DELAWARE COUNTY IOWA
FILED
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BOOK 2004 PAGE 4030
DEBORAH L PRYON
DELAWARE CO RECORDER
42.00

Pinnacle Escrow
338 Northland Ct. NE
Cedar Rapids IA
52402

Prepared By:
CENTENNIAL MORTGAGE & FUNDING, INC
250 PRAIRIE CENTER DRIVE, SUITE 100
EDEN PRAIRIE, MINNESOTA 55344

2004-3783

MORTGAGE

(IOWA)

(Securing Future Advances)

NOTICE: THIS MORTGAGE SECURES CREDIT IN THE AMOUNT OF $ 76,500.00 , LOANS AND ADVANCES UP TO THIS AMOUNT, WITH INTEREST, ARE SENIOR TO INDEBTEDNESS TO OTHER CREDITORS UNDER SUBSEQUENTLY RECORDED OR FILED MORTGAGES AND LIENS.

THIS MORTGAGE is made on this **20TH** day of **OCTOBER** , **2004** .

The Grantor is **DAMON E SMITH and NICHELLE SMITH, HUSBAND And WIFE**

whose address is **20745 253RD STREET, DELHI, IOWA 52223**

S-88-84

The beneficiary is **CENTENNIAL MORTGAGE & FUNDING, INC**

whose address is **250 PRAIRIE CENTER DRIVE, SUITE 100, EDEN PRAIRIE, MINNESOTA 55344**

In this mortgage, the terms "you", "your", and "yours" refer to the Grantor(s). The terms "we", "us" and "our" refer to **CENTENNIAL MORTGAGE & FUNDING, INC**

, Grantee.

Pursuant to a Home Equity Line of Credit Agreement and disclosures under the Federal Truth-In-Lending Act dated the same date as this Mortgage ("the Credit Agreement"), you may incur indebtedness in amounts fluctuating from time to time up to the **MAXIMUM AGGREGATE PRINCIPAL AMOUNT** of **SEVENTY-SIX THOUSAND FIVE HUNDRED AND 00/100ths** Dollars (U.S. $ **76,500.00**).

The Credit Agreement provides for the full debt to be paid by you in full no later than **OCTOBER 25, 2024** .

You agree that this Mortgage shall continue to secure all sums now or hereafter advanced under the terms of the Credit Agreement including, without limitation, such sums that are advanced to you whether or not at the time the sums are advanced there is any principal sum outstanding under the Credit Agreement.

This Mortgage secures to us: (a) the repayment of the debt evidenced by the Credit Agreement, with interest and all refinancings, renewals, extensions and modifications of the Credit Agreement; (b) the payment of all other sums,

with interest, advanced under paragraph 7 of this Mortgage to protect the security of this Mortgage; and (c) the performance of your covenants and agreements under this Mortgage and the Credit Agreement. For this purpose and in consideration of the debt, you irrevocably grant, mortgage and convey to the mortgagee the property located in the state of Iowa, to wit:

Lot Eighteen (18) of Lakeview Estates First Addition to Delaware County, Iowa, according to the plat recorded in Book 6 Plats, Page 215, from the 16th day of August, 1999, at 8:00 o'clock A.M. to the 24th day of November, 2003, at 8:00 o'clock A.M.

Which property has the address of: **20745 253RD STREET**
DELHI, IOWA 52223 "Property Address".

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents (subject to Paragraph 19 hereof) and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Mortgage. All of the foregoing is referred to in this Mortgage as the "Property."

YOU COVENANT that you are lawfully seized of the estate hereby conveyed and have the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. You warrant and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

YOU AND WE covenant and agree as follows:

1. Payment of Principal, Interest and Other Charges. You shall pay when due the principal and interest owing under the Credit Agreement and all other charges due under the Credit Agreement.

2. Payments of Taxes and Insurance. You will pay, when due, all taxes, assessments, leasehold payments or ground rents (if any), and hazard insurance on the Property and mortgage insurance (if any).

3. Application of Payments. Unless applicable law provides otherwise, all payments received by us under the Credit Agreement and paragraph 1 may be applied by us first to interest and other charges payable under the Credit Agreement and then to the remaining principal balance under the Credit Agreement.

4. Prior Mortgages; Charges; Liens. You shall perform all of your obligations under any mortgage, Mortgage or other security instruments with a lien which has priority over this Mortgage, including your covenants to make payments when due. You shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Mortgage or any advance under this Mortgage, and leasehold payments or ground rents, if any. Upon our request, you shall promptly furnish to us all notices of amounts to be paid under this paragraph and receipts evidencing any such payments you make directly.

You shall promptly discharge any lien (other than a lien disclosed to us in your application or in any title report we obtained) which has priority over this Mortgage or any advance to be made under the Credit Agreement or this Mortgage.

5. Hazard Insurance. You shall keep the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which we require insurance. This insurance shall be maintained in the amounts and for the periods that we require. You may choose the insurer.

Insurance policies and renewals shall be acceptable to us and shall include a standard mortgagee clause. If we require, you shall promptly give us all receipts of paid premiums and renewal notices. You shall promptly notify the insurer and us of any loss. We may make proof of loss if you do not promptly do so.

Insurance proceeds shall be applied to restore or repair the Property damaged, if we determine that restoration or repair is economically feasible and our security would not be lessened. Otherwise, insurance proceeds shall be applied to sums secured by this Mortgage, whether or not then due, with any excess paid to you. If you abandon the Property, or do not answer within 30 days our notice to you that the insurer has offered to settle a claim, then we may collect and use the proceeds to repair or restore the Property or to pay sums secured by this Mortgage, whether or not then due. The 30-day period will begin when notice is given.

Any application of proceeds to principal shall not require us to extend or postpone the due date of monthly payments. If we acquire the Property at a forced sale following your default, your right to any insurance proceeds resulting from damage to the Property prior to the acquisition shall pass to us to the extent of the sums secured by this Mortgage immediately prior to the acquisition.

6. Preservation and Maintenance of Property; Leaseholds. You shall not destroy, damage or substantially change the Property, allow the Property to deteriorate, or commit waste. If this Mortgage is on a leasehold, you shall comply with the lease. If you acquire fee title to the Property, the leasehold and fee title shall not merge unless we agree to the merger in writing.

7. Protection of Our Rights in the Property; Mortgage Insurance. If you fail to perform the covenants and agreements contained in this Mortgage, or there is a legal proceeding that may significantly affect our rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce the laws or regulations), then we may do, and pay for, anything necessary to protect the Property's value and our rights in the Property. Our actions may include paying any sums secured by a lien which has priority over this Mortgage or any advance under the Credit Agreement or this Mortgage, appearing in court, paying reasonable attorney's fees, paying any sums which you are required to pay under this Mortgage and entering on the Property to make repairs. We do not have to take any action we are permitted to take under this paragraph. Any amounts we pay under this paragraph shall become additional debts you owe us and shall be secured by this Mortgage. These amounts shall bear interest from the disbursement date at the rate established under the Credit Agreement and shall be payable, with interest, upon our request.

If we require mortgage insurance as a condition of making the loan secured by this Mortgage, you shall pay the premiums for such insurance until such time as the requirement for the insurance terminates.

8. Inspection. We may inspect the Property at any reasonable time and upon reasonable notice.

9. Condemnation. The proceeds of any award for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned to us and shall be paid to us.

10. You Are Not Released; Forbearance by Us Not a Waiver. Extension of time for payment or modification of amortization of the sums secured by this Mortgage granted by us to any of your successors in interest shall not operate to release your liability or the liability of your successors in interest. We shall not be required to commence proceedings against any successor in interest, refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by you or your successors in interest. Our forbearance in exercising any right or remedy shall not waive or preclude the exercise of any right or remedy.

11. Successors and Assigns Bound; Joint and Several Liability; Co-Signers. The covenants and agreements of this Mortgage shall bind and benefit your and our successors and permitted assigns. Your covenants and agreements shall be joint and several. Anyone who co-signs this Mortgage but does not execute the Credit Agreement: (a) is co-signing this Mortgage only to mortgage, grant and convey such person's interest in the Property; (b) is not personally obligated to pay the Credit Agreement, but is obligated to pay all other sums secured by this Mortgage; and (c) agrees that we and anyone else who signs this Mortgage may agree to extend, modify, forbear or make any accommodations regarding the terms of this Mortgage or the Credit Agreement without such person's consent.

12. 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 the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from you which exceed permitted limits will be refunded to you. We may choose to make this refund by reducing the principal owed under the Credit Agreement or by making a direct payment to you. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Credit Agreement.

13. Notices. Unless otherwise required by law, any notice to you provided for in this Mortgage shall be delivered or mailed by first class mail to the Property Address or any other address you designate by written notice to us.

14. Governing Law; Severability. This Mortgage shall be governed by federal law and, except as preempted by federal law, by the law of jurisdiction in which the Property is located. In the event that any provision or clause of this Mortgage or the Credit Agreement conflicts with applicable law, such conflict shall not affect other provisions of the Mortgage or the Credit Agreement which can be given effect without the conflicting provision. To this end the provisions of this Mortgage and the Credit Agreement are declared to be severable.

15. Transfer of the Property. If all or any part of the Property or any interest in it is sold or transferred without our prior written consent, which may be withheld or granted as we may determine in our sole unfettered discretion, we may, at our option, require immediate payment in full of all sums secured by this Mortgage. However, this option shall not be exercised by us if exercise is prohibited by federal law as of the date of this Mortgage.

16. Sale of Agreement; Change of Loan Servicer. The Credit Agreement or a partial interest in the Credit Agreement (together with this Mortgage) may be sold one or more times without prior notice to you. A sale may result in a change in the entity (known as the "Loan Servicer") that collects monthly payments due under the Credit Agreement and this Mortgage. There also may be one or more changes of the Loan Servicer unrelated to the sale of the Credit Agreement. If there is a change of the Loan Servicer, you will be given written notice of the change as required by applicable law. The notice will state the name and address of the new Loan Servicer and the address to which payments should be made. The notice will also contain any information required by applicable law.

17. Hazardous Substances. You shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. You shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use or storage on the Property of Hazardous Substances in quantities that are generally recognized to be appropriate

to normal residential uses and to maintenance of the Property.

You shall promptly give us written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which you have actual knowledge. If you learn or are notified by any government or regulatory authority, that any removal or other remediation of any Hazardous Substance is affecting the Property is necessary, you shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this Mortgage, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this Mortgage, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

18. Acceleration; Remedies. You will be in default if (1) any payment required by the Credit Agreement is not made when it is due; (2) we discover that you have committed fraud or material misrepresentation and such fraud or material misrepresentation materially impairs the condition, value or protection of our right in the Property; or (3) you take any action or fail to take any action that adversely affects our security for the Credit Agreement or any right we have in the Property; or (4) any event occurs that permits us to accelerate the amounts due under the Credit Agreement. If a default occurs, we will give you notice specifying among other matters required by law: (a) the default; (b) the action required to cure the default; (c) a date not less than 30 days from the date the notice is given to you, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage and sale of the Property. The notice shall further inform you of any right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense you have to acceleration and sale. If the default is not cured on or before the date specified in the notice, we at our option may require immediate payment in full of all sums secured by this Mortgage without further demand and may invoke the power of sale and any other remedies permitted by applicable law. We shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 18, including, but not limited to, cost of title evidence. The power of sale conferred by this Mortgage and by applicable law is not exclusive remedy; we may cause this Mortgage to be foreclosed.

19. Assignment of Rents. As additional security hereunder, You hereby assign to Us the rents of the Property, provided, however, that you shall have prior to acceleration under Paragraph 18 hereof or abandonment of the Property, the right to collect and retain such rents as they become due and payable.

20. Release. Upon your request and payment of all sums secured by this Mortgage, we shall request the Trustee to reconvey your estate in the Property to you upon payment to the Trustee of such compensation as the Trustee may be entitled under applicable law. We will also mark the Credit Agreement "paid" and return the Credit Agreement and a certified copy of this Mortgage to the Trustee. You shall pay any recordation costs.

21. Waiver of Homestead. The undersigned 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, the undersigned voluntarily give up our right(s) to this protection for this Property with respect to claims based upon this Mortgage. Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share in and to the Property and waive all rights of exemptions as to any of the Property.

22. Riders to this Mortgage. If one or more riders are executed by you and recorded together with this Mortgage, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the

covenants and agreements of this Mortgage as if the rider(s) were part of this Mortgage.

☐ Condominium Rider ☐ 1-4 Family Rider ☐ Planned Unit Development Rider
☒ Rider to the Deed of Trust/Mortgage/Security Deed ☐ Second Home Rider

☐ If this box is checked, this Mortgage is a Purchase Money Mortgage as defined in the Iowa Code.

☐ If this box is checked, this Mortgage also constitutes a Construction Mortgage as defined in the Iowa Code.

23. Redemption. It is agreed that if this Mortgage covers less than ten (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 statutes of the State of Iowa may in Mortgagee's discretion be reduced to six (6) months provided the Mortgagee, in such action files an election to waive any deficiency judgment against Mortgagors which 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 three (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 four (4) months.

24. Receipt of Copies. We hereby acknowledge receipt of a copy of this Mortgage, of the Credit Agreement, and of each other document executed by us as a part of this transaction.

25. IMPORTANT: READ BEFORE SIGNING. The terms of this agreement should be read carefully because only those terms in writing are enforceable. No other terms or oral promises not contained in this written contract may be legally enforced. You may change the terms of this agreement only by another written agreement.

REQUEST FOR NOTICE OF DEFAULT AND FORECLOSURE
UNDER SUPERIOR MORTGAGES OR DEED OF TRUST

I(We) and Lender request the holder of any mortgage, deed of trust, or other encumbrance with a lien which has priority over this Security Instrument to give notice to Lender, at Lender's address set forth on page one of this Security Instrument, of any default under the superior encumbrance and of any sale or other foreclosure action.

BY SIGNING BELOW, you accept and agree to the terms and covenants contained in this Mortgage and any rider(s) executed by you and recorded with it.

BOTH SPOUSES MUST SIGN

Damon E Smith
DAMON E SMITH , Grantor

NS
Nichelle M Smith
NICHELLE SMITH , Grantor

_____ , Grantor

_____ , Grantor

STATE OF IOWA_____)
) ss.
COUNTY OF Delaware)

On this 20 day of October, 2004, before me, a Notary Public in and for the State of Iowa, personally appeared **DAMON E SMITH and NICHELLE SMITH, HUSBAND And WIFE**

to me personally known to be the person(s) named in and who executed the foregoing instrument, and acknowledged that he/she/they executed the same as his/her/their voluntary act and deed.

My commission expires: 3-14-06

B Zimmerman
Notary Public

Bonnie Zimmerman
Printed Name of Notary Public

NOTARIAL SEAL IOWA
Bonnie Zimmerman
Commission Number 721362
My Commission Expires:
3-14-06

When Recorded, Return To:
CENTENNIAL MORTGAGE & FUNDING, INC
1210 NORTHLAND DRIVE, SUITE 180
MENDOTA HEIGHTS, MN 55120

Loan No. **MNHE1176**

HELOC RIDER TO THE DEED OF TRUST / MORTGAGE / SECURITY DEED

Date: **OCTOBER 20, 2004**

The escrow of taxes and insurance required in your DEED OF TRUST/MORTGAGE/SECURITY DEED to **CENTENNIAL MORTGAGE & FUNDING, INC** , a **MINNESOTA CORPORATION**, is hereby waived and you are notified that you are not required to deposit with **CENTENNIAL MORTGAGE & FUNDING, INC** , a **MINNESOTA CORPORATION**, any of the amounts set forth in said paragraph. This waiver does not, in any way, release you from your obligation to make escrow payments of taxes and insurance to the holder of any prior mortgage, nor does it relieve you of your obligation to keep taxes and insurance premiums current with respect to the mortgaged property.

All payments will be applied first to the accrued interest and next to the unpaid principal of your loan. The exact amount of your final payment, finance charges, and total of payments will be somewhat more or less than the amounts shown if we do not receive each payment on the scheduled payment date.

RECEIPT ACKNOWLEDGED:

Damon E Smith
DAMON E SMITH

10/20/04
DATE

Nichelle Smith
NICHELLE SMITH

10/20/04
DATE

_____

_____
DATE

_____

_____
DATE