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LISA SMITH, COUNTY RECORDER
MADISON COUNTY IOWA

✓ Preparer Information Donald F. Neiman 801 Grand Avenue, Suite 3700, Des Moines, Iowa 50309-8004 515-243-4191
Return to: Individual's Name Street Address City Phone

**AGREEMENT TO PROCEED
WITH IOWA ALTERNATIVE NON-JUDICIAL VOLUNTARY FORECLOSURE
PROCEDURE PURSUANT TO IOWA CODE § 654.18**

The parties to this Agreement to Proceed with Iowa Alternative Non-Judicial Voluntary Foreclosure Procedure are Earham Savings Bank (hereinafter "**Lender**"), and Jack L. Benoit (hereinafter "**Borrower**").

WHEREAS, BORROWER is the record owner of, among other parcels, the following real property located in Winterset, Madison County, Iowa:

The North 40 feet of Lots One (1) and Two (2) and the North 32 feet of Lots Three (3) and Four (4) in Block Four (4) of the Original Town of Winterset, Madison County, Iowa,

and

The South 92 feet of Lots One (1) and Two (2) and the South 100 feet of Lots Three (3) and Four (4) in Block Four (4) of the Original Town of Winterset, Madison County, Iowa,

(hereinafter the "**Subject Real Estate**"); and

WHEREAS, to secure **Borrower's** indebtedness to **Lender**, **Borrower** made, executed and delivered to **Lender** the following real estate mortgage which encumbers the **Subject Real Estate**:

- a) A Real Estate Mortgage (hereinafter "**Mortgage**") dated October 10, 2007 filed October 10, 2007 at Book 2007, at Page 3702 among the Real Estate Records of the Recorder of Madison County, Iowa; and

b) Promissory Note No. 3052794 dated October 2, 2007 in the original amount of \$115,000,

and

WHEREAS, as of September 19, 2011, the **Borrower** is in default for and indebted to **Lender** for monies lent by **Lender** to **Borrower** with principal in the aggregate sum of One Hundred Fifteen Thousand Dollars, plus accrued interest as September 19, 2011 in the amount of \$21,012.22, and accruing thereafter at the daily rate of \$28.0411 per day, plus real estate taxes due June 20, 2011 in the total amount of \$1,092.00 plus costs and accrued interest (said parcels sold at tax sale) as provided pursuant to the promissory note; and

WHEREAS, **Lender** hereby agree to waive written demand for payment of the Notes secured by the **Mortgage**, notice of default and notice of rights to cure default; and

WHEREAS, **Lender** and **Borrower** hereby elect and agree that the above-described **Mortgage** may be foreclosed pursuant to §654.18, Code of Iowa, the foreclosure to be effective on the filing of the Quit Claim Deed with respect to the **Subject Real Estate** from **Borrower** to **Lender**.

IT IS HEREBY AGREED AS FOLLOWS BETWEEN LENDER AND BORROWER:

(1) Pursuant to Iowa Code § 654.18(1)(a), and contemporaneously with the execution of this Agreement to Proceed with Iowa Alternative Non-Judicial Voluntary Foreclosure Procedure, **Borrower**, Jack L. Benoit, widowed and un-remarried, shall execute and deliver to **Lender**, Earlham Savings Bank in West Des Moines, Iowa, a Quit Claim Deed conveying all of the **Borrower's** right, title and interest in and to the **Subject Real Estate** to **Lender**.

(2) **Lender** and **Borrower** hereby agree to execute such documents as may be necessary to comply with the Alternative Non-Judicial Voluntary Foreclosure Procedure pursuant to Iowa Code §654.18, PROVIDED, HOWEVER, that by entering into this Agreement, **Lender** does not waive its right to judicially foreclose the **Mortgage** as to any party other than **Borrower**, if **Lender** deems just process necessary in order to clear its title in the above-described real estate from any cloud created by the alleged interests of such third parties in the **Subject Real Estate**.

