

*Title 7. Banking and Securities  
Part 5. Office of Consumer Credit Commissioner  
Chapter 84. Motor Vehicle Installment Sales  
Chapter 86. Retail Creditors  
Chapter 90. Chapter 342, Plain Language Contract Provisions*

The Finance Commission of Texas (commission) adopts amendments to 7 TAC, Chapter 84, concerning Motor Vehicle Installment Sales; Chapter 86, concerning Retail Creditors, and Chapter 90, concerning Chapter 342, Plain Language Contract Provisions. The commission also adopts new 7 TAC §90.703, which was repealed and replaced.

The commission adopts the majority of the amendments to Chapter 84 (specifically, §§84.102, 84.801, 84.805, and 84.807) without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5608).

The commission adopts the amendments to §§84.802, 84.808, and 84.809 with changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5608). These changes are being made in order to incorporate suggested comments, as discussed in the following paragraph.

The commission received three written comments on the proposal related to Chapter 84 from the following organizations: the American Financial Services Association, the Texas Automobile Dealers Association, and the Texas Independent Automobile Dealers Association. The first commenter offered a suggested model clause regarding collection contacts. The latter two commenters generally supported the amendments but requested clarification regarding the disclosure of the inspection fee as contained in §84.808 and §84.809. The

commission's response to the three official comments is included after the purpose discussion regarding §84.808.

The commission adopts the amendments to Chapter 86 (specifically, §86.101) without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5616).

The commission received no written comments in response to the proposed amendments to §86.101.

The commission adopts the majority of the amendments to Chapter 90 (specifically, §§90.101-90.103, 90.105, 90.201-90.204, 90.301-90.302, 90.401-90.402, 90.404, 90.501-90.502, 90.504, 90.601-90.602, 90.604, 90.701, and new 90.703) without changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5618).

The commission adopts the amendments to §§90.104, 90.303-90.304, 90.403, 90.503, and 90.603, with changes to the proposed text as published in the September 4, 2015, issue of the *Texas Register* (40 TexReg 5618). These changes are being made in order to make technical corrections and provide further clarification related to high-cost mortgage loans.

The commission received no written comments in response to the proposed amendments to Chapter 90.

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In general, the purpose of the amendments and new rule governing plain language contract provisions is to implement changes resulting from the commission's review of Chapter 90 under Texas Government Code, §2001.039, along with corresponding revisions to §86.101 and the plain language rules in Chapter 84, concerning Motor Vehicle Installment Sales. The adopted amendments revise plain language non-standard contract submission procedures relating to readability levels, typefaces, and font sizes. The rule changes also update plain language contracts to conform with federal TILA-RESPA integrated disclosures, including a new rule that was repealed and replaced. Additionally, the amendments provide updated references to state and federal law and make technical corrections.

In Chapter 84, amendments have been made to §84.102, concerning Definitions, and to the following sections in Subchapter H, concerning Retail Installment Sales Contract Provisions: §§84.801, 84.802, 84.805, 84.807, 84.808, and 84.809. In Chapter 86, amendments are contained in §86.101, concerning Consumer Notifications.

The adopted changes affect the rules listed, as contained in the following subchapters of Chapter 90: Subchapter A, concerning General Provisions (§§90.101 - 90.105); Subchapter B, concerning Secured Consumer Installment Loans (Chapter 342, Subchapter E) (§§90.201 - 90.204); Subchapter C, concerning Signature Loans (Chapter 342, Subchapter F) (§§90.301 - 90.304); Subchapter D, concerning Second Lien Home Equity Loans (Chapter 342, Subchapter G) (§§90.401 - 90.404); Subchapter E, concerning Second Lien Purchase Money Loans (Chapter 342,

Subchapter G) (§§90.501 - 90.504); Subchapter F, concerning Second Lien Home Improvement Contracts (Chapter 342, Subchapter G) (§§90.601 - 90.604); and Subchapter G, concerning Spanish Disclosures (§90.701 and §90.703).

The notice of intention to review 7 TAC Chapter 90 was published in the July 17, 2015, issue of the *Texas Register* (40 TexReg 4707). The commission received no comments in response to that notice.

The majority of the adopted amendments center on changes made throughout several sections of rule text, as well as multiple figures, in order to provide consistency throughout the plain language rules. In the following paragraphs, most of the amendments will be outlined on an issue-by-issue basis. First, a basic statement of the rule issue will be provided. Second, the purpose and background of the changes will be described. And third, a list of the relevant provisions containing amendments related to that rule issue will be provided. Additionally, certain amendments isolated to one or a small number of rules will be discussed on a section-by-section basis, as appropriate.

In §84.102, the agency's acronym "OCCC," which stands for Office of Consumer Credit Commissioner, has been adopted as a new defined term in §84.102(12) to allow appropriate use throughout the chapter. Similarly, the term "OCCC" has been added in §90.101(6). In both rules, the remaining definitions have been renumbered accordingly.

In Chapter 90, each subchapter contains a purpose section that outlines the purpose of the particular plain language contract provisions provided in that subchapter. In

each respective purpose section, the term "commissioner" is being replaced with "OCCC." The agency believes that the use of "OCCC" will provide better clarity to the rules when the context calls for action by the agency, as opposed to the commissioner specifically. The following rules include amendments to replace "commissioner" with "OCCC": §§84.801, 90.201, 90.301, 90.401, 90.501, and 90.601.

In Chapters 84 and 90, the agency's non-standard contract submission procedure has been revised in order to provide more efficiency and clarity. In §84.802(b) and §90.104(b), the certification of readability includes amendments adding a list of the typefaces and font sizes used in the contract, as well as the Flesch-Kincaid Grade Level score of the contract. To provide consistency, the list of easily readable typefaces and use of the typeface "Times New Roman" instead of "Times" has been revised in §90.103 to match the language in current §84.103. Since the proposal, technical corrections have been made to §84.802(b) and §90.104(b).

The filing requirements in §84.802(c) and §90.104(c) contain amendments requiring submission in both Microsoft Word and PDF format. Paper filings or other formats will not be accepted under the new submission procedure. New provisions contained in §84.802(c)(4) and §90.104(c)(4) set the maximum Flesch-Kincaid Grade Level scores for each type of contract submitted, which are as follows: grade 8 for Chapter 342, Subchapter F loans; grade 9 for Chapter 342, Subchapter E loans; grade 10 for Chapter 342, Subchapter G loans; and grade 11 for Chapter 348 retail installment contracts. These grade level requirements will help ensure that agreements are readable and accessible to

consumers. The agency's experience indicates that contracts can be drafted to comply with these requirements.

Section 86.101 outlines the consumer notifications that must be provided on all Chapter 345, 347, and 348 contracts. Similarly, §90.105 specifies the consumer notices for Chapter 342 contracts. In accordance with instructions from the Texas Department of Information Resources, the OCCC has updated its website and e-mail address with the "texas.gov" extension: [occc.texas.gov](http://occc.texas.gov) and [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov). In order to provide consumers with the best contact information for the agency, this adoption amends several provisions and figures with the OCCC's updated contact information.

Other revisions have been made to the text of the consumer notice to provide more clarity to consumers regarding the role of the OCCC in resolving complaints. Previously, this notice has been referenced in the rules as the "Complaints and inquiries notice" or the "Consumer credit commissioner notice." To continue the use of the agency's acronym and provide consistency throughout the rules, this consumer notice has been relabeled as the "OCCC Notice." In addition, an amendment to §90.105(b)(1) requires the lender to include its phone number in the OCCC notice of each Chapter 342 loan contract. This is similar to the phone number requirement that already exists under §86.101 for contracts under Chapters 345, 347, and 348. The new provision adopted in §90.105(b)(6) specifies that the phone number may be included in a portion of the contract other than the OCCC notice, as long as the reader's attention is directed to the area of the document where the phone

number may be found. Adopted amendments to §86.101(a) and §90.105(b)(1) also require creditors and lenders to include a statement that consumers can contact the phone number for questions or complaints, and allow creditors to include one or more of the following: mailing address, fax number, website, or e-mail.

Changes to update references to the notice with the new label ("OCCC Notice") are contained in the following provisions: §§84.805(a), 84.807(19), 84.808(19), 86.101(a), 90.105 (rule title), 90.202(23), 90.203(b)(24), 90.302(22), 90.303(b)(21), 90.402(a)(21), 90.403(b)(21), 90.502(a)(21), 90.503(b)(21), 90.602(a)(2)(X), (4)(Y), and 90.603(c)(24), (e)(25). Certain provisions have been renumbered or relettered accordingly.

Adopted revisions to update the text of the OCCC Notice are contained in the following provisions: §§84.808(19), 86.101(a), 90.105(b), 90.203(b)(24), 90.303(b)(21), 90.403(b)(21), 90.503(b)(21), and 90.603(c)(24), (e)(25). Certain provisions have been renumbered or relettered accordingly.

The following figures contain the OCCC Notice as revised for this adoption: §§84.809(b), 90.204(a)(7)-(8), 90.304(a)(7)-(9), 90.404(a)(8), 90.504(a)(8), and 90.604(a)(14), (16). Certain figures have been renumbered or relettered accordingly.

The rules often cite other state and federal law, federal regulations, as well as refer to other sections within title 7 of the Texas Administrative Code. Since the last review of the plain language rules, state laws have been added or revised, certain federal regulations have been relocated, and the

Consumer Financial Protection Bureau (CFPB) has been created and assumed the duties of other federal agencies. The amendments include revisions to update existing citations, provide more accurate or specific citations, remove obsolete citations, or provide new or revised language in accordance with other law.

Revisions to update legal citations and references are included in the following provisions: §§84.808(8)(E), (9)(C)-(D) (deleted), (37), (40)(B), (41)-(43), 84.809(c), 90.102, 90.303(b)(3), 90.402(c), 90.403(b)(1)(A), (b)(3)(B), (c)(1)(P), 90.404(a)(7), 90.502(c), 90.503(b)(1)(A), (b)(3)(B), (c)(1)(O), 90.504(a)(7), 90.602(b), 90.603(b)(12), (c)(1)(A), (c)(5)(B), (c)(26), (d)(20), (e)(1)(A), (e)(5)(B), (f)(1)(P), 90.604(a)(1), (a)(12), 90.701(a)-(b), and 90.703. Additionally, citations have been added to or updated in the following figures: §§90.404(a)(8)-(9), 90.504(a)(8)-(9), and 90.604(a)(14), (16)-(17). Certain provisions have been renumbered or relettered accordingly.

In §90.203(b)(5) regarding contracts under Subchapter E of Chapter 342, a clarifying change has been made to specify that the clause on interest on the matured amount applies to contracts using the scheduled installment earnings method of the sum of the periodic balances method.

The rate bracket amounts for loans governed by Subchapter E of Texas Finance Code, Chapter 342 are adjusted on an annual basis. In order to direct the reader to the most recent rate bracket amounts, the following sentence has been added to §90.203(b)(7): "The model finance charge earnings and refund method clauses include rate bracket amounts that are updated annually in the Texas Credit Letter."

Conforming changes to update the rate bracket amounts for Subchapter E loans are contained in the following figures: §90.203(b)(7)(A), (b)(7)(C), and (b)(7)(E). The amounts included in the figures reflect those published in the March 3, 2015, issue of the *Texas Register*, and the amounts are applicable to loans made July 1, 2015 to June 30, 2016. In addition, the phrase "per year" has been added to figure §90.203(b)(7)(A) after "\$100.00" in two instances to provide clarification.

In figure §90.204(a)(8), the after-maturity interest clause has been removed from the Subchapter E true daily earnings model contract because other provisions allow the lender to charge accrued interest.

Amendments are contained in §84.808(8) and the accompanying figures relating to inspection fees on a motor vehicle retail installment sales contract. Under a recent amendment to Texas Transportation Code, §548.509, the Texas Department of Motor Vehicles (TxDMV) or a county assessor-collector will collect the portion of the inspection fee paid to the state. This amendment is implemented by TxDMV's "Two Steps, One Sticker" program. Under this program, the proof of registration and proof of inspection have been combined into one sticker, effective March 1, 2015. In figures 7 TAC §84.808(8)(A) and §84.808(8)(B), an optional disclosure has been updated to remove a reference to the seller keeping \$7 of the inspection fee, because this amount does not apply to all counties. In these same figures, the word "and/or" has been replaced with "and" in the section on government license and registration fees. New subparagraph (E) in §84.808(8) specifies how creditors should disclose the inspection fee in the itemization of amount financed.

This provision explains that the creditor may use either of two methods. First, under clause (i), the creditor may include the entire inspection fee in the "Government vehicle inspection fees" section, with the separate amounts paid to the state and the inspection station documented immediately below this section. Second, under clause (ii), the creditor may include the portion remitted to the state in the "Government license and registration fees" section, and the portion remitted to the inspection station in the "Government vehicle inspection fees" section.

Two commenters requested that the accompanying figures include graphics showing how to separately disclose the portion of the inspection fee paid to the state and the portion paid to the inspection station. In response to these comments, the separate disclosures of these amounts have been added to figures 7 TAC §84.808(8)(A) and §84.808(8)(B), and conforming changes are contained in the model contract at figure 7 TAC §84.809(b).

One of these commenters expressed concern that "if a licensee/creditor includes an *inspection fee*, or a portion of the inspection fee, in the '*Government license and registration fees*' itemized charge line on the retail installment contract, even if it is the portion remitted to the state, and then itemizes the portion of the inspection fee that is maintained or remitted to the inspection station in the '*Government vehicle inspection fees* section,' that the inclusion of any inspection fee in a license and registration fee line will be misinforming the consumer and may be, at best, confusing to both the buyer and to the seller."

The commission disagrees with this comment. The state collects its portion of the inspection fee at registration and in connection with registration, so it is not misleading to include this portion in the "registration fees" line. This portion of the fee is disclosed on the title application receipt, together with other fees collected at registration. The agency also understands that TxDMV has recognized the approach described in §84.808(8)(E)(ii) as a valid method of disclosing the inspection fee. In addition, both §84.808(8) of the rule text and the official commentary to Regulation Z, 12 C.F.R. part 226, supp. I, para. 18(c)2., part 1026, supp. I, para. 18(c)2., provide that creditors have "considerable flexibility" in disclosing amounts on the itemization of amount financed. Disclosing the state's portion of the fee in the "registration fees" line is consistent with this flexibility. Of course, creditors must ensure that all disclosed amounts are accurate and that the retail buyer is not charged twice for the same fee.

Additional amendments are included throughout §84.808 to provide technical corrections for motor vehicle retail installment contracts. Amendments are contained in figure 7 TAC §84.808(7), the Truth in Lending Act disclosure for motor vehicle retail installment sales contracts, to update references to earnings methods. Outdated provisions regarding documentary fees charged before August 1, 2010, have been deleted from §84.808(9)(C)-(E). Clarifying language has been added to §84.808(10) regarding how to disclose a downpayment. Since the proposed version, a change has been made to §84.808(10) to specify that the dollar amount of the downpayment must be included in the total of payments if the deferred downpayment amount is disclosed in the payment

schedule. A statement providing a maximum insurance deductible for required property insurance has been added to figure 7 TAC §84.808(11). Conforming changes regarding insurance have been made to the model clause at §84.808(25). Clarifying changes have been made to §84.808(16)(A) to specify that the finance charge for the add-on method is calculated on an annual basis and is not the same as the annual percentage rate. Clarifying changes have been made to §84.808(16)(B)-(C) to specify that the contract rate disclosure should be provided in transactions where sales tax is deferred. A clarifying change has been made to §84.808(23) to specify that the clause on interest on the matured amount applies to contracts using the scheduled installment earnings method or the sum of the periodic balances method. A clarifying change has been made to §84.808(34)(E) to specify that the 10-day period to provide the notice of disposition applies when the creditor sells the vehicle at a public or private sale, in accordance with Texas Business and Commerce Code, §§9.610-9.612. Conforming changes are contained in the model contract at figure 7 TAC §84.809(b).

One commenter requested that the model contract for motor vehicle retail installment contracts include a statement about servicing and collection contacts. The Telephone Consumer Protection Act, 47 U.S.C. §227(b)(1)(A)-(B), generally prohibits creditors and other persons from calling a residential telephone line using an automatic telephone dialing system or an artificial or prerecorded message without the prior express consent of the called party. Based on this requirement, the commenter suggested adding the following model clause: "Servicing and Collection Contacts: I agree that you may try to contact me in writing, by e-mail, or using prerecorded/artificial voice

messages, text messages, and automatic telephone dialing systems, as the law allows. I also agree that you may try to contact me in these and other ways at any address or telephone number I provide you, even if the telephone number is a cell phone number or the contact results in a charge to me."

In response to this comment, new §84.808(37) includes the following model clause for servicing and collection contact: "You may try to contact me at any mailing address, e-mail address, or phone number I give you, as the law allows. You may try to contact me in writing (including mail, e-mail, and text messages) and by phone (including prerecorded or artificial voice messages and automatic telephone dialing systems)." A conforming change is contained in the model contract at figure 7 TAC §84.809(b). The commission disagrees with the commenter's suggestion to include the phrase "even if the telephone number is a cell phone number or the contact results in a charge to me." The Texas Debt Collection Act, Texas Finance Code, §392.302(d), prohibits debt collectors from "causing a person to incur a long distance telephone toll, telegram fee, or other charge by a medium of communication without first disclosing the name of the person making the communication." In addition, the Consumer Financial Protection Act, 15 U.S.C. §5531(a), and the Fair Debt Collection Practices Act, 15 U.S.C. §1692f, prohibit creditors and debt collectors from engaging in unfair practices to collect debts. Unfair practices may include "[c]ausing charges to be made to any person for communications by concealment of the true purpose of the communication. Such charges include, but are not limited to, collect telephone calls and telegram fees." 15 U.S.C. §1692f(5). If the model clause included the commenter's suggested phrase,

this could be read as a waiver of the prohibition on unfair practices. For this reason, the model clause does not include the phrase "even if the telephone number is a cell phone number or the contact results in a charge to me." The rule does not prohibit creditors from contacting consumers' cell phones, but creditors must ensure that they do not engage in unfair, abusive, or illegal practices.

New §84.808(38) specifies that the creditor may charge a returned check fee up to \$30, as authorized under Texas Business and Commerce Code, §3.506. New §84.808(41)(B) contains a model clause for commercial vehicle retail installment contracts, specifying that Texas Finance Code, Chapter 353 applies to the transaction. Additional technical changes and updates to citations are included throughout §84.808. Conforming changes are contained in the model contract at figure 7 TAC §84.809(b).

Amendments throughout §90.303 provide model provisions for Chapter 342, Subchapter F loan contracts using the scheduled installment earnings method and the true daily earnings method. The amendments implement Texas Finance Code, §342.260, enacted by the Texas Legislature in 2013. New §90.303(b)(2)(B) provides the promise to pay for contracts using the true daily earnings method. New §90.303(b)(5)(B) provides the model prepayment clause for contracts using the true daily earnings method, stating that the borrower can make any payment early. New §90.303(b)(6)(C)-(D) include the finance charge earnings and refund method provisions for contracts using the scheduled installment earnings and true daily earnings methods. These amendments include provisions on the order in which the lender will apply payments, in accordance with

Texas Finance Code, §342.260(d), as well as a statement that the acquisition charge will be collected on a straight-line basis in accordance with 7 TAC §83.606(i)(2). Since the proposed version, clarifying language has been added to §90.303(b)(4) to specify that the after maturity interest clause applies to contracts using the add-on method or the scheduled installment earnings method. In addition, since the proposed version, clarifying language has been added to §90.303(b)(7) to specify that the deferment clause applies to contracts using the add-on method or the scheduled installment earnings method.

Additional amendments throughout §90.303 specify that current provisions apply to contracts using the add-on method. A new model Subchapter F contract using the scheduled installment earnings method, and incorporating the model provisions, has been added as figure 7 TAC §90.304(a)(8). Since the proposed version, the model deferment clause has been added to the contract at figure 7 TAC §90.304(a)(8), and a technical correction has been made to the language on after maturity interest. A new model Subchapter F contract using the true daily earnings method, and incorporating the model provisions, has been added as figure 7 TAC §90.304(a)(9).

Amendments throughout Chapter 90 add the lender's Nationwide Mortgage Licensing System & Registry (NMLS) ID number to the model contracts for Subchapter G secondary mortgages. A recent amendment to Regulation Z, 12 C.F.R. §1026.36(g), requires promissory notes and security documents in mortgage transactions to include the following items: the lender's NMLS ID number, the name of the individual residential mortgage loan originator, and the originator's NMLS ID

number. The official commentary to 12 C.F.R. §1026.36(g) explains that the lender may omit its NMLS ID if it does not have an NMLS ID and is not legally required to obtain one. The lender's NMLS ID, the originator's name, and the originator's NMLS ID have been added to the following model provisions that currently include the lender's contact information: §§90.403(b)(1)(A), (c)(1)(D), 90.503(b)(1)(A), (c)(1)(D), and 90.603(b)(2)(C), (c)(1)(A), (d)(2)(C), (e)(1)(A), (f)(1)(C). Conforming changes have been made to the model contracts in the figures accompanying the following provisions: §§90.404(a)(8)-(9), 90.504(a)(8)-(9), and 90.604(a)(13)-(17). New provisions have been added in the following sections to describe permissible changes allowed under Regulation Z, 12 C.F.R. §1026.36(g) and the official commentary to that section: §§90.404(a)(7), 90.504(a)(7), and 90.604(a)(12). Certain provisions have been renumbered or relettered accordingly.

Amendments throughout Chapter 90 have been made to ensure conformity with the TILA-RESPA integrated disclosures required under recent amendments to Regulation Z, 12 C.F.R. §§1026.19, 1026.37, and 1026.38. One of the integrated disclosures is the Closing Disclosure, a form that integrates and replaces the HUD-1 settlement statement required under the Real Estate Settlement Procedures Act and the final Truth in Lending Act disclosure. The Consumer Financial Protection Bureau (CFPB) has adopted model forms for the Closing Disclosure, which must be provided to the consumer at least three days before consummation of the loan. The new requirements will go into effect on October 3, 2015.

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Four types of changes have been made to ensure conformity with the TILA-RESPA integrated disclosures. First, the box containing the final TILA disclosure has been removed from the Subchapter G model contracts, because this disclosure has been replaced with the CFPB's Closing Disclosure, which must be provided separately. Second, the payment schedule that is currently in the final TILA disclosure has been moved into the promise to pay. Third, the statement that there is no prepayment penalty, which is currently in the final TILA disclosure, has been moved into the provisions on the finance charge earnings and refund method. Fourth, in the model provisions for promissory notes for home improvement loans, the description of the property subject to the lien has been moved into the provision on security for payment. The following provisions and accompanying figures relating to the final TILA disclosure have been deleted: §§90.402(a)(2)-(3), 90.403(b)(2)-(3), 90.502(a)(2)-(3), 90.503(b)(1)-(3), 90.602(2)(B)-(C), (4)(B)-(C), and 90.603(c)(2)-(3), (e)(2)-(3). Certain provisions have been renumbered or relettered accordingly. Amendments and new figures are contained in the following sections to add the payment schedule to the promise to pay: §§90.403(b)(2)(C), 90.503(b)(2)(C), and 90.603(c)(4)(C), (e)(4)(C). Amendments to the following provisions and accompanying figures add a statement that there is no prepayment penalty: §§90.403(b)(6), 90.503(b)(6), and 90.603(c)(8), (e)(8). Amendments to the following provisions add the property description to the clause on security for payment: §90.603(c)(2) and (e)(2). Conforming changes have been made to the model contracts in the figures accompanying the following provisions: §§90.404(a)(8), 90.504(a)(8), and 90.604(a)(14), (16). New

provisions are included in the following sections to specify that the model provisions are separate from the TILA-RESPA integrated disclosures: §§90.402(c), 90.502(c), and 90.603(b).

Amendments throughout Chapter 90 have been adopted to ensure conformity with the provision on late charges for high-cost mortgage loans in Regulation Z, 12 C.F.R. §1026.34(a)(8). Regulation Z limits the late charge for high-cost mortgage loans to 4% of the amount of the payment past due. This is less than the 5% limitation that generally applies to secondary mortgage loans under Texas Finance Code, §342.302(e). Amendments to the following provisions describe the late charge limitation for high-cost mortgages, in addition to the general limitation: §§90.403(b)(3), 90.503(b)(3), and 90.603(c)(5), (e)(5). While the proposed amendments stated that the late charge for high-cost mortgage loans is "4% of the scheduled payment," the adopted amendments specify that the late charge is "4% of the amount of the payment past due," to more closely conform to the requirement in Regulation Z, 12 C.F.R. §1026.34(a)(8)(i). Conforming changes have been made to the model contracts in the figures accompanying the following provisions: §§90.404(a)(8), 90.504(a)(8), and 90.604(a)(14), (16).

Since the proposed version, clarifying language has been added to the following sections to specify that the after maturity interest clause applies to contracts using the scheduled installment earnings method: §§90.403(b)(4), 90.503(b)(4), 90.603(b)(6), and 90.603(e)(6).

An amendment to §90.604(a)(1) provides an updated citation to the CFPB's model form for the right of rescission notice

required for mortgage loans under Regulation Z, 12 C.F.R. §1026.23(b).

Amendments related to Spanish disclosures are contained in §90.701, to provide clarity regarding which forms must be provided, and to conform to revised §90.703. Adopted new §90.703 replaces the former version of this section, which has been repealed. Subsection (a) provides that for a Chapter 342 loan negotiated in Spanish, the licensee must provide a Spanish disclosure, and that the disclosure must be completed with amounts that are accurate within the tolerances described by Regulation Z, 12 C.F.R. Part 1026. Paragraph (1) provides that for a Subchapter E loan, the lender may provide either a Spanish translation of the loan contract or the "Notificación de Crédito Al Consumidor (Préstamo a Plazos)" (a figure that has been renumbered without changes from former §90.703(a)(2)). Paragraph (2) provides that for a Subchapter F loan, the lender may provide either a Spanish translation of the loan contract or both of the following: the "Notificación de Crédito Al Consumidor (Préstamo)" (a figure that has been renumbered without changes from former §90.703(a)(3)(A)) and the "Conceptos Financieros" (a figure that has been renumbered without changes from former §90.703(a)(3)(B)). Paragraph (3) provides that for a Subchapter G secondary mortgage loan, the lender must provide copies of the CFPB's Spanish translations of both the TILA-RESPA integrated disclosures. This paragraph replaces the former provision and accompanying figure located at §90.703(a)(4), the "Notificación de Crédito Al Consumidor (Préstamo de Segunda Hipoteca)."

Subsection (b) provides that for a Chapter 348 transaction, the creditor may

provide a Spanish translation of the retail installment sales contract or the "Notificación de Crédito Al Consumidor (Contrato de Menudeo a Plazos para Vehículo Automotor)" (a figure that has been renumbered without changes from former §90.703(a)(5)). Subsection (c) provides that a licensee may delete inapplicable provisions of the model disclosures, except for the TILA-RESPA integrated disclosures required under subsection (a)(3). In addition, the two Subchapter E loan contracts and the three Subchapter F loan contracts include an updated statement (in both English and Spanish) acknowledging that the borrower received a summary of the contract in Spanish. This statement is included in the following figures: §90.204(a)(7)-(8) and §90.304(a)(7)-(9).

The provisions relating to Spanish disclosures are adopted under Texas Finance Code, §341.502(a-1), which provides that if the terms of a Chapter 342 loan are negotiated in Spanish, "a copy of a summary of those terms and other pertinent information shall be provided to the debtor in Spanish in a form identical to disclosures required for a closed-end transaction under 12 C.F.R. Section 226.18." The provisions are intended to ensure that the Spanish disclosures are in the same form as the disclosures required under Regulation Z, which has been recodified from 12 C.F.R. Part 226 to 12 C.F.R. Part 1026.

The remaining amendments adopted throughout the rules relate to improvements in consistency, clarity, grammar, punctuation, and formatting. Any rules not included in this adoption will be maintained in their current form.

All new non-standard contracts submitted on or after the amendments' effective date will have to be submitted under the amended submission requirements, and will have to contain clauses that comply with the amended rules (including the updated OCCC notification). However, the agency will allow a delayed implementation period for certain licensees. For those licensees utilizing the model contracts, the prior model language is acceptable and the agency will permit licensees to use the prior model language (without a non-standard contract submission) until December 31, 2016, to deplete supplies of existing forms during a 13-month transition period after the anticipated effective date of the rules. If licensees submitted compliant non-standard contracts under the prior rules, the agency will permit them to continue using these contracts until December 31, 2016. If licensees intend to continue using non-standard contracts, they must ensure that they submit an updated non-standard contract in compliance with the amended requirements by December 31, 2016. The agency encourages licensees to submit the updated contracts earlier. Starting January 1, 2017, licensees may no longer use contracts submitted under the prior rules. At any time, if the agency determines that a non-standard contract submitted under prior rules contains a substantive violation (e.g., an excessive late charge), it may order the licensee to resubmit the contract. If the contract is resubmitted on or after the amendments' effective date, it will have to comply with the amended requirements.

For those licensees performing mortgage transactions subject to the federal TILA-RESPA integrated disclosures, compliance with federal law should be completed in

accordance with any guidance or deadlines issued by the CFPB.

The amendments and new rule are adopted under Texas Finance Code, §11.304, which authorizes the commission to adopt rules to enforce Title 4 of the Texas Finance Code.

All of the plain language amendments and new rule are adopted under Texas Finance Code, §341.502, which authorizes the commission to adopt rules governing the form of contracts for a loan under Chapter 342, a retail installment transaction under Chapter 348, or a home equity loan regulated by the Office of Consumer Credit Commissioner.

The amendments regarding the OCCC notice are adopted under Texas Finance Code, §14.104, which requires that a written contract of an authorized lender subject to the OCCC's regulation must contain the name, mailing address, and telephone number of the office. The OCCC believes that a modernized interpretation of §14.104 would include the agency's updated website and email address.

The regulated lender amendments and new rule are adopted under Texas Finance Code, §342.551 which grants the commission the authority to adopt rules to enforce the consumer loans chapter.

The amendments concerning motor vehicle contracts are adopted under Texas Finance Code, §348.513 which grants the commission the authority to adopt rules to enforce the motor vehicle installment sales chapter. Additionally, §348.513 also authorizes the commission to modify the standard form required by §348.0091 to conform to the provisions of the Truth in

Lending Act or a regulation issued under authority of that Act.

The statutory provisions affected by the adopted amendments are contained in Texas Finance Code, Chapters 342, 345, 347, and 348.

*Chapter 84. Motor Vehicle Installment Sales*

*Subchapter A. General Provisions*

*§84.102. Definitions.*

The following words and terms, when used in this chapter, will have the following meanings, unless the context clearly indicates otherwise:

(1) - (11) (No change.)

(12) OCCC--The Office of Consumer Credit Commissioner of the State of Texas.

(13) [(12)] Ordinary vehicle--A motor vehicle that is used primarily for personal, family, or household use.

(14) [(13)] Principal balance subject to finance charge--The principal balance used in the determination or calculation of the time price differential charge.

(A) - (B) (No change.)

(15) [(14)] Regular payment contract--Any contract that is not an irregular payment contract.

(16) [(15)] Scheduled installment earnings method--The scheduled installment earnings method is a method to compute the finance charge by applying a daily rate to the unpaid principal balance as if each

payment will be made on its scheduled installment date. A payment received before or after the due date does not affect the amount of the scheduled reduction in the unpaid principal balance. Under this method, a finance charge refund is calculated by deducting the earned finance charges from the total finance charges. If prepayment in full or demand for payment in full occurs between payment due dates, a daily rate equal to 1/365th of the annual rate is multiplied by the unpaid principal balance. The result is then multiplied by the actual number of days from the date of the previous scheduled installment through the date of prepayment or demand for payment in full to determine earned finance charges for the abbreviated period. In addition to the earned finance charges calculated in this paragraph, the creditor may also earn a \$25 acquisition fee so long as the total of the earned finance charges and the acquisition fee do not exceed the finance charge disclosed in the contract. The creditor is not required to refund unearned finance charges if the refund is less than \$1.00. The scheduled installment earnings method may be used with either an irregular payment contract or a regular payment contract. The computation of finance charges must comply with the U.S. Rule as defined in paragraph (22) [(21)] of this section.

(17) [(16)] Sales tax advanced transaction--A retail installment sales transaction in which a retail seller remits the entire amount of the sales tax to the appropriate taxing authority within 20 working days of the sale.

(18) [(17)] Sales tax deferred transaction--A retail installment sales transaction in which a retail seller or a qualified related finance company collects sales tax from the retail buyer and remits the

tax under Texas Tax Code, §152.047 to the Texas Comptroller of Public Accounts.

(19) [~~(18)~~] Seller--The seller of the motor vehicle. This term is synonymous with the term "retail seller."

(20) [~~(19)~~] Sum of the periodic balances method (Rule of 78s).

(A) - (C) (No change.)

(21) [~~(20)~~] True daily earnings method--The true daily earnings method is a method to compute the finance charge by applying a daily rate to the unpaid principal balance. The daily rate is 1/365th of the equivalent contract rate. The earned finance charge is computed by multiplying the daily rate of the finance charge by the number of days the actual unpaid principal balance is outstanding. Payments are credited as of the time received; therefore, payments received prior to the scheduled installment date result in a greater reduction of the unpaid principal balance than the scheduled reduction, and payments received after the scheduled installment date result in less than the scheduled reduction of the unpaid principal balance. The computation of finance charges must comply with the U.S. Rule as defined in paragraph (22) [~~(21)~~] of this section.

(22) [~~(21)~~] U.S. Rule--The ruling of the United States Supreme Court in *Story v. Livingston*, 38 U.S. (13 Pet.) 359, 371 (1839) that, in partial payments on a debt, each payment is applied first to finance charge and any remainder reduces the principal. Under this rule, accrued but unpaid finance charge cannot be added to the principal and interest cannot be compounded. The U.S. Rule is described in Regulation Z, 12 C.F.R. Part 226, Appendix J, and 12 C.F.R. Part 1026, Appendix J.

(23) [~~(22)~~] Vehicle--A motor vehicle as defined by Texas Finance Code, §348.001(4).

*Subchapter H. Retail Installment Sales Contract Provisions*

§84.801. Purpose.

(a) Purpose.

(1) Model provisions applicable to ordinary vehicles. The purpose of this subchapter is to provide model provisions and a model plain language contract in English for Texas Finance Code, Chapter 348 motor vehicle installment sales contract provisions for ordinary vehicles. The establishment of model provisions for these transactions will encourage the use of simplified wording that will ultimately benefit consumers by making these contracts easier to understand. Use of the "plain language" model contract by a seller is not mandatory. Except for retail installment sales contracts involving commercial vehicles, the seller, however, may not use a contract other than a model contract unless the seller has submitted the contract to the OCCC [~~commissioner~~] in compliance with §84.802 of this title (relating to Non-Standard Contract Filing Procedures). The OCCC [~~commissioner~~] will issue an order disapproving the contract if the OCCC [~~commissioner~~] determines the contract does not comply with this section or rules adopted under this section. A seller may not claim the OCCC's [~~commissioner's~~] failure to disapprove a contract constitutes approval.

(2) (No change.)

(b) (No change.)

§84.802. *Non-Standard Contract Filing Procedures.*

(a) Non-standard contracts. A non-standard contract is a contract that does not use the model contract provisions. Non-standard contracts submitted in compliance with the provisions of Texas Finance Code, §341.502(c) will be reviewed to determine that the contract is written in plain language. ~~[Non-standard contracts submitted for review may gain certain protections under the provisions of Texas Finance Code, §341.502.]~~

(b) Certification of readability. Contract filings subject to this chapter must be accompanied by a certification signed by an officer of the creditor or the entity submitting the form on behalf of the creditor. The certification must state that the contract is written in plain language and [i.e.,] that the contract can be easily understood by the average consumer[.]. The certification must state that the contract is printed in an easily readable font and type size, including a list of the typefaces used in the contract, the font sizes used in the contract, and the Flesch-Kincaid Grade Level score of the contract. The OCCC will prescribe the form of the certification.

(c) Filing requirements. Contract filings must be identified as to the transaction type. Contract filings must be submitted in accordance with the following requirements:

(1) Microsoft Word format. One copy must be submitted in a Microsoft Word format with the document having either a .doc or .docx extension. The Flesch-Kincaid Grade Level score of the contract must be based on the Microsoft Word readability statistics function for the Microsoft Word version of the contract.

(2) PDF format. One copy must be submitted in a PDF format so that the contract may be visually reviewed in its entirety.

(3) No other formats permitted. The OCCC will not accept paper filings or any other unlisted formats for non-standard contract filings.

(4) Maximum Flesch-Kincaid score. The maximum Flesch-Kincaid Grade Level score for a Chapter 348 contract filing is grade 11.

~~[on paper that is suitable for permanent record storage and imaging. Handwritten forms or handwritten corrections will not be accepted. In addition to the paper submission, the licensee must also submit the contract filings in an electronic version. The electronic version must be submitted in a Corel WordPerfect (.wpd), MS Word (.doc), or a text (.txt) format.]~~

(d) Contact person. One person must be designated as the contact person for each filing submitted. Each submission must provide the name, address, phone number, and if available, the email address and fax number of the contact person for that filing. If the contracts are submitted by anyone other than the company itself, the contracts must be accompanied by a dated letter which contains a description of the anticipated users of the contracts and designates the legal counsel or other designated contact person for that filing.

(e) Commercial vehicle. Pursuant to Texas Finance Code, §341.502(a), a motor vehicle retail installment sales contract involving a commercial vehicle does not have to be submitted in accordance with this section.

*§84.805. Other Disclosures Required by Commission Rule.*

(a) The OCCC [~~consumer—credit commissioner~~] notice required by §86.101 of this title (relating to Consumer Notifications) must be disclosed.

(b) (No change.)

*§84.807. Contract Provisions.*

A Texas Finance Code, Chapter 348 motor vehicle installment sales contract may include the following contract provisions to the extent not prohibited by law or regulation. If the seller desires to assess certain charges or exercise certain rights under one of the following provisions, except provisions relating to default, repossessions, acceleration, and assignment of the contract, the seller must include the provision in the contract. A seller may delete inapplicable provisions. A seller who does not desire to apply a provision is not required to include it in the contract. For example, the seller may omit the balloon payment provisions if there is no balloon payment. A seller may also exclude non-relevant portions of a model clause. For example, a seller who does not routinely finance certain insurance coverages may omit those non-applicable portions of the model clause. A Texas Finance Code, Chapter 348 motor vehicle installment sales contract may contain the following provisions:

(1) - (18) (No change.)

(19) OCCC [~~Consumer—credit commissioner~~] notice;

(20) - (45) (No change.)

*§84.808. Model Clauses.*

The following model clauses provide the plain language equivalent of provisions found in contracts subject to Texas Finance Code, Chapter 348.

(1) - (6) (No change.)

(7) Truth in Lending Act disclosure. The model clause regarding Truth in Lending Act disclosure reads:

Figure: 7 TAC §84.808(7) *{See attached amendments.}*

(8) Itemization of amount financed. The creditor drafting the contract is given considerable flexibility regarding the itemization of amount financed disclosure so long as the itemization of amount financed disclosure complies with the Truth in Lending Act. As an example, a creditor may disclose the manufacturer's rebate either as: a component of the downpayment; or a deduction from the cash price of the motor vehicle. The model contract provision for the itemization of the amount financed discloses the manufacturer's rebate as a component of the downpayment. If the creditor elected to disclose the manufacturer's rebate as a deduction from the cash price of the motor vehicle, the cash price component of the itemization of amount financed would be amended to reflect the dollar amount of the manufacturer's rebate being deducted from the cash price of the motor vehicle.

(A) The model clause regarding itemization of amount financed-sales tax advance reads:

Figure: 7 TAC §84.808(8)(A) *{See attached amendments.}*

(B) The model clause regarding itemization of amount financed-sales tax deferred reads:

Figure: 7 TAC §84.808(8)(B) *{See attached amendments.}*

(C) - (D) (No change.)

(E) Inspection fee. Under Texas Transportation Code, §548.509, at the time of registration, the Texas Department of Motor Vehicles or a county assessor-collector will collect a portion of the inspection fee to be remitted to the state. The creditor may disclose the inspection fee by either of the following methods:

(i) including the entire inspection fee in the "Government vehicle inspection fees" section, with the amounts paid to the state and the inspector documented immediately below this section with the following language: "to state \$ \_\_\_\_\_" and "to inspection station \$ \_\_\_\_\_."; or

(ii) including the portion remitted to the state in the "Government license and registration fees" section, and the portion remitted to the inspection station in the "Government vehicle inspection fees" section; or

(9) Documentary fee.

(A) - (B) (No change.)

~~[(C) Until August 31, 2010, if the dealer does not charge an amount in excess of \$50, the following notice satisfies the requirements of Texas Finance Code, §348.006 if printed in type that is boldfaced, capitalized, underlined, or otherwise set out from surrounding written material so as to~~

~~be conspicuous and within reasonable proximity to the place at which the fee is disclosed. The parenthetical phrase may be inserted at the dealer's option or the disclosure may be made without the parenthetical phrase if the dealer does not charge an amount in excess of \$50 for either ordinary motor vehicles or heavy commercial vehicles or if the contract form is not used for heavy commercial vehicles. The model clause is contained in the Itemization of Amount Financed. The documentary fee clause reads: "A documentary fee is not an official fee. A documentary fee is not required by law, but may be charged to buyers for handling documents and performing services relating to the closing of a sale. A documentary fee may not exceed \$50 (for a motor vehicle contract or a reasonable amount agreed to by the parties for a heavy commercial vehicle contract). This notice is required by law."]~~

~~[(D) Until August 31, 2010, if the dealer does not charge an amount in excess of \$50, the following notices are sufficient Spanish translations of the documentary fee disclosure required by Texas Finance Code, §348.006. The parenthetical phrase may be inserted at the dealer's option or the disclosure may be made without the parenthetical phrase if the dealer does not charge an amount in excess of \$50 for either ordinary motor vehicles or heavy commercial vehicles or if the contract form is not used for heavy commercial vehicles. The Spanish translation may read:]~~

~~[(i) "Un honorario de documentación no es un honorario oficial. Un honorario de documentación no es requerido por la ley, pero puede ser cargada al comprador como gastos de manejo de documentos y para realizar servicios relacionados con el cierre de una venta. Un~~

~~honorario de documentación no puede exceder \$50 (un contrato de vehículo automotor o una cantidad razonable acordada por las partes para un contrato de vehículo comercial pesado). Esta notificación es requerida por la ley."; or]~~

~~[(ii) "Un cargo documental no es un cargo oficial. La ley no exige que se imponga un cargo documental. Pero éste podría cobrarse a los compradores por el manejo de la documentación y la prestación de servicios en relación con el cierre de una venta. Un cargo documental no puede exceder de \$50 para (un contrato de vehículo automotor o una cantidad razonable acordada por las partes para un contrato de vehículo comercial pesado). Esta notificación se exige por ley."]~~

~~[(E) Effective September 1, 2010, the documentary fee disclosures contained in paragraphs (9)(C) and (D) of this section are null and void.]~~

(10) Deferred downpayments. The creditor has considerable flexibility in disclosing the deferred downpayments. The model provision discloses the deferred downpayments by placing the information, the due date and dollar amount of the deferred downpayments, in several boxes. If a creditor uses this model provision, the creditor would enter the due date and dollar amount of each deferred downpayment in the appropriate boxes. As an alternative to this model provision, a creditor may disclose the deferred downpayments in the Payment Schedule of the Amount Financed in the federal disclosure box. If a creditor elects this option, the due date and the dollar amount of the deferred downpayment must be shown. If the total amount of the deferred downpayment is not satisfied by the date of the second regularly scheduled installment,

the deferred downpayment must be included in the Payment Schedule. As another alternative, the creditor may disclose the deferred downpayment amount in the Payment Schedule. If the deferred downpayment amount is disclosed in the Payment Schedule, then the dollar amount of the deferred downpayment must be included in the Total of Payments. The model clause regarding deferred downpayments reads:

Figure: 7 TAC §84.808(10) (No change.)

(11) Required physical damage insurance. The creditor may choose to omit the statement of the retail buyer's right to obtain substitute coverage from another source. The model clause regarding required physical damage insurance reads:

Figure: 7 TAC §84.808(11) *{See attached amendments.}*

(12) - (15) (No change.)

(16) Finance charge earnings methods:

(A) Regular transaction using sum of the periodic balances method.

(i) Sales tax advance. At the creditor's option a creditor may choose one of the following model clauses regarding sales tax advance:

(I) (No change.)

(II) "The Finance Charge will be calculated by using the add-on method. Add-on Finance Charge is calculated on the full amount of the unpaid principal balance and added as a lump sum to the unpaid principal balance for the full

term of the contract. The add-on Finance Charge is calculated at a rate of \$\_\_\_\_ per \$100.00 per year. This rate is not the same as the Annual Percentage Rate."

(ii) Deferred sales tax. The model clause regarding deferred sales tax reads: "The Finance Charge will be calculated by using the add-on method. Add-on Finance Charge is calculated on the full amount of the unpaid principal balance subject to a finance charge and added as a lump sum to the unpaid principal balance subject to a Finance Charge for the full term of the contract. The add-on Finance Charge is calculated at a rate of \$\_\_\_\_ per \$100.00 per year. This rate is not the same as the Annual Percentage Rate."

(B) True daily earnings method.

(i) (No change.)

(ii) Deferred sales tax: If [a ~~retail seller requires a retail buyer to purchase credit life or credit accident and health insurance and the~~] sales tax is deferred, the contract rate disclosure should read: "The contract rate is \_\_\_\_%. This contract rate may not be the same as the Annual Percentage Rate. You will figure the Finance Charge by applying the true daily earnings method as defined by the Texas Finance Code to the unpaid portion of the principal balance subject to a Finance Charge. The daily rate is 1/365th of the contract rate. The unpaid principal balance subject to a finance charge does not include the late charges, sales tax, or returned check charges."

(C) Scheduled installment earnings method.

(i) (No change.)

(ii) Deferred sales tax. If [a ~~retail seller requires a retail buyer to purchase credit life or credit accident and health insurance and the~~] sales tax is deferred, the contract rate disclosure should read: "The contract rate is \_\_\_\_%. This contract rate may not be the same as the Annual Percentage Rate. You figured the Finance Charge by applying the scheduled installment earnings method as defined by the Texas Finance Code to the unpaid portion of the principal balance subject to a Finance Charge. You based the Finance Charge, Total of Payments, and Total Sale Price as if all payments were made as scheduled. The unpaid principal balance subject to a Finance Charge does not include the late charges, sales tax, or returned check charges."

(17) - (18) (No change.)

(19) OCCC [~~Consumer Credit Commissioner~~] notice. The following notice satisfies the requirements of Texas Finance Code, §14.104 and §86.101 of this title (relating to Consumer Notifications). The telephone number of the retail seller, creditor, or holder may be printed in conjunction with the name and address of the retail seller, creditor, or holder elsewhere on the contract or agreement provided the notice required by Texas Finance Code, §14.104 is amended to direct the reader's attention to the area of the contract where the telephone number may be found. The OCCC [~~consumer credit commissioner~~] notice reads: "For questions or complaints about this contract, contact (insert name of creditor) at (insert creditor's phone number and, at creditor's option, one or more of the following: mailing address, fax number, website, e-mail address). The Office of Consumer Credit Commissioner (OCCC) is a state agency, and it enforces certain laws

that apply to this contract. If a complaint or question cannot be resolved by contacting the creditor, consumers can contact the OCCC to file a complaint or ask a general credit-related question. OCCC address: 2601 N. Lamar Blvd., Austin, Texas 78705. Phone: (800) 538-1579. Fax: (512) 936-7610. Website: [occc.texas.gov](http://occc.texas.gov). E-mail: [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov).

~~["To contact (insert authorized business name of retail seller, creditor or holder as appropriate) about this account, call (insert telephone number of retail seller, creditor, or holder as appropriate). This contract is subject in whole or in part to Texas law which is enforced by the Consumer Credit Commissioner, 2601 N. Lamar Blvd., Austin, Texas 78705-4207; (800) 538-1579; [www.occc.state.tx.us](http://www.occc.state.tx.us), and can be contacted relative to any inquiries or complaints."]~~

(20) - (22) (No change.)

(23) Interest on matured amount. For contracts using the scheduled installment earnings method or the sum of the periodic balances method, the [The] model provision for interest on any matured amount at any rate permitted by law reads: "If I don't pay all I owe when the final payment becomes due, or I do not pay all I owe if you demand payment in full under this contract, I will pay an interest charge on the amount that is still unpaid. That interest charge will be the higher rate of 18% per year or the maximum rate allowed by law, if that rate is higher. The interest charge for this amount will begin the day after the final payment becomes due." In this provision, the maximum rate allowed by law refers to the rate found in Texas Finance Code, Chapter 303.

(24) (No change.)

(25) Agreement to keep motor vehicle insured. The model clause regarding agreement to keep the motor vehicle insured reads: "I agree to have physical damage insurance covering loss or damage to the motor vehicle for the term of this contract. The insurance must cover your interest in the vehicle. The insurer must be authorized to do business in Texas." The creditor may include one or both of the following optional provisions [~~provision~~]:

(A) "The insurance must include collision coverage and either comprehensive or fire, theft, and combined additional coverage."

(B) "The maximum deductible is \$ \_\_\_\_\_."

(26) - (33) (No change.)

(34) Default rights and repossession provisions. This paragraph details agreements allowing acceleration of the buyer's obligation upon the buyer's default or upon the creditor's determination of insecurity as permitted by Texas Business and Commerce Code, §1.309. The following provisions are samples of model clauses regarding some of the default rights and remedies of a creditor in a typical motor vehicle installment sale transaction:

(A) - (D) (No change.)

(E) Disposition of motor vehicle. The model clause regarding disposition of the motor vehicle reads: "If I don't pay you to get the motor vehicle back, you can sell it or take other action allowed by law. If you sell the motor vehicle in a public or private sale, you [Y~~ou~~] will send me notice at least 10 days before you sell it. You can use the money you get from selling it to pay allowed

expenses and to reduce the amount I owe. Allowed expenses are expenses you pay as a direct result of taking the motor vehicle, holding it, preparing it for sale, and selling it. If any money is left, you will pay it to me unless you must pay it to someone else. If the money from the sale is not enough to pay all I owe, I must pay the rest of what I owe you plus interest. If you take or sell the motor vehicle, I will give you the certificate of title and any other document required by state law to record transfer of title."

