

~~BOOK 14-25~~
~~BOOK 225 PAGE 2659~~

UCC Release/Termination
7-13-05, 2005-3238

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (the "Mortgage") encumbers both real and personal property, contains an after-acquired property clause, and secures present and future loans and advances.

THIS MORTGAGE, made this 30th day of June, 1988, by and between ROSE ACRE FARMS, INC., an Indiana corporation (the "Mortgagor"), and COOPERATIEVE CENTRALE RAIFFEISEN-BOERENLEENBANK B.A., "Rabobank Nederland", New York Branch (the "Mortgagee").

NOTICE: THIS MORTGAGE SECURES CREDIT IN THE AMOUNT OF \$5,000,000.00. LOANS AND ADVANCES UP TO THIS AMOUNT, TOGETHER WITH INTEREST, ARE SENIOR TO INDEBTEDNESS TO OTHER CREDITORS UNDER SUBSEQUENTLY RECORDED OR FILED MORTGAGES AND LIENS.

THE GRANT

In consideration of the sum of FIVE MILLION DOLLARS (\$5,000,000.00), receipt whereof is hereby acknowledged, the Mortgagor does by these presents grant, bargain, sell, convey, mortgage and warrant unto the Mortgagee, its successors and assigns, the following described real estate situated in the Counties of Madison and Guthrie, State of Iowa, (the "Land"), to-wit:

SEE EXHIBIT "A" ATTACHED HERETO BY THIS REFERENCE MADE A PART HEREOF and all buildings, structures and improvements now existing and to be constructed thereon (the "Buildings");

TOGETHER with all and singular the easements, rights of way, licenses, privileges, and appurtenances thereunto belonging, and also all the estate, right, title and interest of Mortgagor either at law or in equity, of, in and to the Land and Buildings, and every part thereof, or in anywise appertaining thereto, including without limitation the entire interest of the Mortgagor in, to, over and under any streets, alleys, or land adjoining the Land and Buildings, and all claims of the Mortgagor either in law or in equity, in possession or expectancy, of, in and to the Land and Buildings, and all estates, rights and interests hereinafter acquired by Mortgagor in the Land and Buildings, and all right, title and interest of Mortgagor in and to any strips and gores adjoining the Land and Buildings;

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FILED NO. 2437
BOOK 150 PAGE 534

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MARY E. WELTY
RECORDER
MADISON COUNTY, IOWA

Fee \$130.00
INDEXED IN UCC F.S. AS FIXTU

Handwritten notes on the right margin, including "161-5897, 3-25-92" and "12-18-96".

TOGETHER with all fixtures and equipment of every kind and nature whatsoever, now or hereafter located in or upon or affixed to said Land and Buildings, or any part thereof, and used or usable in connection with any present or future operation of said Land and Buildings, and now owned or hereafter acquired by Mortgagor, including, but without limitation of the generality of the foregoing, all heating, lighting, incinerating, refrigerating, ventilating, air-conditioning, air-cooling, lifting, fire extinguishing, plumbing, cleaning, communications, and power equipment and apparatus; all gas, water, and electrical equipment, and all elevators, escalators, conveyors, feeders, waterers, incubators, switchboards, engines, motors, tanks, pumps, screens, storm doors, storm windows, conduits, compressors, furnaces, boilers, ranges, ovens, sinks, water closets, pipes, faucets, mirrors, refrigerators, dishwashers, office equipment, cooking apparatus and appliances, built-in furniture and installations, communications equipment, sprinklers and alarm systems; and all renewals or replacements thereof, all additions thereto or articles in substitution thereof, and all of the estates, right, title and interest of the Mortgagor in and to all equipment and fixtures of any nature whatsoever now or hereafter situated on the Land and Buildings, or intended to be used in connection with the operation thereof; it being understood and agreed that all such fixtures and equipment are declared to be a portion of the security for the indebtedness hereby secured (whether in single units or centrally controlled, and whether physically attached to said real estate or not);

TOGETHER with all right, title, and interest of the Mortgagor in and to all leases and subleases with respect to the Land and Buildings, and the rents, issues, and profits arising therefrom, and all cash or securities deposited to secure performance by the lessees or sublessees of their obligations thereunder, whether said cash or securities are to be held until the expiration of the terms of said leases or subleases or are to be applied to one or more of the installments of rent coming due immediately prior to the expiration of said terms; and all leasehold estates held or hereafter acquired by Mortgagor in connection with its operation of the Land and Buildings;

IT BEING the intention of the parties that, to the full extent of the law, all property of the character hereinabove described, both real and personal, and all estates and interest in such property, which are now owned or hereafter acquired by the Mortgagor and are a part of, used on or in connection with the use or enjoyment of, affixed or annexed to the Land and Buildings, shall be and remain or become and constitute a portion of the security covered by and subject to the first and paramount lien of this Mortgage, together with all rents, income, revenues, insurance proceeds and profits thereof and the present and continuing right to make claim for, elect, re-

ceive and receipt for any and all such rents, income, revenue, insurance proceeds, issues and profits arising therefrom or in connection therewith; and together with such further and different estate or estates acquired by the Mortgagor in any of the said property at any time hereafter; and together with any and all right, title and interest of Mortgagor in and to all awards, damages and moneys received in connection with any taking of all or any portion of the property subject to the lien hereof under the exercise of eminent domain, or any money or settlement received by the Mortgagor in connection with any conveyance in lieu of such taking, and any and all moneys and other properties, real and personal, which may from time to time be subjected to the lien hereof though a supplement of this Mortgage or otherwise, it being the intention of the Mortgagor that all property hereafter acquired by the Mortgagor and required to be subject to the lien of this Mortgage or intended so to be shall forthwith by the acquisition thereof by the Mortgagor be as fully embraced within the lien of this Mortgage as if such property were now owned by the Mortgagor and were specifically described in this Mortgage and conveyed and mortgaged hereby or pursuant hereto, (all of the above-mentioned property set forth in the foregoing paragraphs is collectively referred to herein as the "Mortgaged Collateral");

TO HAVE AND TO HOLD the Mortgaged Collateral with the privileges and appurtenances thereunto belonging, and all rents, issues and profits therefrom, unto Mortgagee, its successors and assigns, forever, for the uses and purposes herein expressed. Mortgagor covenants that at and until the execution and delivery of this Mortgage, Mortgagor is well seized of the Land and Buildings in fee simple and Mortgagor's interest in the fixtures and equipment that are a part of the Mortgaged Collateral is free and clear of all liens, encumbrances and security interests, subject, however, only to the Permitted Encumbrances noted on Exhibits "B-1" and "B-2" attached hereto (the "Permitted Encumbrances"), and has good, right and full power to grant, bargain, sell, convey, grant a security interest in, mortgage and warrant the entire Mortgaged Collateral in the manner and form written; and that the same are free from all liens, encumbrances and security interests, whatsoever, excepting only the Permitted Encumbrances, and that Mortgagor does warrant and will defend the said Mortgaged Collateral, with the privileges and appurtenances thereunto belonging to Mortgagee, its successors and assigns, forever, against all lawful claims and demands whatsoever.

PROVIDED ALWAYS, and these presents are upon the following express conditions, that if Mortgagor, its successors and assigns, shall pay or cause to be paid to Mortgagee, or order, the full principal sum of \$5,000,000.00, with interest thereon according to the terms and conditions of one certain Promissory Note, dated June 30, 1988 (the "Note"), and Term Loan Agreement, dated June 30, 1988, (the "Credit Agreement"), the terms of which are incorporated herein

by reference, made by Mortgagor with Mortgagee and delivered, providing for payment of said principal sum in lawful money of the United States of America, with interest thereon at the rate set forth therein, and shall fully keep and perform the terms, covenants, conditions, and agreements hereof by Mortgagor to be kept and performed, and pay all other sums due Mortgagee as provided herein and in the Note and Credit Agreement, then this Mortgage and the estate hereby granted shall cease, determine and be void, and said Mortgage shall thereupon be released by the Mortgagee at the cost and expense of Mortgagor.

GENERAL WARRANTIES, COVENANTS AND AGREEMENTS

MORTGAGOR HEREBY WARRANTS, COVENANTS AND AGREES AS SET FORTH BELOW IN PARAGRAPHS 1 THROUGH 32:

1. Due Authorization. Mortgagor is duly authorized, under the laws of the State of Indiana and under its Articles of Incorporation, to execute and deliver this Mortgage, the Assignment of Leases and Rents (the "Assignment") executed herewith, and all other documents in connection herewith; all action on its part necessary for the valid execution and delivery of such documents has been duly and effectively taken, and such documents in the hands of the Mortgagee, its successors and assigns, will be legal, valid and binding obligations of the Mortgagor and enforceable according to the terms hereof and thereof.
2. Payment; Obligations Secured. Mortgagor will pay the principal of and interest on the indebtedness evidenced by the Note and Credit Agreement, and any and all extensions or modifications thereof, at the time and in the manner therein provided. This Mortgage secures the payment and performance of each and every covenant, obligation and undertaking of the Mortgagor in the Note, Credit Agreement and Assignment, and all indebtedness and obligations of Mortgagor to Mortgagee herein and therein now existing or hereafter incurred including, but not limited to, any sums advanced by Mortgagee for legal expenses and attorneys' fees arising out of the enforcement of or foreclosure under this Mortgage and the Assignment and all costs and expenses advanced by Mortgagee hereunder and thereunder.

This Mortgage is a construction mortgage within the meaning of the Code of Iowa and secures obligations

incurred for the construction of improvements on land.

3. Taxes and Liens. Mortgagor will pay all taxes, assessments and other similar charges levied upon the said Mortgaged Collateral before the same become delinquent, and will promptly deliver to Mortgagee receipts of the proper officers therefor. In default thereof, Mortgagee may pay such taxes, assessments, and other similar charges, including any penalties or interest thereon (of which payment, amount and validity thereof the receipt of the proper officer shall be conclusive evidence) and any amount so paid by Mortgagee shall become immediately due and payable by Mortgagor with interest thereon at the rate payable after maturity as provided in the Note and Credit Agreement (the "Default Rate"), such sums to be secured by this Mortgage.

4. Tax and Insurance Premium Deposits. Mortgagor shall pay all real estate taxes and insurance premiums for insurance upon the Mortgaged Collateral as they become due and payable and before the same become delinquent; and Mortgagor shall promptly furnish Mortgagee with evidence of such payment. Upon demand by Mortgagee, Mortgagor covenants and agrees to deposit with such a depository (hereinafter referred to as "Depository") as the Mortgagee may from time to time in writing appoint, and in the absence of such appointment, then at the office of Mortgagee in New York, New York, commencing on the date of the execution of this Mortgage and on the first day of each month thereafter until the indebtedness secured by this Mortgage is fully paid, a sum equal to one-twelfth (1/12th) of the last total annual taxes and assessments for the last ascertainable year (general and special) on said Mortgaged Collateral (unless said taxes are based upon assessments which exclude the improvements or any part thereof now constructed or to be constructed, in which event the amount of such deposits shall be based upon the Mortgagee's reasonable estimate as to the amount of taxes and assessments to be levied and assessed). In addition, in the event of any such demand by the Mortgagee, Mortgagor shall deposit with the Depository, at the same time as the taxes, a sum equal to one-twelfth (1/12th) of the last total annual insurance premium for the insurance required under the provisions of Paragraph 5 below. Such deposits are to be held in escrow without any allowance of interest and are to

be used for the payment of taxes and assessments (general and special) and insurance premiums on said Mortgaged Collateral next due and payable when they become due. If the funds so deposited are insufficient to pay any such taxes or assessments (general or special) and insurance premiums for any year when the same shall become due and payable, the Mortgagor shall, within ten (10) days after receipt of demand therefor, deposit additional funds as may be necessary to pay such taxes and assessments (general and special) and insurance premiums in full. If the funds so deposited exceed the amount required to pay such taxes and assessments (general and special) and insurance premiums for any year, the excess shall be applied on a subsequent deposit or deposits. Said deposits need not be kept separate and apart from any other funds of Mortgagee or Depositary.

