

# Florida Home Equity Agreement

Governed by Fla. Stat. §§ 697.01, 689.01, 695.03, 695.01, 687.02 — Florida Equity Investment

This Florida Home Equity Agreement ("Agreement") is entered into as of the Effective Date set forth herein, by and between the Homeowner(s) identified in §1 and the Investor identified in §2. In consideration of the Investment Amount paid to Homeowner, Homeowner grants Investor a secured financial interest in the Property recorded as a lien under Fla. Stat. § 697.01, enforceable solely by judicial foreclosure pursuant to Chapter 702, Florida Statutes.

## §1. HOMEOWNER(S)

Homeowner 1 (Full Legal Name):

Homeowner 2 (Full Legal Name, if applicable):

Homeowner Mailing Address:

City: State: Zip:

## §2. INVESTOR

Investor / Company Name:

Investor Principal Address:

## §3. PROPERTY

Property Street Address:

City: Zip: County:

Parcel ID / Folio No.:

Legal Description:

## §4. AGREEMENT TERM

Effective Date: Term (years): Maturity Date:

## §5. INVESTMENT AMOUNT & FEES

Investment Amount (gross): \$

Origination Fee: % (\$ ) Appraisal Fee: \$

Net Proceeds to Homeowner: \$

Investor shall deliver the Net Proceeds to Homeowner within five (5) business days of the Effective Date, following completion of title review, recording of the Memorandum of Agreement, and full execution of this Agreement.

## §6. STARTING VALUE, RISK ADJUSTMENT & INVESTOR'S SHARE

Starting Appraised Value: \$ Risk Adjustment: %

Adjusted Starting Value: \$

Investor's Appreciation Share: % of appreciation above the Adjusted Starting Value.

*Risk Adjustment Disclosure: The Adjusted Starting Value is calculated by reducing the Starting Appraised Value by the Risk Adjustment Percentage above. Homeowner expressly acknowledges this reduction and agrees that any appreciation payoff is measured from the Adjusted Starting Value. This written acknowledgment is required to prevent claims of fraudulent inducement under Florida common law.*

**§7. PAYOFF AMOUNT**

At Settlement, Homeowner shall pay Investor the greater of: (a) the Investment Amount; or (b) the Investment Amount plus Investor's Appreciation Share of the positive difference between the Ending Value and the Adjusted Starting Value. The Ending Value is determined per §9 of this Agreement. If the Ending Value is at or below the Adjusted Starting Value, Homeowner owes only the Investment Amount with no appreciation component.

**§8. SETTLEMENT EVENTS**

A Settlement Event obligating Homeowner to pay the full Payoff Amount shall occur upon any of the following:

- Sale, assignment, or voluntary transfer of the Property to any third party;
- Expiration of the Agreement Term (Maturity Date) stated in §4;
- Any refinancing or new encumbrance that would breach the CLTV covenant in §10(c);
- Death of the last surviving Homeowner named in §1 of this Agreement;
- An uncured material Default as defined in §11 of this Agreement.

**§9. APPRAISAL PROCESS**

(a) Upon a voluntary sale, the gross sales price less customary and verified closing costs constitutes the Ending Value.

(b) In all other Settlement Events, the parties shall jointly select a certified MAI appraiser within fifteen (15) days of the triggering event.

(c) If the parties cannot agree on a single appraiser, each party shall independently select one licensed Florida-certified appraiser within thirty (30) days. The two appraisers shall jointly select a third appraiser, whose determination shall be final and binding on both parties.

(d) Appraisal costs shall be borne equally unless the triggering event is Homeowner's Default, in which case Homeowner bears the full appraisal cost.

**§10. HOMEOWNER OBLIGATIONS**

(a) Maintenance & Insurance. Homeowner shall maintain the Property in good condition and carry property and casualty insurance in an amount not less than the replacement cost, naming Investor as an additional interest.

(b) Property Taxes & Assessments. Homeowner shall pay all real property taxes, assessments, and governmental charges when due. Failure to pay within thirty (30) days of delinquency constitutes a Default.

(c) CLTV Covenant. Homeowner shall not obtain any mortgage, HELOC, or additional secured lien that causes the Combined Loan-to-Value (CLTV) ratio to exceed:

Maximum CLTV Ratio: \_\_\_\_\_ % of then-current appraised value. A violation is an immediate Default.