(F) - (G) (No change.)

(35) - (36) (No change.)

(37) Servicing and collection contact. The Telephone Consumer Protection Act, 47 U.S.C. §227(b)(1)(A)-(B), generally prohibits creditors and other persons from calling a residential telephone line using an automatic telephone dialing system or an artificial or prerecorded message without the prior express consent of the called party. The model clause for servicing and collection contact reads: "You may try to contact me at any mailing address, e-mail address, or phone number I give you, as the law allows. You may try to contact me in writing (including mail, e-mail, and text messages) and by phone (including prerecorded or artificial voice messages and automatic telephone dialing systems)."

(38) Dishonored check fee. Under Texas Business and Commerce Code, §3.506, the holder of a payment device (including a check) may charge a processing fee up to \$30 if the payment device is dishonored. The model clause for a dishonored check fee reads: "I agree to pay you a fee of up to \$30 for a returned check.

You can add the fee to the amount I owe or collect it separately."

(39) [~~(37)~~] Integration and severability.

(A) - (B) (No change.)

(40) [~~(38)~~] No waiver and limitations on creditor's rights and usury savings.

(A) - (C) (No change.)

(41) [~~(39)~~] Applicable law.

(A) General model clause. A model clause to establish the law that will apply to the contract reads: "Federal law and Texas law apply to this contract."

(B) Additional clause for commercial vehicles. Under Texas Finance Code, §353.009(b), if a commercial vehicle retail installment sales contract does not state that Texas Finance Code, Chapter 353 applies, then the contract is subject to Texas Finance Code, Chapter 348. In a commercial vehicle retail installment sales contract, the creditor may include the following clause to specify that Chapter 353 applies: "Chapter 353 of the Texas Finance Code applies to this contract."

(42) [~~(40)~~] Warranty disclaimer. The disclaimer of express and implied warranties should be set out from the surrounding text so that the disclosure is conspicuous. A disclaimer of express and implied warranties, such as the following, is permitted by Texas Business and Commerce Code, §2.316 [~~Article 2, Subchapter C~~], and reads: "Unless the seller makes a written warranty, or enters into a service contract within 90 days from the date of this contract, the seller makes no warranties, express or

implied, on the motor vehicle, and there will be no implied warranties of merchantability or of fitness for a particular purpose. This provision does not affect any warranties covering the motor vehicle that the motor vehicle manufacturer may provide."

(43) [(41)] Preservation of consumer's claims and defenses notice. This notice only applies if the motor vehicle financed in the contract was purchased for personal, family, or household use. The preservation of consumer's claims and defenses notice disclosure should be set out from the surrounding text so that the disclosure is in all capitals, boldfaced and in at least 10-point type. The preservation of consumer's claims and defenses notice [disclosure], as required by the Federal Trade Commission's Holder in Due Course Rule [~~preservation of consumer's claims and defenses notice~~], 16 C.F.R. §433.2 [§§433.1 ~~et seq.~~], reads: "NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER. This provision applies to this contract only if the motor vehicle financed in the contract was purchased for personal, family, or household use."

(44) [(42)] Used car buyer's guide. The used car buyer's guide disclosure should be set out from the surrounding text so that the disclosure is conspicuous. The disclosure should be prefaced by the words "In this box only, the word "you" refers to the Buyer." The used car buyer's guide disclosure, as

required by the Federal Trade Commission's Used Car Rule [Regulation], 16 C.F.R. Part 455 [§§455.1 ~~et seq.~~], reads:

(A) - (B) (No change.)

(45) [(43)] Negotiability and assignment. The disclosure of the negotiability of the contract should be placed on the front side of the contract and may read:

(A) - (B) (No change.)

(C) "A customer may obtain their own financing. The finance charge may be negotiable. The dealership may assign the retail installment contract. There is no duty to disclose the terms for the sale of this contract (for example [e.g.], price paid to retail seller to purchase retail installment contract)."

§84.809. *Permissible Changes.*

(a) (No change.)

(b) A sample model motor vehicle retail installment sales contract is presented in the following example.

Figure: 7 TAC §84.809(b) {See attached amendments.}

(c) A contract may include other provisions that are not prohibited by law, but the contract including the other provisions must be submitted to the OCCC under §84.802 of this title (relating to Non-Standard Contract Filing Procedures) [~~Office of Consumer Credit Commissioner for readability review before the creditor includes them~~].

(d) (No change.)

*Chapter 86. Retail Creditors*

*§86.101. Consumer Notifications.*

(a) OCCC notice. When a written contract or agreement is made under the authority of Texas Finance Code, Chapter 345, 347, or 348, the contract must contain as a separate section or otherwise conspicuously set out from the surrounding written material, the following statement: "For questions or complaints about this contract, contact (insert name of creditor) at (insert creditor's phone number and, at creditor's option, one or more of the following: mailing address, fax number, website, e-mail address). The Office of Consumer Credit Commissioner (OCCC) is a state agency, and it enforces certain laws that apply to this contract. If a complaint or question cannot be resolved by contacting the creditor, consumers can contact the OCCC to file a complaint or ask a general credit-related question. OCCC address: 2601 N. Lamar Blvd., Austin, Texas 78705. Phone: (800) 538-1579. Fax: (512) 936-7610. Website: [occc.texas.gov](http://occc.texas.gov). E-mail: [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov)." [~~"To contact (insert authorized business name of retail seller, creditor, or holder as appropriate) about this account call (insert telephone number of retail seller, creditor, or holder as appropriate). This contract is subject in whole or in part to Texas law which is enforced by the Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705-4207; (800) 538-1579; [www.occc.state.tx.us](http://www.occc.state.tx.us); and can be contacted relative to any inquiries or complaints."~~]

(b) Creditor information. The telephone number of the retail seller, creditor, or holder may be printed in conjunction with the name and address of the retail seller,

creditor, or holder elsewhere on the contract or agreement provided the notice in subsection (a) of this section is amended to direct the reader's attention to the area of the contract where the telephone number may be found.

*Chapter 90. Chapter 342, Plain Language Contract Provisions*

*Subchapter A. General Provisions*

*§90.101. Definitions.*

The following words and terms, when used in this chapter, will have the following meanings, unless the context clearly indicates otherwise:

(1) - (5) (No change.)

(6) OCCC--The Office of Consumer Credit Commissioner of the State of Texas.

(7) [~~(6)~~] Prepayment--Any whole or partial payment of an amount equal to one or more full installments made by the borrower prior to the date the payment is due.

(8) [~~(7)~~] Security--An interest in personal property which serves to secure the payment or performance of an obligation. See "Collateral."

*§90.102. Relationship with Federal Law.*

In the event of an inconsistency or conflict between the disclosure or notice requirements in these provisions and any current or future federal law, regulation, or interpretation, the requirements of the federal law, regulation, or interpretation will control to the extent of the inconsistency. The remainder of the contract will remain in full force and effect. Use of the Consumer

Financial Protection Bureau's [~~Federal Reserve Board's~~] promulgated model forms complies with the Truth in Lending requirements of this chapter.

*§90.103. Format.*

(a) Plain language contracts must be printed in an easily readable font and type size pursuant to Texas Finance Code, §341.502(a). If other state or federal law requires a different type size for a specific disclosure or contractual provision, the type size specified by the other law should be used.

(b) The text of the document must be set in an easily readable typeface. Typefaces considered to be readable include: Arial, Calibri, Caslon, Century Schoolbook, Garamond, Helvetica, Scala, and Times New Roman [~~Times, Scala, Caslon, Century Schoolbook, Helvetica, Arial, and Garamond~~].

(c) Titles, headings, subheadings, numbering, captions, and illustrative or explanatory tables or sidebars may be used to distinguish between different levels of information or to provide emphasis.

(d) Typeface size is referred to in points. Because different typefaces in the same point size are not of equal size, typeface is not strictly defined but is expressed as a minimum size in the Times New Roman typeface for visual comparative purposes. Use of a larger typeface is encouraged. The typeface for the federal disclosure box or other disclosures required under federal law must be legible, but no minimum typeface is required. Generally, the typeface for the remainder of the contract must be at least as large as 8 point in the Times New Roman

typeface. A point is generally viewed as 1/72nd of an inch.

*§90.104. Non-Standard Contract Filing Procedures.*

(a) Non-standard contracts. A non-standard contract is a contract that does not use the model contract provisions. Non-standard contracts submitted in compliance with the provisions of Texas Finance Code, §341.502(c) will be reviewed to determine that the contract is written in plain language. [~~Non-standard contracts submitted for review may gain certain protections under the provisions of Texas Finance Code, §341.502.~~]

(b) Certification of readability. Contract filings subject to this chapter must be accompanied by a certification signed by an officer of the licensee or the entity submitting the form on behalf of the licensee. The certification must state that the contract is written in plain language and [~~(i.e.,~~] that the contract can be easily understood by the average consumer[~~).~~]. The certification must also state that the contract is printed in an easily readable font and type size, including a list of the typefaces used in the contract, the font sizes used in the contract, and the Flesch-Kincaid Grade Level score of the contract. The OCCC will prescribe the form of the certification.

(c) Filing requirements. Contract filings must be identified as to the transaction type. Contract filings must be submitted in accordance with the following requirements:

(1) Microsoft Word format. One copy must be submitted in a Microsoft Word format with the document having either a .doc or .docx extension. The Flesch-Kincaid Grade Level score of the contract must be

based on the Microsoft Word readability statistics function for the Microsoft Word version of the contract.

(2) PDF format. One copy must be submitted in a PDF format so that the contract may be visually reviewed in its entirety.

(3) No other formats permitted. The OCCC will not accept paper filings or any other unlisted formats for non-standard contract filings.

(4) Maximum Flesch-Kincaid score. The maximum Flesch-Kincaid Grade Level scores for Chapter 342 contract filings are:

(A) grade 8 for Subchapter F (signature loans);

(B) grade 9 for Subchapter E (secured installment loans);

(C) grade 10 for Subchapter G, computed by scoring the note and security document in one continuous Microsoft Word document (home equity loans, second lien purchase money loans, and second lien home improvement contracts).

~~[on paper that is suitable for permanent record storage and imaging. Handwritten forms or handwritten corrections will not be accepted. In addition to the paper submission, the licensee must also submit the contract filings in an electronic version. The electronic version must be submitted in a Corel WordPerfect (.wpd), MS Word (.doc), or a text (.txt) format.]~~

(d) Contact person. One person shall be designated as the contact person for each filing submitted. Each submission should provide the name, address, phone number,

and fax number, if available, of the contact person for that filing. If the contracts are submitted by anyone other than the licensee itself, the contracts must be accompanied by a dated letter which contains a description of the anticipated users of the contracts and designates the legal counsel or other designated contact person for that filing.

*§90.105. OCCC [~~Complaints and Inquiries~~] Notice.*

(a) (No change.)

(b) Required notice.

(1) The following notice must be given by licensees to let consumers know how to file complaints: "For questions or complaints about this loan, contact (insert name of lender) at (insert lender's phone number and, at lender's option, one or more of the following: mailing address, fax number, website, e-mail address). The lender is licensed and examined under Texas law by the Office of Consumer Credit Commissioner (OCCC), a state agency. If a complaint or question cannot be resolved by contacting the lender, consumers can contact the OCCC to file a complaint or ask a general credit-related question. OCCC address: 2601 N. Lamar Blvd., Austin, Texas 78705. Phone: (800) 538-1579. Fax: (512) 936-7610. Website: [occc.texas.gov](http://occc.texas.gov). E-mail: [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov)."

~~["The (your name) is licensed and examined under the laws of the State of Texas and by state law is subject to regulatory oversight by the Office of Consumer Credit Commissioner. Any consumer wishing to file a complaint against the (your name) should contact the Office of Consumer Credit Commissioner through one of the means indicated below: In Person or U.S.~~

Mail: ~~2601 North Lamar Boulevard, Austin, Texas 78705-4207. Telephone No.: (800) 538-1579. Fax No.: (512) 936-7610. E-mail: consumer.complaints@occc.state.tx.us. Website: www.occc.state.tx.us."~~

(2) - (4) (No change.)

(5) The notice described by paragraph (1) must be included ~~[In addition to the notice required to be included on each privacy notice, a notice is also required]~~ on each loan contract of a licensee pursuant to Texas Finance Code, §14.104.

~~[(A) The text of the notice required by paragraph (1) of this subsection is acceptable to meet this requirement; or]~~

~~[(B) A licensee may use the following notice: "This lender is licensed and examined by the State of Texas Office of Consumer Credit Commissioner. Call the Consumer Credit Hotline or write for credit information or assistance with credit problems. Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705-4207, (800) 538-1579, www.occc.state.tx.us."]~~

(6) The lender's phone number may be printed in conjunction with the lender's name and address elsewhere on the privacy notice or loan contract if the notice described by paragraph (1) is amended to direct the reader's attention to the area of the document where the phone number may be found.

*Subchapter B. Secured Consumer Installment Loans (Chapter 342, Subchapter E)*

*§90.201. Purpose.*

(a) The purpose of the rules contained in this subchapter is to provide [a] model plain language contracts ~~[contract]~~ in English for Texas Finance Code, Chapter 342, Subchapter E transactions. The establishment of model provisions for these transactions will encourage use of simplified wording that will ultimately benefit consumers by making these contracts easier to understand. The use of the "plain language" model contract by a licensee is not mandatory. The licensee, however, may not use a contract other than a model contract unless the licensee has submitted the contract to the OCCC ~~[commissioner]~~ in compliance with §90.104 of this title (relating to Non-Standard Contract Filing Procedures). The OCCC ~~[commissioner]~~ will issue an order disapproving the contract if the OCCC ~~[commissioner]~~ determines the contract does not comply with Texas Finance Code, §341.502 or rules adopted under this chapter. A licensee may not claim the OCCC's ~~[commissioner's]~~ failure to disapprove a contract constitutes an approval.

(b) (No change.)

*§90.202. Contract Provisions.*

A Chapter 342, Subchapter E contract may include, but is not limited to, the following contract provisions to the extent not prohibited by law or regulation. If the licensee desires to exercise its rights under one of the following provisions, it must include the provision in the contract. A licensee who does not desire to apply a

provision is not required to include it in the contract. For example, if a licensee does not take a security interest in the borrower's personal property, the provisions addressing security interests are not required. A licensee may also exclude non-relevant portions of a model clause. For example, a licensee who does not routinely finance certain insurance coverages may omit those non-applicable portions of the model clause. A Chapter 342, Subchapter E contract may contain the following provisions:

(1) - (22) (No change.)

(23) OCCC [~~Complaints—and inquiries~~] notice.

*§90.203. Model Clauses.*

(a) (No change.)

(b) Model clauses for a Chapter 342, Subchapter E secured consumer installment loan contract.

(1) - (4) (No change.)

(5) After maturity interest. The after maturity interest model clause for contracts using the scheduled installment earnings method reads: "If I don't pay all I owe when the final payment becomes due, I will pay interest on the amount that is still unpaid. That interest will be the higher rate of 18% per year or the maximum rate allowed by law. That interest will begin the day after the final payment becomes due."

(6) (No change.)

(7) Finance charge earnings and refund method. The model finance charge earnings and refund method clauses include rate bracket amounts that are updated

annually in the Texas Credit Letter. The model finance charge earnings and refund method clause options read:

(A) For contracts using the scheduled installment earnings method, Texas Finance Code, §342.201(a):

Figure: 7 TAC §90.203(b)(7)(A) *{See attached amendments.}*

(B) (No change.)

(C) For contracts using the scheduled installment earnings method, Texas Finance Code, §342.201(e):

Figure: 7 TAC §90.203(b)(7)(C) *{See attached amendments.}*

(D) (No change.)

(E) For contracts using the true daily earnings method, Texas Finance Code, §342.201(e):

Figure: 7 TAC §90.203(b)(7)(E) *{See attached amendments.}*

(8) - (23) (No change.)

(24) OCCC [~~Complaints—and inquiries~~] notice. Under §90.105 of this title (relating to OCCC [~~Complaints—and inquiries~~] Notice), the following required notice must be given by licensees to let consumers know how to file complaints: "For questions or complaints about this loan, contact (insert name of lender) at (insert lender's phone number and, at lender's option, one or more of the following: mailing address, fax number, website, e-mail address). The lender is licensed and examined under Texas law by the Office of Consumer Credit Commissioner (OCCC), a

state agency. If a complaint or question cannot be resolved by contacting the lender, consumers can contact the OCCC to file a complaint or ask a general credit-related question. OCCC address: 2601 N. Lamar Blvd., Austin, Texas 78705. Phone: (800) 538-1579. Fax: (512) 936-7610. Website: [occc.texas.gov](http://occc.texas.gov).

E-mail: [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov).

~~["This lender is licensed and examined by the State of Texas – Office of Consumer Credit Commissioner. Call the Consumer Credit Hotline or write for credit information or assistance with credit problems: Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705-4207, [www.occc.state.tx.us](http://www.occc.state.tx.us), (800) 538-1579."]~~

(25) - (26) (No change.)

*§90.204. Permissible Changes.*

(a) A licensee may consider making the following types of changes to the secured consumer installment loans plain language model clauses:

(1) - (6) (No change.)

(7) A sample model contract using the scheduled installment earnings method is presented in the following example.

Figure: 7 TAC §90.204(a)(7) *{See attached amendments.}*

(8) A sample model contract using the true daily earnings method is presented in the following example.

Figure: 7 TAC §90.204(a)(8) *{See attached amendments.}*

(9) (No change.)

(b) (No change.)

*Subchapter C. Signature Loans (Chapter 342, Subchapter F)*

*§90.301. Purpose.*

(a) The purpose of the rules contained in this subchapter is to provide [a] model plain language contracts [~~contract~~] in English for Texas Finance Code, Chapter 342, Subchapter F transactions. The establishment of model provisions for these transactions will encourage use of simplified wording that will ultimately benefit consumers by making these contracts easier to understand. The use of the "plain language" model contract by a licensee is not mandatory. The licensee, however, may not use a contract other than a model contract unless the licensee has submitted the contract to the OCCC [~~commissioner~~] in compliance with §90.104 of this title (relating to Non-Standard Contract Filing Procedures). The OCCC [~~commissioner~~] will issue an order disapproving the contract if the OCCC [~~commissioner~~] determines the contract does not comply with Texas Finance Code, §341.502 or rules adopted under this chapter. A licensee may not claim the OCCC's [~~commissioner's~~] failure to disapprove a contract constitutes an approval.

(b) (No change.)

*§90.302. Contract Provisions.*

A Chapter 342, Subchapter F contract may include, but is not limited to, the following contract provisions to the extent not prohibited by law or regulation. If the licensee desires to exercise its rights under one of the following provisions, it must include the provision in the contract. A

licensee who does not desire to apply a provision is not required to include it in the contract. For example, if a licensee does not take a security interest in the borrower's personal property, the provisions addressing security interests are not required. A Chapter 342, Subchapter F contract may contain the following provisions:

(1) - (21) (No change.)

(22) OCCC [~~Complaints~~ and ~~inquiries~~] notice.

(23) - (24) (No change.)

*§90.303. Model Clauses.*

(a) (No change.)

(b) Model clauses for a Chapter 342, Subchapter F signature loan contract.

(1) (No change.)

(2) Promise to pay. The model clause for the borrower's promise to pay reads:

(A) For contracts using the add-on method or the scheduled installment earnings method: "I promise to pay the Total of Payments to the order of you, the Lender. I will make the payments at your address above. I will make the payments on the dates and in the amounts shown in the Payment Schedule."

(B) For contracts using the true daily earnings method: "I promise to pay the unpaid principal balance plus the accrued interest to the order of you, the Lender. I will make the payments at your address above. I will make the payments on the dates and in the amounts shown in the Payment Schedule."

(3) Late charge. The late charge model provisions in this paragraph may be used for loans that are regular transactions under Texas Finance Code, §342.001(2). At the licensee's option, the late charge clause may be made applicable only to loans with more than one installment. As other options, a licensee may include one of the model late charge clause options, as set out in subparagraphs (A) and (B) of this paragraph, in both single and multiple installment loans, so long as the licensee does not collect a default charge on a single payment loan or omit the late charge clause for loans with a single repayment. The licensee may use one of the following late charge model provisions:

(A) - (B) (No change.)

(4) After maturity interest. The after maturity interest model clause for contracts using the add-on method or the scheduled installment earnings method reads: "If I don't pay all I owe by the date the final payment becomes due, I will pay interest on the amount that is still unpaid. That interest will be at a rate of 18% per year and will begin the day after the final payment becomes due."

(5) Prepayment clause. The model prepayment clause reads:

(A) For contracts using the add-on method or the scheduled installment earnings method: "I can make a whole payment early."

(B) For contracts using the true daily earnings method: "I can make any payment early."

(6) Finance charge earnings and refund method.

(A) Add-on method. For contracts using the add-on method, the ~~[The]~~ model finance charge earnings and refund method clause reads: "The acquisition charge on this loan will not be refunded if I pay off early. If I pay all I owe before the beginning of the last monthly period, I will save part of the installment account handling charge. You will figure the amount I save by the sum of the periodic balances method. This method is explained in the Finance Commission rules. You don't have to refund or credit any amount less than \$1.00."

(B) Add-on method for loans of \$30 or less. At the licensee's option, the licensee may include the following model finance charge and refund method language if the licensee makes loans of \$30 or less using the add-on method: "The acquisition charge on this loan will not be refunded if I pay off early. If this loan is for more than \$30 and I pay all I owe before the beginning of the last monthly period, I will save part of the installment account handling charge. You will figure the amount I save by the sum of the periodic balances method. This method is explained in the Finance Commission rules. You don't have to refund or credit any amount less than \$1.00."

(C) Scheduled installment earnings method. For contracts using the scheduled installment earnings method, the model finance charge earnings and refund method clause reads: "The annual rate of interest is \_\_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. You figure the interest charge (also called the installment account handling charge) by applying the scheduled installment earnings method as defined by the Texas Finance Code to the unpaid principal balance. At the start of the loan, the unpaid principal balance equals the Amount Financed. The

unpaid principal balance does not include the acquisition charge, the interest charge, late charges, charges to extend a payment, or returned check fees. You calculate the Finance Charge and Total of Payments as if I will make each payment on the day it is due. You will apply each of my payments in this order: (1) part of the acquisition charge (figured on a straight-line basis under Finance Commission rules), (2) late charges, (3) returned check fees, (4) accrued interest, and (5) the unpaid principal balance. If I pay off the loan in full early, I may save part of the interest charge. However, you can still collect the unpaid acquisition charge, and the acquisition charge will not be refunded. You don't have to refund or credit any amount less than \$1.00."

(D) True daily earnings method. For contracts using the true daily earnings method, the model finance charge earnings and refund method clause reads: "The annual rate of interest is \_\_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. You figure the interest charge (also called the installment account handling charge) by applying the true daily earnings method as defined by the Texas Finance Code to the unpaid principal balance. At the start of the loan, the unpaid principal balance equals the Amount Financed. The unpaid principal balance does not include the acquisition charge, the interest charge, late charges, charges to extend a payment, or returned check fees. You calculate the Finance Charge and Total of Payments as if I will make each payment on the day it is due. You will apply payments on the date they are received. This may result in a different Finance Charge or Total of Payments. You will apply each of my payments in this order: (1) part of the acquisition charge (figured on a straight-line basis under Finance Commission rules), (2)

late charges, (3) returned check fees, (4) accrued interest, and (5) the unpaid principal balance. If I pay off the loan in full early, you can still collect the unpaid acquisition charge, and the acquisition charge will not be refunded."

(7) Deferment clause. The deferment model clause for contracts using the add-on method or the scheduled installment earnings method reads: "If I ask for more time to make any payment and you agree, I will pay more interest to extend the payment. The extra interest will be figured under the Finance Commission rules."

(8) - (20) (No change.)

(21) OCCC [~~Complaints and inquiries~~] notice. Under §90.105 of this title (relating to OCCC [~~Complaints and Inquiries~~] Notice), the following required notice must be given by licensees to let consumers know how to file complaints: "For questions or complaints about this loan, contact (insert name of lender) at (insert lender's phone number and, at lender's option, one or more of the following: mailing address, fax number, website, e-mail address). The lender is licensed and examined under Texas law by the Office of Consumer Credit Commissioner (OCCC), a state agency. If a complaint or question cannot be resolved by contacting the lender, consumers can contact the OCCC to file a complaint or ask a general credit-related question. OCCC address: 2601 N. Lamar Blvd., Austin, Texas 78705. Phone: (800) 538-1579. Fax: (512) 936-7610. Website: [occc.texas.gov](http://occc.texas.gov). E-mail: [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov)."

~~["This lender is licensed and examined by the State of Texas — Office of Consumer Credit Commissioner. Call the Consumer Credit Hotline or write for credit~~

~~information or assistance with credit problems: Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705 4207; [www.occc.state.tx.us](http://www.occc.state.tx.us); (800) 538 1579."~~

(22) (No change.)

*§90.304. Permissible Changes.*

(a) A licensee may consider making the following types of changes to the signature loans plain language model clauses:

(1) - (6) (No change.)

(7) A sample model contract using the add-on method is presented in the following example.

Figure: 7 TAC §90.304(a)(7) *{See attached amendments.}*

(8) A sample model contract using the scheduled installment earnings method is presented in the following example.

Figure: 7 TAC §90.304(a)(8) *{New figure.}*

(9) A sample model contract using the true daily earnings method is presented in the following example.

Figure: 7 TAC §90.304(a)(9) *{New figure.}*

(10) [8] A sample model security agreement is presented in the following example.

Figure: 7 TAC §90.304(a)(10) *{Renumbered from 7 TAC §90.304(a)(8) with no changes.}*

(b) (No change.)

*Subchapter D. Second Lien Home Equity Loans (Chapter 342, Subchapter G)*

*§90.401. Purpose.*

(a) The purpose of the rules contained in this subchapter is to provide a model plain language contract in English for Texas Finance Code, Chapter 342, Subchapter G (secondary mortgage loans with an effective rate of greater than 10%) home equity loan transactions. The establishment of model provisions for these transactions will encourage use of simplified wording that will ultimately benefit consumers by making these contracts easier to understand. Use of the "plain language" model contract by a licensee is not mandatory. The licensee, however, may not use a contract other than a model contract unless the licensee has submitted the contract to the OCCC [commissioner] in compliance with §90.104 of this title (relating to Non-Standard Contract Filing Procedures). The OCCC [commissioner] will issue an order disapproving the contract if the OCCC [commissioner] determines the contract does not comply with Texas Finance Code, §341.502 or rules adopted under this chapter. A licensee may not claim the OCCC's [commissioner's] failure to disapprove a contract constitutes an approval.

(b) (No change.)

*§90.402. Contract Provisions.*

(a) A Chapter 342, Subchapter G home equity loan contract may include, but is not limited to, the following contract provisions to the extent not prohibited by law or regulation. If the licensee desires to exercise its rights under one of the following provisions, it must include that provision in

the contract. A licensee who does not desire to apply a provision is not required to include it in the contract. For example, a licensee who does not assess a fee for dishonored checks may omit the fee for dishonored check clause. A licensee may also exclude non-relevant portions of a model clause. For example, a licensee who does not routinely finance certain insurance coverages may omit those non-applicable portions of the model clause. A Chapter 342, Subchapter G second lien home equity loan contract may contain the following provisions:

(1) Identification of the parties, including the name and address of each party and specifying the pronouns that designate the borrower and the lender;

~~[(2) A Truth in Lending Act disclosure box;]~~

~~[(3) An itemization of amount financed box;]~~

(2) ~~[(4)]~~ A promise to pay;

(3) ~~[(5)]~~ A late charge provision;

(4) ~~[(6)]~~ A provision for after maturity interest;

(5) ~~[(7)]~~ A prepayment clause;

(6) ~~[(8)]~~ A provision specifying the finance charge earnings and refund method;

(7) ~~[(9)]~~ A provision contracting for a fee for a dishonored check;

(8) ~~[(10)]~~ A provision specifying the conditions causing default;

(9) ~~[(11)]~~ A provision regarding property insurance;

(10) [(12)] A credit insurance disclosure box;

(11) [(13)] A provision regarding the mailing of notices to the borrower;

(12) [(14)] A provision regarding the due on sale clause, notice of intent to accelerate, and notice of acceleration;

(13) [(15)] A provision expressing no waiver of the lender's rights;

(14) [(16)] A collection expenses clause;

(15) [(17)] A provision providing for joint liability;

(16) [(18)] A usury savings clause;

(17) [(19)] A savings clause stating that if any part of the loan agreement is invalid, the rest remains valid;

(18) [(20)] An integration clause stating that the contract supersedes all prior agreements and that the contract may not be changed by oral agreement;

(19) [(21)] A provision stating that the homestead described in the loan agreement is subject to the lien of the security document;

(20) [(22)] A provision specifying that federal law and Texas law apply to the contract;

(21) OCCC [(23) ~~Complaints and inquiries~~] notice;

(22) [(24)] A provision describing the collateral; and

(23) [(25)] Signature blocks.

(b) (No change.)

(c) The provisions described in this section are separate from the TILA-RESPA integrated disclosures required under Regulation Z, 12 C.F.R. §§1026.19, 1026.37 and 1026.38.

*§90.403. Model Clauses.*

(a) (No change.)

(b) Model clauses for a Chapter 342, Subchapter G second lien home equity loan contract.

(1) Identification.

(A) The model identification clause lists the account or contract number, the name and address of the lender, the date of the note, and the name and address of the borrower. It also lists the following items that must be included on the promissory note under Regulation Z, 12 C.F.R. §1026.36(g):

(i) the lender's Nationwide Mortgage Licensing System and Registry identification number (labeled "Creditor/Lender NMLS ID");

(ii) the name of the individual residential mortgage loan originator with primary responsibility for the origination (labeled "Loan Originator"); and

(iii) the originator's Nationwide Mortgage Licensing System and Registry identification number (labeled "Loan Originator NMLS ID").

(B) The model clause identifying the pronouns used for the borrower and the lender reads: "A word like "I" or "me" means each person who signs as a Borrower. A word like "you" or "your" means the Lender or "Note Holder." The Lender is \_\_\_\_\_. The Lender may sell or transfer this Note. The Lender or anyone who is entitled to receive payments under this Note is called the "Note Holder." You will tell me in writing who is to receive my payments."

~~[(2) Truth in Lending Act disclosure box. The model Truth in Lending Act disclosure box reads:]~~

~~[Figure: 7 TAC §90.403(b)(2)]~~

~~[(3) Itemization of amount financed box. The itemization of amount financed box is not required if the licensee provides the borrower with a good faith estimate or a settlement statement as permitted by the Truth in Lending Act. An itemization of amount financed box which complies with Regulation Z is considered to be in compliance with this paragraph and will not require a non-standard submission.]~~

(2) [(4)] Promise to pay. One permissible change to the model language for the scheduled installment earnings method would be to allow partial prepayments of the principal during the term of the loan. This variation on the Texas scheduled installment earnings method would allow periodic reductions of the principal balance by partial prepayments. This variation would allow reductions of the principal balance that were not originally scheduled. The model clause for the borrower's promise to pay reads: "This loan is an Extension of Credit defined by Section 50(a)(6), Article XVI of the Texas Constitution."

(A) - (B) (No change.)

(C) The model payment schedule reads:

Figure: 7 TAC §90.403(b)(2)(C) {New figure.}

(3) [(5)] Late charge.

(A) Generally. The general model late charge provision for contracts using the scheduled installments earnings method or the true daily earnings method reads: "If I don't pay all of a payment within 10 days after it is due, you can charge me a late charge. The late charge will be 5% of the scheduled payment."

(B) High-cost mortgage loans. The model late charge provision for high-cost mortgage loans subject to the limitation on late charges in Regulation Z, 12 C.F.R. §1026.34(a)(8), reads: "If I don't pay all of a payment within 15 days after it is due, you can charge me a late charge. The late charge will be 4% of the amount of the payment past due."

(4) [(6)] After maturity interest. The model provision for after maturity interest for contracts using the scheduled installment earnings method reads: "If I don't pay all I owe when the final payment becomes due, I will pay interest on the amount that is still unpaid. That interest will be the higher of the rate of 18% per year or the maximum rate allowed by law. That interest will begin the day after the final payment becomes due."

(5) [(7)] Prepayment clause. The model prepayment clause options read:

(A) - (B) (No change.)

(6) [~~(8)~~] Finance charge earnings and refund method. The model provision options specifying the finance charge earnings and refund method read:

(A) For contracts using the scheduled installment earnings method - Section 342.301 rate loans, the model language reads:

Figure: 7 TAC §90.403(b)(6)(A) *{See attached amendments, renumbered from 7 TAC §90.403(b)(8)(A).}*

(B) For contracts using the scheduled installment earnings method with prepayments option - Section 342.301 rate loans, the model language reads:

Figure: 7 TAC §90.403(b)(6)(B) *{Renumbered from 7 TAC §90.403(b)(8)(B) with no changes.}*

(C) For contracts using the true daily earnings method - Section 342.301 rate loans, the model language reads:

Figure: 7 TAC §90.403(b)(6)(C) *{See attached amendments, renumbered from 7 TAC §90.403(b)(8)(C).}*

(7) [~~(9)~~] Fee for dishonored check clause. The model clause specifies the maximum allowable dishonored check fee. A licensee may always choose a lesser amount. The fee for dishonored check model clause reads: "I agree to pay you a fee of up to \$30 for a returned check. You may add the fee to the amount I owe or collect it separately."

(8) [~~(10)~~] Default clause. The model provision specifying the conditions causing default reads:

Figure: 7 TAC §90.403(b)(8) *{Renumbered from 7 TAC §90.403(b)(10) with no changes.}*

(9) [~~(11)~~] Property insurance. The model provision regarding property insurance reads:

Figure: 7 TAC §90.403(b)(9) *{Renumbered from 7 TAC §90.403(b)(11) with no changes.}*

(10) [~~(12)~~] Credit insurance. If single premium credit insurance is allowable, a permissible change to the disclosure can be to offer a single charge for the entire term of the loan. The term for the single premium charge should be shown for the original term of the loan, unless otherwise specified. The licensee has the option of including language that reads: "The insurance will cancel on the date when the total past due premiums equal or exceed (insert number) times the first month's premium." The industry standard regarding the relationship between total past due premiums and the first month's premium in this equation appears to be four times. However, if a different time frame is more appropriate, that time frame may be used. The model credit insurance disclosure box reads:

Figure: 7 TAC §90.403(b)(10) *{Renumbered from 7 TAC §90.403(b)(12) with no changes.}*

(11) [~~(13)~~] Mailing of notices to borrower. The model provision regarding the mailing of notices to the borrower reads: "You or I may mail or deliver any notice to the address above. You or I may change the notice address by giving written notice. Your duty to give me notice will be satisfied when you mail it by first class mail."

(12) [~~(14)~~] Due on sale clause, notice of intent to accelerate, and notice of acceleration. The model provision regarding the due on sale clause, notice of intent to accelerate, and notice of acceleration reads: "If all or any interest in the homestead is sold or transferred without your prior written consent, you may require immediate payment in full of all that I owe under this Loan Agreement. You will not exercise this option if prohibited by law. If you exercise this option, you will give me notice of acceleration (i.e., payment of all I owe at once). This notice will give me a period of not less than 21 days from the date of the notice within which I must pay all that I owe under this Loan Agreement. If I fail to pay all that I owe before the end of this period, you may use any remedy allowed by the Loan Agreement."

(13) [~~(15)~~] No waiver of lender's rights. The model provision expressing no waiver of the lender's rights reads: "If you don't enforce your rights every time, you can still enforce them later."

(14) [~~(16)~~] Collection expenses clause. The model collection expenses clause reads: "If you require me to pay all that I owe at once, you will have the right to be paid back by me for all of your costs and expenses in enforcing this Loan Agreement to the extent not prohibited by law, including Section 50(a)(6), Article XVI of the Texas Constitution. These expenses include, for example, reasonable attorneys' fees. I understand that these fees are not for maintaining or servicing this Loan Agreement."

(15) [~~(17)~~] Joint liability. The model provision providing for joint liability reads: "I understand that you may seek payment from only me without first looking to any

other Borrower. You can enforce your rights under this Loan Agreement solely against the homestead. This Loan Agreement is made without personal liability against each owner of the homestead and the spouse of each owner unless the owner or spouse obtained this loan by actual fraud. If this loan is obtained by actual fraud, I will be personally liable for the debt, including a judgment for any deficiency that results from your sale of the homestead for an amount less than is owed under this Loan Agreement."

(16) [~~(18)~~] Usury savings clause. The model usury savings clause reads: "I do not have to pay interest or other amounts that are more than the law allows."

(17) [~~(19)~~] Savings clause. The model savings clause stating that if any part of the contract is invalid, the rest remains valid reads: "If any part of this Loan Agreement is declared invalid, the rest of the Loan Agreement remains valid. If any part of this Loan Agreement conflicts with any law, that law will control. The part of the Loan Agreement that conflicts with any law will be modified to comply with the law. The rest of the Loan Agreement remains valid."

(18) [~~(20)~~] Contract supersedes prior agreements. For loan agreements exceeding \$50,000, this notice must be boldfaced, capitalized, underlined, or otherwise set out from the surrounding written material to be conspicuous. The model integration clause providing that the contract supersedes prior agreements reads: "This written Loan Agreement is the final agreement between you and me and may not be changed by prior, current, or future oral agreements between you and me. There are no oral agreements between you and me relating to

this Loan Agreement. Any change to this Loan Agreement must be in writing. Both you and I have to sign written agreements."

(19) [(24)] Security document. The model provision stating that the homestead described in the loan agreement is subject to the lien of the security document reads: "The homestead described above by the property address is subject to the lien of the Security Document. I will see the separate Security Document for more information about my rights and responsibilities."

(20) [(22)] Application of law. The model clause specifying that federal law and Texas law apply to the contract reads: "Federal law and Texas law apply to this Loan Agreement. The Texas Constitution will be applied to resolve any conflict between the Texas Constitution and any other law."

(21) OCCC [(23) ~~Complaints and inquiries~~] notice. Under §90.105 of this title (relating to OCCC [~~Complaints and inquiries~~] Notice), the following required notice must be given by licensees to let consumers know how to file complaints: "For questions or complaints about this loan, contact (insert name of lender) at (insert lender's phone number and, at lender's option, one or more of the following: mailing address, fax number, website, e-mail address). The lender is licensed and examined under Texas law by the Office of Consumer Credit Commissioner (OCCC), a state agency. If a complaint or question cannot be resolved by contacting the lender, consumers can contact the OCCC to file a complaint or ask a general credit-related question. OCCC address: 2601 N. Lamar Blvd., Austin, Texas 78705. Phone: (800) 538-1579. Fax: (512) 936-7610. Website: [occc.texas.gov](http://occc.texas.gov). E-mail:

[consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov)."  
[~~"This lender is licensed and examined by the State of Texas Office of Consumer Credit Commissioner. Call the Consumer Credit Hotline or write for credit information or assistance with credit problems. Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705-4207, [www.occc.state.tx.us](http://www.occc.state.tx.us), (800) 538-1579."~~]

(22) [(24)] Clause describing collateral. The model provision describing the collateral reads: "The homestead described above by the property address is subject to the lien of the Security Document."

(23) [(25)] Signature blocks. The licensee may also provide additional signature lines for witness signatures. The model provision regarding signature blocks reads:

*Figure: 7 TAC §90.403(b)(23) {Renumbered from 7 TAC §90.403(b)(25) with no changes.}*

(c) Model clauses for the security document for a Chapter 342, Subchapter G second lien home equity loan contract.

(1) The model definitions section reads:

(A) - (C) (No change.)

(D) "You" means

\_\_\_\_\_, the Lender and any holder entitled to receive payments under the Note. Your address \_\_\_\_\_ is

\_\_\_\_\_. Your NMLS ID is \_\_\_\_\_. You are the beneficiary under this Security

Document. The loan originator's name is  
\_\_\_\_\_  
. The loan originator's NMLS ID is  
\_\_\_\_\_.

(E) - (O) (No change.)

(P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §§2601-2617 [~~§2601—et—seq.~~]) and Regulation X (12 C.F.R. Part 1024) [~~(24 C.F.R. Part 3500)~~], as [~~they might be~~] amended [~~from time to time~~], or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Document, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan Agreement does not qualify as a "federally related mortgage loan" under RESPA.

(Q) - (R) (No change.)

(2) - (37) (No change.)

*§90.404. Permissible Changes.*

(a) A licensee may consider making the following types of changes to the second lien home equity loans plain language model clauses:

(1) - (6) (No change.)

(7) A licensee may place its NMLS ID number, the individual residential mortgage loan originator's name, or the originator's NMLS ID on any portion of a document requiring this information, including the signature page. To the extent allowed by Regulation Z, 12 C.F.R. §1026.36(g), and the official commentary to that section, a licensee may omit:

(A) the licensee's NMLS ID number, if the licensee does not have an NMLS ID number and is not legally required to obtain one; and

(B) the individual residential mortgage loan originator's NMLS ID number, if the originator does not have an NMLS ID number and is not legally required to obtain one.

(8) [~~(7)~~] A sample model note is presented in the following example.

*Figure: 7 TAC §90.404(a)(8) {See attached amendments, renumbered from 7 TAC §90.404(a)(7).}*

(9) [~~(8)~~] A sample model security document is presented in the following example.

*Figure: 7 TAC §90.404(a)(9) {See attached amendments, renumbered from 7 TAC §90.404(a)(8).}*

(b) (No change.)

*Subchapter E. Second Lien Purchase Money Loans (Chapter 342, Subchapter G)*

*§90.501. Purpose.*

(a) The purpose of the rules contained in this subchapter is to provide a model plain language contract in English for Texas Finance Code, Chapter 342, Subchapter G purchase money loan transactions. The establishment of model provisions for these transactions will encourage use of simplified wording that will ultimately benefit consumers by making these contracts easier to understand. Use of the "plain language" model contract by a licensee is not mandatory. The licensee, however, may not

use a contract other than a model contract unless the licensee has submitted the contract to the OCCC [~~commissioner~~] in compliance with §90.104 of this title (relating to Non-Standard Contract Filing Procedures). The OCCC [~~commissioner~~] will issue an order disapproving the contract if the OCCC [~~commissioner~~] determines the contract does not comply with Texas Finance Code, §341.502 or rules adopted under this chapter. A licensee may not claim the OCCC's [~~commissioner's~~] failure to disapprove a contract constitutes an approval.

(b) (No change.)

*§90.502. Contract Provisions.*

(a) A Chapter 342, Subchapter G purchase money loan transaction may include, but is not limited to, the following contract provisions to the extent not prohibited by law or regulation. If the licensee desires to exercise its rights under one of the following provisions, it must include that provision in the contract. A licensee who does not desire to apply a provision is not required to include it in the contract. For example, a licensee who does not assess a fee for dishonored checks may omit the fee for dishonored check clause. A licensee may also exclude non-relevant portions of a model clause. For example, a licensee who does not routinely finance certain insurance coverages may omit those non-applicable portions of the model clause. A Chapter 342, Subchapter G second lien purchase money loan transaction may contain the following provisions:

(1) Identification of the parties, including the name and address of each party and specifying the pronouns that

designate the borrower and the lender, and the property address;

~~[(2) A Truth in Lending Act disclosure box;]~~

~~[(3) An itemization of amount financed box;]~~

(2) [(4)] A promise to pay;

(3) [(5)] A late charge provision;

(4) [(6)] A provision for after maturity interest;

(5) [(7)] A prepayment clause;

(6) [(8)] A provision specifying the finance charge earnings and refund method;

(7) [(9)] A provision contracting for a fee for a dishonored check;

(8) [(10)] A provision specifying the conditions causing default;

(9) [(11)] A provision regarding property insurance;

(10) [(12)] A credit insurance disclosure box;

(11) [(13)] A provision regarding the mailing of notices to the borrower;

(12) [(14)] A provision regarding the due on sale clause, notice of intent to accelerate, and notice of acceleration;

(13) [(15)] A provision expressing no waiver of the lender's rights;

(14) [(16)] A collection expenses clause;

(15) [~~(17)~~] A provision providing for joint liability;

(16) [~~(18)~~] A usury savings clause;

(17) [~~(19)~~] A savings clause stating that if any part of the loan agreement is invalid, the rest remains valid;

(18) [~~(20)~~] An integration clause stating that the contract supersedes all prior agreements and that the contract may not be changed by oral agreement;

(19) [~~(21)~~] A provision stating that the property described in the loan agreement is subject to the lien of the security document;

(20) [~~(22)~~] A provision specifying that federal law and Texas law apply to the contract;

(21) OCCC [~~(23) Complaints and inquiries~~] notice;

(22) [~~(24)~~] A provision describing the collateral; and

(23) [~~(25)~~] Signature blocks.

(b) (No change.)

(c) The provisions described in this section are separate from the TILA-RESPA integrated disclosures required under Regulation Z, 12 C.F.R. §§1026.19, 1026.37 and 1026.38.

*§90.503. Model Clauses.*

(a) (No change.)

(b) Model clauses for a Chapter 342, Subchapter G second lien purchase money loan contract.

(1) Identification.

(A) The model identification clause lists the account or contract number, the name and address of the lender, the date of the note, the name and address of the borrower, and the property address. It also lists the following items that must be included on the promissory note under Regulation Z, 12 C.F.R. §1026.36(g):

(i) the lender's Nationwide Mortgage Licensing System and Registry identification number (labeled "Creditor/Lender NMLS ID");

(ii) the name of the individual residential mortgage loan originator with primary responsibility for the origination (labeled "Loan Originator"); and

(iii) the originator's Nationwide Mortgage Licensing System and Registry identification number (labeled "Loan Originator NMLS ID").

(B) The model clause identifying the pronouns used for the borrower and the lender reads: A word like "I" or "me" means each person who signs as a Borrower. A word like "you" or "your" means the Lender or "Note Holder". The Lender is \_\_\_\_\_. The Lender may sell or transfer this Note. The Lender or anyone who is entitled to receive payments under this Note is called the "Note Holder." You will tell me in writing who is to receive my payments."

~~[(2) Truth in Lending Act disclosure box. The model Truth in Lending Act disclosure box reads:]~~

[Figure: 7 TAC §90.503(b)(2)]

~~[(3) Itemization of amount financed box. The itemization of amount financed box is not required if the licensee provides the borrower with a good faith estimate or a settlement statement as permitted by the Truth in Lending Act. An itemization of amount financed box which complies with Regulation Z is considered to be in compliance with this paragraph and will not require a non-standard submission.]~~

(2) [(4)] Promise to pay. One permissible change to the model language for the scheduled installment earnings method would be to allow partial prepayments of the principal during the term of the loan. This variation on the scheduled installment earnings method would allow periodic reductions of the principal balance by partial prepayments. This variation would allow reductions of the principal balance that were not originally scheduled. The model clause options for the borrower's promise to pay read:

(A) - (B) (No change.)

(C) The model payment schedule reads:

Figure: 7 TAC §90.503(b)(2)(C) {New figure.}

(3) [(5)] Late charge.

(A) Generally. The general model late charge provision for contracts using the scheduled installment earnings method or the true daily earnings method reads: "If I don't pay all of a payment within 10 days after it is due, you can charge me a late charge. The late charge will be 5% of the scheduled payment."

(B) High-cost mortgage loans.

The model late charge provision for high-cost mortgage loans subject to the limitation on late charges in Regulation Z, 12 C.F.R. §1026.34(a)(8), reads: "If I don't pay all of a payment within 15 days after it is due, you can charge me a late charge. The late charge will be 4% of the amount of the payment past due."

(4) [(6)] After maturity interest. The model clause specifies the maximum interest rate allowed by law for after maturity interest for contracts using the scheduled installment earnings method. A licensee may always choose a lower rate. The model provision for after maturity interest reads: "If I don't pay all I owe when the final payment becomes due, I will pay interest on the amount that is still unpaid. That interest will be the higher of the rate of 18% per year or the maximum rate allowed by law. That interest will begin the day after the final payment becomes due."

(5) [(7)] Prepayment clause. The model prepayment clause options read:

(A) - (B) (No change.)

(6) [(8)] Finance charge earnings and refund method. The model provision options specifying the finance charge earnings and refund method read:

(A) For contracts using the scheduled installment earnings method - Section 342.301 rate loans, the model language reads:

Figure: 7 TAC §90.503(b)(6)(A) {See attached amendments, renumbered from 7 TAC §90.503(b)(8)(A).}

(B) For contracts using the scheduled installment earnings method with prepayments option - Section 342.301 rate loans, the model language reads:

Figure: 7 TAC §90.503(b)(6)(B)  
*{Renumbered from 7 TAC §90.503(b)(8)(B) with no changes.}*

(C) For contracts using the true daily earnings method - Section 342.301 rate loans, the model language reads:

Figure: 7 TAC §90.503(b)(6)(C) *{See attached amendments, renumbered from 7 TAC §90.503(b)(8)(C).}*

(7) [(9)] Fee for dishonored check clause. The model clause specifies the maximum allowable dishonored check fee. A licensee may always choose a lesser amount. The model fee for dishonored check provision reads: "I agree to pay you a fee of up to \$30 for a returned check. You may add the fee to the amount I owe or collect it separately."

(8) [(10)] Default clause. The model provision specifying the conditions causing default reads:

Figure: 7 TAC §90.503(b)(8) *{Renumbered from 7 TAC §90.503(b)(10) with no changes.}*

(9) [(11)] Property insurance. The model provision regarding property insurance reads:

Figure: 7 TAC §90.503(b)(9) *{Renumbered from 7 TAC §90.503(b)(11) with no changes.}*

(10) [(12)] Credit insurance. If single premium credit insurance is offered, a permissible change to the disclosure can be

to offer a single charge for the entire term of the loan. The term for the single premium charge should be shown for the original term of the loan, unless otherwise specified. The licensee has the option of including language that reads: "The insurance will cancel on the date when the total past due premiums equal or exceed (insert number) times the first month's premium." The industry standard regarding the relationship between total past due premiums and the first month's premium in this equation appears to be four times. However, if a different time frame is more appropriate, that time frame may be used. The model credit insurance disclosure box reads:

Figure: 7 TAC §90.503(b)(10) *{Renumbered from 7 TAC §90.503(b)(12) with no changes.}*

(11) [(13)] Mailing of notices to borrower. The duty to give notice is satisfied when it is mailed by first class mail. The model provision regarding the mailing of notices to the borrower reads: "You or I may mail or deliver any notice to the address above. You or I may change the notice address by giving written notice. Your duty to give me notice will be satisfied when you mail it."

