

**HOME Homeowner Entry Loan Program ("HOME HELP")
Downpayment Assistance Program
MORTGAGE**

THIS MORTGAGE, made and entered into on _____, by
(date)
and between _____,
(name of Borrower) (name of Co-Borrower(s))
(hereinafter referred to as "Borrower") and

(name of Lender)
with its principal place of business located at

(address of Lender)
(hereinafter referred to as "Lender").

LOAN, DISBURSEMENT AND REPAYMENT

1.1 **HOME HELP Loan.** Borrower and Lender hereby acknowledge that Lender has made a zero percent interest rate loan (hereinafter referred to as the "HOME HELP Downpayment Assistance Program Loan") to Borrower in the original principal amount of

(HOME HELP loan amount in words)

(\$ _____), and Borrower agrees to repay such loan in
(numeric HOME HELP loan amount)

accordance with the terms and provisions contained in that certain Mortgage Note of even date herewith, with the remaining outstanding balance, if any, being due and payable, on the _____.
(must match maturity date of the first mortgage)

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

1.2 **Use of HOME HELP Funds.** Borrower covenants and warranties that it has used the proceeds of the HOME HELP Downpayment Assistance Program Loan to assist it in the purchase of that certain real estate situated in the County of _____, State of Minnesota, and legally described as follows:

Which has the address of:

(Property street address, city, state and zip)

along with the single family dwelling unit situated thereon (such real estate and dwelling unit are hereinafter cumulatively referred to as the "Mortgaged Property").

Borrower further covenants and warranties that its purchase of the Mortgaged Property occurred of even date herewith

1.3 **Event(s) of Default.** The occurrence of any of the following events shall, unless waived in writing by Lender, constitute an Event of Default under this Mortgage upon Lender giving Borrower 30 days' written notice of such event and Borrower's failure to cure such event during such 30 day time period. Notwithstanding the foregoing, the occurrence of any of the following events delineated in Sections 1.3 (I) through 1.3 (L) shall constitute an Event of Default under this Mortgage immediately upon the occurrence thereof.

- A. Borrower's failure to pay any installment of the indebtedness hereby secured or the interest (if any) thereon, as it becomes due;
- B. Borrower's failure to pay any installment of the principal or interest on the mortgages specified in Section 2.1 hereinafter, as the same

becomes due; or Borrower's default under the First Mortgage or under the loan documents relating to or evidenced by the First Mortgage ("First Mortgage Loan");

- C. Borrower's failure to pay when due, the taxes, or special assessments on the Mortgaged Property;
- D. Borrower's failure to keep the building(s) on the Mortgaged Property insured as herein provided;
- E. If Borrower, without the written consent of Lender, sells, transfers, encumbers (except for the Permitted Encumbrances described in Section 2.1 hereinbelow), or otherwise conveys, in any way or manner, whether voluntary, involuntary, or by action of law (except for a testamentary or intestate transfer to a surviving spouse, or transfer to a surviving joint tenant), its interest in the Mortgaged Property;
- F. The filing of a Petition by or against Borrower under the United States Bankruptcy Code;
- G. A judgment, written, or warrant of attachment or execution, or similar process shall be entered and become a lien on, issued or levied against, the Mortgaged Property or any part thereof and shall not be released, vacated, or fully bonded within 30 days after its entry, issue, or levy;
- H. If Borrower fails to fully, completely and promptly comply with any of the terms, conditions, requirements, covenants or warranties contained in the Mortgage Note or this Mortgage;
- I. If any of the information, documentation or representations which Borrower supplied or made to Lender to induce it to make the HOME HELP Downpayment Assistance Loan is determined to be false or untrue in any material manner;
- J. If Borrower ceases to occupy the Mortgaged Property as its principal residence;
- K. If Borrower, under any circumstances, leases a material portion of the Mortgaged Property to any other person, persons, or entity;
- L. If any covenants, warranties, or other representations of Borrower which are contained in this Mortgage, the Mortgage Note, or the First Mortgage Loan documents are determined to be false or untrue in any material manner.

