

## INTERCREDITOR AGREEMENT

THIS INTERCREDITOR AGREEMENT IS ENTERED INTO this 14<sup>th</sup> day of October, 2016, by and between Security National Bank (Bank), Woodbury County, Iowa (Woodbury County), and Cyclone Operations, LLC (Debtor).

### WITNESSETH

1.1. WHEREAS, Bank extended credit to Debtor on October 12, 2016 in the sum of \$871,290.43 (“Original Loan”) necessary to refinance a promissory note held by Kingsley State Bank that is currently in a superior lien position to Woodbury County; and

1.2. WHEREAS, Woodbury County extended credit to Debtor on July 1, 2015 in the original sum of \$100,000.00 necessary to construct a new 7,000 square foot eye care clinic on Lot 3 of the Pioneer Flats Addition in Sergeant Bluff, IA; and

1.3. WHEREAS, Woodbury County’s loan has a current principal balance of \$84,289.19; and

1.4. WHEREAS, Bank’s credit to Debtor is secured by certain collateral documents executed by Debtor which grants Bank (a) a 1<sup>st</sup> security interest in the real property legally described as Lot Three (3), Pioneer Flats Addition to Sergeant Bluff, Woodbury County, IA; (b) a Corporate Guarantee from Hawkeye Clinic of Sergeant Bluff, P.C.; and (c) Personal Guarantees from Benjamin A. Uhl and Sarah E. Murray (hereinafter “Bank’s Collateral”); and

1.5. WHEREAS, Woodbury County’s credit to Debtor is secured by (a) a Mortgage granting Woodbury County a 2<sup>nd</sup> security interest in the real property legally described as Lot Three (3), Pioneer Flats Addition to Sergeant Bluff, Woodbury County, Iowa; (b) a Corporate Guarantee from Hawkeye Clinic of Sergeant Bluff, P.C.; and (c) Personal Guarantees from Benjamin A. Uhl and Sarah E. Murray. This security shall include all future advances and other debts of Debtor to Woodbury County of any nature whatsoever whether now existing or hereafter incurred (hereinafter collectively “Woodbury County’s Security Interest in Collateral”); and

1.6. WHEREAS, to induce Woodbury County to extend credit to Debtor, Debtor has secured payment of its indebtedness to Woodbury County by granting Woodbury County’s Security Interest in Collateral which is junior and inferior in priority only to the security interest granted to Bank for the Original Loan; and

1.7. WHEREAS, Bank may, from time to time, extend additional advances of credit to Debtor which shall be inferior and junior to Woodbury County; and

1.8. WHEREAS, upon Debtor’s request and in order to induce Woodbury County to extend credit to Debtor, Bank is willing to establish the following priority in the event of default, including but not limited to, foreclosure, sale or other disposition of or realization upon the collateral of any part thereof.

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES HEREIN ABOVE STATED, the representations, warranties, covenants and agreements herein contained and for other good and valuable consideration, the receipt of which are hereby acknowledged by the parties hereto, Bank, Woodbury County and Debtor agree as follows:

2.1. Bank's Priority Limitation. Bank's first priority in the Collateral described in paragraph 1.4 hereof shall be limited to the amount of \$871,290.43, accrued interest and costs as further set forth in paragraph 1.1 hereof or amount of indebtedness of Debtor under the Original Loan, whichever is less.

