**KENTUCKY HOUSING CORPORATION**

**HOME INVESTMENT PARTNERSHIP PROGRAM**

**HOMEBUYER WRITTEN AGREEMENT**

**NOTICE TO HOMEBUYER:** *This Agreement contains requirements you must fulfill in exchange for the federal assistance you are receiving through the HOME Investment Partnerships Program (HOME Program). You should read each paragraph carefully and ask questions regarding any sections you do not fully understand. This Agreement is intended to be separately enforceable from, and survive any prepayment of, the loan and mortgage as set forth in Section 1 below. You should be sure that you thoroughly understand these documents before you sign them.*

**THIS AGREEMENT** is entered into this XX day of MONTH, YEAR by and between the Kentucky Housing Corporation, a de jure municipal corporation and political subdivision of the Commonwealth of Kentucky (“KHC”), and BUYERNAME(S), married/unmarried/husband and wife (“Homebuyer” whether singular or plural).

**WHEREAS**, KHC is a participating jurisdiction under the HOME Investment Partnerships Program (“HOME”) administered by the United States Department of Housing and Urban Development (“HUD”); and

**WHEREAS**, KHC has the authority to enter into binding agreements for the expenditures of all or a portion of its HOME funds, program income, and matching funds; and

**WHEREAS**, the regulations of 24 CFR Part 92, known as the HOME Final Rule (as now in effect and as may be amended from time to time), which are incorporated by reference hereto and made a part hereof and constitute a part of this Agreement, govern KHC’s implementation of the HOME program; and

**WHEREAS**, KHC has entered into an agreement with DEVELOPER FULL LEGAL NAME (“Developer”) to develop single family homes and identify qualified homebuyers to purchase those homes; and

**WHEREAS**, Developer has determined that Homebuyer meets the eligibility requirements to purchase the single unit dwelling, including form of homeownership, property standards, and income determination for the property located at PROPERTYADDRESS (the “Property”).

**NOW, THEREFORE**, in accordance with the mutual understanding and agreements set forth herein, KHC and Homebuyer agree as follows:

**SECTION 1. LOAN**

Developer will loan Homebuyer an amount not to exceed $DIRECTASSISTANCETOTAL (“Loan”), which funds were provided to Developer under the terms of an agreement with KHC under the HOME Program, to assist Homebuyer with a down payment, closing costs, and/or a portion of the purchase price of the Property, therefore representing direct HOME assistance to the Homebuyer.

The Loan will be evidenced by a promissory note executed by Homebuyer in favor of Developer (“Note”) and secured by a mortgage to be filed in the official real property records of the county or counties in which the Property is located (“Mortgage”), which Note and Mortgage will be assigned to KHC after the closing on the purchase of the Property. The terms and duration of the Loan are specified in the Note and Mortgage, and the Note and Mortgage will be released upon repayment of the Loan under the terms set forth therein. Homebuyer may, but is not required to, prepay the Loan, in whole or in part, at any time.

**SECTION 2. AGREEMENT TERM**.

This Agreement shall survive any prepayment of the Loan or any release of the Mortgage that does not include a transfer of the Property and shall continue for the full Affordability Period, as defined in Section 3. This Agreement will expire upon expiration of the Affordability Period.

**SECTION 3. AFFORDABILITY PERIOD**

The period of affordability for the Property will begin on the date of the closing on the purchase of the Property and shall end five (5)/ten (10)/fifteen (15) years after the date of the closing on the purchase of the Property (the “Affordability Period”).

The expiration of this Agreement and the Affordability Period shall be the same.

If Homebuyer sells or transfers ownership of the Property voluntarily or involuntarily, including via foreclosure or deed in lieu of foreclosure, the Affordability Period will end upon the recapture of the full amount of the direct HOME assistance by KHC as described in Section 6 below.

