

### CONSUMER MORTGAGE FOR HOME EQUITY LINE OF CREDIT

THIS MORTGAGE, made this 8TH day of January, 19 93, between Sam Hutton and Julie Hutton (husband and wife) ("Mortgagors") of the County of Madison and State of Iowa, and Des Moines Postal Credit Union, Mortgagee, whose address is: 303 Euclid  
Des Moines, Iowa 50313

WHEREAS, pursuant to the provisions of the Home Equity Line of Credit Agreement, Promissory Note, and Truth-In-Lending Disclosure Statement ("Agreement and Note"), Mortgagee has extended to Mortgagors an irrevocable revolving line of credit in the maximum principal sum of up to Five thousand five hundred eighty-two Dollars, (\$ 5,582.61) (the "Line of Credit"); and 61/100ths

WHEREAS, Mortgagee is willing to enter into the Agreement and Note with Mortgagors only if Mortgagors execute and deliver to Mortgagee this Mortgage as security for the Line of Credit, or so much thereof as may be advanced under the Agreement and Note and may be outstanding from time to time, together with interest thereon at the rate specified in the Agreement and Note and all other sums which may or shall become due under the Agreement and Note and/or this Mortgage (collectively, the "Debt"). Advances will be of a revolving and obligatory nature, to be made, repaid and remade from time to time, and secured by this Mortgage.

NOW, THEREFORE, in consideration of the extension of the home equity line of credit pursuant to the Agreement and Note, and to secure payment of the Debt, Mortgagors do hereby SELL, CONVEY and MORTGAGE unto Mortgagee the following described real estate situated in the County of Madison State of Iowa, to-wit:

The North 20 Rods of the South 50 Rods of the Southeast Quarter ( $\frac{1}{4}$ ) of the Northeast Quarter ( $\frac{1}{4}$ ) of Section Twenty-two, in Township Seventy-five (75) North, Range Twenty-six (26) West of the 5th P.M., Madison County, Iowa.

together with all buildings and improvements thereon and all personal property which may integrally belong to, or be or hereafter become an integral part of said real estate, and whether attached or detached (including but not limited to light fixtures, shades, rods, blinds, venetian blinds, awnings, storm windows, storm doors, screens, linoleum, attached carpet, water heater, water softener, automatic heating equipment, air conditioning and other attached fixtures), and together with all easements and servient estates appurtenant thereto, rents, issues, uses, profits and right to possession of said real estate (all of the foregoing real estate, personal property and property interests hereinafter called the "Mortgaged Property"). As to such of the Mortgaged Property which may be personal property, Mortgagors grant Mortgagee a security interest pursuant to the Uniform Commercial Code of Iowa.

Mortgagors hereby covenant with Mortgagee that Mortgagors hold clear title to said personal property and title in fee simple to said real estate; that Mortgagors have good and lawful authority to sell, convey and mortgage the Mortgaged Property; that the Mortgaged Property is free and clear of all liens and encumbrances whatsoever except a first mortgage held by United Mortgage Corporation dated November 1, 19 91, in the original principal amount of \$ 54,000; that the first mortgage does not prohibit the giving of second mortgages such as this one; and said Mortgagors covenant to warrant and defend the Mortgaged Property against the lawful claims of all persons whomsoever.

Each Mortgagor hereby relinquishes all rights of dower, homestead and distributive share in and to the Mortgaged Property and waives all rights of exemption to any of the Mortgaged Property.

CONDITIONED, HOWEVER, that if Mortgagors shall pay or cause to be paid to Mortgagee the Debt when due and all other obligations secured as set forth in paragraph one (1) below, and if, and only if, and when, the Mortgagee shall have no further obligation to make advances under the Agreement and Note, then this Mortgage will be void, otherwise to remain in full force and effect.

1. OBLIGATION SECURED. This Mortgage shall secure the payment and performance of all sums and obligations due under the Agreement and Note, including any and all advances made on the date of this Mortgage or made in the future under the Agreement and Note, whether such indebtedness is from time to time reduced and thereafter increased or entirely extinguished and thereafter reincurred and all amounts, and all obligations of Mortgagors under this Mortgage. The terms and provisions of the Agreement and Note form a part of this Mortgage as if they were repeated here, and must be considered as included in the terms and conditions of this Mortgage. This Mortgage shall also secure reasonable expenses incurred in realizing on the security interest.