2.2. Distribution of Proceeds. Notwithstanding the aforesaid priority of Bank under its Security Agreement and/or Mortgage on Bank's Collateral, Bank hereby agrees that after default on Debtor's Original Loan to Bank, the proceeds from voluntary surrender, foreclosure, sale, liquidation or other disposition of or realization upon Bank's Collateral shall be applied in the following manner:

- A. The payment of all costs and expenses of Bank and Woodbury County, including reasonable attorney fees in the event of legal action relative to a foreclosure, sale, liquidation or other disposition or realization upon the Bank's Collateral incurred by either party or both parties initiating and conducting such legal action, provided that Woodbury County's costs shall not be reimbursed from the Bank's Collateral without the prior consent of Bank or the payment to Bank of the amount due in Section B below.
- B. The payment of an amount from the Bank's Collateral to Bank in the sum of \$871,290.43 (Original Loan), and interest thereon at the rate set out in Bank's promissory note, or the amount of the indebtedness of Debtor owed to Bank, whichever is lesser, realized from the sale of Bank's Collateral.
- C. The payment of an amount to Woodbury County in the sum of \$84,289.19 or the amount of the indebtedness of Debtor owed to Woodbury County, including unreimbursed costs, the unpaid principal balance, and interest thereon at the rate set out in Woodbury County's promissory note, whichever is lesser.
- D. Payment to Bank of the amount equal to the indebtedness of Debtor to Bank.
- E. Payment to any party, including, but not limited to, Debtor, entitled to any surplus remaining.

The effectiveness and enforceability of this provision and this agreement are conditioned on the existence and continuation of valid enforceable and perfected liens and security interests in favor of Bank or Woodbury County, as the case may be.

2.3. Default Under Loan Documents. Debtor agrees that any default or event of default which may occur under any loan documents for Woodbury County and/or Bank shall also be a default under the loan documents of the other lender.

2.4. Notification and Necessary Consent. Bank and Woodbury County shall promptly give written notice to the other of the occurrence and/or continuance of any default or event of default by Debtor under any agreement, instrument or document to which Debtor is a party. Bank and Woodbury County shall each be entitled to receive and retain payment properly paid by Debtor pursuant to the loan documents until notification of default is given by Bank or Woodbury County to the other. Bank and Woodbury County agree that neither shall amend, increase, extend, renew, alter, modify nor receive additional collateral or guarantees with the respect to the original note of Bank or Woodbury County's original note without written consent of

the other party. After notification, all proceeds received must be distributed pursuant to paragraph 2.2 hereof unless otherwise agreed in writing by Bank and Woodbury County. The Bank and Woodbury County agree to mutually establish an escrow account for deposit and accounting of the proceeds.

2.5. Financial Data. Debtor agrees that Bank and Woodbury County may provide to one another financial data provided by Debtor or otherwise obtained including, but not limited to, financial statements.

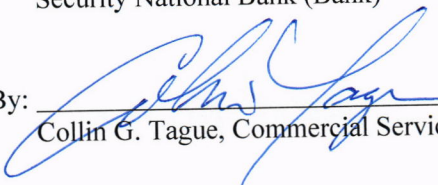
2.6. Cure. Bank and Woodbury County agree that, with respect to the indebtedness, obligations and liabilities, now and hereafter arising, of Debtor to either of them, Bank or Woodbury County shall have the same right to cure any default by payment or performance of such obligations as shall be afforded to Debtor under any agreement, instrument, or document to which Debtor and Bank or Debtor and Woodbury County are parties.

2.7. Successor and Assigns Amendment. This agreement shall be binding upon and inure to the benefit of Bank, Woodbury County and Debtor, their successors and assigns. This is a continuing agreement and may not be revoked or terminated or modified in any way except in writing executed by all the parties hereto.

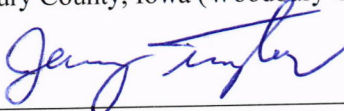
2.8. Termination. This agreement and the relative lien priorities herein contained shall be continued in full force and effect until the payment in full of all indebtedness, obligations and liabilities now or hereafter arising of Debtor owed to Bank and Woodbury County.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

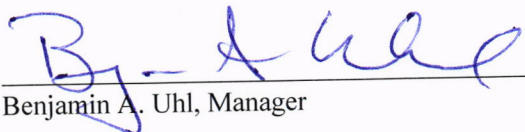
Security National Bank (Bank)