**SECTION 4. PROPERTY VALUE, PURCHASE PRICE LIMITS, AND MAXIMUM HOME INVESTMENT**

The appraised value of the Property is $APPRAISEDVALUE, and the purchase price of the Property is $SALESPRICE, which is within the applicable HOME maximum purchase price limit for KHC. Further, including any HOME funds invested toward the development of the Property and any of Developer’s project-related soft costs, the total HOME investment inclusive of the direct HOME assistance to the buyer will not exceed the applicable maximum per-unit subsidy determined by HUD under 24 CFR 92.250. As of the date of this Agreement the applicable subsidy limit for a unit is $40,000.

**SECTION 5. PRINCIPAL RESIDENCE**

During the Affordability Period, barring a sale or transfer of title to the Property, which shall be governed by Section 6 below, the Homebuyer shall at all times maintain the Property as Homebuyer’s principal residence. Should Homebuyer cease to maintain the Property as Homebuyer’s principal residence, rent the residence to another party, or convert the Property to a non-residential use, Homebuyer will be in breach of this Agreement and subject to the Default and Enforcement provisions under Section 10.

**SECTION 6. RECAPTURE AGREEMENT**

In compliance with 24 CFR 92.254(a)(5), if Homebuyer sells or otherwise voluntarily or involuntarily transfers title to the Property during the Affordability Period, including transfer as a result of foreclosure or deed in lieu of foreclosure, then the outstanding direct HOME assistance to the buyer (entire remaining balance of the Loan amount as determined pursuant to the terms of the Note) will be recaptured by KHC.

However, if the net proceeds of the sale are insufficient to repay the direct HOME assistance, then the entire net proceeds will be recaptured and retained by KHC to satisfy both this Agreement and the Loan. If there are no net proceeds, repayment is not required and the HOME Program requirements are considered to be satisfied. The term “net proceeds” is defined as the sale price less the balance due on superior secured debt and closing costs incurred by the Homebuyer at sale or transfer. In the event the net proceeds are less than the outstanding Loan balance, KHC reserves the right to determine whether the sales price is comparable to the sales price in an arms-length transaction for a similar unit and to evaluate the closing costs being charged to Homebuyer to ensure they are reasonable and customary.

Net proceeds of sale in excess of the outstanding direct HOME assistance will be retained by the Homebuyer.

In the event Homebuyer wishes to refinance, KHC will recapture HOME funds subject to the amortization schedule. KHC may elect to subordinate to refinancing on a case-by-case basis.

To facilitate the expeditious administration of this Section, Homebuyer shall provide notice to KHC of any anticipated refinance or transfer of title, including but not limited to a sale or foreclosure.

**SECTION 7. USE OF HOME FUNDS**

Homebuyer agrees that the HOME assistance will be used as gap financing to assist with down payment, closing costs, or the purchase price of the Property. This will reduce the total amount the Homebuyer will be required to borrow from a bank, credit union, or other lender in order to purchase the Property. The amount of HOME assistance will not be final until Developer has updated all necessary underwriting and subsidy layering requirements based on final closing figures.

**SECTION 8. LOW INCOME HOMEBUYER**

Homebuyer attests that Homebuyer qualifies as a low-income individual or household as defined by the HOME Program. “Low-income” is defined as an individual or household whose gross income does not exceed 80% of the Area Median Income (AMI) as defined by HUD. KHC uses the Section 8 definition for determining income for HOME homebuyer programs.

**SECTION 9. INSURANCE REQUIREMENT**

At all times during the term of this Agreement Homebuyer shall maintain a valid and current hazard insurance policy on the Property for the current appraised value of the Property and naming KHC as an additional loss payee in primary coverage. Failure to maintain a valid and current insurance policy will be considered a breach of this Agreement, and KHC will have the right to secure insurance for the Property and charge such costs to the Homebuyer or to foreclose on its Mortgage, if necessary, to protect the HOME program investment. If the Property is in a 100-year flood zone, Homebuyer shall maintain a current and valid flood insurance policy on the Property. Evidence of insurance must be provided at closing and annually thereafter to KHC or KHC’s designee.

**SECTION 10. DEFAULT AND ENFORCEMENT**

In the event Homebuyer violates any terms of this Agreement or any other agreement between Homebuyer and KHC, KHC shall issue a notice of violation to Homebuyer. Upon receipt of such a notice, Homebuyer agrees to remedy the violation within 30 days or, in the case of violations requiring longer cure periods, KHC may allow for a period of up to 90 days to correct the violation. In such cases, Homebuyer must take action to begin corrections within 30 days of the date of KHC’s notice of violation. Upon Homebuyer’s failure to correct the violation within the allotted time, KHC may take additional corrective action including suing for specific performance, declaring a default under the Loan, and seeking any other legal remedies available.

In the event of Homebuyer’s uncured violation of the principal residency provisions of Section 5, Homebuyer will be required to repay the entire amount of any unforgiven direct HOME assistance (e.g. the original amount of the Loan less any amount that has been forgiven) to the Homebuyer described herein from available net proceeds.

**SECTION 11. ROLE OF KHC**

As a HOME participating jurisdiction, KHC is ultimately responsible to HUD for compliance with all HOME requirements, including the enforcement of this Agreement and in particular its provisions related to principal residency and recapture.

Therefore, Homebuyer specifically acknowledges that any information, documents, certifications, warranties, or promises being made to KHC and are true and correct and that Homebuyer’s financial situation has not changed materially since the application for HOME assistance was made. Homebuyer acknowledges that any discrepancies or misstatements may result in Homebuyer’s disqualification from participation in the program and shall be deemed a breach of this Agreement and the Loan, and Homebuyer will be required to repay the entire HOME investment amount.

Further, Homebuyer specifically acknowledges that KHC or its designee may review, monitor, or seek to confirm the Homebuyer’s ongoing compliance with the terms of this Agreement and the Loan, and Homebuyer agrees to provide such information or documents to KHC or its designee as KHC may reasonably require in the course of such monitoring or reviews, including but not limited to evidence that the Homebuyer is in compliance with Section 5.

KHC may issue notices of violation, require corrective action, or seek performance using any and all legal remedies available.

**SECTION 12. MISCELLANEOUS**

**IN ANY QUESTIONS INVOLVING STATE LAW, FOR ANY ACTION, WHETHER REAL OR ASSERTED, AT LAW OR IN EQUITY, ARISING OUT OF THE EXECUTION, PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT, THE CHOICE OF LAW SHALL BE THE LAW AND COURT DECISIONS OF THE COMMONWEALTH OF KENTUCKY, WITHOUT REGARD TO CONFLICT OF LAW OR CHOICE OF LAW PRINCIPLES OF KENTUCKY OR OF ANY OTHER STATE.**

Venue for any action, whether real or asserted, at law or in equity, arising out of the execution, performance, attempted performance or nonperformance of this Agreement, shall lie in Franklin County, Kentucky.

None of the rights and remedies conferred upon or reserved to KHC under this Agreement is intended to be exclusive of any other rights, and each and every right shall be cumulative and concurrent, and may be enforced separately, successively, or together, and may be exercised from time to time as often as may be deemed necessary by KHC.

The paragraph headings contained herein are for convenience in reference to this Agreement and are not intended to define or to limit the scope of any provision of this Agreement. Where appropriate, all personal pronouns used herein, whether used in the masculine, feminine or neutral gender, shall include all other genders and singular nouns used herein shall include the plural and vice versa.

**IN WITNESS WHEREOF**, Homebuyer and KHC executed this Agreement as of the date set forth above.

**KENTUCKY HOUSING CORPORATION**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Curtis Stauffer

Managing Director

DATE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOMEBUYER:**

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HOMEBUYERNAME, an individual

DATE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

HOMEBUYER2NAME, an individual

DATE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_