

**ILLINOIS HOUSING DEVELOPMENT AUTHORITY  
MORTGAGE PURCHASE AGREEMENT**

**RELATING TO:  
ILLINOIS HOUSING DEVELOPMENT AUTHORITY HOMEOWNERSHIP  
MORTGAGE LOAN PROGRAM**

**DATED: 20\_\_**

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**ILLINOIS HOUSING DEVELOPMENT AUTHORITY HOMEOWNERSHIP  
MORTGAGE LOAN PROGRAM  
MORTGAGE PURCHASE AGREEMENT**

**THIS MORTGAGE PURCHASE AGREEMENT**<sup>1</sup> (this "Agreement"), dated as of \_\_\_\_\_, 20\_\_, by and between the **ILLINOIS HOUSING DEVELOPMENT AUTHORITY** (the "Authority"), a body politic and corporate of the State of Illinois, established pursuant to the Illinois Housing Development Act, 20 ILCS 3805/1 *et seq.*, having its office at 111 E. Wacker Drive, Suite 1000, Chicago, Illinois 60601, and

\_\_\_\_\_  
(the "Lender"), having its principal office at \_\_\_\_\_.

WITNESSETH:

In consideration of the mutual agreements contained in this Agreement, the Authority and the Lender agree as follows:

**Section 1. Definitions.**

As used in this Agreement the following words and terms shall have the following meanings:

"Act": The Illinois Housing Development Act [20 ILCS 3805], as amended from time to time.

"Acquisition Cost": The total cost of acquisition of a Qualified Dwelling as described in the Borrower Affidavit.

"Borrower Affidavit": The Authority's notice to homebuyers titled Borrower Affidavit is contained in the forms prescribed by the Authority and available on the IHDA Mortgage website. The Borrower Affidavit is delivered to prospective Eligible Borrower(s) pursuant to the Code by a Lender informing the prospective Eligible Borrower(s) of the possible recapture by the Federal Government of a portion of the subsidy deemed to have been received by such Eligible Borrower(s) in connection with the purchase of a Qualified Dwelling should they sell that Qualified Dwelling within 9 years of the date of its purchase.

"Agency Guidelines": The guidelines published by FNMA, FHLMC, GNMA, FHA/HUD, VA, and/or USDA.

"Applicable Law": All applicable local, federal, and State statutes, rules and regulations (including the Rules as defined herein), regulatory standards, safety and soundness regulatory standards governing mortgage lending practices and national banks, federal, state and local predatory/unfair or deceptive practices, including, without limitation, the Fair Housing Act, Bank Secrecy Act, Anti-Money Laundering regulations, the Integrated Mortgage Disclosures Rule under the Real Estate Settlement Procedures Act and the Truth in Lending Act, Gramm Leach Bliley Act, Home Ownership Equity and Protection Act (HOEPA), Flood Disaster Protection Act, Office of Foreign Asset (OFAC) Sanction screening, Depository Institutions Deregulation and Monetary Control Act, Garn-St. Germain Depository Institutions Act, and Equal Credit

<sup>1</sup> To the extent that the Lender and the Authority have an existing Mortgage Purchase Agreement, Lender and the Authority acknowledge that the execution of this Agreement will not release Lender from any responsibility or liability under any prior agreements or understandings. Lender acknowledges that this Agreement shall be controlling as to further transactions between Lender and the Authority as of the date of execution of this Agreement.

Opportunity Act (EOA).

“Approved Appraisers”: Real estate appraisers who are not debarred or excluded from participation per FHLMC, FNMA, FHA, VA, and USDA and who conduct appraisals in accordance with uniform appraisal standards and in compliance with State and Federal regulations, as well as with Consumer Financial Protection Bureau (CFPB) guidelines, the Dodd-Frank Act, ECOA, Title XI of FIRREA, Uniform Standards of Professional Appraisals Practices (USPAP), and other such regulations as may govern.

“Area of Chronic Economic Distress”: An area designated by the State as meeting the standards established by the State for purposes of Temporary Regulations, Section 6a.103A- 2(b) (5) under the Internal Revenue Code of 1954, as amended, or such comparable regulations as may be promulgated under the Internal Revenue Code of 1986, as amended, and the designation of which has been approved in accordance with such regulations.

“Bonds”: The bonds issued by the Authority pursuant to the Act from time to time under any resolution of the Authority or indenture pursuant to which Authority bonds may be issued to finance or refinance Mortgage Loan(s) under the Program, as amended and supplemented.

“Closing Date”: The date the Mortgage Loan(s) was closed by the originating mortgage lender.

“Code”: The Internal Revenue Code of 1986 (26 USC), as amended and supplemented, and the regulations promulgated by the Treasury Department from time to time under the statute (26 CFR). References to a section of the Code include all regulations promulgated by the U.S. Treasury Department under that section.

“Down Payment Assistance”: A grant or loan made to an Eligible Borrower for down payment assistance in connection with the making of a Mortgage Loan, the repayment of which is defined by the Second Mortgage Note.

“Eligible Borrower”: A person of legal contractual age who meets the definition of Eligible Borrower pursuant to the Rules.

“Escrow Funds”: An escrow of funds in an amount sufficient, in accordance with this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, and the Procedural Guide, and Master Servicer guidelines, all, as applicable, to cover a portion of one calendar year's payments of taxes and governmental assessments, hazard insurance, flood insurance, and, if applicable, mortgage insurance premiums or guaranty fees on each Qualified Dwelling, has been established.

“FHA”: The Federal Housing Administration of the U.S. Department of Housing and Urban Development, or other successors to its functions.

“FHLMC”: The Federal Home Loan Mortgage Corporation or Freddie Mac, or other successors to its functions.

“FNMA”: The Federal National Mortgage Association or Fannie Mae, or other successors to its functions.

“GAAP”: The Generally Accepted Accounting Principles accounting standards, conventions, and rules that accountants follow in recording summarizing and preparing financial

statements.

“GNMA”: The Government National Mortgage Association, or other successors to its functions.

“Household Income”: The total annualized gross income of the Eligible Borrower(s) obligated under the Mortgage Note, including, without limitation, household income as defined pursuant to the Rules.

“HUD”: The U.S. Department of Housing and Urban Development.

“Interest Rate”: A rate(s) of interest specified and amended from time to time by the Authority.

“Lender”: A licensed lending institution including, without limitation, the definitions of Lender described pursuant to Applicable Law and the Rules.

“Low and Moderate Income Persons”: Eligible Borrower(s) whose income does not exceed the Maximum Income and who cannot afford to pay or qualify for a Mortgage Loan(s) to finance or refinance the amounts at which private enterprise, without assisted mortgage financing, is providing a substantial supply of decent, safe, and sanitary housing.

“Master Servicer”: The lending institution acting pursuant to that certain Master Servicing Agreement between the Master Servicer and the Authority, or such other Master Servicer that the Authority may designate from time to time. In the event the Authority does not utilize a Master Servicer, the Authority will serve as such for all intents and purposes.

“Maximum Income”: Unless otherwise permitted or required by the Code, 120% of the median family income of either the metropolitan statistical area or primary metropolitan statistical area in which the Qualified Dwelling is located or the State, whichever is greater, as determined by the Internal Revenue Service.

“MERS”: Mortgage Electronic Registration Systems, Inc.

“Mortgage”: The Mortgage, mortgage deed, or other instrument creating a first mortgage lien on an interest in a Qualified Dwelling, together with all supplements, modifications, or amendments to it located within the State and as defined pursuant to the Rules.

“Mortgage Loan”: A loan made by the Lender to Eligible Borrower(s) for the purchase of a Qualified Dwelling, evidenced by a Mortgage Note, and secured by a Mortgage on the Qualified Dwelling.

“Mortgage Note”: A promissory note evidencing the obligation to repay a Mortgage Loan(s).

“Mortgage Purchase Date”: The date of payment by the Authority or on behalf of the Authority for any Mortgage Loan(s) purchased under this Agreement.

“Mortgage-Backed Security”: A single pool, guaranteed mortgage pass-through security issued and guaranteed by FNMA, a single pool, guaranteed mortgage pass-through certificate issued and guaranteed by FHLMC, or a mortgage pass-through certificate guaranteed by GNMA pursuant to its mortgage-backed securities program under section 306(g) and related provisions of the National Housing Act of 1934 (12 USC 1701), as amended, or any similar successor statutory authority.

“Mortgagor”: means the person or persons for whose benefit, Lender has disbursed the entire proceeds of the Mortgage Note and/or Second Mortgage Note and who is/ are the true and actual person(s) who submitted an application to Lender and who have been approved by Lender and/or the Authority and/or the Master Servicer (as applicable), to receive the Mortgage Loan(s) represented by the Mortgage Note and first lien Mortgage and/or Second Mortgage Note and Second Mortgage.

“Net Proceeds”: All moneys made available by the Authority in connection with the sale of Bonds, or otherwise, for the purchase of Mortgage Loan(s).

“Prepayment”: Any moneys, however derived, that are received or recovered by the Authority from any payment of, or with respect to, principal of any Mortgage Loan(s) or Mortgage-Backed Security prior to scheduled payments of principal required under that Mortgage Loan(s) or Mortgage-Backed Security. However, no moneys received or recovered by the Authority from the repurchase of a Mortgage Loan(s) by a Lender pursuant to this Agreement shall be a Prepayment.

“Principal Residence”: The Qualified Dwelling where the Eligible Borrower(s) and, if applicable, non-borrowing spouse, maintain their permanent place of abode, and typically spend the majority of the calendar year. A person may have only one principal residence at any one time.

“Procedural Guide”: The manual prepared and issued by the Authority governing the origination of Mortgage Loan(s), setting forth the standards for underwriting Mortgage Loan(s), permitted fees, insurance requirements and other requirements in connection with the acceptance of applications for, and the processing and purchase of, Mortgage Loan(s) as such may be amended or supplemented in writing by the Authority in its sole discretion (and any related notices or other instructions which may be issued).

“Program”: The Authority’s Homeownership Mortgage Loan Program under which the Authority provides assisted Mortgage financing to Low and Moderate Income Persons to finance or refinance their purchase of a Qualified Dwelling, funded with proceeds of Bonds or any other source of funds available to the Authority.

“Property Value”: The lesser of the purchase price or the appraised value of the Qualified Dwelling at the time of the origination of the Mortgage Loan(s) secured by the Qualified Dwelling.

