

**Homeownership Assistance Fund (HAF) Loan Program
MORTGAGE**

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

(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 Homeownership Assistance Fund loan to and supplied funds to Borrower, in an amount of

(HAF loan amount in words)

(\$_____)

(numeric HAF loan amount)

(the "HAF Loan").

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

WHEREAS, if not sooner repaid, the full outstanding and unpaid balance of the HAF Loan must be repaid on _____.

(must match maturity date of the first mortgage)

NOW, THEREFORE, in consideration of the foregoing premises and to secure (i) the repayment of indebtedness evidenced by the HAF 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 HAF 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 HAF 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 HAF 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 _____ by way of a
(name of Lender)
mortgage dated of even date herewith that secures the repayment of a mortgage loan in the original principal amount of \$_____ (the "First Mortgage");
 - D. Borrower will warrant and defend the title to the Property against all claims, whether now existing or hereafter arising, other than the lien created by the First Mortgage;
 - E. All real estate taxes and special assessments that apply to the Property have been paid to date and are current;
 - F. 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
 - G. Borrower will fully comply with all the terms and conditions of the HAF 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 HAF Note.

If the Lender, pursuant to the provisions contained in the HAF Note, declares that the HAF 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 HAF 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 HAF 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 18 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 HAF 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 HAF 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 HAF 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 HAF Note or by making direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment under the HAF Note.
13. **Legislation Affecting Lender's Rights.** If enactment or expiration of applicable laws has the effect of rendering any provision of the HAF Note or this Mortgage unenforceable according to its terms, then the Lender, at its sole option and discretion, may require immediate payment in full of all sums secured by this Mortgage and may invoke any remedies permitted under Section 18 hereinbelow. If the Lender exercises this option, then the Lender shall comply with the notice requirement contained in Section 18 hereinbelow.
14. **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.
15. **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 HAF 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 HAF Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the HAF Note which can be given effect without that conflicting provision, and to this end the provisions of this Mortgage and the HAF Note are declared to be severable.
16. **Borrower's Copy.** Borrower shall be given a conformed copy of the HAF Note and of this Mortgage at the time of execution thereof or within a reasonable time after recordation thereof.
17. **Transfer of the Property.** If all or any part of the Property, or if all or any part of Borrower's interest therein, is sold or transferred, whether by lease, deed, contract for deed, or otherwise, whether for consideration or by gift or in the event of death or otherwise, and whether voluntarily, involuntarily or by operation of law, then all sums secured by this Mortgage shall be immediately

due and payable. Notwithstanding the foregoing (i) if the Borrower owns the Property as joint tenants, a transfer of the Property, or any interest therein, from one joint tenant to another joint tenant by reason of death, shall not be considered a transfer; (ii) a taking by eminent domain shall not be considered a transfer unless it is a total taking and the payment is made for the full value of the Property, (iii) the creation of a lien or encumbrance which has been consented to by the Lender in writing and is subordinate to the lien created by this Mortgage shall not be considered a transfer, and (iv) the creation of a purchase money security interest for household appliances shall not be considered a transfer.

18. **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 HAF 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 HAF 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 18, 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.

Notwithstanding anything to the contrary contained in this Mortgage or the HAF Note, during the time that the Federal National Mortgage Association is the owner of the First Mortgage or that the First Mortgage is included in a mortgage-backed security issued by the Federal National Mortgage Association, only the occurrence of one or more of the following events shall be the basis for acceleration under this Section 18; (a) a failure by the Borrower to make any scheduled, periodic payments due under the HAF Note; (b) a sale or transfer of the Property in violation of Section 17 herein other than a sale or transfer resulting from marriage, divorce, death of spouse, or otherwise permitted by applicable federal law provided, however, such transferee may be required to assume the transferor's obligations under this Mortgage and the HAF Note; (c) the Borrower's failure to occupy the Property as his/her/their principal residence; (d) a determination by the Lender that the Borrower misrepresented a required condition for obtaining the HAF Loan; (e) a cash-out refinancing or full repayment of the First Mortgage loan; and (6) commencement of foreclosure of the First Mortgage.

19. **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 HAF 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 18 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.
20. **Lender in Possession.** Upon acceleration under Section 18 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.

21. **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.
22. **Waiver of Homestead.** Borrower hereby waives all right of the homestead exemption in the Property.
23. **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.
24. **Principal Residence.** Borrower shall, for all time periods that any amount is due and owing under the HAF Note and this Mortgage is outstanding, occupy the Property as their principal residence.
25. **Validity of Information.** All of the facts and information Borrower supplied regarding the HAF Loan evidenced by and relating to the HAF Note and this Mortgage and the loan secured by the First Mortgage lien were true and correct at the time they were supplied and continue to be true and correct until the HAF Loan is paid in full.
26. **U.S. Department of Housing and Urban Development.** Notwithstanding anything to the contrary contained in this Mortgage or the Deferred Payment Loan Note, all restrictions on conveyance contained herein shall automatically and permanently terminate upon foreclosure, deed-in-lieu of foreclosure or assignment of the First Mortgage to the U.S. Department of Housing and Urban Development.

IN WITNESS WHEREOF, Borrower executed this Homeownership Assistance Fund 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
400 Sibley Street, Suite 300
St. Paul, Minnesota 55101-1998