

EXHIBIT E

SHARED APPRECIATION NOTE

_____, 20____

[Property Address]

[insert identifying number for administrative tracking of note]

THIS NOTE (the “Note”) is given on _____, 20____ by and between **[Borrower’s Name]** (whether one or more person, hereinafter referred to as “**Borrower**”) and the **United States Department of Housing and Urban Development**, which is organized and existing under the laws of the United States, having its principal office at 451 Seventh Street, S.W., Washington, D.C., 20410 (hereinafter referred to as the “**Lender**”).

RECITALS

R1. The Borrower has chosen to participate in the Hope for Homeowners program as established by Title IV of the Housing and Economic Recovery Act of 2008 (the “Hope Program”).

R2. As a participant in the Hope Program, the Borrower has a FHA-insured first mortgage of even date herewith in the amount of _____ **[Insert amount of the Hope Mortgage]** with _____ **[Insert First Lienholder Name]** secured by the Property (as defined herein). (the “Hope Mortgage”).

R3. Pursuant to the terms and conditions of the Hope Program, the Borrower shall grant the Lender an equity and appreciation interest in the Property by executing a Shared Equity Note, Shared Appreciation Note, Shared Equity Mortgage (the “SEM”) and Shared Appreciation Mortgage (the “SAM”) of even date herewith with the SEM and SAM to be secured by a second and third priority lien against the Property.

NOW, THEREFORE, in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged and the mutual covenants herein contained, the parties do hereby agree as follows:

1. **Borrower’s Promise to Pay.** Upon the arms length sale or any other disposition of all or any part of the Property including the sale or disposition of a beneficial interest in the Property (the “Maturity Event”), the Borrower hereby promises **[jointly and severally]** to pay to the order of the Lender principal in the amount of fifty percent (50%) of the appreciation of the Property with appreciation being equivalent to the appraised value at the time of the Maturity Event less Capital Improvements (as

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defined below) less the appraised value of the Property at the date the Hope Mortgage becomes FHA-insured (the "Date of Insurance").

Borrower agrees that if the Hope Mortgage is determined to be ineligible for insurance under the National Housing Act, the Borrower's promise to pay shall not be pursuant to the calculation stipulated above but, instead, shall be _____ (\$ _____) **[Insert amount released by junior lienholders at the origination of the Hope Mortgage.]** Lender may, at its option require immediate payment in full of all sums secured by the Security Instrument. A written statement of any authorized agent of the Secretary dated subsequent to from the date hereof, declining to insure Hope Mortgage, shall be deemed conclusive proof of such ineligibility. Notwithstanding the foregoing, this option may not be exercised by Lender when the unavailability of insurance is solely due to Lender's failure to remit a mortgage insurance premium to the Secretary.

Maturity Event shall not include the following:

- (a) a transfer by devise, descent, or operation of law on the death of a joint tenant or tenant by the entirety;
- (b) the granting of a leasehold interest of three (3) years or less not containing an option to purchase;
- (c) a transfer to a relative resulting from the death of the Borrower;
- (d) a transfer where the spouse or children of the Borrower become an owner of the property;
- (e) a transfer resulting from a decree of a dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement, by which the spouse of the Borrower becomes an owner of the property; or
- (f) a transfer into an inter vivos trust in which the borrower is and remains a beneficiary and which does not relate to a transfer of rights of occupancy in the property.

2. **Interest.** This Note shall not bear interest unless the principal amount due upon occurrence of a Maturity Event is not paid to Lender. If principal amount due is not paid, the principal sum due pursuant Paragraph 1 of this Note shall bear interest from the date of the Maturity Event at the rate of the current value of funds to the United States Treasury in effect on the date of the Maturity Event. The current value of funds rate is prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins.

3. **Capital Improvements.** Seventy-five percent (75%) of the cumulative sum expended by the Borrower on completed capital improvement projects that significantly changed and enhanced the value of the Property (not inclusive of sweat equity) as of the date herein until the occurrence of a Maturity Event in which the cumulative amount expended for each type of improvement project is in excess of two

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thousand five hundred dollars (\$2,500) and provided such amounts expended are supported by contractor invoices and/or receipts shall be referred to herein as “Capital Improvements.”

4. **Appraisal.** Upon the occurrence of a Maturity Event or a notice of default provided to the Borrower by the Lender, Lender shall obtain an independent appraisal of the Property for the purpose of determining the principal amount required to satisfy this Note for the purpose of acceleration and foreclosure.

