

WASHINGTON STATE HOUSING FINANCE COMMISSION  
HOME OWNERSHIP PROGRAM

MORTGAGE ORIGINATION AGREEMENT  
(IHFA SERVICER)

Dated as of December 1, 2017

**MORTGAGE ORIGINATION AGREEMENT  
(IHFA SERVICER)**

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Exhibit A      Second Mortgage Loan Program

**MORTGAGE ORIGINATION AGREEMENT**  
**(IHFA SERVICER)**

THIS MORTGAGE ORIGINATION AGREEMENT dated as of December 1, 2017 is among the WASHINGTON STATE HOUSING FINANCE COMMISSION, a public body corporate and politic and an instrumentality of the State of Washington (the "Commission"), IDAHO HOUSING AND FINANCE ASSOCIATION, an independent public body corporate and politic organized and existing under the laws of Idaho and doing business as "HomeLoanServ" (the "Servicer") and the financial institution identified on the execution page hereof (the "Mortgage Lender").

For and in consideration of the mutual agreements hereinafter contained, the parties hereto agree as follows:

**ARTICLE 1**  
**DEFINITIONS**

The following words and phrases shall have the following meanings:

"Acquisition Cost" means the cost of acquiring a residence from the seller as a completed residential unit, as more fully described in Section 4.06 hereof.

"Act" means Washington Laws, 1983, Chapter 161, which established the Commission and as from time to time may be supplemented and amended.

"Addendum to Residential Loan Application" means the affidavit contained in the Program Manual, on which each prospective Mortgagor must certify to certain facts in order to comply with federal tax laws.

"Agreement" means this Mortgage Origination Agreement, as supplemented by the Program Announcements and the Program Manual.

"Annual Family Income" means the annualized family income at the time of Mortgage Loan closing as determined in accordance with the Code. "Annual Family Income" means, with respect to a person, the "gross monthly income," multiplied by twelve, of such person and of any other person who is expected both to live in the Single-Family Residence being financed and to be secondarily liable on Mortgage Loan, all as determined in accordance with the Program Manual. For purposes of this definition, "gross monthly income" includes the sum of monthly gross pay; any additional income from overtime, part-time employment, bonuses, dividends, interest, royalties, pensions, VA compensation, and net rental income; and other income (such as alimony, child support, public assistance, sick pay, social security benefits, unemployment compensation, income received from trusts, and income received from business activities or investments).

"Application" means the Mortgage Lender's application submitted to the Commission to participate in the Program.

“Assignment of Mortgage” means the instrument assigning to the Commission of all of the right, title and interest in a Second Mortgage, in the form prescribed from time to time by the Commission, to be executed and delivered by a Mortgage Lender through MERS.

“Average Area Acquisition Cost” means the acquisition cost amounts, respectively, for (i) residences not previously occupied and (ii) residences previously occupied, for the areas of the State and in the amounts prescribed by the Code and the Commission and contained in the Program Manual by the Commission as the average area Acquisition Cost for such areas.

“Bonds” means the Single-Family Program Bonds of the Commission in one or more series as described in the Program Announcements to fund the House Key Program.

“Business Day” means any day other than a Saturday, Sunday or day on which banking institutions in the State of Washington are authorized or required by law to close.

“Certificate” means a Fannie Mae Certificate, a Freddie Mac Certificate or a Ginnie Mae Certificate.

“Code” means the Internal Revenue Code of 1986, as amended, and all subsequent tax legislation duly enacted by the Congress of the United States that apply to the Program. Each reference to a section of the Code herein shall be deemed to include the United States Treasury Regulations proposed or in effect with respect thereto and applicable to the Bonds or the use of the proceeds thereof.

“Commission Purchase Event” shall have the meaning given in Section 4.22(a) of this Agreement.

“Condominium Owners Association” or “Association of Apartment Owners” means all of the owners of apartments in a condominium acting as a group in accordance with the bylaws and with the declaration as it is duly recorded or as they may be lawfully amended.

“Conventional Mortgage Loan” means a Mortgage Loan that is not FHA Insured, VA Guaranteed, HUD Guaranteed or RD Guaranteed.

“Custodial Agreement” means the agreement between the Servicer and Custodian with respect to the Mortgage Files.

“Custodian” means the Servicer’s custodian for the Mortgage Files, which shall be selected and engaged by the Servicer.

“Eligible Persons and Families” means a person or persons and a family or families (i) intending to principally and permanently reside as a household in a Single-Family Residence within a reasonable period (not to exceed 60 days) following the closing of the Mortgage Loan, (ii) whose Annual Family Income does not exceed the limitations prescribed by the Code and the Commission and contained in the Program Manual, as such income limitations may be amended from time to time, and (iii) who is a First-Time Homebuyer unless the Single-Family Residence is located within a Targeted Area.

“Endorsement of Note” means the endorsement of the Mortgage Note to the Commission in connection with the purchase by the Commission of the related Mortgage Loan, which endorsement shall be in a form consistent with MERS requirements.

“Errors and Omissions Insurance Policy” means a standard form insurance policy in form and substance as required by Freddie Mac or Fannie Mae, insuring against losses from errors or omissions in the conduct of a business.

“Fannie Mae” means the Federal National Mortgage Association, or any successor to its functions.

“Fannie Mae Certificate” means a single pool, guaranteed mortgage pass-through Fannie Mae Mortgage Backed Security, issued by Fannie Mae in book-entry form, the full and timely payment of principal of and interest on which is guaranteed by Fannie Mae, which evidences a proportional undivided interest in a Pool of Conventional Mortgage Loans, all of which loans provide for monthly payments of principal and interest in substantially equal installments for the contractual term of such loan and are amortizing over the original term to maturity.

“Fannie Mae Custodial Agreement” means the Fannie Mae Form No. 2003 from the Servicer to Fannie Mae for the Program.

“Fannie Mae Pass-Through Rate” means the fixed rate of interest stated on a Fannie Mae Certificate.

“Fannie Mae Selling and Servicing Guide” means the Fannie Mae Selling and Servicing Guide, as amended from time to time, as modified by the Pool Purchase Contract.

“FHA” means the Federal Housing Administration of the Department of Housing and Urban Development.

“FHA Insurance” means FHA mortgage insurance issued under one of the following FHA Insurance programs pursuant to the National Housing Act: (a) FHA § 203(b), Home Unsubsidized (b) FHA § 234(c), Condominiums; (c) FHA § 203(b)(2), Veteran’s status; (d) FHA § 203(k) Rehabilitation, Rehabilitation Loan Mortgage; (e) FHA § 222; and FHA § 248, Native American Loan Insurance Program.

“FHA Insured” means insured by FHA Insurance.

“Fidelity Bond” means a standard form fidelity bond, in form and substance as required by Ginnie Mae, Freddie Mac or Fannie Mae, as applicable.

“First Serve Reservation System” means the procedure by which Mortgage Lenders may reserve bond proceeds or other proceeds provided by the Commission as described in the Program Manual, as it may be modified from time to time.

“First-Time Homebuyer” means a Mortgagor who has not had an ownership interest in a principal residence at any time during the three-year period ending on the date Mortgage is executed, as more fully described in Section 4.07 hereof.

“Flood Insurance Policy” means the federal flood insurance policy described in Section 4.18(b) hereof.

“Freddie Mac” means the Federal Home Loan Mortgage Corporation, or any successor to its functions.

“Freddie Mac Certificate” means a mortgage participation certificate in certified or book-entry form, identified by a particular alphanumeric number and CUSIP number, the timely payment of interest

on and the timely payment on the ultimate collection of principal of which is guaranteed by Freddie Mac, which evidences a proportional undivided interest in a Pool of Conventional Mortgage Loans, all of which loans provide for monthly payments of principal and interest in substantially equal installments for the contractual term of such loans and are amortizing over the original term to maturity.

“Freddie Mac Custodial Agreement” means the Freddie Mac Form 1035A from the Servicer to Freddie Mac for the Program.

“Freddie Mac Pass-Through Rate” means the fixed rate of interest stated on a Freddie Mac Certificate.

“Freddie Mac Selling and Servicing Guide” means the Freddie Mac Single Family Selling and Servicing Guide, as amended from time to time.

“Ginnie Mae” means the Government National Mortgage Association, a wholly owned corporate instrumentality of the United States within the Department of Housing and Urban Development. Its powers are prescribed generally by Title III of the National Housing Act, as amended (12 U.S.C., § 1716 et seq.).

“Ginnie Mae Certificate” means a certificate guaranteed by Ginnie Mae.

“Ginnie Mae Custodial Agreement” means Form HUD 11215 from the Servicer to Ginnie Mae for the Program.

“Ginnie Mae Pass-Through Rate” means the fixed rate of interest stated on a Ginnie Mae Certificate.

“Ginnie Mae Guide” means the applicable Ginnie Mae Mortgage-Backed Securities Guide or Guides then in effect with respect to Ginnie Mae certificates acquired under the Program.

“Government Obligations” means direct obligations of the United States of America, or obligations the principal of or interest on which are fully guaranteed by the United States of America.

“Home Advantage Program” means the Commission’s single family mortgage financing program funded from sources other than the proceeds of Bonds.

“House Key Program” means the Commission’s single family mortgage program funded with the proceeds of Bonds.

“HUD” means the United States Department of Housing and Urban Development or any successor to its functions.

“HUD Guaranteed” means guaranteed by HUD under the National Housing Act.

“Indenture” means the bond trust indenture(s) between the Commission and the Trustee securing the Bonds, and all amendments or supplements thereto.

“Loan Reservation Form” means the form set forth in the Commission’s web page and in the Program Manual, which is submitted by the Mortgage Lender to the Commission.

“MERS” means Mortgage Electronic Registration System Inc. which is the method by which all Assignments of Mortgage are processed.

“Mortgage” means the written deed of trust securing the related Mortgage Loan and encumbering a Single-Family Residence, which instrument shall be the then-effective form required by FHA for FHA Insured loans, the form required by HUD for HUD Guaranteed loans, the form required by VA for VA Guaranteed loans, the form required by RD for RD Guaranteed Loans, the form required by Freddie Mac, and the form required by Fannie Mae, with appropriate riders, respectively.

“Mortgage File” means the Mortgage documents customarily maintained in mortgage loan files by private institutional mortgage servicers, as such list is contained in the Program Manual.

“Mortgage Lender” means a home mortgage lending institution or entity, approved by the Commission and the Servicer, (i) which has been doing business on a regular basis in the State and is currently participating in the local private home lending market, (ii) is a VA, HUD, RD or FHA approved mortgagee (iii) if originating Conventional Mortgage Loans, a Freddie Mac approved seller or a Fannie Mae approved seller (iv) which can make the representations, warranties and covenants set forth in Section 2.02 hereof, and (iv) which has agreed to originate and sell Mortgage Loans with servicing released pursuant hereto.

“Mortgage Loan” means a mortgage loan to an Eligible Person or Family evidenced by a Mortgage Note with a stated interest or rate specified in the Program Announcement for an FHA Insured, HUD Guaranteed, VA Guaranteed or RD Guaranteed Mortgage Loan or for a Conventional Mortgage Loan secured by a related Mortgage on a Single-Family Residence located in the State which the Servicer purchases from the Mortgage Lender pursuant to this Agreement and the terms of which comply with this Agreement and which is made not later than the first day of the month prior to the month in which the last Fannie Mae Certificate, Freddie Mac Certificate or Ginnie Mae Certificate, as applicable, is purchased.

“Mortgage Note” means the written instrument executed to evidence the Mortgagor’s obligation to repay the Mortgage Loan, which shall be the then-effective form of mortgage note required by FHA for FHA Insured loans, HUD for HUD Guaranteed loans, RD for RD Guaranteed loans and the form required by VA for VA Guaranteed loans, as applicable and in the form required by Ginnie Mae, Freddie Mac or Fannie Mae, as applicable.

“Mortgage Purchase” means any closing held pursuant to Section 4.10 of this Agreement at which a Mortgage Loan is sold by the Mortgage Lender to the Servicer.

“Mortgage Purchase Date” means the date on which a Mortgage Purchase occurs.

“Mortgagee Single Interest Hazard Insurance Policy” means a mortgagee single interest hazard insurance policy or any similar policy acceptable to the Servicer.

“Mortgagor” means any person who has a Present Ownership Interest in a Single-Family Residence subject to the related Mortgage and/or executes Mortgage (but does not include any person who executes only the Mortgage Note as a guarantor or co-signer and who does not have such a present interest or who does not execute Mortgage and although executing the Mortgage Note, has provided evidence satisfactory to the Mortgage Lender and Servicer that such person will not occupy the Single-Family Residence).

“Non-Qualifying Mortgage Loan” shall have the meaning assigned to it in Section 4.12 hereto.

“Notice Address” means unless otherwise notified in writing:

(a) As to the Commission:

Washington State Housing Finance Commission  
1000 Second Avenue, Suite 2700  
Seattle, Washington 98104-1046  
Attn: Lisa DeBrock, Director, Homeownership Division  
Telephone: (206) 287-4461  
Fax: (206) 587-5113

(b) As to the Servicer:

Idaho Housing and Finance Association  
P.O. Box 7899  
Boise, ID 83707-1899  
Attn: Susan Semba, Executive Vice President

With a copy to:

Richard A. Skinner, Esq.  
Skinner Fawcett  
515 South 6<sup>th</sup> Street  
Boise, Idaho 83701

(c) As to the Trustee:

Wells Fargo Bank, National Association  
600 South 4<sup>th</sup> Street  
MAC: N9300-060  
Minneapolis, Minnesota 55479  
Attn: Mai Nguyen, Corporate Trust Department  
Telephone: (612) 667-8484  
Fax: (612) 667-2160

(d) As to the Mortgage Lender:

The address set forth in the Mortgage Lender's Application.

“Participation Fee” means the fee, if any, submitted by each Mortgage Lender to the Commission to participate in the Program, in accordance with the Application and Program Announcements.

“PMI Insurer” means a private mortgage insurance company approved by Fannie Mae or Freddie Mac and providing private mortgage guaranty insurance on Conventional Mortgage Loans.

“Pool” means, collectively, all the Mortgage Loans held as part of a particular Ginnie Mae Certificate, Freddie Mac Certificate or Fannie Mae Certificate.

“Pool Purchase Contract” means the Fannie Mae Pool Purchase Contract or Freddie Mac Pool Purchase Contract entered into by Fannie Mae or Freddie Mac, as applicable, and the Servicer relating to the sale by the Servicer of Mortgage Loans to Fannie Mae or Freddie Mac and the servicing thereof. Servicer is not currently party to a Freddie Mac Pool Purchase Contract and does not intend to enter into

one unless or until requested to do so by the Commission on the basis of demonstrable advantages over the Fannie Mae Pool Purchase Contract.

