EXHIBIT 1
DE�IGNATION OF LAURIE A. MAGGIANO

I, Laurie A. Maggiano, hereby affirm the following as my testimony in the above-captioned case:

1. I have been employed as Director of Policy for the Homeowner Preservation Office (“HPO”) of the United States Department of the Treasury (“Treasury”) from May 10, 2009 to the present. In this position, I am responsible for development of policy for the Making Home Affordable (“MHA”) Program, which includes the Home Affordable Modification Program (“HAMP”). Prior to formal employment by the Department, I was detailed to Treasury by my former employer, the United States Department of Housing and Urban Development (“HUD”) to assist with development of a nationwide foreclosure prevention program that subsequently became MHA. Previously, I worked for HUD in the Office of Single Family Asset Management for 10 years. In that capacity I was one of the primary policy architects of the FHA Loss Mitigation Program. Preceding government service I had a 20-year career in the mortgage and real estate industry that included work at Freddie Mac as Director of
Real Estate, four years of consulting and training for Neighborworks America, and senior level residential and commercial asset management positions with two savings banks. Accordingly, I have personal knowledge of the facts herein.

**The Role of the Homeownership Preservation Office**

2. The Treasury Department’s Homeownership Preservation Office is part of the Office of Financial Stability (“OFS”). OFS is an office within the Office of Domestic Finance at the Department of Treasury. OFS was created by Treasury pursuant to the Emergency Economic Stabilization Act of 2008 (“EESA”), which is the implementing statute for the Troubled Asset Relief Program (“TARP”), and is responsible for implementing programs paid for by TARP expenditures. HPO is responsible for implementation of HAMP, which is a $75 billion program (of which $50 billion is provided from TARP funds). In this effort, HPO works closely with housing specialists and senior policy makers from the Treasury as well as other Federal Agencies including HUD, the Federal Housing Finance Agency, the Federal Deposit Insurance Corporation, the Federal Reserve Board of Governors, the Office of Comptroller of the Currency, and the Office of Thrift Supervision, as well as mortgage industry organizations, housing counselors and consumer advocacy groups to create programs that will help borrowers at risk of foreclosure maintain homeownership.

**General Framework of the Home Affordable Modification Plan**

3. On February 18, 2009, President Obama and Secretary Geithner announced the Making Home Affordable Program, a comprehensive plan to stabilize the U.S. housing market, support low interest rates, and offer assistance to millions of homeowners by reducing mortgage payments and preventing avoidable foreclosures. MHA includes three key parts: (1) broad support for the Government-Sponsored Entities (“GSEs”) to support mortgage refinancing and
affordability across the market, including a $200 billion increase in the stock purchase agreements and continued support for market liquidity; (2) increased refinancing flexibilities for the GSEs, including the Home Affordable Refinance Program, providing the opportunity for refinancing of loans up to 125 percent loan-to-value ratio; and (3) HAMP, a $75 billion program to lower monthly mortgage payments for up to 3 to 4 million borrowers over 3 years and prevent avoidable foreclosures.

4. On March 4, 2009, just two weeks after the February 18 announcement of MHA, Treasury issued guidelines for HAMP and authorized servicers to begin modifications immediately. HAMP has very specific eligibility criteria. To be eligible for HAMP, a borrower must meet, among other things, the following requirements:

   (a) the related property must have an unpaid principal balance less than the GSE conforming loan limit of $729,750;

   (b) the related property must be an owner-occupied principal residence (not investor-owned);

   (c) the related loan must have been originated on or before January 1, 2009;

   (d) the related borrower’s debt-to-income ratio must be greater than 31 percent; and

   (e) the related borrower must have a financial hardship that puts them in imminent default, or they must already be in default.

Once a borrower meets the criteria (a) through (e) above, the loan must test positive under Treasury’s net present value test in order for the loan to qualify for a modification. If the loan receives a negative net present value, it does not automatically qualify for a HAMP modification; however, a servicer may, at its sole discretion and with the approval of the related
owner/investor, complete a HAMP modification on a loan with a negative net present value and that modification will be eligible for incentives under HAMP.

5. The March 4 guidelines outlined a standard for the industry to follow in modifying mortgages to make them affordable and sustainable. Following release of the guidelines, Treasury began a number of actions to implement the program and facilitate the ability of servicers to participate and ramp up the pace of modifications as quickly as possible. These implementation steps included: (1) entering into formal contracts on February 18, 2009, with Fannie Mae, as financial agent, and Freddie Mac, as compliance agent, to administer the program; (2) publishing servicer participation agreements, to formalize and legally document obligations of servicers under the HAMP program; (3) developing a net present value (“NPV”) model that participating servicers are required to use to evaluate eligible borrowers, in order to determine if the cash flows from modification of a mortgage are greater than the cash flows if the loan is not modified (when cash flows from modification are greater, a servicer is required to modify absent contractual provisions prohibiting the modification); (4) drafting standard borrower documents including notices, disclosures, affidavits, and modification agreements; (5) developing a new data system to receive operational data from participating servicers to manage the program and calculate program incentives; (6) designing internal and external reports to track and communicate program activity; (7) designing a website for borrowers and other outreach programs to provide information and self-assessment tools to homeowners; and (8) developing training programs for a wide assortment of users with a variety of needs.

