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DEBORAH L PEYTON, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

Prepared By & Return To: Carr & Carr Attorney's, PO Box 333, Manchester, Iowa 52057 (563) 927-4164
Grantor: David C. Kehrli Grantees: Scott & Joan Funke

RIGHT OF FIRST REFUSAL AGREEMENT

This Right of First Refusal Agreement ("Agreement") is made and entered into this 10th day of December, 2013, by and between DAVID C. KEHRLI, a single person, ("Grantor") and SCOTT J. FUNKE AND JOAN A. FUNKE, husband and wife, ("Grantees"). *This instrument amends and replaces the previous Right of First Refusal Agreement filed April 11, 20013 in Book 2013, Page 1233 by correcting the legal description.*

RECITALS

A. Grantor is the titleholder to the following described real estate located in Delaware County, Iowa:

> Parcel 2013-03, Part of the NE¼-SW¼ and the NW¼-SW¼, all in Sec. 35, T89N, R6W of the Fifth P.M., Delaware County, Iowa, according to plat recorded in Book 2013, Page 778

(hereinafter referred to as the "Real Estate");

B. Grantor desires to grant a right of first refusal with regard to any sale of the Real Estate to Grantees, and Grantees desires to accept such right of first refusal for any sale of the Real Estate; and,

C. The parties desire to reduce their agreement to writing.

THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree upon the following mutual terms and conditions:

AGREEMENT

1. **GRANT OF RIGHT OF FIRST REFUSAL**. Grantor hereby grants to Grantees, and Grantees hereby accept from Grantor, a right of first refusal with regard to the Real Estate, as follows:

If Grantor receives a bona fide offer from a third party to purchase the Real Estate, Grantor shall give notice in writing to Grantees stating the price and terms upon which the Real

Estate is proposed to be purchased via the bona fide offer from the third party, and Grantor shall provide a copy of such offer to Grantees. Grantees shall have the right to purchase the Real Estate at the price and on the terms so stated, except as otherwise provided herein. If Grantees do not so elect to purchase the Real Estate within 20 days from the date on which Grantees receive written notice as set out above, then Grantor shall have the right to sell the Real Estate at not less than the price so stated and not on terms more favorable to the third party; thereafter, Grantees shall no longer have a right of first refusal hereunder. If Grantees match the bona fide third party offer by notice in writing to Grantor within 20 days of Grantees' receipt of such written notice, then Grantor shall proceed to continue the abstract and proceed to closing following the procedure and within the time as described in paragraph 3 below. A "bona fide" third party offer for these purposes shall be a written offer to purchase the Real Estate from a buyer with the documented wherewithal (e.g., bank letter) to afford such purchase and to pay the purchase price in a timely fashion.

2. **EXCEPTIONS TO RIGHT OF FIRST REFUSAL**. If Grantor gives, sells or bequeaths the Real Estate, or any part thereof, to his children (or any combination thereof), this Agreement shall not apply to such gift(s), sale(s) or bequest(s); however, upon such gift(s), sale(s) or bequest(s), this Agreement shall apply to Grantor's children's interest in the Real Estate, except for subsequent transfers solely among themselves and not their successors in interest.

3. **CLOSING UPON EXERCISING RIGHT**. Upon Grantees exercising right of first refusal herein, Grantor, at his expense, shall promptly continue and pay for the abstract of title to the Real Estate continued through a date not more than thirty (30) days prior to the closing date stated in the notice of the exercise of the option. The proposed closing date shall be no later than sixty (60) days after the written exercise of the option. Such abstract shall show merchantable title in Grantor in conformity with the Iowa Land Title Standards of the Iowa State Bar Association.

The abstract shall become the property of Grantees when the purchase price is paid in full. Grantor shall pay costs of additional abstracting or title work due to acts or omissions of Grantor and shall be responsible for prorated real estate taxes, real estate transfer tax and other normal seller expenses for real estate closings in Delaware County, Iowa.

Upon payment of the purchase price, Grantor shall convey the Real Estate to Grantees by Warranty Deed, free and clear of all liens, restrictions and encumbrances.

4. **NOTICE**. Any notice required to be given hereunder shall be in writing and deemed given when personally delivered or when deposited in the United States mail, postage prepaid, sent certified or registered, and addressed as follows:

(a) If to Grantor:
David C. Kehrli
2151 145th Avenue
Manchester, Iowa 52057

(b) If to Grantees:
Scott & Joan Funke
2156 245th Avenue
Manchester, Iowa 52057

or such other address or person as hereafter shall be designated by the applicable party or last known address if known to be different than stated above.

5. **MISCELLANEOUS**. This Agreement shall be governed by and construed in accordance with the laws of the State of Iowa. Time is of the essence with respect to this Agreement. This Agreement constitutes the entire understanding of the parties with regard to the specific subject matter hereof (i.e., right of first refusal). This Agreement shall not be changed, modified or amended, except in writing, signed by the party to be charged and this Agreement may not be discharged except by performance in accordance with its terms. This Agreement shall run with the land and future owners shall be bound the terms herein except as herein provided.

IN WITNESS WHEREOF, the parties have signed this Agreement the date and year as set forth in the acknowledgments below.

David C. Kehrli, Grantor

Scott J. Funke, Grantee

Joan A. Funke, Grantee

STATE OF IOWA)
COUNTY OF DELAWARE) ss:

On this 10th day of December, 2013, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared David C. Kehrli to me known to be the person(s) named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

Notary Public in and for State of Iowa

NOTARIAL SEAL IOWA
STEVEN E. CARR
Commission Number 713328
My Commission Expires
October 30, 2016

STATE OF IOWA)
COUNTY OF DELAWARE) ss:

On this 19 day of December, 2013, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Scott J. Funke and Joan A. Funke, husband and wife, to me known to be the person(s) named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

Notary Public in and for State of Iowa