Anything in this Paragraph 4 to the contrary notwithstanding, if the funds so deposited are insufficient to pay any such taxes or assessments (general or special) and insurance premiums or any installment thereof, Mortgagor will, not later than the thirtieth (30th) day prior to the last day on which the same may be paid without penalty or interest, deposit with the Mortgagee or such Depositary the full amount of any such deficiency.

5. Insurance. Mortgagor shall keep the Mortgaged Collateral insured against loss or damage by fire on a so-called "All Risks" basis and against such other hazards and for such periods as may be reasonably required by Mortgagee, including without limitation of the generality of the foregoing: (a) rent loss insurance whenever in the opinion of Mortgagee such protection is necessary; (b) war risk insurance whenever necessary and such war risk insurance is obtainable at a reasonable cost from an agency of the United States Government; (c) flood insurance whenever in the opinion of Mortgagee such protection is necessary and is available; (d) business interruption insurance; (e) boiler explosion coverage; (f) sprinkler leakage coverage; and (g) during the course of any construction or restoration of any improvements on the Land and Buildings, completed builder's value risk insurance against all risks of physical loss, covering the total value of work performed and equipment, supplies and materials furnished. Mortgagor shall also provide liability insurance with such limits for personal injury and death and

property damage in such amounts and for such periods at least equal to the minimum amounts and periods as Mortgagee may reasonably require. All policies of insurance to be furnished hereunder shall be in forms, companies rated "B plus" or better by A. M. Best Company in its current annual edition of Best's Key Rating Guide, and amounts satisfactory to Mortgagee, with waiver of subrogation, agreed amount and replacement cost endorsements, and shall contain a standard noncontributory mortgagee clause attached to all policies; and all of such policies shall include a provision requiring that the coverages evidenced thereby shall not be cancelled, terminated or modified without thirty (30) days' prior written notice to Mortgagee, and that such policies, as to the interest of the Mortgagee therein, shall not be invalidated by any act or neglect of Mortgagor nor by any foreclosure or any other proceedings or notices thereof relating to the Mortgaged Collateral or any interest therein. Mortgagor shall deliver all original policies, including additional and renewal policies, or certified copies thereof, to Mortgagee and, in the case of insurance about to expire, shall deliver renewal policies not less than thirty (30) days prior to their respective dates of expiration. Such insurance may be obtained by Mortgagor by endorsement on a blanket insurance policy it may have, provided that such blanket policies satisfy the requirements specified in this Paragraph.

Mortgagee shall not be required to prosecute any claim against any insurer or to contest any settlement proposed by any insurer; Mortgagor may, at its cost or expense, prosecute any such claim or contest any such settlement; and in such event that Mortgagor may bring such prosecution or contest in the name of Mortgagee, Mortgagor or both, Mortgagee shall cooperate with Mortgagor and join therein at Mortgagor's request upon receipt by Mortgagee of a satisfactory indemnity agreement from Mortgagor against costs, liabilities and expenses in connection with any such cooperative prosecutions or contests. Insurance claims by reason of damage or destruction to any portion of the Mortgaged Collateral shall be adjusted at the cost of Mortgagor.

Mortgagor shall not take out separate insurance concurrent in form, or contributing in the event of loss, with that required to be maintained hereunder unless Mortgagee is included thereon under a standard

noncontributory mortgagee clause acceptable to Mortgagee. Mortgagor shall immediately notify Mortgagee whenever any such separate insurance is taken out and shall promptly deliver to Mortgagee the original policy or policies of such insurance. In the event of a foreclosure of the lien of this Mortgage, or of a transfer of title to the Mortgaged Collateral, either in lieu of foreclosure or by purchase at the foreclosure sale, all interest in all insurance policies in force shall pass to Mortgagee, transferee or purchaser, as the case may be.

Within ninety (90) days following the end of each fiscal year of Mortgagor, Mortgagor agrees to furnish evidence of replacement cost, without cost to Mortgagee, such as are regularly and ordinarily made by insurance companies to determine the then replacement cost of the Buildings and other improvements which form a part of the Mortgaged Collateral.

6. Adjustment of Losses with Insurer and Application of Proceeds of Insurance. So long as there is no default under this Mortgage, such insurance proceeds shall be made available by Mortgagee and used to reimburse the Mortgagor for the cost of the rebuilding or restoration of the Mortgaged Collateral; if Mortgagor shall be in default under this Mortgage, then Mortgagee may, in its sole discretion, apply such insurance proceeds toward the reduction of the indebtedness secured hereby. Subject to the preceding sentence, insurance claims by reason of loss or damage by fire or other casualty to any portion of the Mortgaged Collateral in an amount of fifty thousand dollars (\$50,000.00) or less may be adjusted by the Mortgagor. In case of loss or damage by fire or other casualty in excess of fifty thousand dollars (\$50,000.00), Mortgagee is authorized (a) to settle and adjust any claim under insurance policies which insure against such risks, provided, however, that if Mortgagor is not then in default under the terms hereof, any such settlement shall be subject to the approval of the Mortgagor; or (b) to allow Mortgagor to agree with the insurance company or companies on the amount to be paid in regard to such loss. In any case, Mortgagee is authorized to collect and receipt for any such insurance monies. Mortgagor may apply such insurance proceeds (i) in reduction of the indebtedness secured hereby, whether due or not, or (ii) such proceeds shall be held by the Mortgagee and used to reimburse Mortgagor for the cost of the re-