(12) [(14)] Due on sale clause, notice of intent to accelerate, and notice of acceleration. The model provision regarding the due on sale clause, notice of intent to accelerate, and notice of acceleration reads: "If all or any interest in the Property is sold or transferred without your prior written consent, you may require immediate payment in full of all that I owe under this Loan Agreement. You will not exercise this option if prohibited by law. If you exercise this option, you will give me notice that you are demanding immediate payment of all

that I owe. This notice will give me a period of not less than 21 days from the date of the notice within which I must pay all that I owe under this Loan Agreement. If I fail to pay all that I owe before the end of this period, you may use any remedy allowed by the Loan Agreement."

(13) [~~(15)~~] No waiver of lender's rights. The model provision expressing no waiver of the lender's rights reads: "If you don't enforce your rights every time, you can still enforce them later."

(14) [~~(16)~~] Collection expenses clause. The model collection expenses clause reads: "If you require me to pay all that I owe at once, you will have the right to be paid back by me for all of your costs and expenses in enforcing this Loan Agreement to the extent not prohibited by Applicable Law. These expenses include, for example, reasonable attorneys' fees."

(15) [~~(17)~~] Joint liability. The model provision providing for joint liability reads: "I understand that you may seek payment from only me without first looking to any other Borrower."

(16) [~~(18)~~] Usury savings clause. The model usury savings clause reads: "I do not have to pay interest or other amounts that are more than Applicable Law allows."

(17) [~~(19)~~] Savings clause. The model savings clause stating that if any part of the contract is invalid, the rest remains valid reads: "If any part of this Loan Agreement is declared invalid, the rest of the Loan Agreement remains valid. If any part of this Loan Agreement conflicts with any law, that law will control. The part of the Loan Agreement that conflicts with any law will be modified to comply with the law."

The rest of the Loan Agreement remains valid."

(18) [~~(20)~~] Contract supersedes prior agreements. For loan agreements exceeding \$50,000, this notice must be boldfaced, capitalized, underlined, or otherwise set out from the surrounding written material to be conspicuous. The model integration clause providing that the contract supersedes prior agreements reads: "This written Loan Agreement is the final agreement between you and me and may not be changed by prior, current, or future oral agreements between you and me. There are no oral agreements between you and me relating to this Loan Agreement. Any change to this Loan Agreement must be in writing. Both you and I have to sign written agreements."

(19) [~~(21)~~] Security document. The model provision stating that the property described in the loan agreement is subject to the lien of the security document reads: "In addition to the protections given to the Note Holder under this Note, a Security Document, dated \_\_\_\_\_, protects the Note Holder from possible losses that might result if I do not keep the promises that I make in this Note. The Security Document describes how and under what conditions I may be required to make immediate payment in full of any amounts that I owe under this Note."

(20) [~~(22)~~] Application of law. The model clause specifying that federal law and Texas law apply to the contract reads: "Federal law and Texas law apply to this Loan Agreement."

(21) OCCC [~~(23)~~ ~~Complaints and inquiries~~] notice. Under §90.105 of this title (relating to OCCC [~~Complaints and inquiries~~] Notice), the following required

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notice must be given by licensees to let consumers know how to file complaints: "For questions or complaints about this loan, contact (insert name of lender) at (insert lender's phone number and, at lender's option, one or more of the following: mailing address, fax number, website, e-mail address). The lender is licensed and examined under Texas law by the Office of Consumer Credit Commissioner (OCCC), a state agency. If a complaint or question cannot be resolved by contacting the lender, consumers can contact the OCCC to file a complaint or ask a general credit-related question. OCCC address: 2601 N. Lamar Blvd., Austin, Texas 78705. Phone: (800) 538-1579. Fax: (512) 936-7610. Website: [occc.texas.gov](http://occc.texas.gov). E-mail: [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov)."  
~~["The (name of Lender or Note Holder) is licensed and examined under the laws of the State of Texas and by state law is subject to regulatory oversight by the Office of Consumer Credit Commissioner. Any consumer wishing to file a complaint against the (name of Lender or Note Holder) should contact the Office of Consumer Credit Commissioner through one of the means indicated below: In Person or U.S. Mail: 2601 North Lamar Boulevard, Austin, Texas 78705 4207; Telephone No.: (800) 538-1579; Fax No.: (512) 936-7610; E-mail: [consumer.complaints@occc.state.tx.us](mailto:consumer.complaints@occc.state.tx.us); Website: [www.occc.state.tx.us](http://www.occc.state.tx.us)."~~

(22) [(24)] Clause describing collateral. The model provision describing the collateral reads: "The collateral described above by the property address is subject to the lien of the Security Document."

(23) [(25)] Signature blocks. The licensee may also provide additional signature lines for witness signatures. The

model provision regarding signature blocks reads:

*Figure: 7 TAC §90.503(b)(23) {Renumbered from 7 TAC §90.503(b)(25) with no changes.}*

(c) Model clauses for a security document for a Chapter 342, Subchapter G second lien purchase money loan contract.

(1) The model definitions section reads:

(A) - (C) (No change.)

(D) "You" means

\_\_\_\_\_, the Lender and any holder entitled to receive payments under the Note. Your address \_\_\_\_\_ is

\_\_\_\_\_. Your NMLS ID is \_\_\_\_\_. You are the beneficiary under this Security Document. The loan originator's name is

\_\_\_\_\_ . The loan originator's NMLS ID is  
\_\_\_\_\_.

(E) - (N) (No change.)

(O) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §§2601-2617 [§2601 et seq.]) and Regulation X (12 C.F.R. Part 1024) [~~24 C.F.R. Part 3500~~], as [they might be] amended [from time to time], or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Document, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan Agreement does not qualify as a

"federally related mortgage loan" under RESPA.

(P) - (Q) (No change.)

(2) - (35) (No change.)

*§90.504. Permissible Changes.*

(a) A licensee may consider making the following types of changes to the second lien purchase money loans plain language model clauses:

(1) - (6) (No change.)

(7) A licensee may place its NMLS ID number, the individual residential mortgage loan originator's name, or the originator's NMLS ID on any portion of a document requiring this information, including the signature page. To the extent allowed by Regulation Z, 12 C.F.R. §1026.36(g), and the official commentary to that section, a licensee may omit:

(A) the licensee's NMLS ID number, if the licensee does not have an NMLS ID number and is not legally required to obtain one; and

(B) the individual residential mortgage loan originator's NMLS ID number, if the originator does not have an NMLS ID number and is not legally required to obtain one.

(8) [(7)] A sample model note is presented in the following example.

*Figure: 7 TAC §90.504(a)(8) {See attached amendments, renumbered from 7 TAC §90.504(a)(7).}*

(9) [(8)] A sample model security document is presented in the following example.

*Figure: 7 TAC §90.504(a)(9) {See attached amendments, renumbered from 7 TAC §90.504(a)(8).}*

(b) (No change.)

*Subchapter F. Second Lien Home Improvement Contracts (Chapter 342, Subchapter G)*

*§90.601. Purpose.*

(a) The purpose of the rules contained in this subchapter is to provide a model plain language contract in English for Texas Finance Code, Chapter 342, Subchapter G home improvement transactions. The establishment of model provisions for these transactions will encourage use of simplified wording that will ultimately benefit consumers by making these contracts easier to understand. Use of the "plain language" model contract by a licensee is not mandatory. The licensee, however, may not use a contract other than a model contract unless the licensee has submitted the contract to the OCCC [~~commissioner~~] in compliance with §90.104 of this title (relating to Non-Standard Contract Filing Procedures). The OCCC [~~commissioner~~] will issue an order disapproving the contract if the OCCC [~~commissioner~~] determines the contract does not comply with Texas Finance Code, §341.502 or rules adopted under this chapter. A licensee may not claim the OCCC's [~~commissioner's~~] failure to disapprove a contract constitutes approval.

(b) (No change.)

§90.602. *Contract Provisions.*

(a) A Chapter 342, Subchapter G second lien home improvement loan transaction may include, but is not limited to, the following contract provisions to the extent not prohibited by law or regulation. If the licensee desires to exercise its rights under one of the following provisions, it must include that provision in the contract. A licensee who does not desire to apply a provision is not required to include it in the contract. For example, a licensee who does not assess a fee for dishonored checks may omit the fee for dishonored check clause. A licensee may also exclude non-relevant portions of a model clause. For example, a licensee who does not routinely finance certain insurance coverages may omit those non-applicable portions of the model clause. A Chapter 342, Subchapter G home improvement loan transaction may contain the following provisions:

(1) (No change.)

(2) For a promissory note for use in a transaction that does not allow withdrawals or multiple advances:

(A) An identification clause;

~~[(B) A Truth in Lending Act disclosure box;]~~

~~[(C) An itemization of amount financed box;]~~

(B) ~~[(D)]~~ A security for payment provision;

(C) ~~[(E)]~~ A definitions section;

(D) ~~[(F)]~~ A promise to pay;

~~(E) [(G)]~~ A late charge provision;

~~(F) [(H)]~~ A provision for after maturity interest;

~~(G) [(I)]~~ A prepayment clause;

~~(H) [(J)]~~ A provision specifying the finance charge earnings and refund method;

~~(I) [(K)]~~ A deferment clause;

~~(J) [(L)]~~ A provision contracting for a fee for a dishonored check;

~~(K) [(M)]~~ A provision specifying the conditions causing default;

~~(L) [(N)]~~ A provision regarding property insurance;

~~(M) [(O)]~~ A credit insurance disclosure box;

~~(N) [(P)]~~ A provision regarding the mailing of notices to the borrower;

~~(O) [(Q)]~~ A provision specifying that the borrower's statements are truthful;

~~(P) [(R)]~~ A provision regarding the due on sale clause, notice of intent to accelerate, and notice of acceleration;

~~(Q) [(S)]~~ A provision expressing no waiver of the lender's rights;

~~(R) [(T)]~~ A collection expenses clause;

~~(S) [(U)]~~ A provision providing for joint liability;

~~(T) [(V)]~~ A usury savings clause;

(U) [~~(W)~~] A savings clause stating that if any part of the loan agreement is invalid, the rest remains valid;

(V) [~~(X)~~] An integration clause stating that the contract supersedes all prior agreements and that the contract may not be changed by oral agreement;

(W) [~~(Y)~~] A provision specifying that federal law and Texas law apply to the contract;

(X) OCCC [~~(Z) Complaints and inquiries~~] notice;

(Y) [~~(AA)~~] A provision describing the collateral;

(Z) [~~(BB)~~] A notice regarding the preservation of claims and defenses; and

(AA) [~~(CC)~~] Signature blocks.

(3) (No change.)

(4) For a promissory note for use in a transaction that allows for withdrawals or multiple advances:

(A) An identification clause;

~~[(B) A Truth in Lending Act disclosure box;]~~

~~[(C) An itemization of amount financed box;]~~

(B) [~~(D)~~] A security for payment provision;

(C) [~~(E)~~] A definitions section;

(D) [~~(F)~~] A promise to pay;

(E) [~~(G)~~] A late charge provision;

(F) [~~(H)~~] A provision for after maturity interest;

(G) [~~(I)~~] A prepayment clause;

(H) [~~(J)~~] A provision specifying the finance charge earnings and refund method;

(I) [~~(K)~~] A deferment clause;

(J) [~~(L)~~] A provision contracting for a fee for a dishonored check;

(K) [~~(M)~~] A provision specifying the conditions causing default;

(L) [~~(N)~~] A provision regarding property insurance;

(M) [~~(O)~~] A credit insurance disclosure box;

(N) [~~(P)~~] A provision regarding the mailing of notices to the borrower;

(O) [~~(Q)~~] A provision specifying that the borrower's statements are truthful;

(P) [~~(R)~~] A provision regarding the due on sale clause, notice of intent to accelerate, and notice of acceleration;

(Q) [~~(S)~~] A provision expressing no waiver of the lender's rights;

(R) [~~(T)~~] A collection expenses clause;

(S) [~~(U)~~] A provision providing for joint liability;

(T) [~~(V)~~] A usury savings clause;

(U) [~~(W)~~] A savings clause stating that if any part of the loan agreement is invalid, the rest remains valid;

(V) [~~(X)~~] An integration clause stating that the contract supersedes all prior agreements and that the contract may not be changed by oral agreement;

(W) [~~(Y)~~] A provision specifying that the note is secured by a deed of trust;

(X) [~~(Z)~~] A provision specifying that federal law and Texas law apply to the contract;

(Y) OCCC [~~(AA) — Complaints and inquiries~~] notice;

(Z) [~~(BB)~~] A provision describing the collateral;

(AA) [~~(CC)~~] A notice regarding the preservation of claims and defenses; and

(BB) [~~(DD)~~] Signature blocks.

(5) (No change.)

(b) The provisions described in this section are separate from the TILA-RESPA integrated disclosures required under Regulation Z, 12 C.F.R. §§1026.19, 1026.37 and 1026.38.

*§90.603. Model Clauses.*

(a) (No change.)

(b) Model clauses for a Chapter 342, Subchapter G second lien home improvement loan contract for use in a transaction that does not allow for withdrawals or multiple advances.

(1) (No change.)

(2) Definitions. The model definitions section reads:

(A) - (B) (No change.)

(C) "Lender" means (name of Lender), whose address is (address of Lender, including county) and includes those to whom the Lender has assigned or transferred Lender's rights and remedies. The Lender's NMLS ID is (NMLS ID of Lender). The loan originator's name is (name of loan originator with primary responsibility for the origination). The loan originator's NMLS ID is (NMLS ID of originator).

(D) - (H) (No change.)

(3) - (11) (No change.)

(12) Preservation of claims and defenses. In accordance with the Federal Trade Commission's Holder in Due Course Rule, 16 C.F.R. §433.2 [~~16 C.F.R. §433~~], it is an unfair or deceptive act or practice to take or receive a consumer credit contract in connection with the sale or lease of goods or services to consumers that does not include the following notice. The notice regarding the preservation of claims and defenses reads: "NOTICE. ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER."

(13) - (15) (No change.)

(c) Model clauses for a Chapter 342, Subchapter G second lien home improvement loan promissory note for use in a transaction that does not allow for withdrawals or multiple advances.

(1) Identification.

(A) The model identification clause lists the account or contract number, the name and address of the lender, the date of the note, the name and address of the borrower, the property address, the principal amount, and the terms of payment. It also lists the following items that must be included on the promissory note under Regulation Z, 12 C.F.R. §1026.36(g):

(i) the lender's Nationwide Mortgage Licensing System and Registry identification number (labeled "Creditor/Lender NMLS ID");

(ii) the name of the individual residential mortgage loan originator with primary responsibility for the origination (labeled "Loan Originator"); and

(iii) the originator's Nationwide Mortgage Licensing System and Registry identification number (labeled "Loan Originator NMLS ID").

(B) The model identification clause [identifying the pronouns used for the borrower and the lender] reads:

Figure: 7 TAC §90.603(c)(1)(B) {See attached amendments, renumbered from 7 TAC §90.603(c)(1).}

~~[(2) Truth in Lending Act disclosure box. The model Truth in Lending Act disclosure box reads:]~~

~~[Figure: 7 TAC §90.603(c)(2)]~~

~~[(3) Itemization of amount financed box. The itemization of amount financed box is not required if the licensee provides the borrower with a good faith estimate or a settlement statement as permitted by the Truth in Lending Act. An itemization of amount financed box which complies with Regulation Z is considered to be in compliance with this paragraph and will not require a non-standard submission.]~~

~~(2) [(4)] Security for payment. The model clause relating to the security for payment reads: "Liens created in the Contract secure this Note. You will have a security interest in the following described property: (property description)"~~

~~(3) [(5)] Definitions. The model definitions section reads:~~

~~(A) - (E) (No change.)~~

~~(4) [(6)] Promise to pay. One permissible change to the model language for the scheduled installment earnings method would be to allow partial prepayments of the principal during the term of the loan. This variation on the scheduled installment earnings method would allow periodic reductions of the principal balance by partial prepayments. This variation would allow reductions of the principal balance that were not originally scheduled. The model clause options for the borrower's promise to pay read:~~

~~(A) - (B) (No change.)~~

(C) The model payment schedule reads:

Figure: 7 TAC §90.603(c)(4)(C) {New figure.}

(5) [(7)] Late charge.

(A) Generally. The general late charge provision for contracts using the scheduled installment earnings method or the true daily earnings method reads: "If I don't pay all of a payment within 10 days after it is due, you can charge me a late charge. The late charge will be 5% of the scheduled payment."

(B) High-cost mortgage loans. The model late charge provision for high-cost mortgage loans subject to the limitation on late charges in Regulation Z, 12 C.F.R. §1026.34(a)(8), reads: "If I don't pay all of a payment within 15 days after it is due, you can charge me a late charge. The late charge will be 4% of the amount of the payment past due."

(6) [(8)] After maturity interest. The model clause specifies the maximum interest rate allowed by law for after maturity interest for contracts using the scheduled installment earnings method. A licensee may always choose a lower rate. The model provision for after maturity interest reads: "If I don't pay all I owe when the final payment becomes due, I will pay interest on the amount that is still unpaid. That interest will be the higher of the rate of 18% per year or the maximum rate allowed by law. That interest will begin the day after the final payment becomes due."

(7) [(9)] Prepayment clause. The model prepayment clause options read:

(A) - (B) (No change.)

(8) [(10)] Finance charge earnings and refund method. The model provision options specifying the finance charge earnings and refund method read:

(A) For contracts using the scheduled installment earnings method - Section 342.301 rate loans, the model language reads:

Figure: 7 TAC §90.603(c)(8)(A) {See attached amendments, renumbered from 7 TAC §90.603(c)(10)(A).}

(B) For contracts using the scheduled installment earnings method with prepayments option - Section 342.301 rate loans, the model language reads:

Figure: 7 TAC §90.603(c)(8)(B) {Renumbered from 7 TAC §90.603(c)(10)(B) with no changes.}

(C) For contracts using the true daily earnings method - Section 342.301 rate loans, the model language reads:

Figure: 7 TAC §90.603(c)(8)(C) {See attached amendments, renumbered from 7 TAC §90.603(c)(10)(C).}

(9) [(11)] Deferment. The model provision regarding deferment reads: "If I ask for more time to make any payment and you agree, I will pay more interest to extend the payment. The extra interest will be figured under the Finance Commission rules."

(10) [(12)] Fee for dishonored check clause. The model clause specifies the maximum allowable dishonored check fee. A licensee may always choose a lesser

amount. The model fee for dishonored check provision reads: "I agree to pay you a fee of up to \$30 for a returned check. You may add the fee to the amount I owe or collect it separately."

(11) [~~(13)~~] Default. The model provision specifying the conditions causing default reads:

*Figure: 7 TAC §90.603(c)(11) {Renumbered from 7 TAC §90.603(c)(13) with no changes.}*

(12) [~~(14)~~] Property insurance. The model provision regarding property insurance reads:

*Figure: 7 TAC §90.603(c)(12) {Renumbered from 7 TAC §90.603(c)(14) with no changes.}*

(13) [~~(15)~~] Credit insurance. If single premium credit insurance is offered, a permissible change to the disclosure can be to offer a single charge for the entire term of the loan. The term for the single premium charge should be shown for the original term of the loan, unless otherwise specified. The licensee has the option of including language that reads: "The insurance will cancel on the date when the total past due premiums equal or exceed (insert number) times the first month's premium." The industry standard regarding the relationship between total past due premiums and the first month's premium in this equation appears to be four times. However, if a different time frame is more appropriate, that time frame may be used. The model credit insurance disclosure box reads:

*Figure: 7 TAC §90.603(c)(13) {Renumbered from 7 TAC §90.603(c)(15) with no changes.}*

(14) [~~(16)~~] Mailing of notices to borrower. The duty to give notice is satisfied when it is mailed by first class mail. The model provision regarding the mailing of notices to the borrower reads: "You or I may mail or deliver any notice to the address above. You or I may change the notice address by giving written notice. Your duty to give me notice will be satisfied when you mail it."

(15) [~~(17)~~] Statement of truthful information. The model provision specifying that the borrower gave truthful information reads: "I promise that all information I gave you is true."

(16) [~~(18)~~] Due on sale clause, notice of intent to accelerate, and notice of acceleration. The model provision regarding the due on sale clause, notice of intent to accelerate, and notice of acceleration reads: "If all or any interest in the Property is sold or transferred without your prior written consent, you may require immediate payment in full of all that I owe under this loan agreement. You will not exercise this option if prohibited by law. If you exercise this option, you will give me notice that you are demanding payment of all that I owe. This notice will give me a period of not less than 21 days from the date of the notice within which I must pay all that I owe under this loan agreement. If I fail to pay all that I owe before the end of this period, you may use any remedy allowed by the loan agreement."

(17) [~~(19)~~] No waiver of the lender's rights. The model provision expressing no waiver of the lender's rights reads: "If you don't enforce your rights every time, you can still enforce them later."

(18) [(20)] Collection expenses. The model collection expenses clause reads: "If you require me to pay all that I owe at once, you will have the right to be paid back by me for all of your costs and expenses in enforcing this loan agreement to the extent not prohibited by applicable law. These expenses include, for example, reasonable attorneys' fees."

(19) [(21)] Joint liability. The model provision providing for joint liability reads: "I understand that you may seek payment from only me without first looking to any other Borrower."

(20) [(22)] Usury savings clause. The model usury savings clause reads: "I do not have to pay interest or other amounts that are more than applicable law allows."

(21) [(23)] Savings clause. The savings model clause stating that if any part of the contract is invalid, the rest remains valid reads: "If any part of this loan agreement is declared invalid, the rest of the loan agreement remains valid. If any part of this loan agreement conflicts with any law, that law will control. The part of the loan agreement that conflicts with any law will be modified to comply with the law. The rest of the loan agreement remains valid."

(22) [(24)] Prior agreements. For loan agreements exceeding \$50,000, this notice must be boldfaced, capitalized, underlined, or otherwise set out from the surrounding written material to be conspicuous. The model clause stating that there are no prior agreements between the parties regarding the loan agreement reads: "This written loan agreement is the final agreement between you and me. It may not be changed by prior, current, or future oral agreements between you and me. There are

no oral agreements between you and me relating to this loan agreement. Any change to this loan agreement must be in writing. Both you and I have to sign written agreements."

(23) [(25)] Application of law. The model clause specifying that federal law and Texas law apply to the contract reads: "Federal law and Texas law apply to this loan agreement."

(24) OCCC [(26) ~~Complaints and inquiries~~] notice. Under §90.105 of this title (relating to OCCC [~~Complaints and inquiries~~] Notice), the following required notice must be given by licensees to let consumers know how to file complaints: "For questions or complaints about this loan, contact (insert name of lender) at (insert lender's phone number and, at lender's option, one or more of the following: mailing address, fax number, website, e-mail address). The lender is licensed and examined under Texas law by the Office of Consumer Credit Commissioner (OCCC), a state agency. If a complaint or question cannot be resolved by contacting the lender, consumers can contact the OCCC to file a complaint or ask a general credit-related question. OCCC address: 2601 N. Lamar Blvd., Austin, Texas 78705. Phone: (800) 538-1579. Fax: (512) 936-7610. Website: [occc.texas.gov](http://occc.texas.gov). E-mail: [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov)."

~~["The (name of lender or note holder) is licensed and examined under the laws of the State of Texas and by state law is subject to regulatory oversight by the Office of Consumer Credit Commissioner. Any consumer wishing to file a complaint against the (name of lender or note holder) should contact the Office of Consumer Credit Commissioner through one of the means indicated below: Office of Consumer Credit~~

Commissioner, ~~2601 North Lamar~~  
~~Boulevard, Austin, Texas 78705-4207;~~  
~~www.occc.state.tx.us; (800) 538-1579.~~"]

(25) [(27)] Collateral. The model clause regarding the collateral reads: "The Property is subject to the Contract lien. I am responsible for all obligations in this Note."

(26) [(28)] Preservation of claims and defenses. In accordance with the Federal Trade Commission's Holder in Due Course Rule, 16 C.F.R. §433.2 [(~~16 C.F.R. §433~~)], it is an unfair or deceptive act or practice to take or receive a consumer credit contract in connection with the sale or lease of goods or services to consumers that does not include the following notice. The notice regarding the preservation of claims and defenses reads: "NOTICE. ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER."

(27) [(29)] Signature blocks. Documents for a home improvement loan on a homestead must be signed at the office of the lender, an attorney at law, or a title company. If this provision applies, the model clause, "This document must be signed at the office of the Lender, an attorney at law, or a title company" should appear above the signature of the borrower. The licensee may also provide additional signature lines for witness signatures. The model signature block reads:

*Figure: 7 TAC §90.603(c)(27) {Renumbered from 7 TAC §90.603(c)(29) with no changes.}*

(d) Model clauses for a Chapter 342, Subchapter G second lien home improvement loan contract for use in a transaction that allows for withdrawals or multiple advances.

(1) (No change.)

(2) Definitions. The model definitions section reads:

(A) - (B) (No change.)

(C) "Lender" means (name of Lender), whose address is (address of Lender, including county) and includes those to whom the Lender has assigned or transferred Lender's rights and remedies. The Lender's NMLS ID is (NMLS ID of Lender). The loan originator's name is (name of loan originator with primary responsibility for the origination). The loan originator's NMLS ID is (NMLS ID of originator).

(D) - (P) (No change.)

(3) - (19) (No change.)

(20) Preservation of claims and defenses. In accordance with the Federal Trade Commission's Holder in Due Course Rule, 16 C.F.R. §433.2 [(~~16 C.F.R. §433~~)], it is an unfair or deceptive act or practice to take or receive a consumer credit contract in connection with the sale or lease of goods or services to consumers that does not include the following notice. The notice regarding the preservation of claims and defenses reads: "NOTICE. ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS

SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER."

(21) - (23) (No change.)

(e) Model clauses for a Chapter 342, Subchapter G second lien home improvement loan promissory note for use in a transaction that allows for withdrawals or multiple advances.

(1) Identification.

(A) The model identification clause lists the account or contract number, the name and address of the lender, the date of the note, the name and address of the borrower, the property address, the principal amount, and the terms of payment. It also lists the following items that must be included on the promissory note under Regulation Z, 12 C.F.R. §1026.36(g):

(i) the lender's Nationwide Mortgage Licensing System and Registry identification number (labeled "Creditor/Lender NMLS ID");

(ii) the name of the individual residential mortgage loan originator with primary responsibility for the origination (labeled "Loan Originator"); and

(iii) the originator's Nationwide Mortgage Licensing System and Registry identification number (labeled "Loan Originator NMLS ID").

(B) The model identification clause [~~identifying the pronouns used for the borrower and the lender~~] reads:

Figure: 7 TAC §90.603(e)(1)(B) {See attached amendments, renumbered from 7 TAC §90.603(e)(1).}

~~[(2) Truth in Lending Act disclosure box. The model Truth in Lending Act disclosure box reads:]~~

~~[Figure: 7 TAC §90.603(e)(2)]~~

~~[(3) Itemization of amount financed box. The itemization of amount financed box is not required if the licensee provides the borrower with a good faith estimate or a settlement statement as permitted by the Truth in Lending Act. An itemization of amount financed box which complies with Regulation Z is considered to be in compliance with this paragraph and will not require a non-standard submission.]~~

(2) [~~(4)~~] Security for payment. The model clause relating to the security for payment reads: "The Deed of Trust and the Lien created in the Contract secure this Note. You will have a security interest in the following described property: (property description)"

(3) [~~(5)~~] Definitions. The model definitions section reads:

(A) - (P) (No change.)

(4) [~~(6)~~] Promise to pay. One permissible change to the model language for the scheduled installment earnings method would be to allow partial prepayments of the principal during the term of the loan. This variation on the scheduled installment earnings method would allow

periodic reductions of the principal balance by partial prepayments. This variation would allow reductions of the principal balance that were not originally scheduled. The model clause options for the borrower's promise to pay read:

(A) - (B) (No change.)

(C) The model payment schedule reads:

Figure: 7 TAC §90.603(e)(4)(C) {New figure.}

(5) [(7)] Late charge.

(A) Generally. The general model late charge provision for contracts using the scheduled installment earnings method or the true daily earnings method reads: "If I don't pay all of a payment within 10 days after it is due, you can charge me a late charge. The late charge will be 5% of the scheduled payment."

(B) High-cost mortgage loans. The model late charge provision for high-cost mortgage loans subject to the limitation on late charges in Regulation Z, 12 C.F.R. §1026.34(a)(8), reads: "If I don't pay all of a payment within 15 days after it is due, you can charge me a late charge. The late charge will be 4% of the amount of the payment past due."

(6) [(8)] After maturity interest. The model clause specifies the maximum interest rate allowed by law for after maturity interest for contracts using the scheduled installment earnings method. A licensee may always choose a lower rate. The model provision for after maturity interest reads: "If I don't pay all I owe when the final payment becomes due, I will pay interest on

the amount that is still unpaid. That interest will be the higher of the rate of 18% per year or the maximum rate allowed by law. That interest will begin the day after the final payment becomes due."

(7) [(9)] Prepayment clause. The model prepayment clause options read:

(A) - (B) (No change.)

(8) [(10)] Finance charge earnings and refund method. The model provision options specifying the finance charge earnings and refund method read:

(A) For contracts using the scheduled installment earnings method - Section 342.301 rate loans, the model language reads:

Figure: 7 TAC §90.603(e)(8)(A) {See attached amendments, renumbered from 7 TAC §90.603(e)(10)(A).}

(B) For contracts using the scheduled installment earnings method with prepayments option - Section 342.301 rate loans, the model language reads:

Figure: 7 TAC §90.603(e)(8)(B) {Renumbered from 7 TAC §90.603(e)(10)(B) with no changes.}

(C) For contracts using the true daily earnings method - Section 342.301 rate loans, the model language reads:

Figure: 7 TAC §90.603(e)(8)(C) {See attached amendments, renumbered from 7 TAC §90.603(e)(10)(C).}

(9) [(11)] Deferment. The model provision regarding deferment reads: "If I ask for more time to make any payment and you agree, I will pay more interest to extend

the payment. The extra interest will be figured under the Finance Commission rules."

(10) [~~(12)~~] Fee for dishonored check clause. The model clause specifies the maximum allowable dishonored check fee. A licensee may always choose a lesser amount. The model fee for dishonored check provision reads: "I agree to pay you a fee of up to \$30 for a returned check. You may add the fee to the amount I owe or collect it separately."

(11) [~~(13)~~] Default. The model provision specifying the conditions causing default reads:

*Figure: 7 TAC §90.603(e)(11) {Renumbered from 7 TAC §90.603(e)(13) with no changes.}*

(12) [~~(14)~~] Property insurance. The model provision regarding property insurance reads:

*Figure: 7 TAC §90.603(e)(12) {Renumbered from 7 TAC §90.603(e)(14) with no changes.}*

(13) [~~(15)~~] Credit insurance. If single premium credit insurance is offered, a permissible change to the disclosure can be to offer a single charge for the entire term of the loan. The term for the single premium charge should be shown for the original term of the loan, unless otherwise specified. The licensee has the option of including language that reads: "The insurance will cancel on the date when the total past due premiums equal or exceed (insert number) times the first month's premium." The industry standard regarding the relationship between total past due premiums and the first month's premium in this equation

appears to be four times. However, if a different time frame is more appropriate, that time frame may be used. The model credit insurance disclosure box reads:

*Figure: 7 TAC §90.603(e)(13) {Renumbered from 7 TAC §90.603(e)(15) with no changes.}*

(14) [~~(16)~~] Mailing of notices to borrower. The duty to give notice is satisfied when it is mailed by first class mail. The model provision regarding the mailing of notices to the borrower reads: "You or I may mail or deliver any notice to the address above. You or I may change the notice address by giving written notice. Your duty to give me notice will be satisfied when you mail it."

(15) [~~(17)~~] Statement of truthful information. The model provision specifying that the borrower gave truthful information reads: "I promise that all information I gave you is true."

(16) [~~(18)~~] Due on sale clause, notice of intent to accelerate, and notice of acceleration. The model provision regarding the due on sale clause, notice of intent to accelerate, and notice of acceleration reads: "If all or any interest in the Property is sold or transferred without your prior written consent, you may require immediate payment in full of all that I owe under this Loan Agreement. You will not exercise this option if prohibited by law. If you exercise this option, you will give me notice that you are demanding payment of all that I owe. This notice will give me a period of not less than 21 days from the date of the notice within which I must pay all that I owe under this Loan Agreement. If I fail to pay all that I owe before the end of this period, you may

use any remedy allowed by the Loan Agreement."

(17) [~~(19)~~] No waiver of the lender's rights. The model provision expressing no waiver of the lender's rights reads: "If you don't enforce your rights every time, you can still enforce them later."

(18) [~~(20)~~] Collection expenses. The model collection expenses clause reads: "If you require me to pay all that I owe at once, you will have the right to be paid back by me for all of your costs and expenses in enforcing this Loan Agreement to the extent not prohibited by Applicable Law. These expenses include, for example, reasonable attorneys' fees."

(19) [~~(21)~~] Joint liability. The model provision providing for joint liability reads: "I understand that you may seek payment from only me without first looking to any other Borrower."

(20) [~~(22)~~] Usury savings. The model usury savings clause reads: "I do not have to pay interest or other amounts that are more than Applicable Law allows."

(21) [~~(23)~~] Savings clause. The model savings clause stating that if any part of the contract is invalid, the rest remains valid reads: "If any part of this Loan Agreement is declared invalid, the rest of the Loan Agreement remains valid. If any part of this Loan Agreement conflicts with any law, that law will control. The part of the Loan Agreement that conflicts with any law will be modified to comply with the law. The rest of the Loan Agreement remains valid."

(22) [~~(24)~~] Prior agreements. For loan agreements exceeding \$50,000, this

notice must be boldfaced, capitalized, underlined, or otherwise set out from the surrounding written material to be conspicuous. The model clause stating that there are no prior agreements between the parties regarding the loan agreement reads: "This written Loan Agreement is the final agreement between you and me. It may not be changed by prior, current, or future oral agreements between you and me. There are no oral agreements between you and me relating to this Loan Agreement. Any change to this Loan Agreement must be in writing. Both you and I have to sign written agreements."

(23) [~~(25)~~] Note secured by deed of trust. The model clause stating that the note is secured by a deed of trust reads: "In addition to this Note, the Deed of Trust protects the Note holder from losses that might result if I do not keep the promises that I make in this Note. The Deed of Trust describes how and under what conditions I may have to make immediate payment of all that I owe under this Note."

(24) [~~(26)~~] Application of law. The model clause specifying that federal law and Texas law apply to the contract reads: "Federal law and Texas law apply to this Loan Agreement."

(25) OCCC [~~(27)~~ ~~Complaints and inquiries~~] notice. Under §90.105 of this title (relating to OCCC [~~Complaints and inquiries~~] Notice), the following required notice must be given by licensees to let consumers know how to file complaints: "For questions or complaints about this loan, contact (insert name of lender) at (insert lender's phone number and, at lender's option, one or more of the following: mailing address, fax number, website, e-mail address). The lender is licensed and

examined under Texas law by the Office of Consumer Credit Commissioner (OCCC), a state agency. If a complaint or question cannot be resolved by contacting the lender, consumers can contact the OCCC to file a complaint or ask a general credit-related question. OCCC address: 2601 N. Lamar Blvd., Austin, Texas 78705. Phone: (800) 538-1579. Fax: (512) 936-7610. Website: [occc.texas.gov](http://occc.texas.gov). E-mail: [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov)."

~~["The (name of lender or note holder) is licensed and examined under the laws of the State of Texas and by state law is subject to regulatory oversight by the Office of Consumer Credit Commissioner. Any consumer wishing to file a complaint against the (name of lender or note holder) should contact the Office of Consumer Credit Commissioner through one of the means indicated below: Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705-4207; [www.occc.state.tx.us](http://www.occc.state.tx.us); (800) 538-1579."]~~

(26) [(28)] Collateral. The model clause regarding the collateral reads: "The Property is subject to the Contract lien. I am responsible for all obligations in this Note."

(27) [(29)] Preservation of claims and defenses. The notice regarding the preservation of claims and defenses reads: "NOTICE. ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER."

(28) [(30)] Signature blocks. Documents for a home improvement loan on a homestead must be signed at the office of the lender, an attorney at law, or a title company. If this provision applies, the model clause, "This document must be signed at the office of the Lender, an attorney at law, or a title company" should appear above the signature of the borrower. The licensee may also provide additional signature lines for witness signatures. The model signature block reads:

*Figure: 7 TAC §90.603(e)(28) {Renumbered from 7 TAC §90.603(e)(30) with no changes.}*

(f) Model clauses for a Chapter 342, Subchapter G second lien home improvement loan deed of trust for use in a transaction that allows for withdrawals or multiple advances.

(1) Definitions. The model definitions section reads:

(A) - (B) (No change.)

(C) "Lender" is \_\_\_\_\_ . Lender's address is \_\_\_\_\_ .  
Lender's NMLS ID is \_\_\_\_\_ . The loan originator's name is \_\_\_\_\_ . The loan originator's NMLS ID is \_\_\_\_\_ .

(D) - (O) (No change.)

(P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §§2601-2617 [~~§2601 et seq.~~]) and Regulation X (12 C.F.R. Part 1024) [~~24 C.F.R. Part 3500~~], as [~~they might be~~] amended [~~from time to time~~], or any additional or successor legislation or

regulation that governs the same subject matter. As used in this Deed of Trust, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan Agreement does not qualify as a "federally related mortgage loan" under RESPA.

(Q) - (T) (No change.)

(2) - (35) (No change.)

*§90.604. Permissible Changes.*

(a) A licensee may consider making the following types of changes to the second lien home improvement contracts plain language model clauses:

(1) For transactions involving a security interest in the consumer's principal dwelling, the Truth in Lending Act, 15 U.S.C. §1635(a), and Regulation Z, 12 C.F.R. §1026.23(b), require the creditor to deliver to the consumer a notice of the right to rescind the transaction. Model forms for the notice of the right to rescind are available at 12 C.F.R. Part 1026, Appendix H, Model Forms H-8 and H-9. [Regulation Z of the Truth in Lending Act provides a right of rescission form that must be provided to consumers in a transaction involving the consumer's principal dwelling.] The Truth in Lending Act right of rescission form for use in a transaction involving the consumer's principal dwelling reads:

Figure: 7 TAC §90.604(a)(1) (No change.)

(2) - (11) (No change.)

(12) A licensee may place its NMLS ID number, the individual residential

mortgage loan originator's name, or the originator's NMLS ID on any portion of a document requiring this information, including the signature page. To the extent allowed by Regulation Z, 12 C.F.R. §1026.36(g), and the official commentary to that section, a licensee may omit:

(A) the licensee's NMLS ID number, if the licensee does not have an NMLS ID number and is not legally required to obtain one; and

(B) the individual residential mortgage loan originator's NMLS ID number, if the originator does not have an NMLS ID number and is not legally required to obtain one.

(13) [(12)] A sample model contract that does not allow for withdrawals or multiple advances is presented in the following example.

Figure: 7 TAC §90.604(a)(13) *{See attached amendments, renumbered from 7 TAC §90.604(a)(12).}*

(14) [(13)] A sample model promissory note that does not allow for withdrawals or multiple advances is presented in the following example.

Figure: 7 TAC §90.604(a)(14) *{See attached amendments, renumbered from 7 TAC §90.604(a)(13).}*

(15) [(14)] A sample model contract that allows for withdrawals or multiple advances is presented in the following example.

Figure: 7 TAC §90.604(a)(15) *{See attached amendments, renumbered from 7 TAC §90.604(a)(14).}*

(16) [~~(15)~~] A sample model promissory note that allows for withdrawals or multiple advances is presented in the following example.

Figure: 7 TAC §90.604(a)(16) {See attached amendments, renumbered from 7 TAC §90.604(a)(15).}

(17) [~~(16)~~] A sample model deed of trust that allows for withdrawals or multiple advances is presented in the following example.

Figure: 7 TAC §90.604(a)(17) {See attached amendments, renumbered from 7 TAC §90.604(a)(16).}

(b) (No change.)

#### *Subchapter G. Spanish Disclosures*

##### *§90.701. Applicability.*

(a) If a contract for a loan under Chapter 342, Subchapters E, F, or G is negotiated in Spanish, then the [a] licensee must deliver a Spanish disclosure specified in §90.703(a) of this title (relating to Form of Disclosure) to the debtor [~~in Spanish no later than consummation of the contract~~].

(b) If a retail installment transaction under Chapter 348 is negotiated in Spanish, then the [a] licensee may (but is not required to) [; may but is not required to;] deliver a Spanish disclosure specified in §90.703(b) [§90.703] of this title [(relating to Form of Disclosure)] to the debtor [~~in Spanish~~].

(c) (No change.)

*§90.703. Form of Disclosure. {Repeal and replace. This section is being reorganized with new language in bold.}*

(a) For a loan under Chapter 342, Subchapters E, F, or G, if the licensee negotiates a term described by §90.702(a) of this title (relating to Negotiation in Spanish), then the licensee must deliver a Spanish disclosure described by this subsection to the debtor. The disclosure must be completed with amounts that are accurate within the tolerances described by Regulation Z, 12 C.F.R. Part 1026.

(1) For loans negotiated in Spanish that are subject to Chapter 342, Subchapter E, the licensee must provide, no later than the consummation of the loan:

(A) a Spanish translation of the loan contract that includes the disclosure form under Regulation Z, 12 C.F.R. §1026.18; or

(B) a copy of the "Notificación de Crédito Al Consumidor (Préstamo a Plazos)" as prescribed in the following figure:

Figure: 7 TAC §90.703(a)(1)(B) {Renumbered from 7 TAC §90.703(a)(2) with no changes.}

(2) For loans negotiated in Spanish that are subject to Chapter 342, Subchapter F, the licensee must provide, no later than consummation of the loan:

(A) a Spanish translation of the loan contract that includes the disclosure form under Regulation Z, 12 C.F.R. §1026.18; or

(B) copies of both the "Notificación de Crédito Al Consumidor (Préstamo)," and the "Conceptos Financieros."

(i) The "Notificación de Crédito Al Consumidor (Préstamo)," for which the lender should select an appropriate late charge option, is presented in the following figure:

Figure: 7 TAC §90.703(a)(2)(B)(i) {Renumbered from 7 TAC §90.703(a)(3)(A) with no changes.}

(I) Late Charge Option 1: "Late Charge: If I don't pay an entire payment within 10 days after it is due, you can charge me a late charge. The late charge will be 5% of the scheduled payment."

(II) Late Charge Option 1 Spanish Translation: "Cargos por Retrasos: Si no doy un pago completo dentro de 10 días después de vencerse, me puedes cobrar un cargo por retraso. El cargo por retraso será el 5% de la cantidad del pago."

(III) Late Charge Option 2: "Late Charge: For a loan that has an amount financed of less than \$100, the late charge for a payment that is unpaid for 10 days after it is due is 5% of the amount of the installment. For a loan that has an amount financed of \$100 or more, the late charge for a payment that is unpaid for 10 days after it is due is the greater of \$10 or 5% of the amount of the installment."

(IV) Late Charge Option 2 Spanish Translation: "Cargos por Retrasos: Para un préstamo en el cual la cantidad financiada es menor de \$100, el cargo por retraso en un pago que no se liquida por 10 días después de vencerse es 5% de la cantidad del pago. Para un préstamo en el cual la cantidad financiada es de \$100 o más, el cargo por retraso en un pago que no se liquida por 10 días después

de vencerse es de \$10 o 5% de la cantidad del pago atrasado, lo que sea mayor."

(ii) The "Conceptos Financieros" are presented in the following figure:

Figure: 7 TAC §90.703(a)(2)(B)(ii) {Renumbered from 7 TAC §90.703(a)(3)(B) with no changes.}

**(3) For loans negotiated in Spanish that are subject to Chapter 342, Subchapter G, the licensee must provide copies of both of the following TILA-RESPA integrated disclosures in Spanish:**

**(A) No later than the date required for the loan estimate under Regulation Z, 12 C.F.R. §1026.19(e), the licensee must provide to the debtor a copy of the "Estimación de Préstamo" provided by 12 C.F.R. Part 1026, Appendix H, Model Forms H-28(A) through H-28(E) and H-28(I). The licensee must select an appropriate model form based on the type of loan.**

**(B) No later than the date required for the closing disclosure under Regulation Z, 12 C.F.R. §1026.19(f), the licensee must provide to the debtor a copy of the "Declaración de Cierre" provided by 12 C.F.R. Part 1026, Appendix H, Model Forms H-28(F) through H-28(H) and H-28(J). The licensee must select an appropriate model form based on the type of loan.**

(b) If a retail installment transaction under Chapter 348 is negotiated in Spanish, then the licensee may at its option deliver one or both of the following to the debtor:

(1) a Spanish translation of the retail installment sales contract that includes the disclosure form under Regulation Z, 12 C.F.R. §226.18 or §1026.18; or

(2) a copy of the "Notificación de Crédito Al Consumidor (Contrato de Menudeo a Plazos para Vehículo Automotor)," for which the licensee should select the appropriate late charge payment option, as presented in the following figure:

Figure: 7 TAC §90.703(b) {Renumbered from 7 TAC §90.703(a)(5) with no changes.}

(c) Licensees may delete inapplicable provisions contained in a model disclosure described by this section, **except for the TILA-RESPA integrated disclosures required under subsection (a)(3).**

### **Certification**

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas on October 16, 2015.

Laurie B. Hobbs  
Assistant General Counsel  
Office of Consumer Credit Commissioner

**Amended Figure: 7 TAC §84.808(7) (348 TILA Disclosure)**

<p><b>ANNUAL PERCENTAGE RATE</b> The cost of my credit as a yearly rate.</p> <p style="text-align: right;">%</p>	<p><b>FINANCE CHARGE</b> The dollar amount the credit will cost me.</p> <p style="text-align: right;">\$</p>	<p><b>Amount Financed</b> The amount of credit provided to me or on my behalf.</p> <p style="text-align: right;">\$</p>	<p><b>Total of Payments</b> The amount I will have paid after I have made all payments as scheduled.</p> <p style="text-align: right;">\$</p>	<p><b>Total Sale Price</b> The total cost of my purchase on credit, including down payment of</p> <p style="text-align: right;">\$ _____</p> <p style="text-align: right;">\$</p>
--	--	---	---	---

**My Payment Schedule will be:**

<u>Number of Payments</u>	<u>Amount of Payments</u>	<u>When Payments Are Due</u>

**Security:** You will have a security interest in the motor vehicle being purchased.

**Late Charge:** ~~[Sum of the periodic balances method:]~~ ~~[True daily earnings:]~~ (Option A:) If you do not receive my entire payment within 15 days after it is due (10 days if I am buying a heavy commercial vehicle), I will pay a late charge at the rate of \_\_\_\_% per year on the past due amount. The late charge on the past due amount will be earned from the due date to the date that it is paid. (Option B:) If you do not receive my entire payment within 15 days after it is due (10 days if I am buying a heavy commercial vehicle), I will pay a late charge of \_\_\_\_% of the scheduled payment.

~~[Scheduled installment earnings or true daily earnings method:]~~ ~~[Scheduled Installment Earnings Method or sum of the periodic balances:]~~ (Option A:) If I do not pay my entire payment within 15 days after it is due (10 days if I am buying a heavy commercial vehicle), I will pay a late charge on the past due amount at the contract rate. (Option B:) If you do not receive my entire payment within 15 days after it is due (10 days if I am buying a heavy commercial vehicle), I will pay a late charge at the rate of \_\_\_\_% per year on the late amount. The late charge on the past due amount will be earned from the due date to the date that it is paid. (Option C:) If you do not receive my entire payment within 15 days after it is due (10 days if I am buying a heavy commercial vehicle), I will pay a late charge of \_\_\_\_% of the scheduled payment.

**Prepayment:** ~~[True daily earnings method:]~~ If I pay all that I owe early, I will not have to pay a penalty. ~~[Sum of the periodic balances or scheduled installment earnings method:]~~ I can pay all that I owe early. If I do so, I can get a refund of part of the Finance Charge.

**Additional information:** I will refer to this document for information about nonpayment, default, security interests, any required repayment in full before the scheduled date, and prepayment refunds.

**Amended Figure: 7 TAC §84.808(8)(A) (348 Itemization of Amt. Financed, Sales Tax Advance)**

<b>ITEMIZATION OF AMOUNT FINANCED</b>		
1.	Cash price [Optional additional description: "(including any accessories, services, and taxes)"]	\$ _____(1)
2.	Downpayment = [If netting add: (if negative, enter "0" and see Line 4.A. below)]	
	Gross trade-in	\$ _____
	- payoff by Seller	\$ _____
	= net trade-in	\$ _____
	[If not netting add: (if negative enter "0" and see Line 4.A. below)]	
	+ cash	\$ _____
	+ Mfrs. Rebate	\$ _____
	+ other (describe) _____	\$ _____
	Total downpayment	\$ _____(2)
3.	Unpaid balance of cash price (1 minus 2)	\$ _____(3)
4.	Other charges including amounts paid to others on my behalf (Seller may keep part of these amounts.):	
	A. Net trade-in payoff [Alternative caption: "prior credit or lease balance"] to _____	\$ _____
	B. Cost of physical damage insurance paid to insurance company	\$ _____
	C. Cost of optional coverages with physical damage insurance paid to insurance company	\$ _____
	D. Cost of optional credit insurance paid to insurance company or companies	\$ _____
	Life	
	Disability	
	E. Debt cancellation agreement fee paid to the Seller	\$ _____
	F. Official fees paid to government agencies	\$ _____
	G. Dealer's inventory tax [Optional addition: (if not included in cash price)]	\$ _____
	H. Sales tax [Optional addition: (if not included in cash price)]	\$ _____
	I. Other taxes [Optional addition: (if not included in cash price)]	\$ _____
	J. Government license and <del>and/or</del> registration fees	\$ _____
	K. Government certificate of title fee	\$ _____
	L. Government vehicle inspection fees	\$ _____
	to state \$ _____ to inspection station \$ _____	
	M. Deputy service fee paid to dealer	\$ _____
	N. <b>Documentary fee. A documentary fee is not an official fee. A documentary fee is not required by law, but may be charged to buyers for handling documents relating to the sale. A documentary fee may not exceed a reasonable amount agreed to by the parties. This notice is required by law. [Option to insert Spanish translation of disclosure here.]</b>	\$ _____
	O. Other charges (Seller must identify who is paid and describe purpose)	
	to _____ for _____	\$ _____
	to _____ for _____	\$ _____
	to _____ for _____	\$ _____
	Total other charges and amounts paid to others on my behalf	\$ _____(4)
5.	<b>Amount Financed</b> (3 + 4)	\$ _____(5)
<p>[Optional caption: Seller will pay taxes, title fee, license and registration fees, and part of the inspection fee to government agencies. Seller will retain the documentary fee and the deputy service fee. [Taxes, title fee, license fee, and any state inspection fee (except for \$7.00 of each such inspection fee that will be retained by Seller) will be paid by Seller to government agencies. Documentary fee and deputy service fee will be retained by Seller and the] Seller may also retain part or all of the inspection fee, insurance, service contracts, and other charges.]</p>		

[Note: A creditor may delete portions of the figure applicable to any insurance premiums or debt cancellation fees that are not financed in the contract and may also delete other inapplicable portions. Under item 4, a creditor may add a line for "other insurance paid to insurance company."]

