Recorded: 4/24/2020 at 8:06:08.0 AM
County Recording Fee: $42.00
Iowa E-Filing Fee: $3.00
Combined Fee: $45.00
Revenue Tax:
Delaware County, Iowa
Daneen Schindler RECORDER
BK: 2020 PG: 1207

Do not write/type above this line. For filing purposes only.

FORM 5014 (01-2019)

RETURN TO PREPARER: Farm Credit Services of America, 1301 W Main St
Manchester, IA 52057

Goebel, Danielle
(563) 927-3159

Farm Credit Services of America

REAL ESTATE MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF RENTS and FIXTURE FILING

For the State of Iowa

Open-End To Secure Present and Future Obligations and Advances

Date:
April 22, 2020

The Legal Description begins on page 2.

Mortgagor:
M & S Livestock, L.L.C., a Limited Liability Company
2725 175th St
Earlville, IA 52041

Lender:
Farm Credit Services of America, PCA
5015 S 118th Street, PO Box 2409
Omaha, Nebraska 68103-2409

THIS MORTGAGE SECURES ALL OBLIGATIONS OF BORROWER

Defined Terms:

Borrower: M & S Livestock, L.L.C., Marty Allen Pottebaum, Shawna Marie Pottebaum together with any other maker or co-maker, signer or co-signer of any Loan Document representing any Obligations secured by this Mortgage.

Lender: As set forth above.

Loan Documents: The described notes and any and all other notes, credit agreements, security agreements, UCC financing statements, lease agreements, mortgages, deeds of trust, any other document granting a lien to secure the Obligations, and any other document or instrument executed in connection with or evidencing any Obligation (including any amendment, restatement or modification thereto).

Mortgagor: As set forth above.

Obligations: Includes, without limitation, all credit including principal and any advances, interest and other amounts due to Lender under the Loan Documents whether or not this mortgage is specifically referred to in the evidence of debt, including without limitation, fees, costs, and expenses, together with all renewals, extensions, or refinancing of same and any future and additional loans or advances made at Lender's option to or on behalf of Borrower by Lender or under any other Loan Document for any purpose whether related or unrelated to the purpose of the original credit, including advances for the protection of the Property, all attorney fees, costs and expenses incurred by Lender to the extent permitted by law in the collection of any loan or in the enforcement or preservation of the rights of Lender in and to the Property, regardless of whether Mortgagor is obligated thereon as a maker or co-maker, signer or co-signer, or as a guarantor, endorser, surety or other accommodation party.

Personal Property: All machinery and equipment, including but not limited to, irrigation equipment and machinery with all parts, replacement parts and accessories, and other personal property designed or used or to be used to provide water to the Real Property and/or used or useful to the operation or maintenance of such irrigation system(s), and any other personal property of any kind or nature located in or on the Real Property, regardless of whether now or hereafter attached or affixed to the Real Property; together with all accessions, parts and additions to, all replacements of and all substitutions for any of such equipment or personal property.

Real Property: Together with the below legally described real estate, all existing or subsequently erected or affixed buildings, structures, improvements or fixtures; all crops, timber, timber to be cut, trees, plants, vines or other plantings; all water, water rights, including riparian rights and surface water rights, watercourses, irrigation, drainage and ditch rights; all rents, issues, uses, income, profits and royalties; all leases, permits, licenses, privileges, easements, rights of way, rights to possession; all rights in and to the lands lying in streets, alleys and roads adjoining the Real Property and appurtenances; all leases, permits, licenses, or privileges, appurtenant or non-appurtenant to the property, now or hereafter issued, extended, or renewed by Mortgagor, any State, the United States, or any department, bureau, instrumentality, or agency thereof; all proceeds in eminent domain, insurance payments, proceeds or refunds of premiums or any other payment or settlement relating to the Property; all oil, gas, gravel, rock, geothermal and similar resources or other mineral rights of whatever nature; and any and all other rights related to the real property.

Property: Collectively the Real Property and the Personal Property, including without limitation all insurance proceeds and refunds of insurance premiums related to said Property.

Uniform Commercial Code: Laws regulating financial contracts in any jurisdiction which may affect the rights of the Mortgagor, Lender or any other party with respect to the Property described herein.

