

## *Subordinate Mortgage - HOME Program*

**NOTICE TO HOMEBUYER:** This SUBORDINATE MORTGAGE is based upon a PROMISSORY NOTE you signed in the amount of \_\_\_\_\_. The \_\_\_\_\_ was a direct subsidy provided to you through the Home Investment Partnerships Program (HOME Program), a U.S. Department of Housing and Urban Development (HUD) program. This subsidy reduced the amount you were required to pay for the home that is the subject of this SUBORDINATE MORTGAGE. This SUBORDINATE MORTGAGE helps protect \_\_\_\_\_ (the LENDER) from potentially having to repay the HOME Program funds to HUD due to your failure to comply with the terms of the WRITTEN AGREEMENT signed by you and the LENDER, although \_\_\_\_\_ may be required to repay some or all of the HOME Program funds whether or not it can recover any funds from you. This SUBORDINATE MORTGAGE represents a lien against the home you are purchasing. Please read each paragraph carefully, and do not hesitate to ask questions regarding any part or parts you do not fully understand.

THIS SUBORDINATE MORTGAGE (MORTGAGE) is made on \_\_\_\_\_, **(date)**. The grantor is \_\_\_\_\_ (A Single Person) (BORROWER). This MORTGAGE is given to \_\_\_\_\_, a \_\_\_\_\_ corporation organized and existing under the laws of the State of Oklahoma, and whose address is \_\_\_\_\_, and its successors and assigns (LENDER). BORROWER owes LENDER the principal sum of \_\_\_\_\_ (U.S. \_\_\_\_\_). This debt is evidenced by BORROWER's NOTE (NOTE) dated the same date as this MORTGAGE. The NOTE provides for no payments if the BORROWER complies with the terms of the NOTE and the WRITTEN AGREEMENT referenced above. The LOAN evidenced by the NOTE and secured by this MORTGAGE (LOAN) is being made pursuant to a HOME Program grant from HUD through the Oklahoma Housing Finance Agency (OHFA), the Participating Jurisdiction for the HOME Program for the State of Oklahoma.

In addition to the LOAN, BORROWER obtained a mortgage loan (First mortgage Loan) from \_\_\_\_\_ (Senior Lien Holder), which loan is secured by a first Mortgage lien on the Property (First Mortgage). The documents evidencing or securing the First Mortgage Loan are collectively referred to herein as the First Mortgage Loan Documents.

This MORTGAGE secures to LENDER the repayment of the debt evidenced by the NOTE. For this purpose, BORROWER irrevocably mortgages, grants and conveys to LENDER and LENDER's successors and assigns, with power of sale, subject to the rights of Senior Lien Holder under the First Mortgage, the following property, to-wit:

Legal Description: \_\_\_\_\_.

(Which has the street address of: \_\_\_\_\_),

to have and to hold this property unto LENDER and LENDER's successors and assigns, forever, all the improvements now or hereafter erected on the property, and all easements, appurtenances and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this MORTGAGE. All of the foregoing is referred to in this MORTGAGE as the Property.

BORROWER covenants that BORROWER is the lawful owner of the estate hereby conveyed and has the right to MORTGAGE, grant and convey the Property and, except for the First Mortgage and other encumbrances of record acceptable to Senior Lien Holder, the Property is unencumbered. BORROWER warrants and will defend generally the title to the Property against all claims and demands, subject to such encumbrances of record.

**PAYMENTS:** The principal of the debt evidenced by the NOTE shall be due and payable in the event LENDER designates a default under the NOTE or the WRITTEN AGREEMENT. It is a default under the NOTE if: (a)

BORROWER does not continue to occupy the Property as BORROWER's principal residence; or (b) BORROWER transfers ownership of the Property to another party; or (c) BORROWER fails to comply with any provision of the WRITTEN AGREEMENT. Provided that the LENDER does not designate a default under the NOTE, the amounts due and payable under the NOTE will be forgiven as follows: \_\_\_\_\_ **(include here a full description of the forgiveness over time)**. **No payments will be due from the BORROWER at any time so long as the BORROWER is in compliance with the terms of the NOTE and the WRITTEN AGREEMENT.**

