2152

FILED NO.
BOOK 145 PAGE 240

1986 APR 17 AM 10:31

MARY E. WELTY
RECORDER
MADISON COUNTY, IOWA

IND
REC
PAGE
Compared

Fee $25.00

This instrument was prepared by:

First Union Mortgage Corporation
(Name) of Iowa

3737 Woodland Colony Park
Ste. 615 (Address) West Des Moines,
Iowa 50265

MORTGAGE

THIS MORTGAGE is made this 14th day of April, 1986, between the Mortgagor, Jerry B. and Tressa L. Scrivner (herein "Borrower"), and the Mortgagee, First Union Mortgage Corporation, a corporation organized and existing under the laws of Iowa, whose address is 3737 Woodland Colony Park Ste. 615 West Des Moines, Iowa 50265 (herein "Lender").

WHEREAS, Borrower is indebted to Lender in the principal sum of U.S. $ 16,000.00, which indebtedness is evidenced by borrower's note dated April 14, 1986 and extensions and renewals thereof (herein "Note"), providing for monthly installments of principal and interest, with the balance of indebtedness, if not sooner paid, due and payable on April 15, 1996;

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:

Commencing at a point 40 rods S. and approximately 96 feet W. of the NE corner of Sec. 11-74-27, Madison County, Iowa, said point being where the center of the channel of Clanton Creek intersects the N. line of the SE¼ NE¼ NE¼ of said section, running thence W. 1074.5 feet to the right of way of the Chicago Great Western Railroad, thence SW along said right of way a distance of 31 rods and 7½ feet, thence E. 31 rods and 2½ feet, thence N. 2½ feet, thence E. 907 feet to the center of the channel of Clanton Creek, thence following down said channel in a ~~Northwesterly~~ Northeasterly direction to the point of beginning, all being in the S½ N½ NE¼ Sec. 11-74-27.

RELEASED 3-6-95 BK 173 PG 434
MORTGAGE RECORD

RE-RECORDING OF MORTGAGE

Compared

STATE OF IOWA, MADISON COUNTY, ss.

Inst. No. 2385 Filed for Record this 14 day of May 19 86 at 9:09 AM
Book 145 Page 428 Recording Fee 25.00 Mary E. Welty, Recorder, By Shirley H. Henry Deputy

which has the address of RR 1 [Street], Peru [City], Iowa [State], 50222 [Zip Code]
(herein "Property Address");

Any Rider ("Rider") attached hereto and executed of even date is incorporated herein and the covenant and agreements of the Rider shall amend and supplement the covenants and agreements of this Mortgage, as if the Rider were a part hereof.

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 covenants that Borrower is lawfully seised of the estate hereby conveyed and has the right to mortgage, grant and convey the Property, and that the Property is unencumbered, except for encumbrances of record. Borrower covenants that Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to encumbrances of record.

UNIFORM COVENANTS. Borrower and Lender convenant and agree as follows:

1. **Payment of Principal and Interest.** Borrower shall promptly pay when due the principal and interest indebtedness evidenced by the Note and late charges as provided in the Note. This Mortgage secures payment of said Note according to its terms, which are incorporated herein by reference.

2. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under the Note and paragraph 1 hereof shall be applied by Lender first to interest due on the Note, second to the principal due on the Note, and then to late charges due on the Note.

3. **Prior Mortgages and Deeds of Trust; Charges; Liens.** Borrower shall perform all of Borrower's obligations, under any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage, including Borrower's covenants to make payments when due. Borrower shall pay or cause to be paid all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Mortgage, and leasehold payments or ground rents, if any.

4. **Hazard Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards, included within the term "extended coverage," and such other hazards as Lender may require and in such amounts and for such periods as Lender may require.

The insurance carrier providing the insurance shall be chosen by Borrower subject to approval by Lender; provided, that such approval shall not be unreasonably withheld. All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard mortgage clause in favor of and in a form acceptable to Lender. Lender shall have the right to hold the policies and renewals thereof, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

If the Property is abandoned by Borrower, or if Borrower fails to respond to lender within 30 days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this Mortgage.

5. **Preservation and Maintenance of Property; Leaseholds; Condominiums; Planned Unit Developments.** Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Mortgage is on a leasehold. If this Mortgage is on a unit in a condominium or a planned unit development, Borrower shall perform all of Borrower's obligations under the declaration or covenants creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development, and constituent documents.

6. **Protection of Lender's Security.** If Borrower fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, then Lender, at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums, including reasonable attorneys' fees, and take such action as is necessary to protect Lender's interest.

Any amounts disbursed by Lender pursuant to this paragraph 6, with interest thereon, at the Note rate, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof. Nothing contained in this paragraph 6 shall require Lender to incur any expense or take any action hereunder.

7. **Inspection.** Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefor related to Lender's interest in the Property.

8. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage.

9. **Borrower Not Released; Forbearance By Lender Not a Waiver.** The Borrower shall remain liable for full payment of the principal and interest on the Note (or any advancement or obligation) secured hereby, notwithstanding any of the following:

(a) The sale of all or a part of the premises, (b) the assumption by another party of the Borrower's obligations hereunder, (c) the forbearance or extension of time for payment or performance of any obligation hereunder, whether granted to Borrower or a subsequent owner of the property, and (d) the release of all or any part of the premises securing said obligations or the release of any party who assumes payment of the same. None of the foregoing shall in any way affect the full force and effect of the lien of this Mortgage or impair Lender's right to a deficiency judgment (in the event of foreclosure) against Borrower or any party assuming the obligations hereunder.

Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right of remedy.

10. **Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 15 hereof. All covenants and agreements of Borrower shall be joint and several. Any Borrower who co-signs this Mortgage, but does not execute the Note, (a) is co-signing this Mortgage only to mortgage, grant and convey that Borrower's interest in the Property to Lender under the terms of this Mortgage, (b) is not personally liable on the Note or under this Mortgage, and (c) agrees that Lender and any other Borrower hereunder may agree to extend, modify, forbear, or make any other accommodations with regard to the terms of this Mortgage or the Note without that Borrower's consent and without releasing that Borrower or modifying this Mortgage as to that Borrower's interest in the Property.

11. **Notice.** Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Mortgage shall be given by delivering it or by mailing such notice by first class mail addressed to Borrower or the current owner at the Property Address or at such other address as Borrower may designate by notice to Lender as provided herein, and any other person personally liable on this Note as these person's name and addresses appear in the Lender's records at the time of giving notice, and (b) any notice to Lender shall be given by first class mail to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

12. **Governing Law; Severability.** The state and local laws applicable to this Mortgage shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of Federal law to this Mortgage. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage and the Note are declared to be severable. As used herein, "costs," "expenses" and "attorneys' fees" include all sums to the extent not prohibited by applicable law or limited herein.

13. **Borrower's Copy.** Borrower shall be furnished a conformed copy of the Note and of this Mortgage and any Rider thereto, at the time of execution or after recordation hereof.

14. **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.

15. **Transfer of the Property or a Beneficial Interest in Borrower, Assumption.** 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. If Borrower fails to pay in full, Lender may invoke any remedies permitted by this Mortgage without further notice or demand on Borrower.

This Mortgage may not be assumed by a purchaser without the Lender's consent.

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

16. **Acceleration; Remedies. Upon Borrower's breach of any covenant or agreement of Borrower in this Mortgage, including the covenants to pay when due any sums under the Note secured by this Mortgage, Lender, at Lender's option, may declare all of the sums secured by this Mortgage to be immediately due and payable without demand or notice 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.**

17. **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 16 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 16 or abandonment of the Property, 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.

18. **Loan Charges.** If the loan secured by this Mortgage is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed permitted limits, then: (1) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (2) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment under the Note.

19. **Legislation:** If, after the date hereof, enactment or expiration of applicable laws have the effect either of rendering the provisions of the Note, the Mortgage or any Adjustable Rate Rider unenforceable according to their terms, or all or any part of the sums secured hereby uncollectable, as otherwise provided in the Mortgage or any Adjustable Rate Rider, or of diminishing the value of Lender's security, then Lender, at Lender's option, may declare all sums secured by the Mortgage to be immediately due and payable.

20. **Release.** Upon payment of all sums secured by this Mortgage, this Mortgage shall become null and void and Lender shall release this Mortgage without charge to Borrower. Borrower shall pay all costs of recordation, if any. Lender, at Lender's option, may allow a partial release of the Property on terms acceptable to Lender and Lender may charge a release fee.

21. **Waiver of Homestead.** Borrower hereby waives all right of homestead exemption in the Property.

22. **Six Months' and 60 Day Period for Redemption.** It is further agreed that if this Mortgage covers less than 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 year for redemption from said sale provided by the statues of the State of Iowa shall be reduced to 6 months provided the Lender, in such action files an election to waive any deficiency judgment against the Borrower which may arise out of the foreclosure proceedings; all to be consistent with the provisions of Chapter 628, Code of Iowa. It is further agreed that the period of redemption after a foreclosure of this Mortgage shall be reduced to 60 days if all of the three following contingencies occur: (1) The mortgaged real estate herein is less than 10 acres in size; (2) the Court finds affirmatively that said real estate has been abandoned by the owners **and** those persons personally liable under this Mortgage at the time of such foreclosure; and (3) the Lender in such action files an election to waive any deficiency judgment against the Borrower or Borrower's successor in interest in such action. If the redemption period is so reduced, the Borrower or Borrower's successor in interest or the owner shall have the exclusive right to redeem for the first 30 days after such sale, and the time provided for redemption by creditors as provided in Sections 628.5, 628.15 and 628.16 of the Code shall be reduced to 40 days. Entry of appearance by pleading or docket entry by or on behalf of the Borrower shall be a presumption that the property is not abandoned. Any such short redemptive period shall be consistent with all of the provisions of Chapter 628, Code of Iowa, as amended.

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 and adopted as his seal the word "(SEAL)" appearing beside his name.

Jerry B. Scrivner (SEAL)
Jerry B. Scrivner -Borrower

Tressa L. Scrivner (SEAL)
Tressa L. Scrivner -Borrower

STATE OF IOWA

COUNTY OF Madison

On this 14th day of April, A. D. 19 86, before me, the undesigned, a Notary Public in and for said County and State, personally appeared Jerry B. & Tressa L. Scrivner

to me known to be the identical persons named in and who executed the within and foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

Notary Public in the State of Iowa

My Commission Expires:
10/86

DOUGLAS A. CECIL
Iowa
NOTARIAL SEAL

2906D

ADJUSTABLE RATE RIDER

THIS ADJUSTABLE RATE RIDER (the "Rider") is made this 14th day of April, 19 86, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Adjustable Rate Note (the "Note") to First Union Mortgage Corporation (the "Lender" or "Note Holder") of the same date and covering the property described in the Security Instrument and located at:

RR 1 Peru, Iowa 50222
(Property Address)

ADDITIONAL COVENANTS. In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

Adjustable Interest Rate Provisions:

The Note provides for an initial interest rate of 10.5 % based on Index Value of 7.04 and changes in the interest rate and the monthly installments, as follows:

Change Dates:

The rate of interest I will pay may change on the first day of August, 19 86, and on the first day of the month every three months thereafter, except that the interest rate will not change during the last 11 months of this loan. Each date on which the rate of interest could change is called a "Change Date".

The Index:

The "Index" is the weekly average auction rate on U.S. Treasury Bills with a maturity of 13 weeks, as made available by the Federal Reserve Board. If the Index is no longer available, the Note Holder will choose a new index which is based on comparable information and will give me notice of this choice.

The Index Value:

The "Index Value" is the average of the Indexes for the preceding 13 weekly auctions ending with the last weekly auction during the second calendar month prior to the Change Date. Any change in the rate of interest will be based on changes in the Index Value.

Calculation of Changes:

Before each Change Date, the Note Holder will calculate my new interest rate by adding Five & one half percentage points (5.50 %) to the Index Value. The sum will be my new interest rate until the next Change Date.

Prior to every fourth Change Date, the Note Holder will then determine the new amount of my monthly installments that would be sufficient to repay the outstanding principal balance in full at my new rate of interest in substantially equal installments for the remainder of the original term. The result of this calculation will be the new amount of my monthly installments.

Limit on Interest Rate Changes:

The rate of interest I am required to pay shall never be increased over the term of this loan to a rate greater than the maximum rate of interest allowable by state law for this type of loan or 18.54% per annum whichever is less. There is no limit in the amount of decrease of the rate of interest on any single Change Date or during the term of this loan. In no event will any interest rate increase result in negative amortization on this loan.

Carry-Over of Interest Rate Increases:

If the new interest rate on any Change Date, except Change Dates during the last 11 months of this loan, is greater than the maximum rate of interest, the portion of the new interest rate which exceeds the maximum rate of interest will be carried forward. All or any portion of the carry-over will be added to the new interest rate, when the new interest rate is less than the maximum rate of interest on any Change Date.

Effective Date of Changes:

The new rate of interest will become effective on each Change Date. I agree to pay the amount of my new monthly installment each month beginning with the first monthly installment due after the fourth Change Date until the amount of my monthly installment is again changed.

Notice of Changes:

The Note Holder will mail or deliver to me a notice of any changes in my interest rate or monthly installment before the effective date of any change. The notice will include information required by law to be given to me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

Modification of Covenant:

The Security Instrument Covenant, Transfer of the Property or a Beneficial Interest in Borrower; Assumption, is amended to read as follows:

Transfer of the Property or a Beneficial Interest in Borrower, Assumption. 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 Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument. Lender also shall not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

To the extent permitted by applicable law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender may also require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

If Lender exercises the option to require immediate payment in full, Lender shall give Borrower notice of acceleration. If Borrower fails to pay in full, Lender may invoke any remedies by this Security Instrument without further notice or demand on Borrower.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Adjustable Rate Rider.

Jerry B. Scrivner (SEAL)
Jerry B. Scrivner -Borrower

Tressa L. Scrivner (SEAL)
Tressa L. Scrivner -Borrower

_____ (SEAL)
-Borrower