building or restoration of the Mortgaged Collateral. In the event that such proceeds are made available to reimburse Mortgagor for the cost of the rebuilding or restoration of the Buildings or other improvements which form a part of the Mortgaged Collateral, such proceeds shall be made available in the manner and under the conditions that the Mortgagee may require. Any Buildings and improvements restored or rebuilt shall be of at least equal value and substantially the same character as prior to such damage or destruction. In any case, where the insurance proceeds are made available for rebuilding and restoration, such proceeds shall be disbursed upon the disbursing party being furnished with satisfactory evidence of the estimated cost of completion thereof and with architects' certificates, waivers of lien, contractors' and subcontractors' sworn statements, title continuations and other evidence of cost and payments, so that the disbursing party can verify that the amounts disbursed from time to time are represented by completed and in place work and that said work is free and clear of mechanics' lien claims. No payment made prior to the final completion of the work shall exceed ninety percent (90%) of the value of the work performed from time to time; and, at all times, the undisbursed balance of such proceeds remaining in the hands of the disbursing party shall be at least sufficient to pay for the cost of completion of the work free and clear of liens. If the cost of rebuilding, repairing or restoring the Buildings and such improvements may reasonably exceed the sum of \$50,000.00, then the Mortgagee shall approve plans and specifications of such work before such work shall be commenced, which approval shall not be unreasonably delayed or withheld. If the proceeds are made available by the Mortgagee to reimburse the Mortgagor for the cost of said rebuilding or restoration, any surplus which may remain out of said insurance proceeds after payment of such cost of building or restoration shall, at the option of the Mortgagee, be applied on account of the indebtedness secured hereby or be paid to any party entitled thereto and under the conditions that the Mortgagee may require. Proceeds of insurance held by the Mortgagee will be held in an interest bearing account.

Mortgagor 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 at-

torneys' fees, and all such expenses shall be additional amounts secured by this Mortgage.

7. Maintenance. Mortgagor will maintain the Mortgaged Collateral in good condition and repair and will not commit or suffer any waste thereof, reasonable wear and tear excepted. Mortgagor will comply with, or cause to be complied with, all statutes, ordinances, regulations, or requirements of any governmental authority relating to the Mortgaged Collateral, and will promptly repair, restore, replace or rebuild any part of the Mortgaged Collateral now or hereafter subject to the lien of this Mortgage which may be damaged or destroyed by any casualty or as the result of any proceeding hereinafter referred to in Paragraph 10. None of the buildings, structures, or improvements now or hereafter erected or located on the Mortgaged Collateral shall be removed or demolished without the prior written consent of Mortgagee. Mortgagee, and any person authorized by Mortgagee, shall have the right to enter upon and inspect the Mortgaged Collateral at all reasonable times. Mortgagor will pay promptly when due all charges for utilities or services, including but not limited to electricity, gas and water for which Mortgagor is responsible; and in the event Mortgagor fails to pay such charges, Mortgagee may pay the same, and any amount so paid by Mortgagee shall become immediately due and payable by Mortgagor with interest at the Default Rate, such sums to be secured by this Mortgage.
8. No Liens. Mortgagor will not create or suffer to be created any charge, lien or encumbrance upon the Mortgaged Collateral, or any part thereof, excepting the lien hereof, and the lien of general and special taxes or assessments duly levied and assessed, without the prior written consent of the Mortgagee.
9. Assignment of Rents and Leases. The Credit Agreement and the Note are also secured by the Assignment, the terms of which are incorporated herein by reference, from Mortgagor to Mortgagee assigning all of the rents, issues, profits and income whatsoever arising from or which may be had under any and all leases between Mortgagor, its successors or assigns and any tenants now or hereafter having a leasehold interest in the above property.
10. Condemnation. If all, or any part, of the Mortgaged Collateral are damaged, taken or acquired, either

temporarily or permanently, in any condemnation proceeding, or by exercise of the right of eminent domain, the amount of any award or other payment for such taking or damage made in consideration thereof, to the extent of the full amount of the then remaining unpaid indebtedness secured hereby, is hereby assigned to Mortgagee, who is empowered to collect and receive the same and to give proper receipts therefor in the name of Mortgagor, and the same shall be paid forthwith to Mortgagee; provided, however, that if at the time of such taking the Mortgagor is not then in default under the terms hereof, any settlement for the receipt of compensation or award for such taking shall be subject to approval of the Mortgagor. If the parties are not in agreement thereon then, and in such case, the issue between the parties shall be submitted to arbitration by an arbitrator appointed by the Mortgagor and Mortgagee, whose decision shall be binding upon the parties hereto. If the Mortgagor and Mortgagee are unable to reach a decision on the appointment of an arbitrator, each party shall appoint an arbitrator, and the two thus appointed shall appoint a third arbitrator; and the decision of the majority of the arbitrators shall be binding on Mortgagor and Mortgagee. The expense of such arbitration shall be borne by the losing party. It is expressly agreed that the parties will do everything in their power expeditiously to submit for arbitration any unresolved issues relative to settlement, it being the intent of the parties to effectuate settlement without undue delay.

If at the time of the taking for which compensation or award is payable the Mortgagor shall not be in default herein, then, and in such case, all such compensation or award shall, at the direction of the Mortgagee, be applied toward the restoration, repair, replacement or rebuilding of the premises; provided, however, that as a condition precedent thereto Mortgagor shall furnish to the satisfaction of Mortgagee appropriate evidence of the cost thereof, and if the compensation or award is insufficient therefor, the Mortgagor shall furnish proof of financial ability in such form as Mortgagee may reasonably require for such restoration, repair, replacement or rebuilding. Mortgagee may, at its option, require that any compensation or award received in excess of such cost be applied in reduction of the indebtedness secured hereby.

If Mortgagor shall, at the time of the taking for which said compensation or award is payable, be in default under the terms hereof, then Mortgagee may, in its sole discretion, apply all of said compensation or award toward the reduction of the indebtedness secured hereby.

11. Expenses. If Mortgagee shall incur or expend any sums, including reasonable attorney's fees and all expenses incurred in procuring abstracts of title, whether in connection with any action or proceeding or not, to sustain the lien of this Mortgage or its priority, or to protect or enforce any of Mortgagee's rights hereunder, or to recover any indebtedness hereby secured, all such sums shall become immediately due and payable by Mortgagor with interest thereon at the Default Rate, such sums to be secured by this Mortgage.
12. Due on Sale. In the event all or any part of the Mortgaged Collateral, or an interest therein, is sold, transferred, encumbered or conveyed or vests in persons or entities other than the Mortgagor, or Mortgagor shall agree to sell, transfer, encumber or convey the Mortgaged Collateral, then Mortgagee may, at its option, declare all unpaid indebtedness evidenced by the Note and Credit Agreement immediately due and payable; provided, however, that Mortgagor may dispose of, from time to time, fixtures and equipment that become worn out or obsolete, provided further, however, that Mortgagor will replace any such worn-out or obsolete fixtures and equipment material to the operations of Mortgagor on the Land and Buildings with fixtures and equipment comparable thereto when new. Failure by Mortgagee at times to exercise such option shall not constitute a waiver of the right to enforce the provisions of this paragraph in any instance thereafter occurring.
13. No Assignment of Rents. Mortgagor will not assign, in whole or in part, the rents, income or profits arising from the Mortgaged Collateral (other than pursuant to the Assignment) without the prior written consent of Mortgagee, or in any other manner materially impair the security of this Mortgage for the payment of the indebtedness secured hereby.
14. Performance of Leases. Mortgagor will observe and perform all covenants, conditions, and agreements contained in any lease or leases now or hereafter affecting the Mortgaged Collateral, or any portion

thereof, on the part of Mortgagor to be observed and performed. If Mortgagor shall default in the performance of any of the terms, covenants, conditions, or obligations imposed upon Mortgagor by any such lease or leases, which default would give the lessee or lessees the right to terminate or cancel the said lease or leases or make monetary advances and offset the same against future rentals, and any such default of the Mortgagor materially impairs the value of the Mortgaged Collateral and the ability of the Mortgagor to comply with the obligations imposed upon Mortgagor under the Credit Agreement, the Note or the Assignment, then, at the option of Mortgagee, the whole of the indebtedness secured by this Mortgage, including all advances and payments by Mortgagee hereunder, shall become immediately due, payable and collectible by foreclosure. Mortgagor, upon request, from time to time, will furnish to Mortgagee a statement, in such reasonable detail as Mortgagee may request, certified by Mortgagor, of all leases relating to the premises; and, on demand, Mortgagor will furnish to Mortgagee executed counterparts of any and all such leases.

15. Books and Records. With respect to the Mortgaged Collateral and the operations thereof, Mortgagor will keep or cause to be kept proper books of record and account in accordance with generally accepted accounting principles consistently applied. Mortgagee shall have the right to examine the said books of record and account at such reasonable times and intervals as Mortgagee may elect.
16. No Waiver. In the event that Mortgagee (a) grants any extension of time or forbearance with respect to the payment of any indebtedness secured by this Mortgage; (b) takes other or additional security for the payment thereof; (c) waives or fails to exercise any right granted herein or under the Note or Credit Agreement secured hereby; (d) grants any release, with or without consideration, of the whole or any part of the security held for the payment of the indebtedness secured hereby; (e) amends or modifies in any respect with the consent of Mortgagor any of the terms and provisions hereof or of the Note or Credit Agreement secured hereby; then and in any such event, such act or omission to act shall not release Mortgagor, or any co-makers, sureties, or guarantors of this Mortgage or of the Note or Credit Agreement secured hereby, under any covenant of this Mortgage or of the Note or

Credit Agreement, nor preclude Mortgagee from exercising any right, power or privilege herein granted or intended to be granted in the event of any other default then made or any subsequent default and without in any wise impairing or affecting the lien or priority of this Mortgage.

17. Mortgagee's Consent Required. Mortgagor will not make, suffer, or permit, without the written consent of the Mortgagee first had and obtained (which consent will not be unreasonably withheld), (a) any use of the premises for any purpose other than that for which the same are now used or intended to be used; (b) any alterations of the Buildings, improvements, fixtures (other than trade fixtures belonging to lessees) and equipment now or hereafter erected or located upon the said Land, or in the Buildings, which alterations cost in the aggregate more than \$250,000.00 in any calendar year; (c) any lien, security interest or other charge or encumbrance, or any other type of preferential arrangement, upon or with respect to any of the Mortgaged Collateral, other than (i) purchase money liens or purchase money security interests upon any equipment or fixtures acquired subsequent to the date of this Mortgage by the Mortgagor in the ordinary course of business to secure the purchase price of such property or to secure indebtedness incurred solely for the purpose of financing the acquisition of such property, or (ii) liens or security interests existing on such equipment or fixtures acquired subsequent to the date of this Mortgage at the time of its acquisition, provided that the aggregate principal amount of the indebtedness secured by the liens or security interests referred to in clauses (i) and (ii) above shall not exceed \$250,000 at any time outstanding. Mortgagor will execute and deliver, from time to time, such further instruments as may be requested by Mortgagee to confirm the lien and security interest of this Mortgage on any fixtures and equipment described herein.

18. Security Agreement; Fixture Filing. This Mortgage shall constitute a Security Agreement under the Iowa Uniform Commercial Code with respect to (and the Mortgagor hereby grants to the Mortgagee a security interest in) all equipment and fixtures owned by Mortgagor included in the Mortgaged Collateral des-

cribed above (and the proceeds thereof). The Mortgagor will from time to time, at the request of the Mortgagee as the Secured Party (as such term is defined in the Uniform Commercial Code), execute any and all financing statements covering such equipment and fixtures (and the proceeds thereof) (in a form satisfactory to the Mortgagee) which Mortgagee may reasonably consider necessary or appropriate to perfect its security interest. The Mortgagor will pay to the Mortgagee, on demand, the amount of any and all costs and expenses (including reasonable attorney fees and legal expenses) paid or incurred by the Mortgagee in connection with the exercise of any right or remedy referred to in Paragraph 22(b). From the date of its recording, this Mortgage shall be effective as a financing statement filed as a fixture filing with respect to the Mortgaged Collateral that is fixtures and for this purpose the name and address of the debtor is the name and address of Mortgagor as set forth in paragraph 28 herein and the name and address of the secured party is the name and address of the Mortgagee as set forth in paragraph 28 herein.

19. Mortgagee's Interest In and Use of Deposits. In the event of a default in any of the provisions contained in this Mortgage or the Note or Credit Agreement secured hereby, the Mortgagee may, at its option, without being required so to do, apply any monies at the time on deposit pursuant to Paragraphs 4, 6 and 10 hereof, on any of Mortgagor's obligations herein or in said Note or Credit Agreement contained, in such order and manner as the Mortgagee may elect. When the indebtedness secured hereby has been fully paid, any remaining deposits shall be paid to the Mortgagor or to the then owner or owners of the Mortgaged Collateral, as the same appear on the records of the Mortgagee. A security interest, within the meaning of the Iowa Uniform Commercial Code is hereby granted to the Mortgagee in and to any monies at any time on deposit pursuant to Paragraphs 4, 6 and 10 hereof; and such monies and all of Mortgagor's right, title and interest therein are hereby assigned to Mortgagee, all as additional security for the indebtedness hereunder and shall, in the absence of default hereunder, be applied by the Mortgagee or said Depository for the purposes for which made hereunder and shall not be subject to the direction or control of the Mortgagor; provided, however, that neither the Mortgagee nor said Depository shall be liable for any failure to apply to the payment of taxes, assessments

and insurance premiums any amount so deposited unless Mortgagor, while not in default hereunder, shall have requested said Mortgagee or said Depository, in writing, to make application of such funds to the payment of the particular taxes, assessments and insurance premiums for payment of which they were deposited, accompanied by the bills for such taxes, assessments and insurance premiums. Neither Mortgagee nor any Depository hereunder shall be liable for any act or omission taken in good faith or pursuant to the instruction of any party, but only for its gross negligence or willful misconduct.

20. Environmental Matters. There are no existing, pending or threatened "superliens" or similar governmental action that could impair the value of the Mortgaged Collateral or the priority of this Mortgage, and Mortgagor will promptly notify Mortgagee of all such future actions. The Mortgaged Collateral is currently in compliance and will remain in compliance with all applicable laws and regulations (including environmental, health and safety laws and regulations). All required governmental permits and licenses are in effect and will remain in effect and the Mortgaged Collateral complies therewith. There are and will be no environmental, health or safety hazards with respect to the Mortgaged Collateral, and no on-site storage, treatment or disposal of hazardous waste or material has been or will be made with respect to the Mortgaged Collateral. There are no pending actions, proceedings or notices of potential action from any governmental agency regarding the condition of the Mortgaged Collateral or environmental, health or safety laws, and Mortgagor will promptly notify Mortgagee of all such future actions, proceedings or notices. The business conducted on the Mortgaged Collateral has and will lawfully dispose of its waste, and there are no pending, threatened or contingent proceedings concerning waste disposal on the Mortgaged Collateral. There are no PCB's or other hazardous waste substances present on or in the Mortgaged Collateral, and none will be thereon or therein in the future. Mortgagor shall not waive or release any party from environmental liabilities. If the Mortgagee has reasonable cause to believe that the Mortgaged Collateral is not in compliance with applicable laws and regulations (including environmental, health and safety laws and regulations), at the request of Mortgagee, from time to time, Mortgagor, at its sole cost and expense, shall furnish

Mortgagee with engineering studies and soil tests with respect to the Mortgaged Collateral, the form, substance and results of which shall be satisfactory and certified to Mortgagee. If any such engineering studies or soil tests indicate any violation, or potential violation, of environment laws, then Mortgagor, at its sole cost and expense, shall promptly take whatever corrective action is necessary to assure that the Mortgaged Collateral is in full compliance with law.

21. Events of Default. Each of the following occurrences shall constitute an event of default hereunder (an "Event of Default"):

- (a) The occurrence of an Event of Default under and as defined in the Credit Agreement;
- (b) Any warranty of title made by the Mortgagor in this Mortgage shall be broken and shall remain so for thirty (30) calendar days after Mortgagee has mailed notice thereof to Mortgagor at the address set forth herein.

22. Mortgagee's Remedies. Upon the occurrence of any Event of Default and failure to cure such default in the manner provided, the Mortgagee may, at its option, exercise one or more of the following rights and remedies (and any other rights and remedies available to it):

- (a) The Mortgagee may declare immediately due and payable all unmatured indebtedness secured hereby which indebtedness shall thereupon be immediately due and payable without further notice or demand;
- (b) The Mortgagee shall have and may exercise with respect to all equipment and fixtures which are part of the Mortgaged Collateral all the rights and remedies accorded upon default to a secured party under the Uniform Commercial Code as in effect in the State of Iowa. If notice to the Mortgagor of intended disposition of such property is required by law in a particular instance, such notice shall be deemed commercially reasonable if given by mailing such notice thereof to the Mortgagor at the address set

forth herein at least ten (10) calendar days prior to the date of intended disposition;

- (c) The Mortgagee may (and is hereby authorized and empowered to) foreclose this Mortgage pursuant to the statutes of the State of Iowa.
- (d) The Mortgagee shall be entitled, upon application to the Court by action separate from any foreclosure or in a foreclosure action, to the appointment of a receiver for the rents, issues, profits, and all other income of every kind which shall accrue and be owing for the use or occupation of the Mortgaged Collateral or any part thereof, whether before or after foreclosure, or during the full statutory period of redemption, if any, upon a showing that the Mortgagor has breached any covenant contained in this Mortgage, the Note, the Credit Agreement or the Assignment, or any other security document referred to therein.

Mortgagee shall be entitled to exercise all rights and powers under this Mortgage, the Note, the Credit Agreement, the Assignment, and under any other agreement or any laws now or hereafter in force, notwithstanding some or all of said indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, security agreement, pledge, lien, assignment or otherwise. Neither the acceptance of this Mortgage nor its enforcement shall prejudice or in any manner affect the Mortgagee's right to realize upon or enforce any other security now or hereafter held by Mortgagee, it being agreed that Mortgagee shall be entitled to enforce this Mortgage and any other security now or hereafter held by Mortgagee in such order and manner as Mortgagee may in its absolute discretion determine. No remedy herein conferred upon or reserved to Mortgagee is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given to Mortgagee, or to which it may be otherwise entitled, may be exercised, concurrently or

independently, from time to time and as often as may be deemed expedient by Mortgagee, and it may pursue inconsistent remedies.

23. Additional Definitions. Whenever used in this instrument, unless the context shall otherwise clearly require, the term "Mortgagor" shall include the heirs, executors, administrators, legal representatives, successors and assigns, as the same may be, of Mortgagor, and all persons claiming by, through or under Mortgagor; the term "Mortgagee" shall include the legal representatives, successors and assigns of Mortgagee; the term "person" shall include any individual, partnership, corporation, trustee or unincorporated association; the singular shall include the plural, and the plural, the singular; and the gender used shall include the other genders.
24. Successors. All of the terms, covenants, conditions, and agreements herein set forth shall be binding upon and inure to the benefit of the respective heirs, executors, administrators, legal representatives, successors and assigns, as the case may be, of the parties hereto.
25. 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 (1) 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 waives in such foreclosure proceedings any rights to a deficiency judgment against the Mortgagor which may arise out of the foreclosure proceedings; all to be consistent with the provisions of Section 628.26, Code of Iowa.
26. Redemption Upon Abandonment. It is further agreed that if this Mortgage covers less than ten (10) acres of land, and in the event of the foreclosure of this Mortgage if said property has been abandoned by the owners and those persons personally liable under the Mortgage at the time of such foreclosure, the Court may, in the decree of foreclosure, affirmatively find that there has been such abandonment; and if the Court does so find, then the period of redemption after foreclosure sale shall be reduced to sixty (60) days, provided the Mortgagee waives in such foreclosure proceedings any rights to a deficiency judgment

against the Mortgagor or its successors in interest; all to be consistent with the provisions of Section 628.27, Code of Iowa.

27. Debt Maturity. This Mortgage and the indebtedness secured hereby shall mature on June 30, 1998, subject to prior call by the Mortgagee as provided in the Credit Agreement; and the unpaid principal balance, together with any interest unpaid at maturity, shall, if not sooner paid, be paid in full on that date.
28. Notices. Any notice required to be given pursuant to the terms of this Mortgage, the Credit Agreement, the Note or the Assignment, and any other security documents executed in connection herewith shall be deemed given when personally delivered or sent by registered United States Mail to the respective addresses set out below, or such other address as may be designated by the respective parties:

TO THE MORTGAGOR:

Rose Acre Farms, Inc.
R. R. 5
Seymour, Indiana 47274

Attn: President

With a copy to:

Stephen H. Paul
Baker & Daniels
810 Fletcher Trust Building
Indianapolis, Indiana 46204

TO THE MORTGAGEE:

COOPERATIEVE CENTRALE
RAIFFEISEN-BOERENLEENBANK B.A.,
"Rabobank Nederland", New York
Branch
245 Park Avenue
New York, New York 10167

Attn: Corporate Services Dept.

29. 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, be 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.
30. Further Assurances. At any time and from time to time until payment in full of the indebtedness

secured hereby, Mortgagor 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 Collateral, including, but not limited to, additional mortgages, security agreements, financing statements and continuation statements. Any expenses incurred by Mortgagee in connection with the recordation of any such instruments shall become additional indebtedness of Mortgagor secured by this Mortgage. Such amounts shall be immediately due and payable by Mortgagor to Mortgagee.

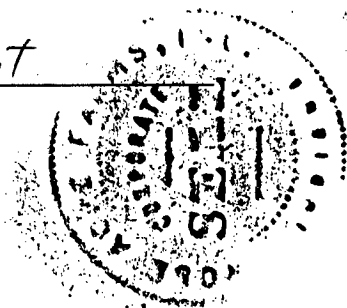
31. Governing Law. This Mortgage shall be governed by and construed in accordance with the laws of the State of Iowa.
32. Receipt of Copy. Mortgagor hereby acknowledges receipt of a copy of this Mortgage.

IN WITNESS WHEREOF, the Mortgagor has caused this Mortgage to be signed, sealed and delivered in its name and on its behalf duly authorized, the day and year herein first written.

ROSE ACRE FARMS, INC.

By David W. Rust
David W. Rust

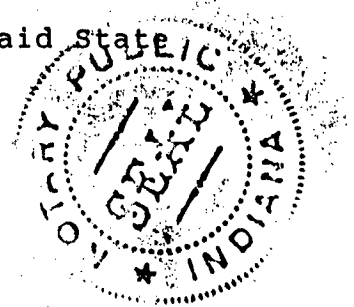
By Lois M. Rust
Lois M. Rust



STATE OF INDIANA)
) SS.
COUNTY OF Jackson)

On this 29th day of June, 1988, before me, the undersigned, a Notary Public in and for the State of Indiana, personally appeared David W. Rust, and Lois M. Rust, who, being by me duly sworn, did say that they are the President and Secretary, respectively, of Rose Acre Farms, Inc., executing the within and foregoing instrument; that ~~(no seal has been procured by the said)~~ (the seal affixed thereto is the seal of said) corporation; that said instrument was signed (and sealed) on behalf of said corporation by authority of its Board of Directors; and the said President and Secretary, as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

Denise K. Wolf
Denise K. Wolf
Notary Public in and for said State
of Indiana



My Commission Expires 9-16-90

23.