(3) **Borrower** agrees to convey to **Lender** all of **Borrower's** interest in the **Subject Real Estate**. **Borrower** represents to **Lender** that there are not any other

interests in the **Subject Real Estate** except any liens now of record and that there are no unrecorded interests included, but not limited to, mechanic's liens not filed, and that the **Borrower** is in sole possession of the **Subject Real Estate**.

(4) **Lender** agrees to accept such conveyance from **Borrower** and agrees to waive all rights to a deficiency or other claim against the **Borrower** arising from the October 2, 2007 **Mortgage**.

(5) **Borrower** hereby grants permission that **Lender** effective September 30, 2011, to have possession of and access to the **Subject Real Estate** for the purposes of maintaining and protecting the same. **Lender** assumes no liability for such maintenance and protection until title to such real estate is vested in **Lender** and all rights of redemption have terminated.

(6) **Borrower** authorizes Lender to file this Agreement with the Recorder of the County where the **Subject Real Estate** is located.

(7) **Borrower** acknowledges receipt of two copies of this document and the attached notice entitled "Disclosure and Notice of Cancellation," pursuant to Iowa Code § 654.18(f). This form is attached to the Agreement to Proceed with Iowa Alternative Non-Judicial Voluntary Foreclosure Procedure, marked Exhibit "A," and by this reference is made a part hereof. If the **Borrower** does not execute the Disclosure and Notice of Cancellation form with five (5) business days from the date of his execution of this Agreement to Proceed with Iowa Alternative Non-Judicial Voluntary Foreclosure Procedure and **Lender's** receipt of the fully executed Quit Claim Deed conveying title to the **Subject Real Estate** from the **Borrower** to the **Lender**, **Borrower** will subsequently be barred from rescinding the transaction under this Agreement to Proceed with Iowa Alternative Non-Judicial Voluntary Foreclosure Procedure.

(8) Any and all junior lien, judgment, or mortgage holders receiving Notice from Lender pursuant to Iowa Code § 654.18(1)(e) shall have thirty (30) days to redeem the **Subject Real Estate**, commencing the day that the Notice required by Iowa Code § 654.18(1)(e) is *sent*. Said redemption shall be made by payment to **Lender** of the amount of debt incurred by **Lender**, as indicated by the **Mortgage**, including any protective advancements, pursuant to Iowa Code § 629. Upon such payment, **Lender** herein shall convey the property by Quit Claim Deed to the redeeming junior lien, judgment, or mortgage holder.

(9) Upon recording of the Quit Claim Deed from **Borrower** to **Lender** and upon the completion of the Alternative Non-Judicial Voluntary Foreclosure Procedure pursuant to §654.18 of the Iowa Code, Earlham Savings Bank shall be the absolute owner of the real estate described in this Agreement and shall have the right to sell such real estate

upon such terms and for the price it deems best. Earlham Savings Bank shall be absolutely entitled to retain any and all proceeds of sale and shall be under no obligation to account for any such sale proceeds to **Borrower**.

(10) The conveyance by **Borrower** to **Lender** of the **Subject Real Estate** described in this Agreement includes all buildings and improvements thereon and appurtenances thereto, including easements and other beneficial rights.

(11) In the event the conveyance by **Borrower** to Earlham Savings Bank of the **Subject Real Estate** referred to this Agreement is subsequently attacked or set aside by judicial proceeding, by a trustee in bankruptcy, or otherwise, then Earlham Savings Bank may, at its option, declare this Agreement to be null and void, ab initio, and the debt purportedly extinguished by reason of the conveyance of the property by **Borrower** to Earlham Savings Bank, including all accrued interest and all protective disbursements, shall remain in full force and effect. Furthermore, the real estate mortgage interest held by Earlham Savings Bank, as **Lender**, shall continue in full force and effect from the date of such Mortgage, and Earlham Savings Bank shall be entitled to all rights and remedies under the Promissory Note and Real Estate Mortgage or under law, including judicial foreclosure.

