

PENNSYLVANIA HOUSING FINANCE AGENCY

BAILEE AGREEMENT

THIS BAILEE AGREEMENT by and among _____ ("Warehouse Lender"), _____, ("Seller"), and **PENNSYLVANIA HOUSING FINANCE AGENCY** ("Buyer") is dated as of _____, 2012.

WHEREAS, Seller may, from time to time, originate and close residential mortgage loans (each, a "Mortgage Loan"); and

WHEREAS, each Mortgage Loan will be evidenced by a promissory note (a "Note") and secured by a mortgage, and certain other documents (collectively, together with each Note, the "Collateral"); and

WHEREAS, Seller may obtain monies from Warehouse Lender to temporarily fund such Mortgage Loans (the "Warehouse Line"), and will grant Warehouse Lender a security interest in the Collateral in order to secure such Warehouse Line; and

WHEREAS, Seller intends to sell closed Mortgage Loans to Buyer pursuant to a Master Origination and Sale Agreement, Buy/Sell Agreement or similar previously entered into agreement between Seller and Buyer (the "Agreement"), and one or more commitment letters between Seller and Buyer (a "Commitment Letter") entered in pursuant thereto (the Agreement and any and all Commitment Letters are hereafter collectively referred to as the "Instruments"); and

WHEREAS, Warehouse Lender has requested that Buyer act as Warehouse Lender's Bailee with respect to such Collateral until the related Mortgage Loan is purchased by Buyer.

NOW, THEREFORE, in consideration of the agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Warehouse Lender, Seller and Buyer agree as follows:

Section 1. Notification and Acknowledgment of Security Interest. Warehouse Lender shall attach to each shipment of one or more Notes a cover letter, substantially in the form of Exhibit A. Warehouse Lender, upon instruction from Seller, shall promptly forward such cover letter and Note(s) to Buyer at the following address (or such other address as may be sent in writing by Buyer to Seller and Warehouse Lender):

PENNSYLVANIA HOUSING FINANCE AGENCY
Attention: Homeownership Programs Division
P.O. Box 8029
Harrisburg, PA 17105-8029

Upon receipt, Buyer shall sign and date such cover letter and shall mail or telecopy it to Warehouse Lender at the following address or number:

Attention: _____
Telephone: _____
Telecopier: _____

The Mortgage Loan File (as defined in the Agreement) shall not be deemed complete until the receipt of the original executed Note by Buyer. Such cover letter, when executed by Buyer, shall constitute acknowledgment by Buyer of Warehouse Lender's security interest in the related collateral.

Section 2. Buyer as Bailee. Effective upon Buyer's receipt of the Collateral and the cover letter, Buyer will hold the Collateral, in which Warehouse Lender holds a security interest, as Bailee for the benefit of Warehouse Lender, pursuant to the provisions of the Uniform Commercial Code, until Buyer's status as Bailee is terminated as set forth in Section 3 hereof. Prior to such termination, Buyer shall not deliver the Collateral to Seller or any third party. Buyer shall act only as a Bailee for Warehouse Lender and shall not be deemed to be a representative, trustee or fiduciary or otherwise an agent of or for Warehouse Lender or Seller with respect to the Collateral. The standard of care to be exercised by Buyer in holding the Collateral shall be the same degree of care and skill as Buyer exercises when it holds Mortgage Loan documents on its own behalf.

Section 3. Termination of Security Interest and Release of Bailee. Buyer's status and obligations as Bailee shall automatically terminate, without further action by any party, upon the earliest to occur of: (i) payment of the purchase price to Warehouse Lender, as set forth in Section 4 hereof (the "Purchase Date"); or (ii) return of the Collateral to Warehouse Lender, as set forth in Section 5 hereof. Warehouse Lender agrees that its security interest in the Collateral and all right, title and interest it may have in the related Mortgage Loans purchased by Buyer are and shall be fully released effective as of the Purchase Date, whereupon Buyer will have no further obligation to Warehouse Lender with respect to such Collateral.

Section 4. Purchase Price. The "Purchase Price" means the price Buyer agrees to pay to purchase a Mortgage Loan pursuant to the Instruments. Upon Warehouse Lender's request, Seller agrees promptly to provide Warehouse Lender with copies of Instruments. Warehouse Lender and Seller acknowledge that the Purchase Price may be more or less than the full principal amount of the Note evidencing the Mortgage Loan, and that Seller may have paid or advanced other funds to Buyer in connection with the Instruments, which funds are not included in the Purchase Price. Buyer agrees that the Purchase Price paid to Warehouse Lender with respect to a particular Mortgage Loan shall not be reduced due to adjustments relating to another Mortgage Loan. For purposes of the Purchase Date set forth in Section 3 hereof, the Purchase Price shall be deemed to be paid in full when Warehouse Lender is sent funds in the amount of the Purchase Price by means of an Automatic Clearing House (ACH) transfer in accordance with instructions provided to Buyer by the Warehouse Lender and set forth on Exhibit B hereto.

Warehouse Lender agrees promptly to process any such ACH transfer for payment. With respect to any Mortgage Loan as to which Buyer has received a notification (as set forth herein) of a security interest held by Warehouse Lender, Buyer shall only send payments to Warehouse Lender, as specified above. With respect to any Mortgage Loan in which Warehouse Lender has a security interest (and

provided that Buyer has received notice of such security interest as set forth herein), no change in the above mailing instruments shall be honored by Buyer unless received in writing by Buyer and signed by Warehouse Lender. Buyer shall not be liable to Warehouse Lender or Seller for any additional expenses incurred by Warehouse Lender or Seller because of: (i) payments lost or delayed due to incorrect ACH transfer instructions provided by Warehouse Lender; or (ii) Warehouse Lender's failure promptly to process an ACH transfer for payment. Buyer shall notify Seller of the purchase of a Mortgage Loan by sending a funding advice to Seller, and Seller shall immediately telecopy such funding advice to Warehouse Lender.

Section 5. Return of Collateral to Warehouse Lender. Buyer will deliver the Note and other Collateral in Buyer's possession to Warehouse Lender: (a) upon receipt by Buyer of Warehouse Lender's written request therefor (provided that such request is received by Buyer prior to Buyer's payment of the Purchase Price); or (b) in the event that Buyer elects not to purchase the Mortgage Loan, or (c) in the event that the Note or other Collateral is defective and requires correction. In the alternative, Buyer shall take such other action with respect to the Note and other Collateral as may be agreed upon in writing between Warehouse Lender and Buyer. Any delivery from Buyer to Warehouse Lender shall be made by express mail to the address of Warehouse Lender set forth in Section 1 hereof. In no event shall Buyer return any item of Collateral to Seller prior to the termination of Warehouse Lender's security interest in the Collateral.

Section 6. Representations and Warranties.

(a) As of the date of delivery of each Mortgage Loan to Buyer:

- (i) Warehouse Lender represents and warrants to Buyer that Warehouse Lender has not assigned, hypothecated, transferred, pledged, or otherwise conveyed the Collateral to any other party, or recorded any assignment of mortgage or deed of trust related to such Mortgage Loan, and during the period that Buyer holds the Collateral as Bailee, unless and until the Collateral is returned by Buyer to Warehouse Lender, Warehouse Lender will not assign, hypothecate, pledge, transfer, or otherwise convey any of Warehouse Lender's right, title, or interest in such Collateral;
- (ii) Warehouse Lender certifies to Buyer that the file relating to such Mortgage Loan that was delivered to Warehouse Lender by Seller or the closing agency (except for any loan and security agreement between Warehouse Lender and Seller and any unrecorded assignment of a mortgage) has been delivered in its entirety to Buyer; and
- (iii) Warehouse Lender's execution and delivery of this Bailee Agreement have been: (1) specifically approved by Warehouse Lender's Board of Directors and such approval is reflected in the minutes of the meetings of such Board of Directors; or (2) approved by an officer of Warehouse Lender, which officer was duly authorized by Warehouse Lender's Board of Directors to enter into such types of transactions, and such authorization is reflected in the by-laws of Warehouse Lender or the minutes of the meetings of such Board of Directors. This Bailee Agreement constitutes the "written agreement" in connection with Warehouse Lender's role as Seller's Warehouse Lender for the Mortgage Loans, and Warehouse Lender shall continuously maintain all components of such "written agreement" as an official record of Warehouse Lender or any successor thereof that Warehouse Lender own or controls.

- (b) Following receipt by Warehouse Lender of payment of the Purchase Price for a particular Mortgage Loan as set forth herein, Warehouse Lender represents and warrants that: (i) Warehouse Lender has fully relinquished all right, title, and interest it may have in and to such Mortgage Loan; (ii) all notes, mortgages, other original documents, instruments and materials that have been delivered to Buyer pursuant to subsection 6(a)(ii) above have been released to Buyer; and (iii) any unrecorded assignments in Warehouse Lender's possession relating to such Mortgage Loan are null and void, and Warehouse Lender covenants to and agrees with Buyer that Warehouse Lender will immediately take any and all action necessary to assign and transfer any recorded interest in such Mortgage Loan to Buyer.

Section 7. Counterparts. This Bailee Agreement may be executed in any number of counterparts, and each of the parties hereto may execute this Bailee Agreement by signing any such counterpart; and taken together, such counterparts, when fully executed by the parties shall constitute the original hereof.

IN WITNESS WHEREOF, each of the undersigned has caused this Bailee Agreement to be duly executed and delivered by its duly authorized officer as of the day and year first above written.

WAREHOUSE LENDER: _____

By: _____

Name: _____

Title: _____

SELLER: _____

By: _____

Name: _____

Title: _____

BUYER: **PENNSYLVANIA HOUSING FINANCE AGENCY**

By: _____

Name: _____

Title: _____

**EXHIBIT A TO BAILEE AGREEMENT
WAREHOUSE LENDER'S LETTER**

Date: _____

PENNSYLVANIA HOUSING FINANCE AGENCY

P.O. Box 8029
Harrisburg, PA 17105-8029

Attention: Homeownership Programs Division

Dear _____:

Promissory Notes evidencing the below-listed loans are attached hereto and are being delivered to Pennsylvania Housing Finance Agency ("PHFA"), in PHFA's capacity as Bailee for _____ ("Warehouse Lender"), pursuant to the Bailee Agreement dated _____, 2012 (the "Bailee Agreement"), among _____, as Warehouse Lender, _____, as Seller, and PHFA, as Buyer. Warehouse Lender holds a security interest in such Promissory Notes.

Loan # _____ Name: _____

Loan # _____ Name: _____

Loan # _____ Name: _____

Acceptance of the Collateral shall constitute PHFA's agreement that it will: (i) send, or cause to be sent, payments relating to the above-referenced Promissory Notes as specified in Section 4 of the Bailee Agreement; or d(ii) in the alternative, return such Promissory Notes to Warehouse Lender as specified in Section 5 of the Bailee Agreement.

Sincerely,

By: _____

Name: _____

Title: _____

The undersigned hereby acknowledges receipt of this letter and the above-referenced Promissory Notes, and that the undersigned will hold such Promissory Notes as Bailee on behalf of the above-referenced Warehouse Lender, subject to Warehouse Lender's security interest therein and the terms and conditions of the Bailee Agreement.

PENNSYLVANIA HOUSING FINANCE AGENCY

By: _____

Name: _____

Title: _____

Date: _____

**EXHIBIT B TO BAILEE AGREEMENT
WAREHOUSE LENDER'S ACH INSTRUCTIONS**

Name: _____

ABA # _____

Account # _____

Account Type: _____
(e.g., checking/savings/general ledger)