6. The program automatically includes as participants the approximately 2,300 servicers that service loans owned or guaranteed by Fannie Mae and Freddie Mac (each, a “GSE,” and together, the “GSEs”). Servicers for GSE mortgage loans which had previously
entered into an agreement with Fannie Mae or Freddie Mac to service loans on their behalf are required to participate in HAMP, and such servicers do not need to execute any new contracts to do so, as they are automatically participants in HAMP due to their pre-existing contract(s) (each a “GSE Contract”) with the related GSE. See, e.g., the Fannie Mae form of Mortgage Selling and Servicing Contract, at Exhibit A. Any such servicer wishing to make modifications for GSE mortgage loans would thereafter only need to follow the applicable HAMP program guidance.1

7. To modify non-GSE loans and receive incentive payments from Treasury, servicers of non-GSE loans (even those servicers already participating in HAMP for GSE loans) that desire to participate in the HAMP program must enter into an agreement with Fannie Mae as financial agent of Treasury. Under EESA, Treasury is directed to develop a foreclosure mitigation program. In addition, it is authorized to purchase “financial instruments” from “financial institutions” (each as defined in EESA). In order to comply with such EESA requirements, Fannie Mae’s contracts, on behalf of Treasury, with servicers of non-GSE loans include: (i) a Commitment to Purchase Financial Instrument and Servicer Participation Agreement (the “Commitment”) and (ii) a Financial Instrument (together with the Commitment, the “SPA”), each between the related servicer and Fannie Mae, acting as Treasury’s financial agent. Treasury and Fannie Mae jointly developed a non-negotiable form of SPA, which servicers for non-GSE loans who wish to participate in HAMP must execute. See, e.g., the SPAs for Ocwen Financial Corporation, Inc. (“Ocwen”) and GMAC Mortgage, LLC (“GMAC”) at Exhibits B and C. The SPA document was first made publicly available on April 6, 2009, and the first servicers executed SPAs on April 13, 2009.

1 Incentive payments for modifications of GSE loans are not paid out of TARP. They are paid out of funds authorized under the Housing and Economic Recovery Act of 2008.
8. HAMP is built around three core concepts. First, the HAMP program established detailed guidelines for the industry to use in making loan modifications with the goal of encouraging (but not requiring) the mortgage industry to adopt a sustainably affordable standard, both within and outside of the HAMP program. See Supplemental Directive 09-01 (April 6, 2009), attached hereto as Exhibit D. These guidelines – known as “Supplemental Directive 09-01” – outline the eligibility rules and servicing requirements specific to HAMP, and in the case of GSE loans and non-GSE loans, are incorporated by reference into each of the GSE Contracts or SPAs, respectively.2

9. For example, pursuant to Supplemental Directive 09-01, mortgage servicers are prevented from “cherry-picking” which loans to modify in a manner that might deny assistance to borrowers at greatest risk of foreclosure. Participating servicers are required to service all loans in their portfolio according to HAMP guidelines, unless explicitly prohibited by the related investor in or owner of the loan,3 and the servicer must make reasonable efforts to obtain waivers of any limits on participation. See Supplemental Directive 09-01, at 4. Participating servicers are also required to evaluate every eligible loan using Treasury’s NPV test. The NPV test compares the net present value of cash flows with modification and without modification. If the NPV test has a positive result – which means that the owner/investor would receive a

2 Under servicing agreements in effect for both GSE and non-GSE loans prior to HAMP, a lack of industry-standard, agreed-upon guidelines limited the number of loan modifications that could be completed, even in instances where modifications would have been beneficial to all involved. Through HAMP, Treasury hopes to increase the number of modifications industry-wide by providing standardized modification guidelines to servicers and lenders.

3 Many mortgage loans are held in securitizations, which are pools of loans that have been bundled and placed in a trust that issues securities in respect of the pool of loans. Such securities are usually held by a disparate pool of investors, and the securities are typically “tranched” into senior and subordinate securities. The related securitization agreement – generally known as a “pooling and servicing agreement” or a “PSA” – typically imposes restrictions (often severe restrictions) on modifications. These restrictions on modifications are usually in place to protect subordinate securityholders, whose interests are more at risk from mortgage loan modifications than senior securityholders.
greater financial benefit if the modification is made, than if the modification is not made – then the guidelines specify that the servicer must modify the related loan.

10. In addition, any borrower who directly asks a participating servicer for consideration for a HAMP modification must be evaluated by the related servicer. “A servicer may receive calls from current or delinquent borrowers directly inquiring about the availability of the HAMP. In that case, the servicer should work with the borrower […] to determine if the HAMP is appropriate.” See Supplemental Directive 09-01, at 13.

11. Moreover, Supplemental Directive 09-01 requires the temporary suspension of foreclosure proceedings to allow borrowers sufficient time to file an application for a HAMP modification: “Servicers must use reasonable efforts to contact borrowers facing foreclosure to determine their eligibility for HAMP. Participating servicers must not conduct foreclosure sales on loans previously referred to foreclosure or refer new loans to foreclosure during the 30-day period that the borrower has to submit documents evidencing an intent to accept a Trial Period Plan offer.” See Id. at 14 (“Temporary Suspension of Foreclosure Proceedings”). To implement this requirement, participating servicers have created letters describing the HAMP modification opportunity that they mail to every borrower in their servicing portfolio whose conventional loan is 60 or more days past due, originated as an owner-occupied property, and meets the loan limit and origination date requirements of the program. See Sample Servicer Letter (attached hereto as Exhibit E). As of the date of this Declaration, servicers report having sent more than 2 million HAMP solicitation letters to borrowers.

