DELAWARE COUNTY IOWA
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DEBORAH L. BOYTON
DELAWARE CO. RECORDER
2.12.00

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FORM 5014 (6-2001)

RETURN TO PREPARER: Farm Credit Services of America, 909 West Main, Manchester, IA 52057-1522 — Dorothy Palmer (800)383-0378

300-122-77759-201-01-999

**Farm Credit Services of America**

# REAL ESTATE MORTGAGE

***For the State of Iowa***

***Open-End To Secure Present and Future Obligations and Advances***

**HOMESTEAD EXEMPTION WAIVER**

***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 property with respect to claims based on this mortgage.***

Date

Larry D Diercksen 4/2/02
Larry D Diercksen

Susan E Diercksen 4/2/02
Susan E Diercksen

Victor H Billhorn 4/2/02
Victor H Billhorn

G Eileen Billhorn 4/2/02
G Eileen Billhorn

**Date:** April 02, 2002

**Mortgagor(s):**

Larry D Diercksen and Susan E Diercksen, a/k/a Susan Schiess Diercksen, husband and wife
Victor H Billhorn and G Eileen Billhorn, husband and wife

**Mailing Address:** 2457 167th Ave
Manchester IA 52057-8515

101-133 Contract

The above named Mortgagor(s) in consideration of the advance by Mortgagee of the principal sum specified below, the receipt of which is hereby acknowledged, and any future, additional or protective advances made at Mortgagee's option, hereby sell, convey, and mortgage to Farm Credit Services of America, FLCA, 206 S 19th Street, Omaha, NE 68102-1745, Mortgagee, its successors and assigns, from the date hereof until all obligations secured hereby are paid in full, the following-described real estate in Delaware County(ies), Iowa, to wit:

SEE EXHIBIT "A" ATTACHED
The mortgagors recognize that the loan(s) secured hereby will be in default should any loan proceeds be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce or to make possible the production of an agricultural commodity, as further explained in 7 CFR Part 1940, Subpart G, Exhibit M.

together with all Mortgagor's right, title, and interest in the property, now or hereafter acquired, including: all buildings, fixtures, crops, and improvements now on or hereafter placed upon the property; all appurtenances, water, irrigation, and drainage rights; all rents, issues, uses, income, profits, and rights to possession; all oil, gas, gravel, rock, or other minerals of whatever nature, including geothermal resources; all personal property that may integrally belong to or hereafter become an integral part of the real estate whether attached or detached, including any appurtenances and accoutrements of any structure or residence secured hereby; easements and other rights and interests now or at any time hereafter belonging to or in any way pertaining to the property, whether or not specifically described herein; all above and below ground irrigation equipment and accessories; and all leases, permits, licenses, or privileges, appurtenant or nonappurtenant to the property, now or hereafter issued, extended, or renewed by Mortgagor(s), any State, the United States, or any department, bureau, instrumentality, or agency thereof. The foregoing is collectively referred to in this document as the "property."

It is understood and agreed between Mortgagor(s) and Mortgagee that this mortgage is given to secure the repayment in full of the following described promissory note(s), and all future and additional loans or advances, protective or otherwise, which may be made by Mortgagee, at its option, at the request of, and to or for the account of Mortgagor(s), or any of them, for any purpose, plus interest thereon, all payable according to the terms of the note(s) or other instrument(s) modifying the same.

| Date of Note | Principal Amount |
|---|---|
| 04/02/2002 | 150,000.00 |

***NOTICE: This mortgage secures credit in the amount of $ 150,000.00. 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.**

NOTHING CONTAINED HEREIN SHALL CONSTITUTE A COMMITMENT TO MAKE FURTHER OR ADDITIONAL ADVANCES IN ANY AMOUNT AT ANY TIME, WHETHER OR NOT THE TOTAL PRINCIPAL INDEBTEDNESS ABOVE HAS BEEN ADVANCED.

This mortgage will be due May 01, 2022.

Mortgagor(s) hereby warrants that Mortgagor(s) holds fee simple title to the above described property, that Mortgagor(s) has good and lawful

authority to mortgage the same, that the property is free and clear of all liens and encumbrances, except encumbrances of record, and that Mortgagor(s) will warrant and defend the property at Mortgagor's expense against all claimants whomsoever. Mortgagor(s) also hereby waives and relinquishes all rights of dower, homestead, distributive share, and exemption in and to the above described property.

**Mortgagor(s) and each of them further covenant and agree with Mortgagee as follows:**

**1.** To pay all liens, judgments, or other assessments against the property, and to pay when due all assessments, taxes, rents, fees, or charges upon the property or under any lease, permit, license, or privilege assigned to Mortgagee as additional security to this mortgage, including those in or on public domain.

**2.** To insure and keep insured buildings and other improvements, including fixtures and attachments now on or hereafter placed on the property to the satisfaction of Mortgagee. Such insurance will be approved by and deposited with Mortgagee, and endorsed with a mortgage clause with loss payable to Mortgagee. Any sums so received by Mortgagee may be applied in payment of any indebtedness matured or unmatured secured by this mortgage, or at the option of Mortgagee may be used to pay for reconstruction of the destroyed improvements. Such insurance will be in an amount at least equal to the lesser of the loan balance, the actual cash value of the collateral, or the replacement cost of the property, and will at a minimum, cover losses caused by fire, lightning, explosion, riot, aircraft, vehicles, vandalism, civil commotion, smoke, windstorm, and hail. I/We will obtain and keep flood insurance in force to cover losses by flood as required by Lender and by the National Flood Insurance Act of 1968, as amended, and by regulations implementing the same. I/We further agree that Lender is not and will not be liable for any failure by me/us or by any insurer, for whatever reason, to obtain and keep this insurance in force.

**3.** To keep all buildings, fixtures, attachments, and other improvements now on or hereafter placed on the property occupied and in good repair, maintenance, and condition and to neither commit nor permit any acts of waste or any impairment of the value of the property. Mortgagee may enter upon the property to inspect the same or to perform any acts authorized herein or in the loan agreement(s).

**4.** In the event Mortgagor(s) fails to pay any liens, judgments, assessments, taxes, rents, fees, or charges or maintain any insurance on the property, buildings, fixtures, attachments, or improvements as provided herein or in the loan agreement(s), Mortgagee, at its option, may make such payments or provide insurance, maintenance, or repairs and any amounts paid therefor will become part of the principal indebtedness secured hereby, be immediately due and payable and bear interest at the default rate provided in the note(s) from the date of payment until paid. The advancement by Mortgagee of any such amounts will in no manner limit the right of Mortgagee to declare Mortgagor(s) in default or exercise any of Mortgagee's other rights and remedies.

**5.** In the event Mortgagee is a party to any litigation affecting the property or the lien of this mortgage, including any action by Mortgagee to enforce this mortgage or any suit in which Mortgagee is named a defendant (including condemnation and bankruptcy proceedings) Mortgagee may incur expenses and advance payments for abstract fees, attorneys fees (to the extent allowed by law), costs, expenses, appraisal fees, and other charges and any amounts so advanced will become part of the principal indebtedness secured hereby, be immediately due and payable and bear interest at the default rate provided in the note(s) from the date of advance until paid.

**6.** Any awards made to Mortgagor(s) or their successors by the exercise of eminent domain are hereby assigned to Mortgagee; and Mortgagee is hereby authorized to collect and apply the same in payment of any indebtedness, matured or unmatured, secured by this mortgage.

**7.** In the event of default in the payment when due of any sums secured hereby (principal, interest, advancements, or protective advances), or failure to perform or observe any covenants and conditions contained herein, in the note(s), loan agreement(s), or other instrument(s), or any proceeding is brought under any Bankruptcy laws, Mortgagee, at its option, may declare the entire indebtedness secured hereby to be immediately due and payable and the whole will bear interest at the default rate as provided in the note(s) and Mortgagee may immediately foreclose this mortgage or pursue any other remedy at law or equity, including foreclosure by advertisement with a power of sale in Mortgagee to the extent provided by applicable law. Delay by Mortgagee in exercising its rights upon default will not be construed as a waiver thereof and any act of Mortgagee waiving any specific default will not be construed as a waiver of any future default. If the proceeds under such sale or foreclosure are insufficient to pay the total indebtedness secured hereby, Mortgagor(s) does hereby agree to be personally bound to pay the unpaid balance, and Mortgagee will be entitled to a deficiency judgment.

**8.** Upon default, Mortgagee will at once become entitled to exclusive possession, use, and enjoyment of the property and to all rents, issues, crops, profits, and income thereof, from the time of such default and during the pendency of foreclosure proceedings and the period of redemption, the delivery of which may be enforced by Mortgagee by any appropriate suit, action, or proceeding. Mortgagee will be entitled to a Receiver for the property and all rents, issues, crops, profits, and income thereof, without regard to the value of the property, or the sufficiency thereof to discharge the mortgage debt and the foreclosure costs, fees, and expenses. Such Receiver may be appointed by any court of competent jurisdiction upon ex parte application, notice being hereby expressly waived. The Receiver will apply all rents, issues, crops, profits, and income of the property to keep the same in good repair and condition, pay all taxes, rents, fees, charges, and assessments, pay insurance premiums necessary to keep the property insured, pay the expense of the receivership and attorney fees incurred by the Receiver, and apply the net proceeds to the payment of the indebtedness secured hereby. Such Receiver will have all the other usual powers of receivers authorized by law and as the court may direct.

**9.** The integrity and responsibility of the Mortgagor(s) constitutes a part of the consideration for the obligations secured hereby. Should Mortgagor(s) sell, transfer, or convey the property described herein without prior written consent of Mortgagee, Mortgagee, at its option, may declare the entire indebtedness immediately due and payable and may proceed in the enforcement of its rights as on any other default.

**10.** Assignment of Rents including Proceeds of Mineral Leases. Mortgagor(s) hereby assigns, transfers, and conveys to Mortgagee all rents, royalties, bonuses, and delay moneys or other proceeds that may from time to time become due and payable under any real estate lease or under any oil, gas, gravel, rock, or other mineral lease of any kind including geothermal resources now existing or that may hereafter come into existence, covering the property or any part thereof. All such sums so received by Mortgagee will be applied to the indebtedness secured hereby; or Mortgagee, at its option, may turn over and deliver to Mortgagor(s) or their successors in interest, any or all of such sums without prejudice to any of Mortgagee's rights to take and retain future sums, and without prejudice to any of its other rights under this mortgage. This assignment will be construed to be a provision for the payment or reduction of the mortgage debt, subject to the Mortgagee's option as hereinbefore provided, independent of the mortgage lien on the property . Upon payment in full of the mortgage debt and the release of this mortgage of record, this assignment will become inoperative and of no further force and effect.

**11.** This Mortgage constitutes a Security Agreement with respect to all the property described herein.

**12.** The covenants contained in this mortgage will be deemed to be severable; in the event that any portion of this mortgage is determined to be void or unenforceable, that determination will not affect the validity of the remaining portions of the mortgage.

**13. Redemption Period.** If the property described herein is less than ten acres in size and if Mortgagee waives in any foreclosure proceeding any right to a deficiency judgment against Mortgagor(s), then the period of redemption from judicial sale will be reduced to six months. If the court finds that the property has been abandoned by Mortgagor(s) and if Mortgagee waives any right to a deficiency judgment against Mortgagor(s), then the period of redemption from judicial sale will be reduced to sixty days. In addition, if the property described herein is the residence of Mortgagor(s) at the time of foreclosure, but the court finds that after foreclosure the property has ceased to be the residence of Mortgagor(s), then the period of redemption will be reduced to thirty days from the date of a court order so stating. The provisions of this paragraph will be construed to confirm to the provisions of Sections 628.26, 628.27, and 628.28 of the Code of Iowa.

Larry D Diercksen

Susan E Diercksen

Victor H Billhorn

G Eileen Billhorn

**INDIVIDUAL BORROWER ACKNOWLEDGMENT**

STATE OF Iowa )
) ss
COUNTY OF Delaware )

On this 2nd day of April, 2002, before me, a Notary Public, personally appeared Larry D. Diercksen and Susan E. Diercksen

to me known to be the person(s) named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

(SEAL) DOROTHY A. PALMER Commission Number 158773 My Comm. Exp. 12/6/02

Dorothy A. Palmer

*(Type name under signature)*
Notary Public in and for said County and State

My commission expires 12/6/2002.

**INDIVIDUAL BORROWER ACKNOWLEDGMENT**

STATE OF Iowa )
) ss
COUNTY OF Delaware )

On this 2nd day of April, 2002, before me, a Notary Public, personally appeared Victor H. Billhorn and G. Elieen Billhorn to me known to be the person(s) named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

(SEAL) DOROTHY A. PALMER Commission Number 158773 My Comm. Exp 12/6/02

Dorothy A. Palmer

Dorothy A. Palmer

*(Type name under signature)*
Notary Public in and for said County and State

My commission expires 12/6/2002.

# Exhibit "A"

The Northwest Quarter (NW ¼) of the Southeast Quarter (SE ¼), and the North 1/3 (N 1/3) of the Southwest Quarter (SW ¼) of the Southeast Quarter (SE ¼), and the Southwest fractional Quarter (SW fr ¼) except that part described as commencing at the Northwest corner of said Southwest fractional Quarter (SW fr ¼) and running thence South 87° 54' East five hundred thirteen and two-tenths (513.2) feet, thence South 1° 58' West five hundred forty three and four-tenths (543.4) feet, thence North 87° 54' West five hundred five and eighty three one-hundredths (505.83) feet, thence North five hundred forty three and ninety eight one-hundredths (543.98) feet to the point of beginning, and further excepting that part conveyed to the State of Iowa for road purposes by deeds recorded in Book 63 L.D., page 173 and in Book 95 L.D., Page 188, all in Section Eighteen (18), Township Eighty Eight (88) North, Range Five (5), West of the Fifth P.M., except Parcel C of Plat of Survey of Parcel C located in the Northwest Quarter of the Southeast Quarter of Section 18, Township 88 North, Range 5, West of the 5th P.M., according to Plat recorded in Book 8 Plats, Page 124 of the records of the Delaware County Recorder.

Larry D. Diercksen — April 2, 2002

Susan E. Diercksen — April 2, 2002

Victor H. Billhorn — April 2, 2002

G. Eileen Billhorn — April 2, 2002