“Qualified Census Tract”: Any census tract (or equivalent geographic area defined by the Census Bureau) in which at least 50% of households have an income less than 60% of the Area Median Gross Income (AMGI).

“Qualified Dwelling”: A interest in real property that is located in the State as defined pursuant to the Rules as stated in Sections 47 Ill. Adm. Code 260.103 and 47 Ill. Adm. Code 300.103.

“Quality Control”: The process by which loan quality standards are measured.

“Rules”: The administrative rules of the Authority, as amended and/or supplemented from time to time, specifically including, without limitation, 47 Ill. Adm. Code 260, 47 Ill. Adm. Code 300, and 47 Ill. Adm. Code 360.

“Second Mortgage”: The Mortgage, mortgage deed, or other instrument creating a



second mortgage lien on an interest in a Qualified Dwelling , together with all supplements, modifications, or amendments as defined pursuant to the Rules.

“Second Mortgage Loan”: A loan made by the Lender to an Eligible Borrower(s) for the purchase of a Qualified Dwelling, evidenced by a Second Mortgage Note, and secured by a Second Mortgage on the Qualified Dwelling.

“Second Mortgage Note”: A promissory note evidencing a Mortgage Loan and secured by a second Mortgage lien on a Qualified Dwelling with respect to which assisted Mortgage financing is provided by the Authority under the Program.

“Servicer”: A Lender, acting in the capacity of a Mortgage Loan servicer, a financial institution, a mortgage banking organization, a mortgage servicing company, or a state agency or local government unit organized under the laws of any state or territory of the United States of America or the District of Columbia, that is qualified to service insured Mortgage Loan(s), is acceptable to GNMA, VA, USDA, FHA, FNMA or FHLMC, as applicable, has been approved by the Managing Director, Director, Deputy Director, or Assistant Director of the Authority as a Servicer, and has executed a Servicing Agreement with the Authority. The Authority may also be a Servicer.

“Servicing Agreement”: The agreement between a Servicer and the Authority (except when the Authority is the Servicer) that sets forth the terms and conditions for the servicing of Mortgage Loan(s) purchased by the Authority or its designee. The term "Servicing Agreement" includes a master agreement pursuant to which the Servicer services Mortgage Loan(s) originated by more than one Lender.

“State”: The State of Illinois.

“Targeted Area”: An area of the State that is a Qualified Census Tract or an Area of Chronic Economic Distress and is included on a list of Targeted Areas included in the Procedural Guide or as otherwise announced by the Authority; this list may be amended from time to time by the Authority without consent of the Lender.

“Targeted Area Residence”: A Qualified Dwelling located in a Targeted Area.

“USDA”: The United States Department of Agriculture, Rural Development, Rural Housing Service, or any successor agency under the Section 502 Guaranteed Rural Housing Loan Program or any similar replacement program.

“VA”: The United States Department of Veterans Affairs.

## **Section 2. Eligibility Requirements for Lenders.**

For the Authority to purchase Mortgage Loan(s) from a Lender, the Lender must meet the eligibility requirements mandated by the Authority, including but not limited to, those specified in this section.

A. The Lender must meet the definition of Lender stated in Section 1 and have the authorization to engage in the making of Mortgage Loan(s) of the type that the Authority will purchase under this Agreement. The Authority reserves the right to restrict the Lender’s sale of Mortgage Loan(s) to the type that the Lender and its employees have the experience and authority to originate or sell; and

B. The Lender must be approved in writing by the Authority. At the Authority’s

discretion, Lender approval may be withdrawn at any time; and

C. The Lender must be a direct originator, closing and funding loans in the Lender's own name; and

D. The Lender must be approved by the Authority's Master Servicer, if applicable; and

E. The Lender must recertify with the Authority and the Authority's Master Servicer (as applicable), annually or more frequently as required; and

F. The Lender's principal officers and underwriting staff must have a minimum of 3 years mortgage experience; and

G. The Lender, in the Authority's judgment, must have at all times the capacity to originate and sell to the Authority Mortgage Loan(s) that meet the Procedural Guide and the standards generally imposed by all Agency Guidelines and private institutional mortgage investors, as applicable. The Lender must meet all the requirements for Lenders as defined by their regulator and as set forth in the Procedural Guide and the Rules. The Authority may check to ensure the Lender, or its principles, are not included on any applicable exclusionary list (e.g., OFAC, LDP, GSA, and FHLMC Exclusionary list); and

H. The Lender must maintain, at its own expense, a fidelity bond and errors and omissions insurance; and

I. The Lender must notify the Authority promptly in writing of any changes that occur in its principal purpose, activities, ownership, staffing, or facilities; and

J. The Lender will notify the Authority of a merger or transfer and the Authority shall have the right to review the qualifications of the new/surviving entity. New/surviving entities that are not already approved by the Authority are subject to the onboarding approval, and the Authority reserves the right to require the successor entity to apply for approval as an Authority-approved Lender and to execute a new Agreement upon approval. The failure of the Lender to provide notification of the aforementioned merger or transfer as described shall result in a breach of this Agreement and a basis for termination of this Agreement; and

K. The Lender must be approved in writing by the Authority. At the Authority's discretion, Lender approval may be withdrawn at any time; and

L. The Lender must maintain a Quality Control Plan and execute Quality Control reviews on an ongoing basis to monitor loans originated, processed, and closed for any potential fraudulent or suspicious activity that might jeopardize the validity of the Mortgage Loan(s); and

M. All financial statements required to be submitted by Lender to the Authority must be prepared in accordance with GAAP applied on a consistent basis by an independent certified accountant or other individual acceptable to the Authority and/or Master Servicer (as applicable); and

N. Lender must have established procedures with respect to Approved Appraisers and Lender shall, upon the Authority's or the Master Servicer's (as applicable), request, provide any information Lender has in its possession regarding any appraiser or appraisal; and

O. Lender agrees to fully cooperate with any audit requests relating to Mortgage Loan(s) sold to the Authority and/or Master Servicer (as applicable); and

P. Lender acknowledges that Escrow Funds are mandatory for all Eligible Borrowers under all Programs and escrow accounts must be established and maintained unless otherwise mandated by Applicable Law.

### **Section 3. Agreement to Purchase.**

A. Subject to the terms of this Agreement, the Act, the Procedural Guide, and the Rules, the Authority hereby appoints and directs the Lender to act on the Authority's behalf and to make, deliver, and sell to the Authority, Mortgage Loan(s) that meet the requirements of this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, the Procedural Guide, and Master Servicer guidelines, all, as applicable. Lender acknowledges and agrees that execution and delivery of this Agreement obligates the Lender to sell to the Authority all Mortgage Loan(s) in which the Authority's Program has been used to fund any portion of the transaction.

B. Each Mortgage Loan(s) delivered for purchase by the Lender and accepted for purchase by the Authority under this Agreement, shall be compensated to the Lender as defined in the Procedural Guide and/or Master Servicer guidelines (as applicable) and as established and amended from time to time.

C. Payment for eligible Mortgage Loan(s) will be made at the sole discretion of the Authority upon receipt, review, and approval of closing, underwriting, and credit documentation including evidence of compliance with this Agreement, the Act, the Rules, Agency Guidelines, other Applicable Law, the Code, the Procedural Guide, and Master Servicer guidelines, all, as applicable.

### **Section 4. Mortgage Loan(s) Application Procedure.**

#### **4.1 Application.**

A. The Lender may accept applications for Mortgage Loan(s) from prospective homebuyers who meet the requirements of the Program. The Lender shall be responsible for determining, which may be subject to review by the Authority in its sole discretion, that applicants for Mortgage Loan(s) are Eligible Borrowers who have the financial ability to pay the proposed Mortgage Loan(s) and that proposed Mortgage Loan(s) are to finance or refinance Qualified Dwellings and comply with the requirements, including, without limitation, this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, the Procedural Guide, and Master Servicer guidelines, all, as applicable for purchase by the Authority and/or the Master Servicer (as applicable). It is the Lender's responsibility to deliver adequate documentary evidence to support such determinations and to cooperate with additional documentary requests at the Authority's discretion.

B. The Lender shall maintain, for a period of 36 months from the date of denial, accurate records of the application and related forms, including credit information, with respect to any application for a Mortgage Loan(s) that is denied by the Authority and/or its Master Servicer (as applicable). During that 36-month period, the Lender shall surrender such records to the Authority and/or its Master Servicer (as applicable), upon its request.

C. The Lender shall comply with all federal and state anti-discrimination laws, including such acts set forth in the Applicable Laws. In particular, and without limitation, Lender shall not treat any applicant differently on the basis of: (i) that person's race, color, religion, age, sex, sexual orientation, handicap, marital or family status, national origin, ancestry, military status, or unfavorable military discharge; (ii) that the person derives all or part of his/her income

from any public assistance program; or (iii) that the person has in good faith exercised any right under the Federal Consumer Credit Protection Act or any state anti-discrimination law.

#### **4.2 Underwriting Criteria.**

The Lender shall review and underwrite each application for a Mortgage Loan(s) in a manner consistent with, including, without limitation, this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, the Procedural Guide, and Master Servicer guidelines, all, as applicable.

### **Section 5. Recapture.**

#### **5.1 Description of Recapture.**

A. The Code contains a recapture provision that affects Mortgage Loan(s) purchased by the Authority using proceeds of tax-exempt bonds. An Eligible Borrower who sells a single-family residence financed by a Mortgage Loan(s) may be required to pay the Federal government a portion of the sales price representing the interest on the Mortgage Loan(s) deemed to have been saved due to the below-market interest rate if the sale takes place within 9 years of the Eligible Borrower's purchase of that residence. The Notice to Homebuyers and the Authority's publicly available Recapture Guide contain the Authority's current understanding of the recapture provision of the Code and explanation of the Code provisions pursuant to which the recapture amount will be calculated. The Lender agrees to hold the Authority harmless for this explanation. The Lender agrees that the explanation is not a complete statement of the Code's recapture provisions, and the Authority cannot be certain that it will be consistent with any regulations that the U.S. Treasury Department may promulgate under the Code after the execution of this Agreement.

