

Return to: New Hampshire Housing Finance Authority, Homeownership Division
P.O. Box 5087, Manchester, NH 03108

**RECOGNITION AGREEMENT
NEW HAMPSHIRE MANUFACTURED HOUSING
RESIDENT OWNED COOPERATIVE**

This agreement (the "Agreement") made on this ____ day of _____, 20____,
(Date of Closing) is entered into by and among:

“Cooperative” name and address: _____

“Lender” name and address: _____

"Borrower" name(s) and address: _____

(Whether one or more, the "Borrower")

Recitals

- The Cooperative is a NH RSA Chapter 301-A Consumer Cooperative Association that owns land and improvements in (City) _____, NH and is known as _____ “Name of Cooperative” The deed reference for the land owned by the Cooperative is recorded in the _____ County Registry of Deeds at Book _____ Page _____.
- The Cooperative operates and leases homesites to its members (“Members”) for the location and use of manufactured homes owned by its Members as their principal residences.
- The Cooperative and its Members desire that Members have access to conventional mortgage financing through a special lending initiative developed by the Lender and a secondary market participant for mortgage loans secured by manufactured housing located in resident owned cooperatives ("Lending Initiative").
- Given the potential benefits of this Lending Initiative for its Members, the Cooperative is willing to agree to the terms in this Agreement.
- The Cooperative has been authorized by its Members to enter into this Agreement.

- The Cooperative has previously submitted project approval information to Lender, which is on file with Lender.
- Borrower owns or is purchasing a manufactured housing unit or manufactured home located or to be located on the Cooperative's land (with all additions, improvements and fixtures now or hereafter attached, the "Home").

If Borrower owns the Home, the deed is recorded at _____
 County Registry of Deeds, Book _____ Page _____.

If Borrower is purchasing the Home, seller's deed reference is _____
 County Registry of Deeds, Book _____ Page _____.

- Borrower has or will have the right to have the Home occupy the following homesite in the Cooperative: (Property Address of Unit in Cooperative) _____
 _____ (the "Homesite") pursuant to an occupancy agreement currently existing between the Cooperative and Borrower or to be entered into at near or even date by the Cooperative and Borrower (such occupancy agreement, as it is and may be amended or extended, the "Occupancy Agreement").
- Borrower is, or upon purchase of the Home will be, a Member in the Cooperative.
- Lender has conditionally agreed to provide Borrower with a loan to finance Borrower's purchase of the Home or to refinance an existing loan to Borrower secured by the Home (in either case, "Loan"), which Loan will be secured by a mortgage against the Home and the Occupancy Agreement (the "Mortgage").
- As conditions to obtaining a Loan, Borrower must fulfill all applicable financing contingencies.
- As further conditions to any making of a Loan, Lender must be assured of each of the following:
 - a) That in the event Borrower defaults on the Loan, the Home shall continue to occupy the Homesite while Lender enforces the Mortgage and in the event Lender becomes owner of the Home either by foreclosure deed or deed in lieu of foreclosure, also while Lender is owner of the Home;
 - b) That a purchaser from Lender, whether at foreclosure sale or otherwise, will, after meeting qualification requirements of the Cooperative hereinafter set forth, become a Member of the Cooperative with the right to enter into a new occupancy agreement with the Cooperative thereby allowing the Home to remain on the Homesite;
 - c) That the Cooperative will subordinate to the Mortgage its lien rights under Chapter 205-A of the New Hampshire Revised Statutes Annotated ("RSA") in the manner hereinafter specified in this Agreement; and
 - d) That the Cooperative and Lender agree as to the interpretation of the provisions of RSA Chapter 205-A, as between themselves, as hereinafter set forth in this Agreement.

In consideration of the willingness of the Cooperative and Borrower to satisfy the foregoing conditions of the Lending Initiative, and for other good and valuable consideration,

receipt and sufficiency which are hereby acknowledged, the Cooperative, Lender and Borrower hereby agree as follows.

1. Representations and Warranties by the Cooperative.

A. As to Borrower. The Cooperative represents and warrants to Lender concerning Borrower as follows:

- i) To the best of the Cooperative's knowledge, Borrower is or will be the owner of the Home and a full Member of the Cooperative;
- ii) Borrower has or will have the right to have the Home occupy the Homesite pursuant to a duly executed Occupancy Agreement between the Cooperative and Borrower;
- iii) To the best of the Cooperative's knowledge, Borrower has not sublet the Homesite or assigned the Occupancy Agreement or its membership interest in the Cooperative;
- iv) Borrower is required to obtain the Cooperative's consent before subletting the Homesite or assigning the Occupancy Agreement or its membership interest in the Cooperative;
- v) To the best of the Cooperative's knowledge, Borrower is not in default under the terms of the Occupancy Agreement or its membership in the Cooperative;
- vi) All amounts due to the Cooperative from Borrower have been paid; and
- vii) The Cooperative has given no notice of default to Borrower for a default which has not been cured or remedied.

B. As to the Cooperative. The Cooperative represents and warrants to Lender concerning the Cooperative as follows:

- i) There have been no adverse changes in the Cooperative's physical, financial or legal condition since the Cooperative received project approval from Lender;
- ii) The Cooperative is not in default of any financial or legal obligations;
- iii) The Cooperative has fully paid all taxes due, including all property taxes;
- iv) The Cooperative's utility infrastructure, including water and sewer/septic services, is in good operating order and all inspections and maintenance actions for its utilities are current and disclose no adverse conditions;
- v) The Cooperative's insurance coverage described in its project approval application remains in full force;
- vi) The Cooperative is not a party to any pending litigation or administrative proceeding, including, but not limited to, litigation or administrative proceedings concerning violations or alleged violations of any zoning, subdivision, site plan, environmental or public health laws, regulations, or ordinances, and the Cooperative is unaware of any potential claims for violations of any such laws, regulations or ordinances; and
- vii) The Cooperative has received no notice from any governmental authority that the Homesite or any facilities owned and operated by the Cooperative for its Members violates any land use laws, regulations or ordinances, including, but

not limited to, those concerning zoning, subdivision, site plan, building code, health code, private and public water use, private and public sewer use, storm drains, coastal, tideland, shoreland protection, wetlands, and environmental protection.

C. Additional Assurances. The Cooperative agrees to provide Lender with periodic updates as requested by Lender concerning the representations and warranties listed above and materials submitted to obtain project approval.

D. Agreement to Be Kept on File. The Cooperative agrees to keep a copy of this Agreement in its records for the duration of the Loan.

2. Agreement as to Relative Rights of Lender and the Cooperative in the Event of a Borrower Default under the Loan or the Occupancy Agreement.

A. Term "Lender" Includes Subsequent Holder. All references to Lender shall include any subsequent holder of Borrower's promissory note to Lender evidencing the Loan (the "Note") and of the Mortgage which secures the payment and performance of the Note.

B. Failure of Borrower to Pay Homesite Rent. If Borrower fails to pay to the Cooperative monthly rental charges owing under the Occupancy Agreement, then upon written notice of such default by the Cooperative to Lender (or to another person previously designated by Lender to receive such notice), together with the request that Lender begin to make monthly rental charges under the Occupancy Agreement on behalf of Borrower, then Lender may, at its option and in its discretion, advance to the Cooperative on behalf of Borrower up to a maximum of six (6) regular monthly lot rental charges and any other regular monthly charges owing by Borrower under the Occupancy Agreement (such regular monthly lot rental charges and other regular monthly charges are hereinafter called "Rent and Other Charges"). The Cooperative and Lender agree that in no event shall Rent and Other Charges advanced by Lender include any attorney fees which may be owing to the Cooperative by Borrower under the Occupancy Agreement.

C. Further Agreements as to Advances of Rent and Other Charges. While Lender is not required to pay Rent and Other Charges, it may decide to do so to preserve the Mortgage's priority over the Cooperative's statutory lien for unpaid Rent and Other Charges. If Lender decides to pay Rent and Other Charges, the Cooperative agrees that in no event shall Lender be required to advance at any time to the Cooperative more than six (6) months total of Rent and Other Charges. If Borrower reimburses Lender for Rent and Other Charges previously advanced by Lender to the Cooperative, then Lender in its discretion may again agree to advance up to a maximum of six (6) months of Rent and Other Charges. Lender shall not be required to pay any past due fees or charges owed by Borrower to the Cooperative. Only Monthly Rent and Other Charges which become due after Lender has received, pursuant to Section 2B above, the Cooperative's written request to commence payment of Monthly Rent and Other Charges, are subject to advance by Lender for up to six (6) months in Lender's discretion.

D. Subordination of Amounts Owning to the Cooperative. Notwithstanding any provision in RSA 205-A or other law, the Cooperative agrees that if Lender has paid or is paying Rent and Other Charges for up to six (6) months in accordance with Section 2B and 2C above, then: 1) the Cooperative's lien for all amounts owing to it by Borrower under the Occupancy Agreement, including any unpaid Rent and Other Charges, shall be subordinate to the Mortgage; and 2) all amounts owing to the Cooperative under the Occupancy Agreement, including any unpaid Rent and Other Charges, shall only be paid out of the excess proceeds, if any, available after transfer of the Home to a new owner, and after all amounts outstanding under the Loan, including repayment to Lender of advances of monthly Rent and Other Charges, have been paid in full ("Excess Proceeds"). If there are insufficient Excess Proceeds to pay amounts owing to the Cooperative, such unpaid amounts shall not be a lien against the Home. Such unpaid amounts may not be assessed to the new owner, except for a share that is assessed against all members of the Cooperative proportionately.

E. Loan Advances. The Cooperative and Borrower acknowledge and agree that any payments of Monthly Rent and Other Charges by Lender to the Cooperative shall be treated as advances by Lender under the Loan and are secured by the Mortgage.

F. Home to Remain on the Homesite. Provided Lender (i) has paid or is paying to the Cooperative Rent and Other Charges in accordance with Section 2B above, and (ii) is pursuing transfer of the Home, and all rights to use the Homesite, to a new owner, the Cooperative agrees that it shall not take any action, either under RSA chapter 205-A or under any other law or authority, to cause the Home to be removed from the Homesite due to Borrower's default under the Occupancy Agreement. The Cooperative agrees to assist Lender with transfer of the Home and all rights to use the Homesite to a new owner, subject to approval of the new owner by the Cooperative under the provisions of Section 5.

G. Expelling Borrower from the Cooperative. So long as the Home remains on the Homesite and available for transfer by Lender to a new owner, the Cooperative may take steps to expel Borrower from membership in the Cooperative due to Borrower's default under the Occupancy Agreement.

H. Conveyance to New Owner. In the event Borrower defaults under the Note, and subject to the provisions of Section 5 of this Agreement, Lender may take all actions necessary to vest in one or more individuals designated by Lender (whether one or more, a "New Owner") all of Borrower's rights, title and interest in and to: i) the Home, including all improvements and fixtures, and ii) Borrower's occupancy rights in the Homesite, including all occupancy rights arising under the Occupancy Agreement and rights of occupancy previously extended to Borrower as a member of the Cooperative or otherwise arising by law. New Owner may acquire the Home at a foreclosure sale conducted by Lender, by a deed in lieu of foreclosure by Borrower, or directly from Lender if Lender has previously acquired title to the Home. The Cooperative agrees to extend a membership interest in the Cooperative to the New Owner, subject only to the provisions of Section 5 of this Agreement.

I. Concerning a Foreclosure Proceeding or Deed in Lieu of Foreclosure.

- i) The Cooperative and Borrower acknowledge and agree that if Lender forecloses or accepts a deed in lieu of foreclosure, then Lender or a New Owner designated by Lender shall have ownership of the Home, including all improvements and fixtures, and may occupy the Homesite pursuant to the Occupancy Agreement instead of Borrower. The Cooperative and Borrower agree to take all actions necessary to ensure that Lender or such New Owner hold such rights.
- ii) Borrower acknowledges that a foreclosure proceeding or a deed in lieu of foreclosure terminates Borrower's interests in the Home and the Homesite and Borrower's rights under the Occupancy Agreement and effects a withdrawal of the Borrower from the Cooperative. Borrower agrees to vacate the Home peaceably prior to the date of any foreclosure sale and in any event prior to the recording of a foreclosure deed or deed in lieu of foreclosure.
- iii) Borrower acknowledges and agrees that Excess Proceeds, if any, arising from a conveyance by Lender to a New Owner shall be disbursed by Lender in accordance with law, but only after the Loan and all foreclosure costs, attorneys fees and advances by Lender have first been paid in full and after all unpaid amounts owing to the Cooperative by Borrower have next been paid.

3. Promises of Borrower and/or the Cooperative as to the Home and Occupancy Agreement.

A. Subleasing and Assignment Prohibited. Without Lender's written consent, Borrower shall not seek, and the Cooperative shall not consent to, any subletting of the Home or the Homesite by Borrower under the Occupancy Agreement or to any assignment of the Occupancy Agreement or Borrower's membership interest in the Cooperative.

B. No Amendment of the Occupancy Agreement. Borrower and the Cooperative shall not amend the Occupancy Agreement in any manner that would adversely impact Lender's rights or security interest. However, monthly lot rental increases applicable to all Members of the Cooperative may be implemented by the Cooperative from time to time.

C. Removal of Home Prohibited.

- i) Borrower agrees not to remove the Home from the Homesite.
- ii) So long as Lender (i) has paid or is paying to the Cooperative Rent and Other Charges in accordance with Section 2B above, and (ii) is pursuing transfer of the Home, and all rights to use the Homesite, then the Cooperative (a) agrees that it shall not cause the Home to be removed from the Homesite or authorize Borrower to do so, (b) subordinates to Lender its lien rights for all amounts owing by Borrower to it under the Occupancy Agreement, including any unpaid Rents and Other Charges, and (c) agrees not to enforce against Lender its lien rights under RSA Chapter 205-A.

D. **Removal of Utilities Prohibited.** Borrower agrees that all utility connections (electric/gas/water/sewer/septic) for the Home shall remain in place and not be disconnected for any reason.

E. **The Cooperative's Notice to Lender of Borrower's Default under the Occupancy Agreement.** The Cooperative shall give Lender written notice whenever Borrower is more than 30 days in arrears in paying Rent or Other Charges under the Occupancy Agreement or when Borrower has not cured a nonmonetary default thereunder within 30 days of the Cooperative's notice to Borrower of such nonmonetary default.

F. **Expulsion of Borrower from the Cooperative.** The Cooperative shall provide written notice to Lender of any proposed expulsion of Borrower from the Cooperative at the same time such notice is provided to Borrower. Lender shall be entitled to attend and participate in any board hearing or membership meeting concerning expulsion of Borrower. If the Cooperative expels Borrower under RSA 301-A:20, the Cooperative shall provide Lender with a reasonable opportunity to cause transfer of the Home and the Homesite to a New Owner by means of a foreclosure proceeding or deed in lieu of foreclosure. While Lender is pursuing transfer of the Home and Homesite to a New Owner, the Cooperative shall not authorize anyone other than Borrower (pending eviction) or Lender to occupy the Home and the Homesite.

4. Lienholder Notice Provided. The Cooperative agrees that execution of this Agreement constitutes its acceptance of notice from Lender under RSA 205-A: 4-a that Lender is loaning money secured by the Home and the Homesite. The Cooperative agrees that Lender is an "eligible lienholder" entitled to all notices mandated under RSA 205-A:4-a and that Lender shall receive such notices and all other notices required to be given to Lender by the Cooperative in this Agreement.

5. The Cooperative's Consent to Transfer by Lender or Borrower to New Owner.

A. **Statutory Consent to Certain Deeds.** Under RSA 477:44, the landowner must sign a consent to any deed conveying a manufactured home located or to be located on the landowner's land. The Home is located or will be located on land owned by the Cooperative. Accordingly, the Cooperative's consent is required on any deed of Lender or Borrower conveying the Home, including a foreclosure deed. RSA 477:44 II (a) also mandates that "[n]o owner of land shall unreasonably withhold [such] consent. . . ." The Cooperative agrees that it shall not unreasonably withhold its consent to any deed of Lender or Borrower conveying the Home at the Homesite to Lender or to a New Owner designated by Lender.

B. **No Consent to Unauthorized Deed of Borrower.** As long as the Loan is outstanding, the Cooperative shall not give its consent to any deed of the Home by Borrower to another person, without Lender's prior written approval of such deed.

C. **The Cooperative's Approval Steps for New Owner.**

- i) The Cooperative may perform a credit check, criminal background check, and reference check on any proposed New Owner, including a purchaser from Lender

or a purchaser at a foreclosure sale conducted by Lender. Using its standard investigation procedures when evaluating any person for admission as a member, the Cooperative may reject a proposed New Owner if it reasonably concludes that the proposed New Owner would not make timely payments, likely has propensity to commit a crime of a type for which such person has been previously convicted, or is unlikely to comply with the Cooperative's organizational documents or operating rules.

- ii) The Cooperative may not reject a proposed New Owner because of his or her race, color, ethnicity, national origin, sex, sexual orientation, religion, handicap, receipt of public assistance, age (except in age-qualified communities) or any other category protected by law.

D. Time Frame for Approval of New Owner. Upon receipt of a request for approval of a proposed New Owner, the Cooperative shall, within fourteen (14) days, respond to the request in writing by approving the same or by sending a written rejection notice to Lender and the New Owner setting forth the reasons for rejection of the New Owner. If the Cooperative does not respond within fourteen (14) days after receiving notification, the Cooperative will be deemed to have approved the proposed New Owner. The Cooperative acknowledges TIME IS OF THE ESSENCE under this Section 5, and the Cooperative agrees to comply strictly with the timelines herein.

E. Cooperative's Obligations Upon Approval. Upon approval of the New Owner, the Cooperative shall (1) sign the deed conveying the Home to the New Owner; (2) issue a membership certificate to the New Owner, subject to the New Owner's payment of any applicable membership fee or capital contribution; and (3) enter into an Occupancy Agreement with the New Owner that allows the Home to remain on the Homesite.

F. The Cooperative's Liability. The Cooperative acknowledges that its failure to comply with this Section 5 could result in damages to Lender, Borrower and/or a proposed New Owner. Without limiting any other remedy available against the Cooperative under this Agreement or by law, the Cooperative agrees to pay for all damages, costs, including attorneys fees incurred by Lender, Borrower and/or a proposed New Owner if it is found that the Cooperative has failed to timely act under this Section 5, has unreasonably denied approval to a proposed New Owner under this Section 5, or has otherwise acted in bad faith.

6. Miscellaneous

A. The Cooperative's Acceptance and Acknowledgement of Limits. Borrower and the Cooperative acknowledge that Lender's acceptance of the Cooperative community for the purpose of originating loans within the Cooperative community is for the sole benefit of Lender. Borrower and the Cooperative acknowledge that such acceptance or decision to originate loans within the Cooperative community does not in any way constitute a warranty, assurance, or any opinion whatsoever by Lender as to the Cooperative's financial condition or the condition of its properties. It is the Cooperative's and Borrower's responsibility to make such determinations, and the Cooperative and Borrower acknowledge that they have not relied on Lender's acceptance

of the Cooperative as a community in the Lending Initiative or Lender's decision to originate a loan secured by a mortgage upon any home located in the Cooperative. The Cooperative and Borrower agree that they have no cause of action or claim of any kind whatsoever against Lender, its agents or its successors and assigns, relating to the Cooperative's financial condition or the condition of its properties.

B. **Withdrawal of Project Approval.** Any project approval of the Cooperative community is subject to withdrawal at Lender's sole discretion. Withdrawal of such approval, however, will not affect this Agreement, the Mortgage.

C. **Notice.** Any notice or approval required or made in connection with this Agreement must be in writing and sent by registered or certified mail postage paid to the addresses provided in the first paragraph of this Agreement. A party may change the address to which notices or approvals shall be mailed by giving notice in this manner to the other parties.

D. **No Surrender of Legal Rights or Remedies.** Lender is entitled to all legal rights, protections and remedies provided under New Hampshire law. Nothing in this Agreement or other documents signed in this transaction shall be deemed to be a waiver of any of Lender's rights under New Hampshire law.

E. **The Cooperative's Authority.** By signing the Agreement, the Cooperative's signatory warrants that this Agreement has been duly signed and is authorized by the Cooperative's Board of Directors in accordance with the applicable provisions of the Cooperative's Articles of Incorporation or Association and Bylaws.

F. **Entire Agreement; Amendment of Agreement.** This Agreement is the entire agreement among Lender, Borrower and the Cooperative, except to the extent the Cooperative has provided information and certification to Lender in connection with project approval. This Agreement may be only amended by a writing executed by Lender and the Cooperative with the written consent of the Cooperative's Board of Directors in accordance with the Cooperative's Articles of Incorporation or Association and Bylaws, and if the amendment also increases any obligations of the Borrower, also executed by the Borrower.

G. **Lender's Right to Assign.** Lender has the right to assign this Agreement by separate assignment or by any assignment or sale of the Loan. All of Lender's rights under this Agreement are assignable to and shall vest in the holder of the Loan. Lender and subsequent holders of the Loan may by written notice to the Cooperative designate a servicing agent with whom the Cooperative shall carry out its responsibilities under this Agreement.

H. **Duration and Termination of Agreement.** This Agreement remains in effect as long as the Loan remains unpaid.

I. **Applicable Law.** New Hampshire law shall govern this Agreement.

J. **Fax Signatures, Copies and Counterparts.** Facsimile signatures shall be binding. Any party to this Agreement may use a copy of this Agreement the same as an original in any court

proceeding. This Agreement may be signed in any number of counterparts, each of which shall be an original, and all of whole taken together, shall constitute one agreement.

K. Recording Agreement. Borrower and Cooperative authorize Lender to, at any time, record this Agreement at the registry of deeds. If the original Agreement is not in recordable form and Lender wishes to record, Borrower and Cooperative shall take all steps needed to provide Lender with a recordable Agreement.

Borrower Name: _____

Signature: _____

Date: _____

Lender Name: _____

By: _____

Signature: _____

Date: _____

TWO (2) OF THE BOARD OF DIRECTORS MUST SIGN FOR COOPERATIVE

The Cooperative: _____

Signature: _____

Print Name: _____

Print Title: _____

Date: _____

Signature: _____

Print Name: _____

Print Title: _____

Date: _____