(d) Homestead. Homeowner retains the Florida Homestead Exemption under Art. X, § 4 of the Florida Constitution, provided the Property remains Homeowner's primary residence. Execution of this Agreement does not forfeit, waive, or encumber the Homestead Exemption.

(e) Occupancy & Leasing. Homeowner shall not lease the entire Property without Investor's prior written consent, which shall not be unreasonably withheld.

**§11. DEFAULT & REMEDIES**

A "Default" occurs upon: (a) breach of any material obligation herein; (b) delinquency in property taxes beyond thirty (30) days; (c) lapse of required insurance; (d) violation of the CLTV covenant; or (e) initiation of voluntary or involuntary bankruptcy proceedings.

Cure Period: \_\_\_\_\_ days written notice to cure before Investor may exercise remedies.

Upon an uncured Default, Investor may pursue all remedies permitted by Florida law, including judicial

foreclosure under Chapter 702, Florida Statutes. Investor has no right to effect a summary lockout, self-help eviction, or forced title transfer.

## **§12. LIEN & RECORDING**

This Agreement creates a secured lien on the Property pursuant to Fla. Stat. § 697.01. To protect its financial interest against subsequent purchasers and lenders under Fla. Stat. § 695.01, Investor shall record a Memorandum of Agreement or performance lien in the Official Records of the county identified in §3. Such recording establishes Investor as a secondary lienholder. Homeowner irrevocably authorizes and consents to this recording.

## **§13. FEDERAL & STATE DISCLOSURES**

TILA / HOEPA Notice: This Agreement is structured as an equity investment, not a consumer loan. However, if a court of competent jurisdiction recharacterizes it as a consumer credit transaction, the disclosure obligations of the Truth in Lending Act (TILA), 15 U.S.C. § 1601 et seq., and the Home Ownership and Equity Protection Act (HOEPA) shall apply, including disclosure of the origination fee, appraisal fee, and the effective appreciation-sharing formula.

Usury Notice (Fla. Stat. §§ 687.02 / 687.071): The parties acknowledge that this Agreement is an equity investment and not a loan bearing interest. If any Florida court determines that the effective economic return constitutes interest exceeding the applicable statutory usury ceiling, the excess shall be void and automatically credited against principal, and no criminal or civil usury penalty shall be assessed against Investor.

## **§14. GOVERNING LAW & DISPUTE RESOLUTION**

This Agreement is governed exclusively by the laws of the State of Florida without regard to conflict of laws principles. Any dispute shall first be submitted to non-binding mediation in the county where the Property is located. If unresolved within sixty (60) days of referral, disputes shall be resolved by binding arbitration, except that Investor may elect judicial foreclosure under Chapter 702, Florida Statutes, as its sole remedy for recovery of the secured obligation.

## **§15. MISCELLANEOUS**

- (a) Entire Agreement. This Agreement constitutes the entire agreement of the parties and supersedes all prior representations, warranties, negotiations, and understandings.
- (b) Amendments. No modification hereof is binding unless in writing and signed by all parties.
- (c) Severability. Invalidity of any provision shall not affect the remaining provisions, which shall continue in full force.
- (d) Recording Consent. Homeowner consents to recordation of this Agreement or a Memorandum thereof in the county public records as identified in §3.

## **§16. EXECUTION & ACKNOWLEDGMENT**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date. Pursuant to Fla. Stat. § 689.01, each Homeowner's signature must be witnessed by two subscribing witnesses in order for this instrument to be valid for recording.

**Homeowner 1**

Signature:

Date:

Printed Name:

Witness 1 Signature:

Printed Name:

Witness 2 Signature:

Printed Name:

**Homeowner 2 (if applicable)**

Signature:

Date:

Printed Name:

Witness 1 Signature:

Printed Name:

Witness 2 Signature:

Printed Name:

**Investor / Authorized Representative**

Signature:

Date:

Printed Name:

Title:

Witness 1 Signature:

Printed Name:

Witness 2 Signature:

Printed Name:

**NOTARY ACKNOWLEDGMENT**

**State of Florida**

County of

Subscribed and sworn to before me, by  physical presence or  online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared \_\_\_\_\_ who is personally known to me or produced \_\_\_\_\_ as identification, and who did/did not take an oath.

Notary Public Signature:

Seal