#### **5.2 Requirement to Inform Prospective Eligible Borrowers.**

When the Lender receives a request for an application for a Mortgage Loan(s), the Lender shall provide the applicant with a copy of the Notice to Homebuyers, as may be amended from time to time in the most current form provided by the Authority. When applicable, Eligible Borrowers who apply for a Mortgage Loan(s) must execute the Notice on or before the date of application for a Mortgage Loan(s), and the Lender must forward a copy of the executed Notice to the Authority along with the documents required to be submitted under this Agreement. Purchase eligibility is contingent upon an executed Notice to Homebuyers as described in Section 1 of this Agreement.

### **Section 6. Issuance of Commitments by Lender.**

The Lender is responsible to determine and provide a credit decision in the form of a commitment to the prospective Eligible Borrower(s). Each commitment must be similar in form and content to those used by the Lender in its mortgage lending practice and must adhere to the Program requirements as described this Agreement, the Act, the Rules, Agency Guidelines, and the Procedural Guide. The commitment may be conditioned only upon approval of the Mortgage Loan(s) for purchase by the Authority and approval by an approved private mortgage insurer, the Master Servicer (as applicable), Agency, or any other entity designated by the Authority pursuant to any Program offered by the Authority.

### **Section 7. Approval by the Authority.**

A. The Mortgage Loan(s) that the Authority purchases must meet, including, without

limitation, the requirements found in this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, Master Servicer guidelines, and the Procedural Guide, all, as applicable on the day the Authority makes a written commitment to purchase.

B. Concurrently with the closing of a Mortgage Loan(s) to an Eligible Borrower(s), the Lender shall submit to the Authority the required documents described in the Procedural Guide and/or other alternative documents as required by the Authority.

C. The approval of any Mortgage Loan(s) for purchase under this Section shall be subject to and conditional upon a final review and approval by the Authority and the Master Servicer (as applicable), of the required documentation submitted in connection with the purchase of a Mortgage Loan(s). The Lender shall be responsible for determining, which determination may be subject to review by the Authority in its sole discretion, that applicants for Mortgage Loan(s) are Eligible Borrowers who have the financial ability to pay the proposed Mortgage Loan(s) and that proposed Mortgage Loan(s) are to finance or refinance Qualified Dwellings and comply with the requirements of, including, without limitation, this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, Master Servicer guidelines, and the Procedural Guide, all, as applicable for purchase by the Authority and/or the Master Servicer, (as applicable). It is the Lender's responsibility to deliver adequate documentary evidence to support such determinations and to cooperate with additional documentary requests at the Authority's discretion. If the Authority denies approval for purchase, it shall notify the Lender of the reason(s) for disapproval.

D. The Lender's request for approval for purchase of a Mortgage Loan(s) shall be regarded as an application for credit under the provisions of ECOA and Regulation B issued pursuant thereto by the Federal Reserve Board, as well as the Fair Credit Reporting Act. The Lender shall take such actions as may be necessary to effect compliance with the foregoing laws and regulations, including, without limitation, supplying in a timely manner any required adverse action notification to the prospective Eligible Borrower(s). The Lender shall give the necessary notifications and disclosures in accordance with Applicable Law and shall comply with applicable requirements relating to retention of records.

## **Section 8. Submission and Purchase of Mortgage Loan(s).**

### **8.1 Submission Requirements.**

A. The Lender shall submit a complete delivery file to the Authority for purchase as set forth in this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, Master Servicer guidelines, and the Procedural Guide, all, as applicable (including both the IHDA Delivery File and the Investor Delivery File referenced in the Procedural Guide). The Lender shall also submit a funding package to the Master Servicer (as applicable), pursuant to the terms of the agreement between the Lender and the Master Servicer.

B. The Lender shall deliver the original recorded Mortgage Loan(s), the original Assignment of Mortgage Loan(s) (or MERS registration), the original Mortgage Note(s), and the original Allonge (or MERS e-Note registration) to the Authority and Master Servicer (as applicable), as soon as they are available, but in no event more than 180 days from the Closing Date of the Mortgage Loan(s), or such other time in accordance with the terms of the relevant agreement(s).

C. Lender agrees to do all acts necessary to perfect title to each Mortgage Loan(s) and shall sell, assign, and deliver to the Authority and/or its Master Servicer (as applicable). No

later than 90 days from the date of purchase Lender shall deliver to the Authority and/or its Master Servicer (as applicable), the required final title policy documentation insuring the first Mortgage Loan as required in Section 10.2. Should Lender fail to satisfy, within 120 days from the date of purchase, the requirements for document delivery with respect to each Mortgage Loan(s) purchased, the Authority reserves the right to pursue remedies hereunder including, without limitation, the remedy of repurchase.

D. The Authority and/or its Master Servicer (as applicable) will not process files submitted for purchase with missing, incomplete, or unacceptable documentation.

## **8.2 Obligation to Purchase.**

A. The Authority shall not be obligated to purchase any Mortgage Loan(s) unless the Mortgage Loan(s) was closed and disbursed to an Eligible Borrower(s) within the time limits set forth in this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, Master Servicer guidelines (as applicable), and the Procedural Guide. In all cases, the Authority is empowered to determine, in its sole discretion, whether Mortgage Loan(s) are acceptable for participation in the Program. At any time, the Authority may, in its sole discretion, extend the time periods referred to in the Procedural Guide.

B. The Authority reserves the right to refuse purchase of any Mortgage Loan(s) delivered by the Lender that do not conform to this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, Master Servicer guidelines, and the Procedural Guide, all, as applicable.

C. The Authority reserves the right to refuse purchase of any Mortgage Loan(s) delivered by the Lender for which, in the opinion of nationally recognized bond counsel selected by the Authority, might reasonably be expected to impair the tax-exempt status of the interest on the Bonds.

## **8.3 Possession of Mortgage Loan(s) File.**

The Lender shall maintain a file with respect to each Mortgage Loan(s). The file shall contain all original signed documents (or legally accepted imaged copies of the original documents) as well as copies of all documents required by this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, the Procedural Guide, and Master Servicer guidelines, all, as applicable.

## **8.4 Fees and Charges of Lender.**

With respect to each Mortgage Loan(s) purchased by the Authority under this Agreement, the Lender may charge the Eligible Borrower(s) such fees as may be permitted by this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, the Procedural Guide, and Master Servicer guidelines, all, as applicable.

## **8.5 Payment of Expenses.**

The Lender shall pay for the preparation and the furnishing to the Authority of all documents specified in this Agreement and any and all expenses in connection with transactions pursuant to this Agreement, including, without limitation, the cost of preparing and recording all documents necessary to accomplish such transactions and legal fees, other than legal fees for services rendered by counsel to the Authority (except as specifically provided in this Agreement). This Section shall not prevent the Lender from charging the Mortgageor(s) closing

costs on a Mortgage Loan(s) to the extent permitted by the prior Section.

**Section 9. Mortgage Loan(s) Secured by Targeted Area Residences.**

The Lender agrees that it shall take all reasonable steps to originate Mortgage Loan(s) in any Targeted Areas within the area in which the Lender intends to originate Mortgage Loan(s).

**Section 10. Insurance.**

**10.1 Private Mortgage Insurance, Hazard Insurance and Special Hazard Insurance Requirements.**

Mortgage Loan(s) must maintain such private mortgage insurance, hazard insurance, and other insurance, all as may be required this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, the Procedural Guide, and Master Servicer guidelines, all, as applicable.

**10.2 Title Insurance Requirements.**

Each first Mortgage Loan shall be insured by a fee simple indefeasible title insurance policy, the benefits of which shall transfer to the Authority and/or the Master Servicer (as applicable), issued on a standard American Land Title Association form by a title insurer acceptable to the Authority in an amount equal to the original principal balance of the first Mortgage Loan. Each title insurance policy shall be free of any exceptions or defects in title not otherwise previously disclosed to the Authority and/or its Master Servicer (as applicable). Any remaining exceptions or defects in title must be prior approved by the Authority and/or its Master Servicer (as applicable).

**10.3 Assignments of Interest in Insurance Policies.**

The Lender shall assign and transfer to the Authority and/or the Master Servicer (as applicable), as of the Mortgage Purchase Date of each Mortgage Loan(s), all its rights, title, and interest in and to such policies or contracts of insurance and any benefits that it has received or may receive on each Mortgage Loan(s) conveyed to the Authority and/or its Master Servicer (as applicable), on such Mortgage Purchase Date. The Lender agrees to execute such further instruments of assignment and other documents as may be necessary to effectuate such assignment, when requested. Following the happening of any insurable event under any such policy prior to the Mortgage Purchase Date, of which the Lender has knowledge, the Lender shall promptly collect and pay over to the Authority and/or its Master Servicer (as applicable), the benefits payable under any such policy. Following the happening of any insurable event under any such policy prior to the Mortgage Purchase Date, it is the sole discretion of the Authority and/or its Master Servicer (as applicable), to determine the purchase eligibility of the Mortgage Loan(s).

**Section 11. Representations, Warranties, and Covenants of Lender.**

**11.1 As of the Date of this Agreement.**

As of the date of this Agreement, the Lender represents and warrants that:

- A. The Lender is a licensed lending institution, pursuant to the definitions of Lender described pursuant to the Rules.
- B. The Lender is and will continue to be duly organized, validly existing, and in

good standing under the laws of its jurisdiction of incorporation or association; is licensed to conduct business under the laws of the State, and will continue to maintain all licenses, registrations, and certifications necessary; is in compliance with all applicable local, state, and federal laws governing its business and the making of loans for residential housing.

C. This Agreement has been duly authorized, executed, and delivered by the Lender and is a valid and binding obligation of the Lender enforceable against it in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, or other laws affecting the enforcement of creditors' rights generally.

D. The Lender has, and its officers acting on its behalf have, full legal authority to engage in and comply with the transactions covered by this Agreement, and to execute and deliver this Agreement. The terms and conditions of this Agreement do not violate, conflict with, or constitute a default under the charter or by-laws of the Lender or any agreement or instrument to which the Lender is now a party or by which it is bound; and the Lender is not a party to or bound by any agreement or instrument or subject to any charter or other corporate restrictions or any judgment, order, writ, injunction, decree, law, rule, or regulation which now or in the future may materially and adversely affect the ability of the Lender to perform its obligations under this Agreement.

E. Lender has complied with and has not violated any law, ordinance, requirement, regulation, rule, or other order applicable to its business or properties, the violation of which might adversely affect the operations or financial condition of Lender to consummate the transactions contemplated by this Agreement.

