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Abstract Co.

DELAWARE COUNTY IOWA
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DEBORAH L. HEYON
DELAWARE CO. RECORDER
$16.00

**FOR RECORDER'S USE ONLY**

Preparer: Evelyn J. Wheatley, Metropolitan Life Ins. Co., 4401 Westown Parkway, Ste. 220, West Des Moines, Iowa 50266; Ph. (515) 223-5600

Address tax statement: HILLTOP PORK, INC., 2865 170th Street, Dyersville, IA 52040

# MORTGAGE

(Iowa)

**This Indenture**, Made on the 16th day of July, 2001, A.D, between HILLTOP PORK, INC., an Iowa Corporation, of the County of Delaware and State of Iowa, party of the first part, and METROPOLITAN LIFE INSURANCE COMPANY, a corporation of the State of New York, with its principal office located at One Madison Avenue, New York, NY 10010, party of the second part,

**Witnesseth**, That the said first party, for the consideration of---TWO HUNDRED FIFTY THOUSAND--- Dollars, ($250,000.00) the receipt whereof is hereby acknowledged, does by these presents sell and convey unto the said second party and its assigns forever, the following-described real estate lying and being situated in the County of Delaware and State of Iowa, to wit:

0104-811

The West Half of the Northwest Quarter of Section Thirty-six, Township Ninety North, Range Four West of the Fifth Principal Merdian, together with all crops grown thereon, EXCEPT THAT PART THEREOF DESCRIBED AS Commencing at the Southwest corner of said Southwest Quarter of the Northwest Quarter, and running thence South 89°54' East 571.0 feet along the South line of the Southwest Quarter of the Northwest Quarter, thence North 15°29' East 70.0 feet, thence Northwesterly approximately 81.6 feet along a 1909.0 feet radius curve concave Northeasterly, thence North 803.3 feet, thence West 161.0 feet, thence North 429.0 feet, thence West 350.0 feet to the West line of the Southwest Quarter of the Northwest Quarter, thence South 1320.0 feet along the West line of said Section Thirty-six to the point of beginning.

Also, the South Three Quarters of the North Half of the Northeast Quarter of Section Thirty-five, EXCEPT Commencing 8 rods West of the Southeast corner of the Northwest Quarter of the Northeast Quarter, thence North 5 rods, thence West 64 rods, thence South 5 rods, thence East 64 rods to the place of beginning; and the East two acres of the North Half of the Southwest Quarter of the Northeast Quarter, and all that part of the Southeast Quarter of the Northeast Quarter lying North of the road, in Section Thirty-five, EXCEPT THAT PART DESCRIBED AS Commencing at the Southeast corner of said Southeast Quarter of the Northeast Quarter, and running thence North along the East line of said Southeast Quarter of the Northeast Quarter 582.0 feet to the point of beginning, thence continuing North 33.0 feet, thence West 198.0 feet, thence North 12.0 feet, thence West 240.0 feet, thence South 45.0 feet, thence East 438.0 feet to the point of beginning; all in Township Ninety North, Range Four West of the Fifth Principal Meridian, together with all crops grown thereon.

The Note secured hereby expressly provides that the holder thereof may at its option change or adjust the interest rates set forth therein.

and the party of the first part hereby grants, sells, and conveys unto the party of the second part, or its assigns, all of the rents, issues, uses and profits of said land and the crops raised thereon from now until the debt secured shall be paid in full. To have and to hold the premises above described, with the appurtenances thereto belonging, unto the said second part and to its assigns forever. The said party of the first part hereby covenants that the above-described premises are free from any incumbrance; that they have full right and authority to convey the same, and they will warrant and defend the title against the claim of all persons whomsoever lawfully claiming the same; all right of homestead, contingent interest known as dower, or other right whatever, are hereby released and waived.

Provided, always, and these presents are upon the express condition, that if the said HILLTOP PORK, INC., its successors and assigns, shall pay or cause to be paid to the said second party or its assigns, the sum of---TWO HUNDRED FIFTY THOUSAND---Dollars ($250,000.00), in instalments, the final instalment due June 1, 2020, with interest thereon in lawful money of the United States, which shall be legal tender for the payment of all debts and dues, public and private, at the time of payment, according to the tenor and effect of the Promissory Note, executed by said HILLTOP PORK, INC., bearing even date with these presents, and perform the agreements and covenants stipulated herein, then these presents to be void, otherwise to remain in full force. With the express understanding and agreement that any failure to pay any portion of the money secured hereby, or any portion of the interest thereon, when due and payable, or the suffering of said real estate or any portion thereof to be sold for taxes, shall at option of the owner of any portion of the moneys secured hereby, and without notice to the first party, thereupon render the whole debt secured due and collectible, and authorize suit to be brought for the collection thereof.

And it is further mutually covenanted and agreed that in the event of the passage, after the date of this Mortgage, of any law deducting any lien thereon from the value of land for the purpose of taxation, or changing in any way the laws now in force for the taxation of mortgages or debts secured by mortgage or the manner of the collection of any such taxes, so as to affect this Mortgage, the whole of the principal sum secured by this Mortgage, together with the interest due thereon, shall, at the option of the said party of the second part, without notice, become immediately due and payable.

It is hereby further agreed that if the first party shall fail to pay all taxes and assessments against the premises hereby conveyed before the same become delinquent or if the first party allows said premises to be sold for taxes or assessments the second party or its assigns, at its or their option, may pay such taxes or assessments or redeem from any tax sale of said premises at the expense of said first party, and first party agrees to repay all sums so paid with interest at the highest rate permitted by law, and such sums so paid by second party, with interest as aforesaid, shall be secured by this Mortgage.

