



MICHELLE "MICKI" UTSLER, COUNTY RECORDER  
MADISON IOWA

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RECORDED	<input checked="" type="checkbox"/>
COMPARED	<input checked="" type="checkbox"/>

LMCA

Space Above This Line For Recording Data

This instrument was prepared by Eric Richter, The First National Bank of Olathe, P. O. Box 1500, Olathe, Kansas 66051-1500, (913) 782-3211  
Return To: Natalie Norris, The First National Bank of Olathe, P. O. Box 1500, Olathe, Kansas 66051-1500

**MORTGAGE**

(With Future Advance Clause)

**DATE AND PARTIES.** The date of this Mortgage (Security Instrument) is June 7, 2005. The parties and their addresses are:

**MORTGAGOR:**

**NESTER G SERRANO**  
204 W Washington  
Winterset, Iowa 50273

**AVA SERRANO**  
Husband and Wife  
204 W Washington  
Winterset, Iowa 50273

**LENDER:**

**THE FIRST NATIONAL BANK OF OLATHE**  
Organized and existing under the laws of Kansas  
444 East Santa Fe St  
P.O. Box 1500  
Olathe, Kansas 66051-1500  
TIN: 48-0357605

Nestor G. Serrano and Ava Serrano, as joint tenants with Full Rights of Survivorship, and not as Tenants in Common

**1. CONVEYANCE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debts and Mortgagor's performance under this Security Instrument, Mortgagor grants, bargains, warrants, conveys and mortgages to Lender, the following described property:

Lots One (1) and Two (2) and the East 16 1/2 feet of Lot Three (3) in Block Thirty-three (33) of the Original Town of Winterset, Madison County, Iowa



The property is located in Madison County at 204 W Washington, Winterset, Iowa 50273.

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, all water and riparian rights, wells, ditches and water stock and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described (all referred to as Property).

This Security Instrument will remain in effect until the Secured Debts and all underlying agreements have been terminated in writing by Lender.

**NOTICE. THIS MORTGAGE SECURES CREDIT IN THE AMOUNT OF \$25,000.00. 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.**

**2. MAXIMUM OBLIGATION LIMIT.** The total principal amount secured by this Security Instrument at any one time will not exceed the amount stated above. This limitation of amount does not include interest and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Lender's security and to perform any of the covenants contained in this Security Instrument.

**3. SECURED DEBTS.** This Security Instrument will secure the following Secured Debts:

- A. Specific Debts.** The following debts and all extensions, renewals, refinancings, modifications and replacements. A promissory note or other agreement, No. 4800354, dated June 7, 2005, from Mortgage to Lender, with a maximum credit limit of \$25,000.00 and maturing on June 15, 2015. One or more of the debts secured by this Security Instrument contains a future advance provision.
- B. Sums Advanced.** All sums advanced and expenses incurred by Lender under the terms of this Security Instrument.

**4. PAYMENTS.** Mortgage agrees that all payments under the Secured Debts will be paid when due and in accordance with the terms of the Secured Debts and this Security Instrument.

**5. WARRANTY OF TITLE.** Mortgage warrants that Mortgage is or will be lawfully seized of the estate conveyed by this Security Instrument and has the right to grant, bargain, convey, sell, mortgage and warrant the Property. Mortgage also warrants that the Property is unencumbered, except for encumbrances of record.

**6. PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property, Mortgage agrees:

- A.** To make all payments when due and to perform or comply with all covenants.
- B.** To promptly deliver to Lender any notices that Mortgage receives from the holder.
- C.** Not to allow any modification or extension of, nor to request any future advances under any note or agreement secured by the lien document without Lender's prior written consent.

**7. CLAIMS AGAINST TITLE.** Mortgage will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgage to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgage's payment. Mortgage will defend title to the Property against any claims that would impair the lien of this Security Instrument. Mortgage agrees to assign to Lender, as requested by Lender, any rights, claims or defenses Mortgage may have against parties who supply labor or materials to maintain or improve the Property.

**8. DUE ON SALE OR ENCUMBRANCE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of all or any part of the Property. This right is subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable.

**9. WARRANTIES AND REPRESENTATIONS.** Mortgage has the right and authority to enter into this Security Instrument. The execution and delivery of this Security Instrument will not violate any agreement governing Mortgage or to which Mortgage is a party.

**10. PROPERTY CONDITION, ALTERATIONS AND INSPECTION.** Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor will not commit or allow any waste, impairment, or deterioration of the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor agrees that the nature of the occupancy and use will not substantially change without Lender's prior written consent. Mortgagor will not permit any change in any license, restrictive covenant or easement without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims, and actions against Mortgagor, and of any loss or damage to the Property.

Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Lender will give Mortgagor notice at the time of or before an inspection specifying a reasonable purpose for the inspection. Any inspection of the Property will be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.

**11. AUTHORITY TO PERFORM.** If Mortgagor fails to perform any duty or any of the covenants contained in this Security Instrument, Lender may, without notice, perform or cause them to be performed. Mortgagor appoints Lender as attorney in fact to sign Mortgagor's name or pay any amount necessary for performance. Lender's right to perform for Mortgagor will not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Security Instrument. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may take all steps necessary to protect Lender's security interest in the Property, including completion of the construction.

**12. ASSIGNMENT OF LEASES AND RENTS.** Mortgagor assigns, grants, bargains, conveys, mortgages and warrants to Lender as additional security all the right, title and interest in the following (Property): existing or future leases, subleases, licenses, guaranties and any other written or verbal agreements for the use and occupancy of the Property, including any extensions, renewals, modifications or replacements (Leases); and rents, issues and profits (Rents). In the event any item listed as Leases or Rents is determined to be personal property, this Assignment will also be regarded as a security agreement. Mortgagor will promptly provide Lender with copies of the Leases and will certify these Leases are true and correct copies. The existing Leases will be provided on execution of the Assignment, and all future Leases and any other information with respect to these Leases will be provided immediately after they are executed. Mortgagor may collect, receive, enjoy and use the Rents so long as Mortgagor is not in default. Upon default, Mortgagor will receive any Rents in trust for Lender and Mortgagor will not commingle the Rents with any other funds. Mortgagor agrees that this Security Instrument is immediately effective between Mortgagor and Lender and effective as to third parties on the recording of this Assignment. This Security Instrument will remain effective during any statutory redemption period until the Secured Debts are satisfied. As long as this Assignment is in effect, Mortgagor warrants and represents that no default exists under the Leases, and the parties subject to the Leases have not violated any applicable law on leases, licenses and landlords and tenants.

**13. MORTGAGE COVENANTS.** Mortgagor agrees that the covenants in this Security Instrument are material obligations under the Secured Debts and this Security Instrument. If Mortgagor breaches any covenant in this Security Instrument, Lender may refuse to make additional extensions of credit or may reduce the credit limit. By not exercising either remedy on Mortgagor's breach, Lender does not waive Lender's right to later consider the event a breach if it happens again.

**14. DEFAULT.** Mortgagor will be in default if any of the following occur:

**A. Payments.** Any party obligated on the Secured Debts fails to make a payment within 10 days of being due.

**B. Property.** Any action or inaction occurs that adversely affects the Property or Lender's rights in the Property.

**15. REMEDIES ON DEFAULT.** In addition to any other remedy available under the terms of this Security Instrument, Lender may accelerate the Secured Debts and foreclose this Security Instrument in a manner provided by law if Mortgagor is in

default. In some instances, federal and state law will require Lender to provide Mortgage with notice of the right to cure, or other notices and may establish time schedules for foreclosure actions.

At the option of the Lender, all or any part of the agreed fees and charges, accrued interest and principal will become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. The acceptance by Lender of any sum in payment or partial payment on the Secured Debts after the balance is due or is accelerated or after foreclosure proceedings are filed will not constitute a waiver of Lender's right to require complete cure of any existing default. By not exercising any remedy on Mortgage's default, Lender does not waive Lender's right to later consider the event a default if it happens again.

**16. REDEMPTION.** Mortgage agrees that in the event of foreclosure of this Security Instrument, at the sole discretion of Lender, Lender may elect to reduce the period of redemption for the sale of the Property to a period of time as may then be authorized under the circumstances and under any section of Iowa Code Chapter 628, or any other Iowa Code section, now in effect or as may be in effect at the time of foreclosure.

**17. EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS.** If Mortgage breaches any covenant in this Security Instrument, Mortgage agrees to pay all expenses Lender incurs in performing such covenants or protecting its security interest in the Property. Such expenses include, but are not limited to, fees incurred for inspecting, preserving, or otherwise protecting the Property and Lender's security interest. Mortgage agrees to pay all costs and expenses incurred by Lender in collecting, enforcing, or protecting Lender's rights and remedies under this Security Instrument or any other document relating to the Secured Debts. Expenses include, but are not limited to, court costs and other costs of collection. These expenses are payable on demand and will bear interest from the date of payment until paid in full at the highest interest rate in effect as provided for in the terms of Secured Debts. In addition, to the extent permitted by the United States Bankruptcy Code, Mortgage agrees to pay the reasonable attorneys' fees incurred by Lender to protect Lender's rights and interests in connection with any bankruptcy proceedings initiated by or against Mortgage. This Security Instrument will remain in effect until released. Mortgage agrees to pay for any recordation costs of such release.