By:  \_\_\_\_\_  
Collin G. Tague, Commercial Services Officer

Woodbury County, Iowa (Woodbury County)

By:  \_\_\_\_\_  
Jeremy Taylor, Chairman

Cyclone Operations, LLC (Debtor)

By:  \_\_\_\_\_  
Benjamin A. Uhl, Manager

By:  \_\_\_\_\_  
Sarah E. Murray, Manager

Roll 749 Image 9634-9635

Document 4849 Type SUBMG Pages 2  
Date 10/20/2016 Time 10:40 AM  
Rec Amt \$12.00

PATRICK F GILL, AUDITOR AND RECORDER  
WOODBURY COUNTY IOWA

(Space Above This Line For Recording Data)

THIS INSTRUMENT PREPARED BY: The Security National Bank of Sioux City, Iowa, Rachel Casper, whose address is 601 Pierce Street, Sioux City, Iowa 51101, and whose telephone number is (712)277-6500

ENW WHEN RECORDED RETURN TO: The Security National Bank of Sioux City, Iowa, Commercial Operations, whose address is 601 Pierce Street, PO Box 147, Sioux City, Iowa 51101

## SUBORDINATION AGREEMENT - MORTGAGE

**NOTICE: THIS SUBORDINATION AGREEMENT WILL CAUSE SUBORDINATOR'S SECURITY INTEREST IN THE PROPERTY TO BECOME SUBJECT TO AND OF A LOWER LIEN PRIORITY THAN ANOTHER OR LATER SECURITY INSTRUMENT.**

**THIS SUBORDINATION AGREEMENT ("Agreement")** is made this 11th day of October, 2016, between The Security National Bank of Sioux City, Iowa whose address is 601 Pierce Street, PO Box 147, Sioux City, Iowa 51102 ("Lender") and Woodbury County, Iowa of 620 Douglas St., Sioux City, Iowa 51101, ("Subordinator"). Subordinator and Lender, in consideration of their mutual benefit and the benefit of Cyclone Operations, LLC ("Mortgagor"), do agree, represent, promise and covenant as follows:

**SUBORDINATED INDEBTEDNESS.** Subordinator has extended to Mortgagor the following described financial accommodations ("Subordinated Indebtedness"):

- Promissory note dated July 1, 2015 in the amount of \$100,000.00

**SUBORDINATED MORTGAGE; PROPERTY DESCRIPTION.** Subordinator is owner and holder of a Mortgage securing the Subordinated Indebtedness made by Cyclone Operations, LLC, an Iowa Limited Liability Company, whose address is 4601 Grayhawk Ridge, Sioux City, Iowa 51106 as Mortgagor to Subordinator, which is dated June 16, 2015, and recorded on June 9, 2016, in Reel 747, Image Number 6042, records of County of Woodbury County, State of Iowa ("Subordinated Mortgage"), covering the following described real property ("Property"):

Address: 105 Gaul Dr., Sergeant Bluff, Iowa 51054

Legal Description: Lot Three (3), Pioneer Flats Addition to Sergeant Bluff, Woodbury County, Iowa

**FINANCIAL ACCOMMODATIONS; SUPERIOR INDEBTEDNESS; SUPERIOR MORTGAGE.** Mortgagor requests and Lender agrees to provide, as evidenced by Lender's signatures below, the following described financial accommodations (the "Superior Indebtedness"):

- Loan number 1918407-19 with a principal amount of \$871,290.43

The Superior Indebtedness is to be secured by a mortgage given by Mortgagor to Lender and covering the Property (the "Superior Mortgage").

**SUBORDINATION.** Subordinator hereby agrees that the Subordinated Mortgage and the Subordinated Indebtedness secured thereby is and shall continue to be subordinate to the lien of the Superior Mortgage and the Superior Indebtedness secured thereby. Subordinator also subordinates to Lender's Superior Mortgage and Superior Indebtedness all other security interests in the Property held by Subordinator, including, by way of example but not by way of limitation, any lien, charge, mortgage, deed of trust, assignment, pledge, or other similar security interest, whether now existing or hereafter acquired.

