**U.S. Department of Veterans Affairs Sample Partial Claim Promissory Note and Sample Partial Claim Subordinate Mortgage**

**Disclaimer**

**These Sample Forms are neither required nor endorsed by the U.S. Department of Veterans Affairs (“VA”). Mortgagees should review these forms and make modifications as needed to fit applicable federal, state and local requirements. These Sample Forms should not be construed as legal advice and are not a substitute for due diligence to be exercised in ensuring all applicable legal requirements have been met and followed by a holder or servicer of a primary VA-guaranteed loan to which this subordinate mortgage relates. Holders and servicers are responsible for ensuring compliance with all applicable laws (specifically including, but not limited to, 38 C.F.R. Part 36) and ensuring that this subordinate note and mortgage are legally sufficient to attach to the secured realty as a lien subordinated only to the primary VA-guaranteed mortgage loan or that occupies the highest priority in accordance with applicable law, after the primary VA-guaranteed mortgage. No representations or warranties, express or implied, are made herein by the provision or publication of these Sample Forms.**

VA Partial Claim Loan No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Primary VA Guaranteed Loan No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**PROMISSORY NOTE**

**NOTICE: THIS LOAN IS NOT ASSUMABLE WITHOUT THE APPROVAL OF THE SECRETARY OF VETERANS AFFAIRS OR ITS AUTHORIZED AGENT.**

[Date]

[Property Address]

1. PARTIES

“Borrower” means each person signing at the end of this Note, and the person’s successors and assigns. “Secretary” or “Lender” means the Secretary of Veterans Affairs, an Officer of the United States, and its successors and assigns.

2. BORROWER’S PROMISE TO PAY

In return for a loan received from Lender, Borrower promises to pay the principal sum, as calculated under Title 38 Code of Federal Regulations (“C.F.R.”), Section 36.4805(e), of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Dollars (U.S. $\_\_\_\_\_\_\_\_), to the order of the Lender or Note Holder.

Borrower will make all payments under this Note in the form of cash, check, or money order.

Borrower understands Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the “Note Holder.”

3. PROMISE TO PAY SECURED

Borrower’s promise to pay is secured by a mortgage, deed of trust, or similar security instrument that is dated the same date as this Note and called the “Security Instrument.” The Security Instrument protects the Lender from losses, which might result if Borrower defaults under this Note.

4. MANNER OF PAYMENT

(A) Time

Repayment of the full principal sum is required on [insert the maturity date of the primary guaranteed mortgage] or earlier, when the first of the following events occurs: (1) the transfer of title to the Property secured by the Security Instrument; or (2) the refinancing or payment in full otherwise, of all amounts due under the primary Note and related mortgage, deed of trust or similar Security Instruments guaranteed by the Secretary, with which this Note and Subordinate Mortgage are associated.

(B) Place

Payment shall be made at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ or any such other place as Lender or Note Holder may designate in writing by notice to Borrower.

5. BORROWER’S RIGHT TO PREPAY

Borrower has the right to prepay the debt evidenced by this Note, in whole or in part, without charge or penalty. If Borrower makes a partial prepayment, there will be no changes in the due date or in the amount of the monthly payment unless Lender agrees in writing to those changes.

6. BORROWER’S FAILURE TO PAY AS REQUIRED

(A) Default

If Borrower does not pay the full amount due on the date it is due, Borrower will be in default and Note Holder is entitled to exercise all remedies provided by, and in accordance with, applicable law.

(B) Notice of Default

If Borrower is in default, Note Holder may send a written notice of default as required by applicable law.

(C) No Waiver By Note Holder

If, at any time Borrower is in default, Note Holder does not require immediate payment in full, the Note Holder does not waive such right and may require immediate payment at any time Borrower remains in default.

(D) Payment of Note Holder’s Costs and Expenses

In the event of Borrower’s default, Borrower will be liable to Note Holder for all costs and expenses of enforcing this Note to the full extent of applicable law, including but not limited to, reasonable attorney fees and court costs.

