HOME Investment partnership Program
MORTGAGE

This **MORTGAGE** (“Mortgage”), is made and entered into this \_\_\_ day of \_\_\_\_, 20\_\_ by and between **HOMEBUYER (AND SPOUSE) FULL LEGAL NAME(S)**, married/unmarried/husband and wife, whose address is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Mortgagor,” whether singular or plural), and **NONPROFIT ENTITY**, a Kentucky nonprofit corporation, whose address is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Mortgagee”).

Mortgagor hereby recites and agrees as follows, which recitations and agreements constitute a part of this Mortgage:

**WHEREAS**, the Kentucky Housing Corporation (“KHC”) has granted funds under the Kentucky HOME Investment Partnership Program (“HOME”) to Mortgagee for the construction, acquisition, or rehabilitation of single family homes; and

**WHEREAS,** Mortgagor has applied for HOME Program funds from Mortgagee and has agreed to execute and deliver this Mortgage in order to secure repayment of the Loan (defined below).

**NOW**, **THEREFORE**, **MORTGAGOR**, in consideration of the Loan, hereby conveys to MORTGAGEE, with covenant of general warranty all of Mortgagor’s right, title, and interest in and to certain real estate located in \_\_\_\_\_\_\_\_\_\_\_\_\_\_ County, Kentucky (more particularly described in Exhibit A attached hereto and incorporated herein by reference) ("Property");

**TOGETHER** with all privileges and appurtenances thereunto belonging, all the estate, right, title, and interest of Mortgagor, at law or in equity, of, in, and to the Mortgagor's fee simple interest in the Property, and every part thereof, and together with all buildings and improvements now existing or hereafter constructed or placed thereon; and together with all heating, ventilating, and air conditioning equipment relative thereto and all fixtures, now or hereafter located in, upon, or affixed to the Property, all of which are and will be a part of the Property and a portion of the security for the Loan; and together with all insurance or condemnation proceeds accruing, arising, or relative to any of the foregoing during the term of this Mortgage;

ALL the foregoing property, interests, and rights encumbered by this Mortgage are hereafter collectively referred to as the "Premises".

**TO HAVE AND TO HOLD** the Premises with the privileges and appurtenances thereunto belonging, and all rents, revenues, issues, and profits therefrom, unto Mortgagee, its successors and assigns, forever, for the uses and purposes herein expressed. Mortgagor covenants that Mortgagor is well seized of the Premises and each portion thereof, and has full right and power to grant, bargain, sell, convey, mortgage, and warrant the Mortgagor's interest in the same in the manner and form written. Mortgagor represents and warrants to Mortgagee that the granting of this Mortgage has been and is duly authorized. Mortgagor warrants and shall defend the Premises, with the privileges and appurtenances thereunto belonging, to Mortgagee, its successors and assigns forever, against all claims and demands whatsoever adverse to the interest of Mortgagee, at Mortgagor's sole expense.

**THIS MORTGAGE** is given to secure: (a) payment of the Loan, same being evidenced by a promissory note of even date herewith (“Note”) and any modifications, extensions, or renewals thereof, executed and delivered by Mortgagor to Mortgagee, in the principal amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and 00/100 Dollars ($\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.00) ("Loan"), and payment of interest thereon at the rate and in the manner provided therein; the entire principal amount advanced and all interest thereon, if not sooner paid, being due and payable by Mortgagor on \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, as more particularly described in the Note. Mortgagor agrees to pay the principal of and interest on the Loan evidenced by the Note and secured hereby, to be paid at the times and in the manner provided in the Note.

**AND MORTGAGOR HEREBY COVENANTS AND AGREES THAT**:

1. Mortgagor shall pay the principal of and interest on the Loan evidenced by the Note and secured hereby, to be paid at the times and in the manner provided in the Note.
2. Mortgagor shall pay or shall have paid all taxes, assessments, liens, judgments, and other similar charges now or hereafter levied upon the Premises before the same become delinquent; Mortgagor's failure to pay or to have paid any such charges will, at Mortgagee's election, constitute a default hereunder. Or, at Mortgagee's sole option in the event of delinquency, Mortgagee may pay such delinquent taxes, assessments, and charges, including any penalties or interest thereon (of which payment, amount and validity thereof, the receipt of the proper officer will be conclusive evidence) and any amount so paid by Mortgagee will become immediately due and payable by Mortgagor, be secured by this Mortgage, and bear interest from the date of advance until paid at an annual rate equal to twelve percent (12%).
3. Mortgagor, at its own expense, shall keep the improvements now existing or hereafter erected on or in the Premises insured against loss or damage by, or abatement of rental income resulting from, fire and “all risk” perils. All perils insured, with the exception of flood, must be in an amount not less than the full replacement value of the Property. Mortgagor shall promptly pay or have paid when due all premiums on such insurance and further agrees, if requested by Mortgagee, to furnish a certificate from the company carrying such insurance acknowledging that such insurance is adequate in an amount to prevent the operation of any coinsurance provision contained therein.