**Amended Figure: 7 TAC §84.808(8)(B) (348 Itemization of Amt. Financed, Sales Tax Deferred)**

<b>ITEMIZATION OF AMOUNT FINANCED</b>		
1.	Cash price [Optional additional description: "(including any accessories, services, and taxes)"]	\$ _____ (1)
2.	Downpayment (A + B) =	
	A. [If netting add: (if negative, enter "0" and see Line 4.A. below)]	
	Gross trade-in	\$ _____
	- payoff by Seller	\$ _____
	= net trade-in	\$ _____
	B. [If not netting add: (if negative enter "0" and see Line 4.A. below)]	
	+ cash	\$ _____
	+ Mfrs. Rebate	\$ _____
	+ other (describe) _____	\$ _____
	Total downpayment	\$ _____ (2)
3.	Unpaid balance of cash price (1 minus 2)	\$ _____ (3)
4.	Other charges including amounts paid to others on my behalf (Seller may keep part of these amounts.):	
	A. Net trade-in payoff [Alternative caption: "prior credit or lease balance"] to _____	\$ _____
	B. Cost of physical damage insurance paid to insurance company	\$ _____
	C. Cost of optional coverages with physical damage insurance paid to insurance company	\$ _____
	D. Cost of optional credit insurance paid to insurance company or companies	\$ _____
	Life	
	Disability	
	E. Debt cancellation agreement fee paid to the Seller	\$ _____
	F. Official fees paid to government agencies	\$ _____
	G. Dealer's inventory tax [Optional addition: (if not included in cash price)]	\$ _____
	H. Other taxes [Optional addition: (if not included in cash price)]	\$ _____
	I. Government license and [and/or] registration fees	\$ _____
	J. Government certificate of title fee	\$ _____
	K. Government vehicle inspection fees	\$ _____
	to state \$ _____ to inspection station \$ _____	
	L. Deputy service fee paid to dealer	\$ _____
	M. <b>Documentary fee. A documentary fee is not an official fee. A documentary fee is not required by law, but may be charged to buyers for handling documents relating to the sale. A documentary fee may not exceed a reasonable amount agreed to by the parties. This notice is required by law. [Option to insert Spanish translation of disclosure here.]</b>	\$ _____
	N. Other charges (Seller must identify who is paid and describe purpose)	
	to _____ for _____	\$ _____
	to _____ for _____	\$ _____
	to _____ for _____	\$ _____
		\$ _____
	Total Itemized Charges upon which the Finance Charge is assessed	\$ _____ (4)
5.	Total Unpaid Balance Plus Itemized Charges Upon which the Finance Charge is assessed. (3+4)	\$ _____ (5)
6.	Total Sales Tax (Upon Which No Finance Charge is Assessed)	\$ _____ (6)
7.	<b>Amount Financed</b> (5+6)	\$ _____ (7)
	<b>Finance Charge</b> (Not Assessed Upon Sales Tax)	\$ _____
<p>[Optional caption: Seller will pay taxes, title fee, license and registration fees, and part of the inspection fee to government agencies. Seller will retain the documentary fee and the deputy service fee. [Taxes, title fee, license fee, and any state inspection fee (except for \$7.00 of each such inspection fee that will be retained by Seller) will be paid by Seller to government agencies. Documentary fee and deputy service fee will be retained by Seller and the] Seller may also retain part or all of the inspection fee, insurance, service contracts, and other charges.]</p>		

[Note: A creditor may delete portions of the figure applicable to any insurance premiums or debt cancellation fees that are not financed in the contract and may also delete other inapplicable portions. Under item 4, a creditor may add a line for "other insurance paid to insurance company."]

**Amended Figure: 7 TAC §84.808(11) (348 Physical Damage Insurance)**

**MODEL CLAUSE FOR PHYSICAL DAMAGE INSURANCE**

**PROPERTY INSURANCE: I must keep the collateral insured against damage or loss in the amount I owe. I must keep this insurance until I have paid all that I owe under this contract. I may obtain property insurance from anyone I want or provide proof of insurance I already have. The insurer must be authorized to do business in Texas. The maximum deductible is \$ \_\_\_\_\_. I agree to give you proof of property insurance. I must name you as the person to be paid under the policy in the event of damage or loss.**

*[Note: The following optional provisions are included for creditors who finance physical damage insurance. Creditors who do not routinely finance physical damage coverage, or who are not financing it in a particular transaction, may delete the remaining disclosures in this figure. A creditor may also delete those portions below that pertain to coverages it does not routinely finance, or that pertain to coverages that it is not financing in a particular transaction.]*

If any insurance is included below, policies or certificates from the insurance company will describe the terms, conditions and deductibles.

A. *Physical damage insurance.* If you obtain physical damage insurance, the coverages, terms and premiums for these terms are set forth below.

Coverage	Term in Months	Premium
Collision	___	<input type="checkbox"/> \$ _____
Comprehensive	___	<input type="checkbox"/> \$ _____
Fire, Theft, and Combined Additional Coverage	___	<input type="checkbox"/> \$ _____
Other	___	<input type="checkbox"/> \$ _____

B. *Optional coverages with physical damage insurance.* If I have chosen this insurance, the premiums for the initial \_\_\_\_\_ month term are itemized below. *[Note: Alternatively, these optional coverages may be disclosed as part of Figure: 7 TAC §84.808(12).]*

- \$ \_\_\_\_\_ Towing and Labor Costs Reimbursement       \$ \_\_\_\_\_ Rental Reimbursement
- \$ \_\_\_\_\_ Other: \_\_\_\_\_

If the box next to a premium for an insurance coverage included above is marked, that premium is not fixed or approved by the Texas Insurance Commissioner. If the premium is for a required coverage, I have the option, for a period of 10 days from the date I receive a copy of this contract, of furnishing that coverage through existing policies of insurance or by obtaining like coverage from any insurance company authorized to do business in Texas.

*I agree to purchase the above checked coverages.*

Buyer's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Amended Figure: 7 TAC §84.809(b) (348 Retail Installment Sales Contract)**

**MOTOR VEHICLE RETAIL INSTALLMENT SALES CONTRACT**

(Optional: DATE \_\_\_\_\_)  
 BUYER \_\_\_\_\_  
 ADDRESS \_\_\_\_\_  
 CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_  
 PHONE \_\_\_\_\_

SELLER/CREDITOR \_\_\_\_\_  
 ADDRESS \_\_\_\_\_  
 CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_  
 PHONE \_\_\_\_\_

The Buyer is referred to as "I" or "me." The Seller is referred to as "you" or "your." This contract may be transferred by the Seller.

**PROMISE TO PAY**

The credit price is shown below as the "Total Sales Price." The "Cash Price" is also shown below. By signing this contract, I choose to purchase the motor vehicle on credit according to the terms of this contract. I agree to pay you the Amount Financed, Finance Charge, and any other charges in this contract. I agree to make payments according to the Payment Schedule in this contract. If more than one person signs as a buyer, I agree to keep all the promises in this agreement even if the others do not.

I have thoroughly inspected, accepted, and approved the motor vehicle in all respects.

**MOTOR VEHICLE IDENTIFICATION**

Stock No.	Year	Make	Model	Vehicle Identification Number	License Number (if applicable)	<input type="checkbox"/> New <input type="checkbox"/> Demonstrator <input type="checkbox"/> Factory Official/Executive <input type="checkbox"/> Used	USE FOR WHICH PURCHASED <input type="checkbox"/> PERSONAL, FAMILY OR HOUSEHOLD <input type="checkbox"/> BUSINESS OR COMMERCIAL <input type="checkbox"/> AGRICULTURAL
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Trade-in: Year \_\_\_\_\_ Make \_\_\_\_\_ Model \_\_\_\_\_ VIN \_\_\_\_\_ License No. \_\_\_\_\_

<b>ANNUAL PERCENTAGE RATE</b> The cost of my credit as a yearly rate.  %	<b>FINANCE CHARGE</b> The dollar amount the credit will cost me.  \$	<b>Amount Financed</b> The amount of credit provided to me or on my behalf.  \$	<b>Total of Payments</b> The amount I will have paid after I have made all payments as scheduled.  \$	<b>Total Sale Price</b> The total cost of my purchase on credit, including down payment of \$ _____  \$
<b>My Payment Schedule will be:</b>				
<b>Number of Payments</b>	<b>Amount of Payments</b>	<b>When Payments Are Due</b>		

**Security:** You will have a security interest in the motor vehicle being purchased.

**Late Charge:** ~~[Sum of the periodic balances method:]~~ ~~[True daily earnings:]~~ (Option A:) If you do not receive my entire payment within 15 days after it is due (10 days if I am buying a heavy commercial vehicle), I will pay a late charge at the rate of \_\_\_\_% per year on the past due amount. The late charge on the past due amount will be earned from the due date to the date that it is paid. (Option B:) If you do not receive my entire payment within 15 days after it is due (10 days if I am buying a heavy commercial vehicle), I will pay a late charge of \_\_\_\_% of the scheduled payment. ~~[Scheduled installment earnings or true daily earnings method:]~~ ~~[Scheduled Installment Earnings Method or sum of the periodic balances:]~~ (Option A:) If I do not pay my entire payment within 15 days after it is due (10 days if I am buying a heavy commercial vehicle), I will pay a late charge on the past due amount at the contract rate. (Option B:) If you do not receive my entire payment within 15 days after it is due (10 days if I am buying a heavy commercial vehicle), I will pay a late charge at the rate of \_\_\_\_% per year on the late amount. The late charge on the past due amount will be earned from the due date to the date that it is paid. (Option C:) If you do not receive my entire payment within 15 days after it is due (10 days if I am buying a heavy commercial vehicle), I will pay a late charge of \_\_\_\_% of the scheduled payment.

**Prepayment:** ~~[True daily earnings method:]~~ If I pay all that I owe early, I will not have to pay a penalty. ~~[Sum of the periodic balances or scheduled installment earnings method:]~~ I can pay all that I owe early. If I do so, I can get a refund of part of the Finance Charge.

**Additional information:** I will refer to this document for information about nonpayment, default, security interests, any required repayment in full before the scheduled date, and prepayment refunds.

## ITEMIZATION OF AMOUNT FINANCED

1. Cash price [Optional additional description: "(including any accessories, services, and taxes)"] \$ \_\_\_\_\_ (1)
2. Downpayment =  
 [If netting add: (if negative, enter "0" and see Line 4.A. below)]  
 Gross trade-in \$ \_\_\_\_\_  
 - payoff by Seller \$ \_\_\_\_\_  
 = net trade-in \$ \_\_\_\_\_  
 [If not netting add: (if negative enter "0" and see Line 4.A. below)]  
 + cash \$ \_\_\_\_\_  
 + Mfrs. Rebate \$ \_\_\_\_\_  
 + other (describe) \_\_\_\_\_ \$ \_\_\_\_\_  
 Total downpayment \$ \_\_\_\_\_ (2)
3. Unpaid balance of cash price (1 minus 2) \$ \_\_\_\_\_ (3)
4. Other charges including amounts paid to others on my behalf (Seller may keep part of these amounts.):
- A. Net trade-in payoff [Alternative caption: "prior credit or lease balance"] to \_\_\_\_\_ \$ \_\_\_\_\_
  - B. Cost of physical damage insurance paid to insurance company \$ \_\_\_\_\_
  - C. Cost of optional coverages with physical damage insurance paid to insurance company \$ \_\_\_\_\_
  - D. Cost of optional credit insurance paid to insurance company or companies  
 Life \$ \_\_\_\_\_  
 Disability \$ \_\_\_\_\_
  - E. Debt cancellation agreement fee paid to the Seller \$ \_\_\_\_\_
  - F. Official fees paid to government agencies \$ \_\_\_\_\_
  - G. Dealer's inventory tax [Optional addition: (if not included in cash price)] \$ \_\_\_\_\_
  - H. Sales tax [Optional addition: (if not included in cash price)] \$ \_\_\_\_\_
  - I. Other taxes [Optional addition: (if not included in cash price)] \$ \_\_\_\_\_
  - J. Government license and [and/or] registration fees \$ \_\_\_\_\_
  - K. Government certificate of title fee \$ \_\_\_\_\_
  - L. Government vehicle inspection fees  
 to state \$ \_\_\_\_\_ to inspection station \$ \_\_\_\_\_
  - M. Deputy service fee paid to dealer \$ \_\_\_\_\_
  - N. **Documentary fee. A documentary fee is not an official fee. A documentary fee is not required by law, but may be charged to buyers for handling documents relating to the sale. A documentary fee may not exceed a reasonable amount agreed to by the parties. This notice is required by law. [Option to insert Spanish translation of disclosure here.]** \$ \_\_\_\_\_
  - O. Other charges (Seller must identify who is paid and describe purpose)  
 to \_\_\_\_\_ for \_\_\_\_\_ \$ \_\_\_\_\_  
 to \_\_\_\_\_ for \_\_\_\_\_ \$ \_\_\_\_\_  
 to \_\_\_\_\_ for \_\_\_\_\_ \$ \_\_\_\_\_
- Total other charges and amounts paid to others on my behalf \$ \_\_\_\_\_ (4)
5. **Amount Financed** (3 + 4) \$ \_\_\_\_\_ (5)

[Optional caption: Seller will pay taxes, title fee, license and registration fees, and part of the inspection fee to government agencies. Seller will retain the documentary fee and the deputy service fee. [Taxes, title fee, license fee, and any state inspection fee (except for \$7.00 of each such inspection fee that will be retained by Seller) will be paid by Seller to government agencies. Documentary fee and deputy service fee will be retained by Seller and the] Seller may also retain part or all of the inspection fee, insurance, service contracts, and other charges.]

[Note: A creditor may delete portions of the figure applicable to any insurance premiums or debt cancellation fees that are not financed in the contract and may also delete other inapplicable portions. Under item 4, a creditor may add a line for "other insurance paid to insurance company."]

DEFERRED DOWNPAYMENT(S)	
AMOUNT	DATE DUE

**MODEL CLAUSE FOR PHYSICAL DAMAGE INSURANCE**

**PROPERTY INSURANCE:** I must keep the collateral insured against damage or loss in the amount I owe. I must keep this insurance until I have paid all that I owe under this contract. I may obtain property insurance from anyone I want or provide proof of insurance I already have. The insurer must be authorized to do business in Texas. The maximum deductible is \$ \_\_\_\_\_. I agree to give you proof of property insurance. I must name you as the person to be paid under the policy in the event of damage or loss.

*[Note: The following optional provisions are included for creditors who finance physical damage insurance. Creditors who do not routinely finance physical damage coverage, or who are not financing it in a particular transaction, may delete the remaining disclosures in this figure. A creditor may also delete those portions below that pertain to coverages it does not routinely finance, or that pertain to coverages that it is not financing in a particular transaction.]*

If any insurance is included below, policies or certificates from the insurance company will describe the terms, conditions and deductibles.

A. *Physical damage insurance.* If you obtain physical damage insurance, the coverages, terms and premiums for these terms are set forth below.

Coverage	Term in Months	Premium
Collision	_____	<input type="checkbox"/> \$ _____
Comprehensive	_____	<input type="checkbox"/> \$ _____
Fire, Theft, and Combined Additional Coverage	_____	<input type="checkbox"/> \$ _____
Other	_____	<input type="checkbox"/> \$ _____

B. *Optional coverages with physical damage insurance.* If I have chosen this insurance, the premiums for the initial \_\_\_\_\_ month term are itemized below. *[Note: Alternatively, these optional coverages may be disclosed as part of Figure: 7 TAC §84.808(12).]*

\$ \_\_\_\_\_ Towing and Labor Costs Reimbursement       \$ \_\_\_\_\_ Rental Reimbursement  
 \$ \_\_\_\_\_ Other: \_\_\_\_\_

If the box next to a premium for an insurance coverage included above is marked, that premium is not fixed or approved by the Texas Insurance Commissioner. If the premium is for a required coverage, I have the option, for a period of 10 days from the date I receive a copy of this contract, of furnishing that coverage through existing policies of insurance or by obtaining like coverage from any insurance company authorized to do business in Texas.

*I agree to purchase the above checked coverages.*

Buyer's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**MODEL CLAUSE FOR OPTIONAL INSURANCE COVERAGES AND DEBT CANCELLATION AGREEMENT**

*Optional insurance coverages and debt cancellation agreement.* The granting of credit will not be dependent on the purchase of either the insurance coverages or the debt cancellation agreement described below. It will not be provided unless I sign and agree to pay the extra cost. ***[At creditor's option, the following may be added:]*** The credit approval process will not be affected by whether or not I buy these insurance coverages or the debt cancellation agreement. *[Note: If this form is used for commercial transactions, a creditor has the option to bold the language in the preceding paragraph.]*

Coverage	Term in Months	Premium or Fee
GAP*	_____	<input type="checkbox"/> \$ _____
Invol. Unemployment	_____	<input type="checkbox"/> \$ _____
Debt cancellation agreement**	_____	\$ _____
Liability Insurance	_____	<input type="checkbox"/> \$ _____
	\$ _____ per person	\$ _____ property damage
	\$ _____ per accident	

\*If the motor vehicle is determined to be a total loss, GAP Insurance will pay you the difference between the proceeds of my basic collision policy and the amount I owe on the motor vehicle, minus my deductible. I can cancel that insurance without charge for 10 days from the date of this contract.

\*\*YOU WILL CANCEL CERTAIN AMOUNTS I OWE UNDER THIS CONTRACT IN THE CASE OF A TOTAL LOSS OR THEFT OF THE VEHICLE AS STATED IN THE DEBT CANCELLATION AGREEMENT. I can cancel the debt cancellation agreement without charge for a period of 30 days from the date of this contract, or for the period stated in the debt cancellation agreement, whichever period ends later.

If the box next to a premium for an insurance coverage included above is marked, that premium is not fixed or approved by the Texas Insurance Commissioner. A debt cancellation agreement is not insurance and is regulated by the Office of Consumer Credit Commissioner.

*For the premiums or fees included above, I want the related optional coverages and debt cancellation agreement.*

Buyer's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

[Note: A creditor who does not routinely finance optional coverages, or does not finance them in a particular transaction, may omit this figure. A creditor may also delete those portions of the figure that pertain to coverages it does not routinely finance, or that pertain to coverages that it is not financing in a particular transaction.]

#### MODEL CLAUSE FOR OPTIONAL CREDIT LIFE AND ACCIDENT AND HEALTH (DISABILITY) INSURANCE

Optional credit life and credit disability insurance. Credit life insurance and credit disability insurance are not required to obtain credit. They will not be provided unless I sign and agree to pay the extra cost. [At creditor's option, the following may be added:] My decision to buy or not buy these insurance coverages will not be a factor in the credit approval process.

Credit Life, one buyer \$ \_\_\_\_\_  Credit Life, both buyers \$ \_\_\_\_\_ Term \_\_\_\_\_  
 Credit Disability, one buyer \$ \_\_\_\_\_  Credit Disability, both buyers \$ \_\_\_\_\_ Term \_\_\_\_\_

[Optional additional sentence for balloon payment contracts:] Credit Life Insurance is for the scheduled term of this contract. Credit Disability Insurance covers the first \_\_\_\_ payments and does not cover the last scheduled payment. [Optional additional language for true daily earnings method contracts:] Credit life insurance pays only the amount I would owe if I paid all my payments on time. Credit disability insurance does not cover any increase in my payment or in the number of payments.

If the term of the insurance is 121 months or longer, the premium is not fixed or approved by the Texas Insurance Commissioner.

I want the insurance indicated above.

Buyer's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Co-Buyer's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

[Note: A creditor who does not routinely finance these coverages, or does not finance them in a particular transaction, may omit this figure. A creditor may also delete those portions of the figure that pertain to coverages it does not routinely finance, or that pertain to coverages that it is not financing in a particular transaction.]

#### LIABILITY INSURANCE

(OPTION A) THIS CONTRACT DOES NOT INCLUDE INSURANCE COVERAGE FOR PERSONAL LIABILITY AND PROPERTY DAMAGE CAUSED TO OTHERS.

(OPTION B) UNLESS A CHARGE FOR LIABILITY INSURANCE IS INCLUDED IN THE ITEMIZATION OF AMOUNT FINANCED, LIABILITY INSURANCE COVERAGE FOR BODILY INJURY AND PROPERTY DAMAGE CAUSED TO OTHERS IS NOT INCLUDED IN THIS CONTRACT.

(OPTION C) UNLESS A CHARGE FOR LIABILITY INSURANCE IS INCLUDED IN THE ITEMIZATION OF AMOUNT FINANCED, ANY INSURANCE REFERRED TO IN THIS CONTRACT DOES NOT INCLUDE COVERAGE FOR PERSONAL LIABILITY AND PROPERTY DAMAGE CAUSED TO OTHERS.

Any change to this contract must be in writing. Both you and I must sign it. No oral changes to this contract are enforceable.

\_\_\_\_\_ Buyer

\_\_\_\_\_ Co-Buyer

#### HOW YOU FIGURE THE FINANCE CHARGE

[Regular transaction using sum of the periodic balances method:] (Option A<sub>1</sub>: Sales Tax Advance) You figure the Finance Charge using the add-on method as defined by the Texas Finance Commission Rule. Add-on Finance Charge is calculated on the full amount of the unpaid principal balance and added as a lump sum to the unpaid principal balance for the full term of the contract. (Option A<sub>2</sub>: Sales Tax Advance) The Finance Charge will be calculated by using the add-on method. Add-on Finance Charge is calculated on the full amount of the unpaid principal balance and added as a lump sum to the unpaid principal balance for the full term of the contract. The add-on Finance Charge is calculated at a rate of \$\_\_\_\_ per \$100.00 per year. This rate is not the same as the Annual Percentage Rate. (Option B: Deferred Sales Tax) The Finance Charge will be calculated by using the add-on method. Add-on Finance Charge is calculated on the full amount of the unpaid principal balance subject to a finance charge and added as a lump sum to the unpaid principal balance subject to a Finance Charge for the full term of the contract. The add-on finance charge is calculated at a rate of \$\_\_\_\_ per \$100.00 per year. This rate is not the same as the Annual Percentage Rate.

[True daily earnings method:] (Option A<sub>1</sub>: Sales Tax Advance) You figure the Finance Charge using the true daily earnings method as defined by the Texas Finance Code. Under the true daily earnings method, the Finance Charge will be figured by applying the daily rate to the unpaid portion of the Amount Financed for the number of days the unpaid portion of the Amount Financed is outstanding. The daily rate is 1/365th of the Annual Percentage Rate. The unpaid portion of the Amount Financed does not include late charges or returned check charges. (Option A<sub>2</sub>: Sales Tax Advance) The contract rate is \_\_\_\_%. This contract rate may not be the same as the Annual Percentage Rate. You will figure the Finance Charge by applying the true daily earnings method as defined by the Texas Finance Code to the unpaid portion of the principal balance. The daily rate is 1/365th of the contract rate. The unpaid principal balance does not include the late charges or returned check charges. (Option B: Deferred Sales Tax) The contract rate is \_\_\_\_%. This contract rate may not be the same as the Annual Percentage Rate. You will figure the Finance Charge by applying the true daily earnings method as defined by the Texas Finance Code to the unpaid portion of the principal balance subject to a Finance Charge. The daily rate is 1/365th of the contract rate. The unpaid principal balance subject to a finance charge does not include the late charges, sales tax, or returned check charges.

[Scheduled installment earnings method:] (Option A<sub>1</sub>: Sales Tax Advance) You figure the Finance Charge using the scheduled installment earnings method as defined by the Texas Finance Code. Under the scheduled installment earnings method, the Finance Charge is figured by applying the daily rate to the unpaid portion of the Amount Financed as if each payment will be made on its scheduled payment date. The daily rate is 1/365th of the Annual Percentage Rate. The unpaid portion of the Amount Financed does not include late charges or returned check charges. (Option A<sub>2</sub>: Sales Tax Advance) The contract rate is \_\_\_\_%. This contract rate may not be the same as the Annual Percentage Rate. You will figure the Finance Charge by applying the scheduled installment earnings method as defined by the Texas Finance Code to the unpaid portion of the principal balance. You based the Finance Charge, Total of Payments, and Total Sale Price as if all payments were made as scheduled. The unpaid principal balance does not include the late charges or returned check charges. (Option B: Deferred Sales Tax) The contract rate is \_\_\_\_%. This contract rate may not be the same as the Annual Percentage Rate. You figured the Finance Charge by applying the scheduled installment earnings method as defined by the Texas Finance Code to the unpaid portion of



term greater than 61 months. If this contract is not a Regular Payment Contract or if it has a term greater than 61 months, you will figure the Finance Charge refund using the scheduled installment earnings method as defined by the Texas Finance Commission rule. I will not get a refund if it is less than \$1.00.

**HOW YOU WILL APPLY MY PAYMENTS** [True daily earnings method:] You will apply my payments in the following order:

1. earned but unpaid finance charge; and
2. anything else I owe under this agreement.

**HOW LATE OR EARLY PAYMENTS CHANGE WHAT I MUST PAY** [True daily earnings method:] You based the Finance Charge, Total of Payments, and Total Sale Price as if all payments were made as scheduled. If I do not timely make all my payments in at least the correct amount, I will have to pay more Finance Charge and my last payment will be more than my final scheduled payment. If I make scheduled payments early, my Finance Charge will be reduced (less). If I make my scheduled payments late, my Finance Charge will increase.

**INTEREST AFTER MATURITY** [Scheduled installment earnings or sum of the periodic balances method:] If I don't pay all I owe when the final payment becomes due, or I do not pay all I owe if you demand payment in full under this contract, I will pay an interest charge on the amount that is still unpaid. That interest charge will be the higher rate of 18% per year or the maximum rate allowed by law, if that rate is higher. The interest charge for this amount will begin the day after the final payment becomes due.

**SPECIAL PROVISIONS FOR BALLOON PAYMENT CONTRACTS** A balloon payment is a scheduled payment more than twice the amount of the average of my scheduled payments, other than the downpayment, that are due before the balloon payment.

**(Paying the balloon payment under Texas Finance Code §348.123(a))** I can pay all I owe when the balloon payment is due and keep my motor vehicle.

**(Option A: Refinancing the balloon payment)** If I buy the motor vehicle primarily for personal, family, or household use, I can enter into a new written agreement to refinance the balloon payment when due without a refinancing fee. If I refinance the balloon payment, my periodic payments will not be larger or more often than the payments in this contract. The annual percentage rate in the new agreement will not be more than the Annual Percentage Rate in this contract. This provision does not apply if my Payment Schedule has been adjusted to my seasonal or irregular income.

**(Option B: Special right to refinance balloon payment under Texas Finance Code §348.123(b)(5)(b)(iii))** I can enter into a new agreement to refinance my last installment if I am not in default. I can refinance at an annual percentage rate up to 5 points greater than the Annual Percentage Rate shown in this contract. The rate will not be more than applicable law allows. The new agreement will allow me to refinance the last installment for at least 24 months with equal monthly payments. You and I can also agree to refinance the last installment over another time period or on a different payment schedule.

**AGREEMENT TO KEEP MOTOR VEHICLE INSURED** I agree to have physical damage insurance covering loss or damage to the vehicle for the term of this contract. The insurance must cover your interest in the vehicle. The insurer must be authorized to do business in Texas. (Optional Provisions: [Language Provision:] The insurance must include collision coverage and either comprehensive or fire, theft, and combined additional coverage. The maximum deductible is \$ \_\_\_\_\_.)

**YOUR RIGHT TO PURCHASE REQUIRED INSURANCE IF I FAIL TO KEEP THE MOTOR VEHICLE INSURED** If I fail to give you proof that I have insurance, you may buy physical damage insurance. You may buy insurance that covers my interest and your interest in the motor vehicle, or you may buy insurance that covers your interest only. I will pay the premium for the insurance and a finance charge at the contract rate. If you obtain collateral protection insurance, you will mail notice to my last known address shown in your file.

**PHYSICAL DAMAGE INSURANCE PROCEEDS** I must use physical damage insurance proceeds to repair the motor vehicle, unless you agree otherwise in writing. However, if the motor vehicle is a total loss, I must use the insurance proceeds to pay what I owe you. I agree that you can use any proceeds from insurance to repair the motor vehicle, or you may reduce what I owe under this contract. If you apply insurance proceeds to the amount I owe, they will be applied to my payments in the reverse order of when they are due. If my insurance on the motor vehicle or credit insurance doesn't pay all I owe, I must pay what is still owed. Once all amounts owed under this contract are paid, any remaining proceeds will be paid to me.

**RETURNED INSURANCE PREMIUMS AND SERVICE CONTRACT CHARGES** [True daily earnings method:] If you get a refund on insurance or service contracts, or other contracts included in the cash price, you will subtract it from what I owe. Once all amounts owed under this contract are paid, any remaining refunds will be paid to me. [Scheduled installment earnings method or sum of the periodic balances:] If you get a refund of insurance or service contract charges, you will apply it and the unearned finance charges on it in the reverse order of the payments to as many of my payments as it will cover. Once all amounts owed under this contract are paid, any remaining refunds will be paid to me.

**APPLICATION OF CREDITS** Any credit that reduces my debt will apply to my payments in the reverse order of when they are due, unless you decide to apply it to another part of my debt. The amount of the credit and all finance charge or interest on the credit will be applied to my payments in the reverse order of my payments.

**TRANSFER OF RIGHTS** You may transfer this contract to another person. That person will then have all your rights, privileges, and remedies.

**SECURITY INTEREST** To secure all I owe on this contract and all my promises in it, I give you a security interest in:

- the motor vehicle including all accessories and parts now or later attached (Optional: and any other goods financed in this contract);
- all insurance proceeds and other proceeds received for the motor vehicle;
- any insurance policy, service contract or other contract financed by you and any proceeds of those contracts; and
- any refunds of charges included in this contract for insurance, or service contracts.

This security interest also secures any extension or modification of this contract. The certificate of title must show your security interest in the motor vehicle.

**USE AND TRANSFER OF THE MOTOR VEHICLE** I will not sell or transfer the motor vehicle without your written permission. If I do sell or transfer the motor vehicle, this will not release me from my obligations under this contract, and you may charge me a transfer of equity fee of \$25 (\$50 for a heavy commercial vehicle). I will promptly tell you in writing if I change my address or the address where I keep the motor vehicle. I will not remove the motor vehicle (Optional: motor vehicle or other collateral) from Texas for more than 30 days unless I first get your written permission.

**CARE OF THE MOTOR VEHICLE** I agree to keep the motor vehicle free from all liens and claims except those that secure this contract. I will timely pay all taxes, fines, or charges pertaining to the motor vehicle. I will keep the motor vehicle in good repair. I will not allow the motor vehicle to be seized or placed in jeopardy or use it illegally. I must pay all I owe even if the motor vehicle is lost, damaged or destroyed. If a third party takes a lien or claim against or possession of the motor vehicle, you may pay the third party any cost required to free the motor vehicle from all liens or claims. You may immediately demand that I pay you the amount paid to the third party for the motor vehicle. If I do not pay this amount, you may repossess the motor vehicle and add that amount to the amount I owe. If you do not repossess the motor vehicle, you may still demand that I pay you, but you cannot compute a finance charge on this amount.

**DEFAULT** I will be in default if:

- I do not pay any amount when it is due;
- I break any of my promises in this agreement;
- I allow a judgment to be entered against me or the collateral; or
- I file bankruptcy, bankruptcy is filed against me, or the motor vehicle becomes involved in a bankruptcy.

If I default, you can exercise your rights under this contract and your other rights under the law.

**LATE CHARGE** I will pay you a late charge as agreed to in this contract when it accrues.

**REPOSSESSION** If I default, you may repossess the motor vehicle from me if you do so peacefully. If any personal items are in the motor vehicle, you can store them for me and give me written notice at my last address shown on your records within 15 days of discovering that you have my personal items. If I do not ask for these items back within 31 days from the day you mail or deliver the notice to me, you may dispose of them as applicable law allows. Any accessory, equipment, or replacement part stays with the motor vehicle.

**MY RIGHT TO REDEEM** If you take my motor vehicle, you will tell me how much I have to pay to get it back. If I do not pay you to get the motor vehicle back, you can sell it or take other action allowed by law. My right to redeem ends when the motor vehicle is sold or you have entered into a contract for sale or accepted the collateral as full or partial satisfaction of a contract.

**DISPOSITION OF THE MOTOR VEHICLE** If I don't pay you to get the motor vehicle back, you can sell it or take other action allowed by law. If you sell the motor vehicle in a public or private sale, you [Y00] will send me notice at least 10 days before you sell it. You can use the money you get from selling it to pay allowed expenses and to reduce the amount I owe. Allowed expenses are expenses you pay as a direct result of taking the motor vehicle, holding it, preparing it for sale, and selling it. If any money is left, you will pay it to me unless you must pay it to someone else. If the money from the sale is not enough to pay all I owe, I must pay the rest of what I owe you plus interest. If you take or sell the motor vehicle, I will give you the certificate of title and any other document required by state law to record transfer of title.

**COLLECTION COSTS** If you hire an attorney who is not your employee to enforce this contract, I will pay reasonable attorney's fees and court costs as the applicable law allows.

**CANCELLATION OF OPTIONAL INSURANCE AND SERVICE CONTRACTS** This contract may contain charges for insurance or service contracts or for services included in the cash price. If I default, I agree that you can claim benefits under these contracts to the extent allowable, and terminate them to obtain refunds of unearned charges to reduce what I owe or repair the motor vehicle.

**YOUR RIGHT TO DEMAND PAYMENT IN FULL** If I default, or you believe in good faith that I am not going to keep any of my promises, you can demand that I immediately pay all that I owe. You don't have to give me notice that you are demanding or intend to demand immediate payment of all that I owe.

**IF YOU DEMAND I PAY ALL I OWE** [Sum of the periodic balances method or scheduled installment earnings method:] If you demand that I pay you all that I owe, you will give me a credit of part of the Finance Charge as if I had prepaid in full.

**SERVICING AND COLLECTION CONTACT** You may try to contact me at any mailing address, e-mail address, or phone number I give you, as the law allows. You may try to contact me in writing (including mail, e-mail, and text messages) and by phone (including prerecorded or artificial voice messages and automatic telephone dialing systems).

**RETURNED CHECK FEE** I agree to pay you a fee of up to \$30 for a returned check. You can add the fee to the amount I owe or collect it separately.

**INTEGRATION AND SEVERABILITY CLAUSE** This contract contains the entire agreement between you and me relating to the sale and financing of the motor vehicle. If any part of this contract is not valid, all other parts stay valid.

**LEGAL LIMITATIONS ON YOUR RIGHTS** If you don't enforce your rights every time, you can still enforce them later. You will exercise all of your rights in a lawful way. I don't have to pay finance charge or other amounts that are more than the law allows. This provision prevails over all other parts of this contract and over all your other acts.

**APPLICABLE LAW** Federal law and Texas law apply to this contract.

**SELLER'S DISCLAIMER OF WARRANTIES** **Unless the seller makes a written warranty, or enters into a service contract within 90 days from the date of this contract, the seller makes no warranties, express or implied, on the motor vehicle, and there will be no implied warranties of merchantability or of fitness for a particular purpose. This provision does not affect any warranties covering the motor vehicle that the motor vehicle manufacturer may provide.**

**NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE**

**PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER. (This provision applies to this contract only if the motor vehicle financed in the contract was purchased for personal, family, or household use.)**

**The rates of this contract are negotiable. The seller may assign or otherwise sell this contract and receive a discount or other payment for the difference between the rate, charges, or balance.**

*In this box only, the word "you" refers to the Buyer.*

**Used Car Buyers Guide. The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale.**

**Spanish Translation:**

**Guía para compradores de vehículos usados. La información que ve en el formulario de la ventanilla para este vehículo forma parte del presente contrato. La información del formulario de la ventanilla deja sin efecto toda disposición en contrario contenida en el contrato de venta.**

**Amended Figure: 7 TAC §90.203(b)(7)(A) (342-E Add-On Brackets)**

"Interest will be calculated by using the add-on interest method. Add-on interest is calculated on the full amount of the cash advance and added as a lump sum to the cash advance for the full term of the loan. The interest charge will be:

- \$18.00 per \$100.00 per year on that portion of the cash advance that is \$2,010 [~~\$1,500.00~~] or less; and
- \$8.00 per \$100.00 per year on that portion of the cash advance that is greater than \$2,010 [~~\$1,500.00~~] through \$16,750 [~~\$12,500.00~~].

You base the Finance Charge and the Total of Payments as if I will make each payment on the day it is due. I can make a whole payment early. Unless you agree otherwise in writing, I may not skip payments. If I make a payment early, my next payment will still be due as scheduled. If I prepay my loan in full before the final payment is due, I may save a portion of the Finance Charge. The amount I save will be figured using the scheduled installment earnings method as defined by the Texas Finance Code. I will not get a refund if the amount I save would be less than \$1.00."

**Amended Figure: 7 TAC §90.203(b)(7)(C)  
(342-E Three-Tiered Brackets, Scheduled Installment Earnings)**

"The annual rate of interest is: (1) 30% on the unpaid cash advance that is \$3,350.00 [~~\$2,500.00~~] or less; (2) 24% on the unpaid cash advance that is greater than \$3,350.00 [~~\$2,500.00~~] through \$7,035.00 [~~\$5,250.00~~]; and (3) 18% on the unpaid cash advance that is greater than \$7,035.00 [~~\$5,250.00~~] through \$16,750.00 [~~\$12,500.00~~]. You figure the Finance Charge by applying the scheduled installment earnings method as defined by the Texas Finance Code. The unpaid cash advance does not include the administrative fee, late charges, and returned check charges. If I prepay my loan in full before the final payment is due, I may save a portion of the Finance Charge. I will not get a refund if the refund would be less than \$1.00. You base the Finance Charge and Total of Payments as if I will make each payment on the day it is due. My final payment may be larger or smaller than my regular payment."

**Amended Figure: 7 TAC §90.203(b)(7)(E) (342-E Three-Tiered Brackets)**

"The annual rate of interest is: (1) 30% on the unpaid cash advance that is \$3,350.00 [~~\$2,500.00~~] or less; (2) 24% on the unpaid cash advance that is greater than \$3,350.00 [~~\$2,500.00~~] through \$7,035.00 [~~\$5,250.00~~]; and (3) 18% on the unpaid cash advance that is greater than \$7,035.00 [~~\$5,250.00~~] through \$16,750.00 [~~\$12,500.00~~]. This interest rate may not be the same as the Annual Percentage Rate. The unpaid cash advance does not include the administrative fee, late charges, and returned check charges. You base the Finance Charge and Total of Payments as if I will make each payment on the day it is due. You will apply payments on the date they are received. This may result in a different Finance Charge or Total of Payments. My final payment may be larger or smaller than my regular payment."

# Amended Figure: 7 TAC §90.204(a)(7) (342-E Scheduled Installment Earnings Note)

## CONSUMER CREDIT DISCLOSURE - PROMISSORY NOTE

ACCOUNT / CONTRACT NO. \_\_\_\_\_  
 CREDITOR / LENDER \_\_\_\_\_  
 ADDRESS \_\_\_\_\_

DATE OF NOTE \_\_\_\_\_  
 BORROWER \_\_\_\_\_  
 ADDRESS \_\_\_\_\_

"I" and "me" and similar words mean each person who signs as a Borrower. "You" and "your" and similar words mean the Lender.

<b>ANNUAL PERCENTAGE RATE</b> The cost of my credit as a yearly rate.  _____ %	<b>FINANCE CHARGE</b> The dollar amount the credit will cost me.  _____ \$	Amount Financed The amount of credit provided to me or on my behalf.  _____ \$	Total of Payments The amount I will have paid after I have made all payments as scheduled.  _____ \$
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My Payment Schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due

Security: You will have a security interest in the following described collateral \_\_\_\_\_.

If checked, Borrower is giving a security interest in:  
 Motor Vehicle       Property Purchased with the Money from this Loan       Personal Property       Other

Late Charge: If any part of a payment is unpaid for 10 days after it is due, I may be charged 5% of the amount of payment.  
 Prepayment: If I pay off early, I may be entitled to a refund of part of the Finance Charge and I will not have to pay a penalty.  
 Additional Information: See the contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

I promise to pay the Total of Payments to the order of you, the Lender. I will make the payments at your address above. I will make the payments on the dates and in the amounts shown in the Payment Schedule. If I don't pay all of a payment within 10 days after it is due, you can charge me a late charge. The late charge will be 5% of the scheduled payment. If I don't pay all I owe when the final payment becomes due, I will pay interest on the amount that is still unpaid. That interest will be the higher rate of 18% per year or the maximum rate allowed by law. That interest will begin the day after the final payment becomes due.

I can make a whole payment early. Unless you agree otherwise in writing, I may not skip payments. If I make a payment early, my next payment will still be due as scheduled. [Finance Charge Earnings and Refund Method clause]

If I ask for more time to make any payment and you agree, I will pay more interest to extend the payment. The extra interest will be figured under the Finance Commission rules. I agree to pay you a fee of up to \$30 for a returned check. You can add the fee to the amount I owe or collect it separately.

**OPTION A**

**ITEMIZATION OF AMOUNT FINANCED**

- 1. Amount Financed: (2+3+4)** \$ \_\_\_\_\_
- 2. Amount given to me directly** \$ \_\_\_\_\_
- 3. Amount paid on my account (Net Balance - Prior Account)** \$ \_\_\_\_\_
- 4. Amount paid to others on my behalf (A + B + C + D + E + F)** \$ \_\_\_\_\_  
 (You may be retaining a portion of this amount.)
  - A. Cost of personal property insurance paid to insurance company** \$ \_\_\_\_\_
  - B. Cost of single-interest insurance paid to insurance company** \$ \_\_\_\_\_
  - C. Cost of optional credit insurance paid to insurance company or companies**
    - Life** \$ \_\_\_\_\_
    - Disability** \$ \_\_\_\_\_
    - Involuntary Unemployment Insurance** \$ \_\_\_\_\_
    - Total C:** \$ \_\_\_\_\_
  - D. Non-Filing Insurance paid to insurance company** \$ \_\_\_\_\_
  - E. Official fees paid to government agencies** \$ \_\_\_\_\_
  - F. Payable to:** \_\_\_\_\_ \$ \_\_\_\_\_
  - Payable to:** \_\_\_\_\_ \$ \_\_\_\_\_
  - Payable to:** \_\_\_\_\_ \$ \_\_\_\_\_
  - Total F:** \$ \_\_\_\_\_
- 5. Prepaid Finance Charge (Administrative Fee)** \$ \_\_\_\_\_

I will be in default if:

- I do not timely make a payment;
- I break any promise I made in this agreement;
- I allow a judgment to be entered against me or the collateral;
- I sell, lease, or dispose of the collateral;
- I use the collateral for an illegal purpose; or
- you believe in good faith that I am not going to keep any of my promises.

If there is more than one Borrower, each Borrower agrees to keep all of the promises in the loan documents.

**PROPERTY INSURANCE: I must keep the collateral insured against damage or loss in the amount I owe. I may obtain property insurance from anyone I want or provide proof of insurance I already have. The insurer must be authorized to do business in Texas. If I buy personal property insurance through you, the rate is not fixed or approved by the Texas Department of Insurance.**

I agree to give you proof of property insurance. I must name you as the person to be paid under the policy in the event of damage or loss. If I obtain the insurance through you, I will pay the premium shown below. However, I have 5 days from the date of this loan to furnish like (equivalent) coverage from another source. If I fail to meet any of these requirements, you may obtain collateral protection insurance at my expense. If you obtain collateral protection insurance, you will mail notice to my last known address.

Personal Property Insurance      \$ \_\_\_\_\_      Term \_\_\_\_\_  
 Single Interest Insurance (Vehicle)      \$ \_\_\_\_\_      Term \_\_\_\_\_

Credit insurance is optional.

Credit life insurance, credit disability insurance and involuntary unemployment insurance are not required to obtain credit. They will not be provided unless I sign and agree to pay the extra cost.

Credit Life, one borrower      \$ \_\_\_\_\_       Credit Life, both borrowers      \$ \_\_\_\_\_      Term \_\_\_\_  
 Credit Disability, one borrower      \$ \_\_\_\_\_       Credit Disability, both borrowers      \$ \_\_\_\_\_      Term \_\_\_\_  
 Credit Involuntary Unemployment Insurance, one borrower      \$ \_\_\_\_\_      Term \_\_\_\_

**If this box is marked, the premium for the insurance coverage(s) above is not fixed or approved by the Texas Insurance Commissioner.**

I want the insurance above.

Borrower's signature: \_\_\_\_\_ Date: \_\_\_\_\_

Co-Borrower's signature: \_\_\_\_\_ Date: \_\_\_\_\_

I agree:

1. You can mail any notice to me at my last address in your records. Your duty to give me notice will be satisfied when you mail it.
2. I promise that all information I gave you is true.
3. If I am in default, you may require me to repay the entire unpaid principal balance, and any accrued interest at once. You don't have to give me notice that you are demanding or intend to demand immediate payment of all that I owe. If you don't enforce your rights every time, you can still enforce them later. If this debt is referred to an attorney for collection, I will pay any attorney fees set by the court plus court costs.
4. I understand that you may seek payment from only me without first looking to any other Borrower.
5. I don't have to pay interest or other amounts that are more than the law allows.
6. If any part of this contract is declared invalid, the rest of the contract remains valid.
7. **This written loan agreement is the final agreement between you and me and may not be changed by prior, current, or future oral agreements between you and me. There are no oral agreements between you and me relating to this loan agreement. Any change to this agreement must be in writing. Both you and I have to sign written agreements.**
8. If I am giving collateral for this loan, I will see the separate security agreement for more information and agreements.
9. Federal law and Texas law apply to this contract.

For questions or complaints about this loan, contact (insert name of lender) at (insert lender's phone number and, at lender's option, one or more of the following: mailing address, fax number, website, e-mail address). The lender is licensed and examined under Texas law by the Office of Consumer Credit Commissioner (OCCC), a state agency. If a complaint or question cannot be resolved by contacting the lender, consumers can contact the OCCC to file a complaint or ask a general credit-related question. OCCC address: 2601 N. Lamar Blvd., Austin, Texas 78705. Phone: (800) 538-1579. Fax: (512) 936-7610. Website: [occc.texas.gov](http://occc.texas.gov). E-mail: [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov). [This lender is licensed and examined by the State of Texas Office of Consumer Credit Commissioner. Call the Consumer Credit Hotline or write for credit information or assistance with credit problems: Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705-4207, [www.occc.state.tx.us](http://www.occc.state.tx.us), (800) 538-1579.]

I agree to the terms of this contract. I received a completed copy on \_\_\_\_\_.

X \_\_\_\_\_  
Borrower  
X \_\_\_\_\_  
Borrower

Recibí un resumen del contrato en español. \_\_\_\_\_  
*I received a summary of the contract in Spanish.*  
[Recibi la Forma Informe de Prestamo \_\_\_\_\_]  
*[I received the Spanish Disclosure.]*

# Amended Figure: 7 TAC §90.204(a)(8) (342-E True Daily Earnings Note)

## CONSUMER CREDIT DISCLOSURE - PROMISSORY NOTE

ACCOUNT / CONTRACT NO. \_\_\_\_\_  
 CREDITOR / LENDER \_\_\_\_\_  
 ADDRESS \_\_\_\_\_

DATE OF NOTE \_\_\_\_\_  
 BORROWER \_\_\_\_\_  
 ADDRESS \_\_\_\_\_

"I" and "me" and similar words mean each person who signs as a Borrower. "You" and "your" and similar words mean the Lender.

<b>ANNUAL PERCENTAGE RATE</b> The cost of my credit as a yearly rate.  _____ %	<b>FINANCE CHARGE</b> The dollar amount the credit will cost me.  _____ \$	<b>Amount Financed</b> The amount of credit provided to me or on my behalf.  _____ \$	<b>Total of Payments</b> The amount I will have paid after I have made all payments as scheduled.  _____ \$
---	---	--	--

My Payment Schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due

Security: You will have a security interest in the following described collateral \_\_\_\_\_.

If checked, Borrower is giving a security interest in:

Motor Vehicle       Property Purchased with the Money from this Loan       Personal Property       Other

Late Charge: If any part of a payment is unpaid for 10 days after it is due, I may be charged 5% of the amount of payment.

Prepayment: If I pay off early, I will not have to pay a penalty.

Additional Information: See the contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

I promise to pay the cash advance plus the accrued interest to the order of you, the Lender. I will make the payments at your address above. I will make the payments on the dates and in the amounts shown in the Payment Schedule. If I don't pay all of a payment within 10 days after it is due, you can charge me a late charge. The late charge will be 5% of the scheduled payment. ~~[If I don't pay all I owe when the final payment becomes due, I will pay interest on the amount that is still unpaid. That interest will be the higher rate of 18% per year or the maximum rate allowed by law. That interest will begin the day after the final payment becomes due.]~~

I can make any payment early. Unless you agree otherwise in writing, I may not skip payments. If I make a payment early, my next payment will still be due as scheduled. [Finance Charge Earnings and Refund Method clause]

If I ask for more time to make any payment and you agree, I will pay more interest to extend the payment. The extra interest will be figured under the Finance Commission rules. I agree to pay you a fee of up to \$30 for a returned check. You can add the fee to the amount I owe or collect it separately.

I will be in default if:

- I do not timely make a payment;
- I break any promise I made in this agreement;
- I allow a judgment to be entered against me or the collateral;
- I sell, lease, or dispose of the collateral;
- I use the collateral for an illegal purpose; or
- you believe in good faith that I am not going to keep any of my promises.

If there is more than one Borrower, each Borrower agrees to keep all of the promises in the loan documents.