5. **Mortgage.** This Note is secured by a SAM, deed of trust, or similar security instrument of even date herewith between Borrower and Lender (the “Security Instrument”). The Security Instrument encumbers certain real property located at **[Insert Property Address]** (the “Property Address”) and more fully described in the Security Instrument (the “Property”).

6. **Payment.**

(a) No regular monthly payments are due under this Note. A payment is due upon the occurrence of a Maturity Event pursuant to the terms and schedule provided in Paragraph 1 of this Note.

This Note is a deferred contingent liability. Principal and any interest on this Note and all other sums which may or shall become due under this Note and the Security Instrument, shall be due and payable upon the occurrence of the Maturity Event (Maturity Date) if (1) not otherwise satisfied in accordance with the provisions of the Security Instrument, or (2) there is an Event of Default (defined hereafter).

(b) Payment shall be made at _____ **[insert address]** or at such place as Lender may designate in writing by notice to Borrower.

7. **Full Recourse.** This Note is a full recourse obligation of the Borrower.

8. **Prepayment.** Borrower shall not have the right to prepay this Note, in whole or in part.

9. **Default.** The term “Event of Default” shall mean the violation of any term of this Note or the Security Instrument. The terms of the Security Instrument are incorporated herein by reference as though set forth herein.

10. **Acceleration.** Upon the occurrence of any Event of Default, Lender may declare, without notice, the principal and interest on this Note, together with all other sums which may or shall become due under this Note and the Security Instrument, immediately due and payable.

In the event the Lender provides the Borrower with a notice of default, the Lender shall order an independent appraisal of the Property for the purpose of determining the principal amount required to satisfy this Note upon acceleration (the “Acceleration Appraisal”). The principal amount due shall be equivalent to the

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difference between the Acceleration Appraisal and the appraised value on the Date of Insurance.

11. **Payment of Lender's Costs and Expenses.** If Lender has required immediate payment in full, as describe above, Lender may require Borrower to pay costs and expenses including reasonable and customary attorney's fees for enforcing this Note to the extent not prohibited by applicable law. Such fees and costs shall bear interest from the date of disbursement at a rate of the current value of funds to the United States Treasury in effect on the date of the date of disbursement and, at the option of Lender, shall be immediately due and payable. The current value of funds rate is prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins.

12. **Modifications.** This Note shall not be modified, amended, changed, discharged, or terminated orally. This Note may only be modified, amended, changed, discharged, or terminated by an agreement in writing signed by the party against whom enforcement of such modification, amendment, change, discharge, or termination is sought.

13. **Notices.** Any notice to Borrower provided for in this Security Instrument 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 Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

14. **Time of the Essence.** Time is of the essence as to all dates set forth herein.

15. **Waivers.** Borrower and all endorsers, sureties and guarantors jointly and severally waive presentation for payment, demand for payment, notice of nonpayment, notice of protest, notice of dishonor, protest, notice of protest, and any and all lack of diligence or delays in collection or enforcement of this Note.

16. **Successors and Assigns Bound.** The covenants and agreements of this Note shall bind and benefit the successors and assigns of Lender and Borrower. The covenants and agreements of Borrower under this Note are not assignable without the prior written consent of Lender.

17. **Governing Law; Severability.** This Note shall be governed by Federal law. In the event that any provision or clause of this Note or the Security Instrument conflicts with applicable law, such conflict shall not affect other provisions of this Note or the Security Instrument which can be given effect without the conflicting provision. To this end the provisions of this Note and the Security Instrument are declared to be severable.

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18. **Authority to Execute.** The representative of Borrower executing this Note represents that he/she has full power, authority and legal right to execute and deliver this Note and that the debt hereunder constitutes a valid and binding obligation of Borrower.

BY SIGNING BELOW, Borrower accepts and agrees under seal to the terms and covenants contained in this Note.

