

2013002533

(4)

STATE OF NEBRASKA

FILED FOR RECORD

HOLT COUNTY, ss

Mo. 10 Day 1 2013

At 10:00 O'Clock A.M. Recorded

In book 390 of Mortg

Page 140

CATHY PAVEL, County Clerk

Cindy Schaefer CHIEF CLERK

Return to:
 Andrew J. Hoffman
 Krotter Hoffman P.C., L.L.O.
 313 East U.S. Highway 20
 P.O. Box 398
 O'Neill, Nebraska 68763

WAIVER OF HOMESTEAD

1. DATE AND PARTIES. The date of this Waiver of Homestead (Waiver) is September 30, 2013, and the parties and their mailing addresses are the following:

TRUSTOR:
 JONATHAN A. SCHULTE
 KATHRYN M. SCHULTE
 1105 North Madison Street
 Atkinson, Nebraska 68713

BENEFICIARY:
 THE CITY OF ATKINSON, NEBRASKA
 104 South Main Street
 P.O. Box 519
 Atkinson, Nebraska 68713

2. BACKGROUND. In accordance with the provisions of the Revised Nebraska Statutes of 1943, Trustor, prior to executing the attached Trust Deed, dated September 30, 2013, and executed by Trustor in favor of THE CITY OF ATKINSON, NEBRASKA, A Municipal Corporation, hereby makes the following statements, representations and warranties.

3. WAIVER OF HOMESTEAD. Trustor hereby states, represents and warrants that:

- A. Trustor acknowledges that Trustor's commercial building, subject to a homestead, is presently located upon the following described real estate (Property):
 Lots 1 and 8, Block 28, Frank Bitney's Addition to the City of Atkinson, Holt County, Nebraska.
- B. Trustor acknowledges that Trustor has a right to make a designation of homestead in the Trust Deed for the purpose of affording the opportunity to retain Trustor's homestead in the event of default and foreclosure under the Trust Deed.
- C. Trustor acknowledges that the execution of this Waiver constitutes the complete waiver of right otherwise available for the purpose of affording the opportunity to retain a homestead in the event of default and any foreclosure under the Trust Deed.
- D. Trustor states that this acknowledgment and waiver is Trustor's knowing and voluntary act and deed and Trustor does hereby willingly and voluntarily waive, relinquish and remise any and all right to make a designation of homestead in the Trust Deed.

Jonathan A. Schulte
 JONATHAN A. SCHULTE, Borrower/Trustor

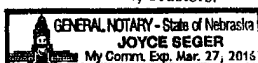
Kathryn M. Schulte
 KATHRYN M. SCHULTE, Borrower/Trustor

STATE OF NEBRASKA

COUNTY OF HOLT

} ss.

The foregoing instrument was acknowledged before me this 30 day of September, 2013, by JONATHAN A. SCHULTE and KATHRYN M. SCHULTE, Husband and Wife, Trustors.



Notary Public

Joyce Seger

DEED OF TRUST

THIS DEED OF TRUST IS MADE ON September 30, 2013.

The Trustors are JONATHAN A. SCHULTE and KATHRYN M. SCHULTE, Husband and Wife, Borrower/Trustor.

The Trustee is ANDREW J. HOFFMAN, Attorney at Law, a member of the Nebraska State Bar Association, 313 East U.S. Highway 20, P.O. Box 398, O'Neill, Nebraska 68763.

The Beneficiary is THE CITY OF ATKINSON, NEBRASKA, A Municipal Corporation, a/k/a Lender.

Beneficiary's Address is 104 South Main Street, P.O. Box 519, Atkinson, Nebraska 68713.

Borrower irrevocably conveys to Trustee, in Trust, with power of sale, the following:

Lots 1 and 8, Block 28, Frank Bitney's Addition to the City of Atkinson, Holt County, Nebraska.

Together with all the rents and properties therefrom and subject to easements and restrictions of record, if any.

Borrower owes Lender ONE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$100,000.00) pursuant to a Trust Deed Note of even date, from Borrower to Lender, payable according to the terms thereof.

This security instrument secures to Lender the debt evidenced by said Trust Deed Note, the payment of all other sums, with interest, advanced under the provisions hereafter to protect the security and the performance of Borrower's covenants, agreements, and any and all money subsequently loaned to Borrower.

Borrower covenants that Borrower is lawfully seised of such real estate and has the legal power and lawful authority to convey the same and warrants and will defend title to the real estate against the lawful claims of all persons.

BORROWER AND LENDER AGREE AS FOLLOWS:

1. PAYMENT OF PRINCIPAL AND INTEREST. Borrower shall pay when due, the principal and interest as provided in said note.

2. APPLICATION OF PAYMENTS. All payments received by Lender shall be first applied to advances which may have been made by Lender and then to interest due and last to principal due.

3. TAXES, ASSESSMENTS. Borrower shall pay all general real estate taxes and special assessments against the property before the same become delinquent.

4. NOTICE OF LIEN. If Lender determines that any part of the property is subject to a lien, which is or may attain priority over this security instrument, Lender may give Borrower a notice identifying the lien and Borrower shall satisfy the lien within ten (10) days.

5. INSURANCE. Buyer shall keep the improvements on said premises insured against loss by fire and hazards included within the term "extended coverage" for their insurable value and policies for the same and shall include a standard mortgage clause showing Lender herein. In event of loss, Lender may make proof of loss if not promptly made by Borrower. Insurance proceeds shall be applied to restoration or repair of the property damaged, unless both parties otherwise agree, except if restoration or repair is not economically feasible or Lender's security is not lessened, otherwise said proceeds shall be paid on the debt herein, whether or not then due.

Unless Lender and Borrower otherwise agree in writing, any payments or proceeds from insurance shall not extend or postpone the due date of the payments provided in said note, or change the amount of the payments.

6. PERFORMANCE BY LENDER. If Borrower fails to perform the covenants and agreements herein contained, Lender may do and pay for whatever is necessary to protect the value of the property and Lender's rights in the property, including the paying of any sum secured by a lien which has priority over this security instrument, appearing in Court, paying reasonable attorney fees and entering the property to make repairs. Any amount disbursed by Lender under this paragraph shall become an additional debt of Borrower secured by this security instrument, to bear interest from the date of disbursement and said amount, together with the then unpaid principal amount, shall bear interest at the highest lawful rate until refunded by Borrower.

7. EMINENT DOMAIN. The proceeds of any condemnation award are hereby assigned and shall be paid to Lender and shall be applied to the sums secured by the security instrument, whether or not then due, with any excess paid to Borrower.

8. FORBEARANCE BY LENDER NOT A WAIVER. Any extensions or modifications of the loan granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

9. **NOTICE.** Any notice to Borrower provided for in this security instrument shall be given by delivering it or by mailing it by first class mail unless Nebraska Law requires use of another method, at the Borrower's last known address.

10. **NEBRASKA LAW.** This security instrument and the note which it secures shall be governed by Nebraska Law.

11. **EVENTS OF DEFAULT.** The following shall constitute an event of default under this Deed of Trust:

- (a) Failure to pay any installment of principal or interest or any other sum secured hereby when due, or failure to pay when due any other indebtedness of Borrower to Lender;
- (b) A breach of or default under any provision contained in the Note, this Deed of Trust, any document which secures the Note, and any other encumbrance upon the Property;
- (c) A writ of execution or attachment or any similar process shall be entered against Borrower which shall become a lien on the Property or any portion thereof or interest therein;
- (d) There shall be filed by or against Borrower an action under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors; or there shall be appointed any trustee, receiver or liquidator of Borrower or of all or any part of the Property, or the rents, issues or profits thereof, or Borrower shall make any general assignment for the benefit of creditors.
- (e) The sale, transfer, assignment, conveyance or further encumbrance of all or any part of or any interest in the Property, either voluntarily or involuntarily, without the express written consent of Lender.

