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DEBORAH L PEYTON, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

Prepared By: Cheryl Larson, Dubuque Bank and Trust Company, 2196 Holliday Dr, Dub, IA 52002 589-4524

**RECORDATION REQUESTED BY:** Dubuque Bank and Trust Company, 2196 Holliday Dr, Dub, IA 52002

**WHEN RECORDED MAIL TO:** Dubuque Bank & Trust, Cheryl Larson, 2196 Holliday Dr, Dub, IA 52002

## SUBORDINATION AGREEMENT

**NOTICE: THIS SUBORDINATION OF MORTGAGE RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.**

The names of all Grantors (sometimes "Borrower") can be found on page 1 of this Subordination. The names of all Grantees (sometimes "Lender") can be found on page 1 of this Subordination. The property address can be found on page 1 of this Subordination. The legal description can be found on page 1 of this Subordination.

**THIS SUBORDINATION OF MORTGAGE dated March 12, 2012, is made and executed among Brett J. & Stephanie A. Kluesner ("Borrower"); Dubuque Bank & Trust Company ("Mortgagee"); and Dubuque Bank and Trust Company ("Lender").**

**SUBORDINATED INDEBTEDNESS.** Mortgagee has extended the following described financial accommodations, secured by the Real Property (the "Subordinated Indebtedness"): **21844 275th Ave, Earlville, IA 52041**

**SUBORDINATED MORTGAGE.** The Subordinated Indebtedness is or will be secured by the Real Property and evidenced by a mortgage dated January 27, 2010 from Brett J. & Stephanie A. Kluesner ("Mortgagor") to Dubuque Bank & Trust Company ("Mortgagee") (the "Subordinated Mortgage") and recorded in Dubuque County, State of Iowa as follows:
Book 2010 Page 278.

**REAL PROPERTY DESCRIPTION.** The Subordinated Mortgage covers the following described real property (the "Real Property") located in ~~Dubuque~~ Delaware County, State of Iowa:

Lot Sixteen (16), Block Four (4), of the Subdivision of Lot Two (2) of Timbergate Subdivision in Section Thirty Six (36), Township Eighty Nine (89) North, Range Four (4), West of the Fifth Principal Meridian in Delaware County, Iowa, according to plat recorded in Book 4 Plats, Pages 65-67.

The Real Property or its address is commonly known as 21844 275th Ave, Earlville, IA 52041.

**SUPERIOR INDEBTEDNESS.** Lender has extended or has agreed to extend the following described financial accommodations to Borrower secured by the Real Property (the "Superior Indebtedness"): 21844 275th Ave, Earlville, IA 52041 $117,300.00

**LENDER'S LIEN.** The Superior Indebtedness is or will be secured by the Real Property and evidenced by a mortgage, dated March 12, 2012, from Borrower to Lender (the "Lender's Lien"). As a condition to the granting of the requested financial accommodations, Lender has required that the Lender's Lien be and remain superior to the Subordinated Mortgage.

**REQUESTED FINANCIAL ACCOMMODATIONS.** Mortgagor, who may or may not be the same person or entity as Borrower, and Mortgagee each want Lender to provide financial accommodations to Borrower in the form of the superior Indebtedness. Mortgagor and Mortgagee each represent and acknowledge to Lender that Mortgagee will benefit as a result of these financial accommodations from Lender to Borrower, and Mortgagee acknowledges receipt of valuable consideration for entering into this Subordination.

**NOW THEREFORE THE PARTIES TO THIS SUBORDINATION HEREBY AGREE AS FOLLOWS:**
**SUBORDINATION.** The Subordinated Mortgage and the Subordinated Indebtedness secured by the Subordinated Mortgage is and shall be subordinated in all respects to lender's Lien and the Superior Indebtedness, and it is

Mortgage. Mortgagee also subordinates to Lender's Lien all other Security Interest in the Real Property held by Mortgagee, whether now existing or hereafter acquired. The words "Security Interest" mean and include without limitation any type of collateral security, whether in the form of a lien, charge, mortgage, deed of trust, assignment, pledge, chattel mortgage, chattel trust, factor's lien, equipment trust, conditional sale, trust receipt, lien or title retention contract, lease or consignment intended as a security device, or any other security or lien interest whatsoever, whether created by law, contract or otherwise.

**MORTGAGEE'S REPRESENTATIONS AND WARRANTIES.** Mortgagee represents and warrants to Lender that: (A) no representations or agreements of any kind have been made to Mortgagee which would limit or qualify in any way the terms of this Subordination; (B) this Subordination is executed at Borrower's request and not at the request of Lender; (C) Lender has made no representation to Mortgagee as to the creditworthiness of Borrower; and (D) Mortgagee has established adequate means of obtaining from Borrower on a continuing basis information regarding Borrower's financial condition. Mortgagee agrees to keep adequately informed from such means of any facts, events, or circumstances which might in any way affect Mortgagee's risks under this Subordination, and Mortgagee further agrees that Lender shall have no obligation to disclose to Mortgagee information or material acquired by Lender in the course of its relationship with Mortgagee.

**MORTGAGEE WAIVERS.** Mortgagee waives any right to require Lender: (A) to make, extend, renew, or modify any loan to Borrower or to grant any other financial accommodations to Borrower whatsoever; (B) to make any presentment, protest, demand, or notice of any kind, including notice of any nonpayment of any Superior Indebtedness secured by Lender's Lien, or notice of any action or nonaction of the part of Borrower, Lender , any surety, endorser, or other guarantor in connection with the Superior Indebtedness, or in connection with the creation of new or additional indebtedness; (C) to resort for payment or to proceed directly or at once against any person, including Borrower; (D) to proceed directly against or exhaust any collateral held by lender from Borrower, any other guarantor, or any other person; (E) to give notice of the terms, time, and place of any public or private sale of personal property security held by Lender from Borrower or to comply with any other applicable provisions of the Uniform Commercial Code; (F) to pursue any other remedy within Lender's power; or (G) to commit any act or omission of any kind, at any time, with respect to any matter whatsoever.

