Minnesota Housing Deferred Payment Loan
MORTGAGE

TIL and NMLSR ID

_____	_____
Loan Originator Company Name	Loan Originator Individual Name (as name appears on NMLSR)
_____	_____
Loan Originator Company NMLSR ID	Loan Originator Individual NMLSR ID (if applicable)

THIS MORTGAGE (the "Mortgage") is made and executed on

_____ by
(date)

_____ Other: (type of this text)
(name of Borrower) (name of Co-Borrower(s))

(collectively, the "Borrower"), and

_____
(name of Lender)

whose address is

_____
(address of Lender)
(the "Lender").

WHEREAS, the Lender has made a Deferred Payment Loan to and supplied funds to Borrower, in an amount of

_____
(Deferred Payment Loan amount in words)

($_____)
(numeric Deferred Payment Loan amount)

(the "Deferred Payment Loan").

WHEREAS, Borrower is obligated, at the time of the occurrence of certain events, to repay to the Lender the Deferred Payment Loan all in accordance with the provisions set forth in that certain Deferred Payment Loan Note (referred to, along with any amendments, modifications, renewals, extensions, substitutions, or restatements thereof, as the "Deferred Payment Loan Note").

WHEREAS, if not sooner repaid, the full outstanding and unpaid balance of the Deferred Payment Loan must be repaid on _____.
(must match maturity date of the First Mortgage Loan)

NOW, THEREFORE, in consideration of the foregoing premises and to secure (i) the repayment of indebtedness evidenced by the Deferred Payment Loan Note, (ii) the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage, and (iii) the performance of the covenants and agreements of Borrower under this Mortgage and the Deferred Payment Loan Note, Borrower does hereby grant, bargain, sell and convey to the Lender and its successors and assigns, forever and with a power of sale, all of their interests in the following described real property located in the County of _____, State of Minnesota:

that has the address of

_____
(the "Property Address");

TOGETHER with all improvements now or hereafter erected on such property, and all easements, rights, hereditaments, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock thereto, and all fixtures now or hereafter a part of such property. All of Borrower's interest in any and all replacements and additions to such items shall also be covered by this Mortgage. Borrower's interest in said real property is hereinafter referred to in this Mortgage as the "Property."

PROVIDED NEVERTHELESS that if Borrower, Borrower's heirs, executors, or administrators, shall (i) pay, or cause to be paid, to the Lender, its successors or assigns, when due the aggregate amount of the Deferred Payment Loan heretofore and hereafter advanced by the Lender to Borrower, or for Borrower's benefit, and interest due, if any, according to the terms and conditions of the Deferred Payment Loan Note, and (ii) pay all other sums, with interest thereon, as may be payable by Borrower to the Lender in accordance with this Mortgage or the payment of which may now or hereafter be secured by this Mortgage, including, but not limited to, all amounts disbursed or incurred by the Lender in exercising any rights and remedies under this Mortgage, including without limitation all reasonable attorneys' fees, then this Mortgage shall be null and void, otherwise this Mortgage shall be and remain in full force and effect.

1. **COVENANTS AND WARRANTIES.** Borrower hereby makes the following warranties, representations and covenants regarding their collective ownership of the Property, liens and/or encumbrances thereon, and use thereof, and all of such warranties, representations and covenants shall survive the foreclosure of this Mortgage:

   A. Borrower is lawfully seized in fee simple of that portion of the Property that is real property as described hereinabove and is the absolute owner of that portion of the Property that is personal property;

   B. Borrower has the right and power to mortgage and convey the Property;

   C. The Property is free from all liens, security interests, and encumbrances, except for that certain mortgage lien granted by Borrower to _____
   (name of Lender)
   by way of a mortgage dated of even date herewith that secures the repayment of a mortgage loan in the original principal amount of $_____ (the "First Mortgage");
   (numeric First Mortgage loan amount)

   D. All real estate taxes and special assessments that apply to the Property have been paid to date and are current;

   E. All buildings, improvements, and fixtures now or hereafter located on the real property described hereinabove are, or will be, located entirely within the boundaries of such real property, and

   F. Borrower will fully comply with all the terms and conditions of the Deferred Payment Loan Note.

2. **Payment of Principal and Interest.** Borrower shall promptly pay to the Lender, or its successor and assigns, when due, the principal of and interest, if any, on the indebtedness evidenced by the Deferred Payment Loan Note.