“Present Ownership Interest” means all forms of ownership interests other than (i) a remainder interest; (ii) a lease without an option to purchase or a lease with an option to purchase at fair market value at time of purchase; (iii) a mere expectancy to inherit an interest in a principal residence; (iv) the interest that a purchaser of a residence acquires on the execution of a purchase contract; and (v) an interest other than an interest in a principal residence during the previous three years. A Present Ownership Interest in a mobile home or other factory-made housing, whether taxed as personal or real property, constitutes a Present Ownership Interest in a principal residence and, if such interest was owned within the three-year period, the loan applicant would not meet the three-year requirement.

“Program” means the Commission’s program to finance the acquisition of single-family housing by purchasing Certificates as contemplated by this Agreement.

“Program Announcement” means a periodic notice by the Commission regarding either the House Key Program or the Home Advantage Program, describing the interest rates and other features and requirements of the Mortgage Loans. In the event of a conflict between the terms of the Program Announcements regarding the Home Advantage Program and the Purchase Documents, the terms of the Purchase Documents shall control.

“Program Documents” means, collectively, this Agreement, the Program Administration and Servicing Agreement, and the Purchase Documents, as such documents may be amended and supplemented from time to time. In the event of a conflict between the terms of the Purchase Documents and the other Program Documents, the terms of the Purchase Documents shall control.

“Program Manual” means the manual provided by the Commission to each Mortgage Lender that specifies the procedures of the Program and is available on the Commission’s Website. In the event of a conflict between the terms of the Program Manual and the Purchase Documents, the terms of the Purchase Documents shall control.

“Purchase Date” means a date on which the Servicer acquires a Mortgage Loan from a Mortgage Lender.

“Purchase Documents” means documents and agreements between the Servicer and each Mortgage Lender regarding the sale of Mortgage Loans.

“Qualified Appraiser” means an individual that is approved by FHA, HUD, VA and/or RD, the PMI Insurer, Ginnie Mae, Freddie Mac or Fannie Mae, as applicable.

“Qualified Census Tracts” means those areas within the State constituting Targeted Areas as defined in the Code which are described in the Program Manual.

“Qualified Condominium Unit” means a dwelling unit in a horizontal property regime or a condominium pursuant to state law, which is approved by VA, FHA, HUD, RD, Ginnie Mae, Freddie Mac or Fannie Mae, as applicable.

“Qualified Insurer” means FHA, HUD, RD or VA or the PMI Insurer, as the case may be.

“Qualifying Mortgage Loan” means a Mortgage Loan which is not a Non-Qualifying Mortgage Loan and otherwise conforms to the requirements for purchase by the Servicer hereunder.

“RD” means the USDA Office of Rural Development of the U.S. Department of Agriculture, or any successor to its functions.

“RD Guaranteed” means guaranteed as to the payment of principal and interest by RD.

“Recapture Notice” means a form of notice to Mortgagors supplied to the Mortgage Lender by the Commission and distributed to the Mortgagor by the Mortgage Lender describing the recapture provisions of the Code.

“Second Mortgage Loan Program” means the Commission’s second lien loan acquisition programs as described in the Second Mortgage Loan Program Manual.

“Second Mortgage Loan Program Manual” means the Second Mortgage Program Manual provided by the Commission to the Servicer and each Mortgage Lender specifying the procedures to be followed by the Mortgage Lender for Second Mortgage Loans, modified from time to time, and is available on the Commission’s Website.

“Servicer” means Idaho Housing and Finance Association, an independent public body corporate and politic organized and existing under the laws of Idaho and doing business as “HomeLoanServ”, or any successor to its functions hereunder.

“Servicing Agreement” means the Program Administration and Servicing Agreement among the Commission, the Servicer and the Trustee dated as of even date herewith.

“Single-Family Residence” means a residential unit located in the State, including a condominium unit if such unit is a Qualified Condominium Unit, and land appurtenant to the residential unit, (i) which is designed and intended primarily for residential housing (not more than 15% of the total area of which is used in a trade or business) for one family, (ii) which is determined by a qualified appraisal as provided herein to have an expected useful life of not less than 30 years, (iii) which will be occupied by the owner as his or her principal residence within a reasonable time after which financing is provided but not more than 60 days, (iv) which unit is permanently affixed to the land, (v) the Acquisition Cost of which does not exceed the limits prescribed by the Code and the Commission from time to time as specified in the Program Manual, and (v) which appurtenant land reasonably maintains the basic livability of the residence and does not provide, other than incidentally, a source of income to the Mortgagor. A Single-Family Residence does not include rental houses, vacation homes, or factory-made housing that is not permanently affixed to real property.

“Standard Hazard Insurance Policy” means a standard homeowner’s fire insurance policy with extended coverage as approved by the Insurance Commissioner of the State.

“State” means the State of Washington.

“Targeted Area” means the areas within the State which are set forth in the Program Manual as Qualified Census Tracts or “areas of chronic economic distress” as designated and approved in accordance with the Code.

“Trustee” means the financial institution appointed as Bond Trustee under the Indenture.

“VA” means the Veterans Administration, an agency of the United States of America, or any successor to its functions.

“VA Guaranteed” means guaranteed by the VA under the Serviceman’s Readjustment Act of 1944, as amended.

“VA Guaranty” means a guaranty by the VA under the Serviceman’s Readjustment Act of 1944, as amended.

“Website” means the Commission’s Website located at <http://www.wshfc.org>.

## **ARTICLE 2 REPRESENTATIONS**

### **SECTION 2.01 Representations, Warranties and Covenants by Commission.**

The Commission represents and warrants to, and covenants with, the Mortgage Lender and the Servicer that:

(a) The Commission is a public body corporate and politic created by the Act. Pursuant to the Act and certain resolutions duly adopted by the Commission. This Agreement has been duly authorized by the Board of Directors of the Commission.

(b) The Commission has found and determined that the purchase of Certificates under the terms hereof will further the purposes of the Act by assisting in the alleviation of the existing serious shortage of decent, safe and sanitary residential housing available in the State at prices affordable to persons and families of low or moderate income.

(c) The Commission has complied with all of the provisions of the Constitution and laws of the State, including the Act, and has full power and authority to consummate all transactions contemplated by this Agreement, the Bonds and the Indenture and any and all other agreements, documents and instruments relating thereto.

(d) This Agreement, and all documents and instruments contemplated hereby, which are executed and delivered by the Commission, and the Bonds, when issued and authenticated in accordance with the Indenture, will constitute valid, legal, and binding obligations of the Commission, enforceable in accordance with their terms, except as the enforcement thereof may be subject to bankruptcy, insolvency and other similar laws affecting the enforcement of creditor’s rights generally, and to the application of equitable principles if equitable remedies are sought.

(e) To accomplish the foregoing, the Commission proposes to issue each series of the Bonds on the terms and bases set forth in the Indenture or to provide or make provision for other funds, and to use the proceeds for the purpose of financing the purchase of Certificates as specified herein and in the Program Announcements.

### **SECTION 2.02 Representations, Warranties, and Covenants of Mortgage Lender.**

The Mortgage Lender represents and warrants to, and covenants with, the Commission and the Servicer that:

(a) The Mortgage Lender is a corporation or state chartered credit union duly organized and existing under the laws of the state in which it was incorporated or chartered, or is duly chartered or incorporated under federal law, is duly authorized to transact business in the State, has obtained all licenses,

approvals and permits under State and federal law necessary to perform its obligations contemplated by this Agreement, and customarily provides service or otherwise aids in financing mortgages located in the State.

(b) The Mortgage Lender agrees that during the term of this Agreement it will remain subject to supervision and examination by State or federal authorities, as may be applicable, and that it will remain in good standing and qualified to do business under the laws of the United States of America, the state of its organization and of the State, will not dissolve or otherwise dispose of all or substantially all of its assets and will not voluntarily consolidate with or merge into any other entity or permit one or more other entities to consolidate with or merge into it; provided, that the Mortgage Lender may, without violating the agreement contained in this subsection, consolidate with or merge into another entity, or permit one or more entities to consolidate with or merge into it, or sell or otherwise transfer to another such entity all or substantially all of its assets as an entirety and thereafter dissolve; provided the surviving, resulting or transferee entity, as the case may be, shall be subject to the supervision and examination of the State or federal authorities, as may be applicable, and shall assume in writing all of the obligations of the Mortgage Lender hereunder (in the case of a sale of all or substantially all of the Mortgage Lender's assets, the Commission shall release the Mortgage Lender in writing, concurrently with and contingent upon such assumption, from all liability hereunder).

(c) The Mortgage Lender has the power to execute and deliver this Agreement, to accept the terms hereof, to enter into the transactions contemplated hereby, and the acceptance and performance hereof has been duly authorized by all necessary corporate and other action.

(d) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions hereof, will conflict with or result in any breach or violation of any of the terms, conditions or provisions of any applicable laws, including regulations, or any agreement or instrument to which the Mortgage Lender is now a party or by which it is bound, or constitute a default under any of the foregoing.

(e) The execution and delivery of the Program Documents by the Mortgage Lender in the manner contemplated therein and the performance and compliance with the terms thereof by it will not violate (i) its certificate of incorporation (or similar document) or bylaws, or (ii) any laws which could have any material adverse effect whatsoever upon the validity, performance or enforceability of any of the terms of the Program Documents applicable to the Mortgage Lender, and will not constitute a material default (or an event which, with notice or lapse of time, or both, would constitute a material default) under, or result in the breach of, any material contract, agreement or other instrument to which the Mortgage Lender is a party or which may be applicable to it or any of its assets.

(f) The execution and delivery of the Program Documents by the Mortgage Lender in the manner contemplated therein and the performance and compliance with the terms thereof by it do not require the consent or approval of any governmental authority, or if such consent or approval is required, it has been obtained.

(g) This Agreement, and all documents and instruments contemplated hereby, which are executed and delivered by the Mortgage Lender, will constitute valid, legal and binding obligations of the Mortgage Lender, enforceable in accordance with their respective terms, except as the enforcement thereof may be limited by applicable debtor relief laws.

(h) The Mortgage Lender will not knowingly take any action or permit any action which is within its control to be taken which would impair the exemption from federal income taxation of interest on the Bonds.

(i) The Mortgage Lender (including a “related person” thereof, within the meaning of Section 144(a)(3) of the Code) may purchase Bonds; however, it shall not, pursuant to any arrangement, formal or informal, purchase Bonds in an amount related to the amount of Mortgage Loans to be originated by the Mortgage Lender pursuant to this Agreement and the Application to Participate.

(j) The Mortgage Lender is a mortgage banker, mortgage company or other financial institution that customarily provides service or otherwise aids in the financing of mortgage loans on single-family residential housing, or is a holding company of one or more of the foregoing. The Mortgage Lender is currently authorized to originate and sell mortgage loans in the State and will remain so authorized throughout each Origination Period during which it makes Mortgage Loans.

(k) The Mortgage Lender is (i) an FHA-approved mortgagee, with delegated underwriting authority preferred, in good standing; (ii) an eligible lender in good standing for VA Guaranteed mortgage loans; (iii) an eligible lender in good standing for HUD-guaranteed mortgage loans; (iv) an eligible lender in good standing for RD-guaranteed mortgage loans; (v) an approved Fannie Mae seller; or (vi) an approved Freddie Mac seller. Mortgage Lender shall only originate Mortgage Loans of the type described in the preceding clauses if the representation is true with respect to such clause (e.g., the Mortgage Lender shall not originate VA Guaranteed Mortgage Loans unless the Mortgage Lender is an eligible lender in good standing for VA Guaranteed mortgage loans).

(l) The Mortgage Lender complies and will continue to comply, (i) with respect to each FHA Insured Mortgage Loan, with the National Housing Act of 1934, as amended, with all rules and regulations issued thereunder and with all applicable administrative publications; (ii) with respect to each VA Guaranteed Mortgage Loan, with the Servicemen’s Readjustment Act, as amended, with all rules and regulations issued thereunder and with all administrative publications; (iii) with respect to each FHA Insured or VA Guaranteed Mortgage Loan, as determined as of the date of each purchase hereunder, with all the requirements of, and the “Representations and Warranties of Lender” set forth in, the Ginnie Mae Guide; (iv) with respect to each Conventional Mortgage Loan, as determined as of the date of each purchase hereunder, with all the requirements of the Fannie Mae Selling and Servicing Guide, or Freddie Mac Selling and Servicing Guide; (v) with respect to Conventional Mortgage Loans, with all applicable provisions of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (“FIRREA”) relating to appraisals; and (vi) any and all applicable laws governing or regulating the origination of mortgage loans.

(m) Notwithstanding any other provisions of the Agreement, under no circumstances shall the Agreement or the relationship between the Commission and the Mortgage Lender or the Mortgage Lender and the Servicer created thereby be construed as creating a fiduciary relationship between the Commission and the Mortgage Lender or the Mortgage Lender and the Servicer or as granting to, or creating in, the Mortgage Lender any legal or equitable interest, right or title in or to any funds or accounts created under the Indenture.

(n) The Mortgage Lender will comply with the applicable non-discriminatory provisions of the Civil Rights Act of 1964, the regulations promulgated thereunder, and Executive Order 11246, Equal Employment Opportunity, dated September 24, 1965.

(o) If required by the Commission, the Mortgage Lender will provide information to borrowers (as supplied by the Commission) regarding changes in federal tax law that could affect the borrower’s tax obligations and permit the attachments hereto to be changed as necessary to ensure compliance of the Program with federal tax law.

(p) At the date hereof and the date of the actual execution hereof, the Mortgage Lender does not believe, nor does it have any reason or cause to believe, that it cannot perform each and every obligation

required of it contained in this Agreement. From time to time, the Mortgage Lender will submit to the Commission and to the Servicer, any reasonably requested information relating to the Mortgage Loans, and will do every act and thing which may be necessary or required to perform its duties under this Agreement or any of the Program Documents.

(q) The representations and information set forth in the certificates, statement, report and other documents to be provided to the Servicer and the Commission in connection with the purchase by the Servicer of each Mortgage Loan will be true and accurate and contain no untrue statement of a material fact or omit to state a material fact necessary to make the information, in such certificate, statement, report and other documents not misleading, and may be relied upon by the Servicer and the Commission.

(r) There is no litigation pending, or, to the Mortgage Lender's knowledge, threatened, affecting the right of any of the present members of the board of directors or officers of the Mortgage Lender to their respective offices or their jurisdiction or authority over the affairs of the Mortgage Lender, nor in any way questioning the execution or validity of this Agreement; there are no other legal or governmental proceedings other than ordinary routine litigation incidental to the business conducted by the Mortgage Lender pending or (to the best of the Mortgage Lender's knowledge) threatened or contemplated by which the Mortgage Lender may be bound or to which any property of the Mortgage Lender is or may be subject, which, if determined adversely to the Mortgage Lender, would individually or in the aggregate have a material adverse effect on the ability of the Mortgage Lender to perform its obligations hereunder or on the financial position or results of the operations of the Mortgage Lender or result in money damages arising out of an alleged error or omissions claim.

(s) Each Mortgage Lender shall provide to the Servicer, at the expense of the Mortgage Lender, copies of all Mortgage File documents, loan applications and all related materials from its file on each Mortgage Loan, which the Servicer shall request.

(t) Such Mortgage Lender shall keep proper books, records and accounts in which complete and correct copies of all certificates and documents required to be filed with it hereunder shall be maintained and preserved for a time period of 36 years from the date of Mortgage Loan origination for Mortgage Loans in the Home Advantage Program or 36 years from the date of the Mortgage Loan origination for all other Mortgage Loans. Such Mortgage Lender shall make such books and records available for inspection by the Commission, the Trustee and the Servicer, during business hours and under reasonable conditions. The Commission, the Servicer or the Trustee shall have the right to require such Mortgage Lender to furnish said documents, at the expense of such Mortgage Lender, as such requesting entity, in its sole discretion and from time to time, deems necessary to determine compliance with the provisions of the Indenture, the applicable Custodial Agreement and this Agreement.

(u) Any review or approval by the Servicer of any Mortgage Loan or the credit or tax compliance information in connection therewith or the issuance of a Certificate of Compliance hereunder shall not relieve such Mortgage Lender of any responsibility or liability for the performance or nonperformance of its obligations under this Agreement.

(v) The Mortgage Lender will immediately notify the Servicer and the Commission if it is no longer in compliance with (a) through (u) above.

(w) The Mortgage Lender has been approved by the Servicer prior to participation in the program.

### **SECTION 2.03 Representations, Warranties and Covenants of the Servicer.**

The Servicer represents and warrants to, and covenants with, the Mortgage Lender and the Commission that:

(a) The Servicer is an independent public body corporate and politic organized and existing under the laws of Idaho and doing business as “HomeLoanServ”, is duly qualified and in good standing to transact business in the state of Washington, and either possesses (or has received a written waiver of) all requisite authority, power, licenses, permits and franchises to conduct any and all business contemplated by the Program Documents and to execute, deliver and comply with its obligations under the terms of the Program Documents, the execution and delivery and performance of which have been duly authorized by all necessary corporate action.

(b) The execution and delivery of the Program Documents by the Servicer in the manner contemplated therein and the performance and compliance with the terms thereof by it will not violate (i) its certificate of incorporation or bylaws, or (ii) any laws which could have any material adverse effect whatsoever upon the validity, performance or enforceability of any of the terms of the Program Documents applicable to the Servicer, and will not constitute a material default (or an event which, with notice or lapse of time, or both, would constitute a material default) under, or result in the breach of, any material contract, agreement or other instrument to which the Servicer is a party or which may be applicable to it or any of its assets.

(c) The execution and delivery of the Program Documents by the Servicer in the manner contemplated therein and the performance and compliance with the terms thereof by it do not require the consent or approval of any governmental authority, or if such consent or approval is required, it has been obtained.

(d) This Agreement, and all documents and instruments contemplated hereby, which are executed and delivered by the Servicer, will constitute valid, legal and binding obligations of the Servicer, enforceable in accordance with their respective terms, except as the enforcement thereof may be limited by applicable debtor relief laws.

(e) The Servicer is a Fannie Mae-approved seller/servicer, a Freddie Mac-approved seller/servicer and a Ginnie Mae-approved issuer-servicer of FHA Insured, HUD Guaranteed and VA Guaranteed mortgage loans and an authorized issuer of Ginnie Mae Certificates and deliverer of Fannie Mae Certificates and Freddie Mac Certificates and will remain so approved for the term of this Agreement.

(f) With respect to the servicing of Mortgage Loans, the Servicer will comply, (i) as to each FHA Mortgage Loan, with the National Housing Act of 1934, as amended, all rules and regulations issued thereunder and all applicable administrative publications, (ii) as to each VA Mortgage Loan, with the Servicemen’s Readjustment Act, as amended, all rules and regulations issued thereunder and all applicable administrative publications, and (iii) as to each FHA Insured, HUD Guaranteed or VA Guaranteed Mortgage Loan, with the provisions of the Ginnie Mae Guide and all other applicable rules, regulations, policies and guidelines of Ginnie Mae; (iv) as to each RD Guaranteed Mortgage Loan, with the applicable rules, regulations, policies and guidelines of RD; and (v) as to each Conventional Mortgage Loan, with the requirements of the PMI Insurer, if applicable, with the provisions of the Pool Purchase Contract, the Fannie Mae Selling and Servicing Guide or Freddie Mac Selling and Servicing Guide and all applicable rules and guidelines of Ginnie Mae, Fannie Mae or Freddie Mac, as applicable.

(g) With respect to its duties hereunder, the Servicer will comply with the applicable non-discrimination provisions of the Civil Rights Act of 1964, the regulations promulgated thereunder, and Executive Order 11246, Equal Employment Opportunity, dated September 24, 1965.

(h) From time to time upon written request, the Servicer will report to the Mortgage Lender, the Commission and the Trustee, as more fully set forth in this Agreement, information relating to the Mortgage Loans, and will perform its duties under this Agreement.

(i) The Servicer agrees that so long as it shall continue to serve in the capacity contemplated under the terms of this Agreement, it will remain in good standing under the laws of the State of Idaho and qualified to do business in the State of Washington.

(j) No information or statement furnished in writing or report required hereunder delivered to the Mortgage Lender, the Commission or the Trustee and prepared by or on behalf of Servicer will, to the knowledge of the Servicer, contain any untrue statement of a material fact or omit a material fact necessary to make the information, statements or report not misleading; provided, however, that Servicer is entitled to rely upon the accuracy of information provided to it by third parties, including without limitation the Mortgage Lender, the Commission and the Trustee, and it shall not be a breach of this representation and covenant if such information or statements provided by the Servicer contain incorrect items of material fact or omit a material fact necessary to make the information or statement not misleading if the information or statement is provided to Servicer by third parties and Servicer is not explicitly responsible under the terms of this Agreement to review and verify the accuracy of the specific information or statement that contains the incorrect or misleading item or items.

(k) The Servicer is an independent public body corporate and politic that, among other purposes, acts as a servicer for single-family residential mortgage loans.

(l) Neither the Servicer nor any “related person” as defined in Section 144(a)(3) of the Code shall acquire Bonds in an amount related to the amount of Mortgage Loans to be serviced by the Servicer pursuant to this Agreement.

(m) Notwithstanding any other provision of this Agreement, the Servicer shall have no duties or responsibilities with respect to the Mortgage Loans except those expressly set forth in the Program Documents, and no such duty or responsibility shall be implied or inferred from the specific terms and conditions set forth herein.

#### **SECTION 2.04 Survival of Representations, Warranties and Covenants.**

The representations, warranties and covenants of the respective parties hereto shall remain enforceable so long as Bonds are Outstanding or the Program is continuing.

### **ARTICLE 3 ISSUANCE OF BONDS, PROVISION OF FUNDS; APPLICATION OF BOND PROCEEDS OR OTHER FUNDS**

#### **SECTION 3.01 Agreement to Issue Bonds or Provide Funds; Application of Bond Proceeds or Other Funds; Applicability of Bond-Required Provisions.**

The Commission agrees to issue, sell and deliver to the initial purchaser or purchasers thereof the Bonds on the terms and conditions set forth in the Indenture or to provide other funds as set forth in its Program Manual and to apply the Bond proceeds or other funds in the manner required by the Indenture and its Program Manual.

The Commission, Servicer and Mortgage Lender acknowledge that this Agreement contains provisions applicable to the Commission’s Single-Family Bond Program, which are necessary to ensure the

tax-exempt status of Bonds issued by the Commission, but are inapplicable to the Home Advantage Program. The following sections of this Agreement are waived and deemed inapplicable to Mortgage Loans originated in the Commission's Home Advantage Program:

(a) Recapture requirements – all references to recapture, including the 5th paragraph in Section 4.02; Section 4.13(v); Section 4.18(h);

(b) First time homebuyer requirement – all references to a First-Time Homebuyer, including Section 4.04(b); Section 4.07; Section 4.12(d)(4); Section 4.18(c);

(c) Acquisition Cost – all references to Acquisition Cost, including Section 4.04(c); Section 4.04 paragraph 2 under (e); Section 4.06; Section 4.12(d)(6); Section 4.18(d);

(d) Income limit calculation – all references to calculating income, including Section 4.04(d); and

(e) Business Use of Home – 4.12(d)(2).

### **SECTION 3.02 Limited Liability.**

All obligations of the Commission incurred hereunder shall be limited obligations of the Commission, payable solely from the revenues and other amounts derived from the Certificates and from certain funds established in connection with the Bonds. The Bonds shall be solely the obligations of the Commission: In no event shall the Bonds constitute an obligation, either general or special, of the State, any municipality or any other political subdivision of the State or constitute or give rise to a pecuniary liability of the State, any municipality or any other political subdivision of the State, nor shall the Commission have the power to pledge the general credit or taxing power of the State, any municipality or any other political subdivision of the State.

The obligations under this Agreement shall never constitute an obligation of the State of Washington within the meaning of any provision or limitation of the Constitutions or statutes of the State of Washington, or of any political subdivision thereof, and shall never constitute nor give rise to a pecuniary liability of the State of Washington or a charge against its general credit or taxing powers

### **SECTION 3.03 Notification of Program Announcements.**

The Commission will notify the Servicer and the Mortgage Lender as to the current Program terms and other applicable conditions as necessary from time to time using Program Announcements.

## **ARTICLE 4 COMMITMENTS TO BUY AND SELL MORTGAGE LOANS**

### **SECTION 4.01 Commitment to Buy and Sell.**

Pursuant to the terms of the Program Documents, the Servicer hereby agrees to purchase from the Mortgage Lender upon the sale and delivery of each issue of the Bonds and the deposit of the Bond proceeds in accordance with the Indenture or the provision of other funds for such purpose, and the Mortgage Lender agrees to originate and sell to the Servicer, Mortgage Loans for which it has made a reservation in accordance with the Program Manual and to sell to the Servicer, all servicing rights associated with Mortgage Loans sold to the Commission, all on the conditions and terms (including the net return to the Mortgage Lender) set forth in this Agreement, the Purchase Documents and the Program Announcements.

The Mortgage Lender acknowledges that as a condition to purchase each of the Mortgage Loans by the Servicer, each Mortgage Loan shall (i) meet all requirements of this Agreement, the Purchase Documents and the Program Manual, (ii) be current in payments of principal and interest and, (iii) be in compliance with the applicable requirements of FHA, VA, RD, HUD and the Ginnie Mae Guide or the PMI Insurer, Freddie Mac and Fannie Mae, as applicable. The Servicer agrees to purchase Mortgage Loans at least once each week, notwithstanding that the amount of such Mortgage Loans, together with other Mortgage Loans purchased or to be purchased by the Servicer to form a Pool under the Ginnie Mae Guide or Pool Purchase Contract may be less than the minimum Pool size.

The provisions of the Purchase Documents, the Program Announcements and the Program Manual are incorporated herein by reference and are deemed to be a part of this Agreement; provided, however, that in the event of any conflict or inconsistency between provisions of the Purchase Documents, the Program Announcements, this Agreement or the Program Manual, the provisions of the Purchase Documents shall control.

#### **SECTION 4.02 Mortgage Loan Terms.**

Mortgage Loans shall be made only to Eligible Persons and Families for the purpose of providing financing for the purchase of a Single-Family Residence, and not for the purpose of refinancing any existing loan except a construction loan, bridge loan or similar temporary initial financing (with a maximum term of 24 months).

Each Mortgage Loan to be sold to the Servicer must be evidenced by a Mortgage Note secured by a first mortgage lien on the fee simple interest in the Single-Family Residence acquired thereby and made substantially in accordance with the Mortgage Lender's then-current underwriting policies and (i) the underwriting policies of FHA, HUD, VA or RD, as applicable, and all other requirements established by this Agreement, the Purchase Documents, the Program Manual and the then-current criteria set forth in the Ginnie Mae Guide, and (ii) the requirements of the PMI Issuer, Ginnie Mae, Fannie Mae or Freddie Mac, as applicable, in any event subject to the final review by the Commission. All Mortgage Loans shall be FHA Insured, HUD Guaranteed, VA Guaranteed or RD Guaranteed, as applicable or insured by the PMI Insurer, if applicable.

Each Mortgage Loan (i) shall bear interest at the rate or in the manner set forth in the Program Announcement, (ii) will provide for substantially level monthly payments representing the amount necessary to fully amortize such Mortgage Loan over its term, due the first day of each month (which payments shall include amounts for deposit in an escrow account to provide for timely payment of taxes and insurance) and for an initial payment not later than the first day of the second month following the closing date, and may include provision for a grace period not exceeding fifteen (15) days if permitted by FHA, HUD, VA, RD, the PMI Insurer and/or Ginnie Mae, Fannie Mae or Freddie Mac, as applicable, and late payment charges in amounts not in excess of the customary charges permitted by FHA, HUD, VA, RD, Ginnie Mae, Fannie Mae or Freddie Mac, as applicable, (iii) will have a term or maturity date as specified in the Program Announcement, (iv) will be assumable only under the terms and conditions set forth in Section 4.19 herein, (v) will comply in all respects to the Ginnie Mae Guide and FHA, HUD, RD or VA rules and regulations, as applicable, or to the requirements of the PMI Insurer and Fannie Mae or Freddie Mac, as applicable, (vi) shall be in a principal amount not exceeding such amount as conforms to the applicable limitations of FHA, HUD, RD or VA, as applicable, and the Ginnie Mae Guide, the Fannie Mae Selling and Servicing Guide or Freddie Mac Selling and Servicing Guide, as applicable, (vii) shall be the subject of a mortgagee's title insurance policy or a valid commitment for the issuance of a title insurance policy and (viii) comply with the flood insurance requirements of FHA, HUD, VA, RD, the PMI Insurer or Ginnie Mae, Fannie Mae or Freddie Mac, as applicable. With respect to (iv), each Mortgage shall have

attached to its written provisions as to assumption and/or acceleration in the form of deed of trust addendum set forth in the Program Manual.

Additionally, with respect to House Key Program Mortgage Loans only, a notice to buyers explaining certain aspects of the Program, e.g., assumption restrictions (in the form provided by the Commission), must be used in connection with the origination of each Mortgage Loan. A copy of such executed notice must accompany the Mortgage File. Additionally, at the time of submission of the Mortgage Loan for purchase, the Mortgage Lender shall provide evidence satisfactory to the Servicer that the Mortgage Lender has applied for FHA Insurance or VA, RD or HUD Guaranty and otherwise meets Ginnie Mae requirements or in the case of a Conventional Mortgage Loan shall provide a binding certificate of insurance from the PMI Insurer or otherwise meets Fannie Mae or Freddie Mac requirements, as applicable.

With respect to House Key Program Mortgage Loans only, a Recapture Notice must be used and verification thereof must be submitted to the Commission. Verification of the receipt of such notice by the Mortgagor must accompany the Mortgage File.

With respect to a unit of a condominium, such unit must be acceptable to FHA, HUD, RD or VA, as applicable and Ginnie Mae standards or requirements of the Servicer, the PMI Insurer, and Fannie Mae or Freddie Mac, as applicable. There is no restriction on the percentage of Mortgage Loans for condominium units that a Mortgage Lender may originate.

With respect to manufactured homes, each such home must meet Ginnie Mae standards and be acceptable to FHA, HUD, RD or VA, as applicable, or Fannie Mae or Freddie Mac standards and be acceptable to the PMI Insurer and the Servicer, as applicable.

The Commission shall announce in the Program Announcement with respect to each bond issue, the maximum dollar amount, if any, of FHA Insured Mortgage Loans, VA Guaranteed, HUD Guaranteed or RD Guaranteed Mortgage Loans and Conventional Mortgage Loans, respectively, that the Servicer may purchase under the Program.

#### **SECTION 4.03    Reservation Procedure.**

The Mortgage Lender may reserve funds for the purchase of Mortgage Loans in accordance with the procedures set forth in the Program Manual.

#### **SECTION 4.04    Independent Verifications by Mortgage Lender (Applicable to House Key Program Mortgage Loans).**

The Mortgage Lender shall make its best efforts to investigate and to determine with respect to each House Key Program Mortgage Loan that:

(a) The Mortgagor occupies or will occupy the related Single-Family Residence within 60 days of the date of closing of the Mortgage Loan and thereafter intends to maintain the property as his or her principal place of residence. The Mortgage Lender must require the Mortgagor to execute the Addendum to Residential Loan Application in the form contained in the Program Manual. Such Addendum to Residential Loan Application will satisfy the best efforts investigation requirement;

(b) Unless the related Single-Family Residence is in a Targeted Area, the Mortgagor is a First-Time Homebuyer. The Mortgage Lender shall obtain from each Mortgagor copies of the Mortgagor's signed tax returns which were filed with the Internal Revenue Service for the three years preceding the

execution of the Mortgage Loan and shall examine each return to determine whether the Mortgagor has claimed a deduction for taxes on real or personal property which was the Mortgagor's principal residence pursuant to Section 164(a)(1) of the Code, or a deduction pursuant to Section 163 of the Code, for interest paid on a mortgage secured by real or personal property which was the Mortgagor's principal residence. If such a deduction was claimed, Mortgage Lender shall make additional investigations. The federal income tax return examination will satisfy the best efforts investigation requirement. If no such deduction was claimed, the Mortgage Lender shall require the Mortgagor to execute the Addendum to Residential Loan Application in the form contained in the Program Manual. If the Mortgagor cannot provide federal income tax returns but was required to file them, copies must be obtained from the Internal Revenue Service. An IRS Form 1722 will be accepted only if the line on which Mortgage interest is specified is completed. If the Mortgagor was not required to file federal income tax returns for any year, the Mortgagor must execute the Statement of Income Tax Filing to that effect;

(c) The Acquisition Cost stated in the Acquisition Cost Certification (as defined in the Program Manual) does not exceed applicable limits stated in the Program Manual (reasonable investigation includes reviewing a copy of the contract of sale and the closing statement). The Mortgage Lender shall obtain a signature on the Acquisition Cost Certification;

(d) The Mortgagor's Annual Family Income as stated in the Addendum to Residential Loan Application is within the guidelines established by the Code and the Commission (reasonable investigation includes reviewing a copy of such addendum, the Application for VA or Home Loan Guaranty of the HUD/FHA Insured Mortgage, if applicable, the Gross Monthly Income section of the Fannie Mae Residential Loan Application, and verification of income from employers). The Program Manual illustrates additional methods to determine the Mortgagor's Annual Family Income; and

(e) No part of the Mortgage Loan proceeds are used to acquire or replace an existing mortgage under which the Mortgagor is the mortgagor, and the Mortgage Loan shall be made to persons who did not have a mortgage (whether or not paid off) on the residence securing the Mortgage Note at any time prior to the execution of Mortgage (best efforts investigations include reviewing the abstract of title or commitment for title insurance, and reviewing the closing statement); provided that if the Servicer so permits, the Mortgagor may have had a construction period loan or similar temporary initial financing as provided in Section 4.02, and may use the proceeds of the Mortgage Note to repay such financing.

In addition, the Mortgage Lender shall perform such additional investigation as may be appropriate under the circumstances (including, but not limited to, personal or telephone interviews with the Mortgagor and the seller, examination of cancelled checks or receipts evidencing payment of rent, review of employment and utility records, review of the purchaser contract for the Single-Family Residence to determine the Acquisition Cost, and review of title information to verify the absence of any existing permanent mortgage on the Single-Family Residence executed by the Mortgagor) to verify that the requirements of Section 143 of the Code, as stated in Section 4.05 hereof, are satisfied as of the date of the execution of Mortgage.

With respect to both House Key Program and Home Advantage Program Mortgage Loans, the Mortgage Lender shall (i) review the draft settlement statement to assure that all fees and charges and settlement and financing costs comply with the requirements of this Agreement; (ii) prepare, execute where appropriate, have executed where appropriate, and deliver the Addendum to Residential Loan Application and Acquisition Cost Certification; and (iii) carry out such additional verification procedures as may be reasonably requested by the Servicer, the Trustee, or the Commission. If there has been a lapse of time exceeding 60 days between delivery of the Mortgage File to the Servicer and the delivery of the advice of purchase, the Servicer shall request the Mortgage Lender originating the Mortgage Loan to update the information on the Mortgage Loan. Updating may be done by telephone to expedite funding.

The obligations of the Mortgage Lender pursuant to this section shall inure to the benefit of the Commission, the Trustee, the Servicer, the owners of the Bonds, and any person interested in the exclusion from gross income of the interest on the Bonds.

#### **SECTION 4.05      Origination Fees and Closing Costs.**

In connection with each Mortgage Loan, the Mortgage Lender may charge and collect from the Mortgagor and seller, respectively, of a Single-Family Residence the origination fees specified in the Application to Participate, the Program Announcements and the Purchase Documents. The fees described include any document preparation and related fees of Mortgage Lender and is the maximum fee that the Mortgage Lender may collect. In addition, the Mortgage Lender may collect from the Mortgagor and/or seller, all reasonable and customary out-of-pocket costs permitted by law paid or incurred by the Mortgage Lender, including but not limited to notary fees, settlement fees, hazard, or mortgage insurance premiums, survey, title insurance premiums, appraisal fees, attorneys' fees, excise, documentary and intangible taxes, recording or registration taxes and charges, credit reports, and escrow fees. Such fees and expenses may be collected only once in connection with the origination of the Mortgage Loan and shall not exceed limits established from time to time by federal law or State law and in any event may not exceed like amounts charged in such area in cases where owner financing is not provided through tax-exempt revenue bonds.

It is expected that the Mortgage Lender will disburse Mortgage Loan funds on the date the Mortgage Note is executed or as soon thereafter as is customary. Full disbursement of Mortgage Loans must be accomplished before the Mortgage Loan may be submitted to the Servicer for purchase unless specifically authorized by the Servicer. The Mortgage Lender may not charge interest to a Mortgagor until the Mortgage Loan proceeds have been disbursed.

The fees and charges described herein, in the Application to Participate and in the Purchase Documents are the exclusive fees and charges that may be collected, either directly or indirectly, with respect to the origination of Mortgage Loans by the Mortgage Lender; unless specifically authorized by the Commission, no additional fees or arrangements whereby the Mortgage Lender receives financial benefit are permitted.

#### **SECTION 4.06      Acquisition Cost of a Residence (Applicable to House Key Program Mortgage Loans).**

With respect to House Key Program Mortgage Loans only, the Acquisition Cost of a residence is the cost of acquiring the residence from the seller as a completed residential unit.

The cost of acquiring a residence (with respect to the Acquisition Cost limitation) includes the following:

(a) All amounts paid, either in cash or in kind, by the purchaser (or a related party or for the benefit of the purchaser) to the seller (or related party or for the benefit of the seller) as consideration for the residence. A residence includes property that is a fixture under local law, such as light fixtures or wall-to-wall carpeting. Whether or not the purchaser purports to separately purchase such items, the cost of those items must be included in the cost of acquisition. On the other hand, property which is not considered a fixture under state law, such as appliances, is not considered part of a residence and the cost of acquiring such items does not have to be included in the cost of acquiring the residence (unless the acquisition costs of such items exceeds their fair market value, in which case the amount of the excess must be included in the acquisition cost of the residence). For example, if the purchaser agrees to purchase the refrigerator, washer and dryer from the seller for \$1,000 more than the fair market value of such items, such \$1,000 must be included in the cost of acquisition. Similarly, if as part of the purchase of the residence the

purchaser agrees to pay or assume liability for a debt of the seller, the amount of such debt must be included as part of the cost of acquiring the residence.

(b) If a residence is incomplete, the reasonable cost of completing the residence whether or not the cost of completing construction is to be financed with proceeds of the Mortgage Loan. Where a Mortgagor purchases a building which is so incomplete that occupancy of the building is not permitted under local law, the acquisition cost includes the cost of completing the building so that occupancy of the building is permitted. Thus, if a builder normally sells residences with an uncompleted recreation room but a completed third floor and a garage, but is selling a residence with no garage and an uncompleted recreation room and third floor to a Mortgagor, the cost of completion of the third floor (but not the recreation room) and the cost of addition of a garage must be included in the cost of acquisition of the residence. On the other hand, if a Mortgagor purchases an existing home and then spends \$3,000 to paint it, refinish the floors and make minor repairs, such \$3,000 is not included in the cost of acquisition of the residence.

The cost of acquiring a residence (with respect to the Acquisition Cost limitation) does not include the following:

(c) The usual and reasonable settlement for financing costs. Settlement costs include titling and transfer costs, title insurance, survey fees or other similar costs. Financing costs include credit reference fees, legal fees, appraisal expenses, permitted origination fees which are paid by the buyer (but not the seller, even though borne by the Mortgagor through a higher Acquisition Cost) or other costs of financing the residence. However, such amounts will be excluded in determining acquisition cost only to the extent that the amounts do not exceed the usual and reasonable costs which would be paid by the buyer where financing is not provided through a qualified mortgage bond program. For example, if the purchaser agrees to pay to the seller more than a pro rata share of property taxes, such excess shall be treated as part of the acquisition cost of a residence.

(d) The value of services performed by the Mortgagor or members of the Mortgagor's family in completing the residence. For purposes of the preceding sentence, the family of an individual shall include only the individual's brothers and sisters (whether by the whole or half blood), spouse, ancestors and lineal descendants. For example, where the Mortgagor builds a home alone or with the help of family members, the acquisition cost includes the cost of materials provided and work performed by subcontractors (whether or not related to the Mortgagor) but does not include the imputed cost of any labor actually performed by the Mortgagor or a member of the Mortgagor's family in constructing the residence. Similarly, where the Mortgagor purchases an incomplete residence, the acquisition cost includes the cost of material and labor paid by the Mortgagor to complete the residence but does not include the imputed value of the Mortgagor's labor or the labor of the Mortgagor's family in completing the residence.

(e) The cost of land which has been owned by the Mortgagor for at least two years prior to the date on which construction of the residence began.

#### **SECTION 4.07 First-Time Homebuyer (Applicable to House Key Program Mortgage Loans).**

With respect to House Key Program Mortgage Loans only, except with respect to Single-Family Residences located in a Targeted Area, each person executing the Mortgage Note (which may be cosigned by a person who is not a First-Time Homebuyer and who does not execute Mortgage) and to whom financing is provided by the Mortgage Note and each person acquiring a Present Ownership Interest in the property must be a First-Time Homebuyer. Each such person must not have had a Present Ownership Interest in a principal residence at any time during the three-year period prior to the date on which Mortgage

is executed. For purposes of the preceding sentence, the Mortgagor's interest in the residence with respect to which the financing is being provided is not taken into account.

In the event that there is more than one Mortgagor signing Mortgage with respect to a particular residence, each of such Mortgagors must meet the three-year requirement. A person who is liable under the Mortgage Note secured by Mortgage but who does not have a Present Ownership Interest in the residence subject to Mortgage need not meet the three-year requirement. For example, where a parent of a home purchaser cosigns the Mortgage Note for a child but the parent takes no ownership interest in the residence, it is not necessary that the parent meet the three-year requirement since the parent is not a Mortgagor of the residence.

Examples of interests which constitute present ownership interests (and thus would result in a potential home purchaser failing to meet the First-Time Homebuyer requirements) include the following:

- (a) A fee simple interest;
- (b) A joint tenancy, a tenancy in common, a tenancy by the entirety, or a community property interest;
- (c) The interest of a tenant-shareholder in a cooperative;
- (d) A life estate;
- (e) A real estate contract or bond for deed contract (i.e., a contract pursuant to which possession and the benefits and burdens of ownership are transferred although legal title is not transferred until some later time);
- (f) An interest held in trust for the Mortgagor (whether or not created by the Mortgagor) that would constitute a present ownership interest if held directly by the Mortgagor; and
- (g) A lease with an option to purchase for a nominal sum.

Examples of interests which do not constitute present ownership interests (and thus would not result in a potential home purchaser failing to meet the First-Time Homebuyer requirements) are the following:

- (h) A remainder interest;
- (i) A lease without an option to purchase or a lease with an option to purchase at fair market value at the time of purchase;
- (j) A mere expectancy to inherit an interest in a principal residence;
- (k) The interest that a purchaser of a residence acquires on the execution of a purchase contract; and
- (l) An interest in other than a principal residence during the previous three years. For example, a person would not fail the First-Time Homebuyer requirement because he owns rental residential property or a vacation home, so long as he has not lived in it during the last three years as a principal residence.

#### **SECTION 4.08 Income Limits.**

To qualify as Eligible Persons and Families, such persons and families must have an aggregate Annual Family Income that does not exceed the applicable amounts specified in the Program Manual and the Seller Guide.

