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FILED NO. 1853
BOOK 186 PAGE 367
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MICHELLE UTSLER
RECORDER
MADISON COUNTY, IOWA

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THIS DOCUMENT WAS PREPARED BY:
Name: Boatmen's Bank Iowa, N.A. C/O Retail Loan Service Center
Address: P.O. Box 790233 Attn:LNE 7161
St. Louis, MO 63179-2033
Telephone Number: 515/235-7111

MORTGAGE
to
Bank
("Mortgagee")

THIS MORTGAGE (referred to herein as "this instrument"), executed as of the 11TH day of DECEMBER 1996, by John R. Fuller and Stefanie D. Fuller, husband and wife

whose address is 2348 Saint Charles Road, Winterset, IA 50257 ("Mortgagor"), in favor of Mortgagee, whose principal business address is P.O. Box 790233 Attn:LNE 7161 St. Louis, MO 63179-2033
Attention: Installment Credit Operations;

WITNESSETH:

Mortgagor, for and in consideration of the loans, advances, or other financial accommodations by Mortgagee giving rise to the debt herein described and the sum of One Dollar (\$1.00), the receipt and adequacy of which are hereby acknowledged, MORTGAGES AND WARRANTS to Mortgagee the below real property, whether now owned or held or hereafter acquired by Mortgagor and whether now or hereafter existing (the "Mortgaged Property"), to have and to hold the Mortgaged Property, with all rights, appurtenances, and privileges thereunto belonging, unto the Mortgagee, his successors and assigns forever.

The Mortgaged Property is the following:

- (1) all of the following described land (the "Land") situated in the County of Madison, State of Iowa:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF, CONSISTING OF ONE (1) PAGE.

- IF THIS BLOCK IS CHECKED, SUBJECT TO EASEMENTS, COVENANTS, CONDITIONS, AND RESTRICTIONS OF RECORD AS OF THE DATE HEREOF.
- IF THIS BLOCK IS CHECKED, SUBJECT TO THE FOLLOWING ENCUMBRANCE: MORTGAGE DATED _____, AND RECORDED IN BOOK _____, PAGE _____ / DOCUMENT NO. _____, OF THE _____ COUNTY, IOWA RECORDER'S OFFICE.
- IF THIS BLOCK IS CHECKED, SUBJECT TO ALL OF THE ITEMS LISTED ON EXHIBIT A ATTACHED HERETO.

(2) all improvements and fixtures (the "Fixtures") now or hereafter existing or constructed upon the Land, including but not limited to buildings and other structures; all of the hereditaments, easements, licenses, privileges, rights-of-way, water rights, uses and other appurtenances to the Land and Fixtures; all right, title and interest, if any, of Mortgagor in and to nearby ways, roads, streets, boulevards, avenues or other public thoroughfares; and all right, title and interest of Mortgagor in and to the rents, income, issues, profits and revenues of all of the foregoing, including but not limited to rents and royalties payable with respect to oil, gas or minerals located on or under the Land;

NOTICE: This instrument secures the following obligations (the "Obligations"), up to a maximum principal amount of \$ 12,030.00. 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. If this block is checked , the Obligations include one or more revolving credit loans:

(1) The payment of all amounts due, including but not limited to principal, interest, fees and expenses, from time to time (whether at stated maturity, by acceleration or otherwise) under the following documents, all of which are incorporated herein by reference:

(a) Simple Interest Loan/Agreement dated December 11, 1996

which instrument matures on JUNE 18, 2001; including future advances if contemplated thereunder; and

including future advances if contemplated thereunder (the persons and entities (whether one or more) obligated under the foregoing documents are sometimes hereinafter referred to collectively and individually as "Obligor"); and

(b) this instrument and all additional security agreements, mortgages, deeds of trust, assignments or other security instruments which are executed and delivered to Mortgagee to secure obligations of Obligor under the documents described in clause (a) above;

(2) Any and all other indebtedness of Obligor and Mortgagor to Mortgagee, whether now existing or hereafter created, absolute or contingent, direct or indirect, joint or several, secured or unsecured, due or not due, contractual or tortious, liquidated or unliquidated, arising by operation of law or otherwise, or acquired by Mortgagee outright, conditionally or as collateral security from another, and whether or not made pursuant to commitment and whether or not presently contemplated by any of Obligor, Mortgagor and Mortgagee, including but not limited to the obligation of each of Obligor and Mortgagor to repay future advances by Mortgagee, and the obligation to repay advances by Mortgagee under any letters of credit issued for an Obligor's or Mortgagor's account, other than

(a) any such other indebtedness evidenced by or secured pursuant to any writing which states in effect that such indebtedness is not secured by any property other than the property described in such writing; and

(b) if the Mortgaged Property is used or expected to be used as Mortgagor's principal dwelling, any such other indebtedness which was incurred by Mortgagor for personal, family or household purposes;

(3) Any and all extensions, renewals, amendments, replacements, restatements, refinancings, refundings or modifications (including but not limited to modifications to interest rates or other payment terms) of any of the foregoing; and

(4) The observance and performance by Mortgagor of each and every term, covenant, condition and agreement required by this instrument to be observed and performed by Mortgagor.

The term "Documents" shall mean, unless otherwise specified, all of the documents referred to in clauses (1) (a) and (b) above and "Document" shall mean any one of such documents. Each Document shall be equal and without preference over another.

Mortgagor further covenants, agrees, represents, and warrants as follows:

1. **Defined Terms.** All capitalized terms used in this instrument shall have the meanings defined in the Sections where they are first used, or if not therein defined, the following meanings (such meanings to be equally applicable to both the singular and the plural forms of the terms defined):

"Default Rate" means an interest rate of twenty percent (20%) per annum or, if less, the lowest rate of interest provided for after default under the terms of any of the Documents.

"Mortgagee" means the Mortgagee identified as such in this instrument and any subsequent holder of any of the Documents or the other Obligations.

2. **Representations and Warranties.** Mortgagor represents and warrants to Mortgagee that:

2.1. **Title to Mortgaged Property.** Mortgagor has marketable fee simple title to the Mortgaged Property, free and clear of all easements, covenants, restrictions, conditions, encumbrances, liens and claims except those identified on page 1 hereof and in Exhibit A hereto.

3. Covenants. Mortgagor covenants and agrees with Mortgagee as follows:

3.1. Payment of Principal and Interest. Mortgagor will pay the indebtedness evidenced by such of the Documents as to which Mortgagor is an Obligor, if any, in accordance with the terms thereof.

3.2. Payment of Lienable Charges and Claims. Mortgagor shall pay, before they become delinquent, all taxes, penalties, assessments, charges and other amounts which if not so paid will result in the imposition of a lien on any of the Mortgaged Property, and Mortgagor shall pay all claims of contractors, subcontractors, materialmen, laborers and suppliers which if not paid will entitle the claimant to impose a mechanic's or materialmen's lien upon any of the Mortgaged Property, except such of the foregoing as are being diligently contested in good faith by Mortgagor by appropriate proceedings and for which Mortgagor has obtained a bond to protect the interest of Mortgagee from a bonding company acceptable to Mortgagee or established reserves acceptable to Mortgagee; provided, however, that if in the reasonable judgement of Mortgagee, the lien or security interest created by this Instrument is materially endangered or any material part of the Mortgaged Property is subject to imminent loss or diminution in value as a result of such contest, then Mortgagor shall pay the same immediately upon demand by Mortgagee. Mortgagor shall furnish to Mortgagee upon its request evidence of its compliance with this Section.

3.3. Preservation of Mortgaged Property. Mortgagor shall not commit or allow waste of the Mortgaged Property and shall repair and maintain the Mortgaged Property so as to keep it in the same condition as existed on the date hereof, ordinary wear and tear alone excepted.

3.4. Compliance with Laws. Mortgagor shall comply with all laws, rules, regulations and codes, including but not limited to environmental laws and fire and building codes of federal, state and local authorities applicable to the Mortgaged Property or the use of the Mortgaged Property, and with the requirements of every board of fire underwriters or similar body whose requirements apply to similar property in the area where any of the Mortgaged Property is located.

3.5. Alterations. Mortgagor shall not commit or allow any alteration, demolition or removal of any of the Fixtures which would impair the value of the Mortgaged Property without the prior written consent of Mortgagee.

3.6. Inspection by Mortgagee. Mortgagee may at any time upon reasonable prior notice inspect the Mortgaged Property and all books and records of Mortgagor pertaining to the Mortgaged Property. Mortgagor shall give Mortgagee access to the Mortgaged Property to exercise any of Mortgagee's rights and remedies under this instrument.

3.7. Insurance. Mortgagor shall at all times keep the Mortgaged Property insured, in insurance companies and under forms of insurance acceptable to Mortgagee, against fire, extended coverage and other perils as Mortgagee may from time to time require ("Casualty Insurance"). Mortgagor shall also at all times carry insurance, in insurance companies acceptable to Mortgagee, against liability on account of damage to persons or property ("Liability Insurance; the Casualty Insurance, Liability Insurance and any other insurance required herein to be maintained by Mortgagor are sometimes hereinafter referred to collectively as the "Insurance"). If Mortgagee required mortgage insurance as a condition of making the loan under the Document described in clause (1) (a) of the definition of the term Obligations above, Mortgagor shall also at all times maintain such mortgage insurance in effect. All policies of Liability Insurance shall name Mortgagee as an additional insured. All policies of Casualty Insurance shall reflect Mortgagee's interest therein as a mortgagee under a standard New York or Union mortgagee clause. All policies of Insurance shall contain a clause providing that such policies may not be canceled without thirty (30) days prior written notice to Mortgagee. Mortgagor shall furnish to Mortgagee upon its request at any time certificates evidencing the existence of the Insurance required herein to be maintained by Mortgagor. Such certificates shall specify the names of the insurers, the limits of coverage, the expiration dates and the types of coverage, and shall reflect that Mortgagee is an additional insured or that the proceeds thereof are payable to Mortgagor and Mortgagee as their interests may appear, as applicable. If the area where the Mortgaged Property is located is now or in the future designated as a special flood hazard area pursuant to the Flood Disaster Protection Act of 1973 (as amended), and if the community where the Mortgaged Property is located is participating in the National Flood Insurance Program, Mortgagor shall obtain and continuously maintain a National Flood Insurance Program Standard Flood Insurance Policy or equivalent covering the Mortgaged Property.

3.8. Condemnation. Mortgagor hereby assigns to Mortgagee all awards and payments, including any interest thereon, and the right to receive the same, which may be made with respect to the Mortgaged Property as a result of (i) condemnation or the exercise of the right of eminent domain by any public or quasi-public authority, (ii) the alteration of the grade of any street, or (iii) any other injury to or decrease in the value of the Mortgaged Property. Mortgagor agrees to execute and deliver such further instruments as may be requested by Mortgagee to confirm this assignment and sufficient for the purpose of assigning all proceeds from such awards or payments to Mortgagee. Mortgagee is authorized, but not obligated, as the attorney-in-fact for Mortgagor, to collect, receive and give receipts for such awards and payments. This power granted Mortgagee shall be deemed coupled with an interest and shall be irrevocable. Mortgagee may, at Mortgagee's sole option, apply such awards and payments to the Obligations, and shall pay the portion not so applied to Mortgagor.

3.9. Mortgagee's Right to Cause Performance of Covenants. If Mortgagor fails to maintain and pay the premiums for Insurance, to pay all taxes, penalties, assessments, charges, and claims, or to repair and maintain any of the Mortgaged Property, all as required hereunder, or if Mortgagor fails to keep or perform any of Mortgagor's other covenants herein, Mortgagee may cause such repairs and maintenance to be made, obtain such insurance, pay such taxes, penalties, assessments, charges, or claims, or cause such other covenants to be performed. Mortgagor shall pay to Mortgagee on demand all amounts paid by Mortgagee for the foregoing and the amount of all expenses incurred by Mortgagee in connection therewith, together with interest thereon from the date when incurred at the Default Rate. Such amounts and interest shall be secured by this instrument and shall be a lien on and security interest in the Mortgaged Property prior to any right, title, interest, lien, or claim in or upon the Mortgaged Property subordinate to the lien of this instrument. Any such payments by Mortgagee shall not be deemed a waiver of any Default. Mortgagee shall not be obligated to exercise Mortgagee's rights under this Section and shall not be liable to Mortgagor for any failure to do so.

3.10. Costs of Preserving or Enforcing This Instrument. Mortgagor shall (to the extent permitted by law) pay to Mortgagee on demand the amount of all costs and expenses, including reasonable attorneys' fees and disbursements and appraisal fees, incurred by Mortgagee in connection with (i) amendment, interpretation or enforcement of this instrument, Mortgagee's rights or remedies under this instrument, or the priority of the lien and security interest of this instrument, (ii) collection of any of the Obligations, or (iii) any title examination or title insurance commitment or policy relating to the Mortgaged Property, together with interest thereon from the date when incurred at the Default Rate. Such amounts and interest shall be secured by this instrument and shall be a lien on and security interest in the Mortgaged Property prior to any right, title, interest, lien, or claim in or upon the Mortgaged Property subordinate to the lien of this instrument.

3.11. Indemnity. Mortgagor shall (to the extent permitted by law) protect, defend, and indemnify Mortgagee, and hold Mortgagee harmless from and against, any claims, actions or proceedings against Mortgagee and any loss, cost, damage or expense, including but not limited to reasonable attorney's fees and disbursements, incurred by Mortgagee, arising out of or in any way related to a breach of the representations, warranties, covenants or agreements of Mortgagor herein. Mortgagee shall have the right, jointly with Mortgagor, to negotiate and settle any such claims, actions or proceedings.

3.12. Defense of Title. Mortgagor shall execute and deliver to Mortgagee, at Mortgagor's sole expense, such further assurances of title to the Mortgaged Property that are necessary to evidence, preserve or protect the lien and security interest created by this instrument. Mortgagor shall, at its sole expense, warrant and defend title to the Mortgaged Property and the priority of the lien and security interest created by this instrument against all claims and demands whatsoever.

4. Escrow of Taxes, Assessments and Insurance. Mortgagee may at any time require that Mortgagor make payments to Mortgagee for deposit into an escrow account to assure the timely payment of state, county and municipal taxes and assessments, both general and special, against the Mortgaged Property and premiums for the Insurance. Mortgagor shall make such escrow payment on the first day of each month. The amount of each such escrow payment shall equal one-twelfth (1/12th) of the annual charge against the Mortgaged Property for such taxes plus one-twelfth (1/12th) of the annual premiums for the Insurance, all as estimated by Mortgagee. Mortgagee may also at any time require that Mortgagor pay to Mortgagee for deposit into such escrow account an amount equal to one-sixth (1/6) of the amount required to pay all such taxes, assessments and Insurance premiums that will become due in the ensuing twelve (12) months. These escrow payments will be held in trust by Mortgagee and applied to payment of such taxes, assessments and Insurance premiums as they become due. If the amount held in escrow is insufficient to pay any such taxes, assessments or Insurance premiums when due, Mortgagor shall, immediately upon notice from Mortgagee, pay the deficiency to Mortgagee, which shall then pay the taxes, assessments or Insurance premiums then due. The escrow amounts paid to Mortgagee by Mortgagor as provided above shall be additional security for all of the Obligations and Mortgagee may apply such escrow amounts to the Obligations in the event of a Default. No interest shall be payable to Mortgagor on the escrow amounts paid to Mortgagee by Mortgagor as provided above.

5. Waiver of Homestead and Other Rights. Except to the extent contrary to applicable law, Mortgagor hereby releases and waives the benefit of (i) all laws now existing or hereafter enacted that provide for appraisal before sale of any of the Mortgaged Property being sold, or that provide for the extension of the time for the enforcement of the collection of the Obligations or that create or extend the period for redemption of any of the Mortgaged Property from any sale thereof to collect the Obligations, and (ii) the homestead exemption laws of the state where the Mortgaged Property is located.

6. Default. Any one or more of the following shall constitute a "Default" under this instrument:

6.1. Payment. Nonpayment, when due, whether by acceleration or otherwise, of any principal or interest payment on the Obligations evidenced by the Documents or any fee or other amount due from Mortgagor to Mortgagee hereunder; failure to pay, when due, any of the other Obligations; or a default or event of default (other than a payment default) with respect to any of the Obligations.

6.2. Representations and Warranties. Any representation or warranty made by Mortgagor herein or in any other agreement, instrument or other paper delivered to Mortgagee proves to have been untrue or misleading in any material respect at the time when made or deemed to be made.

6.3. Covenants or Agreements. A default by Mortgagor in the due observance or performance of any covenant, term or agreement contained herein (other than a breach which would constitute a Default under Sections 6.1 or 6.2 hereof, or for which another cure period is specifically provided) which continues unwaived for a period of ten (10) days.

6.4. Disposal of Mortgaged Property. After the date hereof, any conveyance, further encumbrance, exchange or other transfer or disposal, or agreement to transfer or dispose, of any of the Mortgaged Property, without Mortgagee's prior written consent.

6.5. Uninsured Loss of Mortgaged Property. Uninsured loss, theft, damage or destruction to or of the Mortgaged Property.

6.6. Default under Prior Instrument(s). Failure to pay, when due, any amount secured by, or to perform any agreement in, any security instrument whose lien is superior to the lien of this instrument.

7. Remedies Upon Default. If a Default occurs, Mortgagee shall have the right to do one or more of the following:

7.1. Mortgagee may, at its option and without notice or demand to Mortgagor except as otherwise required by applicable law, declare all of the Obligations immediately due and payable regardless of maturity.

7.2. Mortgagee may institute an action of foreclosure on this instrument or institute other proceedings according to law for foreclosure, and prosecute the same to judgment, execution and sale, for the collection of the Obligations and (to the extent permitted by law) all costs and expenses of such proceedings, including but not limited to reasonable attorneys' fees and disbursements.

8. **Other Matters Relating to Enforcement of Remedies.** In any sale made as contemplated herein, the Mortgagee may bid for and purchase any of the Mortgaged Property being sold, and shall be entitled, upon presentment of the relevant Documents and documents evidencing the same, to apply the amount of the Obligations held by it against the purchase price for any of the Mortgaged Property so purchased. The amount so applied shall be credited first (to the extent permitted by law) against the payment of the costs and expenses of so realizing on the Mortgaged Property (including but not limited to reasonable attorneys' fees and disbursements), together with interest thereon at the Default Rate from the date incurred; then to the portion of the Obligations that constitute interest accrued but unpaid; then to the remainder of the Obligations; then to the holders of any liens and interests on the Mortgaged Property that are junior to the lien and interest of this instrument; and the balance, if any, to Mortgagor, or its heirs, executors, administrators, personal representatives, successors or assigns, or to whosoever else may be lawfully entitled to receive the same, or as a court of competent jurisdiction may direct.

9. **Full Release.** When the Obligations are paid in full and all of Mortgagor's covenants and agreements in this instrument are fully performed, this instrument shall be released of record at the cost of Mortgagor.

10. **Effect of Extensions and Modifications.** Mortgagee, at its sole option, may extend the time for the payment of performance of the Obligations, or reduce the payments of principal or interest thereof, or accept a modification or renewal of the Documents or other Obligations (including such as effect an increase in the interest rate thereof), without the consent of any endorser, guarantor or other party to the Documents or any other document evidencing any of the Obligations. Any such extension, reduction, modification or renewal shall not impair or affect the priority of the lien and security interest created by this instrument, or limit, release, discharge or affect the liability of any Obligor, Mortgagor, any endorser, guarantor or other party to the Documents or any other document evidencing the Obligations, except in accordance with the strict terms and tenor of any such extension, reduction, modification or renewal, and regardless of whether Mortgagor consents to any such extension, reduction, modification or renewal where a subsequent owner of the Mortgaged Property and Mortgagee are the parties to the extension, reduction, modification or renewal.

11. **Mortgagee's Rights Non-Exclusive.** The rights and remedies of Mortgagee under this instrument are in addition to the rights and remedies of Mortgagee at law and in equity. The exercise of any of Mortgagee's rights or remedies shall not be deemed to be an election of one right or remedy over another or to prevent Mortgagee from exercising any other of Mortgagee's rights or remedies.

12. **Partial Invalidity.** If any provision of this instrument is held to be invalid or unenforceable, the rest of this instrument shall remain fully valid and enforceable.

13. **Waivers and Amendments.** No failure by Mortgagee to insist upon the strict and timely performance of any of the provisions of this instrument shall be deemed a waiver thereof. Mortgagee, notwithstanding any such failure, shall have the right to insist upon the strict and timely performance by Mortgagor of any and all terms and provisions of this instrument to be performed by Mortgagor. No waiver by Mortgagee shall be effective unless it is in writing and signed by an authorized officer of Mortgagee. No such waiver shall operate as a waiver of any other matter or of a similar matter at a future time. This instrument may not be modified or amended except by a duly recorded writing executed by both Mortgagor and an authorized officer of Mortgagee.

14. **Notices.** Any communication by Mortgagee to Mortgagor shall be deemed given if in writing and when (i) personally delivered to Mortgagor, or (ii) sent to Mortgagor at Mortgagor's Notice Address by certified or registered mail, courier, or telegram, whether received by Mortgagor or not. No communication from or concerning Mortgagor shall be deemed for any purpose to have been received by Mortgagee unless it is in writing and actually received by an executive officer of Mortgagee. Whenever applicable provisions of the Uniform Commercial Code or other applicable law require that notice be reasonable, ten (10) days' notice shall be deemed reasonable. Mortgagor's "Notice Address" is the mailing address shown below Mortgagor's signature.

15. **Captions.** Section captions in this instrument are for convenience only and shall not affect the interpretation or construction of this instrument.

16. **Binding Effect.** This instrument shall bind Mortgagor and Mortgagor's heirs, executors, administrators, personal representatives, successors and assigns, and shall inure to the benefit of Mortgagee and Mortgagee's successors and assigns.

17. **Governing Law.** This instrument and the rights and obligations of the parties hereunder shall be governed by and construed and interpreted in accordance with the laws of the State of Iowa, without regard to choice or conflict of laws rules.

Executed DECEMBER 11, 1996

MTG RECORD 186

IN WITNESS WHEREOF, this instrument has been executed as of the day and year first above written.

X John R. Fuller
John R. Fuller

X Stefanie D. Fuller
Stefanie D. Fuller

Mortgagor's

Notice Address: 2348 Saint Charles Road Winterset, IA 50257

Telephone Number:

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 MORTGAGE, I VOLUNTARILY GIVE UP MY RIGHT TO THIS PROTECTION FOR THIS MORTGAGED PROPERTY WITH RESPECT TO CLAIMS BASED UPON THIS MORTGAGE.

X John R. Fuller 4 JAN 97
John R. Fuller Date

X Stefanie D. Fuller 4 JAN 97
Stefanie D. Fuller Date

STATE OF Iowa)
County OF Polk)

SS:

On this 11th day of December, 1996, before me, a Notary Public in and for said County (City) and State, personally appeared John R. Fuller and Stefanie D. Fuller

_____, 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.



Beth L. Ketchum
Notary Public

My Commission Expires:

Exhibit A

A tract of land described as follows, to wit, beginning at the Southwest corner of the Northeast Quarter (NE1/4) of Section Eight (8), in Township Seventy-five (75) North, Range Twenty-seven (27) West of the 5th P.M., Madison County, Iowa, thence North 1,107.03 feet along the West line of said Northeast Quarter (NE1/4) to the centerline of a county road; thence South 88°51' East 202.80 feet; thence Southeasterly 870.24 feet along a 818.60 foot radius curve concave Southwesterly having an 829.92 foot long chord bearing South 58°23 1/2' East; thence South 13°13' East 279.30 feet, thence North 62°41' East 263.50 feet to the centerline of a county road; thence South 13°20' East 272.46 feet to the Southline of said Northeast Quarter (NE1/4); thence South 89°47' West 1,094.07 feet to the point of Beginning, containing 20.1618 Acres, including 4.3989 Acres of County Road Right-of-Way.

X John R. Fuller
John R. Fuller

X Stefanie D. Fuller
Stefanie D. Fuller