Exhibit A.
to
Mortgage and Security Agreement
Dated June 30, 1988

The following described real estate situated in Guthrie County, Iowa, to wit:

THE WEST HALF (W1/2) OF THE NORTHEAST QUARTER (NE1/4) AND LOT ONE (1) OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHWEST QUARTER (NW1/4) AND LOT ONE (1) OF THE NORTHEAST QUARTER (NE1/4) OF THE NORTHWEST QUARTER (NW1/4), ALL IN SECTION THIRTY-SIX (36), TOWNSHIP EIGHTY (80) NORTH, RANGE THIRTY-TWO (32), WEST OF THE 5TH P. M., IN GUTHRIE COUNTY, IOWA.

AND

The following described real estate situated in Madison County, Iowa, to wit:

THE EAST HALF (1/2) AND THE NORTHEAST QUARTER (1/4) OF THE NORTHWEST QUARTER (1/4) OF SECTION THIRTY-FOUR (34) IN TOWNSHIP SEVENTY-SIX (76) NORTH, RANGE TWENTY-EIGHT (28) WEST OF THE 5TH P. M., MADISON COUNTY, IOWA., EXCEPT A PARCEL OF LAND IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 76 NORTH, RANGE 28 WEST OF THE 5TH PRINCIPAL MERIDIAN, MADISON COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SECTION 34, T76N, R28W OF THE 5TH P. M., MADISON COUNTY, IOWA THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS 1,918.38 FEET ALONG THE EAST LINE OF SAID SECTION 34 TO THE POINT OF BEGINNING. THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST 183.00 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS 100.00 FEET; THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS EAST 183.0 FEET TO THE EAST LINE OF SAID SECTION 34; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS 100.00 FEET TO THE POINT OF BEGINNING.

24

Exhibit B-1

Madison County

Permitted Encumbrances

1. 1987/88 real estate taxes payable in fiscal year 1988/89 and subsequent taxes before same became due and delinquent.
2. Financing statement filed November 5, 1987 as filed No. G9989 in favor of Whirlpool Leasing Services, Inc.
3. Financing statement filed November 23, 1987 as UCC Rec. 3, Page 343 in favor of Whirlpool Leasing Services, Inc.
4. Financing statement filed February 1, 1988 as UCC Rec. 3, Page 366 in favor of Metlife Capital.
5. Easement for public highway granted to State of Iowa along south line, as contained in instrument dated August 7, 1931, filed August 7, 1931 in Book 66 of Deeds, Page 572.
6. Easement for public highway purposes granted to Madison County along north line, as contained in instrument dated March 21, 1961, filed March 22, 1961, in Book 91 of Deeds, Page 280.
7. Easement for communications systems purposes granted to Northwestern Bell Telephone Company being 1 rod in width and located within the south 1320 feet, as contained in instrument dated March 10, 1966, filed April 22, 1966 in Book 93 of Deeds, Page 604.
8. Easement for public highway purposes granted to the State of Iowa for primary road No. 92, as contained in instrument filed November 16, 1966 in Book 94 of Deeds, Page 373.
9. Easement for electric transmission line purposes granted to Farmer's Electric Cooperative, Inc. in instrument filed January 21, 1987 in Book 122 of Deeds, Page 647.
10. Easement for electric transmission line purposes granted to Farmer's Electric Cooperative, Inc. as contained in instrument dated March 3, 1987, filed March 10, 1987 in Book 119 of Deeds, Page 800.

25

Exhibit B-2

Guthrie County

Permitted Encumbrances

1. 1987/88 real estate taxes payable in fiscal year 1988/89 and subsequent taxes before same became due and delinquent.
2. Oil and gas lease dated April 2, 1982, filed May 7, 1982 in Book 384, Page 403, in favor of Coal Valley Natural Resources Co.
3. Oil and gas lease dated March 23, 1982, filed May 7, 1983 in Book 384, Page 446, in favor of Coal Valley Natural Resources Co., ratification of lease by contract vendors dated April 21, 1982, filed May 7, 1982 in Book 384, Page 449.
4. Terms and conditions of contract dated July 3, 1987, filed July 6, 1987 in Book 400, Page 1132 in which Rose Acre Farms is vendee, to-wit:

"Buyer agrees to erect a new fence, agreed to be woven wire and three barbed wires, in compliance with the lawful fence provisions set forth in Section 113.18 of the Code of Iowa on the entire adjacent property lines between the Sellers and Buyer. Thereafter, Sellers, their heirs and assigns shall be responsible for any future required, repair, maintenance and/or replacement of the fence provided by the Buyer."

5. Terms and conditions of contract dated June 3, 1987, filed July 6, 1987 in Book 400, Page 1136, in which Rose Acre Farms is vendee, to-wit:

"Buyer agrees to erect a new fence, agreed to be woven wire and three barbed wires, in compliance with the lawful fence provisions set forth in Section 113.18 of the Code of Iowa on the entire adjacent property lines between the Sellers and Buyer. Thereafter, Sellers, their heirs and assigns shall be responsible for any future required, repair, maintenance and/or replacement of the fence provided by the Buyer."

"Buyer shall ensure that surface water upon the real estate which they are purchasing from Sellers is properly drained and that surface water from the property that Buyer is purchasing is not diverted inconsistent with Iowa law upon the adjoining real estate presently owned by the Sellers. This provision shall bind the successors in interest and

future titleholders of the real estate being purchased by Buyer."

6. Easement for public highway granted to Guthrie County over the south 60 feet, more or less, as created in Book 296, Page 599 dated July 14, 1965, filed September 20, 1965.
7. Rights of neighboring property owners for use and flowage in drain ditches located along east and west property lines.