The above named Mortgagor for good and valuable consideration, hereby sells, grants, conveys, and mortgages to Lender, an assignment and security interest in all of Mortgagor's right, title and interest whether currently existing or hereinafter acquired in and to the following-described Real Property in Delaware County(ies), Iowa, to wit:

> Parcel 2015-32 Part of the SE¼-SW¼ Section 11, T89N, R4W of the Fifth P.M., Delaware County, Iowa, according to plat recorded in Book 2015, Page 934.

In addition, Mortgagor hereby grants to Lender a security interest in all Personal Property, and all proceeds from any sale or other disposition of the Property. The mortgage is also effective as both a financing statement filed as a fixture filing under the Uniform Commercial Code and as a security agreement under the Uniform Commercial Code and Mortgagor hereby consents to the filing of notices, statements or other documents in accordance with the Uniform Commercial Code as Lender may determine appropriate.

It is understood and agreed between Mortgagor and Lender that this mortgage is given to secure the repayment in full of all the Obligations, regardless of whether Mortgagor is liable thereon, and all future

and additional loans or advances, protective or otherwise, which may be made by Lender, at its option, at the request of, and to or for the account of Mortgagor, any of the parties liable under any of the Loan Documents, for any purpose, plus interest thereon, all payable according to the terms of the Loan Documents. Any Obligations secured by this mortgage shall be payable when due as set forth in the Loan Documents.

This mortgage secures all Obligations, including, but not limited to the following:

Date of Note(s) or other Loan Document(s)	Principal Amount
04/22/2020	$300,000.00

*NOTICE: This mortgage secures credit in the amount of SEVEN HUNDRED FIFTY THOUSAND ($750,000.00). 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 January 1, 2040.

Mortgagor hereby warrants that Mortgagor holds good and marketable title in fee simple to the above described Property, that Mortgagor has good and lawful authority to mortgage the same, that the Property is free and clear of all liens and encumbrances, except those set forth in a title policy or title opinion purchased by Lender and deemed acceptable by Lender, in Lender's sole discretion, in relation to this mortgage and that Mortgagor will warrant and defend the Property at Mortgagor's expense against all claimants whomsoever. Mortgagor also hereby waives and relinquishes all rights of dower, homestead, distributive share, and exemption in and to the above described Real Property.

Mortgagor hereby assigns, transfers, and conveys to Lender all rents, issues, incomes, profits, 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 Lender will be applied to the Obligations secured hereby; or Lender, at its option, may turn over and deliver to Mortgagor or their successors in interest, any or all of such sums without prejudice to any of Lender'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 Obligations, subject to the Lender's option as hereinbefore provided, independent of the mortgage lien on the Property.

Mortgagor and each of them further covenants and agrees with, or certifies and represents to Lender as follows:

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

2. To insure and keep insured all buildings and other improvements, including fixtures and attachments now on or hereafter placed on the Real Property to the satisfaction of Lender. Such insurance will contain an endorsement showing Lender as mortgagee. On demand, Mortgagor will furnish said policies or proof of insurance to Lender and the insurance carrier shall be satisfactory to Lender. Mortgagor shall give written notice to Lender immediately of any claim or loss. Any sums so received by Lender may be applied in payment of any matured or unmatured Obligations secured by this mortgage, or at the option of Lender, 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 Property, or the replacement cost of the Property, and will at a minimum, cover losses caused by fire, lightning, explosion, aircraft, vehicles, vandalism, smoke, windstorm, and hail. Mortgagor 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. Mortgagor further agrees that Lender is not and will not be liable for any failure by Mortgagor or by any insurer, for whatever reason, to obtain and keep this insurance in force. Mortgagor shall give written notice to Lender immediately of any cancellation, termination or material modification of any such insurance. If Mortgagor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Mortgage.

3. To keep all buildings, fixtures, attachments, and other improvements now on or hereafter placed on the Real 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. Mortgagor shall not remove or demolish any improvement without prior written approval of the Lender. Mortgagor shall give immediate notice to Lender of any material damage to or construction on or related to any of the Property. Lender may enter upon the Real Property to inspect the same or to perform any acts authorized herein or in the Loan Documents. Any inspections, reports or samples conducted by Lender shall be for their own use and benefit, and Lender shall not be required to disclose the results of any inspections to Mortgagor for any reason, regardless of whether Lender has done so on any other occasion unless Lender agrees to do so in a separate writing. Mortgagor is responsible for monitoring, preserving and inspecting the Property independently of Lender, and Lender makes no representation, statement or warranty regarding the accuracy of any inspection, reports or statements related to the Property's condition, quantity, or quality of any nature, and Mortgagor agrees it shall not rely upon statements related thereto made by a representative of Lender.

