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BOOK 2002 PAGE 4390

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R.M.F. \$ 1<sup>00</sup>

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FILED NO. 3099

BOOK 196 PAGE 13

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MICHELLE UTSLER  
RECORDER  
MADISON COUNTY, IOWA

Prepared by: Robert Douglas, 666 Walnut, Suite 2500, Des Moines, IA 50309, (515)-288-2500  
After recording return to: Ron Thomas, Telmark, Inc., 415 15th Avenue, Box 658, Grinnell, Iowa 50112-0658

### MORTGAGE

**THIS MORTGAGE** is made this 18th day of February 1998, between Robert D. Nevitt and Barbara Nevitt, husband and wife, and Thomas J. Nevitt and Linda Nevitt, husband and wife ("Mortgagors") of the County of Dallas, State of Iowa, and TELMARK INC., 333 Butternut Drive, DeWitt, New York 13214 ("Mortgagee").

WITNESSETH: That Mortgagors have leased certain equipment or property from Mortgagee pursuant to a lease dated February 18, 1998 (hereinafter, together with all renewals and substitutions and additions thereto, called the "Lease"), and pursuant to which Mortgagors are indebted to Mortgagee in the amount of \$380,401.00, and do hereby SELL, CONVEY, and MORTGAGE unto Mortgagee the following described real estate situated in the County of Madison, State of Iowa, to-wit:

The North Half (N1/2) of the Southeast Quarter of the Southeast Quarter (SE1/4SE1/4), and a Thirty foot (30') strip off the East side of the South Half (S1/2) of the Southeast Quarter of the Southeast Quarter (SE1/4SE1/4), all in Section Twenty (20), in Township Seventy-six (76) North, Range Twenty-eight) West of the 5th P.M., Madison County, Iowa.

together with all buildings and improvements thereon and all personal property which may integrally belong to, or be, or hereafter become an integral part of, said real estate, and whether attached or detached (including screens, linoleum, attached carpet, water heater, water softener, automatic heating equipment, air conditioning and other attached fixtures), and together with all easements and servient estates appurtenant thereto, rents, issues, uses, profits, and right to possession of said real estate (all of the foregoing real estate, personal property, and property interests hereinafter called the "Mortgaged Property"). As to such of the Mortgaged Property which may be personal property, Mortgagors grant Mortgagee a security interest pursuant to the Uniform Commercial Code of Iowa.

Mortgagors hereby covenant with Mortgagee that Mortgagors hold clear title to said personal property and title in fee simple to said real estate; that Mortgagors have good and lawful authority to sell, convey, and mortgage the Mortgaged Property; and that said Mortgagors covenant to warrant and defend the Mortgaged Property against the lawful claims of all persons whomsoever.

Each Mortgagor 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.

CONDITIONED, HOWEVER, that if Mortgagors shall pay or cause to be paid to Mortgagee when due the Lease and all other obligations secured as set forth in paragraph 1 below, then this Mortgage will be void, otherwise to remain in full force and effect.

1. OBLIGATION SECURED. This Mortgage shall secure the payment and performance of the Lease, and other amounts which may become due under this Mortgage by reason of sums advanced by Mortgagee or otherwise, and all obligations of Mortgagors under this Mortgage. This Mortgage shall also secure the performance of the covenants and agreements and indebtedness of Mortgagors or either of them to Mortgagee, whether now existing or hereafter incurred, of every kind and character, direct or indirect, and whether such indebtedness is from time to time reduced and thereafter increased or entirely extinguished and thereafter reincurred.

2. TAXES. Mortgagors shall pay each installment of all taxes and special assessments of every kind which now or hereafter may become a lien against the Mortgaged Property or any part thereof before same becomes delinquent, without notice or demand; and shall procure and deliver to Mortgagee promptly after the due date of each such installment duplicate receipts of the proper officers for the payment of all such taxes and assessments then due.

3. INSURANCE. Mortgagors shall keep in force insurance, premiums therefor to be prepaid without notice or demand, against loss by fire, tornado and other hazards, casualties and contingencies, at not less than the full insurable value of the Mortgaged Property, with such insurance payable to Mortgagors and Mortgagee as their interests may appear. Mortgagors shall provide Mortgagee with evidence of such insurance as Mortgagee may request.

4. REPAIRS TO MORTGAGED PROPERTY. Mortgagors shall keep the Mortgaged Property in as good repair and condition as same may now be or as hereafter improved, ordinary wear and tear only excepted, and shall not suffer or commit waste on or to the Mortgaged Property.

5. CONTINUATION OF ABSTRACT. In event of any default by Mortgagors, Mortgagee may, at the expense of Mortgagors, procure an abstract of title or continuation thereof for the Mortgaged Property and charge and add to the mortgage note the cost of such abstract or continuation with the interest upon such expense at the rate specified in the mortgage note.

6. ADVANCES OPTIONAL WITH MORTGAGEE. If the insurance above provided for is not property effected, or if taxes or special assessments against the Mortgaged Property shall become delinquent, or if Mortgagors fail to make timely payments on any first mortgage referred to above, Mortgagee (whether electing to declare the entire unpaid balance of the mortgage note due and collectible or not), may (but need not) effect the insurance above provided for, may (but need not) pay said taxes and special assessments (irregularities in the levy or assessment of said taxes being expressly waived by Mortgagors), and may (but need not) pay amounts due on any such first mortgage, and all such payments with interest thereon at the rate specified in the mortgage note shall be paid by Mortgagors to Mortgagee upon demand and may at any time at Mortgagee's option be added to the Lease.

