

NOTICE TO OWNER: THIS DOCUMENT CONTAINS PROVISIONS
RESTRICTING RESALES AND ASSUMPTIONS.

SONOMA COUNTY COMMUNITY DEVELOPMENT COMMISSION
PROMISSORY NOTE
Secured by Deed of Trust

**Excess Sales Proceeds and
Excess Rents**

_____, California
_____, [Date]

FOR VALUE RECEIVED, the undersigned _____, a _____ (the "Owner") promises to pay to the Sonoma County Community Development Commission (the "Commission"), together with its successors and assigns, or order, at Post Office Box 12025, Santa Rosa, California 95406, or such other place as the Commission may designate in writing, any amounts due to the Commission as Excess Sales Proceeds and Excess Rents as provided in that Buyer's Occupancy and Resale Restriction Agreement with Option to Purchase between the Owner and the Commission of even date herewith (the "Resale Agreement").

1. Purpose of Note. Owner is taking title to the property located at _____, Sonoma County, CA _____ (the "Home") pursuant to policies contained in the Sonoma County Inclusionary Housing ordinance, Section 26.89 of the Sonoma County Code and Government Code Section 65915 (the "Inclusionary Housing Ordinance"), which provides for the purchase of homes by low and moderate-income households at affordable prices.

Pursuant to the Inclusionary Housing Ordinance, the purchase price of the Home has been set below its fair market value so that the Home will be affordable for purchase by [Low/Moderate]-Income Households (as defined in the Resale Agreement).

Because the purchase price has been set below the fair market value, the Owner is required and has agreed to execute the Resale Agreement, which restricts the price of the Home upon resale, and which requires the Owner to pay any Excess Sales Proceeds at resale to the Commission. In addition, the Resale Agreement prohibits the Owner from renting or leasing the Home except under limited circumstances and requires the Owner to pay any Excess Rents to the Commission. This Commission Promissory Note (this "Commission Note") evidences: (a) the obligation of the Owner to pay any Excess Rents to the Commission as provided in the Resale Agreement and (b) the obligation of the Owner to pay any Excess Sales Proceeds to the Commission as provided in the Resale Agreement.

2. Definitions. The capitalized terms set forth but not defined in this Commission Note shall have the same meanings as in the Resale Agreement.

3. Security. This Commission Note is secured by a deed of trust dated the same date as this Commission Note (the "Commission Deed of Trust"). Owner and Commission have also executed the Resale Agreement. Owner acknowledges that this Commission Note is given in connection with the Owner's purchase of the Home as part of a program of the Commission to assist in the purchase of residences by [Low/Moderate]-Income Households. Said property, including both the real property and all improvements now or hereafter erected on the property, and all easements, rights, appurtenances, and

all fixtures now or hereafter attached to the property, shall be referred to in this Commission Note as the Home.

4. Term. The term of this Commission Note shall be the same as the Term of the Resale Agreement.

5. Payment. Any Excess Sales Proceeds plus any Excess Rents owed under this Commission Note or the Resale Agreement shall immediately become due and payable: (a) in the event of a Default by the Owner under this Commission Note, the Resale Agreement, the Commission Deed of Trust, or the Senior Approved Loan; or (b) on the date Transfer, other than a Permitted Transfer, is made whether voluntarily, involuntarily, or by operation of law and whether by deed, contract of sale, gift, devise, bequest or otherwise. Failure to declare such amounts due shall not constitute a waiver on the part of the Commission to declare them due in the event of a subsequent Transfer.

6. No Assumption of Commission Note by Subsequent Buyers. Owner acknowledges that this Commission Note is given in connection with the purchase of the Home as part of an effort by the Commission to assist in the purchase of the Home by [Low/Moderate]-Income Households. Consequently, this Commission Note is not assumable by subsequent purchasers nor by the successors and assigns of the Owner.

7. Prepayments. The Commission Deed of Trust shall remain on the Home to secure payment of the Excess Sales Proceeds and Excess Rents, and to secure performance of the Resale Agreement, and thus this Commission Note cannot be prepaid.

8. Default. The Owner shall be in default under this Commission Note if (a) Owner is in Default under the Resale Agreement, Commission Note, Commission Deed of Trust, or an Approved Loan, (b) fails to pay any money when due under this Commission Note; or (c) breaches any representation or covenant made in this Commission Note or the Resale Agreement.