7. WAIVERS

Borrower and any other person who has obligations under this Note waive the rights of presentment and notice of dishonor. “Presentment” means the right to require Note Holder to demand payment of amounts due. “Notice of dishonor” means the right to require Note Holder to give notice to other persons that amounts due have not been paid.

8. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. Lender may enforce its rights under this Note against each person individually or against all signatories together. Any one person signing this Note may be required to pay all the amounts owed under this Note.

9. V.A. REGULATIONS

Regulations (38 C.F.R. Part 36) issued under the U.S. Department of Veterans Affairs (“VA”) Guaranteed Loan Authority (38 U.S.C. Chapter 37) and in effect on the date of loan closing shall govern the rights, duties, and liabilities of the parties to this loan and any provisions of this Note which are inconsistent with such regulations are hereby amended and supplemented to conform thereto.

10. SEVERABILITY

If one section of this instrument is found to be void or unenforceable such determination shall not affect the validity or enforceability of other provisions, all of which shall remain in full force and effect.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Note.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (SEAL)

Borrower

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (SEAL)

Borrower

After Recording Return To:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_[Space Above This Line For Recording Data]\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**NOTICE: THIS LOAN IS NOT ASSUMABLE WITHOUT THE APPROVAL OF THE SECRETARY OF VETERANS AFFAIRS OR ITS AUTHORIZED AGENT.**

VA Partial Claim Loan No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Primary VA Guaranteed Loan No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**PARTIAL CLAIM MORTGAGE**

THIS SUBORDINATE MORTGAGE (“Security Instrument”) is given on \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_ . The Mortgagor is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ , whose address is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Borrower”). This Security Instrument is given to the Secretary of Veterans Affairs, an Officer of the United States, whose address is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Lender”). Borrower owes Lender the principal sum, as calculated under Title 38 Code of Federal Regulations (“C.F.R.”), Section 36.4805(e), of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Dollars (U.S. $\_\_\_\_\_\_\_\_\_\_\_\_\_). This debt is evidenced by Borrower’s note dated the same date as this Security Instrument (“Note”), which provides for the full debt, if not paid earlier, due and payable on \_\_\_\_\_\_\_\_\_\_\_\_.

BORROWER MAY make prepayments for this subordinate loan, in whole or in part, without charge or penalty. If Borrower makes a partial prepayment there will be no changes in the due date unless Lender agrees in writing to those changes.

THIS SECURITY INSTRUMENT secures to Lender: (a) the repayment of the debt evidenced by the Note, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, advanced under Paragraph 7 to protect the security of this Security Instrument; and (c) the performance of Borrower’s covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, warrant, grant and convey to the Lender, with the power of sale the following described property located in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County, [State]:

which has the address of [Street]

[City], [State] [Zip Code], (“Property Address”);

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the “Property.”

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

Borrower and Lender covenant and agree as follows:

**UNIFORM COVENANTS**

1**. Payment of Principal**. Borrower shall pay when due the principal of the debt evidenced by the Note.

2. **Borrower Not Released; Forbearance By Lender Not a Waiver**. Extension of the time of payment of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower’s successor in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or Borrower’s successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

3. **Successors and Assigns Bound; Joint and Several Liability; Co-signers**. The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower. Borrower’s covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey that Borrower’s interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the term of this Security Instrument or the Note without that Borrower’s consent.

4. **Notices**. Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ or any address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

5. **Governing Law; Severability**. This Security Instrument shall be governed by Federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

6. **Borrower’s Copy**. Borrower shall be given one conformed copy of the Note and of this Security Instrument.

**NON-UNIFORM COVENANTS**. Borrower and Lender further covenant and agree as follows:

7. **Acceleration; Remedies**. [Insert any required state-specific language; if the jurisdiction where the Property is situated permits non-judicial foreclosure or trustee’s sales, this Security Instrument should set forth those remedies and a power of sale clause where appropriate.]

BY SIGNING BELOW, Borrower accepts and agrees to the terms contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

Witness:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (SEAL)

Borrower

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (SEAL)

Borrower