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DELAWARE COUNTY IOWA
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BOOK 134 PAGE 10
NEWELL L. PEYTON
RECORDER
$11.00

Document Prepared by: Farmers State Bank, 1240 8th AVENUE, MARION, IA 52302-3504
319-377-4891

FARMERS STATE BANK
1240 8th AVENUE
MARION, IA 52302-3504
319-377-4891 (Lender)

# MORTGAGE SUBORDINATION AGREEMENT

| BORROWER | MORTGAGOR |
|---|---|
| As Specified in the Promissory Note or | MYRON L. ZUMBACH<br>BETTY L. ZUMBACH |
| ADDRESS | ADDRESS |
| | R.R. 1, BOX 77<br>COGGON, IA 52218 |
| TELEPHONE NO. IDENTIFICATION NO. | TELEPHONE NO. IDENTIFICATION NO. |
| | 319- [redacted] |

CREDITOR: COMMUNITY SAVINGS BANK
101 E UNION, BOX 77
EDGEWOOD, IA 52042-0077

For valuable consideration, the receipt and sufficiency of which is acknowledged, Creditor and Lender indicated above resolve the priority of their debts and Mortgages and agree as follows:

1. **CREDITOR'S MORTGAGE.** Creditor owns and holds a Note and related Mortgage, and the Mortgage was recorded on MAY 16, 1995 in Volume 126 at Page 139 of the records of the Recorder of DELAWARE County, Iowa, encumbering the following described real property (the "Property"):

THE NORTHEAST QUARTER (NE 1/4) AND THE NORTH ONE-HALF (N 1/2) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION THIRTY FIVE (35), TOWNSHIP EIGHTY SEVEN (87) NORTH, RANGE FIVE (5) WEST OF THE 5TH P.M.

Address of Real Property: R.R. 1
COGGON, IA 52218

2. **LENDER'S MORTGAGE AND CONDITION PRECEDENT.** Borrower has requested a $ 26,000.00 loan from Lender to be secured by a Mortgage on the Property from Mortgagor in favor of Lender; Lender is only willing to make the loan on condition that Creditor's Mortgage described in paragraph 1 be subordinated to the Mortgage to be executed in favor of Lender.

Lender's Mortgage will also secure, without limitation, such additional sums as Lender may advance under the provisions as to future advances, additional sums for the purpose of curing any of Borrower's defaults, interest on principal, and attorneys' fees and costs incurred by Lender in any proceedings arising out of or in connection with Lender's Mortgage, including proceedings to enforce or foreclose it.

3. **SUBORDINATION OF CREDITOR'S MORTGAGE.** Creditor agrees that its Mortgage and all of Creditor's rights thereunder shall at all times be inferior and subordinate to the Lender's Mortgage and Lender's rights in the Property, including any extensions, renewals or modifications.

4. **PRIORITY OF SECURITY INTERESTS.** The priority of the Mortgages belonging to Creditor and Lender in the Property will be governed by this Agreement and not by the time or order in which the Mortgages were created or perfected.

5. **WAIVER OF LIMITATIONS.** Creditor waives any obligation of Lender to provide Creditor with notice of additional advances or loans, notice of default, notice of acceleration of debt, notice of demand for payment or notice of repossession and the right of Creditor to require Lender to marshall any collateral. In addition, Lender may take or refrain from taking any action (including, but not limited to, making additional advances or loans) with respect to Borrower, any guarantor, or any collateral without notice to or the consent of Creditor and without affecting any of Lender's rights under this Agreement.

6. **DOCUMENTATION AND NON-INTERFERENCE.** Creditor will not prevent, hinder or delay Lender from enforcing its Mortgage. Creditor will execute and deliver to Lender such additional documents or other instruments as the Lender may deem necessary to carry out this Agreement. The Creditor will not exercise any collection rights with respect to the Property, will not take possession of, sell or dispose of, or otherwise deal with, the Property, and will not exercise or enforce any right or remedy which may be available to the undersigned with respect to the Property upon default, without prior written consent of Lender, which shall not be unreasonably withheld.

7. **TERMINATION.** This Agreement will remain in full force and effect now and forever, despite the commencement of any federal or state bankruptcy, insolvency, receivership, liquidation or reorganization proceeding.

8. **EFFECT ON BORROWER AND THIRD PARTIES.** This Agreement will not affect the enforceability and priority of Creditor's and Lender's Mortgage on the Property and rights against the Borrower, Mortgagor, or any third party except as set forth herein.

9. **REPRESENTATIONS AND WARRANTIES.** Creditor represents and warrants to Lender that:
   a. Creditor has not assigned any of its rights or interest in the Property prior to the execution of this Agreement. Creditor shall not assign or transfer to others any claim that Creditor has or may have in the Property while any indebtedness of Borrower to Lender remains unpaid without the express written consent of the Lender;
   b. Creditor has obtained all consents and approvals needed to execute and perform its obligations under this Agreement;
   c. Creditor's execution and performance of its obligations under this Agreement will not violate any court order, administrative order or ruling, or agreement binding upon Creditor in any manner; and
   d. Creditor has conducted an independent investigation of Borrower's business affairs and was not induced to lend money or extend other financial accommodations to Borrower or execute this Agreement by any oral or written representation by Lender.

10. **ASSIGNMENT.** Lender shall be entitled to assign its Mortgage and its rights and remedies described in this Agreement without notice to Creditor.

11. **SUCCESSORS AND ASSIGNS.** This Agreement shall be binding upon and inure to the benefit of Creditor and Lender and their respective successors, assigns, trustees, receivers, administrators, personal representatives, legatees, and devisees.

12. **SEVERABILITY.** If any provision of this Agreement violates the law or is unenforceable, the rest of the Agreement shall remain valid.

**13. NOTICE.** Any notice or other communication to be provided under this Agreement shall be in writing and sent to the parties at the addresses described in this Agreement or such other address as the parties may designate in writing from time to time.

**14. APPLICABLE LAW.** This Agreement shall be governed by the laws of the state in which the property is located. Creditor consents to the jurisdiction and venue of any court located in the state in which the property is located in the event of any legal proceeding under this Agreement.

**15. ATTORNEYS' FEES.** Lender will be entitled to collect its attorneys' fees, legal expenses, and other costs in the event of any litigation pertaining to this Agreement.

**16. JOINT AND SEVERAL.** If there is more than one Creditor, their obligations shall be joint and several under this Agreement. Wherever the context requires, the singular form of any word shall include the plural.

**17. INTEGRATION.** This Agreement and any related documents represent the complete and integrated understanding between Creditor and Lender pertaining to the terms and conditions of this Agreement.

**18. ADDITIONAL TERMS.**

Creditor acknowledges that Creditor has read, understands, and agrees to the terms and conditions of this Agreement.

DATED: MARCH 19, 1997

CREDITOR: COMMUNITY SAVINGS BANK

Steven A. Brady, President and CEO

CREDITOR:

Arlyn D. Maifeld, Vice President

LENDER: FARMERS STATE BANK

By: CLAIR J. LENSING
PRESIDENT

CREDITOR:

ALLEN SHEDEK
V.P. & CASHIER

STATE OF _____ )
) SS:
COUNTY OF _____ )

On this _____ day of _____, before me, the undersigned, a Notary Public in and for said county and state, personally appeared _____, to me personally known to be the identical person(s) named in and who executed the within and foregoing instrument, and acknowledged that he/she executed the same as his/her voluntary act and deed.

_____, Notary Public
in and for said County and State

STATE OF Iowa )
) SS:
COUNTY OF Delaware )

On this 19th day of March, 1997, before me, the undersigned, a Notary Public in and for said county and state, personally appeared Steven A. Brady and Arlyn D. Maifeld, to me personally known, who being by me duly sworn, did say that they are the President/CEO and Vice President respectively, of said corporation executing the within and foregoing instrument, that (no seal has been procured by the said) (the seal affixed thereto is the seal of said) corporation; that said instrument was signed (and sealed) on behalf of said corporation by authority of its Board of Directors; and that the said Steven A. Brady and Arlyn D. Maifeld as such officers acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it and by them voluntarily executed.

LORI L. WESSELS
MY COMMISSION EXPIRES
April 20, 1997

Lori L. Wessels
Lori L. Wessels, Notary Public
in and for said County and State

STATE OF Iowa )
) SS:
COUNTY OF Linn )

On this 19 day of March, 1997, before me, the undersigned, a Notary Public in and for said county and state, personally appeared Clair J. Lensing and Allen Shedek, to me personally known, who being by me duly sworn, did say that they are the President and V.P. & Cashier respectively, of said corporation executing the within and foregoing instrument, that (no seal has been procured by the said) (the seal affixed thereto is the seal of said) corporation; that said instrument was signed (and sealed) on behalf of said corporation by authority of its Board of Directors; and that the said Clair J. Lensing & Allen Shedek as such officers acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it and by them voluntarily executed.

Nancy L. Starnd, Notary Public
in and for said County and State

After recording return to Lender.