F. Lender has the ability to perform each and every obligation and/or requirement imposed on Lender pursuant to this Agreement. There is no action, suit, proceeding, or investigation at law or in equity before or by any court, public board or body pending or, to the best of the Lender's knowledge, threatened against or affecting the Lender in which an unfavorable decision, ruling, or finding would have a material adverse effect on either the transactions contemplated by this Agreement, the validity or enforceability against the Lender of this Agreement, or the ability of the Lender to perform under this Agreement or the Servicing Agreement (if applicable).

G. The Lender's right to continue selling Mortgage Loan(s) under this Agreement depends on, among other things, its continuing to meet the eligibility requirements in this Agreement.

H. Because the relationships created by this Agreement are personal, the Lender may not assign this Agreement under any circumstances, either voluntarily or involuntarily, by operation of law, or otherwise.

I. Lender acknowledges that it has paid no monetary consideration to the Authority and/or the Master Servicer in exchange for Lender becoming an approved Lender by the Authority. The Lender also agrees that, except for the purchase of Mortgage Loan(s) and/or the servicing of Mortgage(s), this Agreement has no value to the Lender.

### **11.2 As of Each Mortgage Purchase Date.**

Delivery by the Lender of a Mortgage Loan(s) to the Authority and/or the Master Servicer (as applicable), for purchase pursuant to this Agreement shall constitute the warranty and representation by the Lender that on such Mortgage Purchase Date each of the following



facts is true and correct with respect to such Mortgage Loan(s) and, as applicable, with respect to the Lender. Any investigation, audit, or other examination that may have been or may be made at any time by the Authority shall not limit, diminish, or in any way affect the representations and warranties of the Lender set forth in this Agreement and the Authority may rely on such representations and warranties irrespective of any information obtained by it by any investigation, audit, examination, or otherwise. These representations and warranties shall continue after the purchase and delivery of any Mortgage Loan(s) under this Agreement.

A. Each of the representations and warranties made under this Agreement are true and correct.

B. Each Mortgagor(s) is an Eligible Borrower(s).

C. The Authority shall be entitled to rely upon Lender as assembler and preparer of all Mortgage Loan(s) documents and is under no duty whatsoever to investigate or confirm any of the information set forth therein as to its honesty, accuracy, or completeness.

D. For Mortgage Loan(s) to be funded with the proceeds of mortgage revenue bonds under the Code, the Mortgage Loan(s) and the Eligible Borrower(s) must meet all requirements for mortgage revenue bonds as set forth in the Procedural Guide, the Rules, and in the Code.

E. The full amount of the proceeds of the Mortgage Loan(s) has been applied by an Eligible Borrower(s) to payment of closing costs and Down Payment Assistance, if applicable, and the finance or refinance of a Qualified Dwelling.

F. . The Mortgage Loan(s) is secured by a Mortgage or other acceptable security instrument documents constituting a valid and existing first lien interest in the Qualified Dwelling financed by the Mortgage Loan(s). The Assignment of Mortgage and the endorsement of the Note to the Authority and/or the Master Servicer (as applicable), were properly executed and acknowledged by the Lender, and are the legal, valid, and binding obligations of the Lender enforceable in accordance with their terms subject to applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting creditors' rights generally. The Qualified Dwelling is free and clear of all prior liens, claims and encumbrances, and no rights are outstanding that could give rise to any such lien or encumbrance. Lender has not affected any assignment, sale, or hypothecation of the Mortgage Loan(s), except in favor of the Authority and/or Master Servicer (as applicable). Title to the Qualified Dwelling is subject only to property taxes and assessments not yet due and payable and encumbrances customarily accepted in accordance with applicable title standards and previously disclosed to the Authority and to other exceptions previously approved in writing by the Authority and/or its Master Servicer (as applicable). The term "first mortgage lien" means such classes of first liens as are commonly given to secure loans on real estate under the laws of the State.

G. The Mortgage Loan(s) is of acceptable quality and conforms to all applicable terms, conditions, and procedures set forth in this Agreement, Agency Guidelines, the Act, the Rules, Applicable Law, the Code, the Master Servicer guidelines, all, as applicable, and is eligible for sale to the FNMA, GNMA, FHLMC, FHA, VA, and USDA. Acceptable quality and eligibility are determinative.

H. No predatory or deceptive lending practices – including, without limitation, to the extension of credit without regard for a Mortgagor's ability to repay the Mortgage Loan(s), and/or the extension of credit which has no apparent benefit to the Mortgagor(s) – were employed

in connection with the Mortgage Loan(s) application. Each Mortgage Loan(s) application complies with the anti-predatory lending eligibility requirements of the Procedural Guide, Agency Guidelines, and Applicable Law.

I. The Mortgage Loan(s) is not (i) subject to, covered by or in violation of the HOEPA or (ii) classified as “high cost”, “covered”, “high risk home”, “threshold”, or “predatory” loan under any other applicable state, federal or local law, including any predatory or abusive lending laws (or similarly classified loans using different terminology under a law imposing heightened scrutiny or additional legal liability for residential mortgage loans having high interest rates, points and/or fees) or (iii) in violation of any state law or ordinance comparable to HOEPA.

J. Lender will execute and deliver to the Authority and/or Master Servicer (as applicable), all instruments necessary to convey to the Authority and/or Master Servicer (as applicable), all rights, titles, and interests in and to each Mortgage Loan(s) and all documents evidencing insuring, guaranteeing, or securing each Mortgage Loan(s).

K. The Mortgage(s) contains enforceable provisions that give the Mortgage(s) holder rights and remedies to realize against the Qualified Dwelling as expeditiously as Applicable Law allows, including, without limitation, the power of sale.

L. The Mortgage(s), the Assignment of Mortgage, the financing statements, if any, and any other document required to be filed in a public office to perfect the lien of the Mortgage against third parties have been or will be duly and timely filed, registered, or recorded by the Lender in the proper public office in order to give constructive notice thereof to all subsequent purchasers, creditors, or encumbrancers.

M. The original and unpaid principal balance of the Mortgage Loan(s) and the Interest Rate on it are accurately stated in the Mortgage Loan(s) documents.

N. The amount of the unpaid principal balance and accrued interest, if any, is justly due and owing.

O. The Lender, or an entity controlled by the Lender, is the sole owner and holder of the Mortgage Loan(s) under this Agreement and has the requisite power and authority to sell, transfer, and assign the Mortgage(s) to the Authority and/or the Master Servicer (as applicable). Such sale and assignment convey to the Authority good and marketable mortgagee's title to the real property described in the Mortgage(s).

P. The Lender has not materially modified in any respect and has not satisfied, cancelled, subordinated, or compromised, in whole or in part, the Mortgage Loan(s) indebtedness and has not released the mortgaged Qualified Dwelling in whole or in part from the lien of the Mortgage or the indebtedness evidenced by the Note (or other instruments evidencing security and indebtedness). The terms, covenants, and conditions of the Note and the Mortgage have not been waived, altered, or modified in any respect by the Lender or any other party that would materially affect the validity or enforceability of the Mortgage Loan(s) or the security of the lien of the Mortgage.

Q. There is no default or delinquency under the terms and covenants of the Note(s), Mortgage(s), or any other documents evidencing the Mortgage Loan(s), and all of the following that have become due and payable have been paid or an escrow of funds sufficient to pay them has been established: taxes, government assessments, homeowner association assessments,

insurance premiums, water, sewer and municipal charges, leasehold payments, or ground rents.

R. There is no pending proceeding for a total or partial condemnation or partition of the Qualified Dwelling, and the Qualified Dwelling is undamaged by fire, windstorm, or other casualty. There are no mechanics liens or similar liens or claims that have been filed for work, labor, or material (and no rights are outstanding that under Applicable Law could give rise to such a lien or claim) affecting the Qualified Dwelling, or such liens and claims have been insured against under the final Mortgagee Policy of Title Insurance.

S. To the best of Lender's knowledge, after reasonable inspection, the Qualified Dwelling was not affected by any condition arising from the presence of any dangerous, toxic, or hazardous pollutants, chemicals, wastes, or substances.

T. The Qualified Dwelling (and any improvements that are included in the appraised value) lies wholly within the boundaries and building restrictions of the mortgaged real estate and no improvements on adjoining real estate encroach upon the mortgaged real estate except as noted in the title insurance policy, which encroachments have been approved in writing by the Authority and/or its Master Servicer (as applicable), in accordance with this Agreement, Applicable Law, and applicable Agency Guidelines.

U. The Lender has not made or knowingly received from others, any direct or indirect advance of funds in connection with the loan transaction on behalf of the Eligible Borrower(s) except as provided in this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, the Procedural Guide, Master Servicer guidelines, all, as applicable. This warranty does not cover payment of interest from the earlier of the date of the Mortgage Loan(s) note, the date on which the Mortgage Loan(s) proceeds were disbursed, or the date one month before the first installment of principal and interest on the Mortgage Loan(s) is due.

V. Neither the Lender nor any other person has advanced to the Eligible Borrower(s) additional moneys secured by the lien of the Mortgage(s) without the prior written consent of the Authority and/or its Master Servicer (as applicable).

W. The Lender has not charged to the Eligible Borrower(s) any fees in excess of those allowed under this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, the Procedural Guide, and Master Servicer guidelines, all, as applicable.

X. The Lender has no knowledge of any circumstances or conditions with respect to the Mortgage Loan(s), the Mortgage(s), the Qualified Dwelling, or the Eligible Borrower(s) or their credit standing, that cause or might reasonably be expected to cause the Mortgage Loan(s) to be an unacceptable investment or become delinquent or that adversely affect or might reasonably be expected adversely to affect the value or marketability of the Mortgage Loan(s).

Y. Unless otherwise approved by the Authority in writing, the Eligible Borrower(s) did not borrow any funds other than the proceeds of the Mortgage Loan(s) or other acceptable sources as defined in this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, the Procedural Guide, and Master Servicer guidelines, all, as applicable in connection with the financing or refinancing of the Qualified Dwelling.

Z. The Mortgage Loan(s) meets all Applicable Law, regulations, and other requirements including, without limitation, those pertaining to usury, consumer credit, and truth-in-lending.

AA. The Mortgage Loan(s) is not a construction loan, and such Qualified Dwelling has been completed, except as to minor matters not affecting livability, in full compliance with any Applicable Law, regulations, or building codes and standards.

BB. All improvements on each Qualified Dwelling have been or will be completed in full compliance with any Applicable Law, regulations, or building codes and standards, and the improvements comply with the laws, regulations, or building codes and standards in effect.

CC. The Qualified Dwelling is not, and its intended use will not be, in violation of any zoning law, property restriction, or law, regulation, or requirement pertaining to protection of the environment.

DD. In making the Mortgage Loan(s), the Lender has complied with the Applicable Law and, in particular, but without limitation, did not at any time, (i) discourage or dissuade any person from applying for a Mortgage Loan(s), (ii) offer to negotiate different interest rates or terms to particular persons that would not have been ordinarily offered to applicants of a similar financial situation, or (iii) treat any applicant or potential applicant differently on the basis of that person's race, color, religion, age, sex, sexual orientation, handicap, marital or family status, national origin, ancestry, military status, or unfavorable military discharge; or the fact that the person derives all or part of his/her income from any public assistance program; or the fact that the person has in good faith exercised any right under the Federal Consumer Credit Protection Act or any state anti-discrimination law; or based upon any other characteristic of the person which is defined to be a prohibited basis for credit discrimination under any Applicable Law.

EE. The Lender has complied with the requirements of the Real Estate Settlement Procedures Act of 1974 (Public Law 93-533), as amended from time to time, and any and all Federal regulations pursuant thereto applicable at the time the Mortgage Loan(s) was originated. In addition, the Lender has complied and will comply with all applicable provisions and related regulations of any applicable federal legislation, or the insurance Agreement, which covers the Mortgage(s) and has sent proper notice to the appropriate Agency or firm notifying it of transfer of the Mortgage Loan(s) to the Authority.

FF. If required by the Authority, pursuant to Agency Guidelines, either (i) the original principal amount of the Mortgage Loan(s) does not exceed 80% of the Property Value of the Qualified Dwelling, or (ii) the Mortgage Loan(s) is subject to a policy of private mortgage insurance meeting the requirements set forth in this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, the Procedural Guide, and Master Servicer guidelines, all, as applicable, , or (iii) the Mortgage Loan(s) is insured by the FHA, USDA, or VA, or any other entity designated by the Authority pursuant to any products offered by the Authority. As to each Mortgage Loan(s) insured by a private mortgage insurance company, the FHA, USDA, or VA, or any other entity designated by the Authority pursuant to any products offered by the Authority, the Lender has complied with all rules and requirements of such company, and such insurance is in full force and effect and will, upon purchase of the Mortgage Loan(s) by the Authority or the Master Servicer (as applicable), inure to the benefit of the Authority.

GG. In connection with the insurance pertaining to the Mortgage Loan(s) and the Qualified Dwelling, to the best of the Lender's knowledge and belief, no unlawful or undisclosed fee, commission, rebate or other unlawful compensation or value, of any kind, has been or will be received, retained, or realized by any attorney, firm or other person or entity, and no such unlawful or undisclosed items have been received, retained, or realized by the Lender.

HH. The Lender has duly executed and delivered appropriate evidence indicating that the Eligible Borrower(s) has received any and all disclosure materials as required by Applicable Law.

II. All copies of documents delivered by Lender to the Authority and/or its Master Servicer (as applicable), are true, complete, and correct copies of the original documents. Review of documents by the Authority and its counsel shall not constitute a waiver of this representation.

JJ. The Lender has not altered or modified any standard Authority form used in connection with the Program without the express written consent of the Authority.

KK. With respect to the Mortgage Loan(s), the Lender obtained and examined with reasonable care and has assisted in the completion of the Borrower Affidavit. Based upon the foregoing actions, no facts have come to the attention of the Lender that would lead it to believe that any statements in the Borrower Affidavit are not true, correct, and complete or that any facts disclosed in such affidavit indicates that the Mortgagor(s) is not or might not be an Eligible Borrower(s) or that the mortgaged property is not or might not be a Qualified Dwelling.

LL. The improvements upon the real property subject to the Mortgage Loan(s) are covered by a valid and existing policy of hazard insurance meeting the requirements as set forth in this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, the Procedural Guide, and Master Servicer guidelines, all, as applicable.

MM. The improvements upon the real property subject to the Mortgage Loan(s) are covered by a valid and existing policy of flood insurance, if applicable, meeting the requirements as set forth in this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, the Procedural Guide, and Master Servicer guidelines, all, as applicable.

NN. No portion of the proceeds of the Mortgage Loan(s) have been or are to be used to pay the cost of any item required to be deducted from the sales contract price in computing the Acquisition Cost of the Qualified Dwelling.

OO. All settlement costs have been fairly and equitably adjusted and paid by the Mortgagor(s) and the seller(s) in conformity with sound mortgage closing standards as defined in this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, the Procedural Guide, and Master Servicer guidelines, all, as applicable.

PP. Under the Mortgage(s) and Note(s) it shall constitute an event of default and entitle the Authority or any successor owner of the Mortgage Loan(s), at its option, to accelerate the indebtedness if the Authority or any successor owner of the Mortgage shall determine at any time that any representation or statement of a material fact in the application of the Eligible Borrower(s), the Borrower Affidavit, or any other document executed in connection with the Mortgage Loan(s) was untrue or incomplete when made.

QQ. The Mortgage Loan(s) conforms to and was properly closed in accordance with, and the Lender has complied with, all applicable terms, conditions, and procedures set forth in this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, the Procedural Guide, and Master Servicer guidelines, all, as applicable, and any other applicable documents.

RR. To the best of Lender's information, knowledge, and belief, no condition exists that would prohibit the purchase of the Mortgage Loan(s) by the Authority and/or its Master

Servicer(as applicable), under this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, the Procedural Guide, and Master Servicer guidelines, all, as applicable.

SS. The Mortgage Loan is covered by a fully paid title insurance policy meeting the requirements in this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, the Procedural Guide, and Master Servicer guidelines, all, as applicable.

TT. The Mortgage Loan(s) is evidenced by a properly executed Note(s) made payable or assigned to the order of the Lender and is secured by a properly executed and acknowledged Mortgage(s), which Note(s) and Mortgage(s) are the legal, valid, and binding obligations of the makers and Mortgagor(s) thereof, enforceable in accordance with their terms, except only as such enforcement may be limited by bankruptcy, insolvency, or other laws affecting the enforcement of creditors' rights generally. Each such maker and Mortgagor(s) had full legal capacity to execute the Note(s) and Mortgage(s). There exists as of the Closing Date no right of offset, defense, right of rescission, homestead right, or counterclaim with respect to the Note(s), Mortgage(s), or any of the other documents, and there is no pending or threatened litigation that might affect the validity or enforceability of the Note(s) or the Mortgage(s).

UU. The Mortgage Loan(s) does not have any Uniform Loan Delivery Dataset (“ULDD”) data inaccuracies that affect or compromise the Mortgage Loan(s)’ eligibility for sale as described by Fannie Mae, Freddie Mac, GNMA, FHA, VA, USDA, or the Authority.

### **11.3 Additional Information.**

A. The Lender agrees that it will notify the Authority promptly if at any time it has reason to believe that any statement, representation, or warranty in any document relating to any Mortgage Loan(s) is not, or was not when made, true and correct including, without limitation, this Agreement, the Borrower Affidavit, or any other relevant document.

B. The Lender represents that neither the Lender’s application for approval with the Authority, this Agreement, nor any statement, report, or other document furnished or to be furnished by Lender pursuant to this Agreement contains any untrue statement of material fact or omits any necessary material facts such that the statements contained in this Agreement are misleading.

C. If the Lender fails to complete the required annual Lender recertification, the Authority, at its sole discretion, may deactivate the Lender from the Authority’s system of record until such time that the recertification is completed and approved by the Authority. If the Lender fails to complete the required annual Lender recertification for 2 consecutive years, the Authority, at its sole discretion, may require the entity to reapply as an Authority approved Lender and to execute a new Agreement upon approval.

D. If the Lender fails to maintain appropriate approval with the Authority’s Master Servicer, the Authority, at its sole discretion, may deactivate the Lender from the Authority’s system of record until the Master Servicer notifies the Authority of reinstatement.

E. All of the representations and warranties in this Agreement are for the benefit of the Authority, as well as the Authority’s successors and assigns. Said warranties may be waived, but only in writing by the Authority.

## **Section 12. Default and Remedies.**

A. During any time that the Mortgage Loan(s) is outstanding, the Authority may require Lender to repurchase a Mortgage Loan(s) not meeting the warranties and/or other provisions of this Agreement, if Lender fails to adhere to the requirements of this Agreement, or if any of the following events ("Default") has occurred with respect to that Mortgage Loan(s):

- i. The Lender fails to deliver the recorded Mortgage(s), recorded Assignment of Mortgage(s), and the Title Policy within 30 days following the receipt by the Lender of such documents.
- ii. The Authority suffers, or is threatened with, a material loss by reason of the misfeasance, non-feasance, or malfeasance of the Lender with respect to the Mortgage Loan(s).
- iii. The Authority determines that any representation or warranty made by the Lender with respect to such Mortgage Loan(s) was intentionally or unintentionally untrue when made, that any representation or warranty or other term of this Agreement has been breached, or that a false statement, misstatement, or act of omission of material fact contained in the Mortgage Loan(s) documentation resulting from Lender's negligence or failure to exercise due diligence exists in any of the documents relating to the Mortgage Loan(s) including, without limitation, this Agreement.
- iv. If the Lender services the Mortgage Loan(s) and any type of insurance (private mortgage insurance, special hazard insurance, or other) with respect to the Mortgage Loan(s) is canceled or lapses at any time during the term of the Mortgage Loan(s) due to the fault of the Lender or any assignee of the Lender, and any such insurance is not promptly reinstated to the satisfaction of the Authority.
- v. If Lender fails to obtain FHA insurance, VA or USDA guaranty, private mortgage insurance, or if such guaranty or insurance lapses or becomes unavailable for any reason, as a result of any negligent act of omission by the Lender, or the failure by Lender to obtain such insurance or guaranty within 90 days from date of purchase.
- vi. The Lender, unless granted prior written consent from the Authority, waives the enforcement of any provisions of the Note(s) or Mortgage(s).
- vii. If the Lender fails to transfer the escrow account and the Mortgage Loan(s) documents for Mortgage Loan(s) to the Authority or its designated assignee as instructed by the Authority or its designated assignee.
- viii. Any material fraud, misrepresentation, or act of omission with respect to the information submitted on a particular Mortgage Loan(s) is determined to exist by the Authority, the Master Servicer (as applicable), or another investor. This includes, without limitation, Mortgagor or other third-party fraud or misrepresentation, and any misrepresentation of Mortgagor's income, funds on deposit, or employment, or of the occupancy status of the Qualified Dwelling.
- ix. If it is determined that the Mortgage Loan(s) is ineligible for purchase by FNMA, FHLMC, or any investor, and/or if it is determined that the quality of

the Mortgage Loan(s) was not acceptable by either investor demand, Quality Control review, indemnification demand, or due to violation of this Agreement, the Act, the Rules, Agency Guidelines, insurer guidelines, Applicable Law, the Code, the Applicable Guide, and/or Master Servicer guidelines, all, as applicable.

- B. The process for repurchase of a Mortgage Loan(s) by Lender is as follows:
- i. At the demand of the Authority and/or its Master Servicer (as applicable), and after written notice of Default for any of the reasons stated in this Section, the Lender shall repurchase any Mortgage Loan(s) purchased by the Authority and/or the Master Servicer (as applicable), this Agreement for an amount equal to the sum of (i) 100% of the unpaid principal balance of the Mortgage Loan, plus accrued interest, (ii) any closing cost assistance and Down Payment Assistance provided to the Eligible Borrower, (iii) the aggregate amount of any advances made by the Authority for the account of the Mortgagor plus interest thereon at the Interest Rate, and (iv) any attorneys' fees, legal expenses, court costs, or other expenses that may have been incurred or expended by the Authority in connection with that Mortgage Loan(s).
  - ii. The Authority and/or Master Servicer (as applicable), after determination of Default under this Section shall notify the Lender in writing as to the Lender's obligation to repurchase the Mortgage Loan(s). The Lender must provide rebuttal within 30 days of written notice. The final determination thereafter by the Authority and/or its Master Servicer (as applicable), shall be conclusive. Any repurchase by the Lender under this Agreement shall take place on such date as the Authority may specify in its final notice to the Lender of the occurrence of one or more Defaults, but not less than 10 days from the date of such final notice. Upon repurchase, the Authority and/or its Master Servicer (as applicable), shall reassign to the Lender without recourse its interest in all appropriate documents relating to the Mortgage Loan(s) to the Lender and, if applicable, shall remit to the Lender all escrow deposits held by it or the Servicer. The Lender shall indemnify the Authority and hold the Authority harmless from any losses, liabilities, reasonable costs, damages, judgements, or expenses, including, without limitation, reasonable attorneys' fees, incurred by the Authority with respect to, or proximately resulting from Lender's refusal to repurchase any Mortgage Loan(s) that has been determined to be ineligible for purchase or not of acceptable quality either by investor demand, Quality Control review, or indemnification demand. The Lender shall pay to the Authority as liquidated damages, and not as a penalty, an amount equal to Fifty and No/100 Dollars (\$50.00) per day for each day after the specified repurchase due date, up to and including the date of repurchase, on which the Lender did not repurchase the subject Mortgage Loan(s).
  - iii. If any of the events of Default specified in this Section has occurred and the real estate securing the Mortgage Loan(s) in question has been sold, the Lender shall, at the demand of the Authority, reimburse the Authority in the



amounts specified in this Agreement, plus any expenses incurred in the sale of the real estate, less the amount of the sales price. Such reimbursement shall be made within 10 days of the date of final notice to the Lender of the occurrence of one or more of the foregoing events. If the Lender fails to make reimbursement within that 10-day period, the reimbursement amount shall bear interest at the rate of 10% per year, or the highest amount permitted by law, whichever is less, starting as of the date of the final notice.

- iv. Untrue warranties or deficiencies can be treated as a breach of Agreement that could result in the withdrawal of the Authority's approval of a Lender and the termination of this Agreement.
- v. If the Lender fails or refuses, for any reason whatsoever, to observe or perform any covenant, condition, or commitment in this Agreement that is to be observed or performed by the Lender, then in addition to any other remedies that may be provided elsewhere in this Agreement, the Authority shall be entitled to all remedies at law or in equity including, without limitation, the right to terminate this Agreement, to seek equitable relief by way of injunction to prevent the breach or threatened breach of any of the provisions of this Agreement, or to enforce the performance of the obligations under this Agreement and to seek damages, including consequential damages arising by virtue of the Authority's sale of its Bonds in reliance upon the anticipated observance and performance by the Lender of the provisions of this Agreement.
- vi. Upon any termination of this Agreement, the Lender shall have no further rights pursuant to this Agreement. No termination shall diminish the Authority's right pursuant to this Agreement to require the Lender to repurchase Mortgage Loan(s) or to collect damages.
- vii. If there is a breach of warranty under this Agreement, the Lender, at the Authority's request, will indemnify the Authority and hold the Authority harmless from any related losses, liabilities, reasonable costs, damages, judgements, or expenses, including, without limitation, reasonable attorneys' fees or legal expenses incurred by the Authority with respect to, or proximately resulting from: (i) any breach of any representation, warranty, or covenant of Lender hereunder; (ii) any inaccuracy or incompleteness in the Mortgage Loan(s) documents or any act or omission by Lender, its agents and employees, including, without limitation, failure to comply with Applicable Law; and/or (iii) to the extent Lender, its agents or employees, commits an actual wrong, or makes some error or omission in the preparation of any Mortgage Loan(s) or its documents.
- viii. If the Authority is required to bring suit, take any other action, or incur any expenses to enforce the terms and provisions of this Agreement, or if it is determined in a judicial proceeding that the Lender has failed to perform under any provision of this Agreement, then the Lender shall pay to the Authority upon demand all of its costs and expenses in connection with such activity, including, without limitation, reasonable attorneys' fees, other

professional fees, litigation expenses, and any other out-of-pocket expenses.

### **Section 13. Special Requirements for Mortgage Credit Certificate (MCC) Program.**

In addition to the transactions contemplated under this Agreement, the Lender acknowledges special requirements for MCC Program participation. The Authority and the Lender agree as follows:

#### **13.1 Definitions for MCC.**

The following words and terms shall have the meanings set forth below. Words and terms used in this section not otherwise defined are referenced earlier in this Agreement.

“Applicant”: A prospective Eligible Borrower who applies to the Lender for a Mortgage Loan and an MCC.

“Certificate Credit Rate”: The maximum percentage of interest paid or accrued on the outstanding Certified Indebtedness Amount that can be taken as a federal income tax credit in any year by the Eligible Borrower, as specified in the MCC.

“Certified Indebtedness Amount”: The amount of indebtedness incurred by the Eligible Borrower to acquire the Qualified Dwelling, as specified in the MCC.

“MCC”: A mortgage credit certificate issued by the Authority pursuant to Section 25 of the Code.

“MCC Application”: An application for an MCC signed by an Applicant.

“MCC Commitment”: The Authority's commitment to provide an MCC to an Applicant, provided that the Applicant, the Mortgage Loan(s), and the Qualified Dwelling to be purchased by the Applicant meet the requirements of Section 25 of the Code.

“MCC Program”: A program pursuant to which the Authority offers to issue MCCs to Eligible Borrowers in connection with Mortgage Loan(s) on Qualified Dwellings.

“MCC Reservation”: The Authority's reservation of an MCC for an Applicant.

“New Construction”: A residential housing unit that has not previously been occupied as a Qualified Dwelling.

“Notice of Program”: The Authority's notice to the Lender of an MCC Program release.

“Procedural Guide MCC Addendum”: Addendum to the manual prepared by the Authority setting forth the notices to be provided to Applicants, the fees Lenders are permitted to charge Applicants, the documentation to be submitted in connection with MCC Commitments and submissions for MCCs, the fees Lenders must pay to the Authority, and other procedures and requirements of an MCC Program.

#### **13.2 The MCC Program.**

##### **13.2.1 Agreement Regarding Issuance of MCCs.**

Subject to the terms and conditions of this Section, for each release of the MCC Program in which the Lender chooses to participate, the Authority agrees to issue MCCs in connection with Mortgage Loan(s) originated by the Lender that meet the requirements of this Agreement, the Code, and the Procedural Guide. For such MCC Programs in which

the Lender chooses to participate, the Lender agrees to make available Mortgage Loan(s) to Eligible Borrowers for the acquisition of Qualified Dwellings, located in the areas set forth in the Notice of Program for those MCC Programs. The Authority shall allocate MCCs to Eligible Borrowers in an amount not to exceed the total amount shown in the applicable Notice of Program.

### **13.2.2 Targeted Areas.**

The Authority shall set aside 20% of the aggregate amount of MCCs available under each MCC Program release for a period of 1 year for Mortgage Loan(s) to be made in Targeted Areas. The Lender agrees to use reasonable diligence to originate Mortgage Loan(s) in those Targeted Areas for which it originates mortgage loans in the ordinary course of its business.

### **13.2.3 Notice of Program.**

The Authority will notify the Lender via a Notice of Program of an applicable MCC Program release by electronic or postal mailing. Upon receipt, the Lender may elect to participate in the MCC Program by accepting MCC Applications and requesting MCC Reservations.

### **13.2.4 Mortgage Loan(s) Applications.**

For each MCC Program in which the Lender chooses to participate, the Lender agrees to accept applications from Applicants for Mortgage Loan(s) on Qualified Dwellings located in the areas specified in the Notice of Program. The Lender shall provide all prospective Applicants with the notices and forms required by the Procedural Guide.

### **13.2.5 Recapture.**

A. The recapture provisions of the Code apply to all Mortgage Loan(s) in connection with which an MCC is issued. Attached to this Agreement as Exhibit A is the Notice to Borrower of Maximum Recapture Tax and Method to Compute Recapture Tax on Sale of Home (“MCC Recapture Notice to Homebuyers”) as may be amended from time to time in the most current form provided by the Authority. Said Notice contains the Authority’s current understanding of the recapture provision of the Code and explanation of the Code for which the recapture amount will be calculated. The Lender agrees to hold the Authority harmless for this explanation. The Lender agrees that the explanation is not a complete statement of that recapture provision, and the Authority cannot be certain that it will be consistent with any regulations that the U.S. Treasury Department may promulgate under the Code.

B. When the Lender receives a request for an MCC Application, the Lender shall provide the Applicant with a copy of the MCC Recapture Notice to Homebuyers in the most current form provided by the Authority. Each prospective Eligible Borrower who applies for an MCC must execute the Notice on or before the date of MCC Application, and the Lender must forward a copy of the Notice to the Authority along with the documents required to be submitted under this Agreement. The Authority shall not issue an MCC unless the Lender has provided the Authority with the Notice executed as required by this Agreement.

### **13.2.6 Reserving the MCC.**

The Authority agrees to reserve MCCs on a first-come, first-served basis. To reserve an MCC, the Lender must notify the Authority and provide the Applicant's name, the property address, the Mortgage Loan(s) amount, and whether the Qualified Dwelling is located in a Targeted Area.

If the Qualified Dwelling is located in an area served by an MCC Program, and if the Authority has MCC allocation authority available for the subject Mortgage Loan(s), then the Authority shall make an MCC Reservation for the Applicant through the Authority's computerized reservation system, as more fully described in the Procedural Guide or other training materials. The MCC Reservation shall be valid for a period of one hundred and 120 days, during which time the Lender must submit to the Authority the documents required by this Agreement and/or the Procedural Guide. If the Lender fails to submit these documents, the Authority may cancel the MCC Reservation at the sole discretion of the Authority.

### **13.2.7 The Mortgage Loan(s).**

The MCC may be used in conjunction with any Mortgage Loan(s) or Program as determined by the Authority, other than a Mortgage Loan(s) financed with the proceeds of mortgage revenue bonds issued under Section 143 of the Code, as amended from time to time.

The Lender shall establish all underwriting criteria for the Mortgage Loan(s) as established in this Agreement, the Act, the Rules, Agency Guidelines, the Code, Applicable Law, the Procedural Guide, and Master Servicer guidelines, all, as applicable.

### **13.2.8 MCC Application Fee.**

In addition to the closing costs, fees, and other charges established by the Lender, the Lender shall also charge and collect from the Applicant such MCC fees as may be required in the Procedural Guide.

## **13.3 Submission for MCC Commitment.**

A. If the Lender determines that an Applicant's MCC Application meets the requirements of the applicable MCC Program, the Lender shall submit to the Authority the documents required by the Procedural Guide.

B. The Authority shall review each MCC Application for acceptability and completeness. The Authority shall retain acceptable MCC Application packages electronically.

C. An MCC Commitment shall be subject to and conditioned upon a final review and approval by the Authority of the required documentation submitted in connection with the MCC Application.

D. The Mortgage Loan(s) must be closed within 60 days from the date of the MCC Reservation by the Lender. If the Lender fails to close the Mortgage Loan(s) within the allowed period under this Agreement, the MCC Commitment and the MCC Reservation may be cancelled at the sole discretion of the Authority.

E. If the submission for an MCC Commitment is returned or denied by the Authority, any resubmission, if appropriate, must include all information that the Authority has

determined necessary for reconsideration.

#### **13.4 Cancellation or Changes Prior to Closing.**

The Lender shall notify the Authority of any changes and/or the cancellation of any MCC Commitment in writing. The Authority must confirm receipt of such notification.

#### **13.5 Submission for Mortgage Credit Certificate.**

A. The Lender shall submit to the Authority the documents required by the Procedural Guide in connection with the issuance of an MCC. Upon approval of the MCC submission, the Authority shall deliver an executed MCC to the Eligible Borrower via electronic mail or postal mail.

B. The Lender shall maintain a file with respect to the Mortgage Loan(s) containing copies of all documents delivered to the Authority as defined in this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, the Procedural Guide, and Master Servicer guidelines, all, as applicable.

#### **13.6 IRS Report Filing and Record Keeping.**

A. For each year that an MCC is issued through the Lender, the Lender shall file an annual report to the Internal Revenue Service on IRS Form 8329 (or such other form as may be designated by law or regulation) covering each MCC issued through the Lender during that year. The report shall be filed on or before January 31st of the year following the calendar year to which the report relates, or such other date as may hereafter be prescribed by law or regulation.

B. For a period of 6 years following the year in which the Mortgage Loan(s) was made, the Lender shall retain:

- i. The name, address, and social security number of the MCC holder.
- ii. The name, address, and tax identification number of the Authority.
- iii. The Closing Date of the Mortgage Loan, the Certified Indebtedness Amount, and the Certificate Credit Rate.

#### **13.7 Additional Representations and Warranties of Lender (MCC).**

##### **13.7.1 As of Each Date of Submission for an MCC.**

Each submission of an MCC Application by the Lender to the Authority shall constitute a warranty and representation by the Lender that, on the date of submission, each of the following facts is true and correct with respect to the Mortgage Loan(s) in connection with which the MCC is to be issued and, as applicable, with respect to the Lender. Any investigation, audit or other examination that may have been or may be made at any time by the Authority shall not limit, diminish or in any way affect the representations and warranties of the Lender set forth in this Agreement, and the Authority may rely on such representations and warranties irrespective of any information obtained by it through any investigation, audit, examination or otherwise. These representations and warranties shall survive the submission of MCC Applications, MCC Commitments, and the issuance of MCCs.

A. Each of the representations and warranties established in this Agreement is true and correct.

B. The Lender has not charged the Eligible Borrower any fees in excess of those charged to a borrower applying for financing not provided in connection with an MCC, other than those fees set forth in Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, the Procedural Guide, and Master Servicer guidelines, all, as applicable,.

#### **13.7.2 Additional Information.**

The Lender shall notify the Authority promptly regarding all information that it may receive during the life of any Mortgage Loan(s) made in connection with an MCC that indicates that the MCC holder may have made a misrepresentation in applying for an MCC or that may affect the MCC holder's continued eligibility to hold an MCC.

#### **13.8 Survival of Additional Representations and Warranties (MCC).**

The additional representations, warranties, and covenants of the Lender established for MCC Program in this Agreement shall survive any termination of this Agreement. Should the Lender terminate this Agreement: (i) the Lender must process all applications for an MCC pending as of the date of termination; and (ii) the terms and conditions of this Agreement shall apply to those pending applications. Further, the Authority may immediately terminate and prohibit the Lender from participation in the MCC Program upon the Lender's failure to comply in any material respect with the terms and conditions of this Agreement.

#### **13.9 MCC Miscellaneous.**

The Authority shall have the right to examine and inspect all books and records in the Lender's possession relating to any MCC and the MCC Program, and the Lender shall grant the Authority access to such books and records during normal business hours upon its written request.

The Lender shall, at its expense, execute all documents and take all steps requested by the Authority, from time to time, to perform, evidence, or preserve the Authority's rights with respect to the covenants, representations, and warranties in this Agreement.

### **Section 14. Termination of Agreement.**

A. This Agreement may be terminated with respect to future purchases of Mortgage Loan(s) by either party at any time, with or without cause, by giving 30 days written notice of its decision to terminate this Agreement to the other party that complies with this Agreement.

B. Termination is effective immediately upon notice of termination unless the notice specifies later termination. When the Agreement is terminated, the entire relationship between the Lender and the Authority ends (with certain exceptions that are explained in this section).

C. Without affecting any other rights or remedies available to the Authority under this Agreement or at law or in equity, termination will not affect any outstanding commitments the Authority has made to purchase Mortgage Loan(s) or participation interests from the Lender. However, if the Lender has breached this Agreement, at the Authority's sole discretion the Authority may declare any or all outstanding commitments void.

D. If the Lender fails to complete the required annual Lender recertification for 2 consecutive years, the Authority, at its sole discretion, may require the entity to reapply as an Authority-approved Lender and to execute a new Agreement upon approval. Failure to meet the

requirements of this paragraph results in a breach of this Agreement.

E. The exercise of a right of termination under any provision of this Agreement will not impair any further right of termination under another provision.

F. Termination of this Agreement shall not in any respect change, alter, or modify the obligations of the Authority and Lender with respect to Mortgage Loan(s) that have been purchased by Authority from Lender prior to the date of such termination.

#### **14.1 Continuance of Responsibilities or Liabilities.**

Responsibilities or liabilities of the Lender that exist before the termination of this Agreement will continue to exist after termination unless the Authority expressly releases the Lender from any of them in writing. This is true whether the Agreement was terminated by the Lender or by the Authority.

#### **14.2 Notice.**

Any notice of termination or any other actual notices, demands, or requests under this Agreement or Applicable Law required to be given under this Agreement must be:

- i. in writing;
- ii. delivered electronically, in person, or sent by registered or certified mail, with a return receipt requested; and
- iii. addressed to the party to which notice is being given.

### **Section 15. Severability and Enforcement.**

If any covenant, agreement, representation, warranty, condition, or provision of this Agreement, or the application of them to any circumstance related to this Agreement, shall, at any time or to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable pursuant to Applicable Law, the remainder of this Agreement, or the application of it to circumstances other than those as to which it is held invalid or unenforceable, shall not be affected or invalidated thereby. Each surviving covenant, agreement, representation, warranty, condition, or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

All rights and remedies under this Agreement are distinct and cumulative not only as to each other but as to any rights or remedies afforded by law or equity. They may be exercised together, separately, or successively. These rights and remedies are for the Authority's benefit and that of its successors and assigns.

### **Section 16. Confidentiality.**

A. Lender agrees, in addition to and not in limitation of any other obligations of confidentiality it may have under the Agreement, that it will hold confidential all information (including without limitation all nonpublic personal information as defined in the Gramm Leach Bliley Act's information privacy and security provisions and applicable regulations promulgated pursuant thereto) concerning customers, former customers and prospective customers of the Authority or its agents, which Lender has obtained or in the future obtains, either from the Authority or its any of its agents, or otherwise in connection with the performance of Lender's obligations under the Agreement, and will use and disclose such information only as necessary for

the purpose of performing such obligations, or as required by any federal, state or local law, rule or regulation, and will at all times protect, and will implement and maintain appropriate safeguards to protect, the security and confidentiality of such information in accordance with the foregoing provisions and with all Applicable Law, including without limitation the Gramm Leach Bliley Act's information privacy and security provisions and applicable regulations promulgated pursuant thereto, and in accordance with information privacy and security policies and programs adopted by the Authority.

B. If there is any actual or suspected theft of, accidental disclosure of, loss of, or inability to account for by Lender of any of the confidential information referenced in Paragraph A of this Section (collectively "Security Breach"), Lender must immediately: (i) notify the Authority; (ii) estimate the Security Breach's effect on the Authority; (iii) specify the corrective action to be taken; (iv) investigate and determine if a Security Breach has occurred; and (v) take corrective action to prevent further breach. Lender must, as soon as is reasonably practicable, make a report to the Authority including details of the Security Breach and the corrective action Lender has taken to prevent further breach. Lender must cooperate fully with the Authority to notify the Authority's customer(s) as to the facts and circumstances of the Security Breach. Except as may be strictly required by Applicable Law, Lender agrees that it will not inform any third party of any such Security Breach without the Authority's prior written consent; however, if such disclosure is required by applicable law, Lender agrees to work with the Authority regarding the content of such disclosure so as to minimize any potential adverse impact upon the Authority and its clients and customer.

C. The provisions of this Section shall survive the expiration or termination of this Agreement.

#### **Section 17. Miscellaneous.**

A. The Lender shall at its expense, execute all documents and take all steps requested by the Authority from time to time to perform, evidence, or preserve the Authority's rights with respect to the covenants, representations, and warranties in this Agreement.

B. The provisions of this Agreement cannot be waived or modified except in writing and at the sole discretion of the Authority. Inaction or failure to demand strict performance shall not be deemed to constitute a waiver. Notwithstanding any provision herein to the contrary, the Authority may modify procedural matters relating to the origination and delivery of Mortgage Loan(s) without the consent of the Lender. Such modifications shall be effective upon notice to the Lender, either actual (through direct communication from the Authority and/or its Master Servicer (as applicable) to the Lender) or constructive (changes to internal Authority guidelines or policies that are made public, such as the Procedural Guide).

C. In the event the Lender is the recipient of any funds, from whatever source, intended to reduce or pay the Mortgage Loan(s) or assist in the payment of the monthly payments with respect to it, the Lender agrees promptly to apply all such funds for the purpose intended.

D. This Agreement shall be governed by the internal laws of the State.

E. The Lender assents to the jurisdiction of the federal district courts in the State in any action or proceeding arising out of, or as a result of, this Agreement, or the alleged or anticipated breach of any of the covenants, representations, or warranties contained herein and waives any objection to venue in such action or proceeding being placed in such district in the



State as the Authority may select.

F. All agreements, representations, and warranties made in this Agreement shall survive the purchase of any and all Mortgage Loan(s) under this Agreement.

G. This Agreement may be executed in any number of counterparts, all of which taken together will constitute one and the same agreement, and either party may execute this Agreement by signing one or more counterparts.

H. The headings, captions, and title of this Agreement are for convenience only and shall not influence the construction or interpretation of this Agreement.

I. This Agreement may not be assigned or transferred by the Lender under any circumstances, either voluntarily or involuntarily, by operation of law or otherwise, without the express written consent of the Authority. The Authority may assign its interest in this Agreement to any affiliate, subsidiary, parent, successor by merger, or successor-in-interest without the prior consent of Lender. This Agreement, and any and all representations, warranties, or covenants of Lender hereunder, may be enforced against Lender by the Authority and/or their successors and assigns.

J. All of the covenants and agreements herein contained shall extend to and be obligatory upon all successors of the respective parties.

K. The Authority and the Lender shall adhere to applicable state and federal privacy laws with respect to the Program.

L. The Lender agrees to keep proper books, records, and accounts in accordance with this Agreement, the Act, the Rules, Agency Guidelines, insurer guidelines, Applicable Law, the Code, the Procedural Guide, and Master Servicer guidelines, all, as applicable. The Lender shall permit the Authority, the Auditor General, the Attorney General, and their respective agents or representatives, from time to time, upon reasonable notice and during normal business hours, to inspect the books and records of the Lender relating to the Program administered under this Agreement. The Lender further agrees that the failure of the Lender to maintain the books, records, and supporting documents required under this Agreement, the Act, the Rules, Agency Guidelines, insurer guidelines, Applicable Law, the Code, the Procedural Guide, and Master Servicer guidelines, all, as applicable, shall establish a presumption in favor of the State and the Authority for the recovery of any funds paid by the State or the Authority under this Agreement for which adequate books, records, and supporting documentation are not available to support their purported disbursement. This Section shall survive the termination of this Agreement.

M. The Lender agrees to maintain a Quality Control Plan and execute quality control reviews on an ongoing basis to monitor loans originated, processed, and closed for any potential fraudulent or suspicious activity that might jeopardize the validity of the Mortgage Loan(s) in accordance with the requirements of this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, the Procedural Guide, and Master Servicer guidelines, all, as applicable.

N. Lender agrees that each document delivered or submitted is authentic, true and correct, free of alteration, and meets the requirements and specifications of all parts of this Agreement, the Act, the Rules, Agency Guidelines, Applicable Law, the Code, the Procedural Guide, and Master Servicer guidelines, all, as applicable.

O. Neither this Agreement nor any purchase of Mortgage Loan(s) pursuant hereto shall constitute any agency relationship, legal representation, joint venture, partnership, or employment between the Authority and the Lender. Neither party is in any way authorized to make any contract, agreement, warranty, or representation, or to create any obligation, express or implied, on behalf of the other.

P. Each party irrevocably waives to the extent permitted by law all rights to trial by jury in any action or proceeding arising out of or relating to this Agreement or any of the transactions contemplated under this Agreement. Each party represents to the other party that this waiver is knowing, willing and voluntarily given.

Q. It is mutually understood and agreed that the law of the State of Illinois shall govern this Agreement in all respects. Any disputes arising out of or relating to this Agreement, including but not limited to any alleged breach of this Agreement, shall be venued exclusively in the state or federal courts in the State of Illinois and the parties to this Agreement hereby expressly consent to the exercise of personal jurisdiction over them by such courts.

[The remainder of this page is intentionally left blank.]

**IN WITNESS WHEREOF**, each party has caused this Agreement to be executed by its duly authorized officer.

**LENDER**

\_\_\_\_\_  
By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ILLINOIS HOUSING DEVELOPMENT AUTHORITY**

By: \_\_\_\_\_  
Printed name: Kristin Faust  
Title: Executive Director

By: \_\_\_\_\_  
Printed Name: Christina McClernon  
Title: General Counsel

By: \_\_\_\_\_  
Printed Name: Seth H. Runkle  
Title: Chief Financial Officer

**EXHIBIT A**

**MCC NOTICE TO BORROWER OF MAXIMUM RECAPTURE TAX AND  
METHOD TO COMPUTE RECAPTURE TAX ON SALE OF HOME**

To: Prospective homebuyers who may be planning to apply for a mortgage credit certificate under the Illinois Housing Development Authority's Mortgage Credit Certificate Program.

The Illinois Housing Development Authority's Mortgage Credit Certificate Program is made possible by provisions of the Internal Revenue Code that allow the Authority to issue mortgage credit certificates.

The Internal Revenue Code includes a restriction relating to such mortgage credit certificates. The federal government treats homebuyers who receive a mortgage credit certificate in connection with the purchase of a residence as having received a "subsidy". The restriction requires that, subject to certain exceptions, a homebuyer who has taken advantage of a mortgage credit certificate must repay part or all of the subsidy to the federal government if the homebuyer sells the residence within 9 years of purchase. The repayment is commonly referred to as "recapture."

Generally, the maximum amount of the recapture increases during the first 5 years of ownership and decreases for the next 4 years. During the 9 years in which recapture may apply, several factors will determine the actual amount, if any, of recapture. The actual recapture amount will be based on the homebuyer's original mortgage amount, family size, income at the time of sale and the gain realized upon sale of the residence. Recapture will never exceed one half of the gain on sale. In addition, if the homebuyer's income does not rise significantly over the first 9 years of the loan (more than 5% per year), there is no recapture.

The Authority will provide you with additional information concerning these provisions shortly after you buy your residence. A brief explanation of how the Authority believes the maximum recapture amount will be calculated is provided below. THIS EXPLANATION AND THE ACCOMPANYING CALCULATIONS REPRESENT THE AUTHORITY'S CURRENT UNDERSTANDING OF THE RECAPTURE PROVISION OF THE INTERNAL REVENUE CODE. THE EXPLANATION IS NOT A COMPLETE STATEMENT OF THE RECAPTURE PROVISION, AND THE AUTHORITY CANNOT BE CERTAIN THAT IT WILL BE CONSISTENT WITH ANY REGULATIONS THE TREASURY DEPARTMENT MAY PROMULGATE UNDER THE RELEVANT SECTIONS OF THE INTERNAL REVENUE CODE.

IF YOU DO NOT UNDERSTAND THIS NOTICE, OR IF YOU HAVE ADDITIONAL QUESTIONS ABOUT RECAPTURE, YOU SHOULD CONSULT YOUR ATTORNEY, TAX ADVISOR, OR THE TAXPAYER ASSISTANCE DEPARTMENT OF THE INTERNAL REVENUE SERVICE (1-800-829-1040).

Calculation of the Recapture Amount

The amount of the “subsidy” the homebuyer is presumed to receive is set by the Internal Revenue Code as a percentage of the mortgage amount that varies according to the number of years after the date of purchase the residence is sold. The following table gives the applicable percentages:

<u>Year After Purchase</u>	<u>Percentage</u>
First	1.25%
Second	2.50%
Third	3.75%
Fourth	5.00%
Fifth	6.25%
Sixth	5.00%
Seventh	3.75%
Eighth	2.50%
Ninth	1.25%

The following simple examples, based on a mortgage loan of \$48,000, will show how to calculate the maximum recapture amount for particular years.

Example A: Residence bought Feb. 1, 2000, sold March 1, 2001, in the second year after the date of purchase. Recapture amount = \$48,000 x 2.50% = \$1,200.

Example B: Residence bought Feb. 1, 2000, sold April 1, 2003, in the fourth year after the date of purchase. Recapture amount = \$48,000 x 5.00% = \$2,400.

Example C: Residence bought Feb. 1, 2000, sold April 1, 2004, in the fifth year after the date of purchase. Recapture amount = \$48,000 x 6.25% = \$3,000.

Example D: Residence bought Feb. 1, 2000, sold Jan. 1, 2007, in the seventh year after the date of purchase. Recapture amount = \$48,000 x 3.75% = \$1,800.

Example E: Residence bought Feb. 1, 2000, sold March 1, 2009, in the tenth year after the date of purchase. Recapture amount = 0; no recapture after nine years.

I (We) have read this Notice to Homebuyers, and I (We) have received a signed copy of this Notice for my (our) records.

\_\_\_\_\_  
Homebuyer Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
Homebuyer Signature

Date: \_\_\_\_\_