contest referred to in this paragraph 8.

9. **Care of Property.** Mortgagors shall take good care of the Mortgaged Property; shall keep the Buildings and Personal Property now or later placed upon the Mortgaged Property in good and reasonable repair and shall not injure, destroy or remove either the Buildings or Personal Property during the term of this Mortgage. Mortgagors shall not make any material alteration to the Mortgaged Property without the prior written consent of Mortgagee.

10. **Insurance.**

a. **Risks to be Insured.** Mortgagors, at their sole cost and expense, shall maintain insurance as follows:

i. If this is a Construction Mortgage, during the period of construction, Mortgagors will maintain builder's risk insurance, written on the so-called "builder's risk-completed value basis", in an amount equal to 100% of the insurable value of the Mortgaged Property at the date of completion, and with coverage available on the so-called "all risk", non-reporting form of policy; provided that, to the extent that any contractor for such construction shall provide a duplicate insurance policy or builder's risk policy or certificate of insurance showing that the same coverage as is herein required is being carried by such contractor and adequately protects the interest of Mortgagee and Mortgagors with respect to the Mortgaged Property or a part thereof, Mortgagee shall not be required to maintain separate coverage. The insurance provided for by this subparagraph (i) with respect to the Mortgaged Property or such part thereof shall not be required while the Mortgaged Property or part thereof is so insured. Mortgagee's interest shall be protected in accordance with a standard mortgagee clause.

ii. If this is a Construction Mortgage, during the period of construction, Mortgagors will maintain comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, complete operations and contractual liability insurance) against bodily injury and property damage in amounts satisfactory to Mortgagee. If this is not a Construction Mortgage, or upon completion of construction, Mortgagors will maintain comprehensive general public liability insurance and property damage liability insurance in amounts satisfactory to Mortgagee to protect Mortgagors from claims (including all costs and expenses of defending the same) for personal injury, sickness, disease or death or for damage or injury to or destruction of property (including loss of use thereof) occurring in, on or about the Mortgaged Property.

iii. If this is not a Construction Mortgage, or upon completion of construction, Mortgagors will maintain insurance on the Buildings and other improvements now existing or hereafter erected on the Land and on the Personal Property included in the Mortgaged Property against loss by fire, extended coverage perils and such other hazards as Mortgagee may from time to time require, such insurance to have a "Replacement Cost" endorsement attached thereto, with the amount of the insurance at least equal to the balance of the Obligations. At Mortgagors' option, such policy may have a coinsurance clause of not less than 90% of replacement cost provided the policy contains an appropriate form of cost escalation endorsement. Mortgagors will at their sole cost and expense, from time to time, and at any time at the request of Mortgagee, provide Mortgagee with evidence satisfactory to Mortgagee of the replacement cost of Mortgaged Property.

iv. If this is a Construction Mortgage, during the period of construction, Mortgagors will maintain worker's compensation insurance with respect to all employees of Mortgagors and each contractor; and, if this is not a Construction Mortgage, or upon completion of construction, Mortgagors will maintain worker's compensation insurance with respect to all employees of Mortgagors.

v. At all times, Mortgagors will maintain such other insurance as Mortgagee may reasonably require.

b. **Policy Provisions.** All insurance policies and renewals thereof maintained by Mortgagors pursuant to this Mortgage shall be written by an insurance carrier satisfactory to Mortgagee, contain a mortgagee clause in favor of and in form acceptable to Mortgagee, contain an agreement of the insurer that it will not amend, modify or cancel the policy except after thirty (30) days prior written notice to Mortgagee, and be reasonably satisfactory to Mortgagee in all other respects.

c. **Delivery of Policy or Certificate.** If requested by Mortgagee, Mortgagors will deliver to Mortgagee original policies satisfactory to Mortgagee evidencing the insurance which is required under this Mortgage, and Mortgagors shall promptly furnish to Mortgagee all renewal notices and, upon request of Mortgagee, evidence of payment thereof. At least ten (10) days prior to the expiration date of a required policy, Mortgagors shall deliver to Mortgagee a renewal policy in form satisfactory to Mortgagee.

d. **Assignment of Policy.** If the Mortgaged Property is sold at a foreclosure sale or if Mortgagee shall acquire title to the Mortgaged Property, Mortgagee shall have all of the right, title and interest of Mortgagors in and to any insurance policies required hereunder, and the unearned premiums thereon, and in and to the proceeds thereof resulting from any damage to the Mortgaged Property prior to such sale or acquisition.

e. **Notice of Damage or Destruction; Adjusting Loss.** If the Mortgaged Property or any part thereof shall be damaged or destroyed by fire or other casualty, Mortgagors will, within five (5) calendar days after the occurrence of such damage or destruction, give written notice thereof to the insurance carrier and to Mortgagee and will not adjust any damage or loss which is estimated by Mortgagors in good faith to exceed $25,000 unless Mortgagee shall have joined in or concurred with such adjustment; but if there has been no adjustment of any such damage or loss within four (4) months from the date of occurrence thereof and if an Event of Default shall exist at the end of such four (4) month period or at any time thereafter, Mortgagee may alone make proof of loss, adjust and compromise any claim under the policies, and appear in and prosecute any action arising from such policies. In connection therewith, Mortgagors do hereby irrevocably authorize, empower and appoint Mortgagee as attorney-in-fact for Mortgagor (which appointment is coupled with an interest) to do any and all of the foregoing in the name and on behalf of Mortgagors.

f. **Application of Insurance Proceeds.** All sums paid under any insurance policy required by this Mortgage shall be paid to Mortgagee, which shall, at its option, apply the same (after first deducting therefrom Mortgagee's expenses incurred in collecting the same including but not limited to reasonable attorney's fees) to the reduction of the Obligations or to the payment of the restoration, repair, replacement or rebuilding of Mortgaged Property that is damaged or destroyed in such manner as Mortgagee shall determine and secondly to the reduction of the Obligations. Any application of insurance proceeds to principal of the Obligations shall not extend or postpone the due date of the installments payable under the Obligations or change the amount of such installments.

g. **Reimbursement of Mortgagee's Expenses.** Mortgagors shall promptly reimburse Mortgagee upon demand for all of Mortgagee's expenses incurred in connection with the collection of the insurance proceeds, including but not limited to reasonable attorneys' fees, and all such expenses shall be additional amounts secured by this Mortgage.

11. **Inspection.** Mortgagee, and its agents, shall have the right at all reasonable times, to enter upon the Mortgaged Property for the purpose of inspecting the Mortgaged Property or any part thereof. Mortgagee shall, however, have no duty to make such inspection. Any inspection of the Mortgaged Property by Mortgagee shall be entirely for its benefit and Mortgagors shall in no way rely or claim reliance thereon.

12. **Protection of Mortgagee's Security.** Subject to the rights of Mortgagors under paragraph 8 hereof, if Mortgagors fail to perform any of the covenants and agreements contained in this Mortgage or if any action or proceeding is commenced which affects the Mortgaged Property or the interest of the Mortgagee therein, or the title thereto, then Mortgagee, at Mortgagee's option, may perform such covenants and agreements, defend against or investigate such action or proceeding, and take such other action as Mortgagee deems necessary to protect Mortgagee's interest. Any amounts or expenses disbursed or incurred by Mortgagee in good faith pursuant to this paragraph 12 with interest thereon at the rate of 8.85 % per annum, shall become an Obligation of Mortgagors secured by this Mortgage. Such amounts advanced or disbursed by Mortgagee hereunder shall be immediately due and payable by Mortgagors unless Mortgagors and Mortgagee agree in writing to other terms of repayment. Mortgagee shall, at its option, be subrogated to the lien of any mortgage or other lien discharged in whole or in part by the Obligations or by Mortgagee under the provisions hereof, and any such subrogation rights shall be additional and cumulative security for this Mortgage. Nothing contained in this paragraph shall require Mortgagee to incur any expense or do any act hereunder, and Mortgagee shall not be liable to Mortgagors for any damage or claims arising out of action taken by Mortgagee pursuant to this paragraph.