**18. ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES.** As used in this section, (1) Environmental Law means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9601 et seq., all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) Hazardous Substance means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substance," "hazardous waste," "hazardous substance," or "regulated substance" under any Environmental Law.

Mortgage represents, warrants and agrees that:

**A.** Except as previously disclosed and acknowledged in writing to Lender, no Hazardous Substance is or will be located, stored or released on or in the Property. This restriction does not apply to small quantities of Hazardous Substances that are generally recognized to be appropriate for the normal use and maintenance of the Property.

**B.** Except as previously disclosed and acknowledged in writing to Lender, Mortgage and every tenant have been, are, and will remain in full compliance with any applicable Environmental Law.

**C.** Mortgage will immediately notify Lender if a release or threatened release of a Hazardous Substance occurs on, under or about the Property or there is a violation of any Environmental Law concerning the Property. In such an event, Mortgage will take all necessary remedial action in accordance with any Environmental Law.

**D.** Mortgagor will immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any pending or threatened investigation, claim, or proceeding relating to the release or threatened release of any Hazardous Substance or the violation of any Environmental Law.

**19. CONDEMNATION.** Mortgagor will give Lender prompt notice of any pending or threatened action by private or public entities to purchase or take any or all of the Property through condemnation, eminent domain, or any other means. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds will be considered payments and will be applied as provided in this Security Instrument. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.

**20. INSURANCE.** Mortgagor agrees to keep the Property insured against the risks reasonably associated with the Property. Mortgagor will maintain this insurance in the amounts Lender requires. This insurance will last until the Property is released from this Security Instrument. What Lender requires pursuant to the preceding two sentences can change during the term of the Secured Debts. Mortgagor may choose the insurance company, subject to Lender's approval, which will not be unreasonably withheld. All insurance policies and renewals will include a standard "mortgage clause" and, where applicable, "loss payee clause."

Mortgagor will give Lender and the insurance company immediate notice of any loss. All insurance proceeds will be applied to restoration or repair of the Property or to the Secured Debts, at Lender's option. If Lender acquires the Property in damaged condition, Mortgagor's rights to any insurance policies and proceeds will pass to Lender to the extent of the Secured Debts.

Mortgagor will immediately notify Lender of cancellation or termination of insurance. If Mortgagor fails to keep the Property insured Lender may obtain insurance to protect Lender's interest in the Property. This insurance may include coverages not originally required of Mortgagor, may be written by a company other than one Mortgagor would choose, and may be written at a higher rate than Mortgagor could obtain if Mortgagor purchased the insurance.

**21. ESCROW FOR TAXES AND INSURANCE.** Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.

**22. CO-SIGNERS.** If Mortgagor signs this Security Instrument but does not sign the Secured Debts, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debts and Mortgagor does not agree to be personally liable on the Secured Debts. If this Security Instrument secures a guaranty between Lender and Mortgagor, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation. These rights may include, but are not limited to, any anti-deficiency or one-action laws.

**23. WAIVERS.** Except to the extent prohibited by law, Mortgagor waives any rights relating to reinstatement, all rights of dower and distributive share and all homestead exemption rights relating to the Property.

**24. OTHER TERMS.** The following are applicable to this Security Instrument:

**A. Line of Credit.** The Secured Debts include a revolving line of credit provision. Although the Secured Debts may be reduced to a zero balance, this Security Instrument will remain in effect until the Secured Debts and all underlying agreements have been terminated in writing by Lender.

**B. Additional Terms. FUTURE ADVANCE CLAUSE.** It is further covenanted and agreed by the parties hereto that this Mortgage also secures the payment of and includes all future or further advances as shall be made by the Mortgagee herein or its successors or assigns, to and for the benefit of the Mortgagor, its heirs, personal representatives, or assigns, to the same extent as if such future advances were made on the date of execution of this Mortgage. The total amount of indebtedness that may be secured by this Mortgage may decrease or increase from time to time, but the total unpaid balance so secured at any one time shall not exceed the

Maximum Obligation Limit, as stated in Paragraph 2 above, together with interest thereon and any and all disbursements made by the Mortgagee for the payment of taxes, levies or insurance on the property covered by the lien of this Mortgage, with interest on such disbursements at the rate specified in the Note referred to in this Mortgage, and for reasonable attorney fees and court costs incurred in the collection of any and all such sums of money. Such further or future advances shall be wholly optional with the Mortgagee, and the same shall bear interest at the same rate as specified in the Note referenced herein, unless said interest shall be modified by subsequent agreement.