9. Acceleration. Upon a Declaration of Default, the full amount of any Excess Rents, Excess Sales Proceeds, or any other amounts due under this Commission Note, if any, shall be immediately due and payable. Any failure by the Commission to pursue its legal and equitable remedies upon Default shall not constitute a waiver of the Commission's right to issue a Declaration of Default and exercise all of its rights under this Note, the Resale Agreement, and the Commission Deed of Trust. Nor shall acceptance by the Commission of any payment provided for herein constitute a waiver of the Commission's right to require prompt payment of any remaining payments owed.

10. Nonliability for Negligence, Loss, or Damage. Owner acknowledges, understands, and agrees that the relationship between Owner and Commission is solely that of Owner and an administrator of the Inclusionary Housing Ordinance and that Commission neither undertakes nor assumes any responsibility for or duty to Owner to select, review, inspect, supervise, pass judgment on, or inform Owner of the quality, adequacy or suitability of the Home or any other matter. Commission owes no duty of care to protect Owner against negligent, faulty, inadequate or defective building or construction or any condition of the Home and Owner agrees that neither Owner, or Owner's heirs, successors or assigns shall ever claim, have or assert any right or action against Commission for any loss, damage or other matter arising out of or resulting from any condition of the Home and will hold Commission harmless from any liability, loss or damage for these things.

11. Indemnity. Owner agrees to defend, indemnify, and hold the Commission and its designated agents harmless from all losses, damages, liabilities, claims, actions, judgments, costs, and

reasonable attorneys' fees that the Commission and its designated agents may incur as a direct or indirect consequence of:

- (a) Owner's failure to perform any obligations as and when required by this Commission Note, the Commission Deed of Trust, and the Resale Agreement; or
- (b) the failure at any time of any of Owner's representations or warranties to be true and correct.

12. Attorneys' Fees and Costs. Owner agrees that if any amounts due under this Note are not paid when due, to pay in addition to principal and accrued interest, all costs and expenses of collection and reasonable attorneys' fees paid or incurred in connection with the collection or enforcement of this Note, whether or not suit is filed.

13. Joint and Several Obligations. This Note is the joint and several obligations of all makers, sureties, guarantors, and endorsers, and shall be binding upon them and their successors and assigns.

14. No Offset. Owner hereby waives any rights of offset it now has or may hereafter have against Commission, its successors and assigns, and agrees to make the payments called for herein in accordance with the terms of this Note.

15. Waiver. Owner and any endorsers or guarantors of this Note, for themselves, their heirs, legal representatives, successors and assigns, respectively, severally waive diligence, presentment, protest, and demand, and notice of protest, notice of dishonor and notice of non-payment of this Note, and expressly waive any rights to be released by reason of any extension of time or change in terms of payment, or change, alteration or release of any security given for the payments hereof, and expressly waive the right to plead any and all statutes of limitations as a defense to any demand on this Note or agreement to pay the same, and jointly and severally agree to pay all costs of collection when incurred, including reasonable attorneys' fees.

16. Notices. All notices required in this Note shall be sent by certified mail, return receipt requested, or express delivery service with a delivery receipt, or personally delivered with a delivery receipt obtained and shall be deemed to be effective as of the date shown on the delivery receipt as the date of delivery, the date delivery was refused, or the date the notice was returned as undeliverable as follows:

To the Owner:

[At the address of the Home]

To the Commission:

Sonoma County Community Development Commission
P.O. Box 12025
Santa Rosa, CA 95406
Attn: Executive Director

The parties may subsequently change addresses by providing written notice of the change in address to the other parties in accordance with this Section 16.

17. Controlling Law. This Note shall be construed in accordance with and governed by the laws of the State of California. Venue shall be Sonoma County.

18. Assignment by Commission. The Commission may assign its right to receive the proceeds under this Note to any person, and upon notice to the Owner by the Commission, all payments shall be made to the assignee.

19. Severability. If any provision of this Note shall be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

20. Entire Agreement. This Note (along with the Resale Agreement and Commission Deed of Trust) sets forth the entire understanding and agreement between the Commission and the Owner, and any amendment, alteration or interpretation of this Note must be in writing signed by both the Commission and the Owner.

[Signatures Follow on Subsequent Page]

IN WITNESS WHEREOF, the undersigned have executed this Commission Note on or as of the date first written above.

OWNER:

Name

Name