

After Recording Return To:
Tennessee Housing Development Agency
404 James Robertson Parkway, Suite 1200
Nashville, TN 37243-0900

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**THDA STIMULUS LOAN PROGRAM
SUBORDINATE DEED OF TRUST**

A. DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 12 and 18. Certain rules regarding the usage of words used in this document are also provided in Section 10.

1. "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.
2. "Borrower" is _____. Borrower is the grantor under this Security Instrument.
3. "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.
4. "Lender" is Tennessee Housing Development Agency. Lender, a political subdivision and instrumentality, is organized and existing under the laws of the State of Tennessee. Lender's address is 404 James Robertson Parkway, Suite 1200, Nashville, TN, 37243-0900 is the beneficiary under this Security Instrument.
5. "Loan" means the debt evidenced by the Second Note, plus interest and late charges due under the Second Note, and all sums due under this Security Instrument, plus interest.
6. "Property" means the property that is described below under the heading "Transfer of Rights in the Property."
7. "Second Note" means the Second Promissory Note signed by Borrower and dated _____, 20____. The Second Promissory Note states that Borrower owes Lender _____ Dollars (U.S. \$ _____) plus interest, as described in the Second Promissory Note. Borrower has promised to pay this debt as described in the Second Promissory Note.
8. "Security Instrument" means this subordinate deed of trust, which is dated _____, together with all Riders to this document.
9. "Trustee" is Lynn E. Miller and her successors and assigns.

B. TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Second Note; (ii) the payment of any other sums, if any, as provided in this Security Instrument; and (iii) the performance of Borrower's covenants and agreements under this Security Instrument and the Second Note. For this purpose, Borrower irrevocably grants, bargains, sells, conveys and confirms to Trustee, in trust, with power of sale, certain real property which currently has the address of _____ (Street), City of _____, County of _____, State of Tennessee _____ (Zip Code) and which is further described in Exhibit "A" which is attached hereto and incorporated herein by this reference.

TOGETHER WITH all the improvements now or hereafter erected on the property, and all rights, privileges, easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

To have and to hold the Property with the appurtenances, estate, title and interest thereto belonging to the Trustee and her respective successors in trust forever, for the purposes specified in this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for the First Deed of Trust and other encumbrances of record acceptable to the Lender under the First Deed of Trust. Borrower warrants and will defend generally the title to the Property against all claims and demands of all persons whomsoever.

C. Borrower and Lender further covenant and agree as follows:

- 1. Payment of Principal and Interest.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Second Note and any late charges due under the Second Note. Payments due under the Second Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Second Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Second Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Second Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 9. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Second Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

Notwithstanding the foregoing, all amounts due hereunder or under the Second Note shall be due on any sale or other conveyance of the Property or any interest therein.

- 2. Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any.
- 3. Lien Subordinate to First Deed of Trust.** Lender and Borrower acknowledge that this Security Instrument is subject to a recorded Deed of Trust which is a first lien on the Property, dated _____, executed by Borrower and assigned to Tennessee Housing Development Agency, as Beneficiary, securing a promissory note in the amount of \$ _____, (which Deed of Trust (the "First Deed of Trust") and Promissory Note secured thereby are hereinafter collectively called the "First Mortgage Loan Documents" and together evidence the "First Mortgage Loan"), which First Mortgage Loan Documents and the promises, obligations, covenants and conditions contained therein are by this reference incorporated herein as if set forth verbatim. Borrower shall pay when due the principal of, and interest on, the debt evidenced by the First Mortgage Loan Documents and shall comply with all of the promises, obligations, covenants and conditions contained therein. Lender and Borrower further agree that

a default under the First Mortgage Loan Documents shall be a default hereunder and a default hereunder shall be a default under the First Deed of Trust.

Lender and Borrower acknowledge and agree that this Security Instrument is subject and subordinate in all respects to the liens, terms, covenants and conditions of the First Deed of Trust and to all advances heretofore made or which may hereafter be made pursuant to the First Deed of Trust including all sums advanced for the purpose of (a) protecting or further securing the lien of the First Deed of Trust, curing defaults by the Borrower under the First Deed of Trust or for any other purpose expressly permitted by the First Deed of Trust or (b) constructing, renovating, repairing, furnishing, fixturing or equipping the Property. The terms and provisions of the First Deed of Trust are paramount and controlling, and they supersede any other terms and provisions hereof in conflict therewith.

In the event of foreclosure or deed in lieu of foreclosure under the First Deed of Trust, any provision herein or any provisions in any other collateral agreement restricting the use of the Property to low or moderate-income households or otherwise restricting Borrower's ability to sell the Property shall have no further force or effect. Any person, including successors or assigns, receiving title to the Property through a foreclosure or a deed in lieu of foreclosure under the First Deed of Trust shall receive title to the Property free and clear from such restrictions.

Further, if the lender under the First Mortgage Loan Documents acquires title to the Property pursuant to a deed in lieu of foreclosure, the lien of this Security Instrument shall automatically terminate upon such acquisition of title, provided that (i) the Lender has been given written notice of a default under the First Deed of Trust and (ii) the Lender shall not have cured the default under the First Deed of Trust within the 30-day period provided in such notice sent to the Lender.

4. **Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence until the Borrower has satisfied the obligations due to the Lender under the Second Note.
5. **Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Lender or its agent may make reasonable entries upon and inspections of the Property. Lender shall give Borrower notice at the time of or prior to an inspection specifying reasonable cause for the inspection.
6. **Borrower's Loan Application.** Borrower shall be in default if, during the loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.
7. **Joint and Several Liability.** Borrower covenants and agrees that Borrower's obligations and liabilities under the Second Note shall be joint and several.
8. **Loan Charges.** Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.
9. **Notices.** All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless

Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

10. Governing Law; Severability; Rules of Construction. This Security Instrument shall be governed by federal law and the laws of the State of Tennessee. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Second Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Second Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

11. Borrower's Copy. Borrower shall be given one copy of the Second Note and of this Security Instrument.

12. Sale of Second Note; Change of Loan Servicer; Notice of Grievance. The Second Note or a partial interest in the Second Note (together with this Security Instrument) may be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Second Note and this Security Instrument and performs other mortgage loan servicing obligations under the Second Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Second Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing.

13. Events of Default and Remedies. If Borrower keeps and performs each of the covenants, conditions, obligations and agreements in the Second Note and this Security Instrument, then, this trust conveyance shall be of no further force or effect. But, if Borrower fails to keep and perform any of the covenants, conditions, obligations and agreements in the Second Note and this Security Instrument, and such defaults are not cured within thirty (30) days from written notice to Borrower specifying such default, then, and in any of such events, this trust conveyance shall remain in full force and effect, and at the option of the Lender, all amounts advanced under the Second Note or hereunder shall become due and payable at once, without notice, and the Trustee, acting in person or through an agent or agents duly appointed by him for this purpose, is hereby authorized and empowered, upon giving twenty (20) days notice by three (3) publications in any newspaper, daily or weekly, published in the county in which the Property is located, to sell the Property at the front door of the Courthouse in said county (or at such other place at said Courthouse as is usually and customarily used for the conduct of foreclosure sales) to the highest bidder for cash, at public outcry, free from the equity of redemption, any and all statutory rights of redemption including, without limitation, those provided in T.C.A. Section 66-8-101, as amended, or as may be hereinafter enacted, homestead, dower, courtesy, any elective share, and all other exemptions or marital rights of every kind, which are hereby expressly waived; and the Trustee is authorized and empowered to execute and deliver a deed to the purchaser. The sale may be adjourned from day to day by the Trustee or his agent or successor, by announcement at the Courthouse on the date the sale is originally set, or any adjournment thereof, and may be reset at a later date without any additional publication. The creditor may bid at any sale under this trust conveyance. Borrower agrees that the Trustee may, at any time after default in the payment of any part of the indebtedness, enter and take possession of the Property, and shall only account for the net rents actually received by him. Borrower further agrees that, in the event the Trustee fails, before selling the Property as herein provided, to enter and take possession thereof, the purchaser

shall be entitled to immediate possession thereof upon the delivery to him by the Trustee of a deed for the Property.

Lender may, at any time and from time to time, without assigning cause, in Lender's sole and absolute discretion, remove the Trustee herein named and appoint a successor to execute this trust, by an instrument in writing duly executed by Lender and filed for record in the county in which the Property is located and, upon the execution and filing of such instrument, the title herein conveyed to the Trustee shall be vested in the successor so appointed.

In the event of a sale of the Property under and by virtue of this trust, Borrower, and all persons holding under Borrower, shall be and become the tenants at will of the purchaser from and after the execution and delivery of a deed to the purchaser.

Upon any sale under this Security Instrument, the proceeds will be applied by the Trustee:

First: To pay all the costs and charges of executing this trust, including attorney's fees and the expenses of any litigation which may arise on account of the execution and enforcement of this trust, or in connection therewith as above provided.

Second: To repay all amounts advanced pursuant to the Second Note or hereunder.

Third: To pay the remainder, if any, to Borrower.

If any holder of the First Mortgage Loan acquires title to the Property pursuant to a deed in lieu of foreclosure, the lien of this Security Instrument shall automatically terminate, provided that (i) the Lender has been given written notice of a default under the First Mortgage Loan and (ii) the Lender shall not have cured the default under the First Mortgage Loan within the 30-day notice sent to the Lender.

- 14. Release.** Upon payment of all sums secured by this Security Instrument, Lender shall release this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.
- 15. Lease of the Property.** Trustee hereby leases the Property to Borrower until this Security Instrument is either satisfied and released or until there is a default under the provisions of this Security Instrument. The Property is leased upon the following terms and conditions: Borrower, and every person claiming an interest in or possessing the Property or any part thereof, shall pay rent during the term of the lease in the amount of one cent per month, payable on demand, and without notice or demand shall and will surrender peaceable possession of the Property to Trustee upon default or to the purchaser of the Property at the foreclosure sale.
- 16. No Assumption.** The Second Note and the Security Instrument may not be assumed.
- 17. Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.
- 18. Transfer of the Property.** If all or any part of the Property or any interest in it is sold, transferred, or otherwise conveyed, or if the First Deed of Trust is refinanced or otherwise paid in full, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument.

If Lender exercises this option, Lender shall give Borrower written notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is mailed to Borrower at the Property

Address within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument.

Witnesses:

_____ Seal
Borrower

_____ Seal
Borrower

_____ **[Space Below This Line for Acknowledgment]** _____

EXHIBIT A
(Legal Description)