**RENEWALS; EXTENSIONS.** Subordinator's subordination and agreements hereunder shall extend to any extensions or renewals of the Superior Indebtedness described above.

**REPRESENTATIONS AND WARRANTIES.** Subordinator represents and warrants to Lender that: (a) this Agreement is being executed at the request of Mortgagor, and not at the request of Lender; (b) no representations or agreements of any kind have been made to Subordinator which would limit, qualify, or otherwise impair in any way the terms of this Agreement; and (c) Lender has made no representation to Subordinator as to the creditworthiness of Mortgagor.

**LENDER'S RIGHTS.** Lender's action or inaction with respect to Lender's Superior Mortgage and Superior Indebtedness does not affect in any way Lender's rights under this Agreement.

**NOTICE OF DEFAULT.** Lender agrees to notify Subordinator in writing in the event Mortgagor defaults under the terms of Lender's Superior Mortgage to the extent that Lender commences an action to foreclose the Superior Mortgage.

**WAIVER.** Subordinator forever waives any and all provisions, which may exist under Subordinator's Subordinated Mortgage and related documents which would otherwise prohibit Lender's extension of credit.

**SUCCESSORS.** This Agreement shall be binding upon and inure to the benefit of the representatives, successors, and assigns of Subordinator and Lender.

**ORAL AGREEMENTS DISCLAIMER. IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN CONTRACT MAY BE LEGALLY ENFORCED. THE TERMS OF THIS AGREEMENT MAY BE CHANGED ONLY BY ANOTHER WRITTEN AGREEMENT.**

**GOVERNING LAW.** This Agreement shall be governed by federal law and the law of jurisdiction in which the Property is located.

**By signing this Subordination Agreement, Lender acknowledges reading, understanding and agreeing to all of its provisions.**

The Security National Bank of Sioux City, Iowa

By: *Colin G Tague* 10/14/16  
 Its: Commercial Loan Officer Date

**BUSINESS ACKNOWLEDGMENT**

STATE OF IOWA )  
 )  
 COUNTY OF WOODBURY )

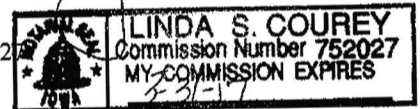
This instrument was acknowledged on the 11th day of October, 2016, by Colin G Tague, Commercial Loan Officer on behalf of The Security National Bank of Sioux City, Iowa, a(n) National Bank, who personally appeared before me.

In witness whereof, I hereunto set my hand and, if applicable, official seal.

My commission expires: 03/31/2017

Notary Public residing at 601 Pierce St., Sioux City, IA 51101, in Woodbury County.

*Linda S. Courey*  
 Linda S. Courey  
 Notary Public  
 Identification Number 752027



(Official Seal)

**By signing this Subordination Agreement, Subordinator acknowledges reading, understanding and agreeing to all of its provisions.**

Woodbury County, Iowa

By: *Jeremy Taylor* 10-11-16  
 Its: Chairman, Woodbury County Board of Supervisors Date

**BUSINESS ACKNOWLEDGMENT**

STATE OF IOWA )  
 )  
 COUNTY OF WOODBURY )

This instrument was acknowledged on the 11th day of October, 2016, by Jeremy Taylor, Chairman, Woodbury County Board of Supervisors on behalf of Woodbury County, Iowa, a(n) a political subdivision, who personally appeared before me.

In witness whereof, I hereunto set my hand and, if applicable, official seal.

My commission expires: 11/01/2017

Notary Public residing at 620 Douglas St., Sioux City, IA 51101, in Woodbury County.

*Karen James*  
 Karen James  
 Notary Public  
 Woodbury County, IA  
 Identification Number 187331



(Official Seal)