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DEBORAH L PEYTON, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

MORTGAGE
(Open-End)
Recorder's Cover Sheet

Prepared by and return to: Jacob R. Koller, SIMMONS PERRINE MOYER BERGMAN PLC, 115 3rd Street SE, Cedar Rapids, IA 52401-1266, (319) 366-7641.

Taxpayer: Kevin W. Gentz, 1105 290th Avenue, Colesburg, IA 52035

Grantor: Kevin W. Gentz

Grantee: Debra S. Gentz

Legal Description: See Pages ~~XXXXXXX~~ 2 and 3

MORTGAGE
(Open-End)

This Mortgage (the "Mortgage") encumbers both real and personal property, contains an after-acquired property clause, and secures a Stipulation of Settlement between Grantor and Grantee dated October 8, 2012 (the "Agreement"), which has been incorporated by a Decree of Dissolution of Marriage dated October 9, 2012.

NOTICE: This Mortgage secures up to $2,500,000 and is senior to subsequently recorded or filed mortgages and liens.

This Mortgage is made between Kevin W. Gentz ("Mortgagor") and Debra S. Gentz ("Mortgagee").

1. **Grant of Mortgage and Security Interest**. Mortgagor mortgages unto Mortgagee, and grants a security interest to Mortgagee in the following described property:

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

   The NW ¼ of the SE ¼ and the East 99 rods of the N ½ of the SW ¼; and a tract of land described as follows: beginning at the NE corner of the SW ¼ of the SW ¼, then West 19 rods, 12 ½ feet, then South 27 rods, then at right angles East to the center of the public highway, then in a Northeasterly direction along the center of the highway to its intersection with the North line of the SW ¼ of the SE ¼, then West to the place of beginning; all in Section 8, T90N, R3W of the 5th P.M., Delaware County, Iowa, except Parcel A located in the SE ¼ of Section 8, T90N, R3W of the 5th P.M., Delaware County, Iowa, according to the plat recorded in Book 6 Plats, Page 133; also Parcel B of the NE ¼ of the SE ¼, Section 8, T90N, R3W of the 5th P.M., Delaware County, Iowa, according to plat recorded in Book 8 Plats, Page 89;

   —and—

   The S ½ of the SW ¼ of Section 5, and the W ½ of the NW ¼ of Section 8, all in T90N, R3W of the 5th P.M., Delaware County, Iowa, except that part of the SW ¼ of the NW ¼ of Section 8, described as beginning at the SE corner of the SW ¼ of the NW ¼, then West along the center of the road 450 feet, then North 560 feet, then East 450 feet, then South 560 feet to the point of beginning; also the SE ¼ of the SE ¼ of Section 8, T90N, R3W of the 5th P.M.; also Parcel D of the NE ¼ of the SE ¼ of Section 8, T90N, R3W of the 5th P.M., Delaware County, Iowa, according to plat recorded in Book 8 Plats, Page 89;

   —and—

   The SW ¼ of the SE ¼ and the SE ¼ of the SE ¼ of Section 20, T90N, R3W of the 5th P.M., Delaware County, Iowa, subject to easements of record;

—and—

Lots 5, 7, and 8 of the Subdivision of the NW ¼ of the SE ¼ and N ½ of the SW ¼ of Section 6, T90N, R3W of the 5th P.M., Delaware County, Iowa, according to plat recorded in Book 38 L.D., Page 162, of the records of the Delaware County, Iowa, Recorder, except that part included in Lot 1 of Klaus Subdivision, according to plat recorded in Book 5 Plats, Page 90 of the records of the Delaware County, Iowa, Recorder; also the NE ¼ of the SE ¼ of Section 6, T90N, R3W of the 5th P.M., Delaware County, Iowa;

—and—

The E ½ of the SW ¼; and the NW ¼ of the SW ¼, except for the South 182 feet of the West 341 feet; and the North 8 acres, except for the North 48 feet of the West 341 feet, of the SW ¼ of the SW ¼ of Section 33, T90N, R3W of the 5th P.M., Delaware County, Iowa;

—and—

The NW ¼ of the SE ¼ and the NE ¼ of the SE ¼ of Section 20, T90N, R3W of the 5th P.M., Delaware County, Iowa, subject to easements of record;

—and—

The N ½ of the NE ¼ of Section 7, T90N, R3W of the 5th P.M., Delaware County, Iowa.

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"): The payment of $2,500,000 to Mortgagee, pursuant to the Agreement.

3. **Representations and Warranties of Mortgagor**. Mortgagor represents, warrants, and covenants to Mortgagee that (i) Mortgagor holds clear title to the Mortgaged Property and title in fee simple in the Land; (ii) Mortgagor has 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, previously recorded mortgages, and Grantor's refinancing of his present mortgage, pursuant to the Agreement; (iv) Mortgagor 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, except for real estate taxes not yet delinquent, previously recorded mortgages, and Grantor's refinancing of his present mortgage, pursuant to the Agreement; (v) all buildings and improvements now or hereafter located on the Land are, or will be, located entirely within the boundaries of the Land; and (vi) Mortgagor is not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order of the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule, or regulation that is enforced or administered by the Office of Foreign Assets Control; and is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity, or nation. Mortgagor hereby agrees to defend, indemnify, and hold harmless the other party from and against any and all claims, damages, losses, risks, liabilities, and expenses (including attorneys' fees and costs) arising from or related to any breach of the foregoing certification.