   If the Lender, pursuant to the provisions contained in the Deferred Payment Loan Note, declares that the Deferred Payment Loan has become due and payable to the Lender and Borrower fails to pay such amount to the Lender when due, then Borrower shall be required to pay the Lender interest on such amount due and owing at the same interest rate as is required to be paid under the First Mortgage loan on the date that such amount becomes due and payable to the Lender or if the First Mortgage loan has been repaid in full or foreclosed prior to such date, at the same interest rate as was required to be paid under the First Mortgage loan on the date immediately before the repayment or foreclosure of the First Mortgage loan, and such amounts shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

3. **Application of Payments.** Unless applicable law provides otherwise, any payments received by the Lender hereunder shall be applied as stated in the Deferred Payment Loan Note.

4. **Compliance with Superior Liens and Payment of Taxes and Assessments.** Borrower shall fully comply with all of the terms, conditions, covenants and warranties contained in any and all mortgages, deeds of trust, contract for deeds, leases, or other security agreements that create a lien which has, or will have, a priority over the lien created by this Mortgage, and shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain a priority over the lien created by this Mortgage, and leasehold payments or ground rents, if any, relating to their ownership or use of the Property. Borrower shall pay these obligations by making payment, when due, directly to the persons

owed such payment. Borrower shall promptly furnish to the Lender all notices of amounts due under this Section 4, and receipts evidencing such payments.

5. **Hazard Insurance.** Borrower shall procure, at Borrower's own expense, fire and extended coverage insurance on the building(s) on the Property, payable in case of loss to the Lender, its successors and assigns, as its interest may appear, such insurance to be written by a reliable insurance company approved by the Lender, its successors and assigns, in an amount at least equal to the aggregate principal balance from time to time outstanding on the First Mortgage and this Mortgage.

6. **Preservation and Maintenance of Property; Condominiums and Planned Unit Developments.** Borrower shall keep the Property in good repair, and shall not destroy, damage or substantially change the Property, allow the Property to deteriorate, commit waste, or permit impairment or deterioration of the Property. If this Mortgage is on a unit in a condominium or a planned unit development, then Borrower shall further perform all of Borrower's obligations under the declaration or covenants creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development, and all constituent documents.

7. **Protection of Lender's Security.** If Borrower fails to perform the covenants and agreements contained in this Mortgage, or if there is any legal proceeding that may significantly affect the Lender's interest in the Property (such as a proceeding in bankruptcy, probate, condemnation, or to enforce laws or regulations), then the Lender may, at its sole option and discretion, do and pay for whatever is necessary to protect the value of the Property and the Lender's rights in the Property. The Lender's actions may include paying any sums secured by a lien that has priority over the lien created by this Mortgage, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs.

   Any amounts disbursed by the Lender under this Section 7 shall become additional debt of Borrower due under the Deferred Payment Loan Note and shall be secured by this Mortgage. These amounts shall bear interest from the date of disbursement at the same interest rate as is required to be paid under the First Mortgage loan on the date that such amount becomes due and payable to the Lender or if the First Mortgage loan has been repaid in full or foreclosed prior to such date, at the same interest rate as was required to be paid under the First Mortgage loan on the date immediately before the repayment or foreclosure of the First Mortgage loan, and such amounts shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

   Any action taken or expense incurred by the Lender hereunder shall be at its sole option and discretion and nothing contained herein, including but not limited to this Section 7, shall require the Lender to take any action or to incur any expense hereunder.

8. **Inspections.** The Lender may make or cause to be made reasonable entries upon and inspections of the Property in order to confirm Borrower's full and complete compliance with the provisions contained herein, and Borrower hereby consents to the Lender's entry onto and inspection of the Property for such purpose. Provided, however, the Lender shall give Borrower prior notice of its intent to enter onto and inspect the Property and any such entry and inspection shall take place at a reasonable time.

9. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property or for conveyance in lieu of condemnation are hereby assigned to and shall be paid to the Lender.

   In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Mortgage, whether or not then due, with any excess paid to Borrower. In the event of a partial taking of

the Property, unless the Lender and Borrower, otherwise agree in writing, a portion of such proceeds shall be applied against the indebtedness secured by this Mortgage, with such portion being equal to the amount of the proceeds multiplied by a fraction the numerator of which is the total amount of the sums secured by this Mortgage immediately before the taking and the denominator of which is the fair market value of the Property immediately before the taking. Any balance shall be paid to Borrower.

If the Property is abandoned by Borrower or if Borrower, after notice by the Lender that the condemnor offers to make an award or settle a claim for damages, fail to respond to the Lender within thirty (30) days after the date the notice is given, then the Lender is authorized to collect and apply the proceeds, at its sole option and discretion, either to the restoration or repair of the Property or to the sums secured by this Mortgage, whether or not then due.

Unless the Lender, Borrower, otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date referred to herein. If under Section 16 the Property is acquired by the Lender, Borrower's right to any condemnation proceeds resulting from the condemnation of any or all of the Property prior to the acquisition shall pass to the Lender to the extent of the sums secured by this Mortgage immediately prior to such acquisition.

The right of the Lender under this Section 9 is subject and subordinate to the rights of any holder of a mortgage, deed of trust, contract for deed, lease, or other security agreement that creates a lien that has a priority over the lien created by this Mortgage.

10. **Borrower Not Released; Forbearance by Lender Not a Waiver.** Extension of the time for payment of the sums secured by this Mortgage granted by the Lender to any successor in interest of Borrower shall not operate to release, in any manner, Borrower from the provisions contained in this Mortgage or the Deferred Payment Loan Note. The Lender shall not be required to commence proceedings against any successor in interest. Any forbearance by the Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any such right or remedy.

11. **Successors and Assigns Bound; Joint and Several Liability.** The covenants and agreements contained herein shall bind and apply to all successors and assigns of the parties and Borrower's covenants and agreements shall be joint and several. An individual who executes this Mortgage but does not execute the Deferred Payment Loan Note; (i) is executing this Mortgage for the sole purpose of mortgaging, granting and conveying his/her interest in the Property under the terms of this Mortgage, (ii) is not personally obligated to pay the sums secured by this Mortgage, and (iii) agrees that the Lender and any other party hereto may agree to extend, modify, forbear, or make any other accommodations with regard to the terms of this Mortgage or the Deferred Payment Loan Note without the consent of all of the individuals and entities that constitute the Borrower and without releasing such individuals and entities or modifying this Mortgage as to such individuals' and entities' interest in the Property.

12. **Loan Charges.** If the indebtedness secured by this Mortgage is subject to a law which sets maximum loan charges and that law is finally interpreted so that the interest or other charges collected or to be collected in connection with such indebtedness exceed the permitted limits, then (i) any such charges shall be reduced by the amount necessary to reduce the charge to the permitted limit, and (ii) any sums already collected which exceeded permitted limits will be refunded to Borrower. The Lender may choose to make this refund by reducing the principal owed under the Deferred Payment Loan Note or by making direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment under the Deferred Payment Loan Note.

13. **Notice.** Except for any notice required under applicable law to be given in another manner (i) any notice to Borrower provided for in this Mortgage shall be given by delivering or mailing such notice by certified mail to Borrower at the Property Address or at such other address as Borrower may designate by notice to the Lender, and (ii) any notice to the Lender shall be given by certified mail to the Lender at the address stated herein for the Lender or to such other address as the Lender may designate by notice to Borrower.

14. **Governing Law and Venue; Severability.** The Mortgage shall be governed by the laws of the State of Minnesota, and any action brought under this Mortgage or the Deferred Payment Loan Note shall be brought in the Minnesota District Court for the County of Ramsey, State of Minnesota. In the event that any provision or clause of this Mortgage or the Deferred Payment Loan Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Deferred Payment Loan Note which can be given effect without that conflicting provision, and to this end the provisions of this Mortgage and the Deferred Payment Loan Note are declared to be severable.

15. **Borrower's Copy.** Borrower shall be given a conformed copy of the Deferred Payment Loan Note and of this Mortgage at the time of execution thereof or within a reasonable time after recordation thereof.

16. **Acceleration; Remedies.** Lender shall give written notice to Borrower by certified mail prior to acceleration following a breach of any covenant or agreement in the Deferred Payment Loan Note or this Mortgage. The notice shall specify; (i) the default, (ii) the action required to cure such default, (iii) a date, not less than thirty (30) days from the date the notice is given, by which such default must be cured, (iv) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage and the sale of the Property, and (v) that failure to cure such breach shall result in interest accruing on the sums secured by this Mortgage from and after the date of Borrower's breach at the same interest rate as is required to be paid under the First Mortgage loan on the date that such amount becomes due and payable to the Lender or if the First Mortgage loan has been repaid in full or foreclosed prior to such date, at the same interest rate as was required to be paid under the First Mortgage loan on the date immediately before the repayment or foreclosure of the First Mortgage loan. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the nonexistence of a default or any other defense of Borrower to acceleration and sale. If the breach is not cured on or before the date specified in the notice or the date on which the full and remaining outstanding balance of the Deferred Payment Loan is to be paid in full as specified hereinabove, then the Lender, at its sole option and discretion, may require immediate payment in full of all of sums secured by this Mortgage without further demand, and may invoke the power of sale and any other remedies permitted by applicable law. The Lender shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this Section 16, including, but not limited to, reasonable attorneys' fees.

