

# HOMESTYLE® RENOVATION LOAN AGREEMENT

Loan #:  
MIN:

**THIS HOMESTYLE® RENOVATION LOAN AGREEMENT** ("Loan Agreement") dated \_\_\_\_\_ is made by and between \_\_\_\_\_ (hereinafter referred to as "Borrower" whether one or more), and \_\_\_\_\_ ("Lender"), having a principal place of business located at \_\_\_\_\_.

## I. LOAN AGREEMENT

**A. Loan to Borrower.** The loan will be evidenced by Borrower's Promissory Note payable to Lender ("Note") in the principal amount of \$\_\_\_\_\_ ("Loan"). The purpose of the Loan is to pay for labor and materials to construct, repair, replace, alter, or add to a residence certain improvements ("Improvements") on the Property ("Work") located at: \_\_\_\_\_, ("Property"). The Work is described in the plans, specifications and statements showing the itemized cost of construction which shall be incorporated into the Loan Agreement.

**B. Security Interest.** Borrower has also executed an Open-end Mortgage, Mortgage or Deed of Trust ("Security Instrument") granting Lender a first priority lien on the Property. In this Loan Agreement, "Loan Documents" means the Note, the Security Instrument, this Loan Agreement and any other documents executed by Borrower in connection with this Loan. All terms defined in the Note and the Security Instrument shall have the same meaning in this Loan Agreement.

## II. BORROWER AGREEMENT

### A. The Work.

**1. The Contractor.** Borrower will enter into a written agreement ("Construction Contract") with a contractor ("Contractor") that Borrower has selected to complete the Work on the Property. The Construction Contract will state the total amount that Borrower will pay Contractor for the Work and materials ("Contract Price"), and will include (i) (if requested by Lender) the final signed blueprints by the Contractor and Borrower (accompanied with mini blueprints), shop drawings, plans and specifications for the Work ("Plans"); (ii) a written itemization of the Work and the Contract Price ("Construction Budget"); and (iii) an itemized description of each segment of the Work (each a "Stage") that sets the timetable for completing the Work, and the corresponding payments for the Work ("Draw Schedule"). Borrower will give Lender a copy of the Construction Contract. Borrower will have no other agreements for the Work. The Contractor will provide the Lender with a Builder's Affidavit that includes the name, address and telephone number of each person that has a contract with the Contractor to supply material or labor for the Work (each, a "Supplier"). Borrower may give Contractor a copy of this Loan Agreement.

**2. Permits.** Borrower will get, and keep in force, all approvals of the Work (each, a "Permit") that are required by any federal, state, county, or local government agency (each, a "Government Authority"). Borrower will comply with all applicable laws of any Government Authority ("Government Regulations"). Contractor will have any license(s) required by any Government Authority. Borrower will get from Contractor and give Lender copies of all licenses and Permits required by Government Authorities.

**3. Change Orders.** Any change in the Contract Price or the Work must be in a written agreement signed by Borrower and Contractor and approved by Lender ("Change Order"). Any Change Orders must continue to conform to all building codes. Change Orders are allowed provided that they do not adversely impact the project value. Borrower must demonstrate to Lender that Borrower has sufficient assets to cover any additional costs. Cost overruns associated with Change Orders are the sole responsibility of Borrower. Lender may require that Borrower deposit additional funds into the Escrow Account to cover these costs.



**4. Care of the Property.** If Lender requests, Borrower will provide Lender with a certified report that the Property is free of wood-boring insects. Borrower will comply with all of the recommendations of any engineer making any soil report for the Property. Borrower will notify Lender immediately of any fire or other casualty relating to the Property or the Work.

**5. Commencement of Construction and Construction Period.** Borrower represents that no Work has commenced upon, and no materials have been ordered or purchased for or delivered to the Property as of the date of the Loan Agreement. Borrower agrees that work shall not commence upon, and materials shall not be ordered or purchased for, or delivered to, the Property prior to the date that the Security Instrument is executed and recorded in connection with this Loan Agreement in the County where the Property is located. Borrower is responsible for recording of the Notice of Commencement (if applicable) with the Recorder/Register of Deeds where the Security Instrument is recorded. Borrower will post on the subject property site a Notice of Commencement immediately following recordation of the Security Instrument.

**6. Completing the Work.** The Work will begin promptly after Borrower signs the Loan Documents. The Work will continue diligently and in a good and workmanlike manner in strict accordance with the Construction Contract and all Government Regulations. The Work will not violate any of the conditions, covenants or restrictions on the Property. Borrower will notify Lender immediately in writing if (i) Borrower thinks that the Work does not comply with the Construction Contract or this Loan Agreement; (ii) any notice of lien on the Property is served on Borrower or Contractor; or (iii) any Government Authority issues any notice or claim relating to the Property. Borrower promises the Work will be completed on or before ("Completion Date"). Lender will accept the Work as completed when Borrower satisfies all of the conditions found in Section II (G)(3)(f) of this Loan Agreement.

**7. Inspections.** Borrower grants to Lender, its agents and assigns, the authority to inspect the Property at such times and intervals as Lender deems necessary, or at any such other reasonable times, for the sole purpose of determining the approximate percentage of completion of construction. Borrower agrees to pay for all inspections performed at the request of Lender or any Government Authority. Lender inspections are for Lender's benefit only and Borrower understands and agrees that Borrower has no right to rely upon such inspection in any manner whatsoever. Lender is not obligated to inspect the Property or the Work. Borrower agrees that, prior to any disbursement; Borrower will inspect the Property for compliance with the Plans contained in the Construction Contract. Lender shall have no responsibility to inspect or otherwise inquire regarding such compliance.

**8. Borrower is Responsible for the Work.** Borrower has full and sole responsibility to make sure that the Work complies with the Plans and all Government Regulations. Lender, its agents and assigns have no liability, obligation or responsibility for the Work. Lender, its agents and assigns are not liable for any failure to construct, complete, protect, or insure the Work. Lender, its agents and assigns are not liable for any costs of the Work. Nothing Lender or its agents and assigns do (including inspecting the Work or making an advance) will be a representation or warranty by Lender that the Work complies with the Construction Contract, this Loan Agreement, the Permits or any Government Regulations. If Lender asks, Borrower will repair or replace at Borrower's expense any Work that does not comply with the Plans. Borrower has no right to assert or claim any offset, counterclaim or defense against Lender, its agents and assigns because of any claim Borrower may have against the Contractor or any Suppliers.

**B. Costs and Expenses.** Borrower will pay all costs and expenses required to satisfy the conditions of this Loan Agreement, including any Change Orders. Borrower shall pay and secure releases of any and all encumbrances of record as of the date of this Agreement which, in the opinion of Lender, are or may become superior in right of payment to Lender's Security Instrument.

**C. Title to the Property.** Prior to the closing of the Loan and as a condition to Lender's obligation to close, Lender shall receive, in form and substance satisfactory to Lender:

**1. Title Report.** A title report, prepared by a title company or an attorney admitted to practice in the jurisdiction where the Property is located, certified to Lender ("Title Report"). The Title Report must show that the lien of the Security Instrument will be a valid first priority lien interest in the Property, and that the title to the Property is free and clear of all defects and encumbrances except those the Lender approves in writing.

**2. Title Insurance.** A mortgagee's or lender's policy of title insurance ("Title Policy"). The Title Policy will insure: (i) that the total amount of the lien of Lender's Security Instrument is a valid first priority lien interest in the Property; and (ii) that the title to the Property is free and clear of all defects and encumbrances except those Lender approves in writing.

**D. Survey.** If Lender requests, Borrower will provide and certify to the Lender and to the Title Company a survey of the Property and/or a final as-built survey of the Property and the Improvements, including dimensions and locations of all completed Improvements and all easements or other rights or restrictions (each, a "Survey"). Each Survey must be satisfactory to the Lender and to the Title Company. Borrower will be responsible for paying the cost of each Survey.

**E. Appraisal and Final Inspection.** Lender will obtain an appraisal of the Property and the Improvements before Lender disburses any part of the Loan ("Initial Appraisal"). The appraisal will show the value of the Property and the Improvements, using the property value estimate. Lender will choose the appraiser. Each appraisal shall reflect an appraised value. Lender will obtain a final inspection before the final advance of the Loan ("Final Inspection").

**F. Insurance Requirements.**

**1. The Contractor's Insurance.** Borrower shall require the Contractor to have and keep in force the following insurance policies ("Contractor's Insurance"): (i) a builder's all risk insurance policy (with a mortgagee's loss payable clause in favor of Lender and with a physical loss form endorsement), without co-insurance, in an amount not less than one hundred percent (100%) of the replacement cost of the Improvements, with the standard conditions; (ii) public liability insurance with limits of liability equal to at least \$500,000 per occurrence; (iii) workers' compensation insurance as required by applicable state law; and (iv) automobile liability insurance with limits of liability equal to at least \$300,000 per occurrence. The Contractor's Insurance will be in force until Borrower accepts the Improvements.

**2. Borrower Insurance.** Borrower will obtain a standard hazard insurance policy as required by the Security Instrument. This insurance will be effective immediately upon the closing of the Loan.

**3. Flood Insurance.** If Borrower's property is in a designated flood zone, Borrower agrees to obtain flood insurance prior to closing of the Loan.

**G. The Loan.**

**1. Loan Proceeds.** Lender shall disburse some or all of the Loan ("Loan Proceeds") on the date the Loan closes ("Closing Date"), in escrow ("Escrow Account" or "Account"), to be disbursed by Lender, as provided herein.

**2. Use of the Loan Funds.**

**a) Advances.** "Advance" means Lender's advance of any part of the Loan Proceeds under this Loan Agreement, or Borrower's endorsement and delivery of any Loan Proceeds check to Contractor or a Supplier.

**b) Loan Commitment Amount.** As of the Closing Date, Lender commits to disburse the Loan Proceeds of \$\_\_\_\_\_ ("Loan Commitment Amount"). After the Closing Date, the Loan Commitment Amount will equal the principal amount of the Loan less any advances made at Closing for the purchase or refinancing of the Property and the total amount of Advances made to date. Any Loan Commitment Amount that remains after all Advances have been made will be credited as a partial prepayment of the principal amount of the Loan at the time of the final Advance. The partial prepayment will not reduce the amount of Borrower's monthly payments. If, at any time, the Loan Commitment Amount is not enough to pay the amount scheduled for any Advance, Borrower will pay the difference from Borrower's own funds.

**c) Contingency Reserve.** A contingency reserve of 10% of the Loan Commitment Amount ("Contingency Reserve") may be required by Lender and shall be maintained in the Escrow Account in order to cover any unforeseen repairs or other deficiencies that may arise during the completion of the Work. If any portion of the Contingency Reserve is remaining after the completion of the Improvements, as provided in Section II(G)(3)(f), these funds will be applied to the outstanding principal balance due on the Loan. If any of Borrower's own funds were deposited into the Escrow

Account for the Contingency Reserve, then Borrower can elect to have these funds paid back to Borrower after the completion of the Improvements.

**3. Advances; Conditions to Advances.** Each of the promises Borrower makes in this Loan Agreement shall be considered made again as of the time (i) Lender receives a request from Borrower and Contractor for an Advance ("Request for Advance"); or (ii) Borrower endorses any Loan Proceeds check to Contractor or a Supplier. Advances will be made only if all of the following conditions are satisfied:

**a) Plans Approved.** Borrower has reviewed the Plans; the Plans are satisfactory and have been approved by all Government Authorities having jurisdiction over the Property and the Work.

**b) Work Completed; Invoices and Lien Waivers.** Borrower represents and warrants to Lender that the Work for which an Advance is requested has been completed in a good and workmanlike manner, and complies with the Construction Contract, the Plans, the Permits, and all Government Regulations.

**c) Borrower's Financial Condition; No Defaults.** There is no material adverse change in Borrower's financial condition or employment status since the time Borrower applied for the Loan. Borrower is not in default under any of the Loan Documents or the Construction Contract. Borrower has complied completely with all of Borrower's promises about the Work (including the promises in Section II (A)(6) of this Loan Agreement).

**d) Request for Advance.** Contractor and/or Borrower will deliver to Lender: (i) a Draw Funds Disbursement Authorization, properly completed and signed by Borrower; (ii) a fully executed Builder's Affidavit (iii) unconditional construction lien waivers from Contractor and from Suppliers for all Work covered by the Builder's Affidavit; and (iv) all other required information described in the Builder's Affidavit. Lender may rely on the Contractor's statements in the Builder's Affidavit and the lien waivers submitted by Contractor. Lender does not have to verify any of the information. The funds obtained with the Builder's Affidavit will be used to pay for the Work described in the "Balance Due or to Become Due" column on the Builder's Affidavit.

**e) Loan Commitment Amount.** Borrower will ensure the Loan Commitment Amount remaining after each Advance will be enough to complete all the Work.

**f) Completion of Improvements.** The Work will be completed as required by this Loan Agreement. Before the final Advance, Lender will obtain a copy of the Final Inspection report, the final title endorsement, a completion certificate signed by Borrower, Contractor, and the inspector, the final, unconditional certificate of occupancy issued by the Government Authority, if required by law.

### III. DEFAULT AND REMEDIES

**A. Events of Default.** Borrower will be in default under this Loan Agreement and the other Loan Documents if any of the following events ("Events of Default") occurs:

**1. Nonpayment.** Borrower fails to make any payment due under any Loan Document.

**2. Work Stops or Failure to Complete Work.** Borrower and/or the Contractor abandon the Work or work ceases on the Property for a period of at least 15 days or Borrower fails to complete the Work on or before the date set forth in Section II (A)(6).

**3. Other Broken Promises.** Borrower fails to keep any promise in this Loan Agreement or any other Loan Document.

**4. False Statements.** Any statement of fact, representation or warranty Borrower makes to Lender in Borrower's loan application, this Loan Agreement or in any other Loan Document is false, inaccurate, or incomplete.

**5. Misuse of Funds.** If Borrower misuses the funds the Lender will immediately freeze future construction advances on the Loan until the matter is resolved.

**B. Lender's Rights and Remedies.** Subject to Borrower's right to notice of default and right to cure the default(s), to the extent required by law, if an Event of Default occurs, Lender has the following rights and remedies ("Rights and

Remedies"):

- 1. Declare a Default.** Lender may declare the Note, the Security Instrument, or both, in default.
- 2. Finish the Construction and Protect the Property.** Lender may take possession of the Property, together with all materials and improvements therein (with or without foreclosing on the Security Instrument), and perform any work necessary to complete the Work on the Property. Borrower authorizes Lender, as Borrower's attorney-in-fact, to exercise any right Borrower may have in or under the Construction Contract or any Permit. Borrower irrevocably authorizes and directs each party to any Permits and Construction Contracts to provide Lender the benefits of the Permits and the Construction Contracts upon Lender's written notice. Borrower agrees that any such party shall have the right to rely upon any written notice from Lender without any obligation or right to inquire as to whether an Event of Default actually exists and notwithstanding any notice from Borrower or claim by Borrower to the contrary. Borrower will have no right or claim against any such party for any benefit provided to Lender by such party. If Borrower cures the Event of Default, or if Lender reinstates the Loan in good standing, Lender will give written notice of reinstatement to each such party and authorize each such party to render such benefits to Borrower.
- 3. Take the Escrow Account.** Lender may take funds from the Escrow Account, if any, and apply to any amounts Borrower owes under the Loan Documents.
- 4. Indemnity.** Borrower indemnifies and holds Lender and Lender's affiliates, and the officers, directors, employees and agents of Lender and its affiliates ("Indemnified Parties"), harmless from any liability, claim, loss, cost, legal expenses (including suits, claims, proceedings, damages, and costs arising from or relating to any third-party claim), incurred by or alleged against any of the Indemnified Parties arising from or related to (i) the Property, (ii) the Work, or (iii) Borrower's default under this Loan Agreement.
- 5. Lender's Fees, Costs, and Expenses.** Borrower shall promptly pay to Lender all attorney's fees, costs, and other expenses paid or incurred by Lender in enforcing or exercising Lender's Rights and Remedies under this Loan Agreement. Interest will accrue on these amounts at the rate in the Note from the date the expense is incurred. The expense plus interest will be secured by Lender's Security Instrument.
- 6. Remedies Cumulative.** Lender may (but is not required to) exercise any or all of the rights under this Loan Agreement. All of Lender's Rights and Remedies contained in this Loan Agreement are cumulative and are in addition to any other Rights and Remedies created in any other Loan Document or existing at law or in equity.

#### IV. GENERAL

- A. Borrower's Cooperation.** Borrower agrees to sign any other instruments or documents, and supply any information and data that Lender considers necessary to accomplish the purposes of this Loan Agreement. If, in Lender's opinion, a material modification of the terms of this Loan Agreement is required, or occurs, Borrower will execute an appropriate Loan Modification Agreement. All documents delivered to Lender by Borrower shall become Lender's property.
- B. Credit Information.** Borrower will provide Lender with updated financial or credit information when Lender requests it. Lender may get consumer reports from consumer reporting agencies when Lender reviews the Loan.
- C. No Waivers.** Lender may choose to delay enforcing any of Lender's rights or waive any of Lender's rights under this Loan Agreement. Lender may delay enforcing or waive any of Lender's rights without affecting Lender's other rights. If Lender waives a right, Lender can still enforce the same right later.
- D. Entire Agreement.** This Loan Agreement and the other Loan Documents are the entire understanding between Lender and Borrower about the Loan, the Improvements, and the Work, and may not be modified, amended, or terminated except by written agreement signed by Lender and Borrower.
- E. Binding Agreement; Assignment.** This Loan Agreement is for the benefit of Lender and Lender's successors and assigns, and binds Borrower, Borrower's heirs, executors, administrators, successors and assigns. Borrower may not assign this Loan Agreement without Lender's prior written consent, which Lender may withhold in Lender's sole discretion.
- F. Survival of Representations.** Any promise Borrower makes shall survive the termination of this Loan Agreement and the repayment of the Loan.

