

5600
#28240

INST # 097072
RECORDING FEE 5600
AUDITOR FEE _____
REAL ESTATE MORTGAGE

FILED FOR RECORD
POLK COUNTY, IOWA
99 MAY -3 A 9:05.2
TIMOTHY J. BRIEN
RECORDER

THIS REAL ESTATE MORTGAGE ("Mortgage") is made and entered into as of the date set forth above the signatures hereto by and between Norman Gordon and Charlotte Gordon, with the address of 617 West Buchanan, Winterset, Iowa 50273 (collectively, "Mortgagor") and National Commercial Lending Group, an Iowa corporation, with the address of 2001 Westown Parkway, Suite 201, West Des Moines, Iowa 50265 ("Mortgagee").

Mortgagor hereby acknowledges the receipt of a copy of this Mortgage.

1. **GRANT OF MORTGAGE AND SECURITY INTEREST.** Mortgagor hereby sells, conveys and mortgages unto Mortgagee, and grants a security interest to Mortgagee, in the following described property:

(a) **Land and Building.** All of Mortgagors' right, title and interest in and to the real estate described on Schedule 1 attached hereto and incorporated herein by this reference (the "Land"), and all buildings, structures and improvements now standing or at any time hereafter constructed or placed upon the Land (the "Buildings"), subject to and including all hereditaments, easements, appurtenances, riparian rights, mineral rights, oil and gas rights and profits, 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) **Fixtures.** All of Mortgagors' right, title and interest in and to all fixtures belonging to, or hereafter becoming a part of the Land or the Buildings, including, but not limited to, light fixtures, storm windows, screens, linoleum, floor coverings, water softeners, automatic heating and air-conditioning equipment and all proceeds, products, accessions, attachments, accessories, parts, additions, repairs, replacements and substitutes of, to, and for the foregoing (the "Fixtures"); and

(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 Fixtures, or any part thereof (the "Revenues and Income").

TO HAVE AND TO HOLD the Land, Buildings, Fixtures and Revenues and Income (collectively called the "Mortgaged Property"), together with all privileges and hereditaments thereunto now or hereafter belonging, or in any way appertaining to, 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"): all indebtedness and obligations of Mortgagors to Mortgagee whether now existing or hereafter arising, including, but not limited to, liabilities and obligations under or arising out of the loan evidenced by the certain Promissory Note by Mortgagors to Mortgagee dated February 22, 1999 (the "Note"), any sums advanced by Mortgagee for legal expenses and attorneys' fees arising out of the enforcement of or foreclosure under this Mortgage, and all costs and expenses advanced by Mortgagee hereunder.

3. **REPRESENTATIONS AND WARRANTIES OF MORTGAGORS.** Except as otherwise set forth on Schedule 3 hereto, Mortgagors represent, warrant and covenant to Mortgagee that (a) Mortgagors hold clear title to the Mortgaged Property and title in fee simple in the Land; (b) Mortgagors have the right, power and authority to execute this Mortgage and to mortgage and grant a security interest in the Mortgaged Property; (c) the Mortgaged Property is free and clear of all liens, security interests and encumbrances, except for real estate taxes not yet delinquent; (d) Mortgagors will warrant and defend title to the Mortgaged Property and the lien and

RETURN TO:
BRADFORD L. AUSTIN
700 WALNUT, SUITE 1600
DES MOINES, IA 50309-3899

COMPUTER
RECORDED
COMPARED

REC \$ 5500
AUD \$ _____
R.E.F. \$ 100

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RELEASED 12-3-99 SEE
mtg RECORD 213 PAGE 899

PER T.J. BRIEN, THIS DOCUMENT BEING RETURNED TO BRADFORD AUSTIN, BUT NOT RELEASED OR TERMINATED IN POLK COUNTY.

STATE OF IOWA, SS.
MADISON COUNTY,

Inst. No. 4695 Filed for Record this 20 day of May 1999 at 11:00 AM
Book 208 Page 687 Recording Fee \$ 5600 Michelle Ustler, Recorder, By Beth M. NUBS
Deputy Clerk

priority of this Mortgage against all claims and demands of all persons, whether now existing or hereafter arising; and (e) all buildings and improvements now or hereafter located on the Land are, or will be, located entirely within the boundaries of the Land.