12. **REMEDIES; ACCELERATION UPON DEFAULT.** Lender shall give notice to Borrower following Borrower's breach of any covenant or agreement in this security agreement and the note which it secures. The notice shall specify (a) the default, (b) the action required to cure the default, © a date not less than sixty (60) days or such time as may then be required by law from the date the notice is given to Borrower by which the default on or before the date specified in the notice may result in acceleration of the sum secured by this security agreement and the resale of the property. The notice shall further inform Borrower of the right to reinstate, after acceleration; the right to bring a court action to assert the nonexistence of a default or any other defense of Borrower to acceleration and sale, and shall contain all information as then required by law. If default is not cured, on or before the date specified in the notice, Lender, at its option, may require immediate payment in full of all sums secured by this Security agreement without further demand and may invoke the power of sale and any other remedies permitted by Nebraska Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph, including but not limited to a reasonable attorney fees and costs of title evidence.

13. **POWER OF SALE.** If the power of sale is invoked, Trustee shall record a notice of default in each county in which any part of the property is located and shall mail copies of such notice in the manner prescribed by Nebraska Law. Trustee shall give public notice of sale to the persons and in the manner prescribed by Nebraska Law. Trustee, without demand on Borrower, shall sell the property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the property at any sale.

Upon receipt of payment of the price bid, Trustee shall deliver to the purchaser a Trustee's Deed conveying the property. The recitals in the Trustee's Deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of sale in the following order: (a) to all expenses of the sale including, but not limited to, Trustee's fees as permitted by Nebraska Law and reasonable attorney fees; (b) to all sums secured by this security agreement; and © any excess to the person or persons legally entitled to it.

14. **MANAGEMENT UPON ACCELERATION.** Upon acceleration under Paragraph Twelve (12) or abandonment of the property, Lender (in person, by agent or by judicially appointed receiver) shall be entitled to enter upon, take possession of and manage the property and to collect the rents of the property, including those past due. Any rents collected by Lender or 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 bond and reasonable attorney fees, and then to the sums secured by this security instrument.

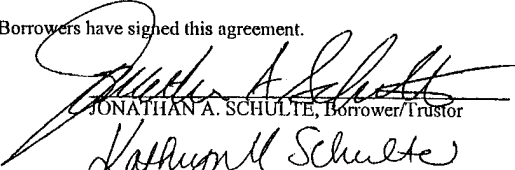
15. **RECONVEYANCE BY TRUSTEE.** Upon payment of all sums as herein provided, Lender shall direct Trustee to reconvey the property and shall surrender this security instrument and the note secured. Trustee shall reconvey the property without warranty and without charge to the persons legally entitled to it.


16. **SUCCESSOR TRUSTEE.** Lender, at its option, may from time to time remove Trustee and appoint a successor Trustee by an instrument recorded the County in which this security instrument is recorded. Without conveyance of the property, the successor Trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by Nebraska Law.

17. **ADDRESS OF PARTIES.** Borrower requests that copies of all notices provided herein be sent to Borrower's address which is 1105 North Madison Street, Atkinson, Nebraska 68713.

18. 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.

IN WITNESS WHEREOF the Borrowers have signed this agreement.

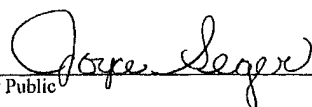

JONATHAN A. SCHULTE, Borrower/Trustor


KATHRYN M. SCHULTE, Borrower/Trustor

STATE OF NEBRASKA }
COUNTY OF HOLT } ss.

The foregoing Acknowledgment and Deed of Trust were acknowledged before me on Sept 30, 2013, by JONATHAN A. SCHULTE and KATHRYN M. SCHULTE, Husband and Wife, Borrower/Trustor.




Notary Public