BORROWER:

By: _____ (SEAL)

Name: _____

By: _____ (SEAL)

Name: _____

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[NOTE: THE FOLLOWING IS A SAMPLE MODEL MORTGAGE FORM THAT IS NOT ADAPTED FOR STATE LAW. THE FHA-APPROVED MORTGAGEE EXTENDING THE FIRST MORTGAGE IS RESPONSIBLE FOR ADAPTING PROVISIONS WITHIN THIS MODEL FORM TO STATE LAW ON BEHALF OF HUD. THE GENERAL SUBSTANCE OF EACH PROVISION SHOULD NOT CHANGE FROM THE MODEL FORM. IF THERE IS A CONFLICT BETWEEN SUBSTANTIVE CONTENT OF A PARTICULAR PROVISION AND STATE LAW, THE MORTGAGEE SHALL CONTACT FHA FOR FURTHER GUIDANCE.]

After Recording Return To:

[Insert where to return recorded document]

_____ **[Space Above This Line For Recording Data]** _____

[insert identifying number for administrative tracking of mortgage]

SHARED APPRECIATION MORTGAGE

THIS SHARED APPRECIATION MORTGAGE (the “SAM”) is given on _____, 20__ by and between _____ **[Insert Borrower’s Name]** (whether one or more person, hereinafter referred to as “**Borrower**”) and the **United States Department of Housing and Urban Development**, which is organized and existing under the laws of the United States, having its principal office at 451 Seventh Street, S.W., Washington, D.C., 20410 (hereinafter referred to as the “**Lender**”) with **Mortgage Electronic Registration Systems, Inc.**, organized and existing under the laws of Delaware, with an address and telephone number of P.O. Box 2026, Flint, Michigan 48501-2026, tel. (888) 679-MERS (“**MERS**”) acting solely as a nominee for Lender and Lender’s successors and assigns. **FOR PURPOSES OF RECORDING THIS MORTGAGE, MERS IS THE MORTGAGEE OF RECORD.**

RECITALS

R1. Borrower is the owner of property located in _____ County, _____ more particularly described on **Schedule A** annexed hereto which has the address of _____ [Street], _____, _____, _____ [Zip code], (the “Property Address”).

R2. The Borrower has chosen to participate in the Hope for Homeowners program as established by Title IV of the Housing and Economic Recovery Act of 2008 (the “Hope Program”).

R3. As a participant in the Hope Program, the Borrower has a FHA-insured first mortgage of even date herewith in the amount of _____ **[Insert amount of the Hope Mortgage]** with _____ **[Insert First Lienholder Name]** secured by

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the Property (as defined herein). (the "Hope Mortgage").

R4. Pursuant to the terms and conditions of the Hope Program, the Borrower shall grant the Lender an equity and appreciation interest in the Property by executing a Shared Equity Note, Shared Appreciation Note, Shared Equity Mortgage (the "SEM") and Shared Appreciation Mortgage (the "SAM") of even date herewith with the SEM and SAM to be secured by a second and third priority lien against the Property.

NOW, THEREFORE, in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged and the mutual covenants herein contained, the parties do hereby agree as follows:

1. Borrower promises to pay the principal sum stipulated in the Note and all other sums which may or shall become due under this SAM or the Note, upon the occurrence of a Maturity Event (the "Maturity Date"), if (a) not otherwise satisfied in accordance with the provisions of this SAM or (b) there is an Event of Default (defined hereafter).

2. This SAM secures (a) the repayment of the debt evidenced by the Note; (b) the performance of Borrower's promises and agreements under this SAM and the Note. For this purpose, Borrower hereby mortgages, warrants, grants, and conveys to Lender a security interest, with power of sale, in the Property;

TOGETHER WITH 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 SAM.

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

UNIFORM COVENANTS

1. **Payment of Principal and Interest.** Upon the arms length sale or any other disposition of all or any part of the Property including the sale or disposition of a beneficial interest in the Property (the "Maturity Event"), the Borrower hereby promises to pay to the order of the Lender principal based on fifty percent (50%) of the appreciation of the Property with appreciation equivalent to the appraised value at the time of the Maturity Event less Capital Improvements (as defined herein below) less the appraised value of the Property at the date the Hope Mortgage becomes FHA-insured (the "Date of Insurance").

The Note shall not bear interest unless the principal amount due upon occurrence of a Maturity Event is not paid to Lender. If principal amount due is not paid,

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the principal sum due pursuant Paragraph 1 of the Note shall bear interest from the date of the Maturity Event at the rate of the current value of funds to the United States Treasury in effect on the date of the Maturity Event. The current value of funds rate is prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins.