4. **ENVIRONMENTAL.** Mortgagors represent and warrant that: (a) to the best of Mortgagors' actual knowledge, the Mortgaged Property (and all other property now or heretofore owned by the Mortgagors) and the Mortgagors are now and heretofore have been at all times in compliance with all Environmental Laws (as hereinafter defined); (b) there have been no conditions on or about the Mortgaged Property (or any other property now or heretofore owned by the Mortgagors) which required or will require clean-up, removal, remedial action or other response pursuant to Environmental Laws; (c) there are no conditions on or about the Mortgaged Property (or any other property now owned by the Mortgagors) now existing or likely to exist during the term of this Mortgage which require or are likely to require clean-up, removal, remedial action, or other response pursuant to Environmental Laws; (d) Mortgagors have never been and are not now a party to any litigation or administrative proceeding, nor is any litigation or administrative proceeding threatened against them, which asserts or alleges that Mortgagors violated Environmental Laws; (e) to the best of Mortgagors' actual knowledge, neither the Mortgaged Property (or any other property now or heretofore owned by Mortgagors) nor Mortgagors are now or ever have been subject to any judgment, decree, order, or citation related to or arising out of Environmental Laws; and (f) no permits or licenses are required under Environmental Laws relative to the Mortgaged Property or Mortgagors.

The term "Environmental Laws" shall mean all federal, state, and local laws including statutes, regulations, ordinances, codes, rules, and other governmental restrictions and requirements relating to the environmental or hazardous substances including, but not limited to, the Toxic Substance Act, the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act of 1976, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, regulations of the Environmental Protection Agency, regulations of the Nuclear Regulatory Agency, and regulations of any state department of natural resources or state environmental protection agency now or at any time hereafter in effect.

Mortgagors covenant and agree at all times while the Obligations remain unpaid to: (a) comply with all applicable Environmental Laws; (b) provide to Mortgagee, immediately upon receipt, copies of any correspondence, notice, pleading, citation, indictment, complaint, order, decree, or other document from any source asserting or alleging a circumstance or condition which requires or may require a clean-up, removal, remedial action, or other response by or on the part of Mortgagors under Environmental Laws or which seeks criminal or punitive penalties from Mortgagors for an alleged violation of Environmental Laws; and (c) advise Mortgagee in writing as soon as Mortgagors become aware of any condition or circumstance which makes the foregoing covenants incomplete or inaccurate. In the event of any such circumstance, Mortgagors agree, at their expense and at the request of Mortgagee, to permit an environmental audit solely for the benefit of Mortgagee, to be conducted by Mortgagee or an independent agent selected by Mortgagee. This provision shall not relieve Mortgagors from conducting their own environmental audits or taking any other steps necessary to comply with Environmental Laws. If in the opinion of Mortgagee there exists any provision of an Environmental Law or any condition which requires, or may require, a clean-up, removal, or other remedial action by Mortgagors under any Environmental Laws, and such clean-up, removal, or other remedial action is not completed within ninety (90) days from the date of written notice from Mortgagee to Mortgagors (or such longer period as may be required under the circumstances, such longer period not to exceed an additional sixty (60) days), the same shall at the option of Mortgagee constitute a default hereunder.

Mortgagors hereby agree to defend, indemnify and hold Mortgagee harmless from and against any loss,

liability, cost, damage, or expense, including, without limitation, attorneys' fees, arising from the imposition or recordation of a lien, the incurrence of any clean-up and removal costs under any Environmental Laws with respect to the Mortgaged Property or Mortgagors, any liability to any third party in connection with any violation of any Environmental Laws or other action by Mortgagors or their agents or any diminution in value of the Mortgaged Property as a result of any violation or alleged violation of any Environmental Laws by Mortgagors.

5. **PAYMENT AND PERFORMANCE OF THE OBLIGATIONS.** Mortgagors will pay all amounts payable under the Obligations in accordance with the terms of the Obligations and will pay all other indebtedness when and as due and will timely perform all other obligations of Mortgagors under this Mortgage and the Obligations. The provisions of the Obligations are hereby incorporated by reference into this Mortgage as if fully set forth herein.

6. **TAXES AND SPECIAL ASSESSMENTS.** Mortgagors shall pay each installment of all taxes and assessments of every kind (including, but not limited to, special assessments), now or hereafter levied against the Mortgaged Property before the same become delinquent, without notice or demand, and shall deliver to Mortgagor proof of such payment within fifteen (15) days after the date on which such tax or assessment becomes delinquent.

In the event that any time Mortgagors fail to pay any installment of real estate taxes or assessments before the same become delinquent, then upon request of Mortgagor, Mortgagors shall thereafter deposit with and pay to Mortgagor on the first day of each month, one-twelfth (1/12) of the estimated annual taxes and assessments levied or assessed against the Mortgaged Property and one-twelfth (1/12) of the annual premiums for insurance required by this Mortgage to be furnished by Mortgagors. Mortgagor shall use such deposits to pay the taxes, assessments and insurance premiums when the same become due. Unless required by law, Mortgagor shall not be required to pay Mortgagors interest on such deposits. Mortgagors shall procure and deliver to Mortgagor, in advance, statements for such charges. If the total payments made by Mortgagors under this paragraph exceed the amount of payments actually made by Mortgagor for taxes, assessments and insurance premiums, such excess shall be credited by Mortgagor on subsequent deposits to be made by Mortgagors. If, however, the deposits are insufficient to pay the taxes, assessments and the insurance premiums when the same are due and payable, Mortgagors will pay to Mortgagor any amount necessary to make up the deficiency, on or before the date when payment of such taxes, assessments and insurance premiums shall be due.

7. **LIENS.** Mortgagors 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 and installments of special assessments with respect to which no penalty is yet payable. Mortgagors shall pay, when due, the claims of all persons supplying labor or materials to or in connection with the Mortgaged Property.

8. **COMPLIANCE WITH LAWS.** Mortgagors 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.

9. **PERMITTED CONTESTS.** Mortgagors shall not be required to: (a) pay any tax, assessment or other charge referred to in paragraph 6 hereof, (b) discharge or remove any lien, encumbrance or charge referred to in paragraph 7 hereof, or (c) comply with any statute, law, rule, regulation or ordinance referred to in paragraph 8 hereof, so long as Mortgagors shall contest, in good faith, the existence, amount or the validity thereof, the amount of damages caused thereby or the extent of Mortgagors' liability therefor, by appropriate

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proceedings which shall operate during the pendency thereof to prevent: (i) the collection of, or other realization upon the tax, assessment, charge or lien, encumbrances or charge so contested, (ii) the sale, forfeiture or loss of Mortgaged Property or any part thereof, and (iii) any interference with the use or occupancy of the Mortgaged Property or any part thereof. Mortgagors shall give prompt written notice to Mortgagee of the commencement of any contest referred to in this paragraph 9.

10. **CARE OF PROPERTY.** Mortgagors will not commit or permit any waste on or to the Mortgaged Property. Mortgagors shall take good care of the Mortgaged Property, shall keep the Buildings and Fixtures in good and reasonable repair and shall not injure, destroy or remove either the Buildings or Fixtures during the term of this Mortgage. Mortgagors shall not make any material alteration to the Mortgaged Property without the prior written consent of Mortgagee.

11. **DUE ON SALE.** If all or any part of Mortgagors' interest in the Mortgaged Property is sold, conveyed, assigned, mortgaged, encumbered, hypothecated or transferred, without Mortgagee's prior written consent, which consent may be withheld in Mortgagee's sole and absolute discretion, Mortgagee may, in Mortgagee's sole and absolute discretion, declare all sums secured hereby immediately due and payable.

12. **INSURANCE.**

(a) **Risks to be Insured.** Mortgagors, at their sole cost and expense, shall maintain insurance on the Fixtures and on Buildings and other improvements now existing or hereafter erected on the Land 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 Note. At Mortgagors' option, such policy may have a co-insurance clause of not less than 90% of replacement cost, provided the policy contains an appropriate form of cost escalation endorsement. Mortgagors will at their sole cost and expense, from time to time, and at any time at the request of Mortgagee, provide Mortgagee with evidence satisfactory to Mortgagee of the replacement cost of the Fixtures and Buildings. Mortgagors will maintain such other insurance as Mortgagee may reasonably require.

(b) **Policy Provisions.** All insurance policies and renewals thereof maintained by Mortgagors pursuant to this Mortgage shall be written by an insurance carrier satisfactory to Mortgagee, contain a lender or mortgagee clause in favor of and in form acceptable to Mortgagee, contain an agreement of the insurer that it will not amend, modify or cancel the policy except after thirty (30) days prior written notice to Mortgagee and be reasonably satisfactory to Mortgagee in all other respects.

(c) **Delivery of Policy or Certificate.** If requested by Mortgagee, Mortgagors will deliver to Mortgagee original policies satisfactory to Mortgagee evidencing the insurance which is required under this Mortgage, and Mortgagors shall promptly furnish to Mortgagee all renewal notices and, upon request of Mortgagee, evidence of payment thereof. At least ten (10) days prior to the expiration date of a required policy, Mortgagors shall deliver to Mortgagee a renewal policy in form satisfactory to Mortgagee. If Mortgagors have a blanket insurance policy in force providing coverage for several properties of Mortgagors, including the Mortgaged Property, Mortgagee will accept a certificate of insurance, together with a certified copy of such blanket insurance policy, provided the certificate sets forth the amounts of insurance and coverage (and such amounts are at least equal to the amounts required herein), the original policy or policies of insurance are written by a carrier or carriers acceptable to Mortgagee, such policies insure the Mortgaged Property against the risks

set forth herein, and such certificate provides that the policy or policies referred to therein cannot be amended, modified or canceled without thirty (30) days prior written notice to Mortgagee.

(d) **Assignment of Policy and Proceeds.** 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 Mortgageors 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 and after such sale or acquisition.

(e) **Adjustment of Losses; Application of Proceeds.** In case of loss or damage by fire

or other casualty, Mortgageors shall immediately give Mortgagee and the insurance companies that have insured against such risks written notice of such occurrence. In case of loss or damage by fire or other casualty, Mortgageors shall, if no Event of Default then exists hereunder, have the sole and exclusive right to settle, compromise or adjust any claim under, and receive the proceeds arising from, any and all losses payable under insurance policies to the extent the amount thereof does not exceed One Hundred Thousand and No/100 Dollars (\$100,000), and all claims for losses in excess of said amount shall be settled, compromised or adjusted only with the mutual agreement of Mortgageors and Mortgagee and the proceeds paid as hereinafter provided. In the event an Event of Default exists hereunder, then Mortgagee is authorized to collect and receipt for any insurance proceeds. Collected insurance proceeds, after deducting therefrom any expenses incurred in the collection thereof, shall, if requested by Mortgageors in writing within thirty (30) days after the proceeds of insurance covering such damage or destruction become available, be made available to Mortgageors for the purpose of paying the cost of rebuilding or restoring of the improvements if: (i) the Mortgaged Property, in Mortgagee's sole and absolute discretion is capable of being restored to that condition which existed immediately prior to the damage or loss, (ii) the insurance proceeds, together with all other funds which are to be provided by Mortgageors, are sufficient to restore the Mortgaged Property, and (iii) no Event of Default then exists hereunder or under the Note or other document evidencing or securing the loan, and no circumstance or condition exists that would constitute an Event of Default upon the giving of notice or the passage of time, or both. In the event that Mortgagee makes said proceeds available to Mortgageors to pay the cost of rebuilding or restoring of the Mortgaged Property, such proceeds shall be made available in the manner and under the conditions that the Mortgagee may reasonably require to assure proper application of such proceeds. The Mortgaged Property shall be restored or rebuilt so as to be of at least equal value and substantially the same character as prior to such damage or destruction. If the proceeds are to be made available by Mortgagee to Mortgageors to pay the cost of said rebuilding or restoration, any surplus which may remain out of said insurance proceeds after payment of the costs of rebuilding or restoring the Mortgaged Property shall, at the option of the Mortgagee, be applied on account of the Obligations. No interest shall be allowed to Mortgageors on any proceeds of insurance held by Mortgagee.

(f) **Reimbursement of Mortgagee's Expenses.** Mortgageors 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.

13. **INSPECTION.** Mortgagee, or its agents, shall have the right to enter upon the Mortgaged Property, at all reasonable times, for the purpose of inspecting the Mortgaged Property or any part thereof. Mortgagee shall, however, have no duty to make such inspection. Any inspection of the Mortgaged Property by Mortgagee shall be entirely for its benefit and neither Mortgageors nor any third party shall in any way rely or claim reliance thereon.