1.4 **Notice of Default.** Immediately upon becoming aware of the existence of any condition or event that constitutes, or after notice or lapse of time or

both would constitute, an Event of Default, Borrower shall deliver written notice to Lender specifying the nature and period of existence of such event and what action Borrower has taken, is taking, or proposes to take with respect thereto.

MORTGAGE PROVISIONS

2.1 **Mortgage Lien.** As security for Borrower's personal covenant and obligation for repayment of the HOME HELP Downpayment Assistance Loan as herein provided, and subject to the terms and conditions of this Mortgage, Borrower hereby grant, and Lender shall and hereby does have, a mortgage lien (hereinafter referred to as the "HOME HELP Downpayment Assistance Program Loan") on the Mortgaged Property, together with all hereditaments and appurtenances thereto, in the full amount necessary to satisfy such repayment obligation and the cost, including reasonable attorney's fees, of collecting the same.

To have and to hold the Mortgaged Property, together with the tenements, hereditaments and appurtenances unto Lender, its successors and assigns, in fee simple, forever.

Borrower covenants with and warrants to Lender that; (i) Borrower is lawfully seized of, and possesses a fee simple interest in, the Mortgaged Property, and have good right to convey the same, (ii) the Mortgaged Property is free from all encumbrances except for the following:

That certain Mortgage dated of even date herewith by and between Borrower as _____ Mortgagor, _____ and _____ as Mortgagee, in
(name of Lender)

the _____ principal _____ amount _____ of

(First Mortgage loan amount in words)

(\$ _____)

(numeric First Mortgage loan amount)

(hereinafter referred to as the "First Mortgage").

«Identify any additional encumbrances»

(the First Mortgage and all such additionally listed encumbrances are herein referred to as the "Permitted Encumbrances"), (iii) Lender shall quietly enjoy and possess the Mortgaged Property, and (iv) Borrower shall warrant and defend the title to the Mortgaged Property against all lawful claims not hereinabove specifically excepted.

Provided, nevertheless, that if the HOME HELP Downpayment Assistance Loan is paid in full in accordance with the provisions contained in the Mortgage Note, then this HOME HELP Downpayment Assistance Program Mortgage shall become null and void, and shall be released.

2.2 Right of Foreclosure. In the event Borrower, its successors, heirs, executors, representatives, or assigns shall fail or refuse to repay the HOME HELP Downpayment Assistance Program Loan as required in Section 1.1 of this Mortgage, or otherwise or in any way be in default under the terms and conditions of this Mortgage, Borrower hereby confer upon Lender the option of declaring all sums then owing by Borrower immediately due and payable without notice, and hereby authorizes and empowers Lender to foreclose this HOME HELP Downpayment Assistance Program Loan by judicial proceedings, or to sell the Mortgaged Property at public auction and convey the same to the purchaser in fee simple in accordance with the laws of the State of Minnesota, and out of the monies arising from such sale to retain all sums secured hereby, with all legal costs and charges of such foreclosure and the maximum attorney's fee permitted by law, which costs, charges, and fees the Borrower herein agrees to pay.

Borrower and Lender further covenant and agree as follows:

- A. Borrower shall be furnished a conformed copy of this Mortgage at the time of execution or after recordation thereof.
- B. Upon default of any covenant or agreement by Borrower under the terms of this Mortgage, Lender shall, prior to foreclosure, mail notice to Borrower as provided herein specifying; (i) the nature of the default by the Borrower, (ii) the action required to cure such default, (iii) a date, not less than thirty (30) days from the date the notice is mailed to Borrower, by which such default, if capable of being cured, must be cured, and (iv) that failure to cure such default on or before the date specified in the notice may result in the acceleration of the sums secured by this HOME HELP Downpayment Assistance Program Loan and sale of the Mortgaged Property. The notice shall further inform Borrower of the right, if any, to reinstate after acceleration, and the right to bring a court action to assert the nonexistence of a default or any other defense of the Borrower to acceleration and sale.