Borrower agrees that if the Hope Mortgage is determined to be ineligible for insurance under the National Housing Act, the Borrower's promise to pay shall not be pursuant to the calculation stipulated above but, instead, shall be

_____ (\$ _____) **[Insert amount of principal released by junior lienholders at the origination of the Hope Mortgage.]** Lender may, at its option require immediate payment in full of all sums secured by the SAM. A written statement of any authorized agent of the Secretary dated subsequent to from the date hereof, declining to insure Hope Mortgage, shall be deemed conclusive proof of such ineligibility. Notwithstanding the foregoing, this option may not be exercised by Lender when the unavailability of insurance is solely due to Lender's failure to remit a mortgage insurance premium to the Secretary.

Maturity Event shall not include the following:

- (a) a transfer by devise, descent, or operation of law on the death of a joint tenant or tenant by the entirety;
- (b) the granting of a leasehold interest of three (3) years or less not containing an option to purchase;
- (c) a transfer to a relative resulting from the death of the Borrower;
- (d) a transfer where the spouse or children of the Borrower become an owner of the property;
- (e) a transfer resulting from a decree of a dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement, by which the spouse of the Borrower becomes an owner of the property; or
- (f) a transfer into an inter vivos trust in which the borrower is and remains a beneficiary and which does not relate to a transfer of rights of occupancy in the property.

2. **Payment of Taxes, Insurance, and Other Charges.** Borrower shall pay all (a) taxes and special assessments levied or to be levied against the Property; (b) leasehold payments or ground rents on the Property; (c) Community Association Dues, Fees, and Assessments, (c) governmental or municipal charges, fines, and impositions; (d) other items which can attain priority over this Security Instrument as a or on the Property. The phrase "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization. Borrower shall pay these obligations on time directly to the entity owed the payment. If

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failure to pay would adversely affect Lender's interest in the Property, upon Lender's request Borrower shall promptly furnish to Lender receipts evidencing these payments.

If Borrower fails to make these payments, fails to perform any other covenants and agreements contained in this SAM, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, for condemnation, or to enforce laws or regulations), then Lender may do and pay whatever is necessary to protect the value of the Property and Lender's rights in the Property, including payment of taxes and hazard insurance.

Any amounts disbursed by Lender under this paragraph shall become an additional debt of Borrower and be secured by this SAM. These amounts shall bear interest from the date of disbursement at a rate of the current value of funds to the United States Treasury in effect on the date of the date of disbursement and, at the option of Lender, shall be immediately due and payable. The current value of funds rate is prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins.

Borrower shall promptly discharge any lien which has priority over this SAM or is subordinate to this SAM unless the lien has priority as provided in Paragraph 7. If Lender determines that any part of the Property is subject to a lien that may either attain priority over this SAM or be subordinate to this SAM, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within ten (10) days of the giving of notice. Within ten (10) days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above.

3. **Fire Flood and Other Hazard Insurance.** Borrower shall insure all improvements on the Property, whether now in existence or subsequently erected, against any hazards, casualties, and contingencies, including fire, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. Borrower shall also insure all improvements on the Property, whether now in existence or subsequently erected, against loss by floods to the extent required by the Lender. All insurance shall be carried with companies approved by Lender. The insurance policies and any renewals shall be held by Lender and shall include loss payable clauses in favor of, and in a form acceptable to, Lender.

If any improvement is located within the special flood hazard area, Borrower shall obtain flood insurance covering all improvements on the property, whether now in existence or subsequently erected, in an amount equal to (a) the value of the Property, or (b) the maximum limit of coverage made available under the National Flood Insurance Act of 1968, whichever is less. If any improvement on the Property is located within a special flood hazard area, Borrower shall insure all improvements on the Property, whether now in existence or subsequently erected, against loss by floods to the extent required by law. The insurance policies and any renewals, regardless of whether such policies and renewals are required by Lender, shall include loss payable clauses in favor of, and in a form acceptable to, Lender.

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In the event of loss, Borrower shall give Lender immediate notice by mail. Lender may make proof of loss if not made promptly by Borrower. Each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Lender, instead of to Borrower and to Lender jointly. All or any part of the insurance proceeds may be applied by Lender, at its option, either (a) to the reduction of the indebtedness under the Note and this SAM, or (b) to the restoration or repair of the damaged Property. Any excess insurance proceeds over an amount required to pay all outstanding indebtedness under the Note and this SAM shall be paid to the entity legally entitled thereto.