Copies of all such policies must be delivered to Mortgagee. Mortgagor's failure to comply with any of the requirements of this paragraph will, at Mortgagee's option, constitute a default hereunder. Or, Mortgagee may, in its discretion, upon a default in payment of the premium for any such policy by the Mortgagor and the expiration of any cure period for such default, obtain any insurance required hereunder and pay the premiums due therefor, and any amounts so paid by Mortgagee will become immediately due and payable by Mortgagor with interest thereon at a rate of twelve percent (12%) per annum until paid, and same will be secured by this Mortgage. Mortgagor will deliver to Mortgagee not later than ten (10) days before the expiration of any such insurance policy, a renewal of such policy.

1. Mortgagor shall maintain the Premises in good condition and repair and shall not commit or allow any waste or destruction, reasonable wear and tear excepted. Mortgagor shall comply with, or cause to be complied with, any applicable statutes, ordinances, regulations, or requirements of any governmental authority relative to the Premises and the use and maintenance thereof, and shall promptly repair, restore, replace, or rebuild any part of the Premises now or hereafter subject to the lien of this Mortgage which may be damaged or destroyed by any casualty. Should Mortgagor fail to comply with this covenant, Mortgagee may cause such repairs or replacements to be effected and any cost so incurred will be secured by this Mortgage and will be repaid by Mortgagor on demand, with interest until paid at a rate of twelve percent (12%) per annum.
2. During the time that any of the obligations secured by this Mortgage have not been satisfied or paid in full, Mortgagor shall not create, suffer, or allow any sale, transfer, lease, or voluntary encumbrance upon the Premises or any part thereof, without the prior written consent of Mortgagee by its duly authorized officer, which consent may not be unreasonably withheld, conditioned, or delayed. Upon such sale, transfer, or lease of the Premises by Mortgagor, or any subsequent owner during the existence of the indebtedness hereby secured, Mortgagee, at Mortgagee’s option, and as a condition for giving approval to such transfer, sale, or lease, will have the right to charge additional interest on the then unpaid balance due on the Note secured by this Mortgage in an amount equal to the average prevailing interest rate on the first mortgages charged by the lending institutions in the county in which the Property is located.
3. Mortgagor shall pay or shall have paid promptly when due any charges for utilities or services including, but not limited to electricity, gas, and water; should Mortgagor fail to pay such charges, Mortgagee may pay the same, and any amount so paid by Mortgagee will become immediately due and payable by Mortgagor with interest at a rate of twelve percent (12%) per annum, and same will be secured by this Mortgage.
4. If all or any part of the Premises are damaged, taken, or acquired, either temporarily or permanently, in any condemnation proceeding, by exercise of the right of eminent domain, or by the alteration of the grade of any street affecting the Premises, the amount of any award or other payment for such taking or damages made in consideration thereof, to the extent of the full amount of the Loan then remaining unpaid, is hereby assigned by Mortgagor to Mortgagee, who may collect and receive the same and give proper receipts therefor in the name of Mortgagor, and the same must be paid forthwith to Mortgagee. To such end, Mortgagor hereby grants to Mortgagee the Mortgagor's power of attorney (which power of attorney is a power coupled with an interest and is irrevocable for the term of this Mortgage). Any award or payment so received by Mortgagee during the occurrence and continuation of any Event of Default may, at the sole option of Mortgagee, be retained and applied, in whole or in part, to the Loan (whether or not then due and payable), in such manner as Mortgagee may determine and release, in whole or in part, to Mortgagor for the purpose of altering, restoring, or rebuilding any part of the Premises which may have been affected by such taking, alteration, or proceeding. Provided that absent the occurrence and continuation of an Event of Default, Mortgagee shall release said sums to Mortgagor, to be applied to restoration of the Premises. Mortgagee shall not be obligated to see to the application of any amounts so released to Mortgagor. In the event of a material and adverse effect upon the value of the Premises by reason of any such damage, taking, or acquisition, and should the proceeds or award payable therefor not satisfy in full the Loan, same will constitute an Event of Default.
5. If Mortgagee incurs or expends any sums, including reasonable attorneys’ fees, to sustain the lien of this Mortgage or its priority, or to protect or enforce any of Mortgagee's rights hereunder or under any other Loan Document, to protect the Premises as collateral for the Loan, or to recover any portion of the Loan, all such sums will become immediately due and payable by Mortgagor with interest thereon at the rate specified in numerical paragraph 2 hereof until paid. All such sums will be secured by this Mortgage and be a lien on the Premises prior to any right, title, interest, or claim, in, to, or upon the Premises attaching or accruing subsequent to the lien of this Mortgage.
6. Mortgagor shall occupy, establish, and use the Property as Mortgagor’s principal residence after the execution of this Mortgage, and Mortgagor (or at least one Mortgagor, if applicable) shall continue to occupy the Property as Mortgagor’s principal residence for the term of the Mortgage.

Mortgagor shall be in default if Mortgagor, during the loan application process, gave materially false, misleading, or inaccurate information or statements to Mortgagee, or failed to provide Mortgagee with material information, in connection with the Loan evidenced by the Note, including, but not limited to, representations concerning Mortgagor’s occupancy of the Property as a principal residence.

1. In the event that Mortgagee (a) grants any extension of time or forbearance for payment of any portion of the Loan; (b) takes, or realizes, other additional security for the payment thereof; (c) waives or does not exercise any right granted herein, under the Note; (d) grants any release, with or without consideration, of all or any part of the security held for the payment of the Loan; (e) amends or modifies in any respect with the consent of Mortgagor any of the terms and provisions hereof or of the Note; then and in any such event, such act or failure to act will not release Mortgagor or under any covenant of this Mortgage, the Note, or the Declaration of Covenants and Restrictions, nor preclude Mortgagee from exercising any right or privilege herein or therein granted or intended to be granted in the event of any other existing or subsequent default and without in any manner impairing or affecting the lien or priority of this Mortgage.
2. Mortgagor must abide by all terms and conditions of KHC’s HOME Program in order to remain eligible for assistance thereunder. The required terms and conditions are set forth in the HOME Homebuyer Written Agreement (“Written Agreement”) between Mortgagor and KHC. All of the terms, covenants, provisions, conditions, stipulations, and agreements contained in the Written Agreement are hereby made a part of this Mortgage, to the same extent and with the same force and effect as if they were fully set forth herein. Mortgagor covenants and agrees to perform the same or cause the same to be kept and performed, strictly in accordance with the terms and conditions thereof. If Mortgagor fails to abide by any of those terms and conditions, Mortgagor may be terminated from the HOME Program and the Note will become immediately due and payable.
3. In the event Motgagor (a) fails to pay any such tax, assessment, lien, judgment or charge, or pay any insurance premium within fifteen (15) days after the same becomes payable, or (b) fails within ten (10) days after notice of noncompliance of any other provision of this Mortgage to promptly cure such noncompliance, or (c) permits a suit to be instituted against Mortgagor for the enforcement of any lien or other encumbrance against the Property, or (d) becomes the subject of any voluntary or involuntary bankruptcy, receivership or other insolvency proceeding, or (e) fails to pay the Note or any installment thereof when due, or within any applicable grace period provided in the Note, or (f) sells, transfers, or voluntarily encumbers all or any part of the Property without the written consent of Mortgagee, or (g) fails to occupy the Property as Mortgagor’s principal residence, or (h) fails to observe or perform any of the other terms of the Note, or (i) gave materially false or inaccurate information or statements to Mortgagee during the loan application process (or failed to provide Mortgagee with any material information) in connection with the loan evidenced by the Note, or (j) fails to observe or perform any of the requirements of the HOME Program, then in any of such cases, an event of default will have occurred ("Event(s) of Default"). Upon the occurrence and continuance of an Event of Default, at Mortgagee's sole option, without further notice or demand, the same being hereby expressly waived by Mortgagor as evidenced by Mortgagor's execution of this Mortgage, the Loan will become due, payable, and collectible. Upon the occurrence and continuance of an Event of Default, in addition to any other right of remedy which Mortgagee may now or hereafter have at law or in equity, and not by way of limitation, Mortgagee shall have the right and power to exercise any, all, or any combination of the following remedies: (a) to declare the Loan due and payable (and same will thereupon be due and payable) and to foreclose upon this Mortgage and the lien hereof; (b) to sell the Premises according to law as an entirety or in separate parcels; (c) to apply without notice (same being hereby expressly waived by Mortgagor) for the appointment of a receiver to collect the revenues and profits of the Premises and to preserve the security hereof as a matter of right, either before or after any foreclosure sale, without regard to the value of the Premises or any other property as security for the amount due Mortgagee, or the solvency of any entity liable for the payment of such amounts; and (d) to enter upon and take possession of the Premises without application to any court, with the irrevocable consent of Mortgagor as evidenced by Mortgagor's execution of this Mortgage, and collect the revenues, issues, and profits thereof, and, without the appointment of any receiver or application being made therefor, to manage, promote, and operate the Premises, either in Mortgagee's name or Mortgagor's name, by whatever means Mortgagee may elect, and receive all the revenues, issues, and profits therefrom, and apply the same, after payment of all necessary charges and expenses deemed by Mortgagee to be necessary, to payment of the Loan. All the foregoing rights and powers are effective and may be enforced by Mortgagee either in conjunction with or without any action to foreclose this Mortgage, and without applying at any time for a receiver for the Premises. The foregoing rights and remedies are independent of and in addition to any statutory right to appointment of a receiver.
4. Any sale under this Mortgage will operate to divest all right, title, and interest of Mortgagor in and to the Premises and rights so sold; will be a perpetual bar both in law and equity against the Mortgagor; and will be in bar of any equity or right of redemption, the same being expressly waived by Mortgagor.
5. Mortgagor represents and warrants that no hazardous substances are present on the Premises except in compliance with all applicable state and federal laws and regulations relating thereto (collectively, “Environmental Laws”). Furthermore, Mortgagor shall not use, generate, treat, store, dispose of, or otherwise introduce any such hazardous substances into or on the Premises except in compliance with all applicable Environmental Laws. Mortgagor represents, warrants, and agrees that there is no current and will be no future unlawful physical (including environmental, natural, artificial, structural, or chemical) hazard or potential hazard (including, without limitation, the presence, accumulation, or storage of any toxin, toxic waste, or toxic affluent or discharge) or condition in, on, or affecting the Premises or affecting the health of any person in or on the Premises except in compliance with all applicable Environmental Laws. The Mortgagor shall pay immediately when due the cost of removal of any such wastes or substances, and shall keep the Premises free of any lien imposed pursuant to laws, rules, regulations, and orders pertaining to hazardous wastes or substances and the removal thereof; in the event Mortgagor fails to do so, it will be deemed an Event of Default. The Mortgagor shall indemnify Mortgagee and hold Mortgagee harmless from and against all loss, cost, damage, and expense (including, without limitation, attorneys’ fees and costs incurred in the investigation, defense, and settlement of claims) that Mortgagee may incur as a result of or in connection with the assertion against Mortgagee of any claim relating to the presence or removal of any hazardous waste or substance referred to in this paragraph, or compliance with any federal, state, or local laws, rules, regulations, or orders relating thereto. The obligations of Mortgagor under this paragraph to indemnify Mortgagee and hold Mortgagee harmless will survive payment of the Loan and Note, survive release of this Mortgage, and extend to the representatives, successors, and assigns of Mortgagee.
6. Whenever used in this Mortgage, unless the context otherwise clearly requires, the term “Mortgagor” includes the heirs, representatives, successors, and assigns, as the case may be, of Mortgagor and all persons claiming by, through, or under Mortgagor; the term “Mortgagee” includes the legal representatives, successors, and assigns of Mortgagee; the term “person” includes any individual, partnership, corporation, trustee, or unincorporated association. The singular includes the plural and the plural, the singular; the gender used includes the other genders. The invalidity or unenforceability of any one (1) or more phrases, sentences, clauses, or paragraphs of this Mortgage will not affect the validity or enforceability of the remaining portions of this Mortgage or of any part hereof. If this Mortgage is invalid or unenforceable as to any part of the Loan, or if this Mortgage is invalid or unenforceable as to any part of the Premises, the unsecured or partially unsecured portion of the Loan will be completely paid prior to the payment of the remaining secured or partially secured portion of the Loan; and all payments made on the Loan, whether voluntary or under foreclosure or other enforcement action or procedure, will be considered to have been first paid on and applied to the full payment of that portion of the Loan which is not secured or fully secured by this Mortgage.
7. All the terms, covenants, conditions, and agreements herein set forth are binding upon and inure to the benefit of the respective heirs, executors, administrators, attorneys, representatives, successors, and assigns, as the case may be, of the parties hereto.
8. No delay or omission on the part of Mortgagee in exercising any right or remedy hereunder will operate as a waiver of such right or remedy or any other right or remedy. A waiver by Mortgagee on any one occasion will not be a bar to or waiver of any right or remedy on any further occasion. The rights and remedies provided herein are cumulative, and Mortgagee may resort to any other right or remedy or any combination thereof or at law or in equity without first exhausting and without affecting or impairing the security of or any right or remedy afforded by this Mortgage. No waiver will be effective as to Mortgagee unless same is in writing by its duly authorized officer; any such waiver will be construed strictly according to its terms.
9. If Mortgagee assigns, endorses or otherwise transfers the Note, payment and performance of the obligations secured hereby will be made to and for the benefit of the holder of the Note, and the options, rights and remedies herein provided for Mortgagee may be exercised by such holder.
10. Mortgagee may make or cause to be made reasonable entries upon and inspections of the Property related to Mortgagee’s interest in the Property, provided that Mortgagee shall give Mortgagor notice prior to any such inspection.
11. Mortgagor hereby waives all right of homestead exemption in the property.
12. If Mortgagee is required to appear in any court or tribunal to defend the title or possession of the Property, or the lien thereon, or to protect the Note or any of the other obligations secured hereby, Mortgagor or Mortgagor’s successors in interest will pay all of the costs and expenses of such appearances, including a reasonable attorney's fee, and all such costs, expenses and attorney's fees will be part of the obligation secured hereby and will be paid by Mortgagor or Mortgagor’s successors in interest on demand, with interest from the date such costs, expenses and attorney fees are incurred, at a rate of twelve percent (12%) per annum.
13. In accordance with KRS 382.520, it is acknowledged and agreed that this Mortgage secures not only the initial advances under the Note or Notes evidencing part of the obligations but also all future advances and all other additional indebtedness, whether direct, indirect, future, contingent, or otherwise, connected with or arising out of the Note or Mortgage. It shall be a default under this Mortgage if Mortgagor requests a release, in the manner provided by KRS 382.520 or KRS 382.385, of any portion of the lien securing the additional indebtedness prior to the date that all of the obligations have been paid and the Note or Mortgage have been terminated, and Mortgagor hereby waives any and all right to request such a release to the maximum extent permitted by law.

If Mortgagor shall pay to Mortgagee all sums due Mortgagee under the Note and the interest thereon, in the manner and at the times mentioned in the Note, or otherwise in connection with the Loan, and Mortgagor shall pay Mortgagee any and all other sums due from Mortgagor to Mortgagee under this Mortgage and shall fully keep and perform the terms, covenants, conditions, and agreements under this Mortgage or otherwise due Mortgagee relative to the Loan, then this Mortgage and the estate granted thereby will cease and be void, and this Mortgage will thereupon be released by Mortgagee at the cost and expense of Mortgagor.

This Mortgage may be executed by the parties in any number of counterparts, each of which will be an original, but such counterparts together will constitute one and the same instrument.

This Mortgage is taken, in part, to secure a loan made for the purpose of erecting, improving, or adding to a building.

**IN WITNESS WHEREOF** this Mortgage is executed on behalf of the Mortgagor on the day and month and year first above written.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Homebuyer Full Legal Name

COMMONWEALTH OF KENTUCKY )

)SS.

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_\_, 20\_\_, by Homebuyer Full Legal Name.

My commission expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NOTARY PUBLIC,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Second Homebuyer or Spouse Full Legal Name (if applicable)

COMMONWEALTH OF KENTUCKY )

)SS.

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_\_, 20\_\_, by [Second Homebuyer or Spouse Full Legal Name].

My commission expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NOTARY PUBLIC,

THIS INSTRUMENT PREPARED BY:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attorney Name, Counsel for Entity or Homebuyer

Law Firm (if applicable)

Attorney Address

Phone Number

Exhibit A

Legal Description

Insert Legal Description