C. Any notice required under applicable law or under the provisions of this Mortgage shall be given in accordance with the provisions contained in Section 3.3 herein below.

2.3 **Termination of Mortgage Lien.** The mortgage lien created by this HOME HELP Downpayment Assistance Program Loan shall be satisfied by Lender upon Borrower fully complying with the terms of the Mortgage Note.

MISCELLANEOUS PROVISIONS

3.1 **Representations.** Borrower covenant with and warrant to Lender that they has made no material false statement or misstatement of fact in connection with its application for the HOME HELP Downpayment Assistance Program Loan, and all of the information contained in such application and in this Mortgage is true and correct.

3.2 **Location of Sections.** All of the sections contained in this Mortgage shall apply to this Mortgage in its entirety, independent of in what part of this Mortgage such section is located.

3.3 **Notices.** In addition to any notice required under applicable law to be given in another manner, any notices required under this Mortgage must be in writing and shall be sufficient if personally served or sent by prepaid, registered, or certified mail (return receipt card requested), to the most recent address of the party to whom it is directed. Such most recent address shall be that address specified in section 1.2 above, or such different address as may hereafter be specified, by any party by written notice to the other party, including but not limited to any alternate borrower address noted on the final page of this document.

To Lender:

Director of HOME Mortgage Programs
Minnesota Housing Finance Agency
400 Sibley Street, Suite 300
Saint Paul, MN 55101-1998

Any notice provided for in this Mortgage shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

- 3.4 **Assignment or Modification.** Borrower may not assign any of its rights or obligations under this Mortgage without the prior written consent of Lender. No change or modification of the terms or provisions of this Mortgage shall be binding unless such change or modification is in writing and signed by an authorized official of the party against which such change or modification is to be imposed.
- 3.5 **Successors and Assigns.** The terms, provisions, conditions, covenants, and warranties contained in this Mortgage shall run with the Mortgaged Property, and shall inure to the benefit of and be binding upon Borrower and Lender, and upon their respective heirs, executors, representatives, successors, and assigns.
- 3.6 **Entire Mortgage.** This Mortgage embodies the entire agreement between Borrower and Lender, and there are no other agreements, either oral or written, between Borrower and Lender on the subject matter hereof.
- 3.7 **Severability.** If any term or provision of this Mortgage is finally judged by any court to be invalid, the remaining terms and provisions of this Mortgage shall remain in full force and effect, and they shall be interpreted, performed, and enforced as if said invalid provision did not appear herein.
- 3.8 **Waiver.** Neither the failure by Borrower, Lender, or U.S. Department of Housing and Urban Development in any one or more instances, to insist upon the complete and total observance or performance of any term or provision contained in this Mortgage, nor the failure of Borrower, Lender, or U.S. Department of Housing and Urban Development to exercise any right, privilege, or remedy conferred hereunder, or afforded by law, shall be construed as waiving any breach of such term, provision, or the right to exercise such right, privilege, or remedy thereafter.
- 3.9 **Choice of Law.** The interpretation and application of the terms and conditions contained in this Mortgage, and the enforcement of the mortgage lien, covenants, and restrictions created hereby, shall be in accordance with the laws and procedures of the State of Minnesota, as such laws and procedures may from time to time be amended.
- 3.10 **Headings.** The headings for the parts and sections of this Mortgage shall only be used for identification purposes, and shall not have any substantive effect on the actual wording contained in such section.
- 3.11 **Singular/Plural and Multiple Borrowers.** Wherever used herein, the singular number shall include the plural, and the plural the singular, and all covenants and agreements of the multiple Borrowers shall be joint and several.

IN TESTIMONY WHEREOF, the parties hereto have executed this Mortgage on the day and date first above written.

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

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

Tax Statement for the real property described in this instrument will be sent to address specified in Section 1.2, unless an alternate address is specified below:

Borrower(s)' name

Borrower(s)' alternate address

THIS INSTRUMENT WAS DRAFTED BY:
Minnesota Housing Finance Agency
400 Sibley Street - Suite 300
Saint Paul, Minnesota 55101