

ASSIGNED 1-8-99 SEE
Mtg RECORD 205 PAGE 106

RELEASED 1-8-99 SEE
Mtg RECORD 205 PAGE 107

S.M.S./B.F.

ASSIGNED 11-3-98 SEE
Mtg RECORD 203 PAGE 296

REC \$ 25.00
AUG 2
S.M.P. \$ 1.00

FILED NO. 1499
BOOK 185 PAGE 728

COMPUTER
RECORDED
COMPALED

96 DEC - 2 AM 9:30
MICHELLE UTSLER
RECORDER
MADISON COUNTY, IOWA

RELEASED 11-3-98 SEE
Mtg RECORD 203 PAGE 297

MORTGAGE

Loan Number 240900187

THIS MORTGAGE is made this 22ND day of NOVEMBER, 1996, between the Mortgagor, LEAH M. CAPPS and JEFFREY A. CAPPS, WIFE AND HUSBAND (herein "Borrower"), and the Mortgagee, NOVA MORTGAGE CREDIT CORPORATION, a corporation organized and existing under the laws of NEVADA, whose address is 5105 DTC PARKWAY, SUITE 310, ENGLEWOOD, COLORADO 80111 (herein "Lender").

WHEREAS, Borrower is indebted to Lender in the principal sum of U.S. \$21,000.00, which indebtedness is evidenced by Borrower's note dated NOVEMBER 22, 1996 and extensions and renewals thereof (herein "Note"), providing for monthly installments of principal and interest, with the balance of the indebtedness, if not sooner paid, due and payable on NOVEMBER 27, 2011;

TO SECURE to Lender the repayment of the indebtedness evidenced by the Note, with interest thereon; the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage; and the performance of the covenants and agreements of Borrower herein contained, Borrower does hereby mortgage, grant and convey to Lender the following described property located in the County of MADISON, State of Iowa:

LOT 36 OF HONOR'S ACRES SECOND ADDITION TO THE TOWN OF WINTERSET, MADISON COUNTY, IOWA

which has the address of 201 SOUTH 14TH AVENUE, WINTERSET,
Iowa 50273 (herein "Property Address");
[Street] [City]
[Zip Code]

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances and rents, all of which shall be deemed to be and remain a part of the property covered by this Mortgage; and all of the foregoing, together with said property (or the leasehold estate if this Mortgage is on a leasehold) are hereinafter referred to as the "Property."

Borrower Initials d JAC

IOWA - SECOND MORTGAGE - 1/80 - FNMA/FHLMC MODIFIED INSTRUMENT

Form 3816 (page 1 of 5 pages)

15. **Rehabilitation Loan Agreement.** Borrower shall fulfill all of Borrower's obligations under any home rehabilitation, improvement, repair, or other loan agreement which Borrower enters into with Lender. Lender, at Lender's option, may require Borrower to execute and deliver to Lender, in a form acceptable to Lender, an assignment of any rights, claims or defenses which Borrower may have against parties who supply labor, materials or services in connection with improvements made to the Property.

16. **Transfer of the Property or a Beneficial Interest in Borrower.** If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Mortgage. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Mortgage.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Mortgage. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Mortgage without further notice or demand on Borrower.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

17. **Acceleration; Remedies.** Except as provided in paragraph 16 hereof, upon Borrower's breach of any covenant or agreement of Borrower in this Mortgage, including the covenants to pay when due any sums secured by this Mortgage, Lender prior to acceleration shall give notice to Borrower as provided in paragraph 12 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than 10 days from the date the notice is mailed to Borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage, foreclosure by judicial proceeding, and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the nonexistence of a default or any other defense of Borrower to acceleration and foreclosure. If the breach is not cured on or before the date specified in the notice, Lender, at Lender's option, may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand and may foreclose this Mortgage by judicial proceeding. Lender shall be entitled to collect in such proceeding all expenses of foreclosure, including, but not limited to, reasonable attorneys' fees, and costs of documentary evidence, abstracts and title reports.

18. **Borrower's Right to Reinstate.** Notwithstanding Lender's acceleration of the sums secured by this Mortgage due to Borrower's breach, Borrower shall have the right to have any proceedings begun by Lender to enforce this Mortgage discontinued at any time prior to entry of a judgment enforcing this Mortgage if: (a) Borrower pays Lender all sums which would be then due under this Mortgage and the Note had no acceleration occurred; (b) Borrower cures all breaches of any other covenants or agreements of Borrower contained in this Mortgage; (c) Borrower pays all reasonable expenses incurred by Lender in enforcing the covenants and agreements of Borrower contained in this Mortgage, and in enforcing Lender's remedies as provided in paragraph 17 hereof, including, but not limited to, reasonable attorneys' fees; and (d) Borrower takes such action as Lender may reasonably require to assure that the lien of this Mortgage, Lender's interest in the Property and Borrower's obligation to pay the sums secured by this Mortgage shall continue unimpaired. Upon such payment and cure by Borrower, this Mortgage and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

19. **Assignment of Rents; Appointment of Receiver.** As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration under paragraph 17 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable.

Upon acceleration under paragraph 17 hereof or abandonment of the Property, and at any time prior to the expiration of any period of redemption following judicial sale, Lender shall be entitled to have a receiver appointed by a court to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Mortgage. The receiver shall be liable to account only for those rents actually received.

20. **Release.** Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage without charge to Borrower.

21. **Waiver of Dower, Homestead and Distributive Share.** Borrower hereby relinquishes all right of dower and hereby waives all right of homestead and distributive share in and to the Property. Borrower hereby waives any right of exemption as to the Property.

Borrower Initials a JAC
Form 3816 (page 4 of 5 pages)

22. **Redemption Period.** If the Property is less than ten acres in size and if Lender waives in any foreclosure proceeding any right to a deficiency judgment against Borrower, then the period of redemption from judicial sale shall be reduced to six months. If the court finds that the Property has been abandoned by Borrower and if Lender waives any right to a deficiency judgment against Borrower, then the period of redemption from judicial sale shall be reduced to sixty days. The provisions of this paragraph 22 shall be construed to conform to the provisions of Sections 628.26 and 628.27 of the Code of Iowa.

**REQUEST FOR NOTICE OF DEFAULT
AND FORECLOSURE UNDER SUPERIOR
MORTGAGES OR DEEDS OF TRUST**

Borrower and Lender request the holder of any mortgage, deed of trust or other encumbrance with a lien which has priority over this Mortgage to give Notice to Lender, at Lender's address set forth on page one of this Mortgage, of any default under the superior encumbrance and of any sale or other foreclosure action.

IN WITNESS WHEREOF, Borrower has executed this Mortgage.

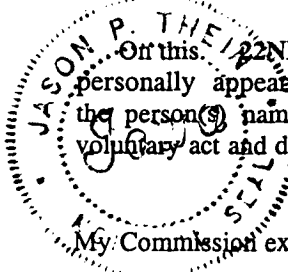
Leah M. Capps (Seal)
LEAH M. CAPPS -Borrower

Jeffrey A. Capps (Seal)
JEFFREY A. CAPPS -Borrower

(Seal)
-Borrower

STATE OF IOWA, *Polk*

County ss:



On this 22ND day of NOVEMBER, 1996, before me, a Notary Public in the State of Iowa, personally appeared **LEAH M. CAPPS and JEFFREY A. CAPPS, WIFE AND HUSBAND**, to me personally known to be the person(s) named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

My Commission expires: *10-8-99*

[Signature]

Notary Public in the State of Iowa

[Space Below This Line Reserved For Lender and Recorder]

When Recorded Mail To:

Nova Mortgage Credit Corporation
5105 DTC Parkway, Suite 310
Englewood, Colorado 80111

Prepared By: