

## **MEMORANDUM OF AGREEMENT**

THIS MEMORANDUM OF AGREEMENT ("Agreement") is made and entered into by and between **KENTUCKY HOUSING CORPORATION** ("KHC"), a de jure municipal corporation and political subdivision of the Commonwealth of Kentucky, located at 1231 Louisville Road, Frankfort, Kentucky and \_\_\_\_\_ ("Developer"), a \_\_\_\_\_, located at \_\_\_\_\_. In consideration of the mutual covenants contained in this Agreement and such other good and valuable consideration, KHC and Developer agree as follows:

### **1. Description of Services.**

- A. Developer may request construction inspections on any single-family home in which Developer has an interest.
- B. Developer will notify KHC by email at [KHCinspectionRequests@kyhousing.org](mailto:KHCinspectionRequests@kyhousing.org) to request an inspection or reinspection ("Inspection"). Using the KHC Inspection Request form the developer will provide KHC the property address, contractor contact, applicable code, funding source, homeowners name and scope of work to be inspected.
- C. KHC will attempt to schedule and conduct the requested inspection within, two (2) business days for footer inspections and five (5) business days for all other inspections, from the date of receipt of the request. Developer acknowledges that caseload or other factors may result in a delay beyond this timeframe. Developer shall designate a Developer representative who shall meet KHC onsite at the designated time and serve as the point of contact on behalf of Developer. KHC shall perform a visual inspection based on applicable codes identified by Developer.
- D. KHC shall provide a written report of inspection on KHC's standard report form to Developer within one week of inspection to include inspection results and relevant images.
- E. Should any deficiencies identified require reinspection, upon request from Developer, KHC will conduct a reinspection of the property within the timeframe set forth in paragraph C above and provide a written report within one week of the re-inspection. Re-inspections for any project receiving funds from KHC shall be governed by the policies and rules governing such program.

F. All inspections and re-inspections processes will be performed in accordance with KHC’s standard policies and procedures. All KHC work is performed during normal KHC operating hours, unless otherwise agreed by KHC.

**2. Cost and Payment.** The cost for inspections shall be per the schedule below:

Footing Inspection (all excavation complete; all steel properly in place; all form work complete)	\$250
Rehab Inspection (per unit)*	\$250
Rough-In/Pre-Drywall Inspection (rough in mechanical, electrical, plumbing, and wall insulation complete)**	\$275
Final Inspection**	\$275
Onsite Re-Inspection	\$250
Re-Inspection via Electronic Document Review (may be performed in lieu of onsite re-inspection at KHC’s discretion)	\$120
Plan, Specification, Energy, and Modification Review for Rural Development	\$60
Third Party Repair/Habitability Inspection	\$250

\* Should Developer desire inspection of rough-in work in connection with a rehab inspection, Developer shall notify KHC before such work is covered. An additional requested final inspection will require an additional Rehab inspection fee.

\*\* Prior to KHC performing a rough-in or final inspection, electrical, plumbing and HVAC inspections must be completed by a Kentucky licensed inspector having jurisdiction, with final inspection stickers present.

KHC will submit invoices to Developer monthly to bill for work performed. In the event Developer cancels the scheduled service within 24 hours of the scheduled service time or is unprepared for the service when the KHC inspector arrives at the scheduled time, Developer shall be responsible for the full amount of applicable inspection costs.

**3. Term.** This Agreement is entered into the date of the later of the two signatures below and will terminate on June 30, 2023. This Agreement may be terminated at will by either party

upon 30 days' advance written notice. The term of this Agreement may be renewed upon the mutual written consent of both parties.

**4. Limitations of Liability.**

- A. KHC does not perform engineering, architectural, electrical, plumbing, or any other job function requiring an occupational license in the jurisdiction in which the property is located.
- B. KHC's inspections and reports are in no way a guarantee or warranty, express or implied, regarding the future use, operability, habitability, or suitability of the home or its components. KHC disclaims all warranties, express or implied, to the fullest extent allowed by law.
- C. KHC's liability with respect to this Agreement and the services performed under this Agreement is limited to the fees charged for inspection of a respective property. In addition, Developer waives any claim for consequential, exemplary, special, or incidental damages or for the loss of the use of the home.
- D. If Developer believes it has a claim against KHC, Developer shall provide KHC with: (1) written notification of the claim within seven days of discovery, in sufficient detail and with sufficient supporting documents that KHC can evaluate it, and (2) immediate access to the premises. Failure to comply with these conditions' releases KHC from liability. In any event, no claim may be brought against KHC with respect to an inspection under this Agreement after one-year from the date of the last inspection of the respective property.
- E. KHC shall have the right to decline to perform the services at any property at its discretion.

**5. Relationship of Parties.**

- A. The relationship created by this Agreement is that of an independent contractor, and nothing contained herein will be construed to be inconsistent with this relationship.
- B. KHC's inspections and reports are for the use of Developer only. While KHC has

no obligation to discuss its observations with others, Developer gives KHC permission to discuss its observations with real estate agents, owners, repair persons, contractors, or other interested parties. KHC is not responsible for use or misinterpretation by third parties, and third parties who rely on or use the inspections or reports in any way do so at their own risk and release KHC from any liability. Developer agrees to indemnify and defend KHC from any liabilities, claims, costs, expenses (including reasonable attorneys' fees), damages, and judgements arising out of use of or reliance on KHC's inspections or reports by a third party.

- C. KHC's observations shall not supersede any findings by a local inspector having jurisdiction over the project. Provided however, in the event a project is participating in a KHC program, a project will need to meet KHC program requirements, as determined by the KHC inspector.

**6. Miscellaneous.**

- A. Prior Negotiations Merged. All prior negotiations and agreements between the parties with respect to the subject matter of this Agreement are hereby merged herein, and no statement, agreement or understanding not contained herein will be recognized or enforced unless in writing and of even date herewith or subsequent thereto.
- B. Modification. No change or modification of this Agreement will be valid unless it is in writing and signed by the parties.
- C. Parties Bound. This Agreement will inure to the benefit of, and be binding upon the parties, their legal representatives, successors and assigns.
- D. Choice of Law and Forum. All questions as to the execution, validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the Commonwealth of Kentucky. Furthermore, the parties hereto agree that any legal action which is brought on the basis of this Agreement shall be filed in the Franklin County Circuit Court of the Commonwealth of Kentucky.
- E. Section Headings. The section headings have been included in this Agreement

solely for the convenience of the parties and are not to be deemed a part of this Agreement or material to its construction.

- F. Invalid Provisions. Should any provision of this Agreement be deemed invalid or unenforceable, it will not affect the other provisions of this Agreement, and this Agreement will be construed in all respects as if the invalid or unenforceable provisions were omitted.
- G. Notices. All notices provided for or given under this Agreement will be in writing and will be deemed given when personally delivered or when mailed by certified mail, return receipt requested, to the last known address of the party.
- H. Assignment. This Agreement may not be assigned without the prior written permission of the other party to this Agreement.
- I. Force Majeure. Neither Party shall be liable for public utility performance (e.g., Postal service; telephone; or water company, etc.) or for the consequence of public utility non-performance. Events or conditions beyond the reasonable control of the Parties, such as natural disasters, fires, floods, pandemics, elements, transportation crashes, or utility failures shall not be construed as non-performance, nor shall reductions be applied as a result of such events. Each Party must inform the other in writing with proof of receipt within five (5) business days of the existence of a Force Majeure event or otherwise waive this right as a defense.

To indicate their understanding of and agreement to the terms of this Agreement, the parties have executed this instrument as of the last dated signature below.

KENTUCKY HOUSING CORPORATION

BY: \_\_\_\_\_

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

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

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