OPTION A

**ITEMIZATION OF AMOUNT FINANCED**

1. Amount Financed: (2+3+4)	\$ _____
2. Amount given to me directly	\$ _____
3. Amount paid on my account (Net Balance - Prior Account)	\$ _____
4. Amount paid to others on my behalf (A + B + C +D + E + F) (You may be retaining a portion of this amount.)	\$ _____
A. Cost of personal property insurance paid to insurance company	\$ _____
B. Cost of single-interest insurance paid to insurance company	\$ _____
C. Cost of optional credit insurance paid to insurance company or companies	
Life	\$ _____
Disability	\$ _____
Involuntary Unemployment Insurance	\$ _____
Total C:	\$ _____
D. Non-Filing Insurance paid to insurance company	\$ _____
E. Official fees paid to government agencies	\$ _____
F. Payable to: _____	\$ _____
Payable to: _____	\$ _____
Payable to: _____	\$ _____
Total F:	\$ _____
5. Prepaid Finance Charge (Administrative Fee)	\$ _____

**PROPERTY INSURANCE: I must keep the collateral insured against damage or loss in the amount I owe. I may obtain property insurance from anyone I want or provide proof of insurance I already have. The insurer must be authorized to do business in Texas. If I buy personal property insurance through you, the rate is not fixed or approved by the Texas Department of Insurance.**

I agree to give you proof of property insurance. I must name you as the person to be paid under the policy in the event of damage or loss. If I obtain the insurance through you, I will pay the premium shown below. However, I have 5 days from the date of this loan to furnish like (equivalent) coverage from another source. If I fail to meet any of these requirements, you may obtain collateral protection insurance at my expense. If you obtain collateral protection insurance, you will mail notice to my last known address.

Personal Property Insurance      \$ \_\_\_\_\_      Term \_\_\_\_\_  
 Single Interest Insurance (Vehicle)      \$ \_\_\_\_\_      Term \_\_\_\_\_

Credit insurance is optional.

Credit life insurance, credit disability insurance and involuntary unemployment insurance are not required to obtain credit. They will not be provided unless I sign and agree to pay the extra cost.

Credit Life, one borrower      \$ \_\_\_\_\_       Credit Life, both borrowers      \$ \_\_\_\_\_      Term \_\_\_\_  
 Credit Disability, one borrower      \$ \_\_\_\_\_       Credit Disability, both borrowers      \$ \_\_\_\_\_      Term \_\_\_\_  
 Credit Involuntary Unemployment Insurance, one borrower      \$ \_\_\_\_\_      Term \_\_\_\_

**If this box is marked, the premium for the insurance coverage(s) above is not fixed or approved by the Texas Insurance Commissioner.**

I want the insurance above.

Borrower's signature: \_\_\_\_\_ Date: \_\_\_\_\_

Co-Borrower's signature: \_\_\_\_\_ Date: \_\_\_\_\_

I agree:

1. You can mail any notice to me at my last address in your records. Your duty to give me notice will be satisfied when you mail it.
2. I promise that all information I gave you is true.
3. If I am in default, you may require me to repay the entire unpaid principal balance, and any accrued interest at once. You don't have to give me notice that you are demanding or intend to demand immediate payment of all that I owe. If you don't enforce your rights every time, you can still enforce them later. If this debt is referred to an attorney for collection, I will pay any attorney fees set by the court plus court costs.
4. I understand that you may seek payment from only me without first looking to any other Borrower.
5. I don't have to pay interest or other amounts that are more than the law allows.
6. If any part of this contract is declared invalid, the rest of the contract remains valid.
7. **This written loan agreement is the final agreement between you and me and may not be changed by prior, current, or future oral agreements between you and me. There are no oral agreements between you and me relating to this loan agreement. Any change to this agreement must be in writing. Both you and I have to sign written agreements.**
8. If I am giving collateral for this loan, I will see the separate security agreement for more information and agreements.
9. Federal law and Texas law apply to this contract.

For questions or complaints about this loan, contact (insert name of lender) at (insert lender's phone number and, at lender's option, one or more of the following: mailing address, fax number, website, e-mail address). The lender is licensed and examined under Texas law by the Office of Consumer Credit Commissioner (OCCC), a state agency. If a complaint or question cannot be resolved by contacting the lender, consumers can contact the OCCC to file a complaint or ask a general credit-related question. OCCC address: 2601 N. Lamar Blvd., Austin, Texas 78705. Phone: (800) 538-1579. Fax: (512) 936-7610. Website: [occc.texas.gov](http://occc.texas.gov). E-mail: [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov). [This lender is licensed and examined by the State of Texas - Office of Consumer Credit Commissioner. Call the Consumer Credit Hotline or write for credit information or assistance with credit problems: Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705-4207, [www.occc.state.tx.us](http://www.occc.state.tx.us), (800) 538-1579.]

I agree to the terms of this contract. I received a completed copy on \_\_\_\_\_.

X \_\_\_\_\_  
Borrower  
X \_\_\_\_\_  
Borrower

Recibí un resumen del contrato en español.  
I received a summary of the contract in Spanish.  
[Recibi la Forma Informe de Prestamo \_\_\_\_\_]  
[I received the Spanish Disclosure.]

**Amended Figure: 7 TAC §90.304(a)(7) (342-F Add-On Note)**

**CONSUMER CREDIT DISCLOSURE – PROMISSORY NOTE**

ACCOUNT / CONTRACT NO. \_\_\_\_\_ DATE OF NOTE \_\_\_\_\_  
 CREDITOR / LENDER \_\_\_\_\_ BORROWER \_\_\_\_\_  
 ADDRESS \_\_\_\_\_ ADDRESS \_\_\_\_\_

"I" and "me" means each person who signs as a Borrower. "You" means the Lender.

<b>ANNUAL PERCENTAGE RATE</b> The cost of my credit as a yearly rate.  %	<b>FINANCE CHARGE</b> The dollar amount the credit will cost me.  \$	<b>Amount Financed</b> The amount of credit provided to me or on my behalf.  \$	<b>Total of Payments</b> The amount I will have paid after I have made all payments as scheduled.  \$
---	---	--	--

My Payment Schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due

Security: You will have a security interest in the following described collateral \_\_\_\_\_.

Late Charge: If any part of a payment is unpaid for 10 days after it is due, (Option 1:) the late charge will be 5% of the scheduled payment. OR (Option 2:) you can charge me a late charge. If the amount financed is less than \$100, the late charge will be 5% of the amount of the installment. If the amount financed is \$100 or more, the late charge will be the greater of \$10 or 5% of the amount of the installment.

Prepayment: If I pay off early, I may be entitled to a refund of part of the finance charge.

Additional Information: See the contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

ITEMIZATION OF THE FINANCE CHARGE	
Acquisition Charge.....	\$ _____
Installment Account Handling Charge.....	\$ _____

ITEMIZATION OF THE AMOUNT FINANCED	
Previous Account.....#	_____
Late Charge on Previous Account.....	\$ _____
Previous Balance.....	\$ _____
Less Refund.....	\$ _____
Net Balance Renewed.....	\$ _____
Cash to me.....	\$ _____
Amount Financed.....	\$ _____

I promise to pay the Total of Payments to the order of you, the Lender. I will make the payments at your address above. I will make the payments on the dates and in the amounts shown in the Payment Schedule. If I don't pay all of the payment within 10 days after it is due, you can charge me a late charge. (Option 1:) The late charge will be 5% of the scheduled payment. OR (Option 2:) If the amount financed is less than \$100, the late charge will be 5% of the amount of the installment. If the amount financed is \$100 or more, the late charge will be the greater of \$10 or 5% of the amount of the installment. If I don't pay all I owe when the final payment becomes due, I will pay interest on the amount that is still unpaid. That interest will be at a rate of 18% per year and will begin the day after the final payment becomes due.

I can make a whole payment early. The acquisition charge on this loan will not be refunded if I pay off early. If I pay all I owe before the beginning of the last monthly period, I will save part of the installment account handling charge. You will figure the amount I save by the sum of the periodic balances method. This method is explained in the Finance Commission rules. You don't have to refund or credit any amount less than \$1.00.

If I ask for more time to make any payment and you agree, I will pay more interest to extend the payment. The extra interest will be figured under the Finance Commission rules. I agree to pay you a fee of up to \$30 for a returned check. You can add the fee to the amount I owe or collect it separately.

If I break any of my promises in this document, you can demand that I immediately pay all that I owe. You can also do this if you in good faith believe that I am not going to be willing or able to keep all of my promises. I agree that you don't have to give me notice that you are demanding or intend to demand immediate payment of all that I owe.

If I am giving collateral for this loan, I will see the separate security agreement for more information and agreements.

I will keep all of my promises in this document. If there is more than one Borrower, each Borrower agrees to keep all of the promises in the loan document. I promise that all information I gave you is true.

If you don't enforce your rights every time, you can still enforce them later. Federal law and Texas law apply to this contract. I don't have to pay interest or other amounts that are more than the law allows.

Any change to this agreement has to be in writing. Both you and I have to sign it. You can mail any notice to me at my last address in your records. Your duty to give me notice will be satisfied when you mail it.

For questions or complaints about this loan, contact (insert name of lender) at (insert lender's phone number and, at lender's option, one or more of the following: mailing address, fax number, website, e-mail address). The lender is licensed and examined under Texas law by the Office of Consumer Credit Commissioner (OCCC), a state agency. If a complaint or question cannot be resolved by contacting the lender, consumers can contact the OCCC to file a complaint or ask a general credit-related question. OCCC address: 2601 N. Lamar Blvd., Austin, Texas 78705. Phone: (800) 538-1579. Fax: (512) 936-7610. Website: [occc.texas.gov](http://occc.texas.gov). E-mail: [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov). [This lender is licensed and examined by the State of Texas Office of Consumer Credit Commissioner. Call the Consumer Credit Hotline or write for credit information or assistance with credit problems: Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705-4207, [www.occc.state.tx.us](http://www.occc.state.tx.us), (800) 538-1579.]

X \_\_\_\_\_  
Borrower

X \_\_\_\_\_  
Co-Borrower

Recibí un resumen del contrato en español. \_\_\_\_\_  
*I received a summary of the contract in Spanish.*

[Reciba la Forma Informa de Prestamo \_\_\_\_\_]  
*[I received the Spanish Disclosure.]*

# New Figure: 7 TAC §90.304(a)(8) (342-F Scheduled Installment Earnings Note)

## CONSUMER CREDIT DISCLOSURE – PROMISSORY NOTE

ACCOUNT / CONTRACT NO. \_\_\_\_\_ DATE OF NOTE \_\_\_\_\_  
 CREDITOR / LENDER \_\_\_\_\_ BORROWER \_\_\_\_\_  
 ADDRESS \_\_\_\_\_ ADDRESS \_\_\_\_\_

"I" and "me" means each person who signs as a Borrower. "You" means the Lender.

<b>ANNUAL PERCENTAGE RATE</b> The cost of my credit as a yearly rate.  %	<b>FINANCE CHARGE</b> The dollar amount the credit will cost me.  \$	Amount Financed The amount of credit provided to me or on my behalf.  \$	Total of Payments The amount I will have paid after I have made all payments as scheduled.  \$
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My Payment Schedule will be:

Number of Payments	Amount of Payments	When Payments Are Due

Security: You will have a security interest in the following described collateral \_\_\_\_\_.

Late Charge: If any part of a payment is unpaid for 10 days after it is due, (Option 1:) the late charge will be 5% of the scheduled payment. OR (Option 2:) you can charge me a late charge. If the amount financed is less than \$100, the late charge will be 5% of the amount of the installment. If the amount financed is \$100 or more, the late charge will be the greater of \$10 or 5% of the amount of the installment.

Prepayment: If I pay off early, I may be entitled to a refund of part of the finance charge and I will not have to pay a penalty.

Additional Information: See the contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

ITEMIZATION OF THE FINANCE CHARGE	
Acquisition Charge.....	\$ _____
Interest Charge (Installment Account Handling Charge)...	\$ _____

ITEMIZATION OF THE AMOUNT FINANCED	
Previous Account.....# _____	_____
Late Charge on Previous Account.....	\$ _____
Previous Balance.....	\$ _____
Less Refund.....	\$ _____
Net Balance Renewed.....	\$ _____
Cash to me.....	\$ _____
Amount Financed.....	\$ _____

I promise to pay the Total of Payments to the order of you, the Lender. I will make the payments at your address above. I will make the payments on the dates and in the amounts shown in the Payment Schedule. I can make a whole payment early.

The annual rate of interest is \_\_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. You figure the interest charge (also called the installment account handling charge) by applying the scheduled installment earnings method as defined by the Texas Finance Code to the unpaid principal balance. At the start of the loan, the unpaid principal balance equals the Amount Financed. The unpaid principal balance does not include the acquisition charge, the interest charge, late charges, charges to extend a payment, or returned check fees. You calculate the Finance Charge and Total of Payments as if I will make each payment on the day it is due. You will apply each of my payments in this order: (1) part of the acquisition charge (figured on a straight-line basis under Finance Commission rules), (2) late charges, (3) returned check fees, (4) accrued interest, and (5) the unpaid principal balance. If I pay off the loan in full early, I may save part of the interest charge. However, you can still collect the unpaid acquisition charge, and the acquisition charge will not be refunded. You don't have to refund or credit any amount less than \$1.00.

If I don't pay all of the payment within 10 days after it is due, you can charge me a late charge. (Option 1:) The late charge will be 5% of the scheduled payment. OR (Option 2:) If the amount financed is less than \$100, the late charge will be 5% of the amount of the installment. If the amount financed is \$100 or more, the late charge will be the greater of \$10 or 5% of the amount of the installment. If I don't pay all I owe by the date the final payment becomes due, I will pay interest on the amount that is still unpaid. That interest will be at a rate of 18% per year and will begin the day after the final payment becomes due. If I ask for more time to make any payment and you agree, I will pay more interest to extend the payment. The extra interest will be figured under the Finance Commission rules. I agree to pay you a fee of up to \$30 for a returned check. You can add the fee to the amount I owe or collect it separately.

If I break any of my promises in this document, you can demand that I immediately pay all that I owe. You can also do this if you in good faith believe that I am not going to be willing or able to keep all of my promises. I agree that you don't have to give me notice that you are demanding or intend to demand immediate payment of all that I owe.

If I am giving collateral for this loan, I will see the separate security agreement for more information and agreements.

I will keep all of my promises in this document. If there is more than one Borrower, each Borrower agrees to keep all of the promises in the loan document. I promise that all information I gave you is true.

If you don't enforce your rights every time, you can still enforce them later. Federal law and Texas law apply to this contract. I don't have to pay interest or other amounts that are more than the law allows.

Any change to this agreement has to be in writing. Both you and I have to sign it. You can mail any notice to me at my last address in your records. Your duty to give me notice will be satisfied when you mail it.

For questions or complaints about this loan, contact (insert name of lender) at (insert lender's phone number and, at lender's option, one or more of the following: mailing address, fax number, website, e-mail address). The lender is licensed and examined under Texas law by the Office of Consumer Credit Commissioner (OCCC), a state agency. If a complaint or question cannot be resolved by contacting the lender, consumers can contact the OCCC to file a complaint or ask a general credit-related question. OCCC address: 2601 N. Lamar Blvd., Austin, Texas 78705. Phone: (800) 538-1579. Fax: (512) 936-7610. Website: [occc.texas.gov](http://occc.texas.gov). E-mail: [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov).

X \_\_\_\_\_  
Borrower

X \_\_\_\_\_  
Co-Borrower

Recibí un resumen del contrato en español. \_\_\_\_\_  
*I received a summary of the contract in Spanish.*

# New Figure: 7 TAC §90.304(a)(9) (342-F True Daily Earnings Note)

## CONSUMER CREDIT DISCLOSURE – PROMISSORY NOTE

ACCOUNT / CONTRACT NO. \_\_\_\_\_ DATE OF NOTE \_\_\_\_\_  
 CREDITOR / LENDER \_\_\_\_\_ BORROWER \_\_\_\_\_  
 ADDRESS \_\_\_\_\_ ADDRESS \_\_\_\_\_

"I" and "me" means each person who signs as a Borrower. "You" means the Lender.

<b>ANNUAL PERCENTAGE RATE</b> The cost of my credit as a yearly rate.  %	<b>FINANCE CHARGE</b> The dollar amount the credit will cost me.  \$	Amount Financed The amount of credit provided to me or on my behalf.  \$	Total of Payments The amount I will have paid after I have made all payments as scheduled.  \$
My Payment Schedule will be:			
Number of Payments	Amount of Payments	When Payments Are Due	

Security: You will have a security interest in the following described collateral \_\_\_\_\_.

Late Charge: If any part of a payment is unpaid for 10 days after it is due, (Option 1:) the late charge will be 5% of the scheduled payment. OR (Option 2:) you can charge me a late charge. If the amount financed is less than \$100, the late charge will be 5% of the amount of the installment. If the amount financed is \$100 or more, the late charge will be the greater of \$10 or 5% of the amount of the installment.

Prepayment: If I pay off early, I will not have to pay a penalty.

Additional Information: See the contract documents for any additional information about nonpayment, default, and any required repayment in full before the scheduled date.

ITEMIZATION OF THE FINANCE CHARGE	
Acquisition Charge.....	\$ _____
Interest Charge (Installment Account Handling Charge)...	\$ _____

ITEMIZATION OF THE AMOUNT FINANCED	
Previous Account.....#	_____
Late Charge on Previous Account.....	\$ _____
Previous Balance.....	\$ _____
Less Refund.....	\$ _____
Net Balance Renewed.....	\$ _____
Cash to me.....	\$ _____
Amount Financed.....	\$ _____

I promise to pay the unpaid principal balance plus the accrued interest to the order of you, the Lender. I will make the payments at your address above. I will make the payments on the dates and in the amounts shown in the Payment Schedule. I can make any payment early.

The annual rate of interest is \_\_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. You figure the interest charge (also called the installment account handling charge) by applying the true daily earnings method as defined by the Texas Finance Code to the unpaid principal balance. At the start of the loan, the unpaid principal balance equals the Amount Financed. The unpaid principal balance does not include the acquisition charge, the interest charge, late charges, charges to extend a payment, or returned check fees. You calculate the Finance Charge and Total of Payments as if I will make each payment on the day it is due. You will apply payments on the date they are received. This may result in a different Finance Charge or Total of Payments. You will apply each of my payments in this order: (1) part of the acquisition charge (figured on a straight-line basis under Finance Commission rules), (2) late charges, (3) returned check fees, (4) accrued interest, and (5) the unpaid principal balance. If I pay off the loan in full early, you can still collect the unpaid acquisition charge, and the acquisition charge will not be refunded.

If I don't pay all of the payment within 10 days after it is due, you can charge me a late charge. (Option 1:) The late charge will be 5% of the scheduled payment. OR (Option 2:) If the amount financed is less than \$100, the late charge will be 5% of the amount of the installment. If the amount financed is \$100 or more, the late charge will be the greater of \$10 or 5% of the amount of the installment. I agree to pay you a fee of up to \$30 for a returned check. You can add the fee to the amount I owe or collect it separately.

If I break any of my promises in this document, you can demand that I immediately pay all that I owe. You can also do this if you in good faith believe that I am not going to be willing or able to keep all of my promises. I agree that you don't have to give me notice that you are demanding or intend to demand immediate payment of all that I owe.

If I am giving collateral for this loan, I will see the separate security agreement for more information and agreements.

I will keep all of my promises in this document. If there is more than one Borrower, each Borrower agrees to keep all of the promises in the loan document. I promise that all information I gave you is true.

If you don't enforce your rights every time, you can still enforce them later. Federal law and Texas law apply to this contract. I don't have to pay interest or other amounts that are more than the law allows.

Any change to this agreement has to be in writing. Both you and I have to sign it. You can mail any notice to me at my last address in your records. Your duty to give me notice will be satisfied when you mail it.

For questions or complaints about this loan, contact (insert name of lender) at (insert lender's phone number and, at lender's option, one or more of the following: mailing address, fax number, website, e-mail address). The lender is licensed and examined under Texas law by the Office of Consumer Credit Commissioner (OCCC), a state agency. If a complaint or question cannot be resolved by contacting the lender, consumers can contact the OCCC to file a complaint or ask a general credit-related question. OCCC address: 2601 N. Lamar Blvd., Austin, Texas 78705. Phone: (800) 538-1579. Fax: (512) 936-7610. Website: [occc.texas.gov](http://occc.texas.gov). E-mail: [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov).

X \_\_\_\_\_  
Borrower

X \_\_\_\_\_  
Co-Borrower

Recibí un resumen del contrato en español. \_\_\_\_\_  
*I received a summary of the contract in Spanish.*

**New Figure: 7 TAC §90.403(b)(2)(C) (342-G Home Equity Payment Schedule)**

My Payment Schedule will be:

<u>Number of Payments</u>	<u>Amount of Payments</u>	<u>When Payments Are Due</u>

**Amended Figure: 7 TAC §90.403(b)(6)(A) [~~§90.403(b)(8)(A)~~]  
(342-G Home Equity Scheduled Installment Earnings Finance Charge & Refunds)**

"The annual rate of interest is \_\_\_\_%. This interest rate may be different from the Annual Percentage Rate. You figure the Finance Charge by applying the scheduled installment earnings method as defined by the Texas Finance Code to the unpaid cash advance. The unpaid cash advance does not include the administrative fee, late charges, and returned check charges. If I prepay my loan in full before the final payment is due, I will not have to pay a penalty, and I may save a portion of the Finance Charge. I will not be paid a refund if the refund would be less than \$1.00. You base the Finance Charge and Total of Payments as if I will make each payment on the day it is due. My final payment may be larger or smaller than my regular payment.

I have paid any points, administrative fee, or loan origination fee as prepaid interest. The administrative fee is earned at the time the loan is made and is not subject to refund. If I pay the loan in full early, you will refund any prepaid interest that would make the interest rate exceed the maximum rate allowed by law. Any refund will be credited to my account.

Any payment(s) that you accept after the final payment becomes due is not a renewal or extension of this Loan Agreement unless you agree in writing.

You will apply my payments in the following order: (1) interest that is due, (2) principal, (3) any other charges I owe."

**Amended Figure: 7 TAC §90.403(b)(6)(C) [~~§90.403(b)(8)(C)~~]  
(342-G Home Equity True Daily Earnings Finance Charge & Refunds)**

"The annual rate of interest is \_\_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. You figure the Finance Charge by applying the true daily earnings method as defined by the Texas Finance Code to the unpaid portion of the cash advance. You base the Finance Charge and Total of Payments as if I will make each payment on the day it is due. You will apply payments on the date they are received. This may result in a different Finance Charge or Total of Payments. My final payment may be larger or smaller than my regular payment. I may prepay my loan in full early without paying a penalty.

I have paid any points, administrative fee, or loan origination fee as prepaid interest. The administrative fee is earned at the time the loan is made and is not subject to refund. If I pay the loan in full early, you will refund any prepaid interest that would make the interest rate exceed the maximum rate allowed by law. Any refund will be credited to my account.

Any payment(s) that you accept after the final payment becomes due is not a renewal or extension of this Loan Agreement unless you agree in writing.

You will apply my payments as follows: (1) interest that is due, (2) principal, (3) any charges I owe other than principal and interest."

**Amended Figure: 7 TAC §90.404(a)(8) [~~§90.404(a)(7)~~] (342-G Home Equity Note)**

**TEXAS HOME EQUITY NOTE  
(Fixed Rate – Second Lien)**

**THIS IS AN EXTENSION OF CREDIT AS DEFINED BY SECTION 50(a)(6),  
ARTICLE XVI OF THE TEXAS CONSTITUTION.**

CREDITOR/LENDER \_\_\_\_\_  
 CREDITOR/LENDER NMLS ID \_\_\_\_\_  
 LOAN ORIGINATOR \_\_\_\_\_  
 LOAN ORIGINATOR NMLS ID \_\_\_\_\_  
 ADDRESS \_\_\_\_\_

DATE OF NOTE \_\_\_\_\_  
 ACCOUNT/CONTRACT NO. \_\_\_\_\_  
 BORROWER \_\_\_\_\_  
 ADDRESS \_\_\_\_\_

A word like "I" or "me" means each person who signs as a Borrower. A word like "you" or "your" means the Lender or "Note Holder."

The Lender is \_\_\_\_\_. The Lender may sell or transfer this Note. The Lender or anyone who is entitled to receive payments under this Note is called the "Note Holder." You will tell me in writing who is to receive my payments.

<b>ANNUAL PERCENTAGE RATE</b> The cost of my credit as a yearly rate.	<b>FINANCE CHARGE</b> The dollar amount the credit will cost me.	<b>Amount Financed</b> The amount of credit provided to me or on my behalf.	<b>Total of Payments</b> The amount I will have paid after I have made all payments as scheduled.
%	\$	\$	\$

My Payment Schedule will be:

<u>Number of Payments</u>	<u>Amount of Payments</u>	<u>When Payments Are Due</u>

**Security:** You will have a security interest in my homestead.  
**Late Charge:** If any part of a payment is unpaid for 10 days after it is due, I may be charged 5% of the amount of payment.  
**Prepayment:(Scheduled Installment Earnings Method):** If I pay off early, I may be entitled to a refund of part of the Finance Charge. I will not have to pay a penalty. (**True Daily Earnings Method**): If I pay off early, I will not have to pay a penalty.  
**Additional Information:** See the contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

**1. BORROWER'S PROMISE TO PAY**

This loan is an Extension of Credit defined by Section 50(a)(6), Article XVI of the Texas Constitution. Scheduled Installment Earnings Method: I promise to pay the Total of Payments to the order of you. The "principal" or "cash advance" is \$\_\_\_\_\_. This amount plus interest must be paid by \_\_\_\_\_ (maturity date). I will make payments to you at the address above or as you direct. I will make the payments on the dates and in the amounts shown in the Payment Schedule. True Daily Earnings Method: I promise to pay the cash advance plus the accrued interest to the order of you. The "principal" or "cash advance" is \$\_\_\_\_\_. This amount plus interest must be paid by \_\_\_\_\_ (maturity date). I will make payments to you at the address above or as you direct. I will make the payments on the dates and in the amounts shown in the Payment Schedule.

My Payment Schedule will be:

<u>Number of Payments</u>	<u>Amount of Payments</u>	<u>When Payments Are Due</u>

## 2. LATE CHARGE

General Late Charge: If I don't pay all of a payment within 10 days after it is due, you can charge me a late charge. The late charge will be 5% of the scheduled payment. High-Cost Mortgage Loan Late Charge: If I don't pay all of a payment within 15 days after it is due, you can charge me a late charge. The late charge will be 4% of the amount of the payment past due.

## 3. AFTER MATURITY INTEREST

If I don't pay all I owe when the final payment becomes due, I will pay interest on the amount that is still unpaid. That interest will be the higher of the rate of 18% per year or the maximum rate allowed by law. That interest will begin the day after the final payment becomes due.

## 4. PREPAYMENT

Scheduled Installment Earnings Method: I can make a whole payment early. Unless you agree otherwise in writing, I may not skip payments. If I make a payment early, my next payment will still be due as scheduled. True Daily Earnings Method: I can make any payment early. Unless you agree otherwise in writing, I may not skip payments. If I make a payment early, my next payment will still be due as scheduled.

## 5. FINANCE CHARGE AND REFUND METHOD

For contracts using Scheduled Installment Earnings Method - Section 342.301 rate loans: The annual rate of interest is \_\_\_\_%. This interest rate may be different from the Annual Percentage Rate. You figure the Finance Charge by applying the scheduled installment earnings method as defined by the Texas Finance Code to the unpaid cash advance. The unpaid cash advance does not include the administrative fee, late charges, and returned check charges. If I prepay my loan in full before the final payment is due, I will not have to pay a penalty, and I may save a portion of the Finance Charge. I will not be paid a refund if the refund would be less than \$1.00. You base the Finance Charge and Total of Payments as if I will make each payment on the day it is due. My final payment may be larger or smaller than my regular payment.

I have paid any points, administrative fee, or loan origination fee as prepaid interest. The administrative fee is earned at the time the loan is made and is not subject to refund. If I pay the loan in full early, you will refund any prepaid interest that would make the interest rate exceed the maximum rate allowed by law. Any refund will be credited to my account.

Any payment(s) that you accept after the final payment becomes due is not a renewal or extension of this Loan Agreement unless you agree in writing.

You will apply my payments in the following order: (1) interest that is due, (2) principal, (3) any other charges I owe.

For contracts using Scheduled Installment Earnings Method with prepayments option - Section 342.301 rate loans: The annual rate of interest is \_\_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. I may make a full or partial payment early without paying a penalty. My early payments will reduce the principal that I owe. If I make an early partial payment, the due date and amount of my next payment will not change unless you agree in writing.

I have paid any points, administrative fee, or loan origination fee as prepaid interest. The administrative fee is earned at the time the loan is made and is not subject to refund. If I pay the loan in full early, you will refund any prepaid interest that would make the interest rate exceed the maximum rate allowed by law. Any refund will be credited to my account.

Any payment(s) that you accept after the final payment becomes due is not a renewal or extension of this Loan Agreement unless you agree in writing.

You will apply my scheduled payments in the following order: (1) interest that is due, (2) principal, (3) any other charges I owe.

For contracts using True Daily Earnings Method - Section 342.301 rate loans: The annual rate of interest is \_\_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. You figure the Finance Charge by applying the true daily earnings method as defined by the Texas Finance Code to the unpaid portion of the cash advance. You base the Finance Charge and Total of Payments as if I will make each payment on the day it is due. You will apply payments on the date they are received. This may result in a different Finance Charge or Total of Payments. My final payment may be larger or smaller than my regular payment. I may prepay my loan in full early without paying a penalty.

I have paid any points, administrative fee, or loan origination fee as prepaid interest. The administrative fee is earned at the time the loan is made and is not subject to refund. If I pay the loan in full early, you will refund any prepaid interest that would make the interest rate exceed the maximum rate allowed by law. Any refund will be credited to my account.

Any payment(s) that you accept after the final payment becomes due is not a renewal or extension of this Loan Agreement unless you agree in writing.

You will apply my payments as follows: (1) interest that is due, (2) principal, (3) any charges I owe other than principal and interest.

## 6. FEE FOR DISHONORED CHECK

I agree to pay you a fee of up to \$30 for a returned check. You may add the fee to the amount I owe or collect it separately.

## 7. DEFAULT

I will be in default if:

- a. I do not timely make a payment to the person or place you direct;
- b. I break any promise I made in the Loan Agreement;
- c. I allow a lien to be entered against the homestead unless you agree in writing;
- d. I sell, lease, or dispose of the homestead;
- e. I use the homestead for an illegal purpose; or
- f. you believe in good faith I am not going to keep any of my promises.

If there is more than one Borrower, each Borrower agrees to keep all of the promises in the Loan Agreement.



**10. MAILING OF NOTICES TO BORROWER**

You or I may mail or deliver any notice to the address above. You or I may change the notice address by giving written notice. Your duty to give me notice will be satisfied when you mail it by first class mail.

**11. DUE ON SALE CLAUSE, NOTICE OF INTENT TO ACCELERATE, AND NOTICE OF ACCELERATION**

If all or any interest in the homestead is sold or transferred without your prior written consent, you may require immediate payment in full of all that I owe under this Loan Agreement. You will not exercise this option if prohibited by law.

If you exercise this option, you will give me notice of acceleration (i.e., payment of all I owe at once). This notice will give me a period of not less than 21 days from the date of the notice within which I must pay all that I owe under this Loan Agreement. If I fail to pay all that I owe before the end of this period, you may use any remedy allowed by the Loan Agreement.

**12. NO WAIVER OF LENDER'S RIGHTS**

If you don't enforce your rights every time, you can still enforce them later.

**13. COLLECTION EXPENSES**

If you require me to pay all that I owe at once, you will have the right to be paid back by me for all of your costs and expenses in enforcing this Loan Agreement to the extent not prohibited by law, including Section 50(a)(6), Article XVI of the Texas Constitution. These expenses include, for example, reasonable attorneys' fees. I understand that these fees are not for maintaining or servicing this Loan Agreement.

**14. JOINT LIABILITY**

I understand that you may seek payment from only me without first looking to any other Borrower. You can enforce your rights under this Loan Agreement solely against the homestead. This Loan Agreement is made without personal liability against each owner of the homestead and the spouse of each owner unless the owner or spouse obtained this loan by actual fraud.

If this loan is obtained by actual fraud, I will be personally liable for the debt, including a judgment for any deficiency that results from your sale of the homestead for an amount less than is owed under this Loan Agreement.

**15. USURY SAVINGS CLAUSE**

I do not have to pay interest or other amounts that are more than the law allows.

**16. SAVINGS CLAUSE**

If any part of this Loan Agreement is declared invalid, the rest of the Loan Agreement remains valid. If any part of this Loan Agreement conflicts with any law, that law will control. The part of the Loan Agreement that conflicts with any law will be modified to comply with the law. The rest of the Loan Agreement remains valid.

**17. PRIOR AGREEMENTS**

**This written Loan Agreement is the final agreement between you and me and may not be changed by prior, current, or future oral agreements between you and me. There are no oral agreements between you and me relating to this Loan Agreement. Any change to this Loan Agreement must be in writing. Both you and I have to sign written agreements.**

**18. HOMESTEAD IS SUBJECT TO THE LIEN OF THE SECURITY DOCUMENT**

The homestead described above by the property address is subject to the lien of the Security Document. I will see the separate Security Document for more information about my rights and responsibilities.

**19. APPLICATION OF LAW**

Federal law and Texas law apply to this Loan Agreement. The Texas Constitution will be applied to resolve any conflict between the Texas Constitution and any other law.

**20. OCCC [COMPLAINTS AND INQUIRIES] NOTICE**

For questions or complaints about this loan, contact (insert name of lender) at (insert lender's phone number and, at lender's option, one or more of the following: mailing address, fax number, website, e-mail address). The lender is licensed and examined under Texas law by the Office of Consumer Credit Commissioner (OCCC), a state agency. If a complaint or question cannot be resolved by contacting the lender, consumers can contact the OCCC to file a complaint or ask a general credit-related question. OCCC address: 2601 N. Lamar Blvd., Austin, Texas 78705. Phone: (800) 538-1579. Fax: (512) 936-7610. Website: [occc.texas.gov](http://occc.texas.gov). E-mail: [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov).

~~[This lender is licensed and examined by the State of Texas—Office of Consumer Credit Commissioner. Call the Consumer Credit Hotline or write for credit information or assistance with credit problems.]~~

~~[Office of Consumer Credit Commissioner]  
[2601 North Lamar Boulevard, Austin, Texas 78705-4207]  
[[www.occc.state.tx.us](http://www.occc.state.tx.us)]  
[(800) 538-1579]~~

**21. COLLATERAL**

The homestead described above by the property address is subject to the lien of the Security Document.

Do not sign if there are blanks left to be completed in this document. This document must be signed at the office of the Lender, an attorney at law, or a title company.

I must receive a copy of this document after I have signed it. I agree to the terms of this loan agreement.

\_\_\_\_\_(Seal)  
-Borrower

\_\_\_\_\_(Seal)  
-Borrower

\_\_\_\_\_(Seal)  
-Borrower

(Sign Original Only)

(Option for witness signatures)

\_\_\_\_\_(Seal)  
-Borrower

**Amended Figure: 7 TAC §90.404(a)(9) [~~§90.404(a)(8)~~] (342-G Home Equity Security Document)**

NOTICE OF CONFIDENTIALITY RIGHTS: I MAY REMOVE OR STRIKE MY SOCIAL SECURITY NUMBER OR MY DRIVER'S LICENSE NUMBER FROM THIS DOCUMENT BEFORE IT IS FILED IN THE PUBLIC RECORDS.

# TEXAS HOME EQUITY SECURITY DOCUMENT (Second Lien)

This Security Document is not intended to finance Borrower's acquisition of the Property.

**THIS SECURITY DOCUMENT SECURES AN EXTENSION OF CREDIT AS DEFINED BY SECTION 50(a)(6),  
ARTICLE XVI OF THE TEXAS CONSTITUTION.**

**DEFINITIONS**

(A) "Loan Agreement" means the Note, Security Document, deed of trust, any other related document, or any combination of those documents, under which you have extended credit to me.

(B) "Security Document" means this document, which is dated \_\_\_\_\_, together with all Riders to this document.

(C) "I" or "me" means \_\_\_\_\_, the grantor under this Security Document and the person who signed the Note ("Borrower").

(D) "You" means \_\_\_\_\_, the Lender and any holder entitled to receive payments under the Note.  
Your address is \_\_\_\_\_. Your NMLS ID is \_\_\_\_\_. You are the beneficiary under this Security Document.  
The loan originator's name is \_\_\_\_\_. The loan originator's NMLS ID is \_\_\_\_\_.

(E) "Trustee" is \_\_\_\_\_. Trustee's address is \_\_\_\_\_.

(F) "Note" means the promissory Note signed by me and dated \_\_\_\_\_. The Note states that the amount I owe you is \_\_\_\_\_ dollars (U.S. \$\_\_\_\_) plus interest. I have promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than \_\_\_\_\_ (maturity date).

(G) "My Homestead" means the property that is described below under the heading "Transfer of Rights in the Property."

(H) "Extension of Credit" means the debt evidenced by the Note, as defined by Section 50(a)(6), Article XVI of the Texas Constitution and all the documents executed in connection with the debt.

(I) "Riders" means all Riders to this Security Document that I execute. The Riders include (*check box as applicable*):

- Texas Home Equity Condominium Rider
- Texas Home Equity Planned Unit Development Rider
- Other: \_\_\_\_\_

(J) "Applicable Law" means all controlling applicable federal, Texas and local constitutions, statutes, regulations, administrative rules, local ordinances, judicial and administrative orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(K) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on me or My Homestead by a condominium association, homeowners association, or similar organization.

(L) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. The term includes point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(M) "Escrow Items" means those items that are described in Section \_\_\_ of this Security Document.

(N) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than proceeds paid under my insurance) for: (i) damage or destruction of My Homestead; (ii) condemnation or other taking of all or any part of My Homestead; (iii) conveyance instead of condemnation; or (iv) misrepresentations or omissions related to the value or condition of My Homestead.

(O) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note plus (ii) any amounts under this Security Document.

(P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §§2601-2617 [~~§2601-et seq.~~]) and Regulation X (12 C.F.R. Part 1024) [(24 C.F.R. Part 3500)], as [~~they might be~~] amended [~~from time to time~~], or any additional or successor legislation or regulation that governs the same subject

matter. As used in this Security Document, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan Agreement does not qualify as a "federally related mortgage loan" under RESPA.

(Q) "Successor in Interest of me" means any party that has taken title to My Homestead, whether or not that party has assumed my obligations under the Loan Agreement.

(R) "Ground Rents" means amounts I owe if I rented the real property under the buildings covered by this Security Document. Such an arrangement usually takes the form of a long-term "ground lease."

## **SECURED AGREEMENT**

To secure this loan, I give you a security interest in My Homestead including existing and future improvements, easements, fixtures, attachments, replacements and additions to the property, insurance refunds, and proceeds. This security interest is intended to be limited to the homestead property and not other collateral, as required under the Texas Constitution.

## **TRANSFER OF RIGHTS IN THE PROPERTY**

I give to the Trustee, in trust, with power of sale, My Homestead located in \_\_\_\_\_ County at *(Street Address)* *(City)* *(State)* *(Zip Code)* and further described as:

(Legal Description)

The security interest in My Homestead includes existing and future improvements, easements, fixtures, attachments, replacements and additions to the property, insurance refunds, and proceeds. To the extent required by law, the security interest is limited to homestead property. No additional real or personal property secures the Loan Agreement.

This Security Document secures:

- a. repayment of the Note, and all extensions and modifications of the Note; and
- b. the completion of my promises and agreements under the Loan Agreement.

I warrant that I own My Homestead and have the right to grant you an interest in it. I also warrant that My Homestead is free of any lien, except liens that are publicly recorded. I promise that I will generally defend the title to My Homestead. I will be responsible for your losses that result from a conflicting ownership right in My Homestead. Any default under my agreements with you will be a default of this Security Document.

YOU AND I PROMISE:

## **LATE CHARGES AND PREPAYMENT**

I will timely pay the principal, interest, and any other amounts due under the Loan Agreement. I will comply with the requirements of my escrow account under the Loan Agreement. I will make payments in U.S. currency. If any check is returned to you unpaid, you may select the form of future payments including:

- a. cash;
- b. money order;
- c. certified check, bank check, treasurer's check or cashier's check drawn upon an institution whose deposits are federally insured; or
- d. Electronic Funds Transfer.

I will make payments to the location as you direct. You will apply my payments against the loan only when they are received at the designated location. You may change the location for payments if you give me notice.

You may return any partial payment that does not bring the account current. You may accept any payment or partial payment that does not bring the account current without losing your rights to refuse full or partial payments in the future. I will not use any offset or claim against you to relieve me from my duty to make payments under the Loan Agreement.

## **FUNDS FOR ESCROW ITEMS**

I will pay you an amount ("Funds") for:

- a. taxes and assessments and other items that can take priority over your security interest in My Homestead under the Loan Agreement;
- b. leasehold payments or Ground Rents on My Homestead, if any; and
- c. premiums for any insurance you require under the Loan Agreement.

These items are called "Escrow Items." At any time during the term of the Loan Agreement, you may require me to pay Community Association Dues, Fees, and Assessments, if any, as an Escrow Item.

I will promptly give you all notices of amounts to be paid. I will pay you the Funds for Escrow Items unless you, at any time, waive my duty to pay you. Any escrow waiver must be in writing. If you waive my duty to pay you the Funds, I will pay, at your direction, the amounts due for waived Escrow Items. If you require, I will give you receipts showing timely payment. My duty to make Escrow Item payments and to provide receipts is an independent promise in the Loan Agreement.

If you grant me an escrow waiver, you may require me to pay the waived Escrow Items. If I fail to directly pay the waived Escrow Items, you may use any right given to you in the Loan Agreement. You may pay waived Escrow Items and require me to repay you. You may cancel the waiver for Escrow Items at any time by a notice that complies with the Loan Agreement. If you cancel the waiver, I will pay you all Funds that are then required under this Section.

At any time you may collect and hold Funds in an amount:

- a. to permit you to apply the Funds at the time specified under RESPA; and
- b. not to exceed the maximum amount you may require under RESPA.

You will estimate the amount of Funds due on the basis of current data and reasonable estimates of future expenses for Escrow Items or otherwise, according to Applicable Law. The Funds will be held in an institution whose deposits are federally insured (including you, if your deposits are insured) or in any Federal Home Loan Bank.

You will timely pay Escrow Items as required by RESPA. You will not charge me a fee for maintaining or handling my escrow account. You are not required to pay me any interest on the amounts in my escrow account. You will give me an annual accounting of the Funds as required by RESPA. If there is a surplus in my escrow account, you will follow RESPA. If there is a shortage or deficiency, as defined by RESPA, you will notify me, and I will pay you the amount necessary to make up the shortage or deficiency. I will repay the shortage or deficiency in no more than twelve monthly payments. You will promptly return to me any Funds after I have paid the Loan Agreement in full.

## **CHARGES AND LIENS**

I will timely pay all taxes, assessments, charges, and fines relating to My Homestead that can take priority over this Security Document. I also will timely pay leasehold payments or Ground Rents on My Homestead, if any, and Community Association Dues, Fees, and Assessments, if any. If these items are Escrow Items, I will pay them as required by the Loan Agreement. I will promptly satisfy any lien that has priority over this Security Document unless I:

- a. agree in writing to pay the amount secured by the lien in a manner acceptable to you and only so long as I comply with my agreement;
- b. contest the lien in good faith by stopping the enforcement of the lien through legal proceedings (this contest must be satisfactory to you); or
- c. obtain an agreement from the holder of the lien that is satisfactory to you.

If you determine that any part of My Homestead is subject to a lien that can take priority over this Security Document, you may give me a notice identifying the lien. I will satisfy the lien or take one or more of the actions described above in this Section within 10 days of the date of the notice.

## **PROPERTY INSURANCE**

I will insure the current and future improvements to My Homestead against loss by fire, hazards included within the term "extended coverage," and any other hazards including earthquakes and floods, as you may require. I will keep this insurance in the amounts (including deductible levels) and for the periods that you require. You may change these insurance requirements during the term of the Loan Agreement. I have the right to choose an insurance carrier that is acceptable to you. You will exercise your right to disapprove reasonably.

I will pay any fee charged by the Federal Emergency Management Agency for the review of any flood zone determination. You may require me to pay either:

- a. a one-time charge for flood zone determination, certification and tracking services; or
- b. a one-time charge for flood zone determination and certification services; and subsequent charges each time re-mappings or similar changes occur that reasonably might affect the determination or certification.

If I do not keep any required insurance, you may obtain insurance at your option and at my expense. You are not required to purchase any type or amount of insurance. Any insurance you buy will always protect you, but may not protect me, my equity in My Homestead, my contents in My Homestead or protect me from certain hazards or liability. I understand that this insurance may cost significantly more than insurance I can purchase. I will owe you for the cost of any insurance that you buy under this Section. Interest will be charged on this amount at the interest rate used by the Note. The interest will be charged from the date you made the payment. You will give me notice of the amounts I owe under this Section.

You may disapprove any insurance policy or renewal. Any insurance policy must include a standard mortgage clause, and must name you as mortgagee or a loss payee. I will give you all insurance premium receipts and renewal notices, if you request. If I obtain any optional insurance to cover damage or destruction of My Homestead, I will name you as a loss payee. In the event of loss, I will give notice to you and the insurance company. You may file a claim if I do not file one promptly. You will apply insurance proceeds to repair or restore My Homestead unless your interest will be reduced or it will be economically unreasonable to perform the work. You may hold the insurance proceeds until you have had an opportunity to inspect the work and you consider the work to be acceptable. The insurance proceeds may be given in a single payment or multiple payments as the work is completed. You will not pay any interest on the insurance proceeds. If I hire a public adjuster or other third party, I am responsible for the fee. It will not be paid from the insurance proceeds. The insurance proceeds will be applied to the amount I owe if your interest will be reduced or if the work will be economically unreasonable to perform. You will pay me any excess insurance proceeds. You will apply insurance proceeds in the order provided by the Loan Agreement.

If I abandon My Homestead you may file, negotiate, and settle any insurance claim. If the insurance company offers to settle a claim and I do not respond within thirty days to a notice from you, then you may settle the claim. The 30-day period will begin when the notice is given. If I abandon My Homestead, fail to respond to the offer of settlement, or you foreclose on My Homestead, I assign to you:

- a. my rights to any insurance proceeds in an amount not greater than what I owe; and
- b. any of my other rights under insurance policies covering My Homestead.

You may apply the proceeds to repair or restore My Homestead or to the amount that I owe.

## **HOMESTEAD**

I now occupy and use the property secured by this Security Document as my Texas homestead.

## **PRESERVATION, MAINTENANCE, PROTECTION, AND INSPECTION OF THE PROPERTY**

I will not destroy, damage or impair My Homestead, allow it to deteriorate, or commit waste. Whether or not I live in My Homestead, I will maintain it in order to prevent it from deteriorating or decreasing in value due to its condition. I will promptly repair the damage to My Homestead to avoid further deterioration or damage unless you and I agree in writing that it is economically unreasonable. I will be responsible for repairing or restoring My Homestead only if you release the insurance or condemnation proceeds for the damage to or the taking of My Homestead. You may release proceeds for the repairs and restoration in a single payment or in a series of payments as the work is completed. I still am obligated to complete repairs or restoration of My Homestead even if there are not enough proceeds to complete the work. You or your agent may inspect My Homestead. You may inspect the interior of My Homestead with reasonable cause. You will give me notice stating reasonable cause when or before the interior inspection occurs.

## **CONDITIONS CAUSING ACTUAL FRAUD**

I commit actual fraud under Section 50(a)(6)(C), Article XVI of the Texas Constitution if I or any person acting at my direction or with my knowledge or consent:

- a. gives you materially false, misleading, or inaccurate information or statements;
- b. fails to provide material information regarding the loan; or
- c. commits any other action or inaction that is determined to be actual fraud.

Material representations include statements concerning my occupancy of My Homestead as a Texas homestead, the statements and promises contained in any document that I sign in connection with the Loan Agreement, and the execution of an acknowledgment of fair market value of My Homestead as described in the Loan Agreement. If I commit actual fraud I will be in default of the Loan Agreement and may be held personally liable.

## **PROTECTION OF LENDER'S INTEREST IN THE PROPERTY AND RIGHTS UNDER THE SECURITY DOCUMENT**

You may do whatever is reasonable to protect your interest in My Homestead, including protecting or assessing the value of My Homestead, and securing or repairing My Homestead. You may do this when:

- a. I fail to perform the promises and agreements contained in the Loan Agreement;
- b. a legal proceeding might significantly affect your interest in My Homestead or rights under the Loan Agreement (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may have priority over the Loan Agreement or to enforce laws or regulations); or
- c. I abandon My Homestead.

In order to protect your interest in My Homestead, you may:

- a. pay amounts that are secured by a lien on My Homestead which has or will have priority over the Loan Agreement;
- b. appear in court; or
- c. pay reasonable attorneys' fees.

You may enter My Homestead to secure it. To secure My Homestead, you may make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. You have no duty to secure My Homestead. You are not liable for failing to take any action listed in this Section. Any amounts you pay under this Section will become my additional debt secured by the Loan Agreement. These amounts will earn interest at the rate specified in the Loan Agreement. The interest will begin on the date the amounts are paid. You will give me notice requesting payment of these amounts. If the Loan Agreement is on a leasehold, I will comply with the lease.

## **ASSIGNMENT OF MISCELLANEOUS PROCEEDS AND FORFEITURE**

Any Miscellaneous Proceeds will be assigned and paid to you. If My Homestead is damaged, Miscellaneous Proceeds will be applied to restore or repair My Homestead. You will only do this if your interest in My Homestead will not be reduced and if the work will be economically reasonable to perform. You will have the right to hold Miscellaneous Proceeds until you inspect My Homestead to ensure the work has been completed to your satisfaction. You must make the inspection promptly. You may release proceeds for the work in a single payment or in multiple payments as the work is completed. You are not required to pay me any interest on the Miscellaneous Proceeds. The Miscellaneous Proceeds will be applied to the amount I owe if your interest in My Homestead will be reduced or the work will be economically unreasonable to perform. You will pay me any excess Miscellaneous Proceeds. You will apply Miscellaneous Proceeds in the order provided by the Loan Agreement.

