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County Recording Fee: \$27.00
Iowa E-Filing Fee: \$3.00
Combined Fee: \$30.00
Revenue Tax:
LISA SMITH RECORDER
Madison County, Iowa

Right of First Refusal Agreement

Recorder's Cover Sheet

Preparer Information: Joseph Nugent
19582 352nd Place
Earlham, IA 50072 (515) 783-2902

Return to: Earlham Savings Bank
130 N Chestnut Avenue
Earlham, IA 50072

Grantor:
Nugent Family Revocable Trust

Grantee:
Earlham Savings Bank

RIGHT OF FIRST REFUSAL AGREEMENT

THIS AGREEMENT is made this 7 day of December, 2017 by and between Nugent Family Revocable Trust (Grantor) and Earlham Savings Bank, a corporation duly organized and existing under the laws of the State of Iowa, with its principal office at 130 N Chestnut Ave., Earlham, Iowa (Grantee).

WITNESSETH, that the said Grantor, for and in consideration of the sum of \$1.00 and other *good and valuable consideration in the form of an extension of credit evidenced by one certain* Mortgage and Promissory Note executed concurrent herewith, to the said Grantee, in hand paid by the said Grantee the receipt whereof is hereby confessed and acknowledged, have granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto said Grantee, a Right of First Refusal, the terms of which are more particularly set out below, to a tract of land situate, lying and being, in the County of Madison, State of Iowa, more particularly described on the attached legal description and locally known as 155 E. First Street, Earlham, Iowa. Grantor and Grantee acknowledge that this Right of First Refusal is being given based upon the relationship between them and the belief by Grantor that in the event Grantee successfully exercises this Right of First Refusal, it will use the afore-referenced land in a manner beneficial to the town of Earlham.

RIGHT OF FIRST REFUSAL If at any time within ten years of the date of execution of this Agreement by the parties hereto, the Grantor shall receive a bona fide offer from any person, persons, organization, or organizations to purchase in whole or in part, the property in the County of Madison, State of Iowa, more particularly described on the attached legal description, the Grantor shall send a copy of the proposed Contract and notify Grantee of its intention to accept the same. The Grantee shall have the right within thirty days to accept the terms of said Contract in writing and within ten days thereafter (unless a longer period is agreed to by the parties in writing) to purchase the above-described property in its own name for the gross purchase price and on the terms specified in said Contract.

If the Grantee shall not so elect within the said period of thirty days, the Grantor may then sell the above-referenced property to said offeror provided the said sale is on the said terms and conditions and for the price set forth in the said Contract sent to Grantee.

It is the intention of the parties that this Right of First Refusal DOES NOT give the holder the power to compel an unwilling owner to sell; it merely requires the owner, when and if the owner decides to sell to a non-excluded party (see DEFAULT infra.) to offer the property first to the party holding the Right of First Refusal so that the holder may meet a bona fide third-party offer and purchase the property, all within the terms and conditions set forth in this Agreement

WARRANTY. Grantor here4in warrants and covenants good and marketable title to the premises described in the attached legal description and good right, full power, and lawful authority to grant, bargain, sell, and convey this Right of First Refusal.

DEFAULT. Should the Grantor herein enter into an assignment, transfer, sale, conveyance, lease with a term (including both primary and option periods) in excess of five years or lease with option to purchase

in conflict with this Right of First Refusal, the Grantees may, at their option, in legal proceedings seek to have a court of competent jurisdiction declare this Agreement breached and decree and order that said assignment, sale transfer, conveyance, lease with a term in excess of five years or lease with option to purchase is null, void, and of no effect. Nothing contained herein shall be construed to prevent specific performance of this Right of First Refusal or any term herein by either party.

Notwithstanding anything to the contrary contained herein, this Right of First Refusal shall in no way restrict Grantor's right, power, or authority to mortgage or encumber, grant easements, or grant a lease or leases, without option to purchase and for a term (including both primary and option periods) not to exceed five years. Nor shall this Right of First Refusal in any way restrict or prohibit transfers by operation of law, transfers between Grantor and Grantee herein, or any transfer from Grantor to any individual (and/or their spouse) named or referenced in the body of the document creating the Nugent Family Revocable Trust (any transfer to an individual and/or their spouse named or referenced in the body of the document creating the Nugent Family Revocable Trust shall be subject to this Right of First Refusal Agreement for the then remainder of the term set up in this Agreement).

TERMINATION. This Right of First Refusal shall extinguish, terminate, and be null and void upon the consummation of sale, transfer, or conveyance in fee simple to a third party of the afore-referenced premises after full compliance with the terms of this Right of First Refusal, provided the sale is on the said terms and conditions and for the price set forth in the said contract sent to Grantee; however, if such sale is not consummated, this Right of First Refusal shall remain in effect, provided, however, that in any event, all rights hereunder shall terminate not later than ten years after the date of execution of this Agreement by the parties hereto.

Subsequent to termination as above provided, Grantee shall upon Grantor's request execute and acknowledge a document stating such facts as are pertinent and fully relinquishing, waiving, and releasing all rights and obligations hereunder.

CORRESPONDENCE. Any and all writings required hereunder shall be sent by Certified Mail, postage prepaid, to the parties hereto at the following addresses: Grantor, in care of Stacie Hansen, 805 79th Place, West Des Moines, Iowa 50266; Grantees: Earlham Savings Bank - ATTN: Noah Hunter, 130 N. Chestnut Ave., Earlham, Iowa 50072. Either party may change the above name or address by sending a Certified Letter to such effect addressed as above.

ENTIRE AGREEMENT. This Right of First Refusal constitutes the entire Agreement between the parties and can be modified only by a written instrument signed by the parties hereto.

BINDING EFFECT. It is intended that all the provisions of this Right of First Refusal shall run with the land and that all the provisions hereto shall inure to the benefit of and shall be binding on the parties hereto, their heirs, legal representatives and successors.

MISCELLANEOUS MATTERS.

Captions and headings in this Agreement are for convenience only and should not be considered in construing this Agreement.

No waiver or breach of a covenant or provision in this Agreement shall be deemed a waiver of any other covenant or provision in this Agreement, and no waiver shall be valid unless in writing and executed by the waiving party.

Nothing in this Agreement, express or implied, is intended to confer on any person, other than the parties, individuals referenced in the DEFAULT section and their respective successors, any rights or remedies under this Agreement.

All persons executing this Agreement on behalf of a party represent and warrant that they have the authority to execute this Agreement on behalf of that party.

Any provision of this Agreement that is unenforceable or invalid or the inclusion of which would adversely affect the validity, legality, or enforcement of this Agreement shall have no effect, but all the remaining provisions of this Agreement shall remain in full force.

This Agreement shall be interpreted and construed in accordance with Iowa State law.

NUGENT FAMILY REVOCABLE TRUST, GRANTOR

BY: Ann Marie L. Hume, Trustee

EARLHAM SAVINGS BANK, GRANTEE

BY: [Signature]

The East 95 feet of Lot Four (4) and the East 95 feet of Lot Five (5), in Block Three (3) of the Original Town of Earlham, Madison County, Iowa.