4. That Mortgagor is, and shall continue to be, duly organized, validly existing and legally qualified to do business under the laws of the states in which Mortgagor operates, in compliance with federal, state and local laws or regulations, and have legal authority in such states to conduct Mortgagor's business operations and to own agricultural real estate. No change has been made in the name, ownership, control, relationship, legal status, or organizational and formation documents of any undersigned since the time any such information was last provided to Lender.

5. All known sources of existing or potential environmental contamination on or near any Real Property owned or operated by Mortgagor has been fully disclosed to Lender; the operations of Mortgagor comply, and during the term of this mortgage will at all times comply in all respects, with all environmental laws; Mortgagor has obtained and will maintain all licenses, permits, authorizations and registrations required under any environmental law and necessary for its ordinary course operations, all such environmental permits are in good standing, and Mortgagor is in compliance with all material terms and conditions of such environmental permits; neither Mortgagor nor any of its present Property or operations is subject to any outstanding written order from or agreement with any governmental authority or subject to any judicial or docketed administrative proceeding, respecting any environmental law, environmental claim or hazardous material; there are no hazardous materials or other conditions or circumstances existing, or arising from operations prior to the date of this mortgage, with respect to any Property of Mortgagor that would reasonably be expected to give rise to material environmental claims. In addition, Mortgagor shall hold Lender harmless from any liability for environmental waste or contamination on any Property owned or operated by Mortgagor or liability imposed as a consequence by reason of Mortgagor's activities and will defend and indemnify Lender against all claims, losses, liabilities, and expenses incurred by Lender as a result thereof. This covenant will survive cancellation, expiration or termination of this mortgage.

6. Each of the following shall constitute an event of default:

a. Failure to make any payment when due under any Loan Document or other Obligation secured by this mortgage.

b. Failure 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 in this mortgage, or in any other Loan Document.

c. Any breach or material misrepresentation of any term, agreement, covenant, condition, certification, representation or warranty provided in this mortgage, or any other Loan Document.

d. Sale, transfer, or conveyance of the Property described herein without prior written consent of Lender.

e. Any use of loan proceeds 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 provided by 7 CFR Part 12.

f. The death, dissolution or insolvency of any Mortgagor; the appointment of a receiver for any Mortgagor or their Property; any assignment for the benefit of creditors by the Mortgagor; or application

of any debtor relief law to Mortgagor, including any type of workout or commencement of proceeding under any bankruptcy or insolvency laws by or against any Mortgagor or Borrower on any Loan Document or other Obligation secured by this mortgage.

g. Any of the preceding events occurs with respect to any guarantor, endorser, surety, or accommodation party of any of the Obligations or any guarantor, endorser, surety, or accommodation party dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any guaranty of the Obligations.

7. In the event of a default and at any time thereafter, Lender, at its option, subject to any requirements under the Farm Credit Act or other applicable federal or state law, may exercise one or more of the following rights and remedies, in addition to any other rights or remedies permitted by law:

a. Declare all Obligations secured hereby to be immediately due and payable and the whole will bear interest at the default rate as provided in the Loan Documents.

b. Lender may immediately foreclose this mortgage or pursue any other remedy at law or equity, including foreclosure by advertisement with a power of sale to the extent provided by applicable law.

c. Lender may, in its discretion, exercise any and all remedies available under the Uniform Commercial Code with respect to any Personal Property.

d. Lender 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 Lender by any appropriate suit, action, or proceeding.

e. Lender will be entitled to a receiver to take immediate possession of 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 immediately appointed by any court of competent jurisdiction upon ex parte application, notice being hereby expressly waived and shall serve without bond if the law allows. 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's fees incurred by the receiver, and apply the net proceeds to the payment of the Obligations secured hereby. Such receiver will have all the other usual powers of receivers authorized by law and as the court may direct.

f. In the event Mortgagor 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 Documents. Lender, at its option, may make such payments or provide insurance, maintenance, or repairs and any amounts paid therefor will become part of the principal Obligations secured hereby, be immediately due and payable and bear interest at the default rate provided in the Loan Documents from the date of payment until paid. The advancement by Lender of any such amounts will in no manner limit the right of Lender to declare Mortgagor in default or exercise any of Lender's other rights and remedies.

g. In the event Lender is a party to any litigation affecting the Property or the lien of this mortgage, including any action by Lender to enforce this mortgage or any suit in which Lender is named a defendant (including eminent domain and bankruptcy proceedings), Lender may incur expenses and advance payments for abstract fees, attorney's 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 Obligations secured hereby, be immediately due and payable and bear interest at the default rate provided in the Loan Documents from the date of advance until paid.

8. Lender's rights and remedies listed herein, and any rights and remedies that may be available at law or in equity, shall be deemed cumulative and non-exclusive, and Lender may proceed with any number of such rights and remedies at the same time or sequentially until all Obligations are paid and satisfied in full. The exercise of any right or remedy shall not be deemed a waiver or release of any other right or remedy, and Lender, upon a default, may proceed with any available remedy or right it selects in any order it determines all within its sole discretion.

9. Delay by Lender in exercising its rights upon default will not be construed as a waiver thereof, and any act of Lender waiving any specific default will not be construed as a waiver of any future default. If the proceeds under sale or foreclosure as set forth above are insufficient to pay the total Obligations secured hereby, Lender will be entitled to a deficiency judgment.

10. Any awards made to Mortgagor or their successors by the exercise of eminent domain are hereby assigned to Lender; and Lender is hereby authorized to collect and apply the same in payment of any

Obligations, matured or unmatured, secured by this mortgage. Mortgagor shall immediately notify Lender of any action in eminent domain.

11. This Mortgage constitutes a security agreement under the Uniform Commercial Code with the Mortgagor being the debtor, the Mortgagee being the secured party, the Obligations being the debt and the Property being the collateral.

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. All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered by hand, or three days after being deposited in the mail, postage prepaid, or, in the case of delivery by a nationally recognized overnight courier, when received, addressed to one or more of the individuals executing this mortgage on behalf of such party at the address set forth above, or to such other address as such party may designate for itself by like notice.

14. Mortgagor shall promptly provide and/or execute and deliver to Lender such further instruments, including, but not limited to, mortgages, deeds of trust, security agreements, financing statements, continuation statements, assignments, certificates, affidavits, addendums, amendments or resolutions in form and substance satisfactory to Lender that Lender may require to effectuate, complete, perfect, continue or preserve this mortgage or any other Loan Documents, Obligations or liens related thereto.

15. This mortgage and all of the Loan Documents constitute the entire and complete understanding of the parties hereto and supersede all prior agreements and understandings relative to the subject matter hereof. This mortgage may not be effectively amended, changed, altered or modified, except in writing executed by all parties. To the extent the provisions contained in this mortgage are inconsistent with those contained in any other Loan Documents, the terms and provisions contained herein shall control. Otherwise, such provisions shall be considered cumulative.

16. Time is of the essence in the performance of this mortgage.

17. The terms of this mortgage shall bind and benefit the heirs, legal representatives, successors, and assigns of the parties; provided, however, that Mortgagor may not assign this mortgage, or any advances made hereunder, or assign or delegate any of its rights or obligations, without the prior written consent of Lender.

18. The mortgage shall be governed by, and construed in accordance with, the laws of the State of Nebraska, except to the extent that the law of any other jurisdiction applies as to the perfection or enforcement of Lender's security interest in or lien on any Property and except to the extent expressly provided to the contrary in any Loan Document. In the event that any provision or clause of any of the Loan Documents conflicts with applicable laws, such conflicts shall not affect other provisions of such Loan Documents which can be given effect without the conflicting provision, and to this end the provisions of the Loan Documents are declared to be severable. This instrument can be waived, changed, discharged or terminated only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

19. The acceptance by Lender of any sum in an amount less than the sum then due shall not be deemed a waiver of any default and the Lender's remedies set forth in any Loan Document shall not be impaired or waived by acceptance of any such partial payment, whether such payment is accepted before or after any notice of default or notice of sale. Consent by Lender to any transaction or action of Mortgagor which is subject to consent or approval of Lender in any Loan Document shall not be deemed a waiver of the right to require such consent or approval to future or successive transactions or actions.

20. This mortgage may be executed in any number of counterparts and by either party on separate counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

21. Mortgagor agrees that any "Communications" (as defined herein) directed to Mortgagor by Lender or any subsidiary, affiliate, or agent of Lender or Lender's parent association (collectively, the "Lender") may be provided in electronic form or transmitted by electronic means. As used herein, "Communications" means all notices, disclosures, documents, or other communications given by the Lender to Mortgagor, including, without limitation, all shareholder communications and any disclosures, notices, or communications relating to any transaction between Mortgagor and the Lender, but expressly excluding any notice required by applicable law to be provided in paper form. Mortgagor acknowledges that electronic Communications entail risks (including the risk of interception by a third party) and Mortgagor hereby releases the Lender from all liability relating to the electronic provision or transmission of any and all Communications. Mortgagor agrees to provide Lender upon request with the e-mail address or

addresses of Mortgagor and to notify Lender within ten (10) days if there are any changes to its e-mail address or addresses. Any Communication sent by e-mail will be deemed received when sent to the last e-mail address or addresses of any Mortgagor known by Lender. Any Communication digitally published by the Lender on an Internet website will be deemed received when the Lender has both published the Communication and notified Mortgagor at its last e-mail address known by Lender that the Communication has been published. Transmission of any Loan Document as an "electronic record" containing Mortgagor's "electronic signature," as those terms are defined in applicable federal and state laws, or facsimile transmission of any Loan Document containing a facsimile of Mortgagor's signature, shall be as effective, enforceable and valid as if a paper version of such Loan Document was delivered containing such original written signature. The parties intend that the electronic method used as provided herein reliably establishes the identity of Lender as a holder in due course. and agree that each Loan Document produced by such electronic method shall be for all purposes (including perfection of security interests and admissibility of evidence) the sole original authenticated Loan Document and shall be effective as a transferable record; and to the extent, if any, that any Loan Document constitutes chattel paper (as the term is defined in the applicable Uniform Commercial Code), no security interest in such Loan Document may be created through the transfer or possession of any counterpart or copy thereof, other than the Loan Document produced by such electronic method. Mortgagor agrees not to raise as a defense to the enforcement of any Loan Document that Mortgagor executed such Loan Document by electronic or digital means or used facsimile or other electronic means to transmit its signature on such Loan Document. At any time, Mortgagor may request a paper copy of any Loan Document or other record Lender made available to Mortgagor electronically. Mortgagor may revoke the consent to receive electronic Communications contained in this paragraph by sending thirty (30) days' prior written notice of such revocation, signed by Mortgagor, to Lender by certified mail, return receipt requested. In the event of any conflict between the terms of this paragraph and the terms of any other agreement entered into by Mortgagor and the Lender regarding electronic signatures or communications, then as to such other agreement, the terms of such other agreement shall control as to such electronic signatures or communications.

22. If the Real Property described herein is less than ten acres in size and if Lender waives in any foreclosure proceeding, any right to a deficiency judgment against Mortgagor, then the period of redemption from judicial sale will be reduced to six months. If the court finds that the Real Property has been abandoned by Mortgagor and if Lender waives any right to a deficiency judgment against Mortgagor, then the period of redemption from judicial sale will be reduced to sixty days. In addition, if the Real Property described herein is the residence of Mortgagor at the time of foreclosure, but the court finds that after foreclosure the Real Property has ceased to be the residence of Mortgagor, 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.

WAIVER OF JURY TRIAL. MORTGAGOR HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS MORTGAGE OR ANY RELATED LOAN DOCUMENT.

M & S Livestock, L.L.C., A Limited Liability Company

By_____

Marty Pottebaum, Member

LLC ACKNOWLEDGMENT - MEMBER(S)

STATE OF Iowa)
)ss
COUNTY OF Delaware)

On this 22 day of April, 2020 before me, a Notary Public, personally appeared Marty Pottebaum to me known to be the person(s) named in and who executed the foregoing instrument, who did say that he/she/they is/are member(s) of M & S Livestock, L.L.C. a limited liability company; that the instrument was signed on behalf of the limited liability company by authority of its members and the member(s) acknowledged the execution of the instrument to be the voluntary act and deed of the limited liability company by it and by him/her/them voluntarily executed.

(SEAL) 

Danielle M. Goebel
(Type name under signature)

My commission expires 05/04/2023 . Notary Public in and for said County and State