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14. **PROTECTION OF MORTGAGEE'S SECURITY.** Subject to the rights of Mortgagors under paragraph 9 hereof, if Mortgagors fail to perform any of the covenants and agreements contained in this Mortgage after 30 days notice thereof by Mortgagee, or if any action or proceedings 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 14, with interest thereon at the highest rate (default or otherwise) payable pursuant to any of the Obligations, shall become an Obligation of Mortgagors secured by this Mortgage. Such amounts advanced or disbursed by Mortgagee hereunder shall be immediately due and payable by Mortgagors unless Mortgagors 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 Mortgagors for any damage or claims arising out of action taken by Mortgagee pursuant to this paragraph.

15. **CONDEMNATION.** Mortgagors 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 Mortgagors, to compromise and settle any such action or claim, and to collect and receive from the condemning authorities and give proper receipts and acquittances 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.

16. **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 Fixtures and for this purpose the name and address of the debtor is the name and address of Mortgagors as set forth in this Mortgage and the name and address of the secured party is the name and address of the Mortgagee as set forth in this Mortgage.

17. **EVENTS OF DEFAULT.** Each of the following occurrences shall constitute an event of default hereunder ("Event of Default"):

- (a) An Event of Default (as defined in the Note) occurs under the Note.
- (b) Mortgagors are in default of or in breach of any covenant, condition or agreement on Mortgagors' part to be observed or performed pursuant to the terms of this Mortgage or the Note, or under any other of the Obligations, and such default or breach is not cured within 15 days after notice thereof by Mortgagee.
- (c) 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, or under

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It is further agreed that the period of redemption after a foreclosure of this Mortgage shall be reduced to sixty (60) days if all of the three following contingencies develop: (1) The real estate is less than ten (10) acres in size; (2) the court finds affirmatively that the said real estate has been abandoned by the owners and those persons personally liable under this Mortgage at the time of such foreclosure; and (3) Mortgagee in such action files an election to waive any deficiency judgment against Mortgageors or their successor in interest in such action.

20. **REDEMPTION.** It is agreed that if this Mortgage covers less than ten (10) acres of land, and in the event of the foreclosure of this Mortgage and sale of the property by sheriff's sale in such foreclosure proceedings, the time of one year for redemption from said sale provided by the statutes of the State of Iowa shall be reduced to six (6) months provided the Mortgagee, in such action, files an election to waive any deficiency judgment against Mortgageors which may arise out of the foreclosure proceedings; all to be consistent with the provisions of Chapter 628 of the Iowa Code.

19. **CONTINUATION OF ABSTRACT.** If an Event of Default occurs, Mortgagee may, at the expense of Mortgageors, procure an abstract of title or continuation thereof for the Mortgaged Property and the expense of such abstract or continuation shall become an Obligation. Said abstract shall be delivered to the Mortgagee on the date of this Mortgage and may be retained by Mortgagee until the satisfaction and release of this Mortgage. If the abstract is in the possession of another party, including the Mortgageors, for any reason whatsoever, said abstract shall be delivered to the Mortgagee immediately upon the request of Mortgagee, and Mortgageors hereby irrevocably authorize and direct any party who may be in possession of said abstract to deliver said abstract to the Mortgagee immediately upon the request of Mortgagee.

(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 such receiver may deem best for the interest of all parties concerned, and such receiver shall be liable to account to Mortgageors 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.

(b) Mortgagee shall have and may exercise with respect to the Fixtures, all the rights and remedies accorded upon default to a secured party under the Iowa Uniform Commercial Code. If notice to Mortgageors of intended disposition of such property is required by law in a particular instance, such notice shall be deemed commercially reasonable if given to Mortgageors at least ten (10) days prior to the date of intended disposition.

(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.

18. **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, exercise one or more of the following rights and remedies (and any other rights and remedies, at law or in equity, available to it):
any contractual obligation of Mortgageors for the payment of money to a third party, and the same shall not have been cured with the time permitted therefor, if any.

This paragraph 20 shall not be construed to limit or otherwise affect any other redemption provisions contained in Chapter 628 or any other Chapter of the Iowa Code, whether now in effect or hereafter adopted.

21. **ATTORNEYS' FEES.** Mortgagors 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 and such costs and expenses shall become an obligation of Mortgagors secured by this Mortgage.

22. **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 otherwise have, 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 therefor arises.

23. **NOTICES.** All notices, demands and other communications hereunder shall be in writing and shall be personally delivered or sent by United States certified mail, return receipt requested, postage prepaid, by a generally recognized overnight courier regularly providing proof of delivery, addressed as follows (subject to the right of any party to designate a different address for its receipt of notices hereunder by notice duly given):

(a) If to Mortgagor, to:

Norman Gordon and Charlotte Gordon
617 West Buchanan
Winterset, Iowa 50273

(b) If to Mortgagee, to:

National Commercial Lending Group
2001 Westown Parkway, Suite 201
West Des Moines, Iowa 50265
Attention: James F. MacLean, Senior Vice President

Any notice so given shall be deemed to have been given and received as of the first to occur of (i) actual delivery, or (ii) if mailed, the third day after being deposited in the U.S. Mail, proper postage prepaid, addressed as provided above, or (iii) if sent by overnight courier, on the first business day (a day not a Saturday, Sunday or other nationally recognized holiday) after being delivered to such courier by the time deadline for next day delivery and with all charges for overnight delivery having been prepaid.

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Charlotte Gordon
Charlotte Gordon

Norman Gordon
Norman Gordon

Dated as of February 22, 1999.

IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS MORTGAGE SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS MORTGAGE MAY BE LEGALLY ENFORCED. YOU MAY CHANGE THE TERMS OF THIS MORTGAGE ONLY BY ANOTHER WRITTEN AGREEMENT. THIS NOTICE SHALL ALSO BE EFFECTIVE WITH RESPECT TO ALL OTHER CREDIT AGREEMENTS NOW IN EFFECT BETWEEN YOU AND MORTGAGEE. THE MODIFICATION OF ANY OTHER CREDIT AGREEMENT NOW IN EFFECT BETWEEN YOU AND MORTGAGEE, WHICH OCCURS AFTER RECEIPT BY YOU OF THIS NOTICE, MAY BE MADE ONLY BY ANOTHER WRITTEN INSTRUMENT. ORAL OR IMPLIED MODIFICATIONS TO SUCH CREDIT AGREEMENTS ARE NOT ENFORCEABLE AND SHOULD NOT BE RELIED UPON.

28. **GOVERNING LAW.** This Mortgage shall be governed by and construed in accordance with the laws of the State of Iowa (excluding conflict of laws rules).

27. **FILING OF RELEASE.** If this Mortgage is released of record, the release shall be filed and recorded at the expense of Mortgagors.

26. **SUCCESSORS AND ASSIGNS BOUND; NUMBER; GENDER; CAPTIONS.** The rights, covenants and agreements contained herein shall be binding upon and inure to the respective legal representatives, heirs, 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.

25. **FURTHER ASSURANCES.** At any time and from time to time until payment in full of the Obligations, Mortgagors 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 Mortgagors secured by this Mortgage. Such amounts shall be immediately due and payable by Mortgagors to Mortgagee.

24. **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.

I UNDERSTAND THAT HOMESTEAD PROPERTY IS IN MANY CASES PROTECTED FROM THE CLAIMS OF CREDITORS AND EXEMPT FROM JUDICIAL SALE AND THAT BY SIGNING THE MORTGAGE, I VOLUNTARILY GIVE UP MY RIGHT TO THE PROTECTION FOR THIS MORTGAGED PROPERTY WITH RESPECT TO CLAIMS BASED ON THE MORTGAGE.

Dated as of February 22, 1999.

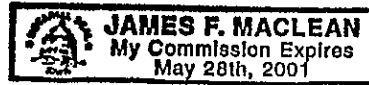
Norman S. Gordon
Norman Gordon

Charlotte Gordon
Charlotte Gordon

STATE OF *Iowa*)
) ss.
COUNTY OF *Polk*)

On this *22* day of *FEBRUARY*, 1999 before me, a notary public, personally appeared Norman Gordon and Charlotte Gordon, to me known to be the persons named in and who executed the foregoing instrument, and acknowledged that such persons executed the same as such persons' voluntary act and deed.

James F. Maclean
Name:
Notary Public



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LANDMORTGAGE.

The North Half (1/2) of Lot One (1) and the East Fourteen (14) Feet of the North Half (1/2) of Lot Two (2) in Block Seventeen (17) of the Original Town of Winterset, Madison County, Iowa.

LEGAL DESCRIPTION

SCHEDULE I