In the event of foreclosure of this SAM or other transfer of title to the Property that distinguishes the indebtedness, all right, title and interest of Borrower in and to insurance policies in force shall pass to the purchaser.

4. **Maintenance and Protection of Property.** Borrower shall not commit, or permit, any waste on, destruction to, or damage to the Property. Borrower shall not allow the Property to deteriorate, reasonable wear and tear excepted. Borrower shall, at all times, maintain the Property. Borrower shall comply with all applicable Federal, state, and local statutes, ordinances, codes, regulations, requirements, and restrictive covenants, if any, upon the use of the Property. Borrower shall, to the satisfaction of Lender, promptly repair or replace any of the Property damaged by fire or other casualty. Lender and its representatives shall have the right to inspect the Property from time to time at any reasonable hour.

5. **Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within sixty (60) days after the execution of this SAM and shall continue to occupy the Property as Borrowed principal residence for at least one (1) year after the date of occupancy, unless Lender determines that requirement will cause undue hardship for Borrower, or unless extenuating circumstances exist which are beyond Borrower's control. Borrower shall notify Lender of any extenuating circumstances. Borrower shall not commit waste or destroy, damage or substantially change the Property or allow the Property to deteriorate, reasonable wear and tear excepted. Lender may inspect the Property if the Property is vacant or abandoned or the loan is in default. Lender may take reasonable action to protect and preserve such vacant or abandoned property. Borrower shall also be in default if borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Borrower's occupancy of the Property as a principal residence. If this SAM is on a leasehold, Borrower shall comply with the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and fee title shall not be merged unless Lender agrees to the merger in writing.

6. **Prepayment; Release of Security Instrument.** Borrower shall not have the right to prepay this Note. The Note shall be considered satisfied and this SAM shall

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be released only upon receipt of principal and interest pursuant to Paragraph 1 and 2 of the Note.

7. **Priorities.** Notwithstanding any other provision to the contrary, this SAM is superior to all liens on the Property, other than the Hope Mortgage and the SEM. Additionally, during the first five (5) years of the Hope Mortgage, the Borrower shall not grant any junior lien interest in the Property unless the Borrower obtains the Lender's prior express written consent to grant a security interest in the Property to secure a loan that is essential to preserve and protect the Property (the "P&P Loan") and fulfills the following criteria:

- (A) the condition to be repaired represents a health or safety hazard;
- (B) failure to make the repair will cause the property condition to deteriorate;
- (C) the cost of the proposed repair is reasonable;
- (D) the repairs are not primarily cosmetic or represent routine maintenance;
- (E) the P&P Loan is closed end;
- (F) the P&P Loan does not reduce the amount of the Lender's equity interest in the Property (new value of the Property, as determined by Lender, subsequent to the repair less the P&P Loan lien is equal or greater than the Lender's percentage share of Equity as of the date of the proposed refinance); and
- (G) total cumulative debt secured by the Property does not exceed ninety-five percent (95%) of the Property's new appraised value.

8. **Fees.** Lender may collect fees and charges authorized by this SAM or the Note.

9. **Default.** The term "Event of Default" shall mean the occurrence of any one or more of the following:

- (A) Any materially false or inaccurate information on any form or report submitted to Lender;
- (B) A failure to provide any material information on any form or report submitted to Lender;
- (C) A default under any security instrument (other than this SAM) that encumbers the Property;
- (D) A failure to perform any other obligations in this SAM; or

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(E) A failure to perform any obligations under the Note.

10. **Grounds for Acceleration of Debt.** Upon the occurrence of any Event of Default, Lender may declare, without notice, immediately due and payable the principal and interest due on the Note and all other sums which may or shall become due under this SAM or the Note.

The Lender may order an independent appraisal of the Property to establish the principal due on the Note and secured by this SAM for the purpose of acceleration and foreclosure (the "Acceleration Appraisal"). The principal amount due shall be equivalent to the difference between the Acceleration Appraisal and the appraised value on the Date of Insurance.

11. **Full Recourse.** The obligations arising under this SAM and the Note represent full recourse obligations of Borrower.

12. **Time of the Essence.** Time is of the essence as to all dates set forth herein.

13. **Waivers.** Borrower and all endorsers, sureties and guarantors jointly and severally waive presentation for payment, demand for payment, notice of nonpayment, notice of protest, notice of dishonor, protest, notice of protest, and any and all lack of diligence or delays in collection or enforcement of this SAM.

14. **Successors and Assigns Bound.** The covenants and agreements of this SAM shall bind and benefit the successors and assigns of Lender. The covenants and agreements of Borrower under this Note are not assignable without the prior express written consent of Lender. Borrowers covenants and agreements shall be joint and several.

15. **Modifications.** This SAM shall not be modified, amended, changed, discharged, or terminated orally. This SAM may only be modified, amended, changed, discharged, or terminated by an agreement in writing signed by the party against whom enforcement of such modification, amendment, change, discharge, or termination is sought.

16. **Notices.** Any notice to Borrower provided for in this SAM 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 Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any address Lender designates by notice to Borrower. Any notice provided for in this SAM shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

17. **Governing Law; Severability.** This SAM shall be governed by Federal law. In the event that any provision or clause of this SAM or the Note conflicts with applicable law, such conflict shall not affect other provisions of this SAM or the Note

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which can be given effect without the conflicting provision. To this end the provisions of this SAM and the Note are declared to be severable.

18. **Copy of Mortgage.** Borrower acknowledges that it has received a true copy of this SAM, read this SAM, and executed this SAM as of the date at the top of the first page.

19. **Hazardous Substances.** Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substances affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this paragraph, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph "Environmental Law" means Federal law and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

20. **Authority to Execute.** The Borrower executing this SAM represents that he/she has full power, authority and legal right to execute and deliver this SAM and that the debt secured hereunder constitutes a valid and binding obligation of Borrower

21. **Lender's Right to Assign the SAM.** In the event the Hope Mortgage is determined to be ineligible for insurance under the National Housing Act, the Lender shall have the right to assign its interests in this SAM to _____ **[insert the junior lienholders who released their security interests in the Property at the origination of the Hope Mortgage in exchange for a share of the appreciation interest in the Property pursuant to the terms and conditions of the Hope Program].** Upon assignment, the amount secured by this SAM will be _____ (\$_____) **[insert amount of principal released by junior lienholders at time of origination of the Hope Mortgage].**

22. **Capital Improvements. Capital Improvements.** Seventy-five percent (75%) of the cumulative sum expended by the Borrower on completed capital

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improvement projects that significantly changed and enhanced the value of the Property (sweat equity excluded) as of the date herein until the occurrence of a Maturity Event in which the cumulative amount expended for each type of improvement project is in excess of two thousand five hundred dollars (\$2,500) and provided such amounts expended are supported by contractor invoices and/or receipts shall be referred to herein as "Capital Improvements."

NON-UNIFORM COVENANTS.

Borrower and Lender further covenant and agree as follows:

23. **Foreclosure Procedure.** [For illustration only. Mortgagee needs to adapt this provision to state law so as to ensure HUD full enforcement ability for a shared appreciation mortgage under state law.] If Lender requires immediate payment in full under Paragraph 10 Lender may invoke the power of sale and any other remedies permitted by applicable law.

If Lender invokes the power of sale, Lender shall give notice of sale to Borrower in the manner provided in Paragraph 16. Lender shall publish and post the notice of sale, and the Property shall be sold in the manner prescribed by applicable law. Lender or its designee may purchase the Property at any sale. The proceeds of the sale shall be applied in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable attorney's fees; (b) to all sums secured by this SAM; and (c) any excess to the person or persons legally entitled to it.

[The following language is mandatory in all cases.] If the Lender's interest in this SAM is held by the Secretary of Housing and Urban Development (the Secretary) and the Secretary requires immediate payment in full under Paragraph 10, the Secretary may invoke the nonjudicial power of sale provided in the Single Family Mortgage Foreclosure Act of 1994 ("Act") (12 U.S.C. 3751 et seq.) by requesting a foreclosure commissioner designated under the Act to commence foreclosure and to sell the Property as provided in the Act. Nothing in the preceding sentence shall deprive the Secretary of any rights otherwise available to a Lender under this Paragraph or applicable law.

24. **Riders to this SAM.** The following Riders are to be executed by Borrower [check box as applicable] and the covenants of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this SAM:

Other [specify]:

BY SIGNING BELOW, Borrower accepts and agrees under seal to the terms contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

Witnesses:

BORROWER:

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Notary Public

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SCHEDULE A

[Insert legal description of property]