

After recording send to:

DEED RESTRICTION AGREEMENT

HOME Investment Partnerships Program By and between

(enter Grantee Name & Address)

herein after referred to as (enter Grantee Name)

and
(borrower's name)

herein after referred to as the "Property Owner" regarding the purchase of the following property:

(enter complete address of property)

said land and improvements are hereinafter collectively referred to as the "Property",

1. PURPOSE

This Deed Restriction Agreement is made and entered into this day of (enter date), by and between (enter name of entity) and the Property Owner.

Whereas (enter name of entity) has loaned to the Property Owner HOME Investment Partnerships Program funds via recapture provision in the amount of (enter amount of HOME loan, spelled out and numerical amount. e.g. Fifteen Thousand Dollars and No Cents) (\$) for the purpose of providing assistance for down payment and closing costs for the property located at the above named address and legally described as follows:

(enter complete legal description of property)

Now therefore, in consideration of the loan and other good and valuable consideration, the parties hereto do agree as follows:

2. DEFINITIONS

- a. Agreements means this Deed Restriction Agreement, as it may from time to time be amended.
- b. (enter entity's short name) means the (enter entity's legal name) dba (enter entity's dba, if applicable).
- c. HOME means HOME Investment Partnerships Program.
- d. Principal Residence means Property Owner will maintain the Property as their principal residence and not move out and leave the Property vacant or move out and rent the Property.
- e. Net Proceeds means the sales price of the Property, minus any outstanding debt senior to this loan, and minus closing costs required to be paid by Property Owner upon sale of the Property.
- f. Property Owner means the owner(s) as set forth at the beginning of this Agreement, or any successor in title to the property.

- g. **Term** means the period of affordability commencing on the date hereof and continuing until the earliest to occur of the following:
- 1) (enter term, spelled out and numerically, e.g. Fifteen (15) () years beginning after the transfer of property to the Property Owner as evidenced by the Mortgage Agreement;
 - 2) The date upon which a transfer of ownership of the property and repayment of any funds subject to recapture occurs;

2. USE AND OCCUPANCY OF THE PROPERTY

- a. It is agreed that during the Term, the Property Owner will maintain the Property as **his/her principal residence**.
- b. It is agreed that during the Term, the Property Owner will maintain the Property in accordance to the minimum standards set forth in the (enter name of entity) Policies and Procedures for their Home Buyer Program defined as U.S. Department of Housing and Urban Development Section 8 Housing Quality Standards.

4. RECAPTURE PROVISIONS FOR HOMEBUYER PROGRAM

- a. **Term.**
The term of this agreement and the HOME recapture provisions will be (enter term, spelled out and numerically, e.g. Fifteen (15) () years for each assisted activity beginning after the transfer of the property to the property owner as evidenced by the Mortgage Agreement.
- b. **Loan Repayment.**
Repayment of the HOME loan amount noted in Section 1 will be deferred for the term of the recapture provisions, provided that the Property Owner is in full compliance with this agreement. At the time of sale of the property at any time during the term, the **full** amount of the loan will become due in full. The loan will become due in full should the Property Owner fail to maintain the Property as his/her/their primary residence.
- c. **Amount to be Recaptured.**
In the event that the Property Owner sells the Property during the term of the recapture provisions, the full amount of the (enter name of entity) HOME investment will be due and payable to the extent that net proceeds are available to repay the Property Owner's loan. If the net proceeds are not sufficient to recapture the full HOME investment, (enter name of entity) will accept the available net proceeds as full payment. The Property Owner's down payment, principal payments, and any capital improvement investment made in the property after the HOME assistance has been provided will be returned to the Property Owner at closing after (enter name of entity) HOME assistance has been recaptured from the net proceeds as described above. The Property Owner also will retain the value of the appreciation in the property after (enter name of entity) HOME assistance has been recaptured.

An agreement detailing the recapture provisions will be secured through a trust indenture recorded against the property at the time of assistance. These recapture provisions may terminate upon occurrence of the following:

- 1) Foreclosure, transfer in lieu of foreclosure, or assignment of an FHA insured mortgage to HUD. (enter name of entity) may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure to preserve affordability. The recapture provisions will be revived according to the original terms if during the original affordability period, the owner of record before the termination event, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the project or property.

5. REPRESENTATIONS AND WARRANTIES OF PROPERTY OWNER

- a. The Property Owner represents and warrants that he/she has validly executed this Agreement and the same constitute the binding obligation of the Property Owner. The Property Owner has full power, authority, and capacity to enter into the Agreement, to carry out the Property Owner's obligations as described in this Agreement, and to assume responsibility for compliance with all applicable federal rules and regulations
- b. To the best of the Property Owner's knowledge, the making of this Agreement and the Property Owner's obligations hereunder:
 - 1) Will not violate any contractual covenants or restrictions between the Property Owner or any third party affecting the Property;
 - 2) Will not conflict with any of the instruments that create or establish the Property Owner's authority;
 - 3) Will not conflict with any applicable public or private restriction;
 - 4) Do not require any consent or approval or any public or private authority which has not already been obtained; and
 - 5) Are not threatened with invalidity or unenforceability by any action, proceeding, or investigation pending or threatened, by or against the Property Owner, without regard to capacity, any person with whom the Property Owner may be jointly or severally liable, or the Property or any part thereof.
- c. No litigation or proceedings are pending or to the best of the owner's knowledge, threatened against the Property Owner which if adversely determined could individually or in the aggregate have an

adverse effect on the title to or the use and enjoyment or value of the Property, or any portion thereof, or which could in any way interfere with the consummation of this Agreement.

- d. The Property Owner agrees to indemnify and hold harmless (enter name of entity) from and against all liabilities, losses, claims, damages, judgments, costs, and expenses (including, without limitation, reasonable attorney's fees) incurred by (enter name of entity) as a result of any material inaccuracy in any of the representations and warranties contained in this Agreement.

6. MISCELLANEOUS

- a. Notices. All notices required or permitted to be given under this Agreement must be in writing and will be deemed to have been duly given if delivered personally or mailed, postage prepaid, by registered or certified United States mail, return receipt requested, addressed to the parties at the following address:

FOR (enter name of entity)
(enter Address)

FOR THE PROPERTY OWNER
(enter address)

- b. Binding Effect: Covenants Running with the Land. During the Term, this Agreement and the covenants, reservations, and restrictions contained herein shall be deemed covenants running with the land for the benefit of (enter name of entity) and its successors, and shall pass to and be binding upon the Property Owner's heirs, assigns, and successors in title to the Property, or if the property shall not include title to land, but shall include a leasehold interest in land, this Agreement and the covenants, reservations et. al. shall bind the leasehold interest as well as the Property and shall pass to and be binding upon all heirs, assigns and successors to such interest; provided, however, that upon expiration of the Term in accordance with the terms hereof said covenants, reservations and restrictions shall expire.

Each and every contract, deed or other instrument hereafter executed covering or conveying the Property or any portion thereof shall conclusively be held to have been executed, delivered, and accepted subject to such covenants, reservations, and restrictions, regardless of whether such covenants, reservations, and restrictions are set forth in such contract, deed or other instruments. If a portion or portions of the Property are conveyed, all of such covenants, reservations, and restrictions shall run to each portion of the Property. (enter name of entity), at the Property Owner's cost and expense, shall cause this Agreement to be duly recorded or filed and re-recorded or re-filed in such places, and the Property Owner shall pay or cause to be paid all recording, filing, or other taxes, fees and charges, and shall comply with all such statutes and regulations as may be required by law, in the opinion of qualified counsel, in order to establish, preserve and protect the ability of (enter name of entity) to enforce this Agreement.

In Witness whereof, the undersigned have hereunto affixed their signatures and seals as the date first above written.

(enter legal name of borrower)

(enter legal name of borrower)

(full name and signature of borrower)

(full name and signature of borrower)

STATE OF MONTANA, (name of city):
County of (name of county):

Signed and sworn to before me on this (enter day) day of (enter month), 20(enter last two digits of year) a Notary Public for the state of Montana, personally appeared (Borrower's Name), known to me to be the person(s), that executed the within instrument, and acknowledged to me that (he/she/they) executed the same.

[Type or Print Name]

Notary Public for the State of Montana

Residing at _____

My commission expires _____

(Seal)