Habitat for Humanity of Southern Brazoria County (HfHSBC)

HfHSBC – Policy No. – 24 - Mortgage

Policy	This policy defines the terms and conditions that are required in a Habitat mortgage.
General Principles	This policy is designed to assure that the homes produced by HfHSBC are sold at a no-profit basis. HFHSBC's mortgage documents used are, Special Warranty Deed, Deed of Trust, 1st Real Estate Lien Note and 2nd Real Estate Lien Note. In order to fulfill this no-profit mandate, HfHSBC must include the following costs into the calculation of the prices of their homes.

Interest charge: The mortgage financing that is provided must **not** charge interest.

First Mortgage term: The term of the mortgage may not be less than 15 years and should not be more than 30 years. A term longer than 30 years may be used as required by local real estate conditions and allowed by local good practice to keep the House affordable.

Fully amortizing First Mortgage loans: The loan secured by the First Mortgage must fully amortize (i.e., pay off completely) over the set term of the Mortgage.

Balloon Loans prohibited: Loans which require full payment before the end of the term of the loan, because the monthly payments are insufficient for the full amortization of the mortgage are prohibited. See Note 5.2 below.

Equity protection: Affiliates should utilize some form of equity protection as described in the four Options in 3.0 below.

Use of Habitat house: The Affiliate should require that the homeowner use the house as their principal/primary residence, and the mortgage document should include as an event of default use of the House as rental housing.

Permitted Variations: Option 1

Second mortgages: This option requires that upon completion of construction and before sale, HfHSBC must have a licensed appraiser perform an appraisal of the completed home, or have a market assessment or the prevailing standard in the Affiliate's service area for determining real estate fair market value. It must then record a second mortgage against the house, with HfHSBC as the holder of this second mortgage. See Note 5.3 below.

Second mortgage term: The term of this second mortgage may not exceed the term of the first mortgage. Affiliate may reduce the amount due on the second mortgage over time.

Down payment assistance programs: Other parties are allowed to record subordinate mortgages against the house in certain circumstances. See Note 5.4 below.

Option 2

Shared appreciation: HFHSBC may incorporate into the mortgage (or have as a separate document) a "shared appreciation" provision, allowing the Affiliate to claim some percentage of the increase in the appreciation in the value of the home over and above the initial appraised value of the home and excluding capital improvements made to the home by the homeowner. See Note 5.5 below.

Option 3

Land Trust or leasehold mortgage: Affiliate is permitted to participate in, and even establish, Affordable Housing Land Trusts. Land Trusts are a method of preserving long-term affordability of homes by separating the ownership of a residential structure from the ownership of the land on which the residence is located. In such situations, title to the land is owned by a community-based entity or the Affiliate itself.
See Note 5.6 below.

Option 4

Deed Restrictions and Restrictive Covenants: Affiliate is also permitted to use Deed Restrictions or Restrictive Covenants running with the land that preserve affordability of the homes and /or perform the same function as a second mortgage or shared mortgage, as defined above.

Other Mortgage Issues

Right of repurchase: Affiliates will incorporate a right of repurchase into the documents which convey title to the property to the homebuyer. The repurchase price should, at a minimum, be equal to the equity that the homeowner has paid into the mortgage. See Note 5.7 below.

Subordination of mortgage positions: HFHSBC may not subordinate their first mortgage positions to any other parties, except as otherwise required in connection with prudent government subsidy programs, but may subordinate the position of their second mortgage, either at closing or subsequent to the initial sale of the home. See Note 5.8 below.

Predatory lending prevention: Affiliate will consider and utilize additional measures to prevent predatory lenders from taking advantage of the equity positions the homebuyers have in their homes.

Third-party interests and restrictions in sales transactions: HFHSBC will allow third parties to retain certain interests in the property, so long as the restrictions allow the Affiliate to grant to the homeowner title to their home, to fully capture the principal portion of their home payments upon any subsequent sale of the home, and provided the interests of the third parties do not alter the other conditions of this Policy or the rights of the Affiliate. See Note 5.9 below.

Additional notes and explanations

1. Balloon Mortgages are prohibited because they are commonly used by sub-prime and predatory lenders to force refinancing to a higher interest rate. This creates a negative public perception of Habitat for Humanity. In addition, it unlikely that most homeowner is would be able to pay the "balloon" payment, so the economic benefit for the Affiliate is minimal.

2. The amount of the second mortgage is equal to the difference between the amount of the total price of the house expected to be repaid by the Homeowner (see the House Pricing Policy) and the house's value based on the market appraisal or other market assessment. This second mortgage must also be no-interest, and the payments on the mortgage must be deferred until foreclosure, sale, transfer of title, or full payment or refinancing of the home or the first mortgage.

3. Sometimes, other organizations provide down payment assistance funds to Habitat homebuyers. These amounts reduce the amount of the first mortgage owed by the homebuyer to the Affiliate and generally must take the form of either a forgivable or a deferred non-interest bearing mortgage that is subordinate to the Affiliate's first mortgage. Sometimes such down payment assistance mortgages are not forgivable, and the amount of this down payment assistance mortgage must be paid in full to the Affiliate upon sale, transfer of title, or full payment or refinancing of the home or

the first mortgage. Examples of programs that do this are the Community Development Block Grant (CDBG) and Federal Home Loan Bank (FHLB).

4. The Affiliate's claim to the value of the "shared appreciation" of the home may only be exercised upon foreclosure, sale, transfer of title, or full payment or refinancing of the home or the first mortgage. It should also make sure to include all of these circumstances as a trigger for the shared appreciation provision. Depending on whether an Affiliate's priorities lean toward perpetual affordability of the property or economic empowerment of the homeowner, then the percentage of shared appreciation that is actually "shared" with the homeowner may vary.

5. In Land Trust transactions, the home itself is sold to the homebuyer, who is then provided a long-term lease to the use of the land on which the home is located, typically for a nominal fee ($1/year). Land Trusts can increase housing affordability by charging the homebuyer only the costs of the residence itself, not the cost of the underlying land. Consequently, when homeowners decide to sell their home, they would be able to sell only the home, not the land on which the home is located. Further, since ownership of the land is held by the Land Trust, it can determine future and ongoing uses of the land. Affordable Housing Land Trusts typically stipulate that subsequent sale of the residences located on its land be restricted to households of low to moderate incomes. The house price is still repaid by the homeowner, and is secured by a "Leasehold Mortgage."

6. A right of first repurchase provides the Affiliate with the first option to repurchase the home in the event the initial buyer chooses to sell the home. This is sometimes called a right of first refusal. This allows the Affiliate to retain the home as an affordable unit of housing, and can inhibit predatory lenders from gaining a controlling interest in the property.

7. When considering taking a subordinate position among the parties financing the home, HFHSBC will assure that the total indebtedness on the home does not exceed the home's appraised market value.

8. From time to time, during the course of producing Habitat homes, a third-party entity may want to preserve an interest in the property in exchange for some initial and beneficial contribution to the development of the property. Such interests can take the form of deed restrictions, land trusts, subordinate liens or encumbrances. This is done when the third-

party entity is advancing funds to cover part of the cost of the property to keep the house affordable. However, it should only be for legitimate government agencies and lenders. Therefore, HFHSBC will not accept a gift of property on the condition that the property is to be restricted in a discriminatory manner.