As additional and collateral security for the payment of the note and indebtedness hereinbefore described, the said parties of the first part hereby assign to the said part of the second part, its successors or assigns, all the profits, revenues, royalties, rights, and benefits accruing to them under all oil, gas, or mineral leases on said premises. This assignment to terminate and become null and void upon the release of this Mortgage.

Party of the first part is to procure, keep in force, and deliver to said Mortgagee policies of insurance against loss by fire and tornado, in such amounts and insurance companies as said Mortgagee shall select, and as shall be at all times satisfactory to it, covering the buildings, which now or may hereafter be erected on said premises, making the loss, if any, payable to said Mortgagee or its assigns, and every such contract of insurance effected by said party of the first part or for its benefit, shall be primarily subject to appropriation by said Mortgagee for the payment of said indebtedness. Failure to so maintain such insurance shall authorize the second party or its assigns, at its or their option, to effect and maintain such insurance at the expense of said first party, and first party agrees to repay all sums so paid, with interest at the highest rate permitted by law and such sums so paid by second party, with interest as aforesaid, shall be secured by this Mortgage.

It is hereby further agreed that in the event of a suit being brought for the foreclosure of this Mortgage there shall be assessed, as a part of the costs thereof, in favor of the plaintiff, the amount authorized by law therefor to defray plaintiff's attorney's fee and also the cost of procuring an extension of the abstract of title to the premises herein described.

It is further agreed that in case of foreclosure of this Mortgage under any of its provisions, that on the filing of the petition for such foreclosure, or at any time during the pendency of such foreclosure action, a Receiver shall be appointed to take possession and charge of the Mortgaged premises at once to rent and receive the rents, issues and profits therefrom and to have the net rents applied upon the indebtedness secured by this Mortgage, and said receivership shall continue until the time of redemption has expired. Said Receiver shall only be held accountable for the net rents collected.

If any action or proceeding be commenced by any person other than the second party, to which action or proceeding the second party is made a party, or in which it becomes necessary to defend or uphold the lien of this mortgage, all sums paid by the second party for the expense of any such litigation to prosecute or defend the rights and lien created by this mortgage, including reasonable counsel fees, shall be paid by the first party, together with interest thereon at the highest rate permitted by law, and any such sum and interest shall be a lien on said premises prior to any right, title or interest in or claim upon the premises attaching or accruing subsequent to the lien of this mortgage, and shall be added to the principal amount intended to be secured by this mortgage and the accompanying note. This clause shall apply in condemnation and bankruptcy proceedings as well as all others.

The taking of any additional security, execution of partial release of the security, release of any person liable for the payment of the indebtedness, or any extension of the time of payment of the indebtedness or renewal thereof shall not diminish the force, effect or lien of this instrument and shall not affect or impair the liability of any maker, surety or endorser for the payment of said indebtedness; that the party of the second part shall have the right to release with or without consideration or credit on the indebtedness hereby secured, any part of the

property herein described by adequate legal instrument without regard to the existence of any junior encumbrance and without the consent of such junior encumbrancer, and such release shall have no further effect upon the rank, lien or estate conveyed hereby or against the party of the second part than is therein expressed.

The Mortgagor agrees to pay all expenses pertaining to the release of this Mortgage.

It is further agreed that this Mortgage and the Note and indebtedness secured hereby are made and executed under and are in all respects to be construed under the laws of the state of Iowa.

It is further mutually covenanted and agreed that the party of the second part, its successors and assigns shall at their option be subrogated to the lien, although released of record, of any prior encumbrance, mechanic's, vendor's, or other lien or liens on said premises paid out of the proceeds of the loan secured hereby.

If all or any part of the mortgaged property be condemned or taken through eminent domain proceedings, all or such part of any award or proceeds thereof as the mortgagee in its sole discretion may determine in writing, are hereby assigned and shall be paid to the mortgagee and applied to the payment of the mortgage indebtedness.

**In the event that the mortgaged premises, or any portion thereof be sold, mortgaged, or conveyed, or becomes subject to an agreement to sell or convey, then the entire indebtedness secured by this Mortgage shall at the option of the mortgagee, become due and payable. A sale, assignment or transfer in any manner whatsoever of 10% or more of the capital stock of a mortgagor corporation shall be equivalent to a sale or conveyance of the security or an interest therein, and in that event mortgagee shall have the option to accelerate the debt, declare the entire loan balance due, and enforce collection of same, including foreclosure of the mortgage lien.**

**In Witness Whereof** said party of the first part has hereunto set his hand and seal.

**We hereby acknowledge receipt of a copy of this instrument.**

**HILLTOP PORK, INC., an Iowa Corporation**

By: Sylvester Loesche
**Sylvester Loesche, President**

Alma Loesche
**Alma Loesche, Secretary-Treasurer**

State of Iowa )
) ss.
DELAWARE County )

On this 17TH day of JULY , A.D. 2001, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Sylvester Loesche and Alma Loesche, to me personally known, who, being by me duly sworn, did say that they are the President and Secretary-Treasurer, respectively, of said Corporation executing the within and foregoing instrument, that (no seal has been procured by the said) ~~(the seal affixed thereto is the seal of said)~~ corporation; that said instrument was signed ~~(and sealed)~~ on behalf of said corporation by authority of its Board of Directors; and that said Sylvester Loesche and Alma Loesche as such officers acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

Dennis J. Rahe
Notary Public in and for said State
DENNIS J. RAHE

My commission expires: DECEMBER 4, 2003

DENNIS J. RAHE
COMM.
NOTARIAL SEAL