12. Supplemental Directive 09-01 also requires servicers to covenant that they will act “in accordance with the practices, high professional standards of care, and degree of attention used in a well-managed operation.” See SPA (Exhibit A, Form of Financial
Instrument, 5(d)). A well-managed mortgage servicing operation incorporates written communication with borrowers at appropriate points, including communication of denial of a loan modification, and it is Treasury’s expectation that HAMP denial letters will be provided to borrowers who are determined by servicers to be ineligible for the program. See also Supplemental Directive 09-01, at 18 (requiring servicers to notify borrowers that they are not eligible for HAMP if the borrower is not eligible based on verified income, and providing that servicers should explore other foreclosure prevention options with borrowers who do not qualify for HAMP prior to proceeding with foreclosure action). Servicers are also expected to “provide the borrower with information designed to help them understand the modification terms that are being offered and the modification process.” See Supplemental Directive 09-01, at 13. Servicers are further expected to allocate sufficient staff to effect HAMP modifications, as well as be able to provide timely responses and resolution to borrower inquiries and complaints. See Id., at 13.

13. When a servicer makes a HAMP modification, the HAMP guidelines require that the servicer provide the borrower with a three month trial period modification, before the modification can become permanent. The primary purposes of the trial period are to (1) give the borrower immediately the benefit of a reduced monthly mortgage payment, while giving that borrower three full months in which to finalize their paperwork for a final modification and gather supporting documentation (such as proof of income) and (2) demonstrate to the servicer and the related owner/investor that the borrower can successfully manage the reduced monthly payment, by making each of the trial period plan monthly mortgage payments.

14. Supplemental Directive 09-01 identifies data reporting elements that servicers were required to submit to Treasury beginning in July and additional data elements that were
required to be reported later as systems capacity was developed to receive them. See SPA, Exhibit D. The Exhibit D reporting data requires servicers to include the “[r]eason loans evaluated for a modification were not modified or that trial modification was not completed.” In satisfaction of this reporting requirement, Fannie Mae as program administrator began in August 2009 to update its reporting system to include Decline Reason Codes, and a new supplemental directive, Supplemental Directive 09-06, notifying servicers of these codes and establishing events that trigger reporting of denial codes was published on September 11, 2009.

15. Since Supplemental Directive 09-01 was released, Treasury has continued to expand HAMP and make refinements to the process and procedures (publishing Supplemental Directives 09-02 and 09-03) in order to increase the amount of potential relief to borrowers. In particular, on July 31, 2009, Treasury published Supplemental Directive 09-04, which implemented the Home Price Decline Protection Program (the “HPDP Program”) that provides additional owner/investor incentives to modify mortgage loans in markets where property values continue to decline. And on August 13, 2009, Treasury published Supplemental Directive 09-05, which implemented the Second Lien Modification Program (the “2MP Program”) that provides modification options for borrowers with second lien mortgage loans. Participating servicers in the 2MP Program will automatically modify second liens if the corresponding first lien is also modified through HAMP. Participation in the 2MP Program is not automatic among servicers that otherwise are participating in HAMP for first lien mortgage loans. Servicers face different operational and system challenges in modifying second liens, or the owner/investor of the related second lien loan may be more resistant to modification than the owner/investor of a first lien loan, and thus, Treasury cannot compel servicers that are (or
are interested in) participating in HAMP for first lien mortgage loans also to participate in the 2MP Program.

16. This collective HAMP program guidance was never meant to replace or replicate a mortgage servicer’s normal and usual servicing practices, which are detailed in the servicer’s or investors’ own proprietary handbooks that are generally hundreds of pages long. Indeed, Treasury did not intend for the HAMP program guidelines to replace the existing, general servicing procedures used by servicers such as co-defendants Ocwen, GMAC, and U.S. Bank, National Association (“U.S. Bank”), particularly because the Government in no respect controls those servicers. The HAMP program guidelines are only intended to layer on to a servicer’s existing servicing procedures those requirements that are unique to HAMP modifications.

17. Second, the program emphasizes affordability; it is designed to reduce qualified borrowers’ mortgage payments to an affordable level based on a borrowers’ gross monthly income. Thus, under the program, in evaluating potentially qualified borrowers, participating servicers must attempt to reduce the borrower’s first lien mortgage to a 31 percent debt-to-income (“DTI”) ratio, meaning that the monthly mortgage payment should be no greater than 31 percent of the borrower’s gross monthly income. To reach this payment, the servicer uses a specified sequence of steps, including a reduction in interest rate, extension of the term of the loan (if necessary), and even forbearance of principal (if necessary). A borrower’s modified monthly payment of 31 percent DTI will remain in place for five years, provided the borrower remains current; and following the modification, the interest rate will step up each year to a specified cap.

18. Third, HAMP offers “pay for success” incentives to servicers, owner/investors and borrowers for successful modifications. This aligns the incentives of market participants and
ensures efficient expenditure of taxpayer dollars. HAMP is a voluntary program for servicers and investors; it was not intended to require servicers to abrogate contractual obligations or to expect investors to make modification decisions that are not economically viable. Treasury encourages voluntary participation by paying financial incentives to borrowers, servicers and investors that are sufficient to make a HAMP modification a better financial outcome for the investor and servicer. Thus, after completion of a trial period – in which the borrower who received the modification must show that he or she can make three monthly payments – servicers receive an up-front payment of $1,000 for that “successful” modification. Servicers receive an up-front payment of $1,000 for each successful modification after completion of a trial period, and “pay for success” fees of up to $1,000 per year per modification, provided the borrower remains current. Homeowners may receive up to $1,000 per year towards principal reduction for five years if they remain current and pay on time.

19. HAMP also matches reductions in monthly payments dollar-for-dollar with the owner/investor of the related mortgage loan from 38 percent to 31 percent DTI. This requires the owner/investor to first, take all of the loss in reducing the borrower payment down to a 38 percent DTI, holding owners/investors – who are frequently the initial lenders – accountable for unaffordable loans they may have extended or purchased. Only after such owner/investor takes any such initial loss down to a 38 percent DTI, does the owner/investor then share on a 50%/50% basis any remaining loss with Treasury, until the DTI has been reduced to 31 percent DTI. Also, to encourage the modification of loans that are current in their related monthly payments but are at risk of default (in other words, the borrower has not defaulted yet but the

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4 Servicers may use verbal financial information to prepare and offer a Trial Plan Period. The trial period is three months in obligation (or longer if necessary to comply with applicable contractual obligations). The borrower must be current under the terms of the Trial Period Plan at the end of the trial period and submit the required documentation to receive a permanent loan modification. See Suppl. Dir. 09-01 at 17.
servicer reasonably believes that default is imminent), HAMP provides additional incentives to servicers and owner/investors to modify these current loans.

20. With the launch of HAMP on March 4, 2009, organizations servicing loans owned or securitized by Fannie Mae or Freddie Mac began notifying borrowers about HAMP, evaluating borrowers who responded and provided the necessary information, and placing qualified borrowers in Trial Period Plans, the first step toward modification. Thereafter, on April 13, 2009, the first set of SPAs were signed by six servicers to modify non-GSE loans. By May 1, 2009, there were 13 servicers enrolled in HAMP, and both GSE and non-GSE trial modifications began in earnest. As of the date of this declaration: (a) over fifty servicers have signed up for HAMP and executed SPAs, including the five largest; (b) between non-GSE loans covered by these servicers and loans owned or guaranteed by the GSEs, more than 85% of loans in the country are now covered by HAMP; and (c) these participating servicers have extended offers on over 609,000 trial modifications, and over 412,000 trial modifications are already underway.

Treasury is Committed to Improving and Expanding HAMP

21. The launch of HAMP required a nearly around-the-clock, collaborative effort on the part of Treasury, the GSEs, the FHA, the FDIC and other agencies. As noted above, the program was designed and implemented virtually from scratch in a matter of weeks in order to meet the mounting crisis in the nation’s housing market. While Treasury and its counterparts tried to develop a program that was as detailed and comprehensive as possible, they recognized that delaying the HAMP launch in an effort to perfect every program component would result in
many more borrowers losing their homes to foreclosure.\(^5\) Thus, some program components—such as detailed reporting of government monitoring data (race, sex, and ethnicity), and servicer reporting related to borrowers who applied for but were denied a HAMP modification—were developed as quickly as possible, but could not be developed quickly enough to allow simultaneous release with the start of modifications under the program.

22. The rapid deployment of HAMP also required participating mortgage servicers to quickly make major system changes, hire and train new staff, implement new policies and procedures, update quality control protocols, and mail thousands of solicitation letters to borrowers at the same time they were receiving a very large volume of calls and letters from borrowers seeking help under the program. While servicers are accustomed to resolving delinquencies through short term repayment plans and simple restructures, servicers generally do not have as part of their standard business model extensive customer service, document processing or underwriting functions necessary for large scale mortgage modifications. In order to receive incentives and participate in HAMP, the program guidelines asked servicers to fundamentally change the type of business they did and these changes continue to require a significant investment in human and financial resources.

23. In addition, the mortgage business, and particularly mortgage modification and restructuring is a highly individualized, high-touch process. Servicers of loans in mortgage-backed securities often receive financial incentives for completing a foreclosure but not for resolving a default through a mortgage modification. The HAMP program is designed to realign incentives so that servicers and investors will be financially motivated to choose modification over foreclosure. HAMP provides servicers an up-front incentive to help cover the

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\(^5\) Had Treasury delayed release of Supplemental Directive 09-01 and the SPA until the end of July, most of the 370,000 homeowners who were offered Trial Period Plans by July 27, 2009 may not have received timely help and many of these loans might have terminated in foreclosure.
administrative costs of modifications, and offers “pay-for-success” incentives to the major stakeholders in the modification process.

24. HAMP was not designed to stop every foreclosure. Many analysts predict between 6 and 10 million foreclosures over the next 3 to 4 years. HAMP was designed to reach up to 3 to 4 million borrowers over a 3-year period who meet all of the eligibility criteria (see Supplemental Directive 09-01, at 2-3) and have sufficient monthly income to support the subsidized mortgage payment. There are a number of types of mortgages that will not, or at least might not, be modified under HAMP. First, there are mortgages that do not meet the basic eligibility criteria, such as mortgages to investors, mortgages on second homes or “jumbo” mortgages (which are mortgages over $729,750); these will not be modified. Second, there are mortgages that are NPV-negative, meaning that the projected cash flow to the investor is greater without a HAMP modification than with it. The program cannot require that these mortgages be modified because it may violate the servicer’s fiduciary duty to the trust or owner/investor. However, if an owner/investor agrees to allow modification of a loan that is NPV-negative, that loan is eligible for HAMP incentives. Third, some securitization pooling and servicing agreements have prohibitions that either limit or prevent servicers from offering modifications, such as a trust provision that limits the number or percentage of mortgages in the trust that can be modified or language that requires securityholder consent to any modification. While HAMP may not be an option for the borrowers described above, servicers have other loss mitigation options including other loan modification programs that they routinely offer to borrowers that are not eligible for HAMP. In fact, under HAMP guidelines, servicers are required to offer alternative loss mitigation options to borrowers that are not HAMP eligible, before referring the loan to foreclosure. See Supplemental Directive 09-01, at 13-14.
25. By far the largest group of loans that either may not be offered HAMP modifications, or fail to receive a successful HAMP modification despite eligibility for one, are loans where the servicer is unable to establish contact with an otherwise HAMP-eligible borrower or the borrower fails to follow up with the servicer and complete the modification process. HAMP trials and modifications cannot be completed when borrowers do not respond to servicer communication or do not fully complete documentation requirements. Treasury is seeking to reach these borrowers and increase the number of HAMP modifications through expanded outreach and improved implementation.

26. Although HAMP has already been more successful than any previous modification program at avoiding preventable foreclosures, Treasury recognizes that challenges remain in implementing and scaling up the program. Treasury is committed to overcome those challenges and to that end, Treasury is focused on addressing three key areas: capacity, transparency, and borrower outreach.

**Expanding Servicer Capacity**

27. Treasury continues to work with servicers to expand the number of eligible borrowers who can receive assistance through HAMP. Treasury has asked that all servicers move rapidly to expand their servicing capacity and improve the execution of loan modifications. This will require that participating servicers add more staff than they previously may have planned, expand call center capacities, provide a process for borrowers to escalate servicer performance and decisions, bolster training of representatives, enhance on-line offerings, and send additional mailings to potentially eligible borrowers.⁶ In addition, Treasury

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⁶ Letter from Treasury Secretary Geithner and HUD Secretary Donovan to CEOs of participating servicers (July 9, 2009).
and Fannie Mae have established support and guidance for servicers through a HAMP website for servicers (https://www.hmpadmin.com), as well as telephone and e-mail contact addresses.

28. On July 9, 2009, as a part of the Administration’s efforts to expedite implementation of HAMP, Treasury Secretary Geithner and HUD Secretary Donovan wrote to the CEOs of all of the servicers currently participating in the program (attached hereto as Exhibit F). In that joint letter, Secretaries Geithner and Donovan noted that “there appears to be substantial variation among servicers in performance and borrower experience, as well as inconsistent results in converting trial modification offers into actual trial modifications.” Id. They called on the servicers “to devote substantially more resources” to the program in order for it to fully succeed, and requested that the CEOs designate a senior liaison, authorized to make decisions on behalf of the CEO, to work directly with Treasury on all aspects of HAMP, and attend a program implementation meeting with senior Treasury and HUD officials on July 28, 2009.

29. At the meeting on July 28, servicers committed to reaching a cumulative target of 500,000 trial modifications by November 1, 2009 (which they are on track to meet). In addition, the participating servicers agreed to work with Treasury to implement actions designed to improve program effectiveness, including: (1) the streamlining of application documents and (2) development of a web portal that can serve as a centralized intake point for modification applications and will allow borrowers to check the status of their applications.

**Transparency and Accountability**

30. Treasury is also focused on continued transparency and servicer accountability to maximize the effectiveness of HAMP. To this end, Treasury has taken three additional steps in conjunction with the July 28 servicer liaison meeting to enhance transparency in the program.
31. **First**, on July 28, 2009, Treasury asked Freddie Mac, in its role as compliance agent for the MHA program, to develop a second look process (the “Second Look Program”) pursuant to which Freddie Mac will audit a sample of HAMP modification applications that have been declined. The Second Look Program commenced on August 3, 2009, and is designed to minimize the likelihood that borrower applications are overlooked or that applicants are inadvertently denied a modification. Freddie Mac has undertaken on-site compliance reviews (to assesses the strength of participating servicers’ processes and controls), as well as loan file reviews (to analyze servicers’ rationales both for granting and denying loan modifications). In addition, the Second Look Program is examining servicer portfolios of defaulted loans to identify eligible borrowers that should have been solicited for a modification, but were not offered a HAMP modification.

32. The Second Look Program has thus far proven effective by allowing Freddie Mac to identify and address potential issues regarding the HAMP program. It has also encouraged participating servicers to undertake their own “second look” of those modification applications it previously declined. For example, in one case a servicer had identified two loans in foreclosure that should have been modified, and took corrective action prior to Freddie Mac’s review.

33. **Second**, on August 4, Treasury began publicly reporting servicer-specific results on a monthly basis. The second public report was published on September 9, 2009 (attached hereto as Exhibit G). These reports provide a transparent and public accounting of individual

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7 While Freddie Mac’s initial reviews were not based on statistical samples, and thus no specific conclusions can be drawn, such reviews indicated that servicers were generally in compliance with program guidelines. To further bolster its data, in September 2009, Freddie Mac began sampling statistical samples of the substantial majority of participating servicers.

8 To be clear, the Second Look Program is not intended to review all mortgage loans that were declined a HAMP modification. It only reviews a sample of declined modifications; the program is intended to focus on the servicer’s processes and controls, to determine HAMP program compliance and to improve the modification process.
servicer performance by detailing the number of trial modification offers extended, the number of trial modifications underway and the number of official modifications offered.

34. **Third**, Treasury is working to establish specific operational metrics to measure the performance of each servicer. These performance metrics are likely to include such measures as average borrower wait time in response to inquiries and response time following receipt of completed applications. Treasury plans to include these metrics in its monthly public report on HAMP.

*Borrower Outreach*

35. Treasury continues to expand the scope of its borrower outreach and education efforts, and has committed significant resources, in partnership with servicers, to reach as many borrowers as possible. Treasury has taken a number of steps to achieve this goal.

36. For example, concurrent with the March 4, 2009 launch of HAMP, Treasury launched a new consumer focused website, [www.MakingHomeAffordable.gov](http://www.MakingHomeAffordable.gov), targeted to borrowers at risk of mortgage default. The web site explains the program in layman’s terms, provides self-assessment tools that allow borrowers to determine if they meet the basic eligibility requirements for consideration of modification, sets forth the information eligible borrowers need to provide to their loan servicers for a determination if they qualify, helps borrowers contact their servicer, and prominently announces a toll free phone number where borrowers can seek additional help and information from HUD-approved housing counselors. Treasury coordinated with other Federal agencies, housing counselors, servicers, and other industry partners to link to the MHA website so that borrowers get the same consistent message about the program whether they log on to HUD, the National Fair Housing Alliance, or Hope Now. The website is in both English and Spanish, and has been (along with the MHA program
itself) the subject of much print, radio, and television coverage, including a segment on the Oprah Winfrey Show. Since its launch, the website has had over 34 million page views.

37. Treasury has also worked with an interagency team to establish a call center for borrowers to reach HUD-approved housing counselors, allowing borrowers to receive direct information and assistance in applying for the HAMP program and to escalate concerns if borrowers believe their application was denied improperly. Since July 2007, Treasury and HUD have publically endorsed a nationwide foreclosure hotline – known as the “Homeowner’s HOPE™ Hotline” (888-995-HOPE) – operated by the nonprofit Homeownership Preservation Foundation (“HPF”). One of the major considerations in Treasury’s endorsement of HPF was its status as a respected and independent nonprofit, staffed exclusively by experienced and trained HUD-approved housing counselors, who were well suited to serving as neutral, trusted advisors to borrowers in distress.

38. In an effort to improve the effectiveness of the call center, Treasury instructed Fannie Mae to work with HPF to create a borrower intake protocol specific to MHA and HAMP, and to establish a special team of trained counselors to help borrowers who felt they were not being treated fairly by participating servicers (the “HOPE Hotline Escalation Team”). On May 19, 2009, Fannie Mae finalized a contract with HPF aimed at achieving these goals. Thereafter, the parties worked with Treasury to develop a call script specific to MHA and HAMP, which was pilot tested on June 2, 2009, and fully implemented on June 22, 2009.

39. Borrowers who have questions about MHA and HAMP generally, or who have concerns or complaints regarding how a particular servicer handled their individual case, have
been able to call the Homeowner’s HOPE hotline and ask for the HOPE Hotline Escalation Team. Once received, these calls are routed to a trained, certified housing counselor who can explain the program requirements, and help the borrower determine if the servicer was correctly following the program rules in evaluating their application. Thereafter, if the borrower’s concern or complaint is not resolved, the counselor will contact the borrower’s servicer to further discuss the issue using proprietary points of contact established between most major servicers and HPF. If the borrowers’ question or concern remains unresolved after discussion with the servicer, the counselor can further escalate the case to a designated team at Fannie Mae. Fannie Mae representatives also have servicer ombudsman at a more senior level who they work with to resolve both individual complaints and “policy” or “systemic” problems.10

40. Treasury widely published the existence of the Homeowner’s HOPE hotline at nationwide public events, training seminars, and on the homepage of www.MakingHomeAffordable.gov. Upon information from records maintained by the HOPE hotline, Treasury has been informed that none of the named Plaintiffs availed themselves of the hotline.

41. Moreover, Treasury is engaged in an aggressive marketing and outreach effort to ensure that borrowers know about MHA and HAMP, and how to seek help. In markets hit hard by the foreclosure crisis, Treasury has partnered with HUD, Fannie Mae, and Freddie Mac (and a variety of other sponsors depending on the market) to hold foreclosure prevention workshops and borrower outreach events where homeowners can sit down with their servicers. In addition,

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10 In addition, while Treasury and Fannie Mae were working with HPF to set up a HOPE Hotline Escalation Team, Fannie Mae established a separate process for providing counselors and trusted advisors, as advocates for borrowers, a way to resolve concerns. Borrowers’ advocates were given the option of emailing issues to support@hmpadmin.com or calling 1-866-939-4469. These contact points were communicated through training, public speeches and through Frequently Asked Questions posted on the www.MakingHomeAffordable.gov/ads web site.
these foreclosure prevention events include counselor training forums where representatives from Treasury, Fannie Mae, HUD and other agencies provide information and training to local housing counselors and non-profit groups, leveraging local resources to expand the reach of the HAMP program. All told, Treasury will have conducted borrower outreach programs in ten of the Nation’s hardest hit markets by October 1, 2009, and will continue its outreach efforts throughout the fall and the year to come.

42. HAMP has made significant progress in reaching borrowers at risk of foreclosure. However, much more remains to be done and Treasury will continue to work with other agencies, regulators, and the private sector to reach as many families as possible. For example, Treasury is developing a set of HAMP Servicing Guidelines that will more clearly describe servicing activities and best practices for borrower communication relative to the HAMP program. Moreover, Treasury is reviewing the borrower documents used in the program, the Trial Plan Agreement, Modification Agreement and Hardship Affidavit to ensure they explain the programs terms in language that is clear and understandable and we intend to simplify the application process through use of a standard application form and use of web-based technology.

43. The goal of these additional, contemplated changes is to make it easier for servicers to do an efficient and effective job of helping borrowers determine their eligibility for the HAMP program, apply if eligible, and determine other loss mitigation options if they are not eligible for HAMP.

Program Limitations

44. Nevertheless, and despite all these efforts, HAMP was not designed to prevent every foreclosure. See, e.g., Remarks by the President on the Home Mortgage Crisis (Feb. 18,
2009) at http://www.whitehouse.gov/the_press_office/Remarks-by-the-President-on-the-mortgage-crisis (“I want to be very clear about what this plan will not do: It will not rescue the unscrupulous or irresponsible by throwing good taxpayer money after bad loans … it will not reward folks who bought homes they knew from the beginning they would never be able to afford. So I just want to make this clear: This plan will not save every home.”) (attached hereto as Exhibit H); and written Testimony of Assistant Secretary Michael Barr (Sept. 9, 2009) at http://www.treas.gov/press/releases/tg280.htm (“We recognize that any modification program seeking to avoid preventable foreclosures has limits, HAMP included. Even before the current crisis, when home prices were climbing, there were still many hundreds of thousands of foreclosures. Therefore, even if HAMP is a total success, we should still expect millions of foreclosures, as President Obama noted when he launched the program in February. Some of these foreclosures will result from borrowers who, as investors, do not qualify for the program. Others will occur because borrowers do not respond to our outreach. Still others will be the product of borrowers who bought homes well beyond what they could afford and so would be unable to make the monthly payment even on a modified loan.”) (attached hereto as Exhibit I).

[Remainder of this page intentionally left blank]
I declare under penalty of perjury that the foregoing is true and correct. Executed in the city of Washington, D.C. on this 16th day of September, 2009.

[Signature]

Laurie A. Maggiano
EXHIBIT A
Mortgage Selling And Servicing Contract

FannieMae
Contract

Mortgage Selling and Servicing Contract

I  General Information  
II  Eligibility Requirements for Lenders  
III  Sale of Mortgages and Participation Interests  
IV  Sale of Mortgages and Participation Interests—Lender's Warranties  
V  Servicing Mortgages  
VI  Assignment, Consideration and Continuance  
VII  Assigning Mortgage Servicing  
VIII  Breaches of Contract  
IX  Termination of Contract  
X  Continuance of Responsibilities or Liabilities  
XI  Participation Interests—Special Provisions  
XII  Notice  
XIII  Prior Agreements  
XIV  Severability and Enforcement  
XV  Captions  
XVI  Scope of Contract  
XVII  Signatures and Date  

Page
1
2
3
4
8
10
11
11
14
17
18
20
21
21
21
21
22
Contract

I. General Information

This section contains important basic information about the Contract, which we are permitted to enter into under authority of Title III of the National Housing Act (12 U.S.C. 1716, et. seq.), which is also known as the Federal National Mortgage Association Charter Act.

A. Purpose of Contract

The purpose of this Contract is:

• to establish the Lender as an approved seller of mortgages and participation interests to us;

• to provide the terms and conditions of the sales;

• to establish the Lender as an approved servicer of mortgages we have purchased or in which we have purchased a participation interest; and

• to provide the terms and conditions of servicing.

B. Consideration

In consideration of the purpose of this Contract and of all the provisions and mutual promises contained in it, the Lender and Fannie Mae agree to all that this Contract contains.

C. Our Guides

We issue Fannie Mae's Guides to Lenders (our "Guides") and furnish them to the Lender. These Guides are:

• Selling;

• Servicing; and

• Multifamily.

Whenever there is a reference to the Guides in this Contract, it means the Guides as they exist now and as they may be amended or supplemented in writing. We may amend or supplement them, at our sole discretion, by furnishing amendments or supplementary matter to the Lender.

The term "Guides" also includes anything that, in whole or in part, supersedes or is substituted for the Guides.

D. Important Definitions

Anywhere the words that appear below are used in this Contract, the following definitions apply:

1. "Mortgage"—A loan, evidenced by a note, bond or other instrument of indebtedness. The loan is secured by a mortgage, deed of trust, deed to secure debt or other instrument of security that applies to property. "Mortgage" includes such instruments of indebtedness and security, together with

• the evidence of title;

• the chattel mortgage or security agreement and financing statement; and

• all other documents, instruments and papers pertaining to the loan.
Contract

2. "FHA/VA Mortgage"—A mortgage insured or guaranteed in whole or in part by the Federal Housing Administration or Veterans Administration.


4. "Property" or "Mortgaged Property"—The property that is now subject to a mortgage, or was subject to such mortgage, where the mortgage has been foreclosed or possession or title to the property has been taken by Fannie Mae or on our behalf.

5. "Participation Interest" or "Participation Interest in Mortgages"—An undivided interest in mortgages, specified in the applicable participation certificate that is evidence of such interest. A "participation interest" or "participation interest in mortgages" consists of a specified percentage of the principal (and a like percentage of all rights and benefits of the mortgagee or equivalent party under such mortgage) together with a specified yield on it.

II Eligibility Requirements For Lenders

For us to purchase mortgages or participation interests from a Lender, the Lender must meet the eligibility requirements specified in this section.

A. General Requirements

1. Meet Fannie Mae Standards. The Lender must have as two of its principal business purposes:
   - making mortgages of the type that we will purchase entirely or purchase a participation interest in under this Contract; and
   - servicing such mortgages.

In addition, the Lender, in our judgment, must have at all times the capacity to originate and sell to us mortgages and participation interests that meet our purchase standards and the standards generally imposed by private institutional mortgage investors, and must at all times have the capacity to service such mortgages for us under those standards.

2. Have Qualified Staff and Adequate Facilities. The Lender must, at all times, have employees who are well trained and qualified to perform the functions required of the Lender under this Contract.

In addition, the Lender must maintain facilities that are adequate to perform its functions under this Contract.

3. Maintain Fidelity Bonds and Errors and Omissions Coverage. The Lender must maintain, at its own expense, a fidelity bond and errors and omissions insurance, as required by our Guides.

4. Report Basic Changes. The Lender must notify us promptly in writing of any changes that occur in its principal purpose, activities, staffing or facilities.
Contract

B. Ownership And Status Of Lender

When we approve a Lender, one of the major considerations is the information the Lender has provided about the eligibility, qualifications and financial status of the Lender and its owners.

Consequently, the Lender must give us immediate notice of a change in its status or ownership, including any:

- sale or transfer of a majority interest in it;
- merger;
- consolidation; or
- change in legal structure.

C. Finances

In order to remain an approved Lender under this Contract, the Lender must meet our current net worth requirements. These requirements are contained in our Guides.

The required net worth must be maintained in the form of assets acceptable to us.

The Lender must give us a copy of its annual financial statements and any other related information that we may require.

The Lender agrees to permit our employees or designated representatives to examine or audit records or accounts relating to mortgages or participation interests sold or serviced under this Contract. All records relative to the Lender’s continued eligibility to sell or service mortgages under this Contract may also be examined or audited. Any examination or audit made on our behalf will be conducted during regular business hours unless the Lender agrees otherwise.

D. Access To Lender’s Records

III Sale of Mortgages and Participation Interests

This section contains the basic rules governing our purchase of mortgages and participation interests.

A. What Governs Purchases

Purchases of mortgages and participation interests will be governed by:

- our written commitment to purchase;
- our Guides, including all amendments in effect on the day we make our written commitment; and
- this Contract.

The mortgages or participation interests that we purchase must meet the requirements found in our Guides on the day we make our written commitment.

If our Guides require, the Lender will promptly purchase our common stock each time it delivers a mortgage or participation interest to us. The amount of stock to be purchased and the procedures for buying it are also found in our Guides.

The fact that we have signed this Contract does not mean that we must make a commitment to purchase any mortgage or participation interest from the Lender.
IV Sale Of Mortgages And Participation Interests — Lender’s Warranties

The Lender makes certain warranties to us.

These warranties:

• apply to each mortgage sold to us in its entirety;
• apply to each mortgage in which a participation interest is sold to us;
• are made as of the date transfer is made to us;
• continue after the purchase of the mortgage or participation interest;
• continue after payment by us of the purchase price to the Lender; and
• are for our benefit as well as the benefit of our successors and assigns.

Warranties may be waived, but only by us in writing.

Following are the specific warranties made by the Lender.

1. Mortgage Meets Requirements. The mortgage conforms to all the applicable requirements in our Guides and this Contract.

2. Lender Authorized To Do Business. The Lender and any other party that held the mortgage were, at all times during which the holder held the mortgage, authorized to transact business in the jurisdiction where the property is located.

However, if the Lender or any other party that held the mortgage was not authorized to do business in the jurisdiction where the property is located, then the warranty is made that none of the following activities of the Lender or other parties constituted doing business in that jurisdiction:

• lending the mortgage funds;
• acquiring the mortgage;
• holding the mortgage; or
• transferring the mortgage in whole or to the extent of a participation interest.

3. Lender Has Full Right To Sell And Assign. The Lender is the sole owner and holder of the mortgage and has full right and authority to sell and assign it, or a participation interest in it, to us. In addition, the Lender’s right to sell or assign is not subject to any other party’s interest or to an agreement with any other party.

4. Lender’s Lien On Property. The mortgage, whether represented by the Lender as the first lien or as the second lien, is a valid and subsisting lien on the property described in it.

If the mortgage is represented by the Lender as the first lien, the property is free and clear of all encumbrances and liens having priority over it except for liens for real estate taxes, and liens for special assessments, that are not yet due and payable.
Contract

If the mortgage is represented by the Lender as the second lien, the property is free and clear of all encumbrances and liens having priority over it except for one properly recorded first mortgage lien, real estate taxes and liens of special assessments not yet due and payable.

Any security agreement, chattel mortgage or equivalent document that is related to the mortgage and that is held by the Lender or delivered to us, is a valid and subsisting lien on the property described in such document, of the same priority as the mortgage.

The Lender has full right and authority to sell or assign each lien to us or to an extent that is proportionate to our participation interest.

5. Documents Are Valid And Enforceable. The mortgage and any security agreements, chattel mortgages, or equivalent documents relating to it have been properly signed, are valid, and their terms may be enforced by us, our successors and assigns, subject only to bankruptcy laws, Soldiers’ and Sailors’ Relief Acts, laws relating to administering decedents’ estate, and general principles of equity.

6. Property Not Subject To Liens. The Property is free and clear of all mechanics’ liens, materialmen’s liens or similar types of liens. There are no rights outstanding that could result in any of such liens being imposed on the property.

This warranty is not made if the Lender furnishes us with title insurance that gives us substantially the same protection as this warranty.

7. Title Insurance. There is a mortgage title insurance policy, or other title evidence acceptable to us, on the property. The title insurance policy is on a current ALTA form (or other generally acceptable form) issued by a generally acceptable insurance company.

The title insurance insures (or the other title evidence protects) us or the Lender and its successors and assigns, as holding a lien of the priority warranted in “4. Lender’s Lien On Property.”

8. Modification Or Subordination Of Mortgage. The Lender has not done any of the following:
   • materially modified the mortgage;
   • satisfied or cancelled the mortgage in whole or in part;
   • subordinated the mortgage in whole or in part, unless it is represented to us as a second mortgage;
   • released the property in whole or in part from the mortgage lien; or
   • signed any release, cancellation, modification or satisfaction of the mortgage.

This warranty is not made if any of the things just mentioned have been done but have been expressly brought to our attention in a letter before we make payment to the Lender. The letter must be acknowledged by us in writing.
Contract

9. **Mortgage In Good Standing.** There are no defaults under the mortgage, and all of the following that have become due and payable have been paid or an escrow of funds sufficient to pay them has been established:
   - taxes;
   - government assessments;
   - insurance premiums;
   - water, sewer and municipal charges;
   - leasehold payments; or
   - ground rents.

10. **Advances.** The Lender has not made or knowingly received from others, any direct or indirect advