

# NationsBank

NationsBank, N.A.

MORTGAGE

This Instrument prepared by and when recorded mail to:

✓ NationsBank, N.A.  
801 N 11TH STREET LNE 0302  
ST. LOUIS, MO 63101

REC 50<sup>00</sup>  
AUD  
R.M.F. 6<sup>00</sup>

FILED NO. 2263  
BOOK 194 PAGE 681  
97 DEC 15 AM 11:28

COMPUTER ✓  
RECORDED ✓  
COMPARED ✓

MICHELLE UTSLER  
RECORDER  
MADISON COUNTY, IOWA

RELEASED 10-30-00 SEE  
MTG RECORD 221 PAGE 686

(The space above this line is for Recorder's use only)

This Mortgage is made this 16TH day of OCTOBER, 1997, between LARRY D. LOWDEN AND RICKI B. LOWDEN, HUSBAND AND WIFE

whose address is 2229 245TH LN, WINTERSET, IA 50273-8368 (jointly and severally if more than one, "Grantor"), and NationsBank, N.A. whose address is 801 N 11TH STREET LNE 0302, ST. LOUIS, MO 63101 ("NationsBank").

WITNESSETH: THAT WHEREAS, LARRY D LOWDEN and RICKI B LOWDEN (jointly and severally if more than one, "Borrower") is justly indebted to NationsBank according to the terms of a certain Promissory note given by Borrower to NationsBank dated OCTOBER 16, 1997, in the amount of FIFTY THOUSAND SIX HUNDRED SIXTY AND NO/100 Dollars (\$ 50,660.00 ) with final payment being due on OCTOBER 21, 2012 unless renewed, modified, extended or consolidated (the "Note"); and

WHEREAS, this Mortgage is given to secure to NationsBank (a) the repayment of the debt evidenced by the Note, including but not limited to principal, interest, and fees and expenses, if any, and all renewals, extensions, modifications, replacements and consolidations of the Note; (b) the payment of all other sums, with interest, advanced under the terms of this Mortgage; (c) the performance of Grantor's covenants and agreements under this Mortgage and any other agreements executed by Grantor at NationsBank's request pertaining to the debt evidenced by the Note (together, the "Loan Documents"); and (d) all future amounts, including future advances, if any, that NationsBank in its sole discretion may loan to Borrower, together with interest thereon. The total indebtedness secured by this Mortgage is collectively referred to herein as the "Secured Indebtedness".

NOTICE: This Mortgage secures credit in the amount of \$ 50,660.00 . 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.

NOW THEREFORE, in consideration of the premises and of the sum hereinabove set forth, Grantor MORTGAGES, WARRANTS, GRANTS and CONVEYS to NationsBank all of Grantor's right, title and interest in the following property located in the County of MADISON State of Iowa, to-wit:

A PARCEL OF LAND LOCATED SECTION 18, TOWNSHIP 75, NORTH, RANGE 27, WEST OF THE 5TH P.M. , MADISON COUNTY, IOWA, MORE PARTICULARY DESCRIBED AS FOLLOWS: THE SOUTHEAST QUARTER (1/4) OF THE NORTHWEST QUARTER (1/4) OF SAID SECTION 18 LYING NORTHWESTERLY OF THE PUBLIC HIGHWAY FORMERLY DESIGNATED AS U.S. HIGHWAY 169, AN EAST 340.0 FEET OF THE SOUTHWEST FRACTIONAL QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 18, EXCEPT THE SOUTH 11.0 RODS THEREOF, AND SUBJECT TO EASEMENTS OF RECORD.

which has the real property address commonly known as 2229 245 LN ("Property Address");

Together with all buildings, structures and other improvements now or hereafter located on the property described, or any part and parcel thereof; all rights, title and interest of Grantor in and to the minerals, flowers, shrubs, crops, trees, timber, and other emblements now or hereafter on said property, or under or above the same or any part or parcel thereof; all and singular the tenements, hereditaments, easements, licenses, privileges, rights-of-way, water rights, uses and other appurtenances belonging or in any way appertaining, and the reversion or reversions, remainder or remainders, rents, issues and profits thereof; and all right, title, and interest of Grantor in and to near byways, roads, streets, boulevards, avenues or other public thoroughfares; and also all the estate, right, title, interest, claim and demand whatsoever of Grantor of, in and to the same and of, in and to every part and parcel thereof; all machinery, apparatus, equipment, fittings and fixtures, whether actually or constructively attached to said property, now or hereafter located in, upon or under said property or any part thereof; all right, title, and interest of Grantor in and to the rents, income, issues, profits and revenues of all of the foregoing; any and all awards or payments, including interest thereon, and the right to receive the same, as a result of: (a) the exercise of the right of eminent domain; (b) the alteration of the grade of any street; or (c) any other injury to, taking of, or decrease in the value of, said property, to the extent of all amounts that may be secured by this Mortgage at the date of receipt of any such award or payment by NationsBank and of the reasonable attorney's fees, costs and disbursements incurred by NationsBank in connection with the collection of such award or payment. All of such property hereby mortgaged is collectively referred to herein as the "Property".

**THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:**

**Representations and Warranties.** Grantor warrants that Grantor has good and marketable fee simple title to the Property, and is lawfully seized and possessed of the Property and every part thereof, and has the right to mortgage same, that the Property is unencumbered except as may be herein expressly provided; and that Grantor will forever warrant and defend generally the title to the Property unto NationsBank against the claims of all persons whomsoever.

**Covenants.** Grantor further covenants and agrees as follows:

**1. Compliance with Loan Documents.** Grantor shall promptly pay and perform and comply with all obligations, covenants, agreements and conditions imposed upon Grantor by the Loan Documents.

**2. Charges; Liens.** Grantor shall pay when due all taxes, assessments, charges, fines and impositions attributable to the Property that may attain priority over this Mortgage, and leasehold payments or ground rents, if any. If Grantor makes these payments directly, upon NationsBank's request Grantor shall promptly furnish to NationsBank receipts evidencing the payments.

**3. Funds for Taxes and Insurance.** Upon request by NationsBank, Grantor shall pay to NationsBank on the days payments are due under the Note, until the Note is paid in full, a sum ("Funds") for: (a) yearly taxes and assessments that may attain priority over this Mortgage as a lien on the Property; (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly hazard or property insurance premiums; (d) yearly flood insurance premiums, if any; and (e) yearly mortgage insurance premiums, if any. These items are called "Escrow Items." NationsBank may, at any time, collect and hold Funds in an amount not to exceed the maximum amount a lender for a federally related mortgage loan may require for Grantor's escrow account under the Federal Real Estate Settlement Procedures Act of 1974 as amended from time to time, 12 U.S.C. 2601 et seq. ("RESPA"), unless another law that applies to the Funds sets a lesser amount. If so, NationsBank may, at any time, collect and hold Funds in an amount not to exceed the lesser amount. NationsBank may estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with applicable law. Except as may otherwise be provided by law, in no event shall NationsBank be liable for any interest on any amount paid to it as herein required, and the money so received may be held and commingled with its own funds, pending payment or application thereof as herein provided. If requested by NationsBank, Grantor shall furnish to NationsBank, at least thirty (30) calendar days before the date on which the same will become past due, an official statement of the amount of said taxes, assessments, insurance premiums and rents next due, and NationsBank shall pay said charges to the amount of the then unused credit therefor as and when they become severally due and payable. An official receipt therefor shall be conclusive evidence of such payment and of the validity of such charges. NationsBank may, at its option, pay any of these charges when payable, either before or after they become past due, without notice, or make advances therefor in excess of the then amount of credit for said charges. The excess amount advanced shall be immediately due and payable to NationsBank and shall become part of the Secured Indebtedness and bear interest at the rate of interest stated in the Note from date of advancement. NationsBank may apply credits held by it for the above charges, or any part thereof, on account of any delinquent installments of principal or interest or any other payments maturing or due under this instrument, and the amount of credit existing at any time shall be reduced by the amount thereof paid or applied as herein provided. The amount of the existing credit hereunder at the time of any transfer of the Property shall, without assignment thereof, inure to the benefit of the successor-owner of the Property and shall be applied under and subject to all of the provisions hereof. Upon payment in full of the Secured Indebtedness, the amount of any unused credit shall be paid over to the person entitled to receive it.

**4. No Other Liens.** Grantor will not, without the prior written consent of NationsBank, except as otherwise specified by applicable law, create, place or permit to be created or placed, or through any act or failure to act, acquiesce in the placing of, any deed of trust, mortgage, voluntary or involuntary lien, whether statutory, constitutional or contractual, encumbrance, security interest or conditional sale against or covering the Property, or any part thereof, regardless of whether the same are expressly or otherwise subordinate to the lien or security interest created in this Mortgage. Should any of the foregoing become attached hereafter or in any manner to any part of the Property without the prior written consent of NationsBank, Grantor will cause the same to be promptly discharged and released.

**5. Insurance.** Grantor shall keep the improvements, if any, now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which NationsBank requires in an amount equal to the lesser of (a) the current outstanding balance on the Note; (b) one hundred percent (100%) of the maximum insurable value of the Property; or (c) for flood insurance only, one hundred percent (100%) of the maximum amount of insurance required under any federal, state or local flood insurance program (if the Note secured is a TaxSmart loan, then parts (a) or (b) above are not required). If requested by NationsBank, Grantor shall also obtain liability insurance naming NationsBank as an additional insured party in an amount as may be required by NationsBank. Each insurance carrier providing any such insurance shall be chosen by Grantor subject to NationsBank's approval which shall not be unreasonably withheld. If Grantor fails to obtain any insurance required by this paragraph or if Grantor fails to pay the insurance premiums for any period of thirty (30) consecutive days

(forty-five (45) calendar days for flood insurance) during the term of this Mortgage, NationsBank may obtain the insurance and pay the premiums. If NationsBank does so, then at NationsBank's sole option, (i) Grantor shall pay to NationsBank within ten (10) calendar days after written notice from NationsBank all monies advanced by NationsBank to obtain insurance and to pay insurance premiums; or (ii) NationsBank may reschedule the payments for the remaining term of the Note to include such amounts; or (iii) NationsBank may add such amounts to the final payment due under the Note. In any event, such amounts shall become part of the Secured Indebtedness, and Grantor agrees to pay interest on such amounts until they are paid in full, at the rate of interest stated in the Note. Grantor agrees that the amount and type of insurance purchased by NationsBank is within NationsBank's sole discretion.

All insurance policies and renewals shall be in form and content satisfactory to NationsBank and all such policies covering loss or damage to the Property shall include a standard non-contributory mortgagee clause in favor of NationsBank. NationsBank shall have the right to hold the policies and renewals. Grantor shall promptly give to NationsBank all receipts of paid premiums and renewal notices. In the event of loss, Grantor shall give prompt notice to the insurance carrier and NationsBank. NationsBank may make proof of loss if not made promptly by Grantor, but shall have no duty to do so nor any duty to see that any insurance is in force or is adequate.

If in the sole discretion of NationsBank the restoration or repair is economically feasible and NationsBank's security is not lessened, the insurance proceeds shall be applied to restoration or repair of the Property damaged. If in the sole discretion of NationsBank the restoration or repair is not economically feasible or NationsBank's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Mortgage, whether or not then due, in such manner and order as NationsBank, in its sole discretion, may elect, with any excess paid to Grantor. If Grantor abandons the Property, or does not answer within thirty (30) calendar days a notice from NationsBank that the insurance carrier has offered to settle a claim, then NationsBank may collect the insurance proceeds. NationsBank may use the proceeds to repair or restore the Property or to pay sums secured by this Mortgage, in such manner and order as NationsBank, in its sole discretion, may elect, whether or not then due. The thirty (30) calendar day period will begin when the notice is given.

Unless NationsBank and Grantor otherwise agree in writing, any application of insurance proceeds to principal shall be to the scheduled payments in inverse order of their scheduled due dates and shall not extend or postpone the due date of the scheduled payments or change the amount of the payments to the extent not lessened or discharged by such application. If the Property is acquired by NationsBank, Grantor's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to NationsBank to the extent of the sums secured by this Mortgage.

**6. Maintenance and Protection of Property; Inspection.** Grantor shall maintain the Property in good condition and repair, shall not commit or suffer any waste to the Property, and shall comply with, or cause to be complied with, all statutes, ordinances and requirements of any governmental authority relating to the Property or any part thereof. Grantor shall promptly repair, restore, replace or rebuild any part of the Property, now or hereafter encumbered by this Mortgage, which may be affected by any activity of the character referred to in Section 8. No part of the Property, including, but not limited to, any building, structure, parking lot, driveway, landscape scheme, timber or other ground improvement, or other property, now or hereafter conveyed as security by or pursuant to this Mortgage, shall be removed, demolished or materially altered without the prior written consent of NationsBank. Grantor shall complete, within a reasonable time, and pay for any building, structure or other improvement at any time in the process of construction on the Property. Grantor shall not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restrictions limiting or defining the uses which may be made of the Property or any part thereof. NationsBank and any person authorized by NationsBank shall have the right to enter and inspect the Property at all reasonable times and access thereto shall be permitted for that purpose.

**7. Protection of NationsBank's Rights in the Property.** At any time and all times Grantor shall furnish and record all such further assurances as may be requisite to assure and confirm the mortgage hereby granted or intended so to be whether now or in the future. If Grantor fails to perform the covenants and agreements contained in this Mortgage, or if there is a legal proceeding that may significantly affect NationsBank's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then NationsBank may do and pay for whatever is necessary to protect the value of the Property and NationsBank's rights in the Property. NationsBank's actions may include paying any sums secured by a lien that has priority over this Mortgage, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although NationsBank may take actions under this Section 7, NationsBank does not have to do so. No such action will waive any default. In the event NationsBank makes any payments which NationsBank deems necessary to protect the value of the Property and NationsBank's rights in the Property, NationsBank, upon making such payment, shall be subrogated to all of the rights of the person or entity receiving such payment. Any amounts disbursed by NationsBank pursuant to this Mortgage shall become part of the Secured Indebtedness secured by this Mortgage. Unless Grantor and NationsBank agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the rate of interest stated in the Note and shall be payable upon demand from NationsBank to Grantor or Borrower. Grantor shall (to the extent permitted by law) and if prohibited, for bankruptcy purposes only, protect, defend, and indemnify NationsBank, and hold NationsBank harmless from and against, any claims, actions, or proceedings against NationsBank and any loss, cost, damage or expense, including but not limited to reasonable attorney's fees and disbursements, incurred by NationsBank, arising out of or in any way related to a breach of the representations, warranties, covenants or agreements of Grantor herein. NationsBank shall have the right, jointly with Grantor, to negotiate and settle any such claims, actions or proceedings.

**8. Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking, of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned to and to the extent permitted by law shall be paid to NationsBank to be applied to the Secured Indebtedness, with any amounts in excess of the Secured Indebtedness being paid to Grantor. Grantor agrees to execute and deliver such further instruments as may be requested by NationsBank to confirm this assignment and sufficient for the purposes of assigning all proceeds from such awards or payments to NationsBank. NationsBank is authorized, but not obligated, as the attorney-in-fact for Grantor, to collect, receive and give receipts for such awards and payments. This power granted NationsBank shall be deemed coupled with an interest and shall be irrevocable.

If the Property is abandoned by Grantor, or if, within thirty (30) calendar days after a notice from NationsBank to Grantor that the condemnor offers to make an award or settle a claim for damages, Grantor fails to respond, NationsBank is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Mortgage, whether or not then due. The thirty (30) calendar day period will begin when notice is given. Unless NationsBank and Grantor otherwise agree in writing, any application of proceeds to principal shall be to the scheduled payments in inverse order of their scheduled due dates and shall not extend or postpone the due date of the payments referred to in the Note or this Mortgage or change the amount of such payments to the extent not discharged by such application.

**9. Hazardous Substances.** Grantor shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Grantor shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Grantor shall promptly give NationsBank written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law, as soon as Grantor first has actual knowledge. If Grantor learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Grantor shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this Section 9, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this Section 9, "Environmental Law" means federal laws and laws of the jurisdictions where the Property is located that relate to health, safety, or environmental protection.

Grantor shall indemnify and hold harmless NationsBank from and against, and reimburse NationsBank on demand for, any and all claims, demands, liabilities, losses, damages, causes of action, costs and expenses (including without limitation reasonable fees and expenses of attorneys and if prohibited, for bankruptcy purposes only, and other professional consultants and experts) of every kind which may be imposed upon, asserted against or incurred or paid by NationsBank as a result of the presence of any Hazardous Substance on, in, under, above or about the Property, or the migration or release or threatened migration or release of any Hazardous Substance on, to, from or through the Property, at any time during or before Grantor's ownership of the Property, or any act, omission or event existing or occurring in connection with the handling, storage, removal or disposal of any such Hazardous Substance or any violation of any Environmental Law or the filing or imposition of any environmental lien or claim against the Property as a result of any such presence, migration, release, threatened migration or release, act, omission or event.

**10. Events of Default.** The occurrence of any one of the following shall be a default under this Mortgage and under the other Loan Documents ("Default") unless otherwise limited by law:

**a. Failure to Pay any Secured Indebtedness.** Any of the Secured Indebtedness is not paid when due, regardless of how such amount may have become due.

**b. Non-Performance of Covenants.** Any covenant, agreement or condition herein, in the Note or in any other Loan Document, other than a covenant, agreement or condition which is addressed as a Default elsewhere in this Section 10, is not fully and timely performed, observed or kept.

**c. Breach of Warranty.** Any statement, representation or warranty in any Loan Document or in any financial statement delivered to NationsBank in connection with the Secured Indebtedness is false, misleading or erroneous in any material respect.

**d. Bankruptcy or Insolvency.** Any Bankruptcy or insolvency proceeding is instituted by or against Borrower, Grantor or any person liable, directly or indirectly, for any of the Secured Indebtedness, or if any tax lien, levy or garnishment is levied against any such party.

**e. Default Under Other Lien.** A default or event of default occurs under any lien, security interest or assignment covering the Property or any part thereof (whether or not NationsBank has consented, and without hereby implying NationsBank's consent, to any such lien, security interest or assignment created hereunder), or the holder of any such lien, security interest or assignment declares a default or institutes foreclosure or other proceedings for the enforcement of its remedies thereunder.

**f. Liquidation, Etc.** The liquidation, termination, dissolution, merger, consolidation or failure to maintain good standing in each state that business is conducted (or in the case of an individual, the death or legal incapacity) of Borrower, Grantor or any person liable, directly or indirectly, for any of the Secured Indebtedness.

**g. Enforceability; Priority.** Any Loan Document shall for any reason without NationsBank's specific written consent cease to be in full force and effect, or shall be declared null and void or unenforceable in whole or in part, or the validity or enforceability thereof in whole or in part shall be challenged or denied by any party thereto other than NationsBank, or the liens, mortgage or security interests of NationsBank in any of the Property become unenforceable in whole or in part, or cease to be of the priority herein required, or the validity or enforceability thereof, in whole or in part, shall be challenged or denied by Grantor or any person liable, directly or indirectly, for any of the Secured Indebtedness.

**h. Other Default.** A default or event of default occurs under any other Loan Document, or under any other Section of this Mortgage which specifies a condition or event as a Default.

**11. Rights and Remedies on Default.** Upon the occurrence of any event of Default (and the giving of any notice as required by law and subject to any applicable redemption rights) and at any time thereafter, NationsBank, at its option, may exercise any one or more of the following rights and remedies, singularly and collectively, in addition to any other rights or remedies provided by law:

**a. Accelerate Note.** NationsBank shall have the right at its option without notice to Grantor to declare the entire unpaid balance of the Note, together with all accrued unpaid interest, fees, and charges, immediately due and payable.

**b. UCC Remedies.** With respect to all or any part of any personal property, NationsBank shall have all the rights and remedies of a secured party under the Uniform Commercial Code as adopted in the jurisdiction where the Property is located.

**c. Judicial Foreclosure.** NationsBank may obtain a judicial decree foreclosing Grantor's interest in all or any part of the Property.

**d. Deficiency Judgment.** If permitted by applicable law, NationsBank may obtain a judgment for any deficiency remaining in the indebtedness due to NationsBank after application of all amounts received from the exercise of the rights provided in this Section 11.

**e. Tenancy at Sufferance.** If Grantor remains in possession of the Property after NationsBank otherwise becomes entitled to possession of the Property, Grantor shall become a tenant at sufferance of NationsBank or the purchaser of the Property and shall, at NationsBank's option, either (i) pay a reasonable rental for the use of the Property, or (ii) vacate the Property immediately upon the demand of NationsBank.

**f. Enter and Use the Property.** NationsBank may enter upon and take possession of the Property without the appointment of a receiver, or an application therefor, employ a managing agent of the Property and let the same, either in its own name or in the name of Grantor, and receive the rents, incomes, issues and profits of the Property and apply the same, after payment of all necessary charges and expenses, on account of the Secured Indebtedness. Grantor transfers and assigns to NationsBank Grantor's lessor interest in any lease now or hereafter affecting the whole or any part of the Property.

**g. Sale of Property.** To the extent permitted by applicable law, Grantor hereby waives any and all right to have the Property marshaled. In exercising its rights and remedies, NationsBank shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. NationsBank shall be entitled to bid at any public sale on all or any portion of the Property. In case of any sale under this Mortgage by virtue of the exercise of the power herein granted, or pursuant to any order in any judicial proceedings or otherwise, the Property or any part thereof may be sold in one parcel and as entirety, or in such parcels, manner or order as NationsBank in its sole discretion may elect, and one or more exercises of the powers herein granted shall not extinguish or exhaust the power unless the entire Property is sold or the Secured Indebtedness paid in full.

**h. Notice of Sale of Personal Property.** NationsBank shall give Grantor reasonable notice of the time and place of any public sale of any personal property or of the time after which any private sale or other intended disposition of any personal property is to be made. Reasonable notice shall mean notice given at least twenty (20) calendar days before the time of the sale or disposition.

**i. Waiver; Election of Remedies.** A waiver by any party of a breach of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's rights otherwise to demand strict compliance with that provision or any other provision. No waiver by NationsBank shall be effective unless it is in writing and signed by an authorized officer of NationsBank. No waiver shall operate as a waiver of any other matter or of a similar matter at a future time. Election by NationsBank to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or take action to perform an obligation of Grantor under this Mortgage after failure of Grantor to perform shall not affect NationsBank's right to declare a default and exercise its remedies under this Mortgage.

**j. Attorneys' Fees; Expenses** Whether or not any court action is involved, all reasonable expenses incurred by NationsBank that in NationsBank's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Secured Indebtedness, shall be payable on demand and shall bear interest from the date of expenditure until repaid at the interest rate provided for in the Note. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, and if prohibited, for bankruptcy purposes only, NationsBank's reasonable attorneys' fees and NationsBank's legal expenses whether or not there is a lawsuit, including reasonable attorney's fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyor's reports, and appraisal fees, and title insurance, to the extent permitted by applicable law.

**k. Receiver.** NationsBank, in any action to foreclose this Mortgage, or upon any Default, shall be at liberty to apply for the appointment of a receiver of the rents and profits or of the Property or both without notice, and shall be entitled to the appointment of such a receiver as a matter of right, without consideration of the value of the Property as security for the Secured Indebtedness, or the solvency of any person or corporation liable for the payment of such amounts.

**l. Pay Expenses.** Pay any sums in any form or manner deemed expedient by NationsBank to protect the security of this Mortgage or to cure Default other than payment of interest or principal on the Note; make any payment hereby authorized to be made according to any bill, statement or estimate furnished or procured from the appropriate public officer of the party claiming payment without inquiry into the accuracy or validity thereof, and the receipt of any such public officer or party in the hands of NationsBank shall be conclusive evidence of the validity and amount of items so paid, in which event the amounts so paid, with interest thereon from the date of such payment at the rate of interest stated in the Note, subrogated to any encumbrance, lien, claim or demand, and to all the rights and securities for the payment thereof, paid or discharged with the principal sum secured hereby or by NationsBank under the provisions hereof, and any such subrogation rights shall be additional and cumulative security to this Mortgage.

**m. Reduction of Redemption Rights.** 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 proceeding, 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 NationsBank, in such action files an election to waive any deficiency judgment against Grantors which may arise out of the foreclosure proceedings; all to be consistent with the provisions of Chapter 628 of the Iowa Code. If the redemption period is so reduced, for the first three (3) months after sale such right of redemption shall be exclusive to the Grantor, and the time periods in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to four (4) months.

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 of those persons personally liable under this Mortgage at the time of such foreclosure; and (3) NationsBank in such action files an election to waive any deficiency judgment against Grantors or their successors in interest in such action. If the redemption period is so reduced, Grantors or their successors in interest or the owner shall have the exclusive right to redeem for the first thirty (30) days after such sale, and the time provided for redemption by creditors as provided in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to forty (40) days. Entry of appearance by pleading or docket entry by or on behalf of Grantors shall be a presumption that the property is not abandoned. Any such redemption period shall be consistent with all of the provisions of Chapter 628 of the Iowa Code. This paragraph shall not be construed to limit or otherwise affect any other redemption provisions contained in Chapter 628 of the Iowa Code.

**n. Other Remedies.** NationsBank shall have all other rights and remedies provided in this Mortgage, the Obligation or as available at law or in equity.

**12. Grantor Not Released; Forbearance by NationsBank Not a Waiver.** Renewal, modification or extension of the time for payment, modification or amortization of the Secured Indebtedness, transfer of the Property, or any forbearance granted by NationsBank shall not operate to release the liability of the original Grantor or Grantor's successors in interest or any other person. NationsBank shall not be required to commence proceedings against any successor in interest or any other person, or refuse to extend time for payment or refuse to otherwise modify amortization of the Secured Indebtedness by reason of that or any demand made by the original Grantor or Grantor's successors in interest or any other person. Any forbearance by NationsBank in exercising any right or remedy shall not be a waiver of or preclude the exercise of that or any other right or remedy.

Neither failure by NationsBank to exercise nor delay by NationsBank in exercising or discontinuance of the exercise of any power, right or remedy upon or after any Default shall be construed as a waiver of such Default, or as a waiver of the right to exercise any such right, power or remedy at a later date. No single or partial exercise of any such right, power or remedy shall preclude, waive or otherwise affect any other or further exercise thereof, or the exercise of any other right, power or remedy. Any waiver, permit, consent or approval of any kind by NationsBank, whether of any breach of or Default under this Mortgage, the Note or any other Loan Document or otherwise must be in writing and shall be effective only to the extent set forth in such writing.

NationsBank shall have the right from time to time to sue for any sums, whether interest, principal or any installment or either or both, taxes, penalties, or any other sums required to be paid under the terms of this Mortgage, as the same become due, without regard to whether or not all of the Secured Indebtedness shall be due on demand, and without prejudice to the right of NationsBank thereafter to enforce any appropriate remedy against Grantor, including an action of foreclosure, or any other action, for a default or defaults by Grantor existing at the time such earlier action was commenced.

**13. Successors and Assigns Bound; Joint and Several Liability.** The covenants and agreements of this Mortgage shall bind and benefit the successors and assigns of NationsBank and the heirs, representatives, successors, and assigns of Grantor, subject to the provisions of Section 15. Grantor's covenants and agreements shall be joint and several. Any Grantor who signs this Mortgage but does not execute the Note: (a) is signing this Mortgage only to grant, bargain, sell, convey, mortgage and warrant that Grantor's interest in the Property under the terms of this Mortgage; (b) is not by signing this Mortgage becoming personally obligated to pay the Note; and (c) agrees that NationsBank and any other Grantor may agree to renew, extend, modify, forbear or make any accommodations with regard to the terms of this Mortgage or the Note or any other Loan Document without that Grantor's consent. The foregoing does not limit the liability of Grantor under any guaranty agreement or other agreement by such Grantor whereby such Grantor becomes liable for the Secured Indebtedness in whole or in part.

**14. Notices.** Every provision for notice and demand or request shall be deemed fulfilled by written notice and demand or request personally served on one or more of the persons who shall at the time hold the record title to the Property, or on their heirs or successors, or mailed by depositing it in any post office station or letter box, enclosed in a postpaid envelope (a) addressed to such person or persons, or their heirs or successors, at his, their or its address last known to NationsBank or (b) addressed to the street address of the Property.

**15. Transfer of the Property or a Beneficial Interest in Grantor.** If all or any part of the Property or any interest in it is sold, transferred, conveyed, quit-claim deeded, voluntarily or involuntarily, by operation of law or otherwise (or if a beneficial interest in Grantor is sold or transferred, voluntarily or involuntarily, by operation of law, death or otherwise, and if Grantor is not a natural person) without NationsBank's prior written consent, NationsBank may, at its option, require payment in full of all sums secured by this Mortgage. However, this option shall not be exercised by NationsBank if exercise is prohibited by federal or state law as of the date of this Mortgage. NationsBank may, in its sole discretion, in any one or more instances waive its option to require payment in full under this Section 15, but it shall have no obligation to do so, and any waiver may be conditioned upon such one or more of the following (if any) which NationsBank may require: (i) the transferee's integrity, reputation, character, creditworthiness and management ability being satisfactory to NationsBank in its sole judgment; (ii) Grantor and transferee executing, prior to such sale or transfer a written assumption agreement containing such terms as NationsBank may require; (iii) a principal pay down on the Note; (iv) an increase in the rate of interest stated in the Note; (v) a transfer fee; and (vi) any modification of the terms of the Note and/or the other Loan Documents which NationsBank may require.

If NationsBank requires payment in full pursuant to this Section 15, NationsBank shall give notice of acceleration. The notice shall provide a period of not less than ten (10) calendar days from the date the notice is delivered or mailed within which all sums secured by this Mortgage must be paid. If these sums are not paid prior to the expiration of this period, NationsBank may invoke the power of sale and any other remedies by this Mortgage and/or any other Loan Document without further notice or demand on any person, except as otherwise may be required by applicable law.

**16. Release.** Upon payment of the Secured Indebtedness in full, NationsBank shall release this Mortgage without charge to Grantor.

**17. Subrogation.** Any of the proceeds of the Note used to pay any debt secured by any outstanding lien or encumbrance against all or any part of the Property have been advanced by NationsBank at Grantor's request and upon Grantor's representation that such amounts are due and are secured by valid liens against the Property. NationsBank shall be subrogated to any and all rights, superior titles, liens and equities owned or claimed by any owner or holder of any such outstanding liens and debts, regardless of whether said liens or debts are acquired by NationsBank by assignment or are released by the owner or holder thereof upon payment, and all of the same are recognized as valid and subsisting and are renewed and continued and merged herein to secure the Secured Indebtedness, but this Mortgage shall govern and control the enforcement of the liens to which NationsBank is subrogated hereunder.

**18. Fees and Expenses.** To the extent not prohibited by applicable law, Grantor will pay, and will reimburse to NationsBank on demand to the extent paid by NationsBank: (a) all appraisal fees, filing and recording fees, taxes, abstract fees, title search or examination fees, title policy and endorsement premiums and fees, Uniform Commercial Code search fees, escrow fees, reasonable attorneys' fees, environmental inspection fees, survey fees and all other out-of-pocket costs and expenses of any kind incurred by Grantor and/or NationsBank in connection with the preparation of the Loan Documents, closing and funding of the Note, and any and all amendments and supplements to the Loan Documents; and (b) all costs and expenses, including reasonable attorneys' fees and expenses, incurred or expended in connection with the exercise of any right or remedy, or the enforcement of any obligation of Grantor, under this or under any other Loan Document.

NationsBank may, at its option at any time Grantor is in default under the terms of the Note or the other Loan Documents, obtain an appraisal satisfactory to NationsBank of the Property or any part thereof by a third-party appraiser engaged by NationsBank and annual financial statements of Grantor (including disclosure of all contingent liabilities). Grantor hereby agrees to provide to NationsBank such financial statements in form and content satisfactory to NationsBank within ten (10) calendar days of each such request therefor by NationsBank, as well as such other financial statements, if any, as and when required by any other Loan Document. To the extent not prohibited by applicable law, the cost of each appraisal shall be a part of the Secured Indebtedness and shall be paid by Grantor to NationsBank on demand.

**19. Effective as Financing Statement.** This Mortgage shall be effective as a financing statement filed as a fixture filing with respect to all fixtures included within the Property, and is to be filed for record in the real estate records of each county where the Property (including said fixtures) is situated. This Mortgage shall also be effective as a financing statement covering any other Property and may be filed in any other appropriate filing or recording office. A carbon, photographic or other reproduction of this Mortgage or of any financing statement relating to this Mortgage shall be sufficient as a financing statement for any of the purposes referred to in this Section 19.

**20. Waivers.** Grantor hereby expressly waives presentment, demand, protest, notice of protest, notice of intention to accelerate, notice of acceleration, and any other notice or declaration of any kind, except as may be required by the Loan Documents or applicable law. To the extent allowable by applicable law, Grantor, for Grantor and Grantor's family, hereby waives and renounces all homestead and exemption rights, if any, provided for by the Constitution and Laws of the United States or the state of Iowa, in and to the Property as against the collection of the Secured Indebtedness, or any part thereof; and Grantor agrees that where, by the terms of this Mortgage or the Note, a day is named or a time fixed for the payment of any sum of money or the performance of any agreement, the time stated enters into the consideration and is of the essence of the whole agreement.