**LENDER'S RIGHTS.** Lender may take or omit any and all actions with respect to Lender's Lien without affecting whatsoever any of Lender's rights under this Subordination. In particular, without limitation, Lender may, without notice of any kind to Mortgagee, (A) make one or more additional secured or unsecured loans to Borrower; (B) repeatedly alter, compromise, renew, extend, accelerate, or otherwise change the time for payment or other terms of the Superior Indebtedness or any part of it, including increases and decreases of the rate of interest on the Superior Indebtedness; extensions may be repeated and may be for longer than the original loan term; (C) take and hold collateral for the payment of the Superior Indebtedness, and exchange, enforce, waive, and release any such collateral, with or without the substitution of new collateral; (D) release, substitute, agree not to sue, or deal with any one or more of Borrower's sureties, endorsers, or guarantors on any terms or manner Lender chooses; (E) determine how, when and what applications for payments and credits, shall be made on the Superior Indebtedness; (F) apply such security and direct the order or manner of sale of the security, as Lender in its discretion may determine; and (G) transfer this Subordination to another party.

**DEFAULT BY BORROWER.** If Borrower becomes insolvent or bankrupt, this Subordination shall remain in full force and effect. Any default by Borrower under the terms of the Subordinated Indebtedness also shall constitute an event of default under the terms of the Superior Indebtedness in favor of Lender.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Subordination:

**AMENDMENTS.** This Subordination constitutes the entire understanding and agreement of the parties as to the matters set forth in this Subordination. No alteration of or amendment to this subordination shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**ATTORNEYS' FEES; EXPENSES.** If Lender institutes any suit or action to enforce any of the terms of this Subordination, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees and title insurance, to the extent permitted by applicable law. Mortgagee also will pay any court costs, in addition to all other sums provided by law.

**AUTHORITY.** The person who signs this Subordination as or on behalf of Mortgagee represents and warrants that he or she has authority to execute this Subordination and to subordinate the Subordinated Indebtedness and the Mortgagee's security interest in Mortgagee's property, if any.

**CAPTION HEADINGS.** Caption headings in this Subordination are for convenience purposes only and are not to be used to interpret or define the provisions of this Subordination.

**GOVERNING LAW.** This Subordination will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Iowa without regard to its conflicts of law provisions. This Subordination has been accepted by Lender in the State of Iowa.

**SUCCESSORS.** This Subordination shall extend to and bind the respective heirs, personal representatives, successors and assigns of the parties to this Subordination, and the covenants of Mortgagee herein in favor of Lender shall extend to, include, and be enforceable by any transferee or endorsee to whom Lender may transfer any or all of the Superior Indebtedness.

**NO WAIVER BY LENDER.** Lender shall not be deemed to have waived any rights under this Subordination unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Subordination shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Subordination. No prior waiver by Lender, nor any course of dealing between Lender and Mortgagee, shall constitute a waiver of any of Lender's rights or of any of Mortgagee's obligations as to any future transactions. Wherever the consent of Lender is required under this Subordination, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

**NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN A LOAN, A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.**

**EACH PARTY TO THIS SUBORDINATION ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS SUBORDINATION, AND EACH PARTY AGREES TO ITS TERMS. THIS SUBORDINATION IS DATED March 12, 2012.**

**MORTGAGEE ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS SUBORDINATION OF MORTGAGE AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.**

**BORROWER:**

Date: 3-12-12 By _____
**BRETT J. KLUESNER**

Date: 3-12-12 By _____
**STEPHANIE A. KLUESNER**

STATE OF Iowa )
Dubuque COUNTY) ) ss:

On this 12th day of March, 2012 before me, a Notary Public in and for the said County and State, personally appeared ~~Brett J. & Stephanie A. Kluesner~~, to me known to be the persons named in and who executed the foregoing instrument and acknowledged that they voluntarily act and deed.

_____
Notary Public in and for said County and State

PEG A. BALL
Commission Number 166612
My Commission Expires 9-7-12

**LENDER:**

**DUBUQUE BANK AND TRUST COMPANY**

Dubuque Bank and Trust Company

Date: 3/12-12 By _____
PEG BALL, VICE PRESIDENT

STATE OF IOWA )
) ss:
DUBUQUE COUNTY )

On this 12th day of March, 2012 before me, the undersigned, Notary Public in and for the State of Iowa, personally appeared Peg Ball, to me personally known, and, who being by me duly sworn, did say that she is the Vice President of Dubuque Bank and Trust Company, ~~that the seal affixed to said instrument is the Corporate Seal of said corporation;~~ that said instrument was signed ~~and sealed~~ on behalf of said corporation, by authority of its Board of Directors, and the said Peg Ball 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.

NOTARIAL SEAL IOWA
JAMES J. WAGNER
Commission Number 751695
My Commission Expires
March 11, 2014

_____
Notary Public in and for said County and State

**SUBORDINATE LIEN HOLDER:**
**Dubuque Bank & Trust**

Dubuque Bank and Trust Company

Date: 3-6-12 By _____ SVP
Authorized Officer Robert Daly Senior VIce President

STATE OF Iowa )
) ss:
Dubuque COUNTY)

On this 6 day of March 2012 before me, a Notary Public in and for the said County and State, personally appeared Bob Daly, to me known to be the persons named in and who executed the foregoing instrument and acknowledged that they voluntarily act and deed.

_____
Notary Public in and for said County and State

NOTARIAL SEAL IOWA
TONY R. PORTZ
Commission Number 720582
My Commission Expires
1-27-14