

PREPARED BY: Mark T. Holtschneider, Esquire
Lexington National Insurance Corporation
P.O. Box 6098
Lutherville, Maryland 21094
Telephone No.: 888-888-2245

RETURN TO: Mark T. Holtschneider, Esquire
Lexington National Insurance Corporation
P.O. Box 6098
Lutherville, Maryland 21094

MORTGAGE
(Open-End)

THIS MORTGAGE (~~%Mortgage+~~) encumbers both real and personal property, contains an after-acquired property clause, and secures present and future Obligations (as defined below).

NOTICE: This Mortgage secures Obligations in the amount of \$_____. Such amount is senior to indebtedness to other creditors under subsequently recorded or filed mortgages and liens.

THIS Mortgage is made between _____ and _____, whose address is _____ (individually, collectively, jointly, and severally, ~~%Mortgagor+~~), and Lexington National Insurance Corporation, a Maryland Corporation, whose address is P.O. Box 6098, Lutherville, Maryland 21094 (~~%Mortgagee+~~).

1. **Grant of Mortgage and Security Interest.** Mortgagor hereby sells, conveys, and mortgages unto Mortgagee, and grants a security interest to Mortgagee in the following described property:

a. **Land and Buildings.** All of Mortgagor's right, title, and interest in and to the following described real estate situated in _____ County, Iowa (the ~~%Land+~~):
Legal Description: _____

and all buildings, structures and improvements now standing or at any time hereafter constructed or placed upon the Land (**%Buildings+**), including all hereditaments, easements, appurtenances, riparian rights, mineral rights, water rights, rights in and to the lands lying in streets, alleys, and roads adjoining the land, estates and other rights and interests now or hereafter belonging to or in any way pertaining to the Land.

b. **Personal Property.** All fixtures and other personal property integrally belonging to, or hereafter becoming an integral part of the Land or Buildings, whether attached or detached, and all proceeds, products, increase, issue, accessions, attachments, accessories, parts, additions, repairs, replacements, and substitutes of, to, and for the foregoing (**%Personal Property+**).

c. **Revenues and Income.** All rents, issues, profits, leases, condemnation awards, and insurance proceeds now or hereafter arising from the ownership, occupancy, or use of the Land, Buildings, and Personal Property, or any part thereof (**%Revenues and Income+**).

TO HAVE AND TO HOLD the Land, Buildings, Personal Property, and Revenues and Income (collectively called the **%Property+**), together with all privileges, hereditaments thereunto now or hereafter belonging, or in any way appertaining and the products and proceeds thereof, unto Mortgagee, its successors and assigns.

2. **Obligations.** This Mortgage is for the purpose of securing performance of each agreement of Mortgagor herein contained and securing payment to Mortgagee of (a) all monies due to Mortgagee pursuant to the Bail Bond Application and Agreement and the Indemnitor Application and Agreement, executed and delivered by Mortgagor on or about the date of this Mortgage (individually or collectively, the **%Agreements+**), (b) all losses, damages, attorneys' fees, investigation fees, forfeitures, judgments, court assessments, and liabilities suffered, sustained, or incurred by Mortgagee arising out of or relating to one or more bail bonds posted on behalf of defendant _____ in the amount of \$ _____ in the case of _____ v. _____ (**%Action+**), Power Number(s) (if known) _____, and (c) on account of or related to the execution of any other bail bond executed or posted by or for Mortgagee in connection with or related to the Action or Agreements (all of the foregoing items described in clauses (a) through (c) above sometimes referred to collectively in this Mortgage as the **%Obligations+**).

3. **Representations and Warranties of Mortgagor.** Mortgagor represents, warrants, and covenants to Mortgagee that (a) Mortgagor holds clear title to the Property and title in fee simple in the Land except for matters of record as of the date hereof; (b) Mortgagor has the right, power, and authority to execute and deliver this Mortgage and to mortgage and grant a security interest in the Property; (c) the Property is free and clear of all liens and encumbrances, except for real estate taxes not yet delinquent and except as otherwise stated in subparagraph 3.a. above; and (d) Mortgagor will warrant and defend title to the Property and the lien and priority of this Mortgage against all claims and demands of all persons, whether now existing or hereafter arising.

4. **Payment and Performance of the Obligations.** Mortgagor will pay all amounts payable under the Obligations in accordance with the terms of the Obligations when and as due and will timely perform all other obligations of Mortgagor under the Obligations. The provisions of the Obligations are hereby incorporated by reference into this Mortgage as if fully set forth herein.

5. **Taxes.** Mortgagor shall pay each installment of all taxes and special assessments of every kind, now or hereafter levied against the Property before the same become delinquent,

without notice or demand, and shall deliver to Mortgagee proof of such payment within 15 days after the date on which such tax or assessment becomes delinquent.

6. **Liens.** Mortgagor shall not create, incur, or suffer to exist any lien, encumbrance, security interest, or charge on the Property or any part thereof that might or could be held to be equal or prior to the lien of this Mortgage, other than the lien of current real estate taxes and installments of special assessments for which no penalty is yet payable. Mortgagor shall pay, when due, the claims of all persons supplying labor or materials to or in connection with the Property.

7. **Compliance with Laws.** Mortgagor shall comply with all present and future statutes, laws, rules, orders, regulations, and ordinances affecting the Property, any part thereof or the use thereof.

8. **Care of Property.** Mortgagor shall take good care of the Property; shall keep the Buildings and Personal Property now or later placed upon the Property in good and reasonable repair and shall not injure, destroy, or remove either the Buildings or Personal Property during the term of this Mortgage. Mortgagor shall not make any material alteration to the Property without the prior written consent of Mortgagee.

9. **Insurance.** Mortgagor, at its sole cost and expense, shall maintain insurance on the Buildings now existing or hereafter erected on the Land and on the Personal Property against loss by fire, extended coverage perils, and such other hazards as Mortgagee may from time to time require, such insurance to have a ~~%~~Replacement Cost+endorsement attached thereto, with the amount of the insurance at least equal to the balance of the Obligations. Mortgagor will at its sole cost and expense, from time to time, and at any time at the request of Mortgagee, provide Mortgagee with evidence satisfactory to Mortgagee of the replacement cost of the Property. At all times, Mortgagor will maintain such other insurance as Mortgagee may reasonably require. All insurance policies and renewals thereof maintained by Mortgagor under this Mortgage shall be written by an insurance carrier satisfactory to Mortgagee, contain a mortgagee clause in favor and in form acceptable to Mortgagee, contain an agreement of the insurer that it will not amend, modify, or cancel the policy except after 30 days prior written notice to Mortgagee, and be reasonably satisfactory to Mortgagee in all other respects. If requested by Mortgagee, Mortgagor will deliver to Mortgagee original policies satisfactory to Mortgagee evidencing the insurance that is required under this Mortgage, and Mortgagor shall promptly furnish to Mortgagee all renewal notices and, upon request of Mortgagee, evidence of payment thereof. At least 10 days prior to the expiration date of a required policy, Mortgagor shall deliver to Mortgagee a renewal policy in form satisfactory to Mortgagee. If the Property is sold at a foreclosure sale or if Mortgagee shall acquire title to the Property, Mortgagee shall have all of the right, title, and interest of Mortgagor in and to any insurance policies required hereunder, and the unearned premiums thereon, and in and to the proceeds thereof resulting from any damage to the Property prior to such sale or acquisition.

a. **Notice of Damage or Destruction; Adjusting Loss.** If the Property or any part thereof shall be damaged or destroyed by fire or other casualty, Mortgagor will, within 5 calendar days after the occurrence of such damage or destruction, give written notice thereof to the insurance carrier and to Mortgagee and will not adjust any damage or loss that is estimated by Mortgagor in good faith to exceed \$25,000 unless Mortgagee shall have joined in or concurred with such adjustment; but if there has been no adjustment of any such damage or loss within 120 days from the date of occurrence thereof and if an Event of Default (as defined below) shall exist at the end of such 120 day period or at any time thereafter, Mortgagee may alone make proof of loss, adjust and compromise any claim under the policies, and appear in and prosecute any action arising from such policies. In connection therewith, Mortgagor does hereby irrevocably authorize, empower, and appoint Mortgagee as attorney-in-fact for

Mortgagor (which appointment is coupled with an interest) to do any and all of the foregoing in the name and on behalf of Mortgagor.

b. **Application of Insurance Proceeds.** All sums paid under any insurance policy required by this Mortgage shall be paid to Mortgagee, which shall, at its option, apply the same (after first deducting therefrom Mortgagee's expenses incurred in collecting the same including but not limited to reasonable attorneys' fees) to the reduction of the Obligations or to the payment of the restoration, repair, replacement, or rebuilding of the Property that is damaged or destroyed in such manner as Mortgagee shall determine and secondly to the reduction of the Obligations. Any application of insurance proceeds to the reduction in the Obligations shall not extend, change, or postpone the amounts payable under the Obligations. 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 attorneys' fees, and all such expenses shall be additional amounts secured by this Mortgage.

10. **Inspection.** Mortgagee, and its agents, shall have the right at all reasonable times, to enter upon the Property for the purpose of inspecting all or any part of the Property. Mortgagee shall, however, have no duty to make such inspection. Any inspection of the Property by Mortgagee shall be entirely for its benefit and Mortgagor shall in no way rely or claim reliance thereon.

11. **Protection of Mortgagee's Security.** If Mortgagor fails to perform any of the covenants and agreements contained in this Mortgage or if any action or proceeding is commenced that affects the Property or the interest of the Mortgagee therein, or the title thereto, then Mortgagee, at its option, may perform such covenants and agreements, defend against or investigate such action or proceeding, and take such other action as Mortgagee deems necessary to protect Mortgagee's interest. Any amounts or expenses disbursed or incurred by Mortgagee in good faith pursuant to this paragraph with interest thereon at the rate of 10% per annum, shall become an Obligation of Mortgagor secured by this Mortgage. Such amounts advanced or disbursed by Mortgagee hereunder shall be immediately due and payable by Mortgagor unless Mortgagor and Mortgagee agree in writing to other terms of repayment. Mortgagee shall, at its option, be subrogated to the lien of any mortgage or other lien discharged in whole or in part by the Obligations or by Mortgagee under the provisions hereof, and any such subrogation rights shall be additional and cumulative security for this Mortgage. Nothing contained in this paragraph shall require Mortgagee to incur any expense or do any act hereunder, and Mortgagee shall not be liable to Mortgagor for any damage or claims arising out of action taken by Mortgagee under this paragraph.

12. **Condemnation.** Mortgagor shall give Mortgagee prompt notice of any action, actual or threatened, in condemnation or eminent domain and hereby assigns, transfers, and sets over to Mortgagee the entire proceeds of any award or claim for damages for all or any part of the Property taken or damaged under the power of eminent domain or condemnation. Mortgagee is hereby authorized to intervene in any such action in the name of Mortgagor, to compromise and settle any such action or claim, and to collect and receive from the condemning authorities and give proper receipts and acquittances for such proceeds. Any expenses incurred by Mortgagee in intervening in such action or compromising and settling such action or claim, or collecting such proceeds shall be reimbursed to Mortgagee first out of the proceeds. The remaining proceeds or any part thereof shall be applied to reduction of that portion of the Obligations then most remotely to be paid, regardless of whether due, or to the restoration or repair of the Property, the choice of application to be solely at the discretion of Mortgagee.

13. **Fixture Filing.** From the date of its recording, this Mortgage shall be effective as a financing statement filed as a fixture filing for the Personal Property and for this purpose the

name and address of the debtor is the name and address of Mortgagor as set forth herein and the name and address of the secured party is the name and address of the Mortgagee as set forth herein.

14. Assignment of Revenue and Income. Mortgagor assigns to Mortgagee all Revenue and Income of the Property. So long as there is no default by Mortgagor in the performance or observance of any Obligations secured by this Mortgage, Mortgagor shall have the right to collect the Revenue and Income, but no more than one month in advance. This paragraph constitutes an absolute and present assignment of the Revenue and Income, subject, however, to a conditional license given to Mortgagor to collect and use same to the extent provided above.

15. Events of Default. Each of the following occurrences shall constitute an event of default hereunder (~~Event of Default~~): (a) Mortgagor shall default in the due observance or performance of or breach any covenant, condition, or agreement on its part to be observed or performed pursuant to the terms of this Mortgage, (b) Mortgagor shall make an assignment for the benefits of its creditors, or a petition shall be filed by or against Mortgagor under the United States Bankruptcy Code or Mortgagor shall seek or consent to or acquiesce in the appointment of any trustee, receiver, or liquidator of a material part of its properties or of the Property or shall not, within 30 days after the appointment of a trustee, receiver, or liquidator of any material part of its properties or of the Property, have such appointment vacated, or (c) a judgment, writ, or warrant of attachment or execution, or similar process shall be entered and become a lien on or be issued or levied against the Property or any part thereof that is not released, vacated, or fully bonded within 30 days after its entry, issue, or levy.

16. Remedies. Upon the occurrence of any Event of Default and at any time thereafter while such Event of Default exists, Mortgagee may, at its option, after such notice as may be required by law, exercise one or more of the following rights and remedies (and any other rights and remedies available to it): (a) Mortgagee may declare immediately due and payable all Obligations secured by this Mortgage, and the same shall thereupon be immediately due and payable, without further notice or demand, (b) Mortgagee shall have and may exercise with respect to the Personal Property, all the rights and remedies accorded upon default to a secured party under the Iowa Uniform Commercial Code. If notice to Mortgagor of intended disposition of such property is required by law in a particular instance, such notice shall be deemed commercially reasonable if given to Mortgagor at least 10 days prior to the date of intended disposition, and (c) Mortgagee may (and is hereby authorized and empowered to) foreclose this Mortgage in accordance with the law of the State of Iowa, and at any time after the commencement of an action in foreclosure, or during the period of redemption, the court having jurisdiction of the case shall at the request of Mortgagee appoint a receiver to take immediate possession of the Property and of the Revenues and Income accruing therefrom, and to rent or cultivate the same as he may deem best for the interest of all parties concerned, and such receiver shall be liable to account to Mortgagor only for the net profits, after application of rents, issues, and profits upon the costs and expenses of the receivership and foreclosure and upon the Obligations.

17. Redemption. 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 such sale provided by the statutes of the State of Iowa shall be reduced to 6 months provided the Mortgagee, in such action files an election to waive any deficiency judgment against Mortgagor that may arise out of the foreclosure proceedings; all to be consistent with the provisions of Chapter 628 of the Iowa Code. If the redemption period is so reduced, for the first 3 months after sale such right of redemption shall be exclusive to the Mortgagor, and the time periods in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to 4 months. 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 develop: (a) the real estate is less than 10 acres in size; (b) the Court finds affirmatively that the real estate has been abandoned by the owners and those persons personally liable under this Mortgage at the time of such foreclosure; and (c) Mortgagee in such action files an election to waive any deficiency judgment against Mortgagor or its successors in interest in such action. If the redemption period is so reduced, Mortgagor or its successors 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 Iowa Code shall be reduced to 40 days. Entry of appearance by pleading or docket entry by or on behalf of Mortgagor shall be a presumption that the property is not abandoned. Any such redemption period shall be consistent with all of the provisions of Chapter 628 of the Iowa Code. This paragraph shall not be construed to limit or otherwise affect any other redemption provisions contained in Chapter 628 of the Iowa Code.

18. Attorneys' Fees. Mortgagor shall pay on demand all costs and expenses incurred by Mortgagee in enforcing or protecting its rights and remedies hereunder, including, but not limited to, reasonable attorneys' fees and legal expenses.

19. Forbearance not a Waiver, Rights and Remedies Cumulative. No delay by Mortgagee in exercising any right or remedy provided herein or otherwise afforded by law or equity shall be deemed a waiver of or preclude the exercise of such right or remedy, and no waiver by Mortgagee of any particular provisions of this Mortgage shall be deemed effective unless in writing signed by Mortgagee. All such rights and remedies provided for herein or which Mortgagee or the holder of the Obligations may have otherwise, at law or in equity, shall be distinct, separate, and cumulative and may be exercised concurrently, independently, or successively in any order whatsoever, and as often as the occasion therefor arises.

20. Notices. All notices required to be given hereunder shall be in writing and deemed given when personally delivered or deposited in the United States mail, postage prepaid, sent certified or registered, addressed to the address for such party in this Mortgage or to such other address or person as hereafter designated in writing by the applicable party in the manner provided in this paragraph for the giving of notices.

21. Severability. If 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, or 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.

22. Further Assurances. At any time and from time to time until payment in full of the Obligations, 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 Property, including, but not limited to, additional security agreements, financing statements, and continuation statements. Any expenses incurred by Mortgagee in connection with the recordation of any such instruments shall become additional Obligations of Mortgagor secured by this Mortgage. Such amounts shall be immediately due and payable by Mortgagor to Mortgagee.

23. Successors and Assigns bound; Number; Gender; Agents; Captions. The rights, covenants, and agreements contained herein shall be binding upon and inure to the benefit of the respective legal representatives, successors and assigns of the parties. Words and phrases contained herein, including acknowledgment hereof, shall be construed as in the singular or

plural number, and as masculine, feminine or neuter gender according to the contexts. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

24. **Governing Law.** This Mortgage shall be governed by and construed in accordance with the laws of the State of Iowa.

25. **Release of Rights of Dower, Homestead and Distributive Share.** Each of the undersigned hereby relinquishes all rights of dower, homestead, and distributive share in and to the Property and waives all rights of exemption as to any of the Property.

26. **Acknowledgment of Receipt of Copies of Debt Instrument.** Mortgagor hereby acknowledges the receipt of a copy of this Mortgage together with a copy of the Agreements secured hereby.

Dated: _____, 20_____

MORTGAGOR(S):

Signature

Signature

Print or Type Name Here

Print or Type Name Here

[if Mortgagor is married, husband and wife must sign]

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 PROPERTY WITH RESPECT TO CLAIMS BASED UPON THIS MORTGAGE.

STATE OF IOWA, COUNTY OF

This instrument was acknowledged before me on _____, by _____

_____.

Notary Public