**21. Governing Law; Severability.** This Mortgage shall be governed by Iowa law and applicable federal law. If a court of competent jurisdiction finds any provision of this Mortgage to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Mortgage in all other respects shall remain valid and enforceable.

**22. Interpretation.** Within this Mortgage, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires. Titles appearing at the beginning of any subdivisions hereof are for convenience only, do not constitute any part of such subdivisions, and shall be disregarded in construing the language contained in such subdivisions. NationsBank has no fiduciary, partnership or other special relationship with Grantor under the Loan Documents or with respect to their subject matter, nor any implied covenants or duties, and any contrary inferences are hereby negated.

**23. Release of Rights of Dower, Homestead and Distributive Share.** Each of the undersigned hereby relinquishes all rights of dower, homestead, and distributive share in and to the Property and waives all rights of exemption as to any of the Property.

**24. Acknowledgment of Receipt of Copies of Debt Instrument.** Grantors hereby acknowledge the receipt of a copy of this Mortgage together with a copy of each Loan Document secured hereby.

**25. Special Provisions** [If blank, there are no special provisions].

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**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 (WE) VOLUNTARILY GIVE UP MY RIGHT TO THIS PROTECTION FOR THIS PROPERTY WITH RESPECT TO CLAIMS BASED UPON THIS CONTRACT.**

\_\_\_\_\_  
Grantor Signature

\_\_\_\_\_  
Grantor Signature

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Grantor Signature

\_\_\_\_\_  
Grantor Signature

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Type or Print Name

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**Waiver of right to trial by jury.** Grantor hereby waives the right to trial by jury in any action brought on this Mortgage or the Note or any other matter arising in connection with this Mortgage or the Note.

**In Witness Whereof,** this Mortgage has been duly executed by Grantor the day and year first above written.

Larry D. Lowden  
Grantor Signature

Ricki B. Lowden  
Grantor Signature

LARRY D LOWDEN  
Type or Print Name

RICKI B LOWDEN  
Type or Print Name

Grantor Signature

Grantor Signature

Type or Print Name

Type or Print Name

**Individual Acknowledgment**

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss:

I \_\_\_\_\_ certify that \_\_\_\_\_ personally known to me to be the same person whose name(s) is/are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he/she/they signed and delivered The Instrument as his/her/their free and voluntary act, for the uses and purposes therein set forth.

Dated \_\_\_\_\_,

\_\_\_\_\_  
Notary Public

My term expires:  
\_\_\_\_\_

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, a Notary Public, personally appeared \_\_\_\_\_ to me known to be the person described in and who executed the foregoing document and acknowledged that the same was executed as his/her own free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal in the day and year last above written.

\_\_\_\_\_  
Notary Public

My term expires:  
\_\_\_\_\_



State of Iowa )  
County of Polk ) ss:

On this 16th day of October, 1997, before me, a Notary Public, personally appeared Barry Ricklander to me known to be the person described in and who executed the foregoing document and acknowledged that the same was executed as his/her own free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal in the day and year last above written.

Sherry L. Stotts  
Notary Public



My term expires: \_\_\_\_\_

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, a Notary Public, personally appeared \_\_\_\_\_ to me known to be the person described in and who executed the foregoing document and acknowledged that the same was executed as his/her own free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal in the day and year last above written.

\_\_\_\_\_  
Notary Public

My term expires: \_\_\_\_\_

**Corporate Acknowledgment**

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, personally appeared \_\_\_\_\_, who being first duly sworn and known by me to be the person who executed this \_\_\_\_\_, did say that he/she has full power and authority to execute this instrument in the name of \_\_\_\_\_ and is doing so as his/her own free act and deed on behalf of said entity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day and year last above written.

\_\_\_\_\_  
Notary Public

My term expires: \_\_\_\_\_

STATE OF IOWA )  
County OF MADISON )

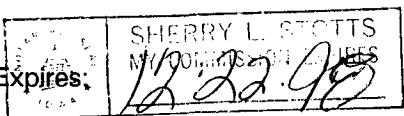
SS:

On this 11th day of October, 1997, before me, a Notary Public in and for said County (City) and State, personally appeared LARRY D LOWDEN AND RICKI B LOWDEN

\_\_\_\_\_, known to me to be the person(s) who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed for the purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year last above written.

*Sherry L. Scotts*  
\_\_\_\_\_  
Notary Public



My Commission Expires:

STATE OF \_\_\_\_\_ )  
OF \_\_\_\_\_ )

SS:

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, a Notary Public in and for said County (City) and State, personally appeared \_\_\_\_\_

\_\_\_\_\_, known to me to be the person(s) who executed the foregoing instrument, and acknowledged that he executed the same as h free act and deed for the purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year last above written.

\_\_\_\_\_  
Notary Public

My Commission Expires: