

MORTGAGE

**STAN PEDDICORD** ("Mortgagor"), in consideration of One Dollar and other good and valuable considerations paid by **William J. Williams**, aka W.J. Williams, ("Mortgagee"), 212 East Third Street, Suite 300, Cincinnati, Ohio 45202, the receipt and sufficiency of which is hereby acknowledged, does hereby grant, bargain, sell, release, convey, assign, transfer and mortgage to Mortgagee, his heirs, successors and assigns forever, the real estate described in Exhibit A attached hereto, all of the estate, title and interest of Mortgagor, in law or equity, of, in and to such real estate and the buildings, improvements and fixtures now existing or hereafter placed thereon, all of the privileges, easements and appurtenances belonging to such real estate (including all heretofore or hereafter vacated streets or alleys which abut such real estate), all of the rents, issues and profits thereof, all proceeds from any taking by condemnation or eminent domain, all fixtures, machinery, equipment and personal property of Mortgagor of every kind whatsoever located in or on, or attached to, and used or intended to be used in connection with or with the operation of, such real estate, buildings, structures or other improvements thereon or in connection with any construction being conducted or which may be conducted thereon, including but not limited to the electric, water, all policies of insurance relating to any of the foregoing and all payments made under such policies and the proceeds of any of the foregoing (all of the foregoing being hereinafter collectively called the "Property").

To have and to hold the Property to Mortgagee, and his heirs, successors and assigns forever, for the uses and purposes herein set forth to secure the payment of the Indebtedness as defined in Paragraph 2.1, below, and the performance of all of Mortgagor's obligations under this Mortgage.

**ARTICLE I****REPRESENTATIONS AND WARRANTIES**

Mortgagor represents and warrants that he is the lawful owner of the Property, that the title to the Property is free, clear and unencumbered except for non-delinquent real estate taxes and assessments, encumbrances permitted by Mortgagee and easements and restrictions of record; that he has good right and full power to sell and convey the same and to execute this Mortgage; that Mortgagor will make any further assurances of title that Mortgagee may require; and that Mortgagor will warrant and defend the Property against all claims and demands whatsoever.

ARTICLE II  
COVENANTS

Mortgagor covenants and agrees with Mortgagee:

**2.1 Indebtedness.** That Mortgagor will promptly pay, or cause to be paid, when due, the promissory note of even date herewith payable by Mortgagor to Mortgagee in the original principal amount of \$68,750 (the "Note") and all extensions and renewals thereof;

**2.2 Impositions.** That Mortgagor will pay, or cause to be paid, when due all of the following (hereinafter collectively called the "Impositions"): all real estate taxes, personal property taxes, assessments, water and sewer rates and charges, and all other governmental levies and charges, of every kind and nature whatsoever, general and special, ordinary and extraordinary, which are assessed, levied, confirmed, imposed or become a lien upon or against the Property or any portion thereof, and all taxes, assessments and charges upon the rents, issues, income or profits of the Property, or which become payable with respect thereto or with respect to the occupancy, use or possession of the Property, whether such taxes, assessments or charges are levied directly or indirectly.

**2.3 Compliance With Laws.** That Mortgagor will promptly comply or cause substantial compliance with all present and future laws, ordinances, rules, regulations and other requirements of all governmental authorities having or claiming jurisdiction of or with respect to the Property or any portion thereof or the use or occupancy thereof.

**2.4 Condition of Property.** That Mortgagor will keep and maintain, or cause to be kept and maintained, the Property (including all improvements thereon) in good order and condition, ordinary wear and tear excepted, will suffer no waste to the Property, and will cause all repairs and maintenance to the Property to be done in a good and workmanlike manner. Mortgagee shall have the right at its sole cost at reasonable times to enter into and inspect the Property upon prior notice to Mortgagor.

**2.5 Improvements.** That Mortgagor will not remove or demolish, or suffer or permit others to remove or demolish, any improvements installed or placed on the Property or, subject to the provisions of Paragraph 2.4, cause or permit such improvements to be materially changed or altered without the prior written consent of Mortgagee (which consent shall not be unreasonably withheld or delayed) as well as Mortgagee's prior written consent to the plans and specifications relating thereto, and that Mortgagor will not institute or cause to be instituted any proceedings that could change the permitted use of the Property from the use presently zoned.

**2.6 Insurance.** That Mortgagor will keep all improvements, if any, now on, or that hereafter may be put upon, the Property, including fixtures and all personal property used in the operation of the Property, insured at all times for the mutual benefit of Mortgagee and Mortgagor, as their respective interests may appear, against loss or damage by fire, and such

other risks of damage, hazards, casualties and contingencies, and in the manner and form and in the amounts as specified in writing by Mortgagee from time to time.

**2.7 Sale, Transfer or Encumbrance.** That Mortgagor will not further mortgage, sell or convey, grant a deed of trust, pledge, grant a security interest in, contract to do any of the foregoing, execute a land contract or installment sales contract, enter into a lease with option to purchase or otherwise dispose of, further encumber or suffer the encumbrance of, whether by operation of law or otherwise, any or all of its interest in the Property without the prior written consent of Mortgagee.

**2.8 Eminent Domain.** That all awards heretofore or hereafter made by any public or quasi-public authority to the present and any subsequent owner of the Property by virtue of an exercise of the right of eminent domain by such authority, including any award for a taking of title, possession or right of access to a public way, or for any change of grade of streets affecting the Property, are hereby assigned to Mortgagee and that Mortgagee, at its option, is hereby authorized, directed and empowered to collect and receive the proceeds of any such award from the authorities making the same and to give proper receipts and acquittances therefor.

**2.9 Rights of Mortgagee.** That if Mortgagor fails to pay any Impositions or to make any other payment required to be made by Mortgagor under this Mortgage at the time and in the manner provided in this Mortgage, or if an Event of Default occurs under this Mortgage, then without limiting the generality of any other provision of this Mortgage and without waiving or releasing Mortgagor from any of its obligations hereunder, Mortgagee shall have the right, but shall be under no obligation, to pay any Impositions or other payment, or any sums due under this Mortgage.

### ARTICLE III

#### EVENTS OF DEFAULT

The entire Indebtedness shall become due and payable, at the option of Mortgagee, if any one or more of the following events ("Events of Default") shall occur and be continuing beyond any applicable grace period as hereinafter provided:

**3.1 Nonpayment of Indebtedness.** If Mortgagor defaults in the payment, when due, of any of the principal or interest on the Note or on any of the other Indebtedness and such default continues for ten (10) days after notice of any such failure to pay has been given Mortgagor in accordance with the provisions of Section 5.5 hereof.

**3.2 Breach of Covenants.** If Mortgagor defaults in the performance or observance of any covenant, provision or agreement contained herein, and such default continues for 20 days after notice from Mortgagee, provided, however, if any such non-monetary default cannot

be cured within 20 days and Mortgagor has diligently undertaken to cure said default and continues to cure said default, the cure period shall be extended for an additional 40 days.

**3.3 Representations and Warranties Utrve.** If any representation or warranty of the Mortgagor under this Mortgage, the Loan Agreement or any instrument or document securing the Note proves untrue or misleading in any material respect with respect to the loan or the security as a whole.

**3.4 Voluntary Bankruptcy.** If Mortgagor files a voluntary petition in bankruptcy or is adjudicated a bankrupt or insolvent, or files any petition or answer seeking any reorganization, arrangement, composition, dissolution, or similar relief under the present or any future federal bankruptcy act or any other present or future applicable federal, state or other statute or law, makes an assignment for the benefit of creditors, or seeks or consents to or acquiesces in the appointment of any trustee, receiver or liquidator of Mortgagor or of all or any substantial part of its properties or of all or any part of the Property.

**3.5 Involuntary Bankruptcy.** If within 60 days after the commencement of any proceeding against Mortgagor seeking any reorganization, arrangement, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy act or any other present or future applicable federal, state or other statute or law, such proceeding is not dismissed, or if Mortgagor or any general partner of Mortgagor consents to or acquiesces in the commencement of any such proceeding or if, within 60 days after the appointment, without the consent or acquiescence of Mortgagor or any general partner of Mortgagor, of any trustee, receiver or liquidator of Mortgagor or any general partner of Mortgagor, of all or any substantial part of its properties or of all or any part of the Property, such appointment is not vacated or stayed on appeal or otherwise, or if, within 90 days after the expiration of any such stay, such appointment is not vacated.

## ARTICLE IV

### FORECLOSURE

**4.1 Costs and Expenses.** At any time after the Indebtedness becomes due, whether by acceleration or otherwise, Mortgagor or the holder of the Note shall have the right to foreclose the lien hereof. The Indebtedness shall include expenditures and expenses incurred by Mortgagor in connection with (a) a foreclosure proceeding; (b) any proceeding to which Mortgagor shall be a party, either as plaintiff, claimant or defendant, by reason of this Mortgage or any of the Indebtedness; (c) preparations for the commencement of any suit for foreclosure hereof after accrual of such right to foreclosure, whether or not actually commenced; or (d) preparation for the defense of or investigation of any threatened suit, claim or proceeding that might affect the Property, whether or not actually commenced. In any suit to foreclose such lien, there shall be allowed and included as additional Indebtedness in the decree of sale all expenditures and expenses that may be paid or incurred by or on behalf of Mortgagor, or the

holder of the Note, for attorneys' fees, court costs, appraisers' fees, sheriff's fees, documentary and expert evidence, stenographers' charges, publication costs, poundage and such other costs and expenses as mortgagee or the holder of the Note may deem reasonably necessary to prosecute such suit or to evidence to bidders at any sale that may be had pursuant to such decree the true condition of the title to or the value of the Property. All such expenditures and expenses shall become additional Indebtedness secured hereby and shall be due and payable on demand with interest thereon from the date of expenditure.

**4.2 Proceeds.** The proceeds received by Mortgagee in any foreclosure sale of the Property shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in Paragraph 4.1; second, to all other items which under the terms hereof constitute Indebtedness; and, third, any surplus to Mortgagor, its legal representatives or assigns; as their rights may appear.

## ARTICLE V

### MISCELLANEOUS

**5.1 Rights Cumulative.** The rights of Mortgagee arising under the provisions and covenants contained in this Mortgage and the Note shall be separate, distinct and cumulative and none of them shall be exclusive of the others. No act of Mortgagee shall be construed as an election to proceed under any one provision herein or in such other documents to the exclusion of any other provision, anything herein or otherwise to the contrary notwithstanding.

**5.2 Waiver.** A waiver in one or more instances of any of the terms, covenants, conditions or provisions hereof, or of the Note or any documents securing the Indebtedness or any part thereof, shall apply to the particular instance or instances and at the particular time or times only, and no such waiver shall be deemed a continuing waiver, but all of the terms, covenants, conditions and other provisions of this Mortgage and of such other documents shall survive and continue to remain in full force and effect. No waiver shall be asserted against Mortgagee unless in writing signed by Mortgagee.

**5.4 Amendments in Writing.** No change, amendment, modification, cancellation or discharge hereof, or any part hereof, shall be valid unless in writing and signed by the parties hereto or their respective successors and assigns.

**5.5 Notices.** All notices, demands and requests given or required to be given by either party hereto to the other party shall be in writing and shall be deemed to have been properly given if sent by U.S. registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

Shane J. Peddicord  
Peddicord

Stan Peddicord  
Stan Peddicord

William J. Williams  
Williams

William J. Williams  
Williams

IN WITNESS WHEREOF, this document has been executed by Mortgagor and Shane J. Peddicord, spouse of Mortgagor who joins in the execution of this instrument solely to release any ~~other~~ interest she has in the Property, as of October, 1993.

6.1 Defeasance. Provided, nevertheless, that if Mortgagor shall keep, observe and perform all of the covenants and conditions of this Mortgage on its part to be kept and performed and shall pay, or cause to be paid, to Mortgagee the Note as to both principal and interest, all of the other Indebtedness, and shall repay any loans and advances hereafter made by Mortgagee under the terms hereof, then this Mortgage shall be void.

DEFEASANCE

ARTICLE VI

or to such other address as Mortgagor or Mortgagee may from time to time designate by written notice.

To Mortgagee:  
William J. Williams  
Suite 300  
212 East Third Street  
Cincinnati, Ohio 45202

To Mortgagor:  
Stan Peddicord  
207 Sherman Avenue  
Sheridan, Wyoming 82801

STATE OF WYOMING )  
 ) SS:  
COUNTY OF SHERIDAN )

BE IT REMEMBERED, that on this 4th day of October, 1993, before me, the subscriber, a notary public in and for said State, personally appeared Stan Peddicord and Shari Peddicord who acknowledged the signing thereof to be their voluntary act and deed for the uses and purposes therein mentioned.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my notarial seal, on the day and year last aforesaid.

David M. Lewis  
Notary Public

My Commission Expires: \_\_\_\_\_



This Instrument Was Prepared By:

Lawrence H. Kyte, Jr.  
FROST & JACOBS  
2500 Central Trust Center  
201 East Fifth Street  
Cincinnati, Ohio 45202

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Township 57 North, Range 83 West of the 6th P.M. of Sheridan  
County, Wyoming

Section 18: SE1/4SE1/4  
Section 19: NE1/4NE1/4, S1/2NE1/4  
Section 20: NW1/4  
Section 28: W1/2NE1/4, W1/2, NW1/4SE1/4, SW1/4SE1/4  
Section 29: NE1/4, E1/2SE1/4, NW1/4SE1/4

EXHIBIT A