**DESIGNATION OF DEFAULT AND REMEDIES:** LENDER shall give notice to BORROWER and Senior Lien Holder prior to a designation of a default under the NOTE or WRITTEN AGREEMENT. The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to BORROWER (and with respect to Senior Lien Holder, 60 days from the date the notice is given to Senior Lien Holder), by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in designation of a default under the NOTE and the sale of the Property. The notice shall further inform BORROWER of the right to reinstate after designation of a default and the right to bring a court action to assert the non-existence of a default or any other defense of BORROWER to a designation of default and sale. If the default is not cured by BORROWER on or before the date specified in the notice, then LENDER at its option may designate a default and require immediate payment of all sums not forgiven secured by this MORTGAGE without further demand, and may invoke the power of sale and any other remedies permitted by applicable law. Notwithstanding LENDER's right to invoke any remedies hereunder, LENDER may not commence foreclosure proceedings or accept a deed in lieu of foreclosure, or exercise any other rights or remedies hereafter until it has given Senior Lien Holder at least 60 days prior written notice. LENDER shall be entitled to collect all expenses incurred in pursuing the remedies provided herein, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If LENDER invokes the power of sale, LENDER shall mail copies of a notice of sale in the manner prescribed by applicable law to BORROWER, Senior Lien Holder and to all other persons prescribed by applicable law. LENDER shall publish the notice of sale by public advertisement for the time and in the manner prescribed by applicable law. LENDER, without demand on BORROWER, shall sell the Property at public auction to the highest bidder for cash at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order LENDER determines. LENDER may postpone sale of all or any parcel of the Property to any later time on the same date by public announcement at the time and place of any previously scheduled sale. LENDER or its designee may purchase the Property at any sale.

LENDER shall deliver to the purchaser LENDER's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in LENDER's deed shall be prima facie evidence of the truth of the statements made therein. LENDER shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable attorneys' fees; (b) to all sums not forgiven under the LOAN; and (c) any excess to the person or persons legally entitled to it.

**SUBORDINATION:** This MORTGAGE is subject and subordinate in all respects to the liens, terms, covenants and conditions of the First Mortgage and to all advances heretofore made or which may hereafter be made pursuant to the First Mortgage, including all sums advanced for the purpose of (a) protecting or further securing the lien of the First Mortgage, curing defaults by BORROWER under the First Mortgage or for any other purpose expressly permitted by the First Mortgage; or (b) constructing, renovating, repairing, furnishing, fixturing or equipping the Property. The terms and provisions of the First Mortgage are paramount and controlling, and they supersede any other terms and provisions hereof in conflict therewith. In the event of foreclosure or deed in lieu of foreclosure of the First Mortgage, any provisions herein or any provisions in any other collateral agreement restricting the use of the Property or otherwise restricting BORROWER's ability to sell the Property shall have no further force or effect on subsequent owners or purchasers of the Property. Any person, including his successors or assigns (other than BORROWER or a related entity of BORROWER), 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.

Further, if Senior Lien Holder acquires title to the Property pursuant to a deed in lieu of foreclosure, the lien of this MORTGAGE shall automatically terminate upon Senior Lien Holder's acquisition of the title, provided that (a) LENDER has been given written notice of a default under the First Mortgage; and (b) LENDER shall not have cured the default under the First Mortgage, or diligently pursued curing the default as determined by the Senior Lien Holder, within the 60-day period provided in such notice sent to LENDER.

**NOTICES:** Any notice to BORROWER provided for in this MORTGAGE shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address BORROWER designates by notice to the LENDER.

**RELEASE:** Upon satisfaction of all sums secured by this MORTGAGE (whether by payment or forgiveness), LENDER shall release this MORTGAGE to BORROWER. BORROWER may be liable to pay any recordation costs.

**MODIFICATION OF FIRST MORTGAGE LOAN DOCUMENTS:** The LENDER consents to any agreement or arrangement in which Senior Lien Holder waives, postpones, extends, reduces or modifies any provisions of the First Mortgage Loan Documents, including any provisions requiring the payment of money.

**HOME PROGRAM GRANT INFORMATION**

The following information is in regard to the HOME Program grant to the LENDER that provided a direct benefit to the HOMEBUYER by reducing the sales price of the home that is the subject of this MORTGAGE:

**Grant Amount:** \_\_\_\_\_ **Grant type:** \_\_\_\_\_

**Amount of Assistance received by HOMEBUYER:** \_\_\_\_\_

IN WITNESS WHEREOF, BORROWER has executed this MORTGAGE.

BORROWER: \_\_\_\_\_  
 \_\_\_\_\_, A Single Person

STATE OF \_\_\_\_\_ )  
 ) ss.  
 COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me on this \_\_\_ day of \_\_\_\_\_, 20\_\_\_,  
 by \_\_\_\_\_.

\_\_\_\_\_  
 Notary Public

**(seal)**

My Commission Expires: \_\_\_\_\_