**25. APPLICABLE LAW.** This Security Instrument is governed by the laws of Kansas, except to the extent otherwise required by the laws of the jurisdiction where the Property is located, and the United States of America.

**26. JOINT AND INDIVIDUAL LIABILITY AND SUCCESSORS.** Each Mortgagee's obligations under this Security Instrument are independent of the obligations of any other Mortgagee. Lender may sue each Mortgagee individually or together with any other Mortgagee. Lender may release any part of the Property and Mortgagee will still be obligated under this Security Instrument for the remaining Property. The duties and benefits of this Security Instrument will bind and benefit the successors and assigns of Lender and Mortgagee.

**27. AMENDMENT, INTEGRATION AND SEVERABILITY.** This Security Instrument may not be amended or modified by oral agreement. No amendment or modification of this Security Instrument is effective unless made in writing and executed by Mortgagee and Lender. This Security Instrument and any other documents relating to the Secured Debts are the complete and final expression of the agreement. If any provision of this Security Instrument is unenforceable, then the unenforceable provision will be severed and the remaining provisions will still be enforceable.

**28. INTERPRETATION.** Whenever used, the singular includes the plural and the plural includes the singular. The section headings are for convenience only and are not to be used to interpret or define the terms of this Security Instrument.

**29. NOTICE, FINANCIAL REPORTS, ADDITIONAL DOCUMENTS AND RECORDING TAXES.** Unless otherwise required by law, any notice will be given by delivering it or mailing it by first class mail to the appropriate party's address listed in the DATE AND PARTIES section, or to any other address designated in writing. Notice to one Mortgagee will be deemed to be notice to all Mortgagees. Mortgagee will inform Lender in writing of any change in Mortgagee's name, address or other application information. Mortgagee will provide Lender any financial statements or information Lender requests. All financial statements and information Mortgagee gives Lender will be correct and complete. Mortgagee agrees to pay all expenses, charges and taxes in connection with the preparation and recording of this Security Instrument. Mortgagee agrees to sign, deliver, and file any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagee's obligations under this Security Instrument and to confirm Lender's lien status on any Property, and Mortgagee agrees to pay all expenses, charges and taxes in connection with the preparation and recording thereof. Time is of the essence.

**NOTICE TO CONSUMER:**

1. Do not sign this agreement before you read it.
2. You are entitled to a copy of this agreement.
3. You may prepay the unpaid balance at any time without penalty.

**SIGNATURES.** By signing, Mortgagor agrees to the terms and covenants contained in this Security Instrument. Mortgagor also acknowledges receipt of a copy of this Security Instrument.

**MORTGAGOR:**

Nester G Serrano

Nester G Serrano

Individually

Ava Serrano

Ava Serrano

Individually

**LENDER:**

The First National Bank of Olathe

By Daniel F. Long AVP

Daniel F. Long, Assistant Vice President

**ACKNOWLEDGMENT.**

(Individual)

Nester Serrano OF Winterset IA, Ava Serrano OF Winterset IA ss.

On this June day of 9th, 2005 before me, a Notary Public in the state of Iowa, personally appeared Nester G Serrano, and Ava Serrano, Husband and Wife, to me known to be the person(s) named in and who executed the foregoing instrument, and acknowledged that he/she/they executed the same as his/her/their voluntary act and deed.

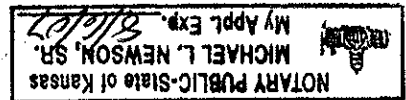
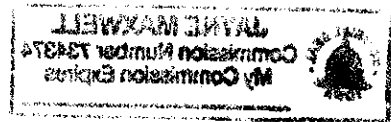
My commission expires:

Jayne Maxwell  
(Notary Public)



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(Lender Acknowledgment)

State of Kansas, County of Johnson ss.

On this 9th day of June, 2005, before me, a Notary Public, in and for said county, personally appeared Daniel F. Long, to me personally known, who being by me duly sworn or affirmed did say that that person is Assistant Vice President of The First National Bank of Olathe and that said instrument was signed on behalf of the said corporation by authority of its board of directors and the said Assistant Vice President acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it voluntarily executed.

My commission expires: 8/16/07

*[Signature]*  
 (Notary Public)