13. **Condemnation.** Mortgagors shall give Mortgagee prompt notice of any action, actual or threatened, in condemnation or eminent domain and hereby assign, transfer and set over to Mortgagee the entire proceeds of any award or claim for damages for all or any part of the Mortgaged Property taken or damaged under the power of eminent domain or condemnation. Mortgagee is hereby authorized to intervene in any such action in the names of Mortgagors, to compromise and settle any such action or claim, and to collect and receive from the condemning authorities and give proper receipts and acquittances for such proceeds. Any expenses incurred by Mortgagee in intervening in such action or compromising and settling such action or claim, or collecting such proceeds shall be reimbursed to Mortgagee first out of the proceeds. The remaining proceeds or any part thereof shall be applied to reduction of that portion of the Obligations then most remotely to be paid, whether due or not, or to the restoration or repair of the Mortgaged Property, the choice of application to be solely at the discretion of Mortgagee.

14. **Fixture Filing.** From the date of its recording, this Mortgage shall be effective as a financing statement filed as a fixture filing with respect to the Personal Property and for this purpose the name and address of the debtor is the name and address of Mortgagors as set forth in paragraph 20 herein and the name and address of the secured party is the name and address of the Mortgagee as set forth in paragraph 20 herein.

15. **Events of Default.** Each of the following occurrences shall constitute an event of default hereunder ("Event of Default"):

a. Mortgagors shall default in the due observance or performance of or breach its agreement contained in paragraph 4 hereof or shall default in the due observance or performance of or breach any other covenant, condition or agreement on its part to be observed or performed pursuant to the terms of this Mortgage.

b. Mortgagors shall make an assignment for the benefits of its creditors, or a petition shall be filed by or against Mortgagors under the United States Bankruptcy Code or Mortgagors shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of a material part of its properties or of the Mortgaged Property or shall not, within thirty (30) days after the appointment of a trustee, receiver or liquidator of any material part of its properties or of the Mortgaged Property, have such appointment vacated.

c. A judgment, writ or warrant of attachment or execution, or similar process shall be entered and become a lien on or be issued or levied against the Mortgaged Property or any part thereof which is not released, vacated or fully bonded within thirty (30) days after its entry, issue or levy.

d. An event of default, however defined, shall occur under any other mortgage, assignment or other security document constituting a lien on the Mortgaged Property or any part thereof.

e.

16. **Acceleration; Foreclosure.** Upon the occurrence of any Event of Default and at any time thereafter while such Event of Default exists, Mortgagee may, at its option, after such notice as may be required by law, exercise one or more of the following rights and remedies (and any other rights and remedies available to it):

a. Mortgagee may declare immediately due and payable all Obligations secured by this Mortgage, and the same shall thereupon be immediately due and payable, without further notice or demand.

b. Mortgagee shall have and may exercise with respect to the Personal Property, all the rights and remedies accorded upon default to a secured party under the Iowa Uniform Commercial Code. If notice to Mortgagors of intended disposition of such property is required by law in a particular instance, such notice shall be deemed commercially reasonable if given to Mortgagors at least ten (10) days prior to the date of intended disposition.

c. Mortgagee may (and is hereby authorized and empowered to) foreclose this Mortgage in accordance with the law of the State of Iowa, and at any time after the commencement of an action in foreclosure, or during the period of redemption, the court having jurisdiction of the case shall at the request of Mortgagee appoint a receiver to take immediate possession of the Mortgaged Property and of the Revenues and Income accruing therefrom, and to rent or cultivate the same as he may deem best for the interest of all parties concerned, and such receiver shall be liable to account to Mortgagors only for the net profits, after application of rents, issues and profits upon the costs and expenses of the receivership and foreclosure and upon the Obligations.

17. **Redemption.** It is agreed that if this Mortgage covers less than ten (10) acres of land, and in the event of the foreclosure of this Mortgage and sale of the property by sheriff's sale in such foreclosure proceedings, the time of one year for redemption from said sale provided by the statues of the State of Iowa shall be reduced to six (6) months provided the Mortgagee, in such action files an election to waive any deficiency judgment against Mortgagors which may arise out of the foreclosure proceedings; all to be consistent with the provisions of Chapter 628 of the Iowa Code. If the redemption period is so reduced, for the first three (3) months after sale such right of redemption shall be exclusive to the Mortgagor, and the time periods in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to four (4) months.

It is further agreed that the period of redemption after a foreclosure of this Mortgage shall be reduced to sixty (60) days if all of the three following contingencies develop: (1) The real estate is less than ten (10) acres in size; (2) the Court finds affirmatively that the said real estate has been abandoned by the owners and those persons personally liable under this Mortgage at the time of such foreclosure; and (3) Mortgagee in such action files an election to waive any deficiency judgment against Mortgagors or their successors in interest in such action. If the redemption period is so reduced, Mortgagors or their successors in interest or the owner shall have the exclusive right to redeem for the first thirty (30) days after such sale, and the time provided for redemption by creditors as provided in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to forty (40) days. Entry of appearance by pleading or docket entry by or on behalf of Mortgagors shall be a presumption that the property is not abandoned. Any such redemption period shall be consistent with all of the provisions of Chapter 628 of the Iowa Code. This paragraph shall not be construed to limit or otherwise affect any other redemption provisions contained in Chapter 628 of the Iowa Code.

18. **Attorneys' Fees.** Mortgagors shall pay on demand all costs and expenses incurred by Mortgagee in enforcing or protecting its rights and remedies hereunder, including, but not limited to, reasonable attorneys' fees and legal expenses.

19. **Forbearance not a Waiver, Rights and Remedies Cumulative.** No delay by Mortgagee in exercising any right or remedy provided herein or otherwise afforded by law or equity shall be deemed a waiver of or preclude the exercise of such right or remedy; and no waiver by Mortgagee of any particular provisions of this Mortgage shall be deemed effective unless in writing signed by Mortgagee. All such rights and remedies provided for herein or which Mortgagee or the holder of the Obligations may have otherwise, at law or in equity, shall be distinct, separate and cumulative and may be exercised concurrently, independently or successively in any order whatsoever, and as often as the occasion therefor arises.

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20. **Notices.** All notices required to be given hereunder shall be in writing and deemed given when personally delivered or deposited in the United States mail, postage prepaid, sent certified or registered, addressed as follows:

a. If to Mortgagors, to:
Beaton Holding Company, L.C.
5825 Council Street NE
Cedar Rapids IA 52402

b. If to Mortgagee, to:
Community Savngs Bank
PO Box 77
Edgewood, Iowa 52042

or to such other address or person as hereafter designated in writing by the applicable party in the manner provided in this paragraph for the giving of notices.

21. **Severability.** In the event any portion of this Mortgage shall, for any reason, be held to be invalid, illegal or unenforceable in whole or in part, the remaining provisions shall not be affected thereby and shall continue to be valid and enforceable and if, for any reason, a court finds that any provision of this Mortgage is invalid, illegal, or unenforceable as written, but that by limiting such provision it would become valid, legal and enforceable then such provision shall be deemed to be written, construed and enforced as so limited.

22. **Further Assurances.** At any time and from time to time until payment in full of the Obligations, Mortgagors will, at the request of Mortgagee, promptly execute and deliver to Mortgagee such additional instruments as may be reasonably required to further evidence the lien of this Mortgage and to further protect the security interest of Mortgagee with respect to the Mortgaged Property, including, but not limited to, additional security agreements, financing statements and continuation statements. Any expenses incurred by Mortgagee in connection with the recordation of any such instruments shall become additional Obligations of Mortgagors secured by this Mortgage. Such amounts shall be immediately due and payable by Mortgagors to Mortgagee.

23. **Successors and Assigns bound; Number; Gender; Agents; Captions.** The rights, covenants and agreements contained herein shall be binding upon and inure to the benefit of the respective legal representatives, successors and assigns of the parties. Words and phrases contained herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender according to the contexts. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

24. **Governing Law.** This Mortgage shall be governed by and construed in accordance with the laws of the State of Iowa.

25. **Release of Rights of Dower, Homestead and Distributive Share.** Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share in and to the Mortgaged Property and waives all rights of exemption as to any of the Mortgaged Property.

26. **Acknowledgment of Receipt of Copies of Debt Instrument.** Mortgagors hereby acknowledge the receipt of a copy of this Mortgage together with a copy of each promissory note secured hereby.

27. **Additional Provisions.** Add Addendum Page. See Addendum "A"

Dated AUGUST 13, 19 97.

BEATON HOLDING COMPANY, L.C.

PERRY T. BEATON, MEMBER PRESIDENT

CAROL C. BEATON, MEMBER SECRETARY

Dated: AUGUST 13, 19 97.

PERRY T. BEATON, PERSONALLY

CAROL C. BEATON, PERSONALLY , Mortgagors

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 MORTGAGE, I VOLUNTARILY GIVE UP MY RIGHT TO THIS PROTECTION FOR THIS MORTGAGED PROPERTY WITH RESPECT TO CLAIMS BASED UPON THIS MORTGAGE.

Dated: AUGUST 13, 19 97 PERRY T. BEATON

Dated: AUGUST 13, 19 97 CAROL C. BEATON

STATE OF IOWA }
COUNTY OF DELAWARE } ss:

On this 13TH day of AUGUST, 19 97, before me, the undersigned, a Notary Public, personally appeared PERRY T. BEATON AND CAROL C. BEATON to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

LINDA A. BESSEY My commission Expires 6-14-99
Notary Public

ADDENDUM "A"

27. **Environmental Matters**

(a). **Mortgagor's Representations and Warranties.** Except as to the extent Hazardous substances are contained in consumer products brought on to the Mortgaged Property, the Mortgagors represent and warrant to the Mortgagee as follows:

(i) **Violation.** (1) To their actual knowledge, the Mortgagors have not used Hazardous Materials (as hereafter defined) on, from or affecting the Mortgaged Property in any manner which violates any Government Regulation governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous materials and, to the best of the Mortgagors' knowledge, no prior owner of the Mortgaged Property or any existing or prior tenant or occupant has used Hazardous Materials on, from or affecting the Mortgaged Property in any manner which violates any Governmental regulation governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials; (2) the Mortgagors have never received any notice of any violation of any Governmental Regulation governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials at the Mortgaged Property and, to the best of the Mortgagors' knowledge, there have been no actions commenced or threatened by any party for noncompliance which affects the Mortgaged Property.

(ii) **Facilities.** The Mortgaged Property has adequate water supply, both as to quantity and quality, and adequate sewage and waste disposal facilities.

(iii) **Cleanup.** The Mortgaged Property does not appear on the National Priority List (as defined under federal law) or any state listing which identifies sites for remedial cleanup or investigatory actions. To their actual knowledge, the Mortgaged Property has not been contaminated with substances which would give rise to a cleanup obligation under any Governmental regulation or under the common law.

(iv) **Licenses.** To their actual knowledge, all federal, state and local permits, licenses and authorizations required for present or past use of the Mortgaged Property or activities of the Mortgagors have been obtained and are presently in effect. There is and has been full compliance with all such permits, licenses or authorizations.

(b) **Audit, Remedial Action.** The Mortgagors shall conduct and complete all investigations, including a comprehensive environmental audit, studies, sampling, and testing, and all remedial, removal and other actions necessary to clean up and remove all hazardous materials on, under, from or affecting the Mortgaged Property, as required by all applicable Governmental regulations, to the satisfaction of the Mortgagee, and in accordance with the orders and directives of all federal, state and local governmental authorities. Such testing, remedial, removal and other actions shall include those required by federal and state regulations governing underground storage tank systems, whether or not located on the Mortgaged Property. The Mortgagors shall, upon request of Mortgagee at any time after the occurrence of any Event of Default hereunder, obtain at their expense and furnish to the Mortgagee a comprehensive environmental audit of the Mortgaged Property by an independent and certified environmental investigation firm of recognized standing approved by the Mortgagee. If the Mortgagee fails for longer than 10 days after the Mortgagee's request therefor to engage an approved environmental investigation firm to conduct such audit, the Mortgagee may itself engage such a firm. The Mortgagors shall be obligated immediately to reimburse Mortgagee for the cost of the audit and such costs shall constitute a part of the Mortgage

Indebtedness secured by this Mortgage.

Any such audit conducted at the request of or on behalf of the Mortgagee shall be conducted for the benefit of and to protect the interests of the Mortgagee and shall not be relied upon by the Mortgagors or any third party for any purpose whatsoever, including, but not limited to, the Mortgagors' or any third party's obligation, if any, to conduct an independent environmental investigation of its own. By obtaining or requesting any such audit, Mortgagee assumes no control over any environmental affairs or operations of the Mortgagors and assumes no obligation or liability to the Mortgagors or any third party.

(c) **Contamination and Pollution.** The Mortgagors shall keep or cause the Mortgaged Property to be kept fee of Hazardous Materials except to the extent such Hazardous Materials are stored and/or used in compliance with all applicable Governmental Regulations; and, without limiting the foregoing, the Mortgagors shall not cause or permit the Mortgaged Property to be used to generate, manufacture, refine, transport, treat, store, handle, dispose of, transfer, produce or process Hazardous Materials, except in compliance with all applicable Governmental Regulations.

(d) **Affirmative Covenants.** The Mortgagors shall:

(i) Do all things necessary to assure that the representations, warranties and covenants set forth herein are met and continue to be accurate and correct.

(ii) Assure that all entities acting on behalf of the Mortgagors under this paragraph 27.

(iii) Conduct periodic reviews of the use of the Mortgaged Property and the activities of the Mortgagors to assure compliance with the obligations of Mortgagors under this paragraph 27.

(iv) Promptly (1) notify the Mortgagee in writing of any occurrence or development or claim filed by it or against it which would cause any representation, warranty or covenant set forth in this paragraph 27 to be incorrect-and-(2) take steps necessary to mitigate the effect of such noncompliance.

(e) **Negative Covenant.** The Mortgagors shall not take any action or allow the Mortgaged Property to be used in such a manner that any representation, warranty or covenant set forth in this paragraph 27 becomes incorrect or is not complied with.

(f) **Indemnification.** Subject to the limitations set forth below, the Mortgagors shall defend, indemnify and hold harmless the Mortgagee and its employees, agent, officers and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses, including, without limitation, attorney's and consultants's fees, investigation and laboratory fees, court costs and litigation expenses, known or unknown, contingent or otherwise, arising out of or in any way related to (i) the presence, disposal, release or threatened release of any Hazardous Materials on, over, under, from or affecting the Mortgaged Property or the soil, water, groundwater, vegetation, buildings, personal property, persons or animals; (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials on the Mortgaged Property (iii) any lawsuit brought or threatened, settlement reached or government order relating to such Hazardous Materials with respect to the

Mortgaged Property; and/or (iv) any violation of laws, orders, regulations, requirements or demands of governmental authorities, or any policies or requirements of the Mortgagee which are based upon or in any way related to such Hazardous Materials located on the Mortgaged Property. The indemnity obligations under this paragraph are specifically limited as follows:

(i) the Mortgagors shall have no indemnity obligations with respect to Hazardous Materials that are first introduced to the Mortgaged Property or any part of the Mortgaged Property subsequent to the date the Mortgagors' interest in and possession of the Mortgaged Property or any part of the Mortgaged Property shall have ended or have been fully terminated by foreclosure of any mortgage held by Mortgagee or acceptance by Mortgagee of deed in lieu of foreclosure or other collateral liquidation procedure;

(ii) the Mortgagors shall have no indemnity obligations with respect to Hazardous Materials that are first introduced to the Mortgaged Property by the Mortgagee, or its successors or assigns.

The Mortgagors agree that in the event this Mortgage is foreclosed or the Mortgagors tender a deed in lieu of foreclosure, the Mortgagors shall deliver the Mortgaged Property to the Mortgagee free of any and all Hazardous materials which are then required to be removed (whether over time or immediately) pursuant to applicable Governmental regulations affecting the Mortgaged Property.

The provisions of paragraph 27(f) shall be in addition to any and all other obligations and liabilities Mortgagors may have to the Mortgagee in respect of the Indebtedness, any loan document, and in common law, and shall survive (i) the repayment of all sums due for the Indebtedness, (ii) the satisfaction of all other obligations of the Mortgagors under any loan document, including, without limitation, the Credit Agreement, (iii) the discharge of this Mortgage and (iv) the foreclosure of this Mortgage or acceptance of a deed in lieu of foreclosure. It is the intention of the Mortgagors and the Mortgagee that the indemnity provisions of this paragraph 27(f) shall only apply to an action of any nature commenced against any owner of operator of the Mortgaged Property in which any interest of the Mortgagee is threatened or any claim is made against the Mortgagee for the payment of money or the imposition of mandatory injunctive relief, or specific performance of an obligation required by Governmental Regulation of common law.

(g) **Definitions.**

"Governmental Regulations" means any law, regulation, rule policy, ordinance or similar requirement of the United States, any state, any country, city or other agency or subdivision of the United States or any state.

"Hazardous Materials" includes, without limitation any flammable explosives, radioactive materials, hazardous wastes, hazardous or toxic substances or related materials defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9501, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Section 1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901, et seq.) and in the regulations adopted and publications promulgated pursuant thereto, or any other federal, state or local government law, ordinance, rule or regulation, including those governing

petroleum products, such as gasoline, diesel fuel, motor oil, or heating fuel, or their constituents such as benzene, ethylbenze, toluene, xylene, bezo(a)pyrene, benzo(a)anthracene, chrysene or naphalene.

28. **Flood Plain.** If the Mortgaged Property is located in a flood plain, flood insurance is being maintained and will continue to be maintained which satisfies all applicable laws and the Mortgagee.

29 **Acknowledgement.** The Mortgagors acknowledge receipt of a copy of this document as of the date above written.

IN WITNESS WHEREOF, Mortgagors have executed this document as of the date above written.

IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN CONTRACT MAY BE LEGALLY ENFORCED. YOU MAY CHANGE THE TERMS OF THIS AGREEMENT ONLY BY ANOTHER WRITTEN AGREEMENT.

BEATON HOLDING COMPANY, L.C.

By _____
Perry T Beaton, member President

_____
Perry Beaton, personally

_____
Carol C. Beaton, member Secretary

_____
Carol C. Beaton, personally

NOTARY

STATE OF IOWA
COUNTY OF DELAWARE

On this 13th day of August, A.D. 1997, before me, a notary public in and for said county, personally appeared Perry T. Beaton and Carol C. Beaton, to me personally known, who being by me duly sworn did say that that person is Member President and Member Secretary of said Beaton Holding Company, L.C. and that said instrument was signed on behalf of the said Beaton Holding Company L.C. by authority of its managers and the said Perry T. Beaton and Carol C. Beaton acknowledged the execution of said instrument to be the voluntary act and deed of said Beaton Holding Company L.C. by it voluntarily executed.

Linda A Bessey

Notary Public in the State of Iowa
My Commission Expires 6-14-99
Linda A. Bessey

