

**Tennessee Housing Development Agency (THDA)
Preserve Loan Escrow Agreement**

THIS ESCROW AGREEMENT (“Agreement”) is made and entered into this _____ day of _____, 20____, by and among _____ (“Preserve Loan Partner”), _____ (“Borrower”) and _____ as escrow agent (“Agent”).

Borrower owns a single family house, which is Borrower’s primary residence, together with the property upon which it is located, all of which are located at _____ (“Property”).

Preserve Loan Partner and Borrower have determined that certain repairs or improvements are needed with respect to the Property.

Preserve Loan Partner has determined that Borrower, the Property and the proposed repairs or improvements are eligible for funding under the Preserve Loan Program (the “Preserve Loan”) from the Tennessee Housing Development Agency (“THDA”).

As a condition of the Preserve Loan made to Borrower, the proceeds of the Preserve Loan must be held in escrow to ensure payment for the repairs or improvements to the Property as work progresses.

In consideration of the mutual covenants contained herein, and other good and valuable consideration, Preserve Loan Partner, Borrower and Agent hereby agree as follows:

1. Escrow Deposit

To assure the completion of the repairs or construction described in Paragraph 2 below, the sum of _____ Dollars (\$_____) is hereby deposited with Agent (the “Escrow Deposit”) to be held in a non-interest bearing account and applied in accordance with the terms of this Agreement.

2. Work Items

The following repairs or improvements shall be completed, to the satisfaction of Preserve Loan Partner and Borrower and in a good and workmanlike manner, on or before _____ (the “Completion Date”) (list, in detail, all repairs and/or improvements to be completed and attach additional documentation as needed to fully describe the scope of work to be carried out):

The repairs and/or improvements specified above are referred to herein as the “Work Items”.

Preserve Partner and Borrower shall be solely responsible for selecting the contractors and/or workers to complete the Work Items and for supervising the completion of all Work Items. Neither Agent nor THDA shall have any liability with respect to the acts or omissions of any contractors and/or workers employed in connection with the completion of the Work Items.

3. Access

Borrower shall provide access to the Property during regular business hours, or at other reasonable times (a) to contractors or other workers as necessary to complete the Work Items and (b) to Preserve Loan Partner and/or inspectors acting on behalf of Preserve Loan Partner to determine status of the Work Items or whether all Work Items have been completed in a satisfactory manner.

4. Payment of Draw Amounts

Agent shall withdraw funds from the Escrow Deposit and make payments jointly to Borrower and any contractors and/or workers as directed in writing by Preserve Loan Partner.

5. Completion of Work Items

Preserve Loan Partner shall notify Agent that the Work Items are complete and that all necessary inspections have been performed to demonstrate to the satisfaction of Preserve Loan Partner and Borrower that all Work Items were completed in an appropriate manner. Preserve Loan Partner shall provide to Agent notarized, mechanics lien affidavits or waivers from contractors, material suppliers, laborers, and/or any other workers, as applicable.

Preserve Loan Partner and Borrower shall make the final determination as to the satisfactory completion of all Work Items and shall rely on the referenced inspection report in making the determination. A determination of satisfactory completion is not a representation or warranty, express or implied, as to the Work Items.

If Preserve Loan Partner and Borrower determine the Work Items are complete to their satisfaction, Agent shall release any remaining portion of the Escrow Deposit jointly to Borrower and any contractors and/or workers as directed by Preserve Loan Partner.

6. Surplus or Deficit in Escrow Deposit

If funds remain in the Escrow Deposit after all payments for completion of all Work Items and if directed by Preserve Loan Partner, Agent shall return such funds to THDA to be applied to the outstanding principal balance of the Preserve Loan.

In the event the Escrow Deposit is insufficient, for any reason, to complete the Work Items, Borrower shall deliver to Agent any and all additional sums needed, as determined by Agent and Preserve Loan Partner, to complete the Work Items to the satisfaction of Preserve Loan Partner.

7. Incomplete Work Items

If the Work Items are not completed to the satisfaction of Preserve Loan Partner and Borrower on or before the Completion Date, Preserve Loan Partner shall ensure that all unsatisfactory Work Items shall be completed in a good and workmanlike manner and payment shall be made in accordance with this agreement. Preserve Loan Partner, upon notice to Agent, may (a) contract with any contractor(s) and/or workers of its choosing, or make such arrangements as it deems necessary, for the completion of any Work Items which have not been satisfactorily completed or (b) direct Agent to deliver any remaining funds in the Escrow Deposit to THDA to be applied to the outstanding principal balance of the Preserve Loan.

If Preserve Loan Partner elects to complete any Work Items, the cost of completion shall be paid from the Escrow Deposit.

8. Satisfactory Completion

Preserve Loan Partner and Borrower shall consult and determine satisfactory completion of all Work items. Borrower agrees that Preserve Loan Partner shall make the final determination as to the satisfactory completion of all Work Items and may rely on inspection reports in making the determination. Borrower further agrees that a determination of satisfactory completion by Preserve Loan Partner is not a representation or warranty, express or implied, as to the Work Items.

9. Withdrawal

In the event of any dispute whatsoever regarding the Escrow Deposit, Agent may discharge all duties and responsibilities under this Agreement by (a) returning the Escrow Deposit balance to THDA to be applied to the outstanding principal balance of the Preserve Loan or (b) depositing the Escrow Deposit and any necessary documents pertaining thereto with the Chancery Court of the county in which the Property is located.

10. Indemnity of Agent

Agent shall not be obligated to take any action not specifically required herein and shall not, in any manner, be liable or responsible for any loss or damage arising by reason of any act or omission or failure to act hereunder, except for any loss or damage resulting from Agent's gross negligence or willful misconduct. Borrower and Preserve Loan Partner agree to indemnify, defend (with counsel satisfactory to Agent and THDA) and hold harmless Agent and THDA against any loss, liability, claim, or expense, including attorneys fees and all court costs, that Agent and/or THDA may incur as a result of execution of this Agreement or in connection with the activities to be performed hereunder, except for such losses, liabilities, claims or expenses that Agent may incur as a result of its own gross negligence or willful misconduct.

11. Liability of Agent

Agent shall be liable for only such funds as are actually received by it for the purposes of this Agreement and shall have a lien on all funds deposited with it for the purpose of securing any fees, costs, or other charges incurred by it in connection with performance of this Agreement. Agent does not assume any responsibility as to any mechanics liens or contested accounts which may arise relative to the Work Items. Agent does not assume any responsibility for the quality or condition of the Work Items or any buildings, fixtures, improvements or installations located upon the Property. Any dispute which may arise in connection with the subject matter of this Agreement may be resolved by the Agent, if it so elects, and the decision of the Agent shall be binding upon all parties, their heirs, executors, successors and assigns.

12. Expiration

This Agreement shall terminate on the earlier of the disbursement of all the Escrow Deposit or the Completion Date, unless extended by agreement of the parties. Following such expiration, Agent may continue to hold funds remaining in the Escrow Deposit pursuant to the terms of this Agreement or may return funds remaining in the Escrow Deposit to THDA to be applied to the outstanding principal balance of the Preserve Loan Loan or may tender the Escrow Deposit to a court as specified above, at Agent's sole discretion.

13. Notices

All notices which may be directed to a party in connection with this Agreement shall be forwarded to the following addresses unless the party notifies the other parties of a different address:

Preserve Loan Partner: _____

Telephone Number: (____) _____

Borrower: _____

Telephone Number: (____) _____

Agent: _____

Telephone Number: (____) _____

14. Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, successors and assigns

15. General Provisions

If any provision of this Agreement is held invalid or unenforceable for any reason, the remaining provisions shall remain in full force and effect. This Agreement may be executed in several counterpart originals. The validity and construction of this Agreement shall be determined according to Tennessee law.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first set forth above.

Preserve Loan Partner

Borrower

Agent

Borrower