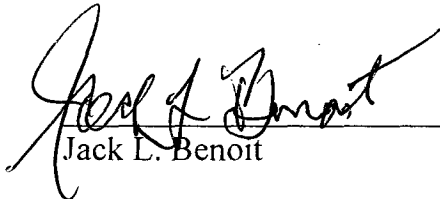
(12) **Borrower** hereby assigned to Lender all hazard insurance policies, if any, now in effect on the **Subject Real Estate** and further assigns to **Lender** the right to receive payments of any claim payable under the terms of said insurance policies.

(13) Each party acknowledges that they have received a completely signed copy of this Agreement to Proceed with Iowa Alternative Non-Judicial Voluntary Foreclosure Procedure.

(14) This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors and assigns.

IN WITNESS WHEREOF, WE HAVE HEREUNTO SET OUR HANDS:

BORROWER



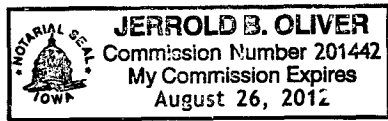
Jack L. Benoit

10-20-2011

Date

STATE OF IOWA)
 Maderon) ss.
COUNTY OF ~~POLK~~)

On this 20 day of October, 2011, before me the undersigned, a Notary Public in and for said State, personally appeared Jack L. Benoit, known to me to be the person described in the foregoing Agreement to Proceed with Iowa Alternative Nonjudicial Voluntary Foreclosure Procedure, and who executed the foregoing Agreement to Proceed with Iowa Alternative Non-Judicial Voluntary Foreclosure Procedure as his voluntary act and deed.



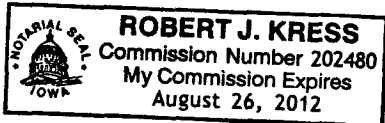
Jerrold B. Oliver
NOTARY PUBLIC in and for the State of Iowa

LENDER, EARLHAM SAVINGS BANK

By: *William W. Hunter*
William W. Hunter
Its: President

STATE OF IOWA)
) ss.
COUNTY OF POLK)

On this 14 day of October, 2011, before me, the undersigned, a Notary Public in and for the County of Polk, State of Iowa, personally appeared William W. Hunter, to me personally known, who being by me duly sworn, did say that he is President of Earlham Savings Bank, that no seal has been procured by Earlham Savings Bank; that the Agreement to Proceed with Iowa Alternative Non-Judicial Voluntary Foreclosure Procedure was signed and sealed on behalf of said Earlham Savings Bank by authority of its Board of Directors; and that the said William W. Hunter as such officer, acknowledged the execution of the Agreement to Proceed with Iowa Alternative Non-Judicial Voluntary Foreclosure Procedure to be the voluntary act and deed of Earlham Savings Bank, by it and by him voluntarily executed.



Robert J. Kress
NOTARY PUBLIC in and for the said State

DISCLOSURE AND NOTICE OF CANCELLATION

October 27, 2011
(Date of Termination)

Under a forced foreclosure, Iowa law requires that you have the right to reclaim your property within one year of the date of the foreclosure and that you may continue to occupy your property during that time. If you agree to a voluntary foreclosure under this procedure, you will be giving up your right to reclaim or occupy your property.

Under a forced foreclosure, if your mortgage lender does not receive enough money to recover what you owe when the property is sold, you will still be required to pay the difference. If your mortgage lender receives more money than you owe, the difference must be paid to you. If you agree to a voluntary foreclosure under this procedure, you will not have to pay the amount of your debt not covered by the sale of your property, but you also will not be paid any extra money, if any, over the amount you owe.

NOTE: There may be other advantages and disadvantages, including an effect on your income tax liability, to you depending on whether you agree or do not agree to a voluntary foreclosure. If you have any questions or doubts, you are advised to discuss them with your mortgage lender or an attorney.

You may cancel this transaction, without penalty or obligation, within five business days from the above date.

This transaction is entirely voluntary. You cannot be required to sign the attached foreclosure agreement.

This voluntary foreclosure agreement will become final unless you sign and deliver or mail this notice of cancellation to Earlham Savings Bank within five (5) business days or on or before midnight of October 27, 2011.

I HEREBY CANCEL THIS TRANSACTION.

Dated this _____ day of _____, 2011.

Jack L. Benoit, Mortgagor