4. **Taxes**. Mortgagor 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.

5. **Liens**. Mortgagor 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, installments of special assessments with respect to which no penalty is yet payable, and except as otherwise stated in subparagraph 1a. herein. Mortgagor shall pay, when due, the claims of all persons supplying labor or materials to or in connection with the Mortgaged Property.

6. **Compliance with Laws**. Mortgagor 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.

7. **Permitted Contests**. Mortgagor shall not be required to (i) pay any tax, assessment or other charge referred to in Paragraph 4, (ii) discharge or remove any lien, encumbrance, or charge referred to in Paragraph 5, or (iii) comply with any statute, law, rule, regulation, or ordinance referred to in paragraph 6, so long as Mortgagor shall contest, in good faith, the existence, amount, or validity thereof, the amount of damages caused thereby, or the extent of Mortgagor's 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. Mortgagor shall give prompt written notice to Mortgagee of the commencement of any contest referred to in this paragraph.

8. **Care of Property**. Mortgagor 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..

9. **Insurance**.

   a. **Risks to be Insured**. Mortgagor, at his sole cost and expense, shall maintain insurance as follows: Mortgagor will maintain comprehensive general public liability insurance and property damage liability insurance in amounts satisfactory to Mortgagee to protect Mortgagor 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.

   Mortgagor 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 Mortgagor's 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.

   b. **Policy Provisions**. All insurance policies and renewals thereof maintained by Mortgagor pursuant to this Mortgage shall be written by an insurance carrier satisfactory to Mortgagee, be payable to the parties as their interest may appear, contain a standard loss payable clause in favor of Mortgagee, and contain an agreement of the insurer that it will not amend, modify, or cancel the policy except after 30 days' prior written notice to Mortgagee.

c. **Delivery of Policy or Certificate**. If requested by Mortgagee, Mortgagor will deliver to Mortgagee original policies satisfactory to Mortgagee evidencing the insurance which is required under this Mortgage.

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 Mortgagor 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, Mortgagor will, within five 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 Mortgagor 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 months from the date of occurrence thereof and if an Event of Default shall exist at the end of such four-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, Mortgagor does 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 Mortgagor.

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 attorneys' 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**. Mortgagor 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.

10. **Protection of Mortgagee's Security**. Subject to the rights of Mortgagor under Paragraph 7, if Mortgagor fails 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 with interest thereon at the rate of 5% per annum, shall become an Obligation of Mortgagor secured by this Mortgage. Such amounts advanced or disbursed by Mortgagee hereunder shall be immediately due and payable by Mortgagor unless Mortgagor 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 Mortgagor for any damage or claims arising out of action taken by Mortgagee pursuant to this paragraph.

11. **Condemnation**. Mortgagor 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 Mortgagor, to compromise and settle any such action or claim, and to collect and receive from the condemning authorities and give proper receipts and acquaintances 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.

12. **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 Mortgagor as set forth in Paragraph 18 and the name and address of the secured party is the name and address of the Mortgagee as set forth in Paragraph 18.

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

    a. Mortgagor shall default in the due observance or performance of or breach the Agreement 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. Mortgagor shall make an assignment for the benefits of its creditors, or a petition shall be filed by or against Mortgagor under the United States Bankruptcy Code, or Mortgagor 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 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 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.

14. **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 Mortgagor of intended disposition of such property is required by law in a particular instance, such notice shall be deemed commercially reasonable if given to Mortgagor at least 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 Mortgagor 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.

15. **Attorneys' Fees**. Mortgagor 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.

16. **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 therefore arises.

17. **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 Mortgagor, to: Kevin W. Gentz, 1105 290th Avenue, Colesburg, IA 52035

b. If to Mortgagee, to: Debra S. Gentz, 1105 290th Avenue, Colesburg, IA 52035

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.

18. **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.

19. **Further Assurances**. At any time and from time to time until payment in full of the Obligations, Mortgagor 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 Mortgagor secured by this Mortgage. Such amounts shall be immediately due and payable by Mortgagor to Mortgagee.

20. **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.

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

22. **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.

23. **Acknowledgment of Receipt of Copies of Debt Instrument**. Mortgagor hereby acknowledges the receipt of a copy of this Mortgage.

Dated October 25, 2012

Kevin W. Gentz

Kevin W. Gentz, Mortgagor

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.

Kevin W. Gentz

Kevin W. Gentz, Mortgagor

State of Iowa, County of Delaware

This instrument was acknowledged before me on October 25, 2012 by Kevin W. Gentz.

Sarah J. Bockenstedt

Notary Public

SARAH J. BOCKENSTEDT
Commission Number 764834
My Commission Expires
9-24-13