You will apply all Miscellaneous Proceeds to the amount I owe in the event of a total taking, destruction, or loss in value of My Homestead. You will apply the Miscellaneous Proceeds even if all payments are current. You will give any excess Miscellaneous Proceeds to me.

A partial loss can include a taking, destruction, or loss in value. In the event of a partial loss, the Miscellaneous Proceeds will be applied in one of two ways:

- a. If the fair market value of My Homestead immediately before the partial loss is less than the amount I owe immediately before the partial loss, then you will apply all Miscellaneous Proceeds to the amount I owe even if all payments are current.
- b. If the fair market value of My Homestead immediately before the partial loss is equal to or greater than the amount I owe immediately before the partial loss, then you will apply Miscellaneous Proceeds to the amount I owe in the following manner:
  1. The amount of Miscellaneous Proceeds multiplied by the result of,
  2. The amount I owe immediately before the partial loss divided by the fair market value of My Homestead immediately before the partial loss.

You and I can agree otherwise in writing. You will give any excess Miscellaneous Proceeds to me.

If I abandon My Homestead you may apply Miscellaneous Proceeds either to restore or repair My Homestead, or to the amount I owe.

Damage to My Homestead caused by a third party may result in a civil proceeding. If you give me notice that the third party offers to settle a claim for damages to My Homestead and I fail to respond to you within thirty days, you may accept the offer and apply the Miscellaneous Proceeds either to restore or repair My Homestead or to the amount I owe. If the proceeding results in an award of damages, you will apply the Miscellaneous Proceeds according to this Section.

#### **FORBEARANCE NOT A WAIVER**

My successors and I will not be released from liability if you extend the time for payment or modify the payment schedule. If I pay late, you will not have to sue me or my successor to require timely future payments. You may refuse to (1) extend time for payment or (2) modify this Loan Agreement even if I request it. If you do not enforce your rights every time, you may enforce them later.

#### **JOINT AND SEVERAL LIABILITY, SECURITY DOCUMENT EXECUTION, SUCCESSORS OBLIGATED**

I understand that you may seek payment from me without first looking to any other person who signed the Note. Any person who signs this Security Document, but not the Note:

- a. has no duty to pay the sums secured by this Security Document;
- b. is not a surety or guarantor;
- c. only grants the person's interest in My Homestead under the terms of this Security Document; and
- d. grants the person's interest in My Homestead to comply with the requirements of Section 50(a)(6)(A), Article XVI of the Texas Constitution.

The lien against My Homestead is a voluntary lien and is a written agreement that shows the consent of each owner and each owner's spouse. You and I may extend, modify, or make any arrangements with respect to the terms of the Loan Agreement. Upon your approval, my successor who assumes my duties in writing will receive all of my rights and benefits under the Loan Agreement. I still will be responsible under the Loan Agreement unless you release me in writing. The Loan Agreement will extend to your assigns or successors.

#### **EXTENSION OF CREDIT CHARGES**

If an Applicable Law that sets a maximum charge is finally interpreted so that the interest, loan charges, or fees collected or to be collected with the Loan Agreement exceed the permitted amount, then you will:

- a. reduce the amount to the amount permitted; or
- b. refund the excessive amount to me.

You may choose to apply this refund to the amount I owe or pay it directly to me. If you apply the refund to the amount I owe, the refund will be treated as a partial prepayment.

If I default, you will be able to charge me reasonable fees paid to an attorney who is not your employee to protect your interest in My Homestead.

#### **DELIVERY OF NOTICES**

Under the Loan Agreement, you and I will give notices to each other in writing. Any notice under the Loan Agreement will be considered given to me when it is mailed by first class mail or when actually delivered to me at my address if given by another means. You will give notice to My Homestead address unless I provide you a different address. I will notify you promptly of any change of address. I will comply with any reasonable procedure for giving a change of address that you provide. There will only be one address for notice under the Loan Agreement. Notice to me will be considered notice to all persons who are obligated under the Loan Agreement unless Applicable Law requires a separate notice. I may give you notice by delivering or mailing it by first class mail to the address provided by you, unless you require a different procedure. You, however, will not receive notice under the Loan Agreement until you actually receive it. Legal requirements governing notices subject to the Loan Agreement will prevail over conditions in the Loan Agreement.

#### **GOVERNING LAW AND SEVERABILITY**

The Loan Agreement will be governed by Texas law and federal law. If any provision in the Loan Agreement conflicts with any legal requirement, all non-conflicting provisions will remain effective.

#### **RULES OF CONSTRUCTION**

As used in the Loan Agreement:

- a. words in the singular will mean and include the plural and vice versa; and
- b. the word "may" gives sole discretion without imposing any duty to take action.

#### **LOAN AGREEMENT COPIES**

At the time the Loan Agreement is made, you will give me copies of all documents I sign.

## **TRANSFER OF INTEREST IN PROPERTY**

"Interest in My Homestead" means any legal or beneficial interest. This term includes those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement (the intent of which is the transfer of title by me at a future date to a purchaser). If any part of My Homestead is sold or transferred without your prior written permission, you may require immediate payment of all I owe. You will not exercise this option if disallowed by Applicable Law. If you accelerate, you will give me notice. The notice of acceleration will allow me at least 21 days from the date the notice is given to pay all I owe. If I fail to timely pay all I owe, you may pursue any remedy allowed by the Loan Agreement without further notice or demand.

## **BORROWER'S RIGHT TO REINSTATE AFTER ACCELERATION**

I have the right to stop you from enforcing the Loan Agreement any time before the earliest of:

- a. 5 days before sale of My Homestead under any power of sale included in the Loan Agreement;
- b. the day required by Applicable Law for the termination of my right to reinstate; or
- c. the entry of a judgment enforcing the Loan Agreement.

I can stop the enforcement of the Loan Agreement and reinstate the Loan Agreement if all the following conditions are met:

- a. You are paid what I owe under the Loan Agreement as if no acceleration had occurred;
- b. I cure any default of any promise or agreement;
- c. You are paid all expenses allowed by Applicable Law, including reasonable attorneys' fees and other fees incurred for the purpose of protecting your interest in My Homestead and rights under the Loan Agreement;
- d. I comply with any reasonable requirement to assure you that your interest in My Homestead will remain intact; and
- e. I comply with any reasonable requirement to assure you that my ability to pay what I owe will remain intact.

You may require me to pay for the reinstatement in one or more of the following forms:

- a. cash;
- b. money order;
- c. certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are federally insured; or
- d. Electronic Funds Transfer.

Upon reinstatement, the Loan Agreement will remain effective as if no acceleration had occurred. However, this right to reinstate will not apply if I sell or transfer any interest in My Homestead without your permission.

## **SALE OF NOTE, CHANGE OF LOAN SERVICER, NOTICE OF GRIEVANCE, LENDER'S RIGHT TO COMPLY**

A full or partial interest in the Loan Agreement can be sold one or more times without prior notice to me. The sale may result in a change of the company servicing or handling the Loan Agreement. The company servicing or handling the Loan Agreement will collect my monthly payment and will comply with other servicing conditions required by the Loan Agreement or Applicable Law. In some cases, the company servicing or handling the Loan Agreement may change even if the Loan Agreement is not sold. If the company servicing or handling the Loan Agreement is changed, I will be given written notice of the change. The notice will state the name and address of the new company, the address to which my payments should be made, and any other information required by RESPA. If a different company services the Loan Agreement, the servicing duties to me will be transferred.

You or I must give notice of any violation of the Loan Agreement to the other and the opportunity to address the alleged violation before starting or joining any legal action. You and I will give each other a reasonable amount of time to address the alleged violation. If the law provides a specified time period that must be given to address a violation, that time period will be a reasonable time for purposes of this paragraph. Any notice of acceleration and opportunity to cure under the Loan Agreement will satisfy the notice and opportunity to address the alleged violation provisions of this Section.

You and I intend to strictly follow the provisions of the Texas Constitution that relate to the Loan Agreement (Section 50(a)(6), Article XVI of the Texas Constitution).

No agreement between you and me or any third party will limit your ability to comply with your duties under the Loan Agreement and the Applicable Law. The Loan Agreement is being made on the condition that you have a reasonable amount of time to correct any violation of Applicable Law. I will notify you of any violation and give you a reasonable amount of time to comply before taking any action. I will cooperate with your reasonable effort to correct the Loan Agreement. You will forfeit all principal and interest as required by Applicable Law if you have:

- a. received my notice;
- b. had a reasonable amount of time to correct the violation; and
- c. failed to correct the violation.

You and I are limiting all agreements so that all current or future interest or fees in connection with this Loan Agreement will not be greater than the highest amount allowed by Applicable Law.

You and I intend to conform the Loan Agreement to the provisions of the Texas Constitution and Texas law. If any promise, payment, duty or provision of the Loan Agreement is in conflict with the Applicable Law, then the promise, payment, duty or provision will be corrected or removed. This correction will be automatic and will not require any amendment or new document. Your right to correct any violation will survive my paying off the Loan Agreement. My right to correct will override any conflicting provision of the Loan Agreement.

Your right-to-comply as provided in this Section will survive the payoff of the Loan Agreement. The provisions of this Section will supersede any inconsistent provision of the Loan Agreement.

## **HAZARDOUS SUBSTANCES**

Hazardous Substances:

- a. "Hazardous Substances" means those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials;
- b. "Environmental Law" means federal laws and laws of the jurisdiction where My Homestead is located that relate to health, safety or environmental protection;
- c. "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and
- d. "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

I will not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in My Homestead. I will not do or allow anyone else to do, anything affecting My Homestead:

- a. that is in violation of any Environmental Law;
- b. that creates an Environmental Condition; or
- c. that, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of My Homestead.

The presence, use, or storage on My Homestead of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and for the maintenance of My Homestead are allowed. This includes Hazardous Substances found in consumer products.

I will promptly give you written notice of:

- a. any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving My Homestead and any Hazardous Substance or Environmental Law of which I have actual knowledge;
- b. any Environmental Condition, including any spilling, leaking, discharge, release or threat of release of any Hazardous Substance; and
- c. any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of My Homestead.

If I learn that, or am notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting My Homestead is necessary, I promptly will take all necessary remedial actions in accordance with Environmental Law. You will have no obligation for an Environmental Cleanup.

## **ACCELERATION AND REMEDIES**

You will give me notice prior to acceleration if I am in default under the Loan Agreement. The notice will specify:

- a. the default;
- b. the action required to cure the default;
- c. a date, not less than 21 days from the date you give me notice, to cure the default; and
- d. that my failure to cure the default on or before the specified date will result in acceleration of all that I owe under the Loan Agreement and sale of My Homestead.

You will inform me of my right to reinstate after acceleration and my right to bring a court action to contest the alleged default or to assert any other defense to the acceleration and sale. If the default is not cured before the specified date, you have the option to require immediate payment in full of all I owe. If you are not paid all I owe, you may sell My Homestead or seek other remedies allowed by Applicable Law without further notice. You may collect your reasonable expenses incurred in seeking the remedies provided in this Section. These expenses may include court costs, attorneys' fees, and costs of title search.

This lien against My Homestead may be foreclosed upon only by a court order. You may, at your option, follow any rules of civil procedure for expedited foreclosure proceedings related to the foreclosure of liens under Section 50(a)(6), Article XVI of the Texas Constitution ("Rules"). The power of sale granted by the Loan Agreement will be exercised according to the Rules. I understand the power of sale is not a confession of judgment or a power of attorney to confess judgment or an appearance by me in a judicial proceeding.

## **POWER OF SALE**

You have a fully enforceable lien on My Homestead. Your remedies for my default include an efficient means of foreclosure under the law. You and the Trustee have all powers to conduct a foreclosure except as limited by the Texas Supreme Court. If you choose to use the power of sale, you will give me notice of the time, place and terms of the sale by posting and filing notice at least 21 days before the sale as provided by law. You will give me notice by mail as required by law. The sale will be conducted at a public place. The sale will be held:

- a. on the first Tuesday of a month;
- b. at a time stated in the notice or no later than 3 hours after the time; and
- c. between 10:00 a.m. and 4:00 p.m.

I allow the Trustee to sell My Homestead to the highest bidder for cash in one or more parcels and in any order the Trustee determines. You may purchase My Homestead at any sale. The Rules will prevail in a conflict between the procedures and the Rules. If a conflict arises, the conflicting provision will be corrected in order to comply.

Trustee will give a Trustee's deed to the foreclosure sale purchaser. A Trustee's deed will convey:

- a. good title to My Homestead that cannot be defeated; and
- b. title with promises of general warranty from me.

I will defend the purchaser's title to My Homestead against all claims and demands. The description of facts contained in the Trustee's deed will be sufficient to legally prove the truth of the statements made in the deed. Trustee will apply the proceeds of the sale in the following order:

- a. to all expenses of the sale, including court costs and reasonable Trustee's and attorneys' fees;
- b. what I owe; and
- c. any excess to the person or persons legally entitled to it.

If My Homestead is sold through a foreclosure sale governed by this Section, I or any person in possession of My Homestead through me, will give up possession of My Homestead without delay. A person who does not give up possession is a holdover and may be removed by a court order.

#### **RELEASE**

You will cancel and return the Note to me and give me, in recordable form, a release of lien securing the Loan Agreement or a copy of any endorsement of the Note and assignment of the lien to a lender that is refinancing the Loan Agreement. I will pay only the cost of recording the release of lien. My acceptance of the release or endorsement and assignment will end all of your duties under Section 50(a)(6), Article XVI of the Texas Constitution.

#### **NON-RECOURSE LIABILITY**

You are entitled to all rights, superior title, liens and equities owned or claimed by any grantor or holder of any liens and debts due before the signing of the Loan Agreement. You are entitled to these rights whether you acquire the liens or debts by assignment or the holder releases them upon payment.

Each person who signs the Security Document is responsible for each promise and duty in the Security Document, subject to limitation of personal liability described below. The Texas Constitution provides that the Loan Agreement is given without personal liability against each owner of My Homestead and the spouse of each owner. Personal liability may be obtained if the Loan Agreement was obtained by actual fraud. This means that, unless actual fraud is found by a court, you are only able to enforce your rights under the Loan Agreement against My Homestead. You are not able to seek personal liability against the owner of My Homestead or the spouse of an owner. If the Loan Agreement is obtained by actual fraud, then I will be personally liable for the payment of any amounts due under the Loan Agreement. This means that a personal judgment could be obtained against me for a deficiency as a result of a foreclosure sale of My Homestead. A personal judgment would subject my other assets for the payment of the debt.

Unless prohibited by the Texas Constitution, this Section will not:

- a. impair in any way the Loan Agreement or your right to collect all that I owe under the Loan Agreement;
- b. affect your right to any promise or condition of the Loan Agreement.

#### **PROCEEDS**

I am not required to apply the proceeds of the Loan Agreement to repay another debt except a debt secured by My Homestead or a debt to another lender.

#### **NO ASSIGNMENT OF WAGES**

I have not assigned wages as security for the Loan Agreement.

#### **ACKNOWLEDGMENT OF FAIR MARKET VALUE**

You and I agreed in writing to the fair market value of My Homestead on the date of the Loan Agreement.

#### **TRUSTEES AND TRUSTEE LIABILITY**

One or more Trustees acting alone or together may exercise or perform all rights, remedies and duties of the Trustee under the Loan Agreement. You may remove or change any Trustee (e.g., add one or more Trustees or appoint a successor Trustee to any Trustee). This removal or change of Trustee must be in writing and may be:

- a. at your option;
- b. with or without cause; and
- c. by power of attorney or otherwise.

The substitute, additional or successor Trustee will receive, without any further act, the title, rights, remedies, powers and duties under the Loan Agreement and Applicable Law.

Trustee may rely, without liability, upon any notice, request, consent, demand, statement or other document reasonably believed by Trustee to be valid. Trustee will not be liable for any act or omission unless the act or omission is willful.

#### **WAIVER OF ADDITIONAL COLLATERAL**

I agree that you waive all terms in any of your current or future loan documentation that:

- a. creates a default of the Loan Agreement by a default of another obligation that is not secured by My Homestead;

- b. provides for collateral other than My Homestead (including cross collateralization or dragnet provisions);
- c. creates personal liability for me for the Loan Agreement (unless this loan was obtained by actual fraud); or
- d. creates a personal guaranty.

**DEFAULT**

Any default of my agreements with you will be a default of this Security Document.

BY SIGNING BELOW, I accept and agree to the terms and promises contained in the Loan Agreement and in any Rider I sign which is recorded with it. (DO NOT SIGN IF THERE ARE BLANKS LEFT TO BE COMPLETED IN THIS DOCUMENT. THIS DOCUMENT MUST BE SIGNED AT THE OFFICE OF THE LENDER, AN ATTORNEY AT LAW OR A TITLE COMPANY. I MUST RECEIVE A COPY OF ANY DOCUMENT I SIGN.)

I MAY, WITHIN 3 DAYS AFTER CLOSING, RESCIND THE LOAN AGREEMENT WITHOUT PENALTY OR CHARGE.

\_\_\_\_\_  
-Borrower

Printed Name: \_\_\_\_\_  
(Please Complete)

\_\_\_\_\_

\_\_\_\_\_(seal)

\_\_\_\_\_(seal)  
-Borrower

\_\_\_\_\_(seal)  
-Borrower

\_\_\_\_\_(seal)  
-Borrower

(Acknowledgment on following page)

**New Figure: 7 TAC §90.503(b)(2)(C) (342-G Purchase Money Payment Schedule)**

My Payment Schedule will be:

<u>Number of Payments</u>	<u>Amount of Payments</u>	<u>When Payments Are Due</u>

**Figure: 7 TAC §90.503(b)(6)(A) [~~§90.503(b)(8)(A)~~]  
(342-G Purchase Money Scheduled Installment Earnings Finance Charge & Refund)**

"The annual rate of interest is \_\_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. You figure the Finance Charge by applying the scheduled installment earnings method as defined by the Texas Finance Code to the unpaid cash advance. The unpaid cash advance does not include the administrative fee, late charges, and returned check charges. If I prepay my loan in full before the final payment is due, I will not have to pay a penalty, and I may save a portion of the Finance Charge. I will not be paid a refund if the refund would be less than \$1.00. You base the Finance Charge and Total of Payments as if I will make each payment on the day it is due. My final payment may be larger or smaller than my regular payment.

I have paid any points, administrative fee, or loan origination fee as prepaid interest. The administrative fee is earned at the time the loan is made and is not subject to refund. If I pay the loan in full early, you will refund any prepaid interest that would make the interest rate exceed the maximum rate allowed by law. Any refund will be credited to my account.

Any payment(s) that you accept after the final payment becomes due is not a renewal or extension of this Loan Agreement unless you agree in writing.

You will apply my payments in the following order: (1) interest that is due, (2) principal, (3) any other charges I owe."

**Figure: 7 TAC §90.503(b)(6)(C) [~~§90.503(b)(8)(C)~~]  
(342-G Purchase Money True Daily Earnings Finance Charge & Refund)**

"The annual rate of interest is \_\_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. You figure the Finance Charge by applying the true daily earnings method as defined by the Texas Finance Code to the unpaid portion of the cash advance. The unpaid cash advance does not include the administrative fee and returned check charges. You base the Finance Charge and Total of Payments as if I will make each payment on the day it is due. You will apply payments on the date they are received. This may result in a different Finance Charge or Total of Payments. My final payment may be larger or smaller than my regular payment. I may prepay my loan in full early without paying a penalty.

I have paid any points, administrative fee, or loan origination fee as prepaid interest. The administrative fee is earned at the time the loan is made and is not subject to refund. If I pay the loan in full early, you will refund any prepaid interest that would make the interest rate exceed the maximum rate allowed by law. Any refund will be credited to my account.

Any payment(s) that you accept after the final payment becomes due is not a renewal or extension of this Loan Agreement unless you agree in writing.

You will apply my payments as follows: (1) interest that is due, (2) principal, (3) any other charges I owe."

**Amended Figure: 7 TAC §90.504(a)(8) [~~§90.504(a)(7)~~] (342-G Purchase Money Note)**

**PURCHASE MONEY NOTE  
(Fixed Rate – Second Lien)**

CREDITOR/LENDER \_\_\_\_\_  
 CREDITOR/LENDER NMLS ID \_\_\_\_\_  
 LOAN ORIGINATOR \_\_\_\_\_  
 LOAN ORIGINATOR NMLS ID \_\_\_\_\_  
 ADDRESS \_\_\_\_\_  
 \_\_\_\_\_

DATE OF NOTE \_\_\_\_\_  
 ACCOUNT/CONTRACT NO. \_\_\_\_\_  
 BORROWER \_\_\_\_\_  
 ADDRESS \_\_\_\_\_  
 \_\_\_\_\_

PROPERTY ADDRESS: \_\_\_\_\_

A word like "I" or "me" means each person who signs as a Borrower. A word like "you" or "your" means the Lender or "Note Holder."

The Lender is \_\_\_\_\_. The Lender may sell or transfer this Note. The Lender or anyone who is entitled to receive payments under this Note is called the "Note Holder." You will tell me in writing who is to receive my payments.

<b>ANNUAL PERCENTAGE RATE</b> The cost of my credit as a yearly rate.	<b>FINANCE CHARGE</b> The dollar amount the credit will cost me.	<b>Amount Financed</b> The amount of credit provided to me or on my behalf.	<b>Total of Payments</b> The amount I will have paid after I have made all payments as scheduled.
%	\$	\$	\$

**My Payment Schedule will be:**

<u>Number of Payments</u>	<u>Amount of Payments</u>	<u>When Payments Are Due</u>

**Security:** You will have a security interest in my homestead.  
**Late Charge:** If any part of a payment is unpaid for 10 days after it is due, I may be charged 5% of the amount of payment.  
**Prepayment:(Scheduled Installment Earnings Method):** If I pay off early, I may be entitled to a refund of part of the Finance Charge. I will not have to pay a penalty. **(True Daily Earnings Method):** If I pay off early, I will not have to pay a penalty.  
**Additional Information:** See the contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

**1. BORROWER'S PROMISE TO PAY**

**Scheduled Installment Earnings Method:** I promise to pay the Total of Payments to the order of you. The "principal" or "cash advance" is \$ \_\_\_\_\_. This amount plus interest must be paid by \_\_\_\_\_ (maturity date). I will make payments to you at the address above or as you direct. I will make the payments on the dates and in the amounts shown in the Payment Schedule. **True Daily Earnings Method:** I promise to pay the cash advance plus the accrued interest to the order of you. The "principal" or "cash advance" is \$ \_\_\_\_\_. This amount plus interest must be paid by \_\_\_\_\_ (maturity date). I will make payments to you at the address above or as you direct. I will make the payments on the dates and in the amounts shown in the Payment Schedule.

**My Payment Schedule will be:**

<u>Number of Payments</u>	<u>Amount of Payments</u>	<u>When Payments Are Due</u>

**2. LATE CHARGE**

**General Late Charge:** If I don't pay all of a payment within 10 days after it is due, you can charge me a late charge. The late charge will be 5% of the scheduled payment. **High-Cost Mortgage Loan Late Charge:** If I don't pay all of a payment within 15 days after it is due, you can charge me a late charge. The late charge will be 4% of the amount of the payment past due.

### 3. AFTER MATURITY INTEREST

If I don't pay all I owe when the final payment becomes due, I will pay interest on the amount that is still unpaid. That interest will be the higher of the rate of 18% per year or the maximum rate allowed by law. That interest will begin the day after the final payment becomes due.

### 4. PREPAYMENT

Scheduled Installment Earnings Method: I can make a whole payment early. Unless you agree otherwise in writing, I may not skip payments. If I make a payment early, my next payment will still be due as scheduled. True Daily Earnings Method: I can make any payment early. Unless you agree otherwise in writing, I may not skip payments. If I make a payment early, my next payment will still be due as scheduled.

### 5. FINANCE CHARGE AND REFUND METHOD

For contracts using Scheduled Installment Earnings Method - Section 342.301 rate loans: The annual rate of interest is \_\_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. You figure the Finance Charge by applying the scheduled installment earnings method as defined by the Texas Finance Code to the unpaid cash advance. The unpaid cash advance does not include the administrative fee, late charges, and returned check charges. If I prepay my loan in full before the final payment is due, I will not have to pay a penalty, and I may save a portion of the Finance Charge. I will not be paid a refund if the refund would be less than \$1.00. You base the Finance Charge and Total of Payments as if I will make each payment on the day it is due. My final payment may be larger or smaller than my regular payment.

I have paid any points, administrative fee, or loan origination fee as prepaid interest. The administrative fee is earned at the time the loan is made and is not subject to refund. If I pay the loan in full early, you will refund any prepaid interest that would make the interest rate exceed the maximum rate allowed by law. Any refund will be credited to my account.

Any payment(s) that you accept after the final payment becomes due is not a renewal or extension of this Loan Agreement unless you agree in writing.

You will apply my payments in the following order: (1) interest that is due, (2) principal, (3) any other charges I owe.

For contracts using Scheduled Installment Earnings Method with prepayments option - Section 342.301 rate loans: The annual rate of interest is \_\_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. You figure the Finance Charge by applying the scheduled installment earnings method as defined by the Texas Finance Code to the unpaid cash advance. I may make a full or partial payment early without paying a penalty. My early payments will reduce the principal that I owe. The unpaid cash advance does not include the administrative fee, late charges, or returned check charges. If I make an early partial payment, the due date and amount of my next payment will not change unless you agree in writing.

I have paid any points, administrative fee, or loan origination fee as prepaid interest. The administrative fee is earned at the time the loan is made and is not subject to refund. If I pay the loan in full early, you will refund any prepaid interest that would make the interest rate exceed the maximum rate allowed by law. Any refund will be credited to my account.

Any payment(s) that you accept after the final payment becomes due is not a renewal or extension of this Loan Agreement unless you agree in writing.

You will apply my scheduled payments in the following order: (1) interest that is due, (2) principal, (3) any other charges I owe.

For contracts using True Daily Earnings Method - Section 342.301 rate loans: The annual rate of interest is \_\_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. You figure the Finance Charge by applying the true daily earnings method as defined by the Texas Finance Code to the unpaid portion of the cash advance. The unpaid cash advance does not include the administrative fee and returned check charges. You base the Finance Charge and Total of Payments as if I will make each payment on the day it is due. You will apply payments on the date they are received. This may result in a different Finance Charge or Total of Payments. My final payment may be larger or smaller than my regular payment. I may prepay my loan in full early without paying a penalty.

I have paid any points, administrative fee, or loan origination fee as prepaid interest. The administrative fee is earned at the time the loan is made and is not subject to refund. If I pay the loan in full early, you will refund any prepaid interest that would make the interest rate exceed the maximum rate allowed by law. Any refund will be credited to my account.

Any payment(s) that you accept after the final payment becomes due is not a renewal or extension of this Loan Agreement unless you agree in writing.

You will apply my payments as follows: (1) interest that is due, (2) principal, (3) any other charges I owe.

### 6. FEE FOR DISHONORED CHECK

I agree to pay you a fee of up to \$30 for a returned check. You may add the fee to the amount I owe or collect it separately.

### 7. DEFAULT

I will be in default if:

- a. I do not timely make a payment to the person or place you direct;
- b. I break any promise I made in the Loan Agreement;
- c. I allow a lien to be entered against the Property unless you agree in writing;
- d. I sell, lease, or dispose of the Property;
- e. I use the Property for an illegal purpose; or
- f. you believe in good faith I am not going to keep any of my promises.

If there is more than one Borrower, each Borrower agrees to keep all of the promises in the Loan Agreement.

If I am in default, you will send me a written notice telling me how to cure the default. You must give me at least 21 days after the date on which the notice is mailed or delivered to cure the default. You may not demand that I pay the loan in full solely because I default under any debt not secured by the Property.

**8. PROPERTY INSURANCE**

**PROPERTY INSURANCE: I must keep the Property insured against damage or loss in at least the amount I owe. I may obtain property insurance from anyone I want or provide proof of insurance I already have. The insurer must be authorized to do business in Texas.**

**If this box is checked, the premium is not fixed or approved by the Texas Department of Insurance.**

I agree to give you proof of property insurance. I must name you as the person to be paid under the policy in the event of damage or loss. If I obtain the insurance through you, I will pay the premium shown below. However, I have 5 days from the date of this loan to furnish like (equivalent) coverage from another source. If I fail to meet any of these requirements, you may obtain collateral protection insurance at my expense. You will insure the Property for the lesser amount of the value of the Property or the amount of the debt. If you obtain collateral protection insurance, you will mail notice to my last known address.

Property Insurance                      \$ \_\_\_\_\_                      Term \_\_\_\_\_

**9. CREDIT INSURANCE**

Credit insurance is optional. Credit life insurance and credit disability insurance are not required to obtain credit. This insurance will not be provided unless I sign and agree to pay the extra cost. I will look to the insurance policy or certificate for the terms and description of benefits, exclusions, and premium rates.

Single Premium

Credit Life, one borrower            \$ \_\_\_\_\_            Credit Life, both borrowers            \$ \_\_\_\_\_            Term \_\_\_\_\_  
 Credit Disability, one borrower    \$ \_\_\_\_\_            Credit Disability, both borrowers    \$ \_\_\_\_\_            Term \_\_\_\_\_

**If this box is marked, the premium for the insurance coverage(s) above is not fixed or approved by the Texas Insurance Commissioner.**

I want the insurance above.

Borrower's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Co-Borrower's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Monthly Premium

If I want credit life or credit disability insurance, I must sign below and pay the monthly premium. The monthly premium will be added to the monthly loan payment. If I do not pay the monthly premium, I will not have the insurance coverage.

I request the following insurance:

			_____	_____
			Borrower's Signature	Date
Premium Due with				
the First Month's	First Year	Insurance		
<u>Loan Payment</u>	<u>Premium</u>	<u>Type:</u>		
\$	\$			
\$	\$			
\$	\$			
			_____	_____
			Co-Borrower's Signature	Date

The first year's premiums are based on an assumption that monthly loan payments are timely made. All unpaid premiums are due at the time of the final payment. The insurance may be canceled if I do not pay the premiums.\*\* I may cancel any of the optional insurance products offered at any time. The optional insurance will be canceled upon the earliest of the following occurrences:

- (1) your receipt of my written request for cancellation;
- (2) cancellation under the insurance certificate or policy;
- (3) payment in full of my loan; or
- (4) my death.

\*\*Optional language: The insurance will cancel on the date when the total past due premiums equal or exceed (insert number) times the first month's premium.

**10. MAILING OF NOTICES TO BORROWER**

You or I may mail or deliver any notice to the address above. You or I may change the notice address by giving written notice. Your duty to give me notice will be satisfied when you mail it.

**11. DUE ON SALE CLAUSE, NOTICE OF INTENT TO ACCELERATE, AND NOTICE OF ACCELERATION**

If all or any interest in the Property is sold or transferred without your prior written consent, you may require immediate payment in full of all that I owe under this Loan Agreement. You will not exercise this option if prohibited by law.

If you exercise this option, you will give me notice that you are demanding immediate payment of all that I owe. This notice will give me a period of not less than 21 days from the date of the notice within which I must pay all that I owe under this Loan Agreement. If I fail to pay all that I owe before the end of this period, you may use any remedy allowed by the Loan Agreement.

**12. NO WAIVER OF LENDER'S RIGHTS**

If you don't enforce your rights every time, you can still enforce them later.

**13. COLLECTION EXPENSES**

If you require me to pay all that I owe at once, you will have the right to be paid back by me for all of your costs and expenses in enforcing this Loan Agreement to the extent not prohibited by Applicable Law. These expenses include, for example, reasonable attorneys' fees.

**14. JOINT LIABILITY**

I understand that you may seek payment from only me without first looking to any other Borrower.

**15. USURY SAVINGS CLAUSE**

I do not have to pay interest or other amounts that are more than Applicable Law allows.

**16. SAVINGS CLAUSE**

If any part of this Loan Agreement is declared invalid, the rest of the Loan Agreement remains valid. If any part of this Loan Agreement conflicts with any law, that law will control. The part of the Loan Agreement that conflicts with any law will be modified to comply with the law. The rest of the Loan Agreement remains valid.

**17. PRIOR AGREEMENTS**

**This written Loan Agreement is the final agreement between you and me and may not be changed by prior, current, or future oral agreements between you and me. There are no oral agreements between you and me relating to this Loan Agreement. Any change to this Loan Agreement must be in writing. Both you and I have to sign written agreements.**

**18. THIS NOTE SECURED BY A DEED OF TRUST**

In addition to the protections given to the Note Holder under this Note, a Security Document, dated \_\_\_\_\_, protects the Note Holder from possible losses that might result if I do not keep the promises that I make in this Note. The Security Document describes how and under what conditions I may be required to make immediate payment in full of any amounts that I owe under this Note.

**19. APPLICATION OF LAW**

Federal law and Texas law apply to this Loan Agreement.

**20. OCCC [COMPLAINTS AND INQUIRIES] NOTICE**

For questions or complaints about this loan, contact (insert name of lender) at (insert lender's phone number and, at lender's option, one or more of the following: mailing address, fax number, website, e-mail address). The lender is licensed and examined under Texas law by the Office of Consumer Credit Commissioner (OCCC), a state agency. If a complaint or question cannot be resolved by contacting the lender, consumers can contact the OCCC to file a complaint or ask a general credit-related question. OCCC address: 2601 N. Lamar Blvd., Austin, Texas 78705. Phone: (800) 538-1579. Fax: (512) 936-7610. Website: [occc.texas.gov](http://occc.texas.gov). E-mail: [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov).

~~[The (name of Lender or Note Holder) is licensed and examined under the laws of the State of Texas and by state law is subject to regulatory oversight by the Office of Consumer Credit Commissioner. Any consumer wishing to file a complaint against the (name of Lender or Note Holder) should contact the Office of Consumer Credit Commissioner through one of the means indicated below:]~~

[In Person or U.S. Mail: 2601 North Lamar Boulevard, Austin, Texas 78705-4207]  
[Telephone No.: (800) 538-1579]  
[Fax No.: (512) 936-7610]  
[E-mail: [consumer.complaints@occc.state.tx.us](mailto:consumer.complaints@occc.state.tx.us)]  
[Website: [www.occc.state.tx.us](http://www.occc.state.tx.us)]

**21. COLLATERAL**

The collateral described above by the property address is subject to the lien of the Security Document.

Do not sign if there are blanks left to be completed in this document.

I must receive a copy of this document after I have signed it. I agree to the terms of this Loan Agreement.

\_\_\_\_\_(Seal)  
-Borrower  
\_\_\_\_\_(Seal)  
-Borrower

\_\_\_\_\_(Seal)  
-Borrower  
\_\_\_\_\_(Seal)  
-Borrower

(Sign Original Only)

(Option for witness signatures)

**Amended Figure: 7 TAC §90.504(a)(9) [§90.504(a)(8)]  
(342-G Purchase Money Security Document)**

NOTICE OF CONFIDENTIALITY RIGHTS: I MAY REMOVE OR STRIKE MY SOCIAL SECURITY NUMBER OR MY DRIVER'S LICENSE NUMBER FROM THIS DOCUMENT BEFORE IT IS FILED IN THE PUBLIC RECORDS.

## **PURCHASE MONEY SECURITY DOCUMENT (Second Lien)**

### **DEFINITIONS**

(A) "Loan Agreement" means the Note, Security Document, deed of trust, any other related document, or any combination of those documents, under which you have made a loan to me.

(B) "Security Document" means this document, which is dated \_\_\_\_\_, together with all Riders to this document.

(C) "I" or "me" means \_\_\_\_\_, the grantor under this Security Document and the person who signed the Note ("Borrower").

(D) "You" means \_\_\_\_\_, the Lender and any holder entitled to receive payments under the Note. Your address is \_\_\_\_\_. Your NMLS ID is \_\_\_\_\_. You are the beneficiary under this Security Document. The loan originator's name is \_\_\_\_\_. The loan originator's NMLS ID is \_\_\_\_\_.

(E) "Trustee" is \_\_\_\_\_. Trustee's address is \_\_\_\_\_.

(F) "Note" means the Purchase Money Note signed by me and dated \_\_\_\_\_. The Note states that the amount I owe you is \_\_\_\_\_ dollars (U.S. \$\_\_\_\_\_) plus interest. I have promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than \_\_\_\_\_ (maturity date).

(G) "Property" means the real estate that is described below under the heading "Transfer of Rights in the Property."

(H) "Riders" means all Riders to this Security Document that I execute. The Riders include (*check box as applicable*):

- Texas Purchase Money Condominium Rider
- Texas Purchase Money Planned Unit Development Rider
- Other: \_\_\_\_\_

(I) "Applicable Law" means all controlling applicable federal, Texas and state constitutions, statutes, regulations, administrative rules, local ordinances, and judicial and administrative orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on me or the Property by a condominium association, homeowners association, or similar organization.

(K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. The term includes point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(L) "Escrow Items" means those items that are described in Section \_\_\_\_\_ of this Security Document.

(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than proceeds paid under my insurance) for: damage or destruction of the Property; condemnation or other taking of all or any part of the Property; conveyance instead of condemnation; or misrepresentations or omissions related to the value or condition of the Property.

(N) "Periodic Payment" means the regularly scheduled amount due for principal and interest under the Note plus any amounts under this Security Document.

(O) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §§2601-2617 [~~§2601 et seq.~~]) and Regulation X (12 C.F.R. Part 1024) [~~(24 C.F.R. Part 3500)~~], as [~~they might be~~] amended [~~from time to time~~], or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Document, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan Agreement does not qualify as a "federally related mortgage loan" under RESPA.

(P) "Successor in Interest of me" means any party that has taken title to the Property, whether or not that party has assumed my obligations under the Loan Agreement.

(Q) "Ground Rents" means amounts I owe if I rented the real property under the buildings covered by this Security Document. Such an arrangement usually takes the form of a long-term "ground lease."

## SECURED AGREEMENT

To secure this Loan Agreement I give you a security interest in the Property including existing and future improvements, easements, fixtures, attachments, replacements and additions to the Property, insurance refunds, and proceeds.

## TRANSFER OF RIGHTS IN THE PROPERTY

I give to the Trustee, in trust, with power of sale, the Property located in \_\_\_\_\_ County at *(Street Address) (City) (State) (Zip Code)* and further described as:

(Legal Description)

The security interest in the Property includes existing and future improvements, easements, fixtures, attachments, replacements and additions to the Property, insurance refunds, and proceeds.

This Security Document secures:

- a. repayment of the Note, and all extensions and modifications of the Note; and
- b. the completion of my promises and agreements under the Loan Agreement.

I promise that I own the Property and have the right to grant you an interest in it. I also promise that the Property is free of any lien, except liens that are publicly recorded. I promise that I will generally defend the title to the Property. I will be responsible for your losses that result from a conflicting ownership right in the Property. Any default under my agreements with you will be a default of this Security Document.

YOU AND I PROMISE:

## PAYMENT OF LATE CHARGES AND PREPAYMENT

I will timely pay the principal, interest, and any other amounts due under the Loan Agreement. I will comply with the requirements of my escrow account under the Loan Agreement. I will make payments in U.S. currency. If any check is returned to you unpaid, you may select the form of future payments including:

- a. cash;
- b. money order;
- c. certified check, bank check, treasurer's check or cashier's check drawn upon an institution whose deposits are federally insured; or
- d. Electronic Funds Transfer.

I will make payments to the location as you direct. You will apply my payments against the Loan Agreement only when they are received at the designated location. You may change the location for payments if you give me notice.

You may return any partial payment that does not bring the account current. You may accept any payment or partial payment that does not bring the account current without losing your rights to refuse full or partial payments in the future. I will not use any offset or claim against you to relieve me from my duty to make payments under the Loan Agreement.

## FUNDS FOR ESCROW ITEMS

I will pay you an amount ("Funds") for:

- a. taxes and assessments and other items that can take priority over your security interest in the Property under the Loan Agreement;
- b. leasehold payments or Ground Rents on the Property, if any; and
- c. premiums for any insurance you require under the Loan Agreement.

These items are called "Escrow Items." At any time during the term of the Loan Agreement, you may require me to pay Community Association Dues, Fees, and Assessments, if any, as an Escrow Item.

I will promptly give you all notices of amounts to be paid. I will pay you the Funds for Escrow Items unless you, at any time, waive my duty to pay you. Any escrow waiver must be in writing. If you waive my duty to pay you the Funds, I will pay, at your direction, the amounts due for waived Escrow Items. If you require, I will give you receipts showing timely payment. My duty to make Escrow Item payments and to provide receipts is an independent promise in the Loan Agreement.

If you grant me an escrow waiver, you may require me to pay the waived Escrow Items. If I fail to directly pay the waived Escrow Items, you may use any right given to you in the Loan Agreement. You may pay waived Escrow Items and require me to repay you. You may cancel the waiver for Escrow Items at any time by a notice that complies with the Loan Agreement. If you cancel the waiver, I will pay you all Funds that are then required under this Section.

At any time you may collect and hold Funds in an amount:

- a. to permit you to apply the Funds at the time specified under RESPA; and
- b. not to exceed the maximum amount you may require under RESPA.

You will estimate the amount of Funds due on the basis of current data and reasonable estimates of future expenses for Escrow Items or otherwise, according to Applicable Law. The Funds will be held in an institution whose deposits are federally insured (including you, if your deposits are insured) or in any Federal Home Loan Bank.

You will timely pay Escrow Items as required by RESPA. You will not charge me a fee for maintaining or handling my escrow account. You are not required to pay me any interest on the amounts in my escrow account. You will give me an annual accounting of the Funds as required by RESPA. If there is a surplus in my escrow account, you will follow RESPA. If there is a shortage or deficiency, as defined by RESPA, you will notify me, and I will pay you the amount necessary to make up the shortage or deficiency. I will repay the shortage or deficiency in no more than twelve monthly payments. You will promptly return to me any Funds after I have paid the Loan Agreement in full.

## **CHARGES AND LIENS**

I will timely pay all taxes, assessments, charges, and fines relating to the Property that can take priority over this Security Document. I also will timely pay leasehold payments or Ground Rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. If these items are Escrow Items, I will pay them as required by the Loan Agreement. I will promptly satisfy any lien that has priority over this Security Document unless I:

- a. agree in writing to pay the amount secured by the lien in a manner acceptable to you and only so long as I comply with my agreement;
- b. contest the lien in good faith by stopping the enforcement of the lien through legal proceedings (this contest must be satisfactory to you); or
- c. obtain an agreement from the holder of the lien that is satisfactory to you.

If you determine that any part of the Property is subject to a lien that can take priority over this Security Document, you may give me a notice identifying the lien. I will satisfy the lien or take one or more of the actions described above in this Section within 10 days of the date of the notice.

## **PROPERTY INSURANCE**

I will insure the current and future improvements to the Property against loss by fire, hazards included within the term "extended coverage," and any other hazards including earthquakes and floods, as you may require. I will keep this insurance in the amounts (including deductible levels) and for the periods that you require. You may change these insurance requirements during the term of the Loan Agreement. I have the right to choose an insurance carrier that is acceptable to you. You will exercise your right to disapprove reasonably.

I will pay any fee charged by the Federal Emergency Management Agency for the review of any flood zone determination. You may require me to pay either:

- a. a one-time charge for flood zone determination, certification and tracking services; or
- b. a one-time charge for flood zone determination and certification services; and subsequent charges each time re-mappings or similar changes occur that reasonably might affect the determination or certification.

If I do not keep any required insurance, you may obtain insurance at your option and at my expense. You are not required to purchase any type or amount of insurance. Any insurance you buy will always protect you, but may not protect me, my equity in the Property, my contents in the Property or protect me from certain hazards or liability. I understand that this insurance may cost significantly more than insurance I can purchase. I will owe you for the cost of any insurance that you buy under this Section. Interest will be charged on this amount at the interest rate used by the Note. The interest will be charged from the date you made the payment. You will give me notice of the amounts I owe under this Section.

You may disapprove any insurance policy or renewal. Any insurance policy must include a standard mortgage clause, and must name you as mortgagee or a loss payee. I will give you all insurance premium receipts and renewal notices, if you request. If I obtain any optional insurance to cover damage or destruction of the Property, I will name you as a loss payee. In the event of loss, I will give notice to you and the insurance company. You may file a claim if I do not file one promptly. You will apply insurance proceeds to repair or restore the Property unless your interest will be reduced or it will be economically unreasonable to perform the work. You may hold the insurance proceeds until you have had an opportunity to inspect the work and you consider the work to be acceptable. The insurance proceeds may be given in a single payment or multiple payments as the work is completed. You will not pay any interest on the insurance proceeds. If I hire a public adjuster or other third party, I am responsible for the fee. It will not be paid from the insurance proceeds. The insurance proceeds will be applied to the amount I owe if your interest will be reduced or if the work will be economically unreasonable to perform. You will pay me any excess insurance proceeds. You will apply insurance proceeds in the order provided by the Loan Agreement.

If I abandon the Property you may file, negotiate, and settle any insurance claim. If the insurance company offers to settle a claim and I do not respond within thirty days to a notice from you, then you may settle the claim. The 30-day period will begin when the notice is given. If I abandon the Property, fail to respond to the offer of settlement, or you foreclose on the Property, I assign to you:

- a. my rights to any insurance proceeds in an amount not greater than what I owe; and
- b. any of my other rights under insurance policies covering the Property.

You may apply the proceeds to repair or restore the Property or to the amount that I owe.

## **PRESERVATION, MAINTENANCE, PROTECTION, AND INSPECTION OF THE PROPERTY**

I will not destroy, damage or impair the Property, allow it to deteriorate, or commit waste. Whether or not I live in the Property, I will maintain it in order to prevent it from deteriorating or decreasing in value due to its condition. I will promptly repair the damage to the Property to avoid further deterioration or damage unless you and I agree in writing that it is economically unreasonable. I will be responsible for repairing or restoring the Property only if you release the insurance or condemnation proceeds for the damage to or the taking of the Property. You may release proceeds for the repairs and restoration in a single payment or in a series of payments as the work is completed. I still am obligated to complete repairs or restoration of the Property even if there are not enough proceeds to complete the work. If this Security Document secures a unit in a condominium or planned unit development, I will perform all of my obligations under the declaration or covenants creating or governing the condominium or planned unit development, and any other relevant document. You or your agent may inspect the Property. You may inspect the interior of the Property with reasonable cause. You will give me notice stating reasonable cause when or before the interior inspection occurs.

## **PROTECTION OF LENDER'S INTEREST IN THE PROPERTY AND RIGHTS UNDER THE SECURITY DOCUMENT**

You may do whatever is reasonable to protect your interest in the Property, including protecting or assessing the value of the Property, and securing or repairing the Property. You may do this when:

- a. I fail to perform the promises and agreements contained in the Loan Agreement;
- b. a legal proceeding might significantly affect your interest in the Property or rights under the Loan Agreement (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may have priority over the Loan Agreement or to enforce laws or regulations); or
- c. I abandon the Property.

In order to protect your interest in the Property, you may:

- a. pay amounts that are secured by a lien on the Property which has or will have priority over the Loan Agreement;
- b. appear in court; or
- c. pay reasonable attorneys' fees.

You may enter the Property to secure it. To secure the Property, you may make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. You have no duty to secure the Property. You are not liable for failing to take any action listed in this Section. Any amounts you pay under this Section will become my additional debt secured by the Loan Agreement. These amounts will earn interest at the rate specified in the Loan Agreement. The interest will begin on the date the amounts are paid. You will give me notice requesting payment of these amounts. If the Loan Agreement is on a leasehold, I will comply with the lease.

#### **ASSIGNMENT OF MISCELLANEOUS PROCEEDS AND FORFEITURE**

Any Miscellaneous Proceeds will be assigned and paid to you. If the Property is damaged, Miscellaneous Proceeds will be applied to restore or repair the Property. You will only do this if your interest in the Property will not be reduced and if the work will be economically reasonable to perform. You will have the right to hold Miscellaneous Proceeds until you inspect the Property to ensure the work has been completed to your satisfaction. You must make the inspection promptly. You may release proceeds for the work in a single payment or in multiple payments as the work is completed. You are not required to pay me any interest on the Miscellaneous Proceeds. The Miscellaneous Proceeds will be applied to the amount I owe if your interest in the Property will be reduced or the work will be economically unreasonable to perform. You will pay me any excess Miscellaneous Proceeds. You will apply Miscellaneous Proceeds in the order provided by the Loan Agreement.

You will apply all Miscellaneous Proceeds to the amount I owe in the event of a total taking, destruction, or loss in value of the Property. You will apply the Miscellaneous Proceeds even if all payments are current. You will give any excess Miscellaneous Proceeds to me.

A partial loss can include a taking, destruction, or loss in value. In the event of a partial loss, the Miscellaneous Proceeds will be applied in one of two ways:

- a. If the fair market value of the Property immediately before the partial loss is less than the amount I owe immediately before the partial loss, then you will apply all Miscellaneous Proceeds to the amount I owe even if all payments are current.
- b. If the fair market value of the Property immediately before the partial loss is equal to or greater than the amount I owe immediately before the partial loss, then you will apply Miscellaneous Proceeds to the amount I owe in the following manner:
  1. The amount of Miscellaneous Proceeds multiplied by the result of,
  2. The amount I owe immediately before the partial loss divided by the fair market value of the Property immediately before the partial loss.

You and I can agree otherwise in writing. You will give any excess Miscellaneous Proceeds to me.

If I abandon the Property, you may apply Miscellaneous Proceeds either to restore or repair the Property, or to the amount I owe.

Damage to the Property caused by a third party may result in a civil proceeding. If you give me notice that the third party offers to settle a claim for damages to the Property and I fail to respond to you within thirty days, you may accept the offer and apply the Miscellaneous Proceeds either to restore or repair the Property or to the amount I owe. If the proceeding results in an award of damages, you will apply the Miscellaneous Proceeds according to this Section.

#### **FORBEARANCE NOT A WAIVER**

My successors and I will not be released from liability if you extend the time for payment or modify the payment schedule. If I pay late, you will not have to sue me or my successor to require timely future payments. You may refuse to (1) extend time for payment or (2) modify this Loan Agreement even if I request it. If you do not enforce your rights every time, you may enforce them later.

#### **JOINT AND SEVERAL LIABILITY, SECURITY DOCUMENT EXECUTION, SUCCESSORS OBLIGATED**

I understand that you may seek payment from me without first looking to any other person who signed the Note. Any person who signs this Security Document, but not the Note:

- a. has no duty to pay the sums secured by this Security Document;
- b. is not a surety or guarantor; and
- c. only grants the person's interest in the Property under the terms of this Security Document.

The lien against the Property is a voluntary lien and is a written agreement that shows the consent of each owner. You and I may extend, modify, or make any arrangements with respect to the terms of the Loan Agreement. Upon your approval, my successor who assumes my duties in writing will receive all of my rights and benefits under the Loan Agreement. I still will be responsible under the Loan Agreement unless you release me in writing. The Loan Agreement will extend to your assigns or successors.

#### **EXTENSION OF CREDIT CHARGES**

If an Applicable Law that sets a maximum charge is finally interpreted so that the interest, loan charges, or fees collected or to be collected with the Loan Agreement exceed the permitted amount, then you will:

- a. reduce the amount to the amount permitted; or
- b. refund the excessive amount to me.

You may choose to apply this refund to the amount I owe or pay it directly to me. If you apply the refund to the amount I owe, the refund will be treated as a partial prepayment.

If I default, you will be able to charge me reasonable fees paid to an attorney who is not your employee to protect your interest in the Property.

#### **DELIVERY OF NOTICES**

Under the Loan Agreement, you and I will give notices to each other in writing. Any notice under the Loan Agreement will be considered given to me when it is mailed by first class mail or when actually delivered to me at my address if given by another means. You will give notice to the Property address unless I provide you a different address. I will notify you promptly of any change of address. I will comply with any reasonable procedure for giving a change of address that you provide. There will only be one address for notice under the Loan Agreement. Notice to me will be considered notice to all persons who are obligated under the Loan Agreement unless Applicable Law requires a separate notice. I may give you notice by delivering or mailing it by first class mail to the address provided by you, unless you require a different procedure. You, however, will not receive notice under the Loan Agreement until you actually receive it. Legal requirements governing notices subject to the Loan Agreement will prevail over conditions in the Loan Agreement.

#### **GOVERNING LAW AND SEVERABILITY**

The Loan Agreement will be governed by Texas law and federal law. If any provision in the Loan Agreement conflicts with any legal requirement, all non-conflicting provisions will remain effective.

#### **RULES OF CONSTRUCTION**

As used in the Loan Agreement:

- a. words in the singular will mean and include the plural and vice versa; and
- b. the word "may" gives sole discretion without imposing any duty to take action.

#### **LOAN AGREEMENT COPIES**

At the time the Loan Agreement is made, you will give me copies of all documents I sign.

#### **TRANSFER OF INTEREST IN PROPERTY**

"Interest in the Property" means any legal or beneficial interest. This term includes those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement (the intent of which is the transfer of title by me at a future date to a purchaser). If any part of the Property is sold or transferred without your prior written permission, you may require immediate payment of all I owe. You will not exercise this option if disallowed by Applicable Law. If you accelerate, you will give me notice. The notice of acceleration will allow me at least 21 days from the date the notice is given to pay all I owe. If I fail to timely pay all I owe, you may pursue any remedy allowed by the Loan Agreement without further notice or demand.

#### **BORROWER'S RIGHT TO REINSTATE AFTER ACCELERATION**

I have the right to stop you from enforcing the Loan Agreement any time before the earliest of:

- a. 5 days before sale of the Property under any power of sale included in the Loan Agreement;
- b. the day required by Applicable Law for the termination of my right to reinstate; or
- c. the entry of a judgment enforcing the Loan Agreement.

I can stop the enforcement of the Loan Agreement and reinstate the Loan Agreement if all the following conditions are met:

- a. You are paid what I owe under the Loan Agreement as if no acceleration had occurred;
- b. I cure any default of any promise or agreement;
- c. You are paid all expenses allowed by Applicable Law, including reasonable attorneys' fees and other fees incurred for the purpose of protecting your interest in the Property and rights under the Loan Agreement;
- d. I comply with any reasonable requirement to assure you that your interest in the Property will remain intact; and
- e. I comply with any reasonable requirement to assure you that my ability to pay what I owe will remain intact.

You may require me to pay for the reinstatement in one or more of the following forms:

- a. cash;
- b. money order;
- c. certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are federally insured; or
- d. Electronic Funds Transfer.

Upon reinstatement, the Loan Agreement will remain effective as if no acceleration had occurred. However, this right to reinstate will not apply if I sell or transfer any interest in the Property without your permission.

#### **SALE OF NOTE, CHANGE OF LOAN SERVICER, NOTICE OF GRIEVANCE, LENDER'S RIGHT TO COMPLY**

A full or partial interest in the Loan Agreement can be sold one or more times without prior notice to me. The sale may result in a change of the company servicing or handling the Loan Agreement. The company servicing or handling the Loan Agreement will collect my monthly payment and will comply with other servicing conditions required by the Loan Agreement or Applicable Law. In some cases, the company servicing or handling the Loan Agreement may change even if the Loan Agreement is not sold. If the company servicing or handling the Loan Agreement is changed, I will be given written notice of the change. The notice will state the name and address of the new company, the address to which my payments should be made, and any other information required by RESPA.

Any notice of acceleration and opportunity to cure under the Loan Agreement will satisfy the notice and opportunity to address the alleged violation provisions of this Section.

No agreement between you and me or any third party will limit your ability to comply with your duties under the Loan Agreement and the Applicable Law.

You and I are limiting all agreements so that all current or future interest or fees in connection with this Loan Agreement will not be greater than the highest amount allowed by Applicable Law.

You and I intend to conform the Loan Agreement to the provisions of Applicable Law. If any part of the Loan Agreement is in conflict with the Applicable Law, then that part will be corrected or removed. This correction will be automatic and will not require any amendment or new document. Your right to correct any violation will survive my paying off the Loan Agreement. My right to correct will override any conflicting provision of the Loan Agreement.

Your right to comply as provided in this Section will survive the payoff of the Loan Agreement. The provisions of this Section will supersede any inconsistent provision of the Loan Agreement.

#### **HAZARDOUS SUBSTANCES**

Hazardous Substances:

- a. "Hazardous Substances" means those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials;
- b. "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection;
- c. "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and
- d. "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

I will not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. I will not do, or allow anyone else to do, anything affecting the Property:

- a. that is in violation of any Environmental Law;
- b. that creates an Environmental Condition; or
- c. that, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property.

The presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and for the maintenance of the Property are allowed. This includes Hazardous Substances found in consumer products.

I will promptly give you written notice of:

- a. any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which I have actual knowledge;
- b. any Environmental Condition, including any spilling, leaking, discharge, release or threat of release of any Hazardous Substance; and
- c. any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property.

If I learn that, or am notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, I promptly will take all necessary remedial actions in accordance with Environmental Law. You will have no obligation for an Environmental Cleanup.

#### **ACCELERATION AND REMEDIES**

You will give me notice prior to acceleration if I am in default under the Loan Agreement. The notice will specify:

- a. the default;
- b. the action required to cure the default;
- c. a date, not less than 21 days from the date you give me notice, to cure the default; and
- d. that my failure to cure the default on or before the specified date will result in acceleration of all that I owe under the Loan Agreement and sale of the Property.

You will inform me of my right to reinstate after acceleration. If the default is not cured before the specified date, you have the option to require immediate payment in full of all I owe. If you are not paid all I owe, you may sell the Property or seek other remedies allowed by Applicable Law without further

notice. You may collect your reasonable expenses incurred in seeking the remedies provided in this Section. These expenses may include court costs, attorneys' fees, and costs of title search.

I understand the power of sale is not a confession of judgment or a power of attorney to confess judgment or an appearance by me in a judicial proceeding. If the Property is sold under this Section I or my successors will immediately give possession of the Property to the purchaser. If I do not, I or anyone residing on the Property may be removed by writ of possession.

#### **ASSIGNMENT OF RENTS, APPOINTMENT OF RECEIVER, LENDER IN POSSESSION**

As additional security, I assign to you the rents of the Property, provided that I have the right, prior to acceleration or abandonment of the Property, to collect and retain the rents as they become due.

Upon acceleration or abandonment, you, by agent or by court-appointed receiver, will be entitled to enter, take possession, manage the Property, and collect due and past due rents. All rents you or the court-appointed receiver collect will be applied first to payment of the costs of management of the Property and collection of rents, including receiver's fees, premiums on receiver's bonds, and reasonable attorneys' fees, and then to the sums secured by this Security Document. You and the receiver will be liable to account only for rents received.

#### **POWER OF SALE**

You have a fully enforceable lien on the Property. Your remedies for my default include an efficient means of foreclosure under the law. You and the Trustee have all powers to conduct a foreclosure. If you choose to use the power of sale, you will give me notice of the time, place and terms of the sale by posting and filing notice at least 21 days before the sale as provided by law. You will give me notice by mail as required by law. Failure to cure default on or before the date in the notice may result in acceleration of the amount that I owe under this Loan Agreement. The notice will inform me of my right to reinstate after acceleration and assert in court that I am not in default or any other defense to acceleration or sale. If I do not cure the default on or before the date in the notice, you, at your option, may declare all that I owe under this Loan Agreement to be immediately due and payable and may invoke the power of sale and any other remedies permitted by Applicable Law. The sale will be conducted at a public place. The sale will be held:

- a. on the first Tuesday of a month;
- b. at a time stated in the notice or no later than 3 hours after the time; and
- c. between 10:00 a.m. and 4:00 p.m.

I allow the Trustee to sell the Property to the highest bidder for cash in one or more pieces and in any order the Trustee determines. You may purchase the Property at any sale.

Trustee will give a Trustee's deed to the foreclosure sale purchaser. A Trustee's deed will convey:

- a. good title to the Property; and
- b. title with promises of general warranty from me.

I will defend the purchaser's title to the Property against all claims and demands. The description of facts contained in the Trustee's deed will be sufficient to legally prove the truth of the statements made in the deed. Trustee will apply the proceeds of the sale in the following order:

- a. to all expenses of the sale, including court costs and reasonable Trustee's and attorneys' fees;
- b. what I owe; and
- c. any excess to the person or persons legally entitled to it.

If the Property is sold through a foreclosure sale governed by this Section, I or any person in possession of the Property through me, will give up possession of the Property without delay. A person who does not give up possession is a holdover and may be removed by a court order.

#### **RELEASE**

Upon payment of all that I owe under this Loan Agreement, you will cancel and return the Note to me and give me, in recordable form, a release of lien securing the Loan Agreement or a copy of any endorsement of the Note and assignment of the lien to a lender that is refinancing the Loan Agreement. If you cannot, you will provide me with a discharge and release of all obligation under the loan. I will pay only the cost of recording the release of lien.

#### **LENDER'S RIGHTS AND BORROWER'S RESPONSIBILITIES**

You are entitled to all rights, superior title, liens and equities owned or claimed by any grantor or holder of any liens and debts due before the signing of the Loan Agreement. You may acquire these rights by assignment or the holder may release them upon payment.

Each person who signs the Security Document is responsible for each promise and duty in the Security Document.

Unless prohibited by Applicable Law, this Section will not:

- a. impair in any way the Loan Agreement or your right to collect all that I owe under the Loan Agreement; or
- b. affect your right to any promise or condition of the Loan Agreement.

#### **TRUSTEES AND TRUSTEE LIABILITY**

One or more Trustees acting alone or together may exercise or perform all rights, remedies and duties of the Trustee under the Loan Agreement. You may remove or change any Trustee (e.g., add one or more Trustees or appoint a successor Trustee to any Trustee). This removal or change of Trustee must be in writing and may be:

- a. at your option;
- b. with or without cause; and
- c. by power of attorney or otherwise.

The substitute, additional or successor Trustee will receive, the title, rights, remedies, powers and duties under the Loan Agreement and Applicable Law.

Trustee may rely upon any notice, request, consent, demand, statement or other document reasonably believed by Trustee to be valid. Trustee will not be liable for any act or omission unless the act or omission is willful.

**DEFAULT**

Any default of my agreements with you will be a default of this Security Document.

**SUBROGATION**

If I ask, you will use proceeds from the Loan Agreement to pay off all valid outstanding liens against the Property. You will then own all rights, superior titles, liens, and interests owned or claimed by any owner or holder of an outstanding lien or debt. You own these things whether the lien or debt is transferred to you or whether it is released by the holder upon payment.

**PARTIAL INVALIDITY**

If any portion of the sums secured by this Security Document cannot be lawfully secured, payments minus those sums will be applied first to the portions not secured. If any charge provided for in this Loan Agreement, separately or together with other charges that are considered part of this Loan Agreement, violates Applicable Law, the charge is reduced to the extent necessary to eliminate the violation. Lender will refund the amount of interest or other charges paid to Lender in excess of the amount permitted by Applicable Law. At Lender's option, the amount in excess will either be refunded directly to me or will be applied to reduce the principal of the debt.

**REQUEST FOR NOTICE OF DEFAULT**  
**AND FORECLOSURE UNDER SUPERIOR**  
**MORTGAGES OR SECURITY DOCUMENTS**

You and I request that the holder of any mortgage, security document or other claim with a lien that has priority over this Security Document give you Notice, at your address listed on page 1 of this Security Document, of any default under the superior claim and of any sale or other foreclosure action.

BY SIGNING BELOW, I accept and agree to the terms and promises contained in the Loan Agreement and in any Rider I sign which is recorded with it. (DO NOT SIGN IF THERE ARE BLANKS LEFT TO BE COMPLETED IN THIS DOCUMENT. I MUST RECEIVE A COPY OF ANY DOCUMENT I SIGN.)

\_\_\_\_\_ (seal) \_\_\_\_\_ (seal)  
 \_\_\_\_\_ -Borrower \_\_\_\_\_ -Borrower

Printed Name: \_\_\_\_\_ (Please Complete) \_\_\_\_\_ (seal)  
 \_\_\_\_\_ -Borrower

Printed Name: \_\_\_\_\_ (Please Complete) \_\_\_\_\_ (seal)  
 \_\_\_\_\_ -Borrower

Printed Name: \_\_\_\_\_ (Please Complete) \_\_\_\_\_ (seal)  
 \_\_\_\_\_ -Borrower

STATE OF TEXAS  
County of \_\_\_\_\_

Before me, a notary public, on this day personally appeared \_\_\_\_\_, known to me (or proved to me on the oath of \_\_\_\_\_ or through \_\_\_\_\_) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that \_\_\_\_\_ executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Seal) \_\_\_\_\_  
Notary Public

**Amended Figure: 7 TAC §90.603(c)(1)(B)**  
**(342-G Home Improvement Single Advance Note Identification)**

"CREDITOR/LENDER \_\_\_\_\_  
CREDITOR/LENDER NMLS ID \_\_\_\_\_  
LOAN ORIGINATOR \_\_\_\_\_  
LOAN ORIGINATOR NMLS ID \_\_\_\_\_  
ADDRESS (include county) \_\_\_\_\_  
\_\_\_\_\_

DATE OF NOTE \_\_\_\_\_  
ACCOUNT/CONTRACT NO. \_\_\_\_\_  
BORROWER \_\_\_\_\_  
ADDRESS (include county) \_\_\_\_\_  
\_\_\_\_\_

PROPERTY ADDRESS: (include county) \_\_\_\_\_

A word like "I" or "me" means each person who signs as a Borrower. A word like "you" or "your" means the Lender or "Note Holder."

The Lender is \_\_\_\_\_. The Lender may sell or transfer this Note. The Lender or anyone who is entitled to receive payments under this Note is called the "Note Holder." You will tell me in writing who is to receive my payments.

Principal Amount: \$ \_\_\_\_\_

Terms of Payment (principal and interest) \_\_\_\_\_"

**New Figure: 7 TAC §90.603(c)(4)(C)**  
**(342-G Home Improvement Single Advance Payment Schedule)**

My Payment Schedule will be:

<u>Number of Payments</u>	<u>Amount of Payments</u>	<u>When Payments Are Due</u>

**Amended Figure: 7 TAC §90.603(c)(8)(A) [~~§90.603(c)(10)(A)~~]  
(342-G Home Improvement Single Advance Scheduled Installment Earnings Finance Charge & Refund)**

"The annual rate of interest is \_\_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. You figure the Finance Charge by applying the scheduled installment earnings method as defined by the Texas Finance Code to the unpaid cash advance. The unpaid cash advance does not include the administrative fee, late charges, and returned check charges. If I prepay my loan in full before the final payment is due, I will not have to pay a penalty, and I may save a portion of the Finance Charge. I will not be paid a refund if the refund would be less than \$1.00. You base the Finance Charge and Total of Payments as if I will make each payment on the day it is due. My final payment may be larger or smaller than my regular payment.

I have paid any points, administrative fee, or loan origination fee as prepaid interest. The administrative fee is earned at the time the loan is made and is not subject to refund. If I pay the loan in full early, you will refund any prepaid interest that would make the interest rate exceed the maximum rate allowed by law. Any refund will be credited to my account.

Any payment(s) that you accept after the final payment becomes due is not a renewal or extension of this loan agreement unless you agree in writing.

You will apply my payments in the following order: (1) interest that is due, (2) principal, (3) any other charges I owe."

**Amended Figure: 7 TAC §90.603(c)(8)(C) [~~§90.603(e)(10)(C)~~]  
(342-G Home Improvement Single Advance True Daily Earnings Finance Charge & Refund)**

"The annual rate of interest is \_\_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. You figure the Finance Charge by applying the true daily earnings method as defined by the Texas Finance Code to the unpaid portion of the cash advance. The unpaid cash advance does not include the administrative fee, late charges, and returned check charges. You base the Finance Charge and Total of Payments as if I will make each payment on the day it is due. You will apply payments on the date they are received. This may result in a different Finance Charge or Total of Payments. My final payment may be larger or smaller than my regular payment. I may prepay my loan in full early without paying a penalty.

I have paid any points, administrative fee, or loan origination fee as prepaid interest. The administrative fee is earned at the time the loan is made and is not subject to refund. If I pay the loan in full early, you will refund any prepaid interest that would make the interest rate exceed the maximum rate allowed by law. Any refund will be credited to my account.

Any payment(s) that you accept after the final payment becomes due is not a renewal or extension of this loan agreement unless you agree in writing.

You will apply my payments as follows: (1) interest that is due, (2) principal, (3) any other charges I owe."

**Amended Figure: 7 TAC §90.603(e)(1)(B)**  
**(342-G Home Improvement Multi-Advance Note Identification)**

"CREDITOR/LENDER \_\_\_\_\_  
CREDITOR/LENDER NMLS ID \_\_\_\_\_  
LOAN ORIGINATOR \_\_\_\_\_  
LOAN ORIGINATOR NMLS ID \_\_\_\_\_  
ADDRESS (include county) \_\_\_\_\_  
\_\_\_\_\_

DATE OF NOTE \_\_\_\_\_  
ACCOUNT/CONTRACT NO. \_\_\_\_\_  
BORROWER \_\_\_\_\_  
ADDRESS (include county) \_\_\_\_\_  
\_\_\_\_\_

PROPERTY ADDRESS: (include county) \_\_\_\_\_

A word like "I" or "me" means each person who signs as a Borrower. A word like "you" or "your" means the Lender or "Note Holder."

The Lender is \_\_\_\_\_. The Lender may sell or transfer this Note. The Lender or anyone who is entitled to receive payments under this Note is called the "Note Holder." You will tell me in writing who is to receive my payments.

Principal Amount: \_\_\_\_\_

Terms of Payment (principal and interest): \_\_\_\_\_"

**New Figure: 7 TAC §90.603(e)(4)(C)**  
**(342-G Home Improvement Multi-Advance Payment Schedule)**

My Payment Schedule will be:

<u>Number of Payments</u>	<u>Amount of Payments</u>	<u>When Payments Are Due</u>

**Amended Figure: 7 TAC §90.603(e)(8)(A) [~~§90.603(e)(10)(A)~~]  
(342-G Home Improvement Multi-Advance Scheduled Installment Earnings Finance Charge & Refund)**

"The annual rate of interest is \_\_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. You figure the Finance Charge by applying the scheduled installment earnings method as defined by the Texas Finance Code to the unpaid cash advance. The unpaid cash advance does not include the administrative fee, late charges, and returned check charges. If I prepay my loan in full before the final payment is due, I will not have to pay a penalty, and I may save a portion of the Finance Charge. I will not be paid a refund if the refund would be less than \$1.00. You base the Finance Charge and Total of Payments as if I will make each payment on the day it is due. My final payment may be larger or smaller than my regular payment.

I have paid any points, administrative fee, or loan origination fee as prepaid interest. The administrative fee is earned at the time the loan is made and is not subject to refund. If I pay the loan in full early, you will refund any prepaid interest that would make the interest rate exceed the maximum rate allowed by law. Any refund will be credited to my account.

Any payment(s) that you accept after the final payment becomes due is not a renewal or extension of this Loan Agreement unless you agree in writing.

You will apply my payments in the following order: (1) interest that is due, (2) principal, (3) any other charges I owe."

**Amended Figure: 7 TAC §90.603(e)(8)(C) [~~§90.603(e)(10)(C)~~]  
(342-G Home Improvement Multi-Advance True Daily Earnings Finance Charge & Refund)**

"The annual rate of interest is \_\_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. You figure the Finance Charge by applying the true daily earnings method as defined by the Texas Finance Code to the unpaid portion of the cash advance. The unpaid cash advance does not include the administrative fee, late charges, and returned check charges. You base the Finance Charge and Total of Payments as if I will make each payment on the day it is due. You will apply payments on the date they are received. This may result in a different Finance Charge or Total of Payments. My final payment may be larger or smaller than my regular payment. I may prepay my loan in full early without paying a penalty.

I have paid any points, administrative fee, or loan origination fee as prepaid interest. The administrative fee is earned at the time the loan is made and is not subject to refund. If I pay the loan in full early, you will refund any prepaid interest that would make the interest rate exceed the maximum rate allowed by law. Any refund will be credited to my account.

Any payment(s) that you accept after the final payment becomes due is not a renewal or extension of this Loan Agreement unless you agree in writing.

You will apply my payments as follows: (1) interest that is due, (2) principal, (3) any other charges I owe."

**Amended Figure: §90.604(a)(13) [~~§90.604(a)(12)~~]  
(342-G Home Improvement Single Advance Contract)**

NOTICE OF CONFIDENTIALITY RIGHTS: I MAY REMOVE OR STRIKE MY SOCIAL SECURITY NUMBER OR MY DRIVER'S LICENSE NUMBER FROM THIS DOCUMENT BEFORE IT IS FILED IN THE PUBLIC RECORDS.

**TEXAS HOME IMPROVEMENT  
MECHANIC'S LIEN CONTRACT FOR IMPROVEMENT  
AND POWER OF SALE  
(Second Lien)**

DATE \_\_\_\_\_  
ACCOUNT/CONTRACT NO. \_\_\_\_\_

**DEFINITIONS**

- (A) "Owner" means (name of Owner), whose address is (address of Owner, including county). If Owner and Maker are not the same person, the word "Owner" includes Maker. "I" or "me" means the Owner.
- (B) "Contractor" means (name of Contractor), whose address is (address of Contractor, including county) and includes those to whom the Contractor has assigned or transferred Contractor's rights and remedies. "You" or "your" means the Contractor.
- (C) "Lender" means (name of Lender), whose address is (address of Lender, including county) and includes those to whom the Lender has assigned or transferred Lender's rights and remedies. The Lender's NMLS ID is (NMLS ID of Lender). The loan originator's name is (name of loan originator with primary responsibility for the origination). The loan originator's NMLS ID is (NMLS ID of originator).
- (D) "Trustee" means (name of Trustee), whose address is (address of Trustee, including county).
- (E) "Property" means the Property at (list address of the Property), whose legal description is (list legal description of the Property).
- (F) "Work" means the construction project as agreed to in writing between the Owner and Contractor.
- (G) "Completion Date" means (date on which the Work will be completed).
- (H) "Contract" means this Texas Home Improvement Mechanic's Lien Contract for Improvement and Power of Sale.

**CONSTRUCTION OF IMPROVEMENTS**

You agree to furnish and pay for all labor and material needed to complete the Work within \_\_\_\_\_ days from the date of this Contract. The Work will be performed on the Property in a good and workmanlike manner.

**CONTRACT PRICE**

I agree to pay, or cause to be paid, to you, or to your order, the sum of \_\_\_\_\_ dollars (U.S. \$ \_\_\_\_\_) when the Work is completed.

**TRANSFER OF LIEN**

You transfer to Lender all of your rights and interests in this Contract.

**COMPLETION BY CONTRACTOR, BUT NOT LENDER**

You will complete the Work by the Completion Date. Lender is not responsible for completing the Work. Lender is not a guarantor of your performance. You will indemnify and hold Lender harmless against all claims related to the Work.

**PARTIAL LIEN**

If you do not complete the Work by the Completion Date in a good and workmanlike manner, then Lender will have a valid lien for the contract price, less the amount reasonably necessary to complete the Work. As an alternative, Lender may choose to complete the Work and the lien will be valid for the contract price.

**CHANGES AND EXTRAS**

All labor or material furnished outside of this Contract must be agreed upon in writing or it will be considered as performed under the original Contract and you will receive no extra money.

**RECEIPTS AND RELEASES**

If I ask, you will give me valid receipts and releases for the Work from any subcontractor, worker, and supplier.

**NO WORK COMMENCED**

This Contract is executed, acknowledged, and delivered before any labor has been performed and any material has been furnished for the Work.

**TRUSTEE'S DUTIES**

If you ask Trustee to foreclose this lien, Trustee will:

1. give notice of the foreclosure sale as required by the Texas Property Code;
2. sell and grant all or part of the Property "AS IS":
  - a. to the highest bidder for cash;
  - b. subject to prior liens and exceptions to conveyance and warranty; and
  - c. without representation or warranty;
3. pay the proceeds of the sale, in this order:
  - a. expenses of foreclosure, including Trustee's reasonable fee;
  - b. the unpaid amount of principal, interest, attorneys' fees, and other charges due you;
  - c. any amount required by law to be paid; and
  - d. any balance to me; and
4. be indemnified by you for all costs, expenses, and liabilities incurred by Trustee in performance of Trustee's duties under this Contract.

**NOTICE**

**ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.**

*Note: The following notice complies with Texas Property Code §41.007. In this notice, the terms "you" and "your" refer to the Owner.*

**IMPORTANT NOTICE: YOU AND YOUR CONTRACTOR ARE RESPONSIBLE FOR MEETING THE TERMS AND CONDITIONS OF THIS CONTRACT. IF YOU SIGN THIS CONTRACT AND YOU FAIL TO MEET THE TERMS AND CONDITIONS OF THIS CONTRACT, YOU MAY LOSE YOUR LEGAL OWNERSHIP RIGHTS IN YOUR HOME. KNOW YOUR RIGHTS AND DUTIES UNDER THE LAW.**

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Contractor

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

Sworn to and subscribed before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ by \_\_ (name of owner)\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

(Seal)

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

Sworn to and subscribed before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ by \_\_ (name of contractor)\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

(Seal)

**ASSIGNMENT**

This lien is transferred and assigned to \_\_ (third party lender)\_\_\_\_\_.

\_\_\_\_\_  
Contractor

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

Sworn to and subscribed before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ by \_\_ (name of contractor)\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

(Seal)

**Amended Figure: 7 TAC §90.604(a)(14) [~~§90.604(a)(13)~~]  
 (342-G Home Improvement Single Advance Note)**

**Mechanic's Lien Note  
 (Second Lien- Home Improvement)**

CREDITOR/LENDER \_\_\_\_\_  
 CREDITOR/LENDER NMLS ID \_\_\_\_\_  
 LOAN ORIGINATOR \_\_\_\_\_  
 LOAN ORIGINATOR NMLS ID \_\_\_\_\_  
 ADDRESS (include county) \_\_\_\_\_

DATE OF NOTE \_\_\_\_\_  
 ACCOUNT/CONTRACT NO. \_\_\_\_\_  
 BORROWER \_\_\_\_\_  
 ADDRESS (include county) \_\_\_\_\_

PROPERTY ADDRESS: (include county) \_\_\_\_\_

A word like "I" or "me" means each person who signs as a Borrower. A word like "you" or "your" means the Lender or "Note Holder."

The Lender is \_\_\_\_\_. The Lender may sell or transfer this Note. The Lender or anyone who is entitled to receive payments under this Note is called the "Note Holder." You will tell me in writing who is to receive my payments.

Principal Amount: \_\_\_\_\_

Terms of Payment (principal and interest): \_\_\_\_\_

<b>ANNUAL PERCENTAGE RATE</b> The cost of my credit as a yearly rate.	<b>FINANCE CHARGE</b> The dollar amount the credit will cost me.	<b>Amount Financed</b> The amount of credit provided to me or on my behalf.	<b>Total of Payments</b> The amount I will have paid after I have made all payments as scheduled.
%	\$	\$	\$

**My Payment Schedule will be:**

Number of Payments	Amount of Payments	When Payments Are Due

**Security:** You will have a security interest in the following described property: (property description) \_\_\_\_\_

**Late Charge:** If any part of a payment is unpaid for 10 days after it is due, I may be charged 5% of the amount of payment.

**Prepayment: (Scheduled Installment Earnings Method):** If I pay off early, I may be entitled to a refund of part of the Finance Charge. I will not have to pay a penalty. **(True Daily Earnings Method):** If I pay off early, I will not have to pay a penalty.

**Additional Information:** See the contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.

**SECURITY FOR PAYMENT**

Liens created in the Contract secure this Note. You will have a security interest in the following described property:  
 (property description) \_\_\_\_\_

**DEFINITIONS**

- (A) "Owner" means (name of Owner), whose address is (address of Owner, including county). If Owner and Maker are not the same person, the word "Owner" includes Maker.
- (B) "Contractor" means (name of Contractor), whose address is (address of Contractor, including county) and includes those to whom the Contractor has assigned or transferred Contractor's rights and remedies.

(C) "Contract" means this Texas Home Improvement Mechanic's Lien Contract for Improvement and Power of Sale dated \_\_\_\_\_ between Contractor and Owner.

(D) "Property" means the Property at (list address of the Property), whose legal description is (list legal description of the Property).

(E) "Note" means the Texas Home Improvement Mechanic's Lien Note signed by me and dated \_\_\_\_\_ and includes all amounts secured by this Contract. The Note states that the amount I owe you is \_\_\_\_\_ dollars (U.S. \$ \_\_\_\_\_) plus interest. I have promised to pay this debt in regular periodic payments and to pay the debt in full not later than \_\_\_\_\_.

### **BORROWER'S PROMISE TO PAY**

#### Scheduled Installment Earnings Method:

I promise to pay the Total of Payments to the order of you. The "principal" or "cash advance" is \$ \_\_\_\_\_. This amount plus interest must be paid by \_\_\_\_\_ (maturity date). I will make payments to you at the address above or as you direct. I will make the payments on the dates and in the amounts shown in the Payment Schedule.

#### True Daily Earnings Method:

I promise to pay the cash advance plus the accrued interest to the order of you. The "principal" or "cash advance" is \$ \_\_\_\_\_. This amount plus interest must be paid by \_\_\_\_\_ (maturity date). I will make payments to you at the address above or as you direct. I will make the payments on the dates and in the amounts shown in the Payment Schedule.

### **LATE CHARGE**

General Late Charge: If I don't pay all of a payment within 10 days after it is due, you can charge me a late charge. The late charge will be 5% of the scheduled payment. High-Cost Mortgage Loan Late Charge: If I don't pay all of a payment within 15 days after it is due, you can charge me a late charge. The late charge will be 4% of the amount of the payment past due.

### **AFTER MATURITY INTEREST**

If I don't pay all I owe when the final payment becomes due, I will pay interest on the amount that is still unpaid. That interest will be the higher of the rate of 18% per year or the maximum rate allowed by law. That interest will begin the day after the final payment becomes due.

### **PREPAYMENT**

Scheduled Installment Earnings Method: I can make a whole payment early. Unless you agree otherwise in writing, I may not skip payments. If I make a payment early, my next payment will still be due as scheduled.

True Daily Earnings Method: I can make any payment early. Unless you agree otherwise in writing, I may not skip payments. If I make a payment early, my next payment will still be due as scheduled.

### **FINANCE CHARGE AND REFUND METHOD**

For contracts using Scheduled Installment Earnings Method - Section 342.301 rate loans: The annual rate of interest is \_\_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. You figure the Finance Charge by applying the scheduled installment earnings method as defined by the Texas Finance Code to the unpaid cash advance. The unpaid cash advance does not include the administrative fee, late charges, and returned check charges. If I prepay my loan in full before the final payment is due, I will not have to pay a penalty, and I may save a portion of the Finance Charge. I will not be paid a refund if the refund would be less than \$1.00. You base the Finance Charge and Total of Payments as if I will make each payment on the day it is due. My final payment may be larger or smaller than my regular payment.

I have paid any points, administrative fee, or loan origination fee as prepaid interest. The administrative fee is earned at the time the loan is made and is not subject to refund. If I pay the loan in full early, you will refund any prepaid interest that would make the interest rate exceed the maximum rate allowed by law. Any refund will be credited to my account.

Any payment(s) that you accept after the final payment becomes due is not a renewal or extension of this loan agreement unless you agree in writing.

You will apply my payments in the following order: (1) interest that is due, (2) principal, (3) any other charges I owe.

For contracts using Scheduled Installment Earnings Method with prepayments option - Section 342.301 rate loans: The annual rate of interest is \_\_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. You figure the Finance Charge by applying the scheduled installment earnings method as defined by the Texas Finance Code to the unpaid cash advance. I may make a full or partial payment early without paying a penalty. My early payments will reduce the principal that I owe. The unpaid cash advance does not include the administrative fee, late charges, or returned check charges. If I make an early partial payment, the due date and amount of my next payment will not change unless you agree in writing.

I have paid any points, administrative fee, or loan origination fee as prepaid interest. The administrative fee is earned at the time the loan is made and is not subject to refund. If I pay the loan in full early, you will refund any prepaid interest that would make the interest rate exceed the maximum rate allowed by law. Any refund will be credited to my account.

Any payment(s) that you accept after the final payment becomes due is not a renewal or extension of this loan agreement unless you agree in writing.



**CREDIT INSURANCE**

Credit insurance is optional. Credit life insurance and credit disability insurance are not required to obtain credit. This insurance will not be provided unless I sign and agree to pay the extra cost. I will look to the insurance policy or certificate for the terms and description of benefits, exclusions, and premium rates.

Single Premium

Credit Life, one borrower      \$ \_\_\_\_\_      Credit Life, both borrowers      \$ \_\_\_\_\_      Term \_\_\_\_\_  
Credit Disability, one borrower      \$ \_\_\_\_\_      Credit Disability, both borrowers      \$ \_\_\_\_\_      Term \_\_\_\_\_

**If this box is marked, the premium for the insurance coverage(s) above is not fixed or approved by the Texas Insurance Commissioner.**

I want the insurance above.

Borrower's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Co-Borrower's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Monthly Premium

If I want credit life or credit disability insurance, I must sign below and pay the monthly premium. The monthly premium will be added to the monthly loan payment. If I do not pay the monthly premium, I will not have the insurance coverage.

I request the following insurance:

			_____	_____
			Borrower's Signature	Date
Premium Due with the First Month's <u>Loan Payment</u>	First Year <u>Premium</u>	Insurance <u>Type:</u>		
\$	\$			
\$	\$			
\$	\$			
			_____	_____
			Co-Borrower's Signature	Date

The first year's premiums are based on an assumption that monthly loan payments are timely made. All unpaid premiums are due at the time of the final payment. The insurance may be canceled if I do not pay the premiums.\*\* I may cancel any of the optional insurance products offered at any time. The optional insurance will be canceled upon the earliest of the following occurrences:

- (1) your receipt of my written request for cancellation;
- (2) cancellation under the insurance certificate or policy;
- (3) payment in full of my loan; or
- (4) my death.

\*\*Optional language: The insurance will cancel on the date when the total past due premiums equal or exceed (insert number) times the first month's premium.

**MAILING OF NOTICES TO BORROWER**

You or I may mail or deliver any notice to the address above. You or I may change the notice address by giving written notice. Your duty to give me notice will be satisfied when you mail it.

**STATEMENT OF TRUTHFUL INFORMATION**

I promise that all information I gave you is true.

**DUE ON SALE CLAUSE, NOTICE OF INTENT TO ACCELERATE, AND NOTICE OF ACCELERATION**

If all or any interest in the Property is sold or transferred without your prior written consent, you may require immediate payment in full of all that I owe under this loan agreement. You will not exercise this option if prohibited by law.

If you exercise this option, you will give me notice that you are demanding payment of all that I owe. This notice will give me a period of not less than 21 days from the date of the notice within which I must pay all that I owe under this loan agreement. If I fail to pay all that I owe before the end of this period, you may use any remedy allowed by the loan agreement.

**NO WAIVER OF LENDER'S RIGHTS**

If you don't enforce your rights every time, you can still enforce them later.

**COLLECTION EXPENSES**

If you require me to pay all that I owe at once, you will have the right to be paid back by me for all of your costs and expenses in enforcing this loan agreement to the extent not prohibited by applicable law. These expenses include, for example, reasonable attorneys' fees.

**JOINT LIABILITY**

I understand that you may seek payment from only me without first looking to any other Borrower.

**USURY SAVINGS CLAUSE**

I do not have to pay interest or other amounts that are more than applicable law allows.

**SAVINGS CLAUSE**

If any part of this loan agreement is declared invalid, the rest of the loan agreement remains valid. If any part of this loan agreement conflicts with any law, that law will control. The part of the loan agreement that conflicts with any law will be modified to comply with the law. The rest of the loan agreement remains valid.

**PRIOR AGREEMENTS**

**This written loan agreement is the final agreement between you and me. It may not be changed by prior, current, or future oral agreements between you and me. There are no oral agreements between you and me relating to this loan agreement. Any change to this loan agreement must be in writing. Both you and I have to sign written agreements.**

**APPLICATION OF LAW**

Federal law and Texas law apply to this loan agreement.

**OCCC [COMPLAINTS AND INQUIRIES] NOTICE**

For questions or complaints about this loan, contact (insert name of lender) at (insert lender's phone number and, at lender's option, one or more of the following: mailing address, fax number, website, e-mail address). The lender is licensed and examined under Texas law by the Office of Consumer Credit Commissioner (OCCC), a state agency. If a complaint or question cannot be resolved by contacting the lender, consumers can contact the OCCC to file a complaint or ask a general credit-related question. OCCC address: 2601 N. Lamar Blvd., Austin, Texas 78705. Phone: (800) 538-1579. Fax: (512) 936-7610. Website: [occc.texas.gov](http://occc.texas.gov). E-mail: [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov).

[The (name of lender or note holder) is licensed and examined under the laws of the State of Texas and by state law is subject to regulatory oversight by the Office of Consumer Credit Commissioner. Any consumer wishing to file a complaint against the (name of lender or note holder) should contact the Office of Consumer Credit Commissioner through one of the means indicated below:]

[Office of Consumer Credit Commissioner]  
[2601 North Lamar Boulevard, Austin, Texas 78705-4207]  
[[www.occc.state.tx.us](http://www.occc.state.tx.us)]  
[(800) 538-1579]

**COLLATERAL**

The Property is subject to the Contract lien.

I am responsible for all obligations in this Note.

**NOTICE**

**ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF, RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.**

Do not sign if there are blanks left to be completed in this document.

I must receive a copy of this document after I have signed it. I agree to the terms of this loan agreement.

\_\_\_\_\_(Seal)  
-Borrower

\_\_\_\_\_(Seal)  
-Borrower

\_\_\_\_\_(Seal)  
-Borrower

(Sign Original Only)

(Option for witness signatures)

\_\_\_\_\_(Seal)  
-Borrower

**Amended Figure: §90.604(a)(15) [~~§90.604(a)(14)~~]  
(342-G Home Improvement Multi-Advance Contract)**

NOTICE OF CONFIDENTIALITY RIGHTS: I MAY REMOVE OR STRIKE MY SOCIAL SECURITY NUMBER OR MY DRIVER'S LICENSE NUMBER FROM THIS DOCUMENT BEFORE IT IS FILED IN THE PUBLIC RECORDS.

**TEXAS HOME IMPROVEMENT  
MECHANIC'S LIEN CONTRACT FOR IMPROVEMENT,  
POWER OF SALE, AND DEED OF TRUST  
(Second Lien)**

DATE \_\_\_\_\_  
ACCOUNT/CONTRACT NO. \_\_\_\_\_

**DEFINITIONS**

- (A) "Owner" means (name of Owner), whose address is (address of Owner, including county). If Owner and Maker are not the same person, the word "Owner" includes Maker. "I" or "me" means the Owner.
- (B) "Contractor" means (name of Contractor), whose address is (address of Contractor, including county) and includes those to whom the Contractor has assigned or transferred Contractor's rights and remedies. "You" or "your" means the Contractor.
- (C) "Lender" means (name of Lender), whose address is (address of Lender, including county) and includes those to whom the Lender has assigned or transferred Lender's rights and remedies. The Lender's NMLS ID is (NMLS ID of Lender). The loan originator's name is (name of loan originator with primary responsibility for the origination). The loan originator's NMLS ID is (NMLS ID of originator).
- (D) "Trustee" means (name of Trustee), whose address is (address of Trustee, including county).
- (E) "Property" means the Property at (list address of the Property), whose legal description is (list legal description of the Property).
- (F) "Work" means the construction project as agreed to in writing between the Owner and Contractor.
- (G) "Completion Date" means (date on which the Work will be completed).
- (H) "Contract" means this Texas Home Improvement Mechanic's Lien Contract for Improvement, Power of Sale, and Deed of Trust.
- (I) "Note" means the Texas Home Improvement Mechanic's Lien Note signed by me and dated \_\_\_\_\_ and includes all amounts secured by this Contract. The Note states that the amount I owe you is \_\_\_\_\_ dollars (U.S. \$ \_\_\_\_\_) plus interest.
- (J) "Loan Agreement" means the Note, Contract, and any other related document under which Lender has made a loan to me.
- (K) "Applicable Law" means all controlling applicable federal, state, and local law.
- (L) "Tenant at Sufferance" means a person who continues to possess the Property with no current right to possess it.
- (M) "Forcible Detainer" means a lawsuit to remove a person from the Property.
- (N) "Periodic Payment" means the regularly scheduled amount due for principal and interest under the Note plus any amount under this Contract.
- (O) "Successor in Interest" means any party that has taken title to the Property.
- (P) "Lien" means the Mechanic's and Materialman's Lien on the Property that results from the Contract and the Work performed. The Lien includes all existing and future improvements, easements, and rights in the Property.

**CONSTRUCTION OF IMPROVEMENTS**

You agree to furnish and pay for all labor and material needed to complete the Work within \_\_\_\_ days from the date of this Contract. The Work will be performed on the Property in a good and workmanlike manner.

**CONTRACT PRICE**

I agree to pay, or cause to be paid, to you, or to your order, the sum of \_\_\_\_\_ dollars (U.S. \$ \_\_\_\_\_) when the Work is completed.

**NOTE PAYABLE TO LENDER**

In exchange for money from the Lender to you, I have signed a Note to the Lender in the amount of \_\_\_\_\_dollars (U.S. \$\_\_\_\_\_).

**LIEN TO SECURE NOTE**

To secure the amounts Lender provides to you, and the interest payable to Lender, I give you, and you transfer to Lender, the Lien. The Note is secured by a deed of trust, which I will sign. The deed of trust will renew and extend the Lien created by this Contract.

**TRANSFER OF LIEN**

You transfer to Lender all of your rights and interests in this Contract.

**EXCEPTIONS TO CONVEYANCE AND WARRANTY**

The exceptions to conveyance and warranty are:

*(List any exceptions to conveyance and warranty.)*

**COMPLETION BY CONTRACTOR, BUT NOT LENDER**

You will complete the Work by the Completion Date. Lender is not responsible for completing the Work. Lender is not a guarantor of your performance. You will indemnify and hold Lender harmless against all claims related to the Work.

**PARTIAL LIEN**

If you do not complete the Work by the Completion Date in a good and workmanlike manner, then Lender will have a valid lien for the contract price, less the amount reasonably necessary to complete the Work. As an alternative, Lender may choose to complete the Work and the lien will be valid for the contract price.

**CHANGES AND EXTRAS**

All labor or material furnished outside of this Contract must be agreed upon in writing or it will be considered as performed under the original Contract and you will receive no extra money.

**RECEIPTS AND RELEASES**

If I ask, you will give me valid receipts and releases for the Work from any subcontractor, worker, and supplier.

**NO WORK COMMENCED**

This Contract is executed, acknowledged, and delivered before any labor has been performed and any material has been furnished for the Work.

**OWNER'S PROMISES AND RIGHTS**

I promise that:

1. I own the Property in "fee simple," subject to the section in this Contract named "Exceptions to Conveyance and Warranty"; and
2. I will provide notice to Lender if I learn of a lien or claim for labor or material on the Property that relates to the Contract.

You agree that I have the following rights:

1. Despite anything to the contrary in this Contract, Lender may keep all amounts under sections 53.101 and 53.081 of the Texas Property Code until thirty days after the Work is completed;
2. I may deduct enough money from payments on the Note to the Lender to pay a lien or claim for labor or material provided to you that you are obligated to pay. I will still owe the amount in the Note; and
3. Without affecting the lien created by this Contract, I may use insurance proceeds to restore destroyed or damaged property for a loss occurring before the Work is completed.

## **OWNER'S DUTIES**

I agree to:

1. pay timely all taxes and assessments on the Property;
2. preserve the lien's priority as it is established in this Contract;
3. pay all prior lien notes that I am responsible to pay and abide by all prior lien instruments;
4. because this Contract is for improvements to the Property, keep the Property other than those improvements in good repair and condition during the Work;
5. except to the extent that you are required to insure the Work during its progress, keep at my cost and expense, and in a form acceptable to you or your transferees, insurance policies having the following coverages issued by an insurance company or companies authorized to engage in the insurance business in Texas with a financial rating acceptable to you or your transferees:
  - a. property insurance covering all improvements located on the Property in an amount not more than the actual amount of unpaid debt or the amount of their full replacement cost, whichever is less, containing a standard mortgage clause, provided that the amounts of coverage meet all coinsurance requirements of the policy;
  - b. flood insurance, if the property is located in a flood hazard area; and
  - c. any other insurance coverage that you or your transferees may reasonably require;
6. deliver the insurance policy to you within ten days of the date of the Contract and deliver renewals to you at least fifteen days before expiration;
7. I MAY PROVIDE THE INSURANCE REQUIRED OF ME BY THIS CONTRACT EITHER THROUGH EXISTING POLICIES OWNED OR CONTROLLED BY ME OR THROUGH LIKE COVERAGE FROM ANY INSURANCE COMPANY AUTHORIZED TO TRANSACT BUSINESS IN TEXAS;
8. comply with all laws, ordinances, and restrictive covenants applicable to the Property; and
9. keep any buildings occupied as required by the insurance policy.

## **CONTRACTOR'S DUTIES**

You agree that:

1. Until the Work is completed, you will insure the Work against loss or damage. You will insure the Work in the amount of any unpaid debt or the full replacement cost, whichever is less. The parties to this Contract will be beneficiaries of this insurance according to their respective interests. If you do not provide this insurance, you will bear any loss to the Work.
2. If any other lien or claim is filed against the Property, you will pay for its removal or provide a statutory bond.

## **CONTRACTOR'S RIGHTS**

You have the following rights:

1. You may appoint in writing a substitute Trustee.
2. After completing the Work, you may apply any insurance proceeds to either (a) reduce the Note or (b) repair or replace damaged or destroyed improvements.
3. If I fail to carry out any of my duties other than providing insurance, you may carry out the duty. On demand, I will repay you for any amount paid. This amount will include attorneys' fees to an attorney who is not your employee. I will also pay you interest at the contract rate in the Note. If I repay you after the full Note amount is due, I will repay you the after maturity interest rate in the Note. Any amount to be repaid will be secured by this Contract.
4. If I default on the Note or this Lien is foreclosed, I will repay you for reasonable fees to an attorney who is not your employee. I will also repay you for court, collection, and foreclosure costs. The amount to be repaid will be secured by this Contract.
5. After notice of default plus twenty-one days, you may:
  - a. declare the unpaid principal balance and earned interest on the Note immediately due;
  - b. ask Trustee to foreclose this Lien and to give notice of the foreclosure sale under the Texas Property Code; and
  - c. buy the Property at any foreclosure sale and then credit the amount of the bid on the Note.

Notice of default is given when deposited with the United States Postal Service (certified mail, return receipt requested), addressed to me at my current mailing address or, if my current mailing address is unknown, to my last known address as shown in the records of the holder of the debt.

## **TRUSTEE'S DUTIES**

If you ask Trustee to foreclose this lien, Trustee will:

1. give notice of the foreclosure sale as required by the Texas Property Code;
2. sell and grant all or part of the Property "AS IS":
  - a. to the highest bidder for cash;
  - b. subject to prior liens and exceptions to conveyance and warranty; and
  - c. without representation or warranty;
3. pay the proceeds of the sale, in this order:
  - a. expenses of foreclosure, including Trustee's reasonable fee;
  - b. the unpaid amount of principal, interest, attorneys' fees, and other charges due you;
  - c. any amount required by law to be paid; and
  - d. any balance to me; and
4. be indemnified by you for all costs, expenses, and liabilities incurred by Trustee in performance of Trustee's duties under this Contract.

## **GENERAL PROVISIONS**

1. If you are dismissed from the Work, or you do not complete the Work, the Note amount will be reduced by the amount reasonably necessary to complete the Work. If you are not the Note holder, the holder may complete the Work.
2. This Contract is executed, acknowledged, and delivered before any labor has been performed or any material has been furnished for the Work. This Contract is entered into by all Owners with the consent of each Owner's spouse.
3. If any of the Property is sold under this Contract, I will immediately move from the Property. If I fail to do so, I will become a Tenant at Sufferance of the purchaser, subject to Forcible Detainer.
4. Statements in any Trustee's deed conveying the Property are assumed to be true.
5. The Lien is prior to liens created later, even if the Note is extended or part of the Property is released.
6. Payments will be applied first to satisfy any portion of the Note that is not secured by this Contract.
7. I transfer to you all condemnation proceeds. I also transfer to you all proceeds from a private sale in lieu of condemnation. I further transfer to you all damages caused by public works on or near the Property. After deducting any expenses, including attorneys' fees and court and other lawful costs, you will either release any remaining amounts to me or apply them to reduce the Note. I will immediately give you notice of any actual or threatened proceeding for a taking of all or part of the Property.
8. You do not elect remedies by continuing under this Contract, beginning foreclosure, or pursuing any other remedy.
9. As additional security, I assign to you the rents of the Property, provided that you have the right, prior to acceleration or abandonment of the Property, to collect and retain the rents as they become due. Upon acceleration or abandonment, you, by agent or by court-appointed receiver, will be entitled to enter, take possession, manage the Property, and collect due and past due rents. All rents you or the court-appointed receiver collect will be applied first to payment of the costs of management of the Property and collection of rents, including receiver's fees, premiums on receiver's bonds, and reasonable attorneys' fees, and then to the sums secured by this Security Document. You and the receiver will be liable to account only for rents received.
10. I do not have to pay interest or other amounts that are more than Applicable Law allows.
11. Where appropriate, singular nouns and pronouns include the plural.
12. The word "may" gives sole discretion without imposing any duty to take action.

