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DEBORAH L PEYTON, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

Entered for taxation 14th day
of April A D 2015
Carol Butler, Auditor
By [illegible], Deputy

**SPECIAL WARRANTY DEED**
**Recorder's Cover Sheet**

**Preparer Information:**
William S. Vernon
SIMMONS PERRINE MOYER BERGMAN PLC
115 Third Street SE, Suite 1200
Cedar Rapids, IA 52401
Phone (319)366-7641

**Taxpayer Information:**
KERNDT BROTHERS SAVINGS BANK
c/o Ben Guenther
600 Boyson Rd., N.E.
Cedar Rapids, Iowa 52402

**Return Address:**
William S. Vernon
SIMMONS PERRINE MOYER BERGMAN PLC
115 Third Street SE, Suite 1200
Cedar Rapids, IA 52401
Phone (319)366-7641

**Grantor:**
Smitty's Inc.

**Grantee:**
KERNDT BROTHERS SAVINGS BANK

**Legal Description: See description in deed** Page 2

Document or instrument number if applicable:

# SPECIAL WARRANTY DEED

Smitty's, Inc. ("Grantor"), for good and valuable consideration, do GRANT, BARGAIN, SELL, and CONVEY unto KERNDT BROTHERS SAVINGS BANK ("Grantee") all of Grantor right, title and interest in and to the following described property ("Land") together with all buildings, fixtures and other improvements located on the Land (collectively the "Property"):

> The North ninety seven and five-tenths (97.5) feet of Lot Twenty Seven (27) and the North ninety seven and five-tenths (97.5) feet of the West thirty three (33) feet of Lot Twenty Six (26) of Ballard's Subdivision of part of Lot I and of Lots M and N of Iowa Land Company's Subdivision of part of Manchester, Iowa, according to plate recorded in Book 1 Plats, page 120.
>
> Street Address: 304 W. Main St., Manchester, Iowa

TO HAVE AND TO HOLD the Property, together with all and singular any other rights and appurtenances thereto in any wise belonging unto Grantee, its successors and assigns FOREVER; and Grantor do hereby bind itself to WARRANT AND FOREVER DEFEND the title against all persons claiming by, through or under Grantor, subject to, however, any and all unpaid real estate taxes and assessment, easements, restrictions, reservations, liens, encumbrances, Grantee's mortgages ("**Mortgages**").

BUT IT IS HEREBY EXPRESSLY ACKNOWLEDGED AND AGREED THAT:

A. This Deed, and the conveyances being made hereby, are being executed, delivered and accepted in lieu of foreclosure for a partial loan credit and that the same shall be interpreted and construed as an absolute conveyance to Grantee of all right, title and interest in the property, including specifically but without limitation, any equity or rights of redemption of Grantor therein or thereto. As a deed in lieu of foreclosure, the Deed is exempt from transfer tax, declaration of value and groundwater hazard statement. Exemption 428A.2(18), Iowa Code.

B. It is the intention of Grantor and Grantee that there shall not in any event be a merger of any of the liens in favor of Grantee in connection with the Property, including but not limited to the Grantee's Mortgage (the "**Liens**") with the title or other interest of Grantee by virtue of this conveyance and the Grantor and Grantee expressly provide that each such interest in the Liens on one hand and title on the other shall be, and remain at all times, SEPARATE and DISTINCT.

C. It is the intention of Grantor and Grantee that the title of Grantee in the Property under this Deed will not merge with the security interests of Grantee in the Property under the Liens. The Grantor and Grantee's intent is for Grantee's liens to maintain their senior lien position on the above described Property after this Deed is recorded. To eliminate doubt, if a lien exists after this Deed is recorded then the Mortgage Liens shall still exist senior to said lien.

D. It is the intention of Grantor and Grantee that the priority of the Liens is intended to be and shall remain in full force and effect and nothing herein or in any instruments executed in connection herewith shall be construed to subordinate the priority of the Liens to any other liens or encumbrances whatsoever.

E. Grantee's acceptance of title to the Property will not create any liability on Grantee's part to third parties that have claims of any kind against Grantor, in connection with the Property or

otherwise. Grantee will not assume or agree to discharge any liabilities pertaining to the Property and arising prior to the date hereof. This Deed does not confer any third party benefits on persons not a signatory to the Deed.

[*signature page follows*]

WITNESS THE EXECUTION HEREOF as of the 14TH day of APRIL, 2015.

**GRANTOR: SMITTY'S INC.**

By: W. Max Boren Jr.
, President

By: W. Max Boren Jr.
, Secretary

STATE OF IOWA )
) ss.
COUNTY OF LINN )

Personally came before me on APRIL 14, 2015, the above-named W. Max Boren Jr. and W. Max Boren, as President and Secretary of Smitty's Inc., and acknowledged the same on behalf of Smitty's Inc.

NOTARIAL SEAL IOWA
BENJAMIN R GUENTHER
COMMISSION NUMBER 784077
My Comm. Expires May 12, 2017

Notary Public in and for Iowa
My Commission Expires: 5/12/17

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