    If the Lender invokes the power of sale contained herein, then the Lender shall cause a copy of a notice of sale to be served upon the person, if any, in possession of the Property. The Lender shall publish a notice of sale and the Property shall be sold at public auction in the manner prescribed by applicable law. The Lender or its designee may purchase the Property at any sale. The proceeds of the sale shall be applied in the following order (i) to all sums secured by this Mortgage; (ii) to all costs and expenses of the sale, including, but not limited to, reasonable attorneys' fees; and (iii) the excess, if any, to the person or persons legally entitled thereto.

17. **Right to Reinstate.** Notwithstanding the Lender's acceleration of the sums secured by this Mortgage due to a breach, Borrower shall have the right to have any proceedings begun by the Lender to enforce this Mortgage discontinued at any time prior to the earlier to occur of the sale of the Property pursuant to the

power of sale contained herein or the entry of a judgment enforcing this Mortgage, if Borrower (i) pays to the Lender all sums constituting the default actually existing under this Mortgage and the Deferred Payment Loan Note at the commencement of foreclosure proceeding under this Mortgage, (ii) cures all breaches of any other covenants or agreements contained in this Mortgage, (iii) pays all reasonable expenses incurred by the Lender in enforcing the covenants and agreements contained in this Mortgage and in enforcing the Lender's remedies as provided in Section 16 hereinabove including, but not limited to, reasonable attorneys' fees, and (iv) take such action as the Lender may reasonably require to assure that the lien created by this Mortgage, the Lender's interest in the Property, and Borrower's obligation to pay the sums secured by this Mortgage shall continue unimpaired. Upon such payment and cure, this Mortgage and the obligation secured hereby shall remain in full force and effect as if no acceleration had occurred.

18. **Lender in Possession.** Upon acceleration under Section 16 hereinabove or abandonment of the Property, and at any time prior to the expiration of any period of redemption following sale of the Property, the Lender (in person, by agent or by judicially appointed receiver) shall be entitled to enter upon, take possession of, and manage the Property, and to collect any rents generated by the Property including those past due. Any rents collected by the Lender or a receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums of receiver's bonds, and reasonable attorneys' fees, and then to the sums secured by this Mortgage.

19. **Release.** Upon payment of all sums secured by this Mortgage, the Lender shall discharge this Mortgage without charge; provided, however Borrower shall be responsible for recordation, including the payment of all costs of recordation.

20. **Waiver of Homestead.** Borrower hereby waives all right of the homestead exemption in the Property.

21. **Subject to First Mortgage Lien.** This Mortgage is subject and subordinate to the First Mortgage, but not to any modification, extension, replacement, or renewal thereof.

22. **Principal Residence.** Borrower shall, for all time periods that any amount is due and owing under the Deferred Payment Loan Note and this Mortgage is outstanding, occupy the Property as their principal residence.

23. **Validity of Information.** All of the facts and information Borrower supplied regarding the Deferred Payment Loan evidenced by and relating to the Deferred Payment Loan Note and this Mortgage and the loan secured by the First Mortgage lien were true and correct at the time they were supplied.

24. **U.S. Department of Housing and Urban Development.** In the event of foreclosure or deed in lieu of foreclosure of the First Mortgage or assignment of the First Mortgage to the Secretary of Housing and Urban Development, any provisions herein or any provisions in any other collateral agreement restricting the use of the Property or otherwise restricting the Borrower's ability to sell the Property shall have no further force or effect. Any person (including their successors or assigns) receiving title to the Property through a foreclosure or deed in lieu of foreclosure of the First Mortgage shall receive title to the Property free and clear from such restrictions.

IN WITNESS WHEREOF, Borrower executed this Deferred Payment Loan Mortgage on the day and date first above written.

(THE REMAINING PORTION OF THIS PAGE WAS INTENTIONALLY LEFT BLANK.)

BORROWER(S)

_____
Borrower's Signature

_____
(Print Borrower Name)

_____
Co-Borrower's Signature

_____
(Print Co-Borrower Name)

State of Minnesota
County of _____ } ss.

This instrument was acknowledged before me this____ day of _____,
(day) (month)

_____, by _____ ,
(year) (Print Borrower Name) (Print Co-Borrower Name)

_____ _____
Notary Stamp Notary Public Signature

Drafted by:
Minnesota Housing Finance Agency
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