2. PRIORITY OF ADVANCES. NOTICE: This Mortgage secures credit in the amount of \$ 5582.61. Loans and advances up to this amount, together with interest, are senior to indebtedness to other creditors under subsequently recorded or filed mortgages or liens.

3. TAXES. Mortgagors shall pay each installment of all taxes and special assessments of every kind which now or hereafter may become a lien against the Mortgaged Property or any part thereof before same becomes delinquent, without notice or demand. Mortgagors shall provide Mortgagee with such evidence of payment of taxes as Mortgagee may request.

4. INSURANCE. Mortgagors shall keep in force insurance, premiums therefor to be prepaid without notice or demand, against loss by fire, tornado and other hazards, casualties and contingencies as Mortgagee may require on the Mortgaged Property in companies to be approved by Mortgagee in an amount not less than the full insurable value of the Mortgaged Property which such insurance payable to Mortgagors and Mortgagee as their interests may appear. Mortgagors shall provide Mortgagee with evidence of such insurance as Mortgagee may request.

5. REPAIRS TO PROPERTY. Mortgagors shall keep the Mortgaged Property in as good repair and condition as same may now be or as hereafter improved, ordinary wear and tear only excepted, and shall not suffer or commit waste on or to the Mortgaged Property.

6. CONTINUATION OF ABSTRACT. In event of any default by Mortgagors, Mortgagee may, at the expense of Mortgagors, procure an abstract of title or continuation thereof for the Mortgaged Property and charge and add to the account created by the Note Agreement and Note the cost of such abstract or continuation with interest upon such expense at the rate specified in the Agreement and Note.

7. PAYMENT OF FIRST MORTGAGE. Mortgagors shall comply with all terms, including payment, of the first Mortgage, if any, on the Mortgaged Property.

8. ADVANCES OPTIONAL WITH MORTGAGEE. If the insurance above provided for is not properly effected, or if taxes or special assessments against the Mortgaged Property shall become delinquent, or if Mortgagors fail to make timely payments on any first mortgage referred to above, Mortgagee (whether electing to declare the entire unpaid balance of the Debt due and collectable or not), may (but need not) effect the insurance above provided for, may (but need not) pay said taxes and special assessments (irregularities in the levy or assessment of said taxes being expressly waived by Mortgagors), and may (but need not) pay amounts due on any such first mortgage and all such payments with interest thereon at the rate specified in the Agreement and Note shall be paid by Mortgagors to Mortgagee upon demand and may at any time at Mortgagee's option be added to the indebtedness represented by the Agreement and Note.

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9. **DEFAULT.** The following events shall be default under this Mortgage;
- a. If Mortgagors fail to keep any of the promises made to the Mortgagee in the Agreement and Note or in this Mortgage; or,
  - b. If, without Mortgagee's consent, any leases are made, canceled or modified or if any portion of the rent is paid for a period of more than one (1) month in advance or if any of the rents are further assigned; if the Mortgagors, or any guarantor of the debt, shall make an assignment for the benefit of creditors; or,
  - c. If the Mortgaged Property shall become subject (i) to any tax lien, other than a lien for local real estate taxes and assessments not due and payable, (ii) to any mechanic's, materialman's or other lien and such liens shall remain undischarged or unbonded for thirty (30) days; or, (iii) to any other lien which would affect the security of this Mortgage with regard to any future advances of the Line of Credit.

Upon the occurrence of any default under this Mortgage, the Mortgagee will have the right to invoke any remedy given by any of the Agreement and Note and any documents executed in connection therewith, including, without limitation: terminating the Line of Credit and/or Mortgagor's right to future advances; accelerating the due date set forth in the Agreement and Note; or, instituting foreclosure proceedings under this Mortgage. If the Line of Credit and/or the right to receive future advances is terminated, the Mortgagors shall immediately return all unused checks to the Mortgagee.

If a Court should subsequently determine that one or more of the specific acts of default listed in the Agreement and Note do not constitute a default under the Iowa Consumer Credit Code, the Mortgagor agrees that reinstatement of the Debt shall be the sole remedy and Mortgagor will not be entitled to damages.

9.1 **ACCELERATION OF MATURITY AND RECEIVERSHIP.** If default shall be made in the failure to perform any of the covenants contained in the Agreement and Note or the payment of the Debt or any part of the interest thereon, or in the payment or performance of any other obligation secured by this Mortgage, or if there shall be a failure to comply with any condition of this Mortgage, then, at the option of Mortgagee, after any notice required by law, the Debt due under the Agreement and Note and the whole of the obligations secured by this Mortgage shall become due and shall become collectible at once by foreclosure or otherwise after such default or failure, and at any time after the commencement of an action in foreclosure or during the period of redemption, the court having jurisdiction of the case may, at the request of the Mortgagee, appoint a receiver to take possession of said property and of the rents and profits accruing therefrom and to rent the same as he may deem best for the interest of all parties concerned and shall be liable to account to Mortgagors only for the net profits after application of rents, issues and profits upon the costs and expenses of the receivership and foreclosure and the Debt and other obligations secured by this Mortgage.

9.2 **SHORTENED REDEMPTION PERIOD.** Mortgagors hereby agree that in the event of foreclosure of this Mortgage, the Mortgagee may, at its sole option, elect:

- 1. Pursuant to Iowa Code § 628.26 to reduce the period of redemption after sale in foreclosure to six months, or
- 2. Pursuant to Iowa Code § 628.27 to reduce the period of redemption after sale in foreclosure to sixty days, or
- 3. Pursuant to Iowa Code § 628.28 or any other Iowa Code Section to reduce the period of redemption after sale in foreclosure to such time as may be then applicable and provided by law.

10. **TRANSFER OF MORTGAGED PROPERTY.** If all or any part of the Mortgaged Property or any interest therein is sold or transferred without Mortgagee's prior written consent, Mortgagee may, after any notice required by law, at Mortgagee's sole option, declare the balance due under the Agreement and Note and any other obligation secured by this Mortgage immediately due and payable.

11. **DEFINITION OF TERMS.** Unless otherwise expressly stated, the word "Mortgagors" as used herein includes successors and assigns of such "Mortgagors"; the "Mortgagee" as used herein unless otherwise expressly stated includes the successors and assigns of such "Mortgagee." All words referring to "Mortgagor" or "Mortgagee" shall be construed to be of the appropriate gender and number according to the context. This construction shall include the acknowledgment hereof. All obligations of Mortgagors under this Mortgage shall be joint and several.

12. **FINAL PAYMENT OF PROMISSORY NOTE.** The date of the final payment of the Agreement and Note is \_\_\_\_\_.

13. **ESCROWS.** If requested at any time by Mortgagee and as long as requested by Mortgagee, Mortgagors shall pay and continue to pay to Mortgagee additional monthly amounts as Mortgagee shall estimate to be required for the purpose of accumulating a fund from which to pay taxes, assessments and insurance premiums when due, with respect to the Mortgaged Property but no such escrow shall be required as to amounts which are then being escrowed by Mortgagors with the holder of the first mortgage referred to above.

14. **RESTRICTION ON FORECLOSURE.** If the real estate which secures this Mortgage is the consumer's principal dwelling, this Mortgage shall not be subject to foreclosure when the balance secured is \$2,000 or less.

15. **ADDITIONAL PROVISIONS.**

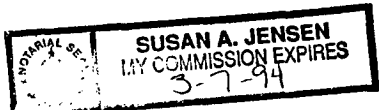
IN WITNESS WHEREOF, said Mortgagors have executed this Mortgage the day and year first above written. By signing this document you acknowledge receipt of a copy of this instrument.

Mortgagor \_\_\_\_\_ Date \_\_\_\_\_ Mortgagor \_\_\_\_\_ Date \_\_\_\_\_

**WAIVER OF HOMESTEAD** - I understand that homestead property is in many cases protected from claims of creditors and exempt from judicial sale; and that by signing this Mortgage, I voluntarily give up my right to this protection for this property with respect to claims based upon this Mortgage.

Mortgagor [Signature] \_\_\_\_\_ Date \_\_\_\_\_ Mortgagor Julie Nutton \_\_\_\_\_ Date 1-5-93

STATE OF IOWA  
 COUNTY OF Polk } SS:  
 On this 5th day of January, 1993, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Sam & Julie Nutton  
 and \_\_\_\_\_, to me known to be the identical persons named in and who executed the within and foregoing instrument and acknowledged that they executed the same as their voluntary act and deed.



[Signature]  
 Notary Public in and for said County and State

DM Padb Co. Union  
303 Euclid