7. DEFAULTS. At the option of the Mortgagee, the full amount of the Lease payments may be declared to be due and payable immediately for any default. The following are defaults: (a) Mortgagors fail to make any payment required by the Lease; (b) Mortgagors fail to keep any other promise or agreement in this Mortgage or in the Lease Agreement and /or Lease Agreements, within the time stated, or if no time is stated, within a reasonable time after notice is given that Mortgagors are in default; or (c) Mortgagors transfer the Mortgaged Property voluntarily, involuntarily, or by operation of law without the prior written consent of the Mortgagee.

8. ACCELERATION OF MATURITY AND RECEIVERSHIP. If there is a default as set forth above, then, at the option of the Mortgagee, after any notice required by law, said Lease and the whole of the obligations secured by this Mortgage shall become due and shall become collectible at once by foreclosure or otherwise after such default or failure, 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 may, at the request of the Mortgagee, appoint a receiver to take possession of said property and of the rents and profits accruing therefrom and to rent the same as he or she may deem best for the interest of all parties concerned, and shall be liable to account to Mortgagors only for the net profits after application of rents, issues, and profits upon the costs and expense of the receivership and foreclosure and the mortgage notes and other obligations secured by this Mortgage.

9. SIX MONTH AND 60 DAY PERIOD FOR REDEMPTION. If the Mortgaged Property is less than ten acres in size and if Mortgagee waives in any foreclosure proceedings any right to a deficiency judgment against Mortgagors, then the period of redemption from judicial sale shall be reduced to six months. If the court finds that the Mortgaged Property has been abandoned by Mortgagors and if Mortgagee waives any right to a deficiency judgment against Mortgagors, then the period of redemption from judicial sale shall be reduced to sixty days.

10. TRANSFER OF MORTGAGED PROPERTY. If all or any part of the Mortgaged Property or any interest therein is sold or transferred without Mortgagee's prior written consent, Mortgagee may, at Mortgagee's sole option, declare the Lease and any other obligation secured by this Mortgage, immediately due and payable.

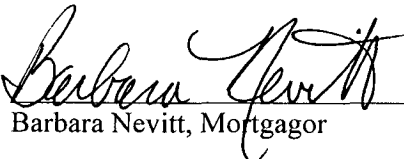
11. DEFINITION OF TERMS. Unless otherwise expressly stated, the word "Mortgagors" as used herein includes successors and assigns of such "Mortgagors"; the word "Mortgagee" as used herein, unless otherwise expressly stated, includes the successors and assigns of such "Mortgagee". All words referring to "Mortgagors" or "Mortgagee" shall be construed to be of the appropriate gender and number according to the context. This construction shall include the acknowledgment hereof. All obligations of Mortgagors under this Mortgage shall be joint and several.

12. COPIES. The undersigned Mortgagors acknowledge the receipt of a copy of this instrument.

IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN CONTRACT MAY BE LEGALLY ENFORCED. YOU MAY CHANGE THE TERMS OF THIS AGREEMENT ONLY BY ANOTHER WRITTEN AGREEMENT.

IN WITNESS WHEREOF, said Mortgagors have executed this Mortgage on the day and year first above written.

  
Robert D. Nevitt, Mortgagor

  
Barbara Nevitt, Mortgagor

Thomas J. Nevitt  
Thomas J. Nevitt, Mortgagor

Linda E. Nevitt  
Linda Nevitt, 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 contract, I voluntarily give up my right to this protection for this property with respect to claims based upon this contract.

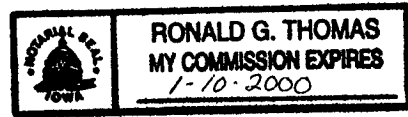
Robert D. Nevitt  
Robert D. Nevitt, Mortgagor

Barbara Nevitt  
Barbara Nevitt, Mortgagor

Thomas J. Nevitt  
Thomas J. Nevitt, Mortgagor

Linda E. Nevitt  
Linda Nevitt, Mortgagor

STATE OF IOWA )  
 ) SS:  
COUNTY OF Poweshuk )



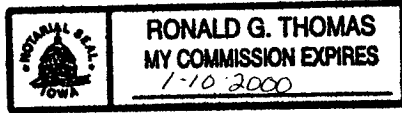
On this 18<sup>th</sup> day of February, 1998, before me, the undersigned, a Notary Public in and for said county and state, personally appeared Thomas J. Nevitt and Linda Nevitt, to me personally known to be the identical persons named in and who executed the within and foregoing instrument and who acknowledged that they executed the same as their voluntary act and deed.

Ronald G. Thomas  
\_\_\_\_\_, Notary Public  
in and for said County and State

STATE OF IOWA )

) SS:

COUNTY OF Poweshiek )



On this 18 day of February, 1998, before me, the undersigned, a Notary Public in and for said county and state, personally appeared Robert D. Nevitt and Barbara Nevitt, to me personally known to be the identical persons named in and who executed the within and foregoing instrument and who acknowledged that they executed the same as their voluntary act and deed.

Ronald G. Thomas

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in and for said County and State