NOTICE

ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

Note: The following notice complies with Texas Property Code §41.007. In this notice, the terms "you" and "your" refer to the Owner.

IMPORTANT NOTICE: YOU AND YOUR CONTRACTOR ARE RESPONSIBLE FOR MEETING THE TERMS AND CONDITIONS OF THIS CONTRACT. IF YOU SIGN THIS CONTRACT AND YOU FAIL TO MEET THE TERMS AND CONDITIONS OF THIS CONTRACT, YOU MAY LOSE YOUR LEGAL OWNERSHIP RIGHTS IN YOUR HOME. KNOW YOUR RIGHTS AND DUTIES UNDER THE LAW.

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Contractor

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

Sworn to and subscribed before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ by \_\_ (name of owner) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

(Seal)

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

Sworn to and subscribed before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ by \_\_ (name of contractor) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

(Seal)

**ASSIGNMENT**

This lien is transferred and assigned to (third party lender)\_\_\_\_\_.

\_\_\_\_\_  
Contractor

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

Sworn to and subscribed before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ by (name of contractor)\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

(Seal)

**Amended Figure: 7 TAC §90.604(a)(16) [~~§90.604(a)(15)~~]  
 (342-G Home Improvement Multi-Advance Note)**

## Mechanic's Lien Note (Second Lien- Home Improvement)

CREDITOR/LENDER \_\_\_\_\_  
 CREDITOR/LENDER NMLS ID \_\_\_\_\_  
 LOAN ORIGINATOR \_\_\_\_\_  
 LOAN ORIGINATOR NMLS ID \_\_\_\_\_  
 ADDRESS (include county) \_\_\_\_\_

DATE OF NOTE \_\_\_\_\_  
 ACCOUNT/CONTRACT NO. \_\_\_\_\_  
 BORROWER \_\_\_\_\_  
 ADDRESS (include county) \_\_\_\_\_

PROPERTY ADDRESS: (include county) \_\_\_\_\_

A word like "I" or "me" means each person who signs as a Borrower. A word like "you" or "your" means the Lender or "Note Holder."

The Lender is \_\_\_\_\_. The Lender may sell or transfer this Note. The Lender or anyone who is entitled to receive payments under this Note is called the "Note Holder." You will tell me in writing who is to receive my payments.

Principal Amount: \_\_\_\_\_

Terms of Payment (principal and interest): \_\_\_\_\_

<b>ANNUAL PERCENTAGE RATE</b> The cost of my credit as a yearly rate.  _____ %	<b>FINANCE CHARGE</b> The dollar amount the credit will cost me.  \$ _____	<b>Amount Financed</b> The amount of credit provided to me or on my behalf.  \$ _____	<b>Total of Payments</b> The amount I will have paid after I have made all payments as scheduled.  \$ _____
<b>My Payment Schedule will be:</b>			
<b>Number of Payments</b>	<b>Amount of Payments</b>	<b>When Payments Are Due</b>	
<b>Security:</b> You will have a security interest in the following described property: (property description) _____ <b>Late Charge:</b> If any part of a payment is unpaid for 10 days after it is due, I may be charged 5% of the amount of payment. <b>Prepayment:</b> <del>(Scheduled Installment Earnings Method):</del> If I pay off early, I may be entitled to a refund of part of the Finance Charge. I will not have to pay a penalty. <b>(True Daily Earnings Method):</b> If I pay off early, I will not have to pay a penalty. <b>Additional Information:</b> See the contract documents for any additional information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties.			

**SECURITY FOR PAYMENT**

The Deed of Trust and the Lien created in the Contract secure this Note. You will have a security interest in the following described property: (property description) \_\_\_\_\_

**DEFINITIONS**

- (A) "Owner" means (name of Owner), whose address is (address of Owner, including county). If Owner and Maker are not the same person, the word "Owner" includes Maker.
- (B) "Contractor" means (name of Contractor), whose address is (address of Contractor, including county) and includes those to whom the Contractor has assigned or transferred Contractor's rights and remedies.
- (C) "Lender" means (name of Lender), whose address is (address of Lender, including county) and includes those to whom the Lender has assigned or transferred Lender's rights and remedies.

- (D) "Trustee" means (name of Trustee), whose address is (address of Trustee, including county).
- (E) "Property" means the Property at (list address of the Property), whose legal description is (list legal description of the Property).
- (F) "Work" means the construction project as agreed to in writing between the Owner and Contractor.
- (G) "Completion Date" means (date on which the Work will be completed).
- (H) "Contract" means this Texas Home Improvement Mechanic's Lien Contract for Improvement, Power of Sale, and Deed of Trust.
- (I) "Note" means the Texas Home Improvement Mechanic's Lien Note signed by me and dated \_\_\_\_\_ and includes all amounts secured by this Contract. The Note states that the amount I owe you is \_\_\_\_\_ dollars (U.S. \$ \_\_\_\_\_) plus interest.
- (J) "Loan Agreement" means the Note, Contract, and any other related document under which Lender has made a loan to me.
- (K) "Applicable Law" means all controlling applicable federal, state, and local law.
- (L) "Tenant at Sufferance" means a person who continues to possess the Property with no current right to possess it.
- (M) "Forcible Detainer" means a lawsuit to remove a person from the Property.
- (N) "Periodic Payment" means the regularly scheduled amount due for principal and interest under the Note plus any amount under this Contract.
- (O) "Successor in Interest" means any party that has taken title to the Property.
- (P) "Lien" means the Mechanic's and Materialman's Lien on the Property that results from the Contract and the Work performed. The Lien includes all existing and future improvements, easements, and rights in the Property.

#### **BORROWER'S PROMISE TO PAY**

Scheduled Installment Earnings Method: I promise to pay the Total of Payments to the order of you. The "principal" or "cash advance" is \$ \_\_\_\_\_. This amount plus interest must be paid by \_\_\_\_\_ (maturity date). I will make payments to you at the address above or as you direct. I will make the payments on the dates and in the amounts shown in the Payment Schedule.

True Daily Earnings Method: I promise to pay the cash advance plus the accrued interest to the order of you. The "principal" or "cash advance" is \$ \_\_\_\_\_. This amount plus interest must be paid by \_\_\_\_\_ (maturity date). I will make payments to you at the address above or as you direct. I will make the payments on the dates and in the amounts shown in the Payment Schedule.

#### **LATE CHARGE**

General Late Charge: If I don't pay all of a payment within 10 days after it is due, you can charge me a late charge. The late charge will be 5% of the scheduled payment. High-Cost Mortgage Loan Late Charge: If I don't pay all of a payment within 15 days after it is due, you can charge me a late charge. The late charge will be 4% of the amount of the payment past due.

#### **AFTER MATURITY INTEREST**

If I don't pay all I owe when the final payment becomes due, I will pay interest on the amount that is still unpaid. That interest will be the higher of the rate of 18% per year or the maximum rate allowed by law. That interest will begin the day after the final payment becomes due.

#### **PREPAYMENT**

Scheduled Installment Earnings Method: I can make a whole payment early. Unless you agree otherwise in writing, I may not skip payments. If I make a payment early, my next payment will still be due as scheduled.

True Daily Earnings Method: I can make any payment early. Unless you agree otherwise in writing, I may not skip payments. If I make a payment early, my next payment will still be due as scheduled.

#### **FINANCE CHARGE AND REFUND METHOD**

For contracts using Scheduled Installment Earnings Method - Section 342.301 rate loans: The annual rate of interest is \_\_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. You figure the Finance Charge by applying the scheduled installment earnings method as defined by the Texas Finance Code to the unpaid cash advance. The unpaid cash advance does not include the administrative fee, late charges, and returned check charges. If I prepay my loan in full before the final payment is due, I will not have to pay a penalty, and I may save a portion of the Finance Charge. I will not be paid a refund if the refund would be less than \$1.00. You base the Finance Charge and Total of Payments as if I will make each payment on the day it is due. My final payment may be larger or smaller than my regular payment.

I have paid any points, administrative fee, or loan origination fee as prepaid interest. The administrative fee is earned at the time the loan is made and is not

subject to refund. If I pay the loan in full early, you will refund any prepaid interest that would make the interest rate exceed the maximum rate allowed by law. Any refund will be credited to my account.

Any payment(s) that you accept after the final payment becomes due is not a renewal or extension of this Loan Agreement unless you agree in writing.

You will apply my payments in the following order: (1) interest that is due, (2) principal, (3) any other charges I owe.

For contracts using Scheduled Installment Earnings Method with prepayments option - Section 342.301 rate loans: The annual rate of interest is \_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. You figure the Finance Charge by applying the scheduled installment earnings method as defined by the Texas Finance Code to the unpaid cash advance. I may make a full or partial payment early without paying a penalty. My early payments will reduce the principal that I owe. The unpaid cash advance does not include the administrative fee, late charges, or returned check charges. If I make an early partial payment, the due date and amount of my next payment will not change unless you agree in writing.

I have paid any points, administrative fee, or loan origination fee as prepaid interest. The administrative fee is earned at the time the loan is made and is not subject to refund. If I pay the loan in full early, you will refund any prepaid interest that would make the interest rate exceed the maximum rate allowed by law. Any refund will be credited to my account.

Any payment(s) that you accept after the final payment becomes due is not a renewal or extension of this Loan Agreement unless you agree in writing.

You will apply my scheduled payments in the following order: (1) interest that is due, (2) principal, (3) any other charges I owe.

For contracts using True Daily Earnings Method - Section 342.301 rate loans: The annual rate of interest is \_\_\_%. This interest rate may not be the same as the Annual Percentage Rate. You figure the Finance Charge by applying the true daily earnings method as defined by the Texas Finance Code to the unpaid portion of the cash advance. The unpaid cash advance does not include the administrative fee, late charges, and returned check charges. You base the Finance Charge and Total of Payments as if I will make each payment on the day it is due. You will apply payments on the date they are received. This may result in a different Finance Charge or Total of Payments. My final payment may be larger or smaller than my regular payment. I may prepay my loan in full early without paying a penalty.

I have paid any points, administrative fee, or loan origination fee as prepaid interest. The administrative fee is earned at the time the loan is made and is not subject to refund. If I pay the loan in full early, you will refund any prepaid interest that would make the interest rate exceed the maximum rate allowed by law. Any refund will be credited to my account.

Any payment(s) that you accept after the final payment becomes due is not a renewal or extension of this Loan Agreement unless you agree in writing.

You will apply my payments as follows: (1) interest that is due, (2) principal, (3) any other charges I owe.

#### **DEFERMENT**

If I ask for more time to make any payment and you agree, I will pay more interest to extend the payment. The extra interest will be figured under the Finance Commission rules.

#### **FEE FOR DISHONORED CHECK**

I agree to pay you a fee of up to \$30 for a returned check. You may add the fee to the amount I owe or collect it separately.

#### **DEFAULT**

I will be in default if:

- a. I do not timely make a payment to the person or place you direct;
- b. I break any promise I made in the Loan Agreement;
- c. I allow a lien to be entered against the Property unless you agree in writing;
- d. I sell, lease, or dispose of the Property;
- e. I use the Property for an illegal purpose; or
- f. you believe in good faith I am not going to keep any of my promises.

If there is more than one Borrower, each Borrower agrees to keep all of the promises in the Loan Agreement.

If I am in default, you will send me a written notice telling me how to cure the default. You must give me at least 21 days after the date on which the notice is mailed or delivered to cure the default.

#### **PROPERTY INSURANCE**

**PROPERTY INSURANCE: I must keep the Property insured against damage or loss in at least the amount I owe. I may obtain property insurance from anyone I want or provide proof of insurance I already have. The insurer must be authorized to do business in Texas.**

**If this box is checked, the premium is not fixed or approved by the Texas Department of Insurance.**

I agree to give you proof of property insurance. I must name you as the person to be paid under the policy in the event of damage or loss. If

I obtain the insurance through you, I will pay the premium shown below. However, I have 5 days from the date of this loan to furnish like (equivalent) coverage from another source. If I fail to meet any of these requirements, you may obtain collateral protection insurance at my expense. You will insure the Property for the lesser amount of the value of the Property or the amount of the debt. If you obtain collateral protection insurance, you will mail notice to my last known address.

Property Insurance                      \$ \_\_\_\_\_                      Term \_\_\_\_\_

**CREDIT INSURANCE**

Credit insurance is optional. Credit life insurance and credit disability insurance are not required to obtain credit. This insurance will not be provided unless I sign and agree to pay the extra cost. I will look to the insurance policy or certificate for the terms and description of benefits, exclusions, and premium rates.

Single Premium

Credit Life, one borrower            \$ \_\_\_\_\_            Credit Life, both borrowers            \$ \_\_\_\_\_            Term \_\_\_\_\_  
 Credit Disability, one borrower    \$ \_\_\_\_\_            Credit Disability, both borrowers    \$ \_\_\_\_\_            Term \_\_\_\_\_

If this box is marked, the premium for the insurance coverage(s) above is not fixed or approved by the Texas Insurance Commissioner.

I want the insurance above.

Borrower's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Co-Borrower's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Monthly Premium

If I want credit life or credit disability insurance, I must sign below and pay the monthly premium. The monthly premium will be added to the monthly loan payment. If I do not pay the monthly premium, I will not have the insurance coverage.

I request the following insurance:

	_____ Borrower's Signature	_____ Date
Premium Due with the First Month's <u>Loan Payment</u>	First Year <u>Premium</u>	Insurance <u>Type:</u>
\$ _____	\$ _____	
\$ _____	\$ _____	
\$ _____	\$ _____	
	_____ Co-Borrower's Signature	_____ Date

The first year's premiums are based on an assumption that monthly loan payments are timely made. All unpaid premiums are due at the time of the final payment. The insurance may be canceled if I do not pay the premiums.\*\* I may cancel any of the optional insurance products offered at any time. The optional insurance will be canceled upon the earliest of the following occurrences:

- (1) your receipt of my written request for cancellation;
- (2) cancellation under the insurance certificate or policy;
- (3) payment in full of my loan; or
- (4) my death.

\*\*Optional language: The insurance will cancel on the date when the total past due premiums equal or exceed (insert number) times the first month's premium.

**MAILING OF NOTICES TO BORROWER**

You or I may mail or deliver any notice to the address above. You or I may change the notice address by giving written notice. Your duty to give me notice will be satisfied when you mail it.

**STATEMENT OF TRUTHFUL INFORMATION**

I promise that all information I gave you is true.

**DUE ON SALE CLAUSE, NOTICE OF INTENT TO ACCELERATE, AND NOTICE OF ACCELERATION**

If all or any interest in the Property is sold or transferred without your prior written consent, you may require immediate payment in full of all that I owe

under this Loan Agreement. You will not exercise this option if prohibited by law.

If you exercise this option, you will give me notice that you are demanding payment of all that I owe. This notice will give me a period of not less than 21 days from the date of the notice within which I must pay all that I owe under this Loan Agreement. If I fail to pay all that I owe before the end of this period, you may use any remedy allowed by the Loan Agreement.

#### **NO WAIVER OF LENDER'S RIGHTS**

If you don't enforce your rights every time, you can still enforce them later.

#### **COLLECTION EXPENSES**

If you require me to pay all that I owe at once, you will have the right to be paid back by me for all of your costs and expenses in enforcing this Loan Agreement to the extent not prohibited by Applicable Law. These expenses include, for example, reasonable attorneys' fees.

#### **JOINT LIABILITY**

I understand that you may seek payment from only me without first looking to any other Borrower.

#### **USURY SAVINGS CLAUSE**

I do not have to pay interest or other amounts that are more than Applicable Law allows.

#### **SAVINGS CLAUSE**

If any part of this Loan Agreement is declared invalid, the rest of the Loan Agreement remains valid. If any part of this Loan Agreement conflicts with any law, that law will control. The part of the Loan Agreement that conflicts with any law will be modified to comply with the law. The rest of the Loan Agreement remains valid.

#### **PRIOR AGREEMENTS**

**This written Loan Agreement is the final agreement between you and me. It may not be changed by prior, current, or future oral agreements between you and me. There are no oral agreements between you and me relating to this Loan Agreement. Any change to this Loan Agreement must be in writing. Both you and I have to sign written agreements.**

#### **THIS NOTE SECURED BY A DEED OF TRUST**

In addition to this Note, the Deed of Trust protects the Note holder from losses that might result if I do not keep the promises that I make in this Note. The Deed of Trust describes how and under what conditions I may have to make immediate payment of all that I owe under this Note.

#### **APPLICATION OF LAW**

Federal law and Texas law apply to this Loan Agreement.

#### **OCCC [COMPLAINTS AND INQUIRIES] NOTICE**

For questions or complaints about this loan, contact (insert name of lender) at (insert lender's phone number and, at lender's option, one or more of the following: mailing address, fax number, website, e-mail address). The lender is licensed and examined under Texas law by the Office of Consumer Credit Commissioner (OCCC), a state agency. If a complaint or question cannot be resolved by contacting the lender, consumers can contact the OCCC to file a complaint or ask a general credit-related question. OCCC address: 2601 N. Lamar Blvd., Austin, Texas 78705. Phone: (800) 538-1579. Fax: (512) 936-7610. Website: [occc.texas.gov](http://occc.texas.gov). E-mail: [consumer.complaints@occc.texas.gov](mailto:consumer.complaints@occc.texas.gov).

[The (name of lender or note holder) is licensed and examined under the laws of the State of Texas and by state law is subject to regulatory oversight by the Office of Consumer Credit Commissioner. Any consumer wishing to file a complaint against the (name of lender or note holder) should contact the Office of Consumer Credit Commissioner through one of the means indicated below:]

[Office of Consumer Credit Commissioner]  
[2601 North Lamar Boulevard, Austin, Texas 78705-4207]  
[[www.occc.state.tx.us](http://www.occc.state.tx.us)]  
[(800) 538-1579]

#### **COLLATERAL**

The Property is subject to the Contract lien.

I am responsible for all obligations in this Note.

#### **NOTICE**

**ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES**

**WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.**

Do not sign if there are blanks left to be completed in this document.

I must receive a copy of this document after I have signed it. I agree to the terms of this Loan Agreement.

\_\_\_\_\_(Seal)  
-Borrower

\_\_\_\_\_(Seal)  
-Borrower

\_\_\_\_\_(Seal)  
-Borrower

\_\_\_\_\_(Seal)  
-Borrower

(Sign Original Only)

(Option for witness signatures)

**Amended Figure: 7 TAC §90.604(a)(17) [~~§90.604(a)(16)~~]  
(342-G Home Improvement Deed of Trust)**

NOTICE OF CONFIDENTIALITY RIGHTS: I MAY REMOVE OR STRIKE MY SOCIAL SECURITY NUMBER OR MY DRIVER'S LICENSE NUMBER FROM THIS DOCUMENT BEFORE IT IS FILED IN THE PUBLIC RECORDS.

**TEXAS HOME IMPROVEMENT  
DEED OF TRUST  
ASSIGNMENT OF CONTRACTOR'S LIEN  
(Second Lien)**

**DEFINITIONS**

- (A) "Borrower" is \_\_\_\_\_. Borrower's address is \_\_\_\_\_.
- (B) "Contractor" is \_\_\_\_\_. Contractor's address is \_\_\_\_\_.
- (C) "Lender" is \_\_\_\_\_. Lender's address is \_\_\_\_\_.  
Lender's NMLS ID is \_\_\_\_\_. The loan originator's name is \_\_\_\_\_. The loan originator's NMLS ID is \_\_\_\_\_.
- (D) "Trustee" is \_\_\_\_\_. Trustee's address is \_\_\_\_\_.
- (E) "I" or "me" means \_\_\_\_\_, the grantor under this Deed of Trust and the person who signed the Note ("Borrower").
- (F) "Loan Agreement" means the Contract, Note, Security Document, Deed of Trust, any other related document, or any combination of those documents, under which Lender has made a loan to me.
- (G) "Deed of Trust" means this document, which is dated \_\_\_\_\_, together with all riders to this document.
- (H) "Note" means the Texas Home Improvement Mechanic's Lien Note signed by me and dated \_\_\_\_\_ and includes all amounts secured by this Contract. The Note states that the amount I owe Lender is \_\_\_\_\_ dollars (U.S. \$ \_\_\_\_\_) plus interest.
- (I) "Property" means the property at (list address of the Property), whose legal description is (list legal description of the Property).
- (J) "Applicable Law" means all controlling applicable federal, state, and local law.
- (K) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on me or the Property by a condominium association, homeowners association, or similar organization.
- (L) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. The term includes point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.
- (M) "Escrow Items" means those items that are described in Section \_\_\_\_ of this Deed of Trust.
- (N) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than proceeds paid under my insurance) for: damage or destruction of the Property; condemnation or other taking of all or any part of the Property; conveyance instead of condemnation; or misrepresentations or omissions related to the value or condition of the Property.
- (O) "Periodic Payment" means the regularly scheduled amount due for principal and interest under the Note plus any amounts under this Deed of Trust.
- (P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §§2601-2617 [~~§2601 et seq.~~]) and Regulation X (12 C.F.R. Part 1024) [~~(24 C.F.R. Part 3500)~~], as [~~they might be~~] amended [~~from time to time~~], or any additional or successor legislation or regulation that governs the same subject matter. As used in this Deed of Trust, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan Agreement does not qualify as a "federally related mortgage loan" under RESPA.
- (Q) "Successor in Interest" means any party that has taken title to the Property.
- (R) "Ground Rents" means amounts I owe if I rented the real property under the buildings covered by this Deed of Trust. Such an arrangement usually takes the form of a long-term "ground lease."

(S) "Contract" means the Texas Home Improvement Mechanic's Lien Contract for Improvement, Power of Sale, and Deed of Trust.

(T) "Lien" means the Mechanic's and Materialman's Lien on the Property that results from the Contract and the Work performed. The Lien includes all existing and future improvements, easements, and rights in the Property.

### **TRANSFER OF RIGHTS IN THE PROPERTY**

I give the Property to Trustee to ensure Lender is repaid the debt evidenced by my Note dated \_\_\_\_\_ and any renewal or extension, to ensure Lender is repaid any sums (with interest) Lender advances to protect the security of this Deed of Trust, and to guarantee my promises. I give to the Trustee, in trust, with power of sale, the Property located in \_\_\_\_\_ County at (Street Address) (City) (State) (Zip Code) and further described as:

(Legal Description)

The security interest in the Property includes existing and future improvements, easements, fixtures, attachments, replacements and additions to the Property, insurance refunds, and proceeds.

I promise that I own the Property and have the right to grant Lender an interest in it. I also promise that the Property is free of any lien, except liens that are publicly recorded. I promise that I will generally defend the title to the Property. I will be responsible for Lender's losses that result from a conflicting ownership right in the Property. Any default under my agreements with Lender will be a default of this Deed of Trust.

LENDER AND I PROMISE:

### **PAYMENT OF LATE CHARGES AND PREPAYMENT**

I will timely pay the principal, interest, and any other amounts due under the Loan Agreement. I will comply with the requirements of my escrow account under the Loan Agreement. I will make payments in U.S. currency. If any check is returned to Lender unpaid, Lender may select the form of future payments including:

- a. cash;
- b. money order;
- c. certified check, bank check, treasurer's check or cashier's check drawn upon an institution whose deposits are federally insured; or
- d. Electronic Funds Transfer.

I will make payments to the location as Lender directs. Lender will apply my payments against the Loan Agreement only when they are received at the designated location. Lender may change the location for payments if Lender gives me notice.

Lender may return any partial payment that does not bring the account current. Lender may accept any payment or partial payment that does not bring the account current without losing Lender's rights to refuse full or partial payments in the future. I will not use any offset or claim against Lender to relieve me from my duty to make payments under the Loan Agreement.

### **FUNDS FOR ESCROW ITEMS**

I will pay Lender an amount ("Funds") for:

- a. taxes and assessments and other items that can take priority over Lender's security interest in the Property under the Loan Agreement;
- b. leasehold payments or Ground Rents on the Property, if any; and
- c. premiums for any insurance Lender requires under the Loan Agreement.

These items are called "Escrow Items." At any time during the term of the Loan Agreement, Lender may require me to pay Community Association Dues, Fees, and Assessments, if any, as an Escrow Item.

I will promptly give Lender all notices of amounts to be paid. I will pay Lender the Funds for Escrow Items unless Lender, at any time, waives my duty to pay Lender. Any escrow waiver must be in writing. If Lender waives my duty to pay Lender the Funds, I will pay, at Lender's direction, the amounts due for waived Escrow Items. If Lender requires, I will give Lender receipts showing timely payment. My duty to make Escrow Item payments and to provide receipts is an independent promise in the Loan Agreement.

If Lender grants me an escrow waiver, Lender may require me to pay the waived Escrow Items. If I fail to directly pay the waived Escrow Items, Lender may use any right given to Lender in the Loan Agreement. Lender may pay waived Escrow Items and require me to repay Lender. Lender may cancel the waiver for Escrow Items at any time by a notice that complies with the Loan Agreement. If Lender cancels the waiver, I will pay Lender all Funds that are then required under this Section.

At any time Lender may collect and hold Funds in an amount:

- a. to permit Lender to apply the Funds at the time specified under RESPA; and
- b. not to exceed the maximum amount Lender may require under RESPA.

Lender will estimate the amount of Funds due on the basis of current data and reasonable estimates of future expenses for Escrow Items or otherwise, according to Applicable Law. The Funds will be held in an institution whose deposits are federally insured (including Lender, if Lender's deposits are insured) or in any Federal Home Loan Bank.

Lender will timely pay Escrow Items as required by RESPA. Lender will not charge me a fee for maintaining or handling my escrow account. Lender is not required to pay me any interest on the amounts in my escrow account. Lender will give me an annual accounting of the Funds as required by RESPA. If there is a surplus in my escrow account, Lender will follow RESPA. If there is a shortage or deficiency, as defined by RESPA, Lender will notify me, and I will pay Lender the amount necessary to make up the shortage or deficiency. I will repay the shortage or deficiency in no more than twelve monthly payments. Lender will promptly return to me any Funds after I have paid the Loan Agreement in full.

#### **CHARGES AND LIENS**

I will timely pay all taxes, assessments, charges, and fines relating to the Property that can take priority over this Deed of Trust. I also will timely pay leasehold payments or Ground Rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. If these items are Escrow Items, I will pay them as required by the Loan Agreement. I will promptly satisfy any lien that has priority over this Deed of Trust unless I:

- a. agree in writing to pay the amount secured by the lien in a manner acceptable to Lender and only so long as I comply with my agreement;
- b. contest the lien in good faith by stopping the enforcement of the lien through legal proceedings (this contest must be satisfactory to Lender); or
- c. obtain an agreement from the holder of the lien that is satisfactory to Lender.

If Lender determines that any part of the Property is subject to a lien that can take priority over this Deed of Trust, Lender may give me a notice identifying the lien. I will satisfy the lien or take one or more of the actions described above in this Section within 10 days of the date of the notice.

#### **PROPERTY INSURANCE**

I WILL INSURE THE CURRENT AND FUTURE IMPROVEMENTS TO THE PROPERTY AGAINST LOSS BY FIRE, HAZARDS INCLUDED WITHIN THE TERM "EXTENDED COVERAGE," AND ANY OTHER HAZARDS INCLUDING EARTHQUAKES AND FLOODS, AS LENDER MAY REQUIRE. I WILL KEEP THIS INSURANCE IN THE AMOUNTS (INCLUDING DEDUCTIBLE LEVELS) AND FOR THE PERIODS THAT LENDER REQUIRES. LENDER MAY CHANGE THESE INSURANCE REQUIREMENTS DURING THE TERM OF THE LOAN AGREEMENT. I HAVE THE RIGHT TO CHOOSE AN INSURANCE CARRIER THAT IS ACCEPTABLE TO LENDER. LENDER WILL EXERCISE LENDER'S RIGHT TO DISAPPROVE REASONABLY. I MAY PROVIDE ANY INSURANCE REQUIRED BY THIS DEED OF TRUST EITHER THROUGH EXISTING POLICIES OWNED OR CONTROLLED BY ME OR THROUGH EQUIVALENT COVERAGE FROM ANY INSURANCE COMPANY AUTHORIZED TO TRANSACT BUSINESS IN TEXAS.

I will pay any fee charged by the Federal Emergency Management Agency for the review of any flood zone determination. Lender may require me to pay either:

- a. a one-time charge for flood zone determination, certification and tracking services; or
- b. a one-time charge for flood zone determination and certification services; and subsequent charges each time re-mappings or similar changes occur that reasonably might affect the determination or certification.

If I do not keep any required insurance, Lender may obtain insurance at Lender's option and at my expense. Lender is not required to purchase any type or amount of insurance. Any insurance Lender buys will always protect Lender, but may not protect me, my equity in the Property, my contents in the Property or protect me from certain hazards or liability. I understand that this insurance may cost significantly more than insurance I can purchase. I will owe Lender for the cost of any insurance that Lender buys under this Section. Interest will be charged on this amount at the interest rate used by the Note. The interest will be charged from the date Lender made the payment. Lender will give me notice of the amounts I owe under this Section.

Lender may disapprove any insurance policy or renewal. Any insurance policy must include a standard mortgage clause, and must name Lender as mortgagee or a loss payee. I will give Lender all insurance premium receipts and renewal notices, if Lender requests. If I obtain any optional insurance to cover damage or destruction of the Property, I will name Lender as a loss payee. In the event of loss, I will give notice to Lender and the insurance company. Lender may file a claim if I do not file one promptly. Lender will apply insurance proceeds to repair or restore the Property unless Lender's interest will be reduced or it will be economically unreasonable to perform the Work. Lender may hold the insurance proceeds until Lender has had an opportunity to inspect the Work and Lender considers the Work to be acceptable. The insurance proceeds may be given in a single payment or multiple payments as the Work is completed. Lender will not pay any interest on the insurance proceeds. If I hire a public adjuster or other third party, I am responsible for the fee. It will not be paid from the insurance proceeds. The insurance proceeds will be applied to the amount I owe if Lender's interest will be reduced or if the Work will be economically unreasonable to perform. Lender will pay me any excess insurance proceeds. Lender will apply insurance proceeds in the order provided by the Loan Agreement.

If I abandon the Property Lender may file, negotiate, and settle any insurance claim. If the insurance company offers to settle a claim and I do not respond within thirty days to a notice from Lender, then Lender may settle the claim. The 30-day period will begin when the notice is given. If I abandon the Property, fail to respond to the offer of settlement, or Lender forecloses on the Property, I assign to Lender:

- a. my rights to any insurance proceeds in an amount not greater than what I owe; and
- b. any of my other rights under insurance policies covering the Property.

Lender may apply the proceeds to repair or restore the Property or to the amount that I owe.

#### **PRESERVATION, MAINTENANCE, PROTECTION, AND INSPECTION OF THE PROPERTY**

I will not destroy, damage, or impair the Property, allow it to deteriorate, or commit waste. Whether or not I live in the Property, I will maintain it in order to prevent it from deteriorating or decreasing in value due to its condition. I will promptly repair the damage to the Property to avoid further deterioration or damage unless Lender and I agree in writing that it is economically unreasonable. I will be responsible for repairing or restoring the Property only if Lender releases the insurance or condemnation proceeds for the damage to or the taking of the Property. Lender may release proceeds for the repairs and restoration in a single payment or in a series of payments as the Work is completed. I still am obligated to complete repairs or restoration of the Property even if there are not enough proceeds to complete the Work. If this Deed of Trust secures a unit in a condominium or planned unit development, I will perform all of my

obligations under the declaration or covenants creating or governing the condominium or planned unit development, and any other relevant document. Lender or Lender's agent may inspect the Property. Lender may inspect the interior of the Property with reasonable cause. Lender will give me notice stating reasonable cause when or before the interior inspection occurs.

#### **PROTECTION OF LENDER'S INTEREST IN THE PROPERTY AND RIGHTS UNDER THE DEED OF TRUST**

Lender may do whatever is reasonable to protect Lender's interest in the Property, including protecting or assessing the value of the Property, and securing or repairing the Property. Lender may do this when:

- a. I fail to perform the promises and agreements contained in the Loan Agreement;
- b. a legal proceeding might significantly affect Lender's interest in the Property or rights under the Loan Agreement (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may have priority over the Loan Agreement or to enforce laws or regulations); or
- c. I abandon the Property.

In order to protect Lender's interest in the Property, Lender may:

- a. pay amounts that are secured by a lien on the Property which has or will have priority over the Loan Agreement;
- b. appear in court; or
- c. pay reasonable attorneys' fees.

Lender may enter the Property to secure it. To secure the Property, Lender may make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Lender has no duty to secure the Property. Lender is not liable for failing to take any action listed in this Section. Any amounts Lender pays under this Section will become my additional debt secured by the Loan Agreement. These amounts will earn interest at the rate specified in the Loan Agreement. The interest will begin on the date the amounts are paid. Lender will give me notice requesting payment of these amounts. If the Loan Agreement is on a leasehold, I will comply with the lease.

#### **ASSIGNMENT OF MISCELLANEOUS PROCEEDS AND FORFEITURE**

Any Miscellaneous Proceeds will be assigned and paid to Lender. If the Property is damaged, Miscellaneous Proceeds will be applied to restore or repair the Property. Lender will only do this if Lender's interest in the Property will not be reduced and if the work will be economically reasonable to perform. Lender will have the right to hold Miscellaneous Proceeds until Lender inspects the Property to ensure the work has been completed to Lender's satisfaction. Lender must make the inspection promptly. Lender may release proceeds for the work in a single payment or in multiple payments as the work is completed. Lender is not required to pay me any interest on the Miscellaneous Proceeds. The Miscellaneous Proceeds will be applied to the amount I owe if Lender's interest in the Property will be reduced or the work will be economically unreasonable to perform. Lender will pay me any excess Miscellaneous Proceeds. Lender will apply Miscellaneous Proceeds in the order provided by the Loan Agreement.

Lender will apply all Miscellaneous Proceeds to the amount I owe in the event of a total taking, destruction, or loss in value of the Property. Lender will apply the Miscellaneous Proceeds even if all payments are current. Lender will give any excess Miscellaneous Proceeds to me.

A partial loss can include a taking, destruction, or loss in value. In the event of a partial loss, the Miscellaneous Proceeds will be applied in one of two ways:

- a. If the fair market value of the Property immediately before the partial loss is less than the amount I owe immediately before the partial loss, then Lender will apply all Miscellaneous Proceeds to the amount I owe even if all payments are current.
- b. If the fair market value of the Property immediately before the partial loss is equal to or greater than the amount I owe immediately before the partial loss, then Lender will apply Miscellaneous Proceeds to the amount I owe in the following manner:
  1. The amount of Miscellaneous Proceeds multiplied by the result of,
  2. The amount I owe immediately before the partial loss divided by the fair market value of the Property immediately before the partial loss.

Lender and I can agree otherwise in writing. Lender will give any excess Miscellaneous Proceeds to me.

If I abandon the Property, Lender may apply Miscellaneous Proceeds either to restore or repair the Property, or to the amount I owe.

Damage to the Property caused by a third party may result in a civil proceeding. If Lender gives me notice that the third party offers to settle a claim for damages to the Property and I fail to respond to Lender within thirty days, Lender may accept the offer and apply the Miscellaneous Proceeds either to restore or repair the Property or to the amount I owe. If the proceeding results in an award of damages, Lender will apply the Miscellaneous Proceeds according to this Section.

#### **FORBEARANCE NOT A WAIVER**

If Lender doesn't enforce Lender's rights every time, Lender can still enforce them later.

#### **JOINT AND SEVERAL LIABILITY, DEED OF TRUST EXECUTION, SUCCESSORS OBLIGATED**

I understand that Lender may seek payment from only me without first looking to any other Borrower.

Any person who signs this Deed of Trust, but not the Note:

- a. will not have to repay the Note;
- b. is not a surety or guarantor; and,

- c. only gives a security interest in the Property under this Deed of Trust.

The Lien against the Property is voluntary. Each owner and each owner's spouse consent to the Lien. Lender and I may modify the Loan Agreement in writing. Lender must approve my successor in writing. My successor will receive all of my rights and benefits under the Loan Agreement. I still will be responsible under the Loan Agreement unless Lender releases me in writing. The Loan Agreement will extend to Lender's assigns or successors.

#### **USURY SAVINGS CLAUSE**

I do not have to pay interest or other amounts that are more than Applicable Law allows.

#### **MAILING OF NOTICES TO BORROWER**

Lender or I may mail or deliver any notice to the address above. Lender or I may change the notice address by giving written notice. Lender's duty to give me notice will be satisfied when Lender mails it.

#### **APPLICATION OF LAW**

Federal law and Texas law apply to this Loan Agreement.

#### **RULES OF CONSTRUCTION**

As used in the Loan Agreement:

- a. words in the singular will mean and include the plural and vice versa; and
- b. the word "may" gives discretion without imposing any duty to take action.

#### **LOAN AGREEMENT COPIES**

At the time the Loan Agreement is made, Lender will give me copies of all documents I sign.

#### **DUE ON SALE CLAUSE, NOTICE OF INTENT TO ACCELERATE, AND NOTICE OF ACCELERATION**

If all or any interest in the Property is sold or transferred without Lender's prior written consent, Lender may require immediate payment in full of all that I owe under this Loan Agreement. Lender will not exercise this option if Applicable Law prohibits.

If Lender exercises this option, Lender will give me notice that Lender is demanding payment of all that I owe. This notice will give me a period of not less than 21 days from the date of the notice within which I must pay all that I owe under this Loan Agreement. If I fail to pay all that I owe before the end of this period, Lender may use any remedy allowed by the Loan Agreement.

LENDER, CONTRACTOR, AND I PROMISE AND AGREE:

#### **ACCELERATION AND REMEDIES**

Lender will give me notice prior to acceleration if I am in default under the Loan Agreement. The notice will specify:

- a. the default;
- b. the action required to cure the default;
- c. a date, not less than 21 days from the date Lender gives me notice, to cure the default; and
- d. that my failure to cure the default on or before the specified date will result in acceleration of all that I owe under the Loan Agreement and sale of the Property.

Lender will inform me of my right to reinstate after acceleration. If the default is not cured before the specified date, Lender has the option to require immediate payment in full of all I owe. If Lender is not paid all I owe, Lender may sell the Property or seek other remedies allowed by Applicable Law without further notice. Lender may collect Lender's reasonable expenses incurred in seeking the remedies provided in this Section. These expenses may include court costs, attorneys' fees, and costs of title search.

I understand the power of sale is not a confession of judgment or a power of attorney to confess judgment or an appearance by me in a judicial proceeding. If the Property is sold under this Section I or my successors will immediately give possession of the Property to the purchaser. If I do not, I or anyone residing on the Property may be removed by writ of possession.

#### **POWER OF SALE**

Lender has a fully enforceable lien on the Property. Lender's remedies for my default include an efficient means of foreclosure under the law. Lender and the Trustee have all powers to conduct a foreclosure. If Lender chooses to use the power of sale, Lender will give me notice of the time, place and terms of the sale by posting and filing notice at least 21 days before the sale as provided by law. Lender will give me notice by mail as required by law. Failure to cure default on or before the date in the notice may result in acceleration of the amount that I owe under this Loan Agreement. The notice will inform me of my right to reinstate after acceleration and assert in court that I am not in default or any other defense to acceleration or sale. If I do not cure the default on or

before the date in the notice, Lender, at Lender's option, may declare all that I owe under this Loan Agreement to be immediately due and payable and may invoke the power of sale and any other remedies permitted by Applicable Law. The sale will be conducted at a public place. The sale will be held:

- a. on the first Tuesday of a month;
- b. at a time stated in the notice or no later than 3 hours after the time; and
- c. between 10:00 a.m. and 4:00 p.m.

I allow the Trustee to sell the Property to the highest bidder for cash in one or more pieces and in any order the Trustee determines. Lender may purchase the Property at any sale.

Trustee will give a Trustee's deed to the foreclosure sale purchaser. A Trustee's deed will convey:

- a. good title to the Property; and
- b. title with promises of general warranty from me.

I will defend the purchaser's title to the Property against all claims and demands. The description of facts contained in the Trustee's deed will be sufficient to legally prove the truth of the statements made in the deed. Trustee will apply the proceeds of the sale in the following order:

- a. to all expenses of the sale, including court costs and reasonable Trustee's and attorneys' fees;
- b. what I owe; and
- c. any excess to the person or persons legally entitled to it.

If the Property is sold through a foreclosure sale governed by this Section, I or any person in possession of the Property through me, will give up possession of the Property without delay. A person who does not give up possession is a holdover and may be removed by a court order.

#### **BORROWER'S RIGHT TO REINSTATE AFTER ACCELERATION**

I have the right to stop Lender from enforcing the Loan Agreement any time before the earliest of:

- a. 5 days before sale of the Property under any power of sale included in the Loan Agreement;
- b. the day required by Applicable Law for the termination of my right to reinstate; or
- c. the entry of a judgment enforcing the Loan Agreement.

I can stop the enforcement of the Loan Agreement and reinstate the Loan Agreement if all the following conditions are met:

- a. Lender is paid what I owe under the Loan Agreement as if no acceleration had occurred;
- b. I cure any default of any promise or agreement;
- c. Lender is paid all expenses allowed by Applicable Law, including reasonable attorneys' fees and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under the Loan Agreement;
- d. I comply with any reasonable requirement to assure Lender that Lender's interest in the Property will remain intact; and
- e. I comply with any reasonable requirement to assure Lender that my ability to pay what I owe will remain intact.

Lender may require me to pay for the reinstatement in one or more of the following forms:

- a. cash;
- b. money order;
- c. certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are federally insured; or
- d. Electronic Funds Transfer.

Upon reinstatement, the Loan Agreement will remain effective as if no acceleration had occurred. However, this right to reinstate will not apply if I sell or transfer any interest in the Property without Lender's permission.

#### **ASSIGNMENT OF RENTS, APPOINTMENT OF RECEIVER, LENDER IN POSSESSION**

As additional security, I assign to you the rents of the Property, provided that you have the right, prior to acceleration or abandonment of the Property, to collect and retain the rents as they become due. Upon acceleration or abandonment, you, by agent or by court-appointed receiver, will be entitled to enter, take possession, manage the Property, and collect due and past due rents. All rents you or the court-appointed receiver collect will be applied first to payment of the cost of management of the Property and collection of rents, including receiver's fees, premiums on receiver's bonds, and reasonable attorneys' fees, and then to the sums secured by this Deed of Trust. You and the receiver will be liable to account only for rents received.

#### **RELEASE**

Lender will cancel and return the Note to me and give me, in recordable form, a release of lien securing the Loan Agreement or a copy of any endorsement of the Note and assignment of the Lien to a Lender that is refinancing the Loan Agreement. I will pay only the cost of recording the release of lien.

## **TRUSTEES AND TRUSTEE LIABILITY**

One or more Trustees acting alone or together may exercise or perform all rights, remedies and duties of the Trustee under the Loan Agreement. Lender may remove or change any Trustee (e.g., add one or more Trustees or appoint a successor Trustee to any Trustee). This removal or change of Trustee must be in writing and may be:

- a. at Lender's option;
- b. with or without cause; and
- c. by power of attorney or otherwise.

The substitute, additional, or successor Trustee will receive the title, rights, remedies, powers, and duties under the Loan Agreement and Applicable Law.

Trustee may rely upon any notice, request, consent, demand, statement, or other document reasonably believed by Trustee to be valid. Trustee will not be liable for any act or omission unless the act or omission is willful.

## **ASSIGNMENT OF CONTRACTOR'S LIEN, COMMENCEMENT OF WORK**

Contractor and I have entered into the Contract for improvements to be made to the Property. I will perform my duties under the Contract. Under the Contract, I gave Contractor a Lien on the Property. Contractor permanently transfers the Lien and any other interest Contractor has in the Property to Lender. As additional security, Contractor also agrees that the lien created by this Deed of Trust has priority over the Lien. The purpose of the Note is to pay in whole or in part the improvements to be made to the Property by the Contractor. Contractor and I agree that the Lien is for Lender's sole benefit. Any other interest Contractor has in the Property will be merged with the Lien, and may be enforced by Lender according to the terms of this Deed of Trust. Contractor and I further agree that no Work was performed or material delivered before the Contract was executed.

## **SUBROGATION**

If I ask, Lender will use proceeds from the Loan Agreement to pay off all valid outstanding liens against the Property. Lender will then own all rights, superior titles, liens, and interests owned or claimed by any owner or holder of an outstanding lien or debt. Lender owns these things whether the lien or debt is transferred to Lender or whether it is released by the holder upon payment.

## **PARTIAL INVALIDITY**

If any portion of the sums secured by this Deed of Trust cannot be lawfully secured, payments minus those sums will be applied first to the portions not secured. If any charge provided for in this Loan Agreement, separately or together with other charges that are considered part of this Loan Agreement, violates Applicable Law, the charge is reduced to the extent necessary to eliminate the violation. Lender will refund the amount of interest or other charges paid to Lender in excess of the amount permitted by Applicable Law. At Lender's option, the amount in excess will either be refunded directly to me or will be applied to reduce the principal of the debt.

## **RENEWAL AND EXTENSION**

The Note secured by this Deed of Trust is renewed and extended, but not in extinguishment of the debt under the Contract identified in the paragraph entitled "Assignment of Contractor's Lien, Commencement of Work" and the Note.

## **SALE OF NOTE, CHANGE OF LOAN SERVICER, NOTICE OF GRIEVANCE, LENDER'S RIGHT TO COMPLY**

A full or partial interest in the Loan Agreement can be sold one or more times without prior notice to me. The sale may result in a change of the company servicing or handling the Loan Agreement. The company servicing or handling the Loan Agreement will collect my monthly payment and will comply with other servicing conditions required by the Loan Agreement or Applicable Law. In some cases, the company servicing or handling the Loan Agreement may change even if the Loan Agreement is not sold. If the company servicing or handling the Loan Agreement is changed, I will be given written notice of the change. The notice will state the name and address of the new company, the address to which my payments should be made, and any other information required by RESPA.

Any notice of acceleration and opportunity to cure under the Loan Agreement will satisfy the notice and opportunity to address the alleged violation provisions of this Section.

No agreement between Lender and me or any third party will limit Lender's ability to comply with Lender's duties under the Loan Agreement and Applicable Law.

Lender and I are limiting all agreements so that all current or future interest or fees in connection with this Loan Agreement will not be greater than the highest amount allowed by Applicable Law.

Lender and I intend to conform the Loan Agreement to the provisions of Applicable Law. If any part of the Loan Agreement is in conflict with the Applicable Law, then that part will be corrected or removed. This correction will be automatic and will not require any amendment or new document. Lender's right to cure any violation will survive my paying off the Loan Agreement. My right to cure will override any conflicting provision of the Loan Agreement.

Lender's right to comply as provided in this Section will survive the payoff of the Loan Agreement. The provisions of this Section will supersede any inconsistent provision of the Loan Agreement.

## **HAZARDOUS SUBSTANCES**

Hazardous Substances:

- a. "Hazardous Substances" means those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials;
- b. "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection;
- c. "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and
- d. "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

I will not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. I will not do, or allow anyone else to do, anything affecting the Property:

- a. that is in violation of any Environmental Law;
- b. that creates an Environmental Condition; or
- c. that, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property.

The presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and for the maintenance of the Property are allowed. This includes Hazardous Substances found in consumer products.

I will promptly give Lender written notice of:

- a. any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which I have actual knowledge;
- b. any Environmental Condition, including any spilling, leaking, discharge, release or threat of release of any Hazardous Substance; and
- c. any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property.

If I learn that, or am notified by any governmental or regulatory authority, or any private party that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, I promptly will take all necessary remedial actions in accordance with Environmental Law. Lender will have no obligation for an Environmental Cleanup.

## **LENDER'S RIGHTS AND BORROWER'S RESPONSIBILITIES**

Lender is entitled to all rights, superior title, liens, and equities owned or claimed by any grantor or holder of any liens and debts due before the signing of the Loan Agreement. Lender may acquire these rights by assignment or the holder may release them upon payment.

Each person who signs the Deed of Trust is responsible for each promise and duty in the Deed of Trust.

Unless prohibited by Applicable Law, this Section will not:

- a. impair in any way the Loan Agreement or Lender's right to collect all that I owe under the Loan Agreement;
- b. affect Lender's right to any promise or condition of the Loan Agreement.

## **DEFAULT**

Any default of my agreements with Lender will be a default of this Deed of Trust.

**REQUEST FOR NOTICE OF DEFAULT  
AND FORECLOSURE UNDER SUPERIOR  
MORTGAGES OR DEEDS OF TRUST**

Lender and I request that the holder of any mortgage, deed of trust or other claim with a lien that has priority over this Deed of Trust give Lender notice, at Lender's address listed on this Deed of Trust, of any default under the superior claim and of any sale or other foreclosure action.

BY SIGNING BELOW, I accept and agree to the terms and promises contained in the Loan Agreement and in any rider I sign which is recorded with it. (DO NOT SIGN IF THERE ARE BLANKS LEFT TO BE COMPLETED IN THIS DOCUMENT. I MUST RECEIVE A COPY OF ANY DOCUMENT I SIGN.)

IN WITNESS WHEREOF, Borrower and Contractor have executed this Deed of Trust and Assignment of Contractor's Lien.

-Contractor

By: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_(Seal)  
-Borrower

Printed Name: \_\_\_\_\_  
(Please Complete)

\_\_\_\_\_(Seal)  
-Borrower

\_\_\_\_\_

Printed Name: \_\_\_\_\_  
(Please Complete)

\_\_\_\_\_(Seal)  
-Borrower

\_\_\_\_\_(Seal)  
-Borrower

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

Sworn to and subscribed before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ by \_\_ (name of owner) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

(Seal)

STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

Sworn to and subscribed before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ by \_\_ (name of contractor) \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

(Seal)