

NYS HOME Program
Homebuyer Down Payment Assistance With or Without Housing Rehabilitation and/or Rental
Units
Beneficiary Agreement Addendum

1. NYS HOME Assistance:

HOME funds have been provided by the Housing Trust Fund Corporation (HTFC) to _____, the Local Program Administrator (LPA) to provide down payment and closing cost assistance for the purchase of the property located at _____.

A total of up to \$_____ in HOME funds are being provided to you. This amount is referred to below as "HOME Assistance." Of the total HOME Assistance, \$_____ is for direct costs of purchase and the remainder (if any) \$_____, will be provided to assist you with the costs to rehabilitate the property after purchase as described herein.

2. Terms of the NYS HOME Assistance:

- a. The funds will be provided at closing to directly pay toward your purchase and closing costs.
- b. If funds for housing rehabilitation are included, these funds will be released to the LPA after you purchase the home to pay contractors directly for housing rehabilitation.
- c. Funds will be disbursed only as costs are incurred, documented, and approved by you, the LPA, and HTFC.
- d. The HOME Assistance will be secured as a lien against the property you are purchasing through a recorded Grant Enforcement Mortgage or Note and Mortgage/Grant Enforcement Mortgage.
- e. Acceptance of the HOME Assistance makes you subject to a Period of Affordability (POA) or term that this lien is in effect. The POA and the term of the Note and Mortgage/Grant Enforcement Mortgage is based on the amount of HOME Assistance listed in paragraph 1, which will be _____ years. The term begins on the date the unit is completed in HUD's Integrated Disbursement and Information System (IDIS) by HTFC, not the date on the Note and Mortgage/Grant Enforcement Mortgage.
- f. The HOME Assistance is being provided at zero percent interest and does not require repayment if you reside in the property as principal resident(s) throughout the POA.

- g. If you fail to occupy the unit as your principal residence during the POA, but retain ownership (such as renting the unit out) you must repay the entire original amount of the HOME Assistance.
- h. If you sell or otherwise convey the home during the POA, you will be required to repay a portion of the funds out of net proceeds of the sale, as follows: the principal balance will be reduced annually, on the anniversary date of completion in IDIS, proportionately, or by 1/___ per year.
- i. At the completion of the POA (if no sale or declaration of default has occurred), the balance will be zero, and you will have no obligations remaining under this agreement or the Note and Mortgage/Grant Enforcement Mortgage.
- j. It is your responsibility (or that of the LPA) to request a Satisfaction of Lien be processed by HTFC at the end of the POA.
- k. With Rental Unit (if applicable): Acceptance of the HOME Assistance for housing rehabilitation of a rental unit in your property makes you subject to the HOME rental requirements throughout the POA, as described in paragraph 8 below.

3. Conditions of Receiving the HOME Assistance:

HOME Assistance flows through the LPA. For purchases, the LPA will provide HOME Assistance at the time of closing to pay for the approved down payment and/or closing costs. For rehabilitation, the LPA will provide HOME Assistance to pay for approved costs, provided you comply with the requirements of this agreement.

- a. Required Housing Counseling: Prior to closing, you must have received a Certificate of Completion for pre-purchase homeownership counseling from a HUD-Certified Counseling Agency and you must have been deemed by the counseling agency as "ready to proceed" to purchase a home.
- b. Homebuyer Qualifying Ratios: you must have been qualified for home purchase with the following homebuyer qualifying underwriting ratios: the housing debt to income ratio cannot exceed 35%; the total debt to income ratio cannot exceed 45%. The housing debt to income ratio can be a maximum of 40%, provided there is no other total debt.
- c. The closing to purchase the home must take place within six months of this agreement, or this commitment of funds is no longer valid and you will need to be requalified for HOME Assistance.
- d. The home must meet NYS and/or municipal code compliance at the time of purchase (if no rehabilitation) or after rehabilitation. Rehabilitation of the home must be complete within 6 months of purchase.
- e. The purchase price cannot exceed the HUD Homeownership Sales Price Limits (maximum purchase price/after rehab value limit) as published annually by HUD for the

local jurisdiction at the time of commitment as verified by the LPA. If funds for rehabilitation are included, this limit applies to the after-rehabilitated value.

- f. If funds for housing rehabilitation are included in the HOME Assistance, you agree to participate in the bidding process administered by the LPA, and to enter into contract with a contractor meeting all of the requirements of the program. You agree to allow the selected contractor to make the improvements and will not withhold approval of payment for work approved by the LPA. You agree to allow access to the property by the LPA and the HTFC to verify and inspect the work.
- g. You agree to allow a Note and Mortgage/Grant Enforcement Mortgage to be recorded as a lien on your property for the POA. For homebuyer activities, the Note and Mortgage/Grant Enforcement Mortgage for the down payment assistance is signed and recorded at the real estate closing/transfer of title. If funds for housing rehabilitation are included, this Note and Mortgage/Grant Enforcement Mortgage will be a second, separate lien from the down payment assistance. You must sign this after all rehab costs have been determined and before the start of housing rehabilitation. It will be held in the LPA file until the rehabilitation is complete and then will be officially recorded. (If there is a change in the amount of assistance, a new Note and Mortgage/Grant Enforcement Mortgage must be signed for the proper amount. LPAs will destroy the first signed document and will record the newly signed document.) The total cost of the 2 liens will determine the POA.
- h. You agree to comply with the principal residency requirement described in paragraph 5 below and the other conditions of the Note and Mortgage/Grant Enforcement Mortgage.
- i. You agree to repay some or all of the funds in the event of noncompliance or sale as described in this agreement and the Note and Mortgage/Grant Enforcement Mortgage.

4. HOME Note and Mortgage/Grant Enforcement Mortgage:

The HOME Assistance will be secured by a Grant Enforcement Mortgage or Note and Mortgage/Grant Enforcement Mortgage with the HTFC that will be subordinated only to senior debt approved by the HTFC.

5. Monitoring and Enforcement of Principal Residency:

You are required to occupy the unit as your principal residence for at least the POA. During the POA, the LPA or HTFC may contact you or otherwise monitor to verify that you continue to occupy the unit. Failure to respond or cooperate will be considered default and require full repayment of the original amount of HOME Assistance.

6. Repayment of the Assistance:

No repayment of the HOME Assistance is required if you remain as principal resident throughout the POA and meet the requirements of the Note and Mortgage/Grant Enforcement Mortgage. Full or partial repayment will be required under the following conditions:

- a. If the housing does not continue to be your principal residence or you fail to comply with the provisions of this agreement and the Note and Mortgage/Grant Enforcement Mortgage for the duration of the POA, and the housing has not been sold to another party, the full amount of the original HOME Assistance will be repaid to the HTFC.
- b. Upon sale of the home (with no assumption; see d below), whether voluntary or involuntary, the repayment amount will be the reduced amount (see 2g above) and shall not exceed the amount of net proceeds you receive from the sale. Net proceeds are the sales price minus any superior (mortgage) loan repayment, other than HOME funds, and any closing costs, and other allowable deduction listed in the Note and Mortgage/Grant Enforcement Mortgage.
- c. If the property is taken by your lender through a foreclosure action or a deed transfer to the lender in lieu of foreclosure, the repayment amount will be the prorated amount of the HOME investment and shall not exceed the amount of net proceeds you receive from the transfer.
- d. **Assumption permitted:** If the home is sold during the POA to another HOME eligible buyer as determined by the LPA and HTFC, who is willing to be subject to the HOME requirements for the remainder of the POA, no repayment of the HOME Assistance from the net proceeds will be required.

7. Refinancing:

Refinancing of any mortgage senior to this HOME Assistance mortgage must be approved by HTFC. HTFC will agree to subordinate the HOME mortgage to new financing according to the current Policy and only in the event of refinancing for better terms that will not put the collateral or ownership at risk.

8. Rental Unit Requirements (*If applicable or cross out and mark N/A*):

Your property contains _____ rental unit(s) in addition to the unit you occupy as your principal residence. The unit(s) will be receiving HOME assistance and are subject to HOME rental rules. Acceptance of the HOME Assistance for purchase or rehabilitation of a rental unit obligates you to meet the rental requirements of the HOME Program throughout the POA and includes the following requirements:

- a. Each rental unit may be occupied only by a household whose income is determined to be less than 80% of area median income as defined by HUD. The household's income must be documented and certified by the LPA, and the certification updated annually throughout the POA.
- b. As a landlord, you must comply with fair housing laws in the advertising and selection of each tenant and agree not to discriminate in the leasing and operation of the rental unit(s).

- c. Each rental unit is subject to HOME rent limits, including allowances for tenant paid utilities. The LPA will approve the contract rents that you may charge a tenant and any changes to the rents throughout the POA.
- d. Each tenant must sign a lease that complies with HOME requirements. The LPA will approve the lease form or provide an addendum.
- e. You will terminate tenancy only for good cause, including non-compliance with the terms of the lease.
- f. You will provide each tenant with at least 30-day notice of any rent change or termination of tenancy.
- g. You will notify the LPA in the event of a vacancy and obtain approval for any new tenant prior to occupancy.
- h. You will certify information annually to the LPA on the occupants and rents.
- i. You will maintain the rental units to meet all codes and standards throughout the POA and the LPA will conduct periodic inspections to ensure that unit remains in good repair. You will provide access and make prompt repairs as required by the LPA or HTFC.

Failure to comply with any of the above rental requirements could result in recapture/repayment of HOME funds.

9. Monitoring and Enforcement:

The HTFC and the LPA will have the right to enforce any or all of these requirements or those contained in the Assistance Agreement and Note and Mortgage/Grant Enforcement Mortgage.

10. Default:

Failure to comply and/or default with any of the provisions of this agreement or the Note and Mortgage/Grant Enforcement Mortgage, at any time during the POA, will constitute a default and require full repayment of the original HOME assistance amount.

This agreement must be executed and dated prior to submitting this project for set up in IDIS.

Acknowledged and Accepted by Homebuyer(s):

Homebuyer Name

Signature

Date

Homebuyer Name

Signature

Date

Acknowledged and Accepted by LPA:

LPA Agency Name

SHARS ID and IDIS Activity Number (s)

LPA Representative Name/Title

LPA Signature

Date

WARNING: 18 U.S.C. 1001 provides, among other things, that whoever knowingly and willingly makes or uses a document or writing containing any false, fictitious, or fraudulent statements or entries, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000, or imprisoned for not more than five years, or both.