#### **SECTION 4.09 Mortgage Loan Approvals; Submission for Purchase.**

(a) At least five (5) Business Days prior to a loan closing, the Mortgage Lender shall deliver to the Commission, with respect to each Mortgage Loan to be purchased by the Servicer, the “Pre-closing Compliance Review Loan File” pursuant to the “Pre-closing Compliance Review File Checklist” (as such terms are defined in the Program Manual) in substantially the order described in the Program Manual. Details of the First Serve Reservation System are contained in the Program Manual. The Mortgage Lender acknowledges that, as a condition to acceptance and purchase of the Mortgage Loan by the Servicer, the Mortgage Loan shall, in addition to other requirements set forth in this Agreement and the Program Manual to be provided by the Commission, (i) be current by the Mortgagor in payments of principal and interest, and (ii) be in compliance with the requirements of the Purchase Documents, the Ginnie Mae Guide or Fannie Mae Selling and Servicing Guide or Freddie Mac Selling and Servicing Guide. Upon the submission of the Mortgage File to the Servicer, the Mortgage Lender shall submit to the Servicer all additional documents specified in the Program Manual and the Purchase Documents, which are required by the Servicer for purposes of submission to Ginnie Mae or Fannie Mae or Freddie Mac, as applicable. The Mortgage Lender shall pay all costs of preparing and furnishing to the Servicer the Mortgage File including original and certified copies of the respective documents and instruments described in the Exhibits hereto, and may recover such costs from the Mortgagor or the Seller to the extent permitted by Section 4.05 hereof.

(b) Following the receipt of an approval from the Commission, the Mortgage Lender may close the Mortgage Loan in accordance with the terms and conditions, if any, of such approval.

After closing and within the number of days specified in the First Serve Reservation System description as the “Reservation Period,” the Mortgage Lender must submit to the Commission the “Post Closing Compliance Review Loan File” (as defined in the Program Manual) for compliance review. The Commission will notify the Mortgage Lender whether the Mortgage Loan is approved or declined, as applicable, for purchase pursuant to the terms of this Agreement.

The Mortgage Lender may simultaneously deliver a loan package to Servicer for purchase and the Post Closing Compliance Review File to the Commission for approval. The Commission will communicate the approval to Servicer.

Any Mortgage Loan with respect to which the Mortgage File is deemed to be defective, or any Mortgage Loan which is otherwise not acceptable for purchase in accordance with the terms of the Agreement may be returned by the Servicer with all documents submitted in accordance with this Section 4.09, to the Mortgage Lender to be cured, if possible, or the Servicer, in its discretion, may hold such Mortgage pending correction of the defect as specified in a notice or other communication to the Mortgage Lender. The Servicer shall notify the Mortgage Lender promptly by posting on Servicer’s website or in writing of any deficiencies. To be eligible for purchase hereunder, such Mortgage Loan must be resubmitted in accordance with the procedures of this Section 4.09. The examination and acceptance of a Mortgage File by the Servicer hereunder shall not constitute a waiver of any warranty, representation or covenant by the Mortgage Lender, the Mortgagor, or any other party connected with the Mortgage Loan, with respect to such Mortgage Loan. The Commission shall provide the Mortgage Lender with the Program Manual interpreting and clarifying the provisions of this Agreement, as necessary. Such Program Manual

shall establish the procedures for Mortgage acquisition and be binding on Mortgage Lenders so long as the provisions thereof are consistent with the terms of this Agreement and the Purchase Documents.

If the loan is not acquired as a Mortgage Loan, the Mortgagor Lender shall send notice to the mortgagor that the recapture provisions of the Code do not apply. A form of such notice will be contained in the Program Manual.

(c) Prior to the delivery of the Mortgage File to the Servicer in connection with the purchase of a Mortgage Loan, the Mortgage Lender shall Endorse the Mortgage Note to Servicer and record or file for record an Assignment of Mortgage in all offices necessary to perfect the Assignment of Mortgage on behalf of the Servicer under the laws of the State. All notices to insurers under any insurance policies maintained with respect to a Mortgage Loan for the assignment to Servicer of the servicing of such Mortgage Loan shall be given by each Mortgage Lender prior to purchase by the Servicer. The Mortgage Lender shall also provide to the Servicer or the Trustee on behalf of the Commission such other reports or information regarding the Mortgage Loan being sold by such Mortgage Lender as may be reasonably requested by either of them.

(d) Notwithstanding the delivery procedures of this Section 4.09, the Servicer may, in its discretion, accept Mortgage Files which contain certified copies of Mortgage and the Assignment of Mortgage in lieu of the originals of same and valid commitment for the issuance of a mortgagee's title insurance policy in lieu of a title insurance policy and may, in its discretion, approve the pertinent Mortgage Loan for purchase without such originals or certificate if the Mortgage Loan file is otherwise complete, all other documents pertaining to the Mortgage documents are present and the Mortgage Loan is subject in all respects to all terms and conditions of this Agreement. The original recorded Mortgage, original recorded Assignment of Mortgage, the title insurance policy and FHA Mortgage Insurance Certificate, HUD Loan Guarantee Certificate or VA Loan Guaranty Certificate must be submitted to the Servicer within one hundred twenty (120) days from the date of closing of the subject Mortgage Loan. In the event such documents are not received by the Servicer within one hundred twenty (120) days of the closing of the Mortgage Loan, the Mortgage Lender may be required to pay a fine to the Servicer equal to the fine imposed by Ginnie Mae or Fannie Mae or Freddie Mac on the Servicer as a result of such inadequate documentation plus out-of-pocket costs of the Servicer. The Servicer shall, upon receipt of such originals and certified copies, if applicable, file copies of same with the related Mortgage File and shall forward original documents to the Custodian under the Ginnie Mae Custodial Agreement for FHA Insured, HUD Guaranteed, or VA Guaranteed Mortgage Loans and to the Custodian under the Fannie Mae or Freddie Mac Custodial Agreement for Conventional Mortgage Loans.

(e) The purchase of Mortgage Loans hereunder shall take place on each Purchase Date, pursuant to the schedule of Purchase Dates set forth in the Program Manual and the Purchase Documents. Only Mortgage Loans submitted in accordance with this Section 4.09 and which conform to the requirements of this Agreement and the Purchase Documents will be purchased by the Servicer on any Purchase Date. All amounts collected by the Mortgage Lender representing escrow payments for insurance and taxes with respect to a Mortgage Loan shall be remitted to the Servicer on the Purchase Date or as directed by the Servicer. All notices to FHA, HUD, RD or VA which are required to be given under applicable FHA, HUD, RD or VA requirements shall be given by the Mortgage Lender prior to purchase. The Mortgage Lender shall also notify the Mortgagor in writing within ten (10) days of purchase (with a copy to the Servicer) that checks, money orders or other remittances in payment of the Mortgage Loan must be paid to the order of the Servicer following purchase of the Mortgage Loan. The Mortgage Lender shall also provide to the Servicer and the Commission such other reports or information regarding the Mortgage Loan being sold by such Mortgage Lender as may be reasonably requested by either of them.

(f) The Servicer shall have no obligation to purchase Mortgage Loans unless such loans are eligible hereunder and conform to all requirements of this Agreement and the Purchase Documents and shall have no obligation to investigate or confirm such eligibility or conformance except as specifically required by this Agreement or the Purchase Documents.

(g) The Mortgage Lender shall deliver the original executed Mortgage, Mortgage Note and Assignment of Mortgage to the Servicer in the following manner: (i) the Mortgage Note shall bear an endorsement set forth on the back thereof "Payable to Idaho Housing and Finance Association, without recourse" (or such other endorsee as Servicer may designate to Mortgage Lender in writing) and be executed by a duly authorized officer of the Mortgage Lender; (ii) the related Mortgage shall be a certified copy of the original executed Mortgage accepted for recording in the public office in which recordation is necessary to give constructive notice of the lien created thereby, and shall have the appropriate recording information written on the face thereof; and (iii) the related Assignment of Mortgage Note and Mortgage shall be an original executed or a certified copy of the original executed Endorsement of Mortgage Note and Assignment of Mortgage accepted for recording in the public office in which recordation is necessary to assign the lien created by Mortgage, and shall have the appropriate recording information written on the face thereof. The Mortgage Lender shall deliver to the Servicer the original recorded copy of each of Mortgage and the Assignment of Mortgage Note and Mortgage and the Title Policy and FHA Mortgage Insurance Certificate or VA Loan Guaranty Certificate, if applicable, together with a copy of each of such documents certified by the Mortgage Lender to be a true and correct copy thereof, within 120 days after the purchase of the related Mortgage Loan or such longer time as may be approved by the Servicer for good cause, but in no event later than the final Mortgage Loan Purchase Date. The Mortgage Lender shall further perform any other action or deed as the Servicer may direct to cause the proper filing or recording (or re-filing or re-recording, if necessary) of Mortgage, notice of such Mortgage Note and Assignment of Mortgage in such other places and in such other manner, form or condition satisfactory to the Servicer as is necessary to perfect the Servicer's security interest in each such Mortgage Note and related Mortgage. The delivery of the Mortgage Note and related Mortgage shall be accompanied with or shall reflect that all applicable documentary stamp and other excise taxes, all intangible taxes and all recording and registration fees have been paid with respect thereto.

(h) For FHA Insured and RD Guaranteed, HUD Guaranteed or VA Guaranteed Mortgage Loans, the Custodian for the Mortgage File documents under the Ginnie Mae Custodial Agreement, will retain (A) the original Mortgage Note, (B) the recorded assignment of the Mortgage, (C) the original recorded Mortgage, (D) all intervening recorded assignments of Mortgage, (E) the title insurance policy, and (F) the applicable FHA/HUD/RD/VA Insurance or Loan Guaranty Certificate. All other documents will be retained by the Servicer. For Conventional Mortgage Loans, the Custodian for the Mortgage File documents under the Fannie Mae Custodial Agreement or Freddie Mac Custodial Agreement, will retain (A), (B) and (D) above.

#### **SECTION 4.10 Mortgage Purchases; Suspension of Mortgage Purchases.**

For each Mortgage Loan originated by the Mortgage Lender that is in compliance with all the terms and conditions of this Agreement and the Purchase Documents, for which the Loan Reservation Form, the Mortgage File and other documents have been prepared and presented to the Servicer in the forms required by the Program Manual and the Purchase Documents, within the remaining amount of the Program allocation for which funds are available in the Acquisition Fund for the purchase of Certificates, and for which the Servicer certifies that all of the other conditions of this Agreement have been fulfilled, the Servicer shall pay to the Mortgage Lender, under the terms and conditions specified in the Agreement and the Purchase Documents, on each Purchase Date for each Mortgage Loan the Acquisition Cost as specified in the applicable Program Announcement (plus any accrued interest accrued after disbursement of the Mortgage Loan at the interest rate on the Mortgage Loan). Only Mortgage Loans submitted in accordance

with this Section 4.10 and which conform to the requirements of this Agreement and the Purchase Documents will be purchased by the Servicer on any Purchase Date.

The Mortgage Lender acknowledges that, as a condition of the purchase of the Mortgage Loan by Servicer, the Mortgage Loan shall (i) be current in payments of principal and interest, taxes and insurance, if due, (ii) bear interest at the rate indicated in the Program Announcement, as applicable, and (iii) be in compliance with the requirements of FHA, HUD, RD, VA, the Ginnie Mae Guide, or the PMI Insurer and Fannie Mae or Freddie Mac, as applicable, the Program Manual, this Agreement, and the Purchase Documents.

The Servicer may suspend its purchase of Mortgage Loans under this Agreement if the Trustee fails for any reason to purchase Certificates from Servicer as and when required under Article 3 of the Servicing Agreement. The Servicer shall deliver written notice to the Commission and the Mortgage Lender of the Servicer's exercise of its rights under this paragraph and of the date on which the suspension of Mortgage Loan purchases shall become effective, which may be immediate or a future date specified by the Servicer. If the Servicer elects to suspend its purchase of Mortgage Loans under this paragraph, the Mortgage Lender acknowledges that the Servicer's failure or refusal to purchase Mortgage Loans in accordance with this paragraph shall not constitute a default or breach of any obligation of the Servicer under this Agreement. If the Trustee resumes purchasing Certificates in accordance with Article 3 of this Servicing Agreement and the Servicer has received reasonable assurance that such purchases will continue as and when required thereunder, the Servicer shall resume its purchases of Mortgage Loans in accordance with this Agreement. The Servicer shall deliver written notice to the Commission and the Mortgage Lender of its resumption of Mortgage Loan purchases, which shall be effective retroactive to the date on which such purchases were suspended. There is no limit on the number of times that the Servicer may exercise its rights to suspend and resume the purchase of Mortgage Loans under this paragraph as and when permitted by the terms hereof.

#### **SECTION 4.11 Maintenance of Mortgage Files.**

The Servicer shall, at its own expense, maintain the Mortgage File, excluding originals of the following documents which the Custodian under the Custodial Agreement shall retain, with respect to such Mortgage Loan: (i) the original Mortgage Note; (ii) the original Mortgage with recordation noted, together with all applicable riders; (iii) the original Endorsement of Mortgage Note and Assignment of Mortgage in favor of Servicer; and (iv) mortgagee title insurance policy. Each Mortgage File shall be maintained by the Servicer for a minimum of three years from the date the Mortgage Loan is fully paid or otherwise terminated. The Mortgage Files or facsimile thereof shall be kept at the Servicer's regular place of business or at its principal place of business and shall be available for inspection during Servicer's regular business hours by the Trustee, the Commission and their respective employees and agents, at their own expense, upon reasonable prior written notice to Servicer. The Mortgage Lender shall maintain all Mortgage Loan application materials, documents and memoranda for three years after closing of the Mortgage Loan, unless a longer period is required by law.

#### **SECTION 4.12 Defective Documents and Non-Qualifying Mortgage Loans; Repurchase of Loans by Mortgage Lender.**

(a) If any document required to be submitted by the Mortgage Lender in accordance with the Program Manual or the Purchase Documents is defective in any material respect, or if it is determined that a Mortgage Loan is a Non-Qualifying Mortgage Loan, the Commission, the Trustee or the Servicer, whichever shall have knowledge thereof, shall promptly notify the Mortgage Lender specifying the defect or defects in questions and the Mortgage Lender shall cure the defect within a period of 30 days from the earlier of the time the Mortgage Lender discovers such defect or the Mortgage Lender receives notice of

such defect from the Commission, the Servicer or the Trustee (the “Cure Period”). “Defect” or “Defective,” whether or not capitalized, for purposes of this Section 4.12 shall mean a failure to cause the Mortgage Loan to comply with the terms of this Agreement.

(b) The Mortgage Lender hereby covenants and agrees that, if any material defect cannot be cured or the Mortgage Loan cannot meet the requirements of a Mortgage Loan within the Cure Period, the Mortgage Lender will, not later than 30 days after expiration of the Cure Period, repurchase with immediately available moneys the related Mortgage Loan from the Servicer at a price equal to (i) 100% of the principal remaining unpaid on such Mortgage Loan, plus (ii) interest thereon to the date of the repurchase, plus (iii) the pro rata commitment fee paid to Ginnie Mae, Fannie Mae or Freddie Mac with respect to such loan, plus (iv) 1.50% of the principal remaining unpaid on such Mortgage Loan if it is a Government Mortgage Loan and 1.25% if it is a Conventional Loan, plus (v) if such repurchase is made necessary by the willful misfeasance or bad faith on the part of the Mortgage Lender or by reason of Mortgage Lender’s reckless disregard of its obligations hereunder, an amount equal to 3% of the unpaid principal amount of such Mortgage Loan. The Acquisition Cost for the repurchased Mortgage Loan, plus any additional amount due under (iv) above, shall be delivered by the Mortgage Lender to the Servicer, whereupon the Servicer shall notify the Custodian under the Custodial Agreement to release the related Mortgage Note and Mortgage to the Mortgage Lender and reassign the Mortgage to the Mortgage Lender. The Servicer will also forward to the Mortgage Lender, within thirty (30) days after receipt of the amounts required for repurchase of a Mortgage Loan, the amount of any tax and insurance escrow held by the Servicer for such Mortgage Loan.

(c) With respect to defective Mortgage Loans or Non-Qualifying Mortgage Loans, the Mortgage Lender hereby covenants and agrees that if any Mortgage Loan is determined by Servicer to be a defective Mortgage Loan or a Non-Qualifying Mortgage Loan and the defect causing the same cannot be cured, the Mortgage Lender will repurchase or, at the option of the Servicer, will cooperate fully with the Servicer in a foreclosure action with respect to such Mortgage Loan or Non-Qualifying Mortgage Loan (if possible). If it is not possible for Servicer to foreclose such Mortgage Loan or Non-Qualifying Mortgage Loan, then the Mortgage Lender shall be required to repurchase such Mortgage Loan or Non-Qualifying Mortgage Loan on the terms and conditions set forth in the preceding paragraph. At the option of the Servicer and the Mortgage Lender, the Servicer may foreclose and the Mortgage Lender will be obligated to pay the Servicer any deficiency remaining following disclosure.

(d) As used herein and as applicable (depending on whether the Mortgage Loan is in the House Key Program or Home Advantage Program), the term “Non-Qualifying Mortgage Loan” shall mean and include any Mortgage Loan purchased hereunder with respect to which:

(1) Mortgagors fail to occupy the related Single-Family Residence as a principal residence within 60 days after execution of the related Mortgage;

(2) The related residence is not a Single-Family Residence as defined herein or more than 15 percent of the total area of the residence will be used in a trade or business (including child care services) on a regular basis for compensation, as investment, rental property or as a recreational home;

(3) The Acquisition Cost of the related residence exceeded the Maximum Acquisition Cost;

(4) Mortgagors are not First Time Homebuyers (unless the residence is located in a Targeted Area);

(5) The current Annual Family Income with respect to the Mortgagor(s) exceeds the Maximum Annual Family Income;

(6) The Mortgage Loan fails to comply with all the provisions of Section 4.02, Section 4.03 or Section 4.04 hereof or to the Addendum to Residential Loan Application and Acquisition Cost Certification;

(7) Any statements contained in any of the affidavits or certifications of Mortgagor, builder/seller, or Mortgage Lender are determined to be incorrect, untrue, misleading or fraudulent;

(8) The Mortgage Loan is a refinancing of an existing loan other than a construction period loan, bridge loan or similar temporary financing of not more than 24 months;

(9) There is a default in the first payment due on the Mortgage Loan, or the Mortgage Loan otherwise fails to comply with the terms hereof;

(10) The Mortgage assumability rider attached to an FHA or VA Mortgage is not approved by FHA or VA, as the case may be;

(11) The Mortgage Loan is prepaid within 90 days after it is purchased from the Mortgage Lender; or

(12) The Mortgage Loan becomes delinquent within the first four (4) months after it is purchased from the Mortgage Lender.

(e) With respect to Non-Qualifying Mortgage Loans, each Mortgage Lender hereby covenants and agrees that if any Mortgage Loan is determined by the Servicer to be a Non-Qualifying Mortgage Loan and the defect causing the same cannot be cured, such Mortgage Lender will repurchase or, at the option of the Servicer, will cooperate fully with the Servicer in a foreclosure action with respect to such Non-Qualifying Mortgage Loan (if possible). Each Mortgage Lender further covenants and agrees that if any fee is assessed by Ginnie Mae, Fannie Mae or Freddie Mac, as the case may be, with regard to a Non-Qualifying Mortgage Loan, such Mortgage Lender will pay the amount of the fee to the Servicer. If the Servicer exercises the foreclosure option and if it is not possible for the Servicer to foreclose such Non-Qualifying Mortgage Loan, then such Mortgage Lender shall be required to repurchase such Mortgage Loan efficiently on the terms and conditions set forth in this Section. Without limiting the foregoing and in addition thereto, with respect to Non-Qualifying Mortgage Loans described in items (d)(11) and (d)(12) above, each Mortgage Lender hereby further covenants and agrees to refund to Servicer any Servicing Release Premium paid by Servicer with respect to a purchase of Servicing Rights, and with respect to Non-Qualifying Mortgage Loans described in item (d)(12) above, each Mortgage Lender hereby further covenants and agrees to indemnify and hold Servicer harmless from any and all losses or expenses incurred as the result of a foreclosure on such Mortgage Loan.

(f) Each Mortgage Lender hereby covenants and agrees that if Mortgage Lender has failed to repurchase a defective or Non-Qualifying Mortgage Loan within the time required by this Agreement after receipt of requisite notice hereunder, the Servicer may reduce the amount of any payment due to Mortgage Lender for the purchase of Mortgage Loans by an amount equal to the unpaid repurchase price for the defective or Non-Qualifying Mortgage described in this Section 4.12(f), together with the amount of any fees described in Section 4.12(e). After exercising the right to net fund described in this paragraph, the Servicer shall deliver the Mortgage File with respect to each defective or Non-Qualifying Mortgage Loan within the time otherwise required under this Agreement for repurchased Mortgage Loans.

(g) Each Mortgage Lender hereby waives any statute of limitations or other law that might otherwise be raised as a defense to any obligation to repurchase a Non-Qualifying Mortgage Loan under this Agreement or to the Servicer's exercise of the right to net fund described in Section 4.12(f).

**SECTION 4.13 Representations, Warranties and Covenants of Mortgage Lender Concerning Mortgage Loans.**

The Mortgage Lender hereby represents and warrants to, and covenants with, the Commission, the Servicer and the Trustee that:

(a) The information set forth in each Loan Reservation Form will be true and correct at the Closing Date thereof, each Mortgage Loan (and all other documents in connection therewith, except the required appraisal) shall have been closed after the execution of this Mortgage Origination Agreement by the Commission and the Servicer, and each Mortgage Loan satisfies all applicable requirements set forth herein;

(b) Each Mortgage Loan will be made by the Mortgage Lender at the price of par with origination fees not to exceed those set forth in the applicable Program Announcement, will be secured by a Mortgage which shall constitute a first mortgage lien on a Single-Family Residence occupied by the Mortgagor as such Mortgagor's permanent place of residence (not more than 15% of the total area of the residence may be used in a trade or business with respect to House Key Program Mortgage Loans) and will be located within the boundaries of the State, will be made substantially in accordance with the Mortgage Lender's then current standard underwriting policies, the underwriting standards of FHA, HUD, RD VA, Freddie Mac or Fannie Mae or the PMI Insurer, as applicable, as set forth in the Program Manual, and the requirements established hereby, subject to acceptance of insurer under the FHA Insurance or VA, RD or HUD Guarantee Policy or PMI Insurer's policy, will be made for the purpose of purchasing or providing permanent financing for such residence and not for the purpose of refinancing any existing loan (other than a construction, bridge or similar temporary financing with a maximum term of 24 months in anticipation of Commission financing with respect to House Key Program Mortgage Loans), will have level payments due the first day of each month (which payments shall include amounts for deposit in the Escrow Account to provide for the timely payment of taxes and insurance) which will amortize the principal, will have a final maturity no later than the date specified in the applicable Program Announcement, will be made to an Eligible Person or Family, as Mortgagor, and will contain the assumption restrictions required by Section 4.19 hereof;

(c) The principal amount of the Mortgage Loan will not exceed any applicable loan-to-value limits as established by FHA, VA, USDA Rural Development or the PMI Insurer or Ginnie Mae, Fannie Mae, or Freddie Mac as applicable.

(d) As of the Purchase Date, each Mortgage Loan will be secured by the Mortgage as required under the Ginnie Mae Guide or Freddie Mac Selling and Servicing Guide or Fannie Mae Selling and Servicing Guide, as applicable, which will constitute a valid lien on the property financed by the Mortgage Loan, subject only to (i) the lien of current (accrued but not past due) real property taxes and assessments, (ii) building and use restrictions not accompanied by title reverter or forfeiture provisions on account of violation and that are not and will not be violated by occupancy and use of the improvements on the property and the property itself for the residential purposes for which the improvements were designed and constructed, (iii) rights-of-way and easements for roads, streets, utilities and other similar installations, whether or not of record, provided that such rights-of-way and easements are either of the kind (including location, area occupied, and nature of the installation thereon) acceptable to commercial lending institutions generally, or have been taken into account and reflected in the appraisal made (and correspondingly in the loan amount) in connection with the origination of the Mortgage Loan, and (iv) other defects, irregularities,

encumbrances, easements, mineral reservations and conveyances and clouds on title that are acceptable to commercial lending institutions generally; provided, however, that none of the foregoing liens or encumbrances shall be permitted if in the opinion of recognized Washington counsel acceptable to the Servicer such lien(s) or encumbrance(s) individually or in the aggregate materially impairs the lien of the Mortgage or Servicer's ability to realize upon the property encumbered by the Mortgage;

(e) As of the Mortgage Purchase Date, the Mortgage Lender shall have in its possession with respect to the property financed by the Mortgage Loan and secured by Mortgage an American Land Title Association approved mortgagee title insurance policy, or a commitment therefor (in either case, with the title insurance premium paid, or, if unpaid, with the Mortgage Lender having the money for payment of the premium immediately available and assuming the responsibility for payment), in an amount at least equal to the outstanding principal amount of the Mortgage Loan, naming the Mortgage Lender and its successors and assigns (including the Servicer) as insureds, and insuring that Mortgage constitutes a first lien on such property, subject only to the exceptions described in the preceding subsection and subject to matters of survey in the preliminary title report only;

(f) As of the Mortgage Purchase Date, the improvements upon the real property subject to the Mortgage Loan will be covered by a valid Standard Hazard Insurance Policy, Flood Insurance Policy, if applicable, and Multi-peril Policy for Condominiums, if applicable, and as required by the Ginnie Mae Guide or the PMI Insurer and Fannie Mae or Freddie Mac, as applicable;

(g) The terms, covenants and conditions of the Mortgage Loan shall not have been and shall not, prior to the Mortgage Purchase Date, be waived, altered, impaired or modified in any respect which would materially affect the value, validity, enforceability, prompt payment of the Mortgage Loan, or the enforceability of the lien securing the Mortgage Loan, except for such waivers, alterations and the like accomplished by Mortgage Lender prior to the Mortgage Purchase Date and disclosed in writing to and acceptable to the Servicer;

(h) As of the Mortgage Purchase Date, the Mortgage Loan shall be current as to principal and interest payments due and, there shall be no delinquent tax or delinquent assessment lien against the property financed by the Mortgage Loan unless permitted by the Ginnie Mae Guide or Fannie Mae Selling and Servicing Guide or Freddie Mac Selling and Servicing Guide, as applicable;

(i) As of the Mortgage Purchase Date, the Mortgage Lender shall not have done any act to create an offset, defense or counterclaim to the Mortgage Loan, including the obligation of the Mortgagor to pay the unpaid principal of and interest on the Mortgage Loan or Fannie Mae or Freddie Mac Selling and Servicing Guides, as applicable;

(j) Each Assignment of Mortgage shall be filed and recorded in the public records of the County in which the mortgaged property is located and any different or other recording that might hereafter be required by the laws of the State to perfect the lien of real estate mortgages or the sale of a note against the adverse or competing claim of third parties by giving public notice thereof also shall have been accomplished as required by the Ginnie Mae Guide;

(k) As of the Mortgage Purchase Date, as to each Mortgage, there shall be no mechanics', laborers', or material-men's liens or claims therefor outstanding for work, labor, or materials affecting the property encumbered by the Mortgage securing the Mortgage Loan that are or might be or become liens prior to, or equal with, the lien of the Mortgage, unless the title insurance specified in Section 4.13(d) insures against such risk;

(l) The physical property financed or improved by the Mortgage Loan shall be free of material damage and shall be in general good repair on the Mortgage Purchase Date;

(m) Each Mortgage Loan, at the time it shall have been made, shall have conformed to all disclosures required to be made by the Real Estate Settlement Procedures Act and the Federal Truth-in-Lending Act, the Federal Equal Credit Opportunity Act, the Washington Law Against Discrimination and all other applicable State and federal laws and regulations;

(n) Each Mortgage Loan at the time it shall have been made shall have complied with applicable State and federal usury laws;

(o) The Mortgagor of a Mortgage Loan shall not have conveyed such Mortgagor's right, title to or interest in the property subject to the Mortgage to any party;

(p) As of the Mortgage Purchase Date, the Mortgage Lender has no knowledge of any acts or circumstances, economic or otherwise, which may have an adverse effect on the credit of any Mortgagor, the prospect of prompt payment of any Mortgage Loan or the value or enforceability of any security therefor;

(q) The Mortgage Lender has reviewed applicable credit reports and related documents required in connection with any application by the potential Mortgagor to assure itself, prior to approving such application, that such potential Mortgagor has the capacity to repay the Mortgage Loan;

(r) As of the Mortgage Purchase Date, the Mortgage Lender has no knowledge of any circumstances or condition with respect to the Mortgagor, the Single-Family Residence, the Mortgage Loan or any related document that could reasonably be expected to cause prudent private investors in the secondary market to regard the Mortgage Loan as an unacceptable investment, or cause the Mortgage Loan to become delinquent or to adversely affect the value or the marketability of the Mortgage Loan and the Mortgage Lender has no knowledge or other reason to believe that any of the representations and statements contained in the affidavits of the seller of the property subject to the Mortgage, Mortgagor and Mortgage Lender are not true and correct; provided, however, that in the event that the Servicer of the Mortgage Loan discovers that the Mortgage Loan is affected by fraud in any way, the Mortgage Lender will be in breach of this representation, warranty and covenant, regardless of the Mortgage Lender's knowledge;

(s) The Mortgagor has agreed to make payments with respect to the Mortgage Loan in accordance with this Agreement; and

(t) The Mortgage Loan and the Single-Family Residence are in compliance with all governmental statutes, regulations and rules relating to the use of the property including, but not limited to, building and zoning codes, environmental and platting requirements;

(u) Each Mortgage and Assignment of Mortgage Note shall have been filed and properly recorded prior to the purchase of the related Mortgage Loan, and any different or other recording that might hereafter be required by laws of the State to perfecting the lien of real estate mortgages against the adverse or competing claims of third parties by giving public notice thereof shall also have been accomplished; and

(v) A recapture notice was provided to the Mortgagor in accordance with instructions in the Program Manual for the House Key Program. In connection with all House Key Program Mortgage Loans, the Mortgagor has been provided with disclosure regarding potential recapture of federal subsidy as required by Section 143(m)(7) of the Code, and the Mortgagor has executed a Mortgagor's Affidavit and

Certification which affirmatively acknowledges Mortgagor's receipt of information and a written statement concerning the potential recapture of federal subsidy in connection with the Mortgage Loan.

(w) Each Mortgage Loan shall be in compliance with the requirements of this Agreement and the Mortgage Lender has complied with all of its servicing and other obligations of this Agreement;

(x) The Mortgage Loan and Single Family Residence are in compliance with all governmental statutes, regulations and rules relating to the use of the property including, but not limited to, building and zoning codes, environmental laws and platting requirements; there is no pending case or proceeding directly involving the Single Family Residence and appurtenances thereto in which compliance with any such law, rule, or regulation is an issue; and nothing further remains to be done to satisfy in full all requirements of each such law, rule or regulation constituting a prerequisite to such use and enjoyment of said Single Family Residence.

(y) All of the improvements which are included for the purposes of determining the appraised value and/or valuation of the Single Family Residence lie wholly within the boundaries and building restriction lines of such Single Family Residence, and no improvements or adjoining property encroach upon the Single Family Residence, and there is legal right of access to and from the Single Family Residence.

(z) The Mortgage Lender shall have received for each newly constructed Single Family Residence securing a Mortgage Loan a certification by a Qualified Appraiser that such Single Family Residence has been constructed in substantial compliance with applicable building code requirements and an executed builder's warranty in the form set forth in the Qualified Appraisers report.

(aa) As of the Mortgage Purchase Date, there has not been a material adverse change in the Mortgage Lender's financial condition from its condition as of the date of execution of this Agreement. The Servicer, acting in good faith, shall make the determination whether such change has occurred; and

(bb) As of the Mortgage Purchase Date, the representations, warranties and covenants of the Mortgage Lender set forth in Section 2.02 hereof remain true and are in full force and effect.

(cc) The representations, warranties and covenants of the Mortgage Lender set forth in the Purchase Documents are hereby confirmed and ratified by the Mortgage Lender and shall be applicable hereunder as if fully set forth herein.

It is understood and agreed that the representations, warranties and covenants set forth in this section shall survive the sale of the Mortgage Loans by the Mortgage Lender to the Servicer and that the representations, warranties and covenants shall inure to the benefit of the transferees and assigns of the Servicer which, under the Indenture, include the Trustee, the Commission, Ginnie Mae, Fannie Mae, Freddie Mac and the owners of the Bonds. Upon discovery by the Mortgage Lender or the Servicer of a breach of any of the foregoing representations, warranties and covenants that materially and adversely affects the value of any Mortgage Loan or the interest of the Servicer in any Mortgage Loan, the party discovering such breach shall give prompt written notice to the other. A breach of these representations, warranties and covenants shall give rise to the rights and obligations with respect to cure, replacement or repurchase set forth in Section 4.12 above. Subject to the indemnification obligation in Section 4.15 for the matters covered thereby, it is understood and agreed that the obligations of the Mortgage Lender set forth in Section 4.12 shall constitute the sole remedies respecting such breach available to the Commission, the Servicer and the Trustee where the Mortgage Lender has acted in good faith.

#### **SECTION 4.14 Prohibition of Discrimination.**

The Mortgage Lender must consider all applications in the order in which they are received, or in any other manner designated by the Commission, on a fair and equal basis, may not arbitrarily reject a Mortgage Loan application because of the location, and/or age of the property, and may not, in the case of a proposed Mortgagor, arbitrarily vary the terms of a loan or the application procedures therefor or reject a Mortgage Loan applicant in violation of the Federal Equal Credit Opportunity Act, the Washington Law Against Discrimination or in violation of any State or federal law; provided, however, that a Mortgage Lender may refuse to accept applications for Mortgage Loans to refinance construction loans if the Mortgage Lender desires and intends to make no such loans hereunder. Mortgage Lender shall not enter into any agreement or arrangement with any person, firm or corporation to prefer any applicant or group applicants for such loans without the express approval of the Servicer, nor may applications for such loans be accepted for processing, or arrangements for the acceptance or handling of such applications be made, prior to the date of receipt of the Program Announcement for each issue. In accepting, evaluating and acting upon such applications, Mortgage Lender shall comply with all applicable State and federal laws regulations, including but not limited to the Federal Equal Credit Opportunity Act and Regulation B promulgated thereunder, the federal Consumer Credit Protection Act and the Washington Law Against Discrimination and the regulations thereunder.

#### **SECTION 4.15 Indemnification.**

In addition to the Mortgage Lender's indemnification obligations to the Servicer under the Purchase Documents, the Mortgage Lender shall indemnify the Commission, the Trustee as assignee of the Commission, and the Servicer and hold them and their officers, employees and agents harmless from any and all loss penalty, fine, forfeiture, reasonable attorney's fees, damage or expense that they respectively sustain or incur as a result of any violation of law by the Mortgage Lender or any failure on the part of the Mortgage Lender to perform its services, duties and obligations under the terms and provisions of this Agreement, notwithstanding knowledge, act, or failure to act by the Commission, the Trustee or the Servicer, other than an act or failure to act on the part of the Commission or the Servicer respectively which prevents the Mortgage Lender from performing such services, duties and obligations.

#### **SECTION 4.16 Requirement of Standard Hazard Insurance.**

(a) The Single-Family Residence securing any Mortgage Loan must be covered by a Standard Hazard Insurance Policy meeting all of the following requirements:

(1) standard hazard insurance coverage in the following kinds and amounts will be carried by each Mortgagor or by the condominium association on behalf of the Mortgagor, where appropriate, or by the Servicer under a mortgagee single interest hazard insurance policy, in each case from an insurer approved by FHA, VA, RD, HUD, the PMI Insurer or Freddie Mac or Fannie Mae, as applicable, and is required on property covered by a Mortgage:

(i) fire and extended coverage insurance is required in an amount at least equal to that customary in the area in which the Mortgage Loan is originated but in any event sufficient, except for the deductibles permitted below, so that in the event of any damage or loss to the property, coverage by the insurance will be in an amount equal to the greater of (1) an amount which is at least equal to the principal balance owing on the Mortgage Loan, but not less than 90 percent of the insurable value of the applicable residence and (2) an amount sufficient to prevent application of any co-insurance clause.

(ii) where the Mortgage Lender is aware that the property is exposed to any appreciable hazard against which fire and extended coverage insurance does

not afford protection, the Mortgage Lender must advise the Servicer of the nature of such hazard and the additional insurance coverage, if any, which has been obtained against such hazard. If adequate insurance has not been obtained against such hazard, the Servicer may require the Mortgage Lender to obtain such coverage prior to accepting the Mortgage Loan for purchase;

(2) such insurance must be in effect on the Mortgage Purchase Date of the Mortgage Loan and the expiration date of each policy must be more than six months after the Mortgage Purchase Date. The premium on each policy must have been paid in full by the Mortgagor (no "courtesy receipts" or other secondary financing of such premium is permitted);

(3) insurance policies must be sufficient in amount and scope of coverage to meet any applicable requirements of the insurer providing the Mortgage Insurance Policy.

(4) policies containing a deductible clause applicable to either fire or extended coverage or both are in accordance with applicable FHA, HUD, RD, VA or PMI Insurer and Fannie Mae or Freddie Mac standards;

(5) each Mortgage must provide that, in the event of any loss settlement on a hazard insurance policy, the Mortgagor has the option of applying the loss settlement proceeds against the principal amount of the Mortgage Loan rather than restoring the property; and

(6) each hazard insurance policy must be written by a hazard insurance carrier which falls into a financial category, as designated in Best's Insurance Reports of B/VI or better (the Servicer may make an exception upon specific request where the insured is an assigned risk) and each carrier must be specifically licensed or authorized by law to transact business in the State.

(b) The Mortgage Lender is responsible for and warrants compliance with the provisions of the Flood Disaster Protection Act of 1973, whenever such provisions would be applicable to any Mortgage Loan sold to the Commission. If the area is one identified by the Secretary of Housing and Urban Development as an area having special flood hazards, flood insurance shall be maintained in the amount of the outstanding principal balance of the Mortgage Loan or the maximum limit of coverage available under the National Flood Insurance Act of 1968 as amended, whichever is less. Any flood insurance must meet applicable FHA, HUD, RD or VA standards or Fannie Mae or Freddie Mac standards.

(c) Policies are unacceptable where: (i) under the terms of the carrier's charter, by-laws or policy, contributions or assessments may be made against the Commission or its assignee, or (ii) contributions or assessments may be made against the owner of the property which could become a lien on the property superior to the lien of the Mortgage, (iii) by the terms of the carrier's charter, by-laws or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members or (iv) the policy includes any limiting clauses (other than normal insurance conditions) which could prevent the Servicer or the Mortgagor from collecting insurance proceeds.

(d) All policies of hazard insurance must contain or have attached the standard mortgagee clause customarily used in the area in which the Mortgage Loan is originated, naming the Servicer as loss payee. The policy must provide that the insurance carrier will notify the Servicer at least ten (10) days in advance of the effective date of any cancellation of the policy. The Mortgage Lender must (i) cause each insurance policy to be properly endorsed, (ii) give any necessary notices of transfer in order to fully protect, under the terms of the policy and applicable law, the interest of the Servicer as first lienholder and (iii) cause all insurance drafts, notices, policies, invoices, and other documents to be delivered directly to the Servicer, regardless of the manner in which the insurance policy is endorsed.

(e) Insurance coverage which does not meet the foregoing requirements will be considered on a case-by-case basis by the Servicer upon request by the Mortgage Lender. The Servicer may require such additional coverage as it may deem necessary in connection with any case or group of cases.

**SECTION 4.17 Mortgage Lender to Transfer Mortgage Loans and Servicing Thereof to Servicer.**

The Mortgage Lender shall service (or cause to be serviced) all Mortgage Loans in accordance with Ginnie Mae, Fannie Mae and Freddie Mac requirements, as possible, prior to purchase by the Servicer. This includes but is not limited to the collection and processing of all loan payments (including escrow payments for taxes and insurance) and the payment from the Escrow Account of taxes and insurance when due and the accounting therefore in accordance with Ginnie Mae, Fannie Mae and Freddie Mac requirements. Additionally, even if not required by the preceding sentences of this Section, the Mortgage Lender shall pay or cause to be paid the first half year's property taxes due September 30 if the Mortgage Loan is purchased within sixty (60) days before such taxes are due, and the last half of property taxes due March 31 if the Mortgage Loan is purchased within sixty (60) days before such taxes are due. If there are insufficient funds in the Escrow Account to cover these taxes, the Mortgage Lender shall collect the deficiency from the Mortgagor and/or the Seller of the Single Family Residence. The Mortgage Lender shall not advance any funds to cover property taxes or any other obligations of the Mortgagor except as reflected in the Mortgage Note. On the Purchase Date, Mortgage Lender shall assign and transfer each Mortgage Loan and the serving rights and obligations thereto to the Servicer in exchange for payment as provided in this Agreement. Under the Servicing Agreement, after the Purchase Date Servicer will perform all servicing functions relating to each Mortgage Loan until Mortgage Loans are securitized in a Pool. After the issuance date of each Pool, the Servicer shall continue to service the Mortgage Loans and will be governed by the Ginnie Mae Guide, and Fannie Mae Selling and Servicing Guide or Freddie Mac Selling and Servicing Guide.

**SECTION 4.18 Assumption Restrictions.**

In any case in which a Single-Family Residence subject to a Mortgage has been or is about to be conveyed by the Mortgagor and the purchaser desires to assume all the rights and obligations of the Mortgagor under the Mortgage Loan, the Servicer may release (subject to any required FHA, HUD, RD or VA or PMI Insurer and Fannie Mae or Freddie Mac approval, as applicable, and in accordance with currently applicable FHA, RD, HUD or VA or PMI Insurer and Fannie Mae or Freddie Mac rules and regulations, as the case may be) the original Mortgagor and take or enter into an assumption agreement from or with the person to whom such property has been or is about to be conveyed only if Servicer so consents in writing; provided, however, that such assumption may only be permitted if:

- (a) the purchaser is an Eligible Person or Family,
- (b) with respect to House Key Program Mortgage Loans, the purchaser will occupy the Single-Family Residence within 60 days of the assumption as the purchaser's principal residence and intends to maintain the Single-Family Residence as his or her principal residence as long as he or she is liable under the Mortgage Loan,
- (c) with respect to House Key Program Mortgage Loans, unless the Single-Family Residence is located in a Targeted Area, the purchaser is a First Time Homebuyer,
- (d) with respect to House Key Program Mortgage Loans, the Acquisition Cost of the Single-Family Residence does not exceed the then current limits applicable for an existing Single-Family Residence in the relevant County,

(e) the Mortgage Loan is continued to be insured under the insurance policies described in the Agreement and approved by the Servicer,

(f) the purchaser's current Annual Family Income does not exceed the then current Maximum Annual Family Income,

(g) the Mortgage Loan must continue to comply with the requirements of FHA, HUD, RD or VA regulations, as applicable, and the Ginnie Mae Guide or the requirements of the PMI Insurer and Fannie Mae Selling and Servicing Guide or Freddie Mac Selling and Servicing Guide, as applicable, and

(h) with respect to House Key Program Mortgage Loans, the purchaser receives a Recapture Notice.

The assumption restrictions shall be incorporated in the related Mortgage and kept as a part of the Mortgage File. In connection with any such assumption agreement, the interest rate of the related Mortgage Note shall not be changed; however, the Servicer may charge in connection with each assumption, an assumption fee permitted by FHA, RD, HUD, VA or Fannie Mae, or Freddie Mac as applicable, plus, to the extent permitted by law, the reasonable and customary out-of-pocket costs paid or incurred by the Servicer as specified with respect to a Mortgage Lender in Section 4.05 hereof. All warranties and representations of the Mortgage Lender with respect to the Mortgage Loan shall continue in full force and effect after the assumption with respect to the period prior to the assumption as applied to the original Mortgagor. They shall also apply with respect to the period following the assumption except to the extent they relate to facts concerning the status or performance of the assuming purchaser.

#### **SECTION 4.19 Status Reports.**

The Mortgage Lender may review status of the Mortgage Loans prior to the issuance of a Certificate of Compliance on the Commission's website at [www.wshfc.org](http://www.wshfc.org), and after the issuance of a Certificate of Compliance on Servicer's website at [www.idahohousing.com](http://www.idahohousing.com). The Servicer's website will provide loan information about any outstanding items required to complete the purchase of a Mortgage Loan, and detailed information about a Mortgage Loan's purchase, including an itemized loan purchase advice.

#### **SECTION 4.20 Commission, Mortgage Lender and Servicer to Cooperate; Release of Mortgage Files.**

From time to time and as appropriate for the servicing or foreclosure of any Mortgage Loans, the Commission, the Mortgage Lender and the Servicer hereby agree to take such actions as required by the Seller Guide, the Ginnie Mae Guide and FHA or VA or USDA Rural Development or by the Fannie Mae Selling and Servicing Guide or Freddie Mac Selling and Servicing Guides and the PMI Insurer, as applicable.

**SECTION 4.21    Amendment of Terms and Conditions of a Mortgage Loan; Release of Property from the Lien of a Mortgage.**

The Servicer, with the prior written consent of the Commission and the insurers and Ginnie Mae, Fannie Mae and Freddie Mac, as applicable, may amend the terms or conditions of any Mortgage Loan, release or direct the release of property from the lien of a Mortgage or consent to the grant of, or grant, easements or rights of way upon property securing a Mortgage Loan, with appropriate recordation among the records of the local governmental officials; provided that the Servicer shall not make any amendment of the terms and conditions of any Mortgage Loan that would result in such Mortgage Loan becoming a Non-Qualifying Mortgage Loan.

**ARTICLE 5  
MORTGAGE LENDER**

**SECTION 5.01    Liability of Mortgage Lender.**

The Mortgage Lender shall be liable hereunder only to the extent that obligations are explicitly imposed upon and undertaken by the Mortgage Lender.

**SECTION 5.02    Merger or Consolidation of Mortgage Lender.**

Any entity into which the Mortgage Lender may be merged or consolidated, or any entity resulting from any merger, conversion or consolidation to which the Mortgage Lender shall be a party, or any entity succeeding to the business of the Mortgage Lender, shall be the successor of the Mortgage Lender hereunder without the execution or filing of any document or instrument, except as provided in Section 2.02(b) hereof, or any further act on the part of any of the parties hereto. This Agreement may not be assigned by the Mortgage Lender without the consent of the Commission and the Servicer.

**SECTION 5.03    Limitation on Liability of Directors, Officers, Employees and Agents of Mortgage Lender.**

No director, officer, employee or agent of the Mortgage Lender or the Servicer shall be under any personal liability to the Commission, Trustee or the Bondholders for any action taken or for refraining from the taking of any action in good faith pursuant hereto, or for errors in judgment.

**SECTION 5.04    Mortgage Lender Not to Resign.**

The Mortgage Lender shall not resign from the obligations and duties hereby imposed on it except upon determination that its duties hereunder are no longer permissible under applicable law or regulation. Any such determination permitting the resignation of Mortgage Lender shall be evidenced by an opinion of counsel satisfactory to Commission to such effect delivered to Commission. No such resignation shall become effective until another Mortgage Lender, the Servicer, or a successor servicer shall have assumed the Mortgage Lender's responsibilities and obligations in accordance with Section 5.02 hereof.

**SECTION 5.05    Access to Certain Documentation and Certain Information Regarding the Mortgage Loans and Notifications.**

(a) The Mortgage Lender shall provide to the Trustee, the Servicer, Ginnie Mae, Fannie Mae, Freddie Mac and the Commission and their respective employees, examiners and supervisory agents access to the documentation (which may be on microfilm) regarding the Mortgage Loans requested by them, such

access being afforded without charge and during normal business hours at the offices of the Mortgage Lender designated by it or, if requested, by mail.

(b) The Mortgage Lender shall deliver to the Servicer copies of all reports, correspondence, statements, notices or other written communications of the Mortgage Lender delivered to the Commission pursuant to this Agreement at the time so delivered. The Servicer shall be entitled to rely upon such written communications of the Mortgage Lender.

(c) The Commission, Mortgage Lender and the Servicer shall each provide the others with information, records or such assistance reasonably requested by the others and otherwise cooperate with the others as reasonably requested.

## **ARTICLE 6 TERMINATION**

### **SECTION 6.01 Causes of Termination Defined; Remedies.**

Upon the happening of any one or more of the following events the Servicer shall, upon the direction of the Commission terminate this Agreement with respect to the Mortgage Lender, or take whatever action at law or in equity as may appear necessary or desirable to enforce performance or observance of any obligation, agreement, or covenant of the Mortgage Lender hereunder.

(a) Failure by the Mortgage Lender duly to observe or perform in any material respect any covenant, condition or agreement required by this Agreement to be observed or performed, for a period of 30 days after written notice, specifying such failure and requesting that it be remedied, given to the Mortgage Lender by Commission, Trustee and the Servicer, unless the Commission, the Trustee and the Servicer shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Commission, the Trustee and the Servicer will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Mortgage Lender within the applicable period and diligently pursued until the default is corrected.

(b) Servicer has been required to purchase a Mortgage Loan that is defective in a material respect as a result of a failure of the Mortgage Lender to abide by the provisions of this Agreement and the Mortgage Lender has not timely repurchased said Mortgage Loan upon proper notice hereunder.

(c) A decree or order of a court or commission or supervisory authority having jurisdiction in the premises for the appointment of a conservator or receiver or liquidator in any insolvency, readjustment of debt, marshaling of assets and liabilities or similar proceedings, or for the winding up or liquidation of its affairs, shall have been entered against Mortgage Lender and such decree or order shall have remained in force undischarged or unstayed for a period of 60 days.

(d) The Mortgage Lender shall consent to or have imposed on itself the appointment of a conservator or receiver or liquidator in any insolvency, readjustment of debt, marshaling of assets and liabilities or similar proceedings of or relating to Mortgage Lender or of or relating to all or substantially all of its property.

(e) The Mortgage Lender shall admit in writing its inability to pay its debts generally as they become due, file a petition to take advantage of any applicable insolvency or reorganization statute, make an assignment for the benefit of its creditors, or voluntarily suspend payment of its obligations.

(f) The Commission or the Servicer shall discover or be notified that any representation of or warranty by Mortgage Lender to Commission is false in any material respect.

(g) There occurs prior to purchase of any Mortgage Loan a change in status of the Mortgage Lender originating such Mortgage Loan with respect to Mortgage Lender approval as an FHA, HUD, RD or VA approved mortgagee or a Fannie Mae or Freddie Mac approved seller-servicer.

(h) The Commission terminates the Program upon 45 days notice to the Mortgage Lender.

(i) The Mortgage Lender fails to pay its annual Participation Fee upon 30 days notice that such payment is due.

(j) The Mortgage Lender's reservations cancellation rate exceeds twice the Program average over any six-month period.

(k) Merger, consolidation or sale of substantially all of the Mortgage Lender's assets, except in compliance with Section 2.02(b), or assignment of the Mortgage Lender's rights and obligations under this Agreement without the prior written consent required pursuant to Section 5.02.

#### **SECTION 6.02 No Remedy Exclusive.**

Unless otherwise expressly provided, no remedy herein conferred upon or reserved to any party is intended to be exclusive of any other available remedy, but each remedy shall be cumulative and shall be in addition to other remedies given hereunder or existing at law or in equity. No delay or omission to exercise any right or power accruing hereunder upon the happening of any event set forth in Section 6.01 hereof shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Commission to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article.

#### **SECTION 6.03 Agreement to Pay Attorneys' Fees and Expenses.**

In the event the Mortgage Lender should fail to perform its obligations under any of the provisions hereof and the Commission, the Trustee or Servicer should employ attorneys or incur other expenses for the enforcement of performance or observance of any obligation or agreement on the part of Mortgage Lender herein contained, the Mortgage Lender agrees that to the extent not prohibited by law it will pay or reimburse the Commission, the Trustee or the Servicer on demand the reasonable fees of attorneys and such other incurred expenses.

#### **SECTION 6.04 Liability of Servicer, Commission or Trustee.**

The Servicer, the Trustee or the Commission shall not be liable for the appointment or removal of a successor Mortgage Lender or owe any duty with respect to such appointment or removal, except for its own willful misconduct and, except to the extent of its obligations to assure proper servicing hereunder. Notwithstanding any provision to the contrary in this Agreement, neither the Commission nor the Trustee nor Mortgage Lender shall be liable in any respect for the appointment or removal of a successor Mortgage Lender by the Servicer or owe any duty with respect to such appointment or removal other than as otherwise provided herein.

**SECTION 6.05 Servicing Termination.**

The Servicer may be terminated only as provided in the Servicing Agreement and the Ginnie Mae Guide or Fannie Mae or Freddie Mac Selling and Servicing Guide, as applicable.

**ARTICLE 7  
MISCELLANEOUS PROVISIONS**

**SECTION 7.01 Amendments, Changes and Modifications.**

Subsequent to the issuance of the Bonds and prior to their payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), this Agreement may be amended, changed, modified, altered or terminated only with the written consent of the Trustee. Prior to issuance of the Bonds this Agreement may be amended, changed, modified, or altered by any rider signed by any affected Mortgage Lender, the Commission, and the Servicer.

**SECTION 7.02 Limitation on Rights of Bondholders.**

No Bondholder shall have any right to institute a suit with respect hereto except as provided in the Indenture and for the equal benefit of all Bondholders. This Section may be enforced by the Commission, Trustee, the Servicer or any Bondholder.

**SECTION 7.03 Governing Law.**

This Agreement shall be construed in accordance with the laws of the State, and the obligations, rights and remedies of the parties hereunder shall be determined in accordance with such laws.

**SECTION 7.04 Notices.**

All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by certified or registered mail, postage prepaid, return receipt requested, addressed to the appropriate Notice Address. A duplicate copy of each notice, certificate or other communication given hereunder to the Commission or the Mortgage Lender shall also be given to the others. The Commission, the Servicer or the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

**SECTION 7.05 Severability.**

In the event any provision hereof shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**SECTION 7.06 Further Assurances and Corrective Instruments.**

To the extent permitted by law, the Commission and the Mortgage Lender agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the intention of or facilitating the performance hereof.

**SECTION 7.07 Term of Agreement.**

This Agreement shall be in full force and effect from the date hereof and shall continue in effect so long as any of the Bonds are outstanding or any Mortgage Loans purchased hereunder remain outstanding, whichever is longer, or until such time as terminated pursuant to Article VI hereof.

**SECTION 7.08 No Rights Conferred on Others.**

Nothing herein shall confer any right upon any person other than the Servicer, the Commission (or the Trustee as assignee of certain of the Commission's rights hereunder) and the Mortgage Lender.

**SECTION 7.09 Discretion of Commission.**

With respect to any disputes between the Commission and the Mortgage Lender which arise concerning the terms and provisions hereof, the meaning thereof, or decisions to be made thereunder, the judgment of the Commission shall govern.

**SECTION 7.10 Execution in Counterparts.**

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[Remainder of this page intentionally blank.]

IN WITNESS WHEREOF, we have set our hands as of the date first written above.

**WASHINGTON STATE HOUSING FINANCE  
COMMISSION**

By: \_\_\_\_\_  
Steve Walker, Executive Director

**IDAHO HOUSING AND FINANCE  
ASSOCIATION**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**[MORTGAGE LENDER]**, as Mortgage Lender

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

**EXHIBIT A**  
**TO**  
**MORTGAGE ORIGINATION AGREEMENT**  
**SECOND MORTGAGE LOAN PROGRAM ADDENDUM**

**Introduction**

This Addendum describes the process by which Mortgage Lenders may originate Second Mortgage Loans in conjunction with Mortgage Loans finance through the Commission. The parties hereto agree to the terms and conditions hereof pursuant to which such Mortgage Loans and related Second Mortgage Loans will be originated and sold to the Servicer, as such terms and conditions may be modified pursuant to the Purchase Documents and Program Announcements and such modifications are contained in the Program Manual and/or the Purchase Documents.

Section 1. Origination of Mortgage Loans in Conjunction with Second Mortgage Loans. To the extent that funds are available under the First Serve Reservation System and in accordance with Program Announcements and the Program Manual, the Mortgage Lender agrees to originate Mortgage Loans in accordance with the Mortgage Origination Agreement and Second Mortgage Loan Program Manual.

A subordinate mortgage loan originated by the Mortgage Lender in conjunction with a Mortgage Loan shall be eligible for purchase by the Servicer as a Second Mortgage Loan only if such loan meets all of the following requirements:

- (a) made only if funds are required by the borrower to close the Mortgage Loan, as demonstrated in accordance with procedures set forth in the Second Mortgage Program Manual;
- (b) for a principal amount not to exceed Second Mortgage loan limits and to a borrower whose income is within limits set forth in the Program Announcements and the Second Mortgage Program Manual;
- (c) used for downpayment, closing costs and prepaids including reserves in an amount of need as established by the guidelines contained in the Second Mortgage Program Manual and as permitted by Fannie Mae, Freddie Mac, VA, RHS, HUD or FHA guidelines, as applicable;
- (d) amortizing, if applicable, in accordance with the terms set forth in the Second Mortgage Program Manual;
- (e) documented by execution of the Second Mortgage Loan documents;
- (f) for a principal amount reserved in accordance with procedures set forth in the Second Mortgage Program Manual;
- (g) purchased by the Servicer at the same time that the related Mortgage Loan is sold to the Servicer upon submission to the Servicer of the required Second Mortgage Loan documents with the related mortgage loan file;
- (h) made to a borrower who has successfully completed a homebuyer education seminar approved by the Commission and;

(i) noted on the title policy with respect to the corresponding Mortgage Loan as a subordinate lien.

Section 2. Availability of Second Mortgage Loan Funds. Various entities will provide funding for the acquisition of the Second Mortgage Loans originated by the Mortgage Lender. The Mortgage Lenders will be notified with respect to the availability of such funds pursuant to Program Announcements.

Section 3. Fees and Charges. A closing cost administration fee as set forth in the Second Mortgage Loan Program Manual shall be collected by the Mortgage Lender from the buyer/seller and netted out to the Servicer upon the Servicer's purchase of the Second Mortgage Loan. The Mortgage Lender may collect no additional fees for the origination of Second Mortgage Loans. The out-of-pocket costs incurred for the closing and recording of the Second Mortgage Loan Deed of Trust may be charged to the borrower and may be paid from the principal amount of the Second Mortgage Loan.

Section 4. TILA-RESPA Integrated Disclosure Rule (TRID). It shall be the responsibility of the Mortgage Lender to prepare a separate Truth in Lending Statement with respect to each Second Mortgage Loan, in accordance with the TILA-RESPA Integrated Disclosure Rule (TRID).

Section 5. Servicing Second Mortgage. It shall be the responsibility of the Mortgage Lender to service the Second Mortgage Loan on behalf of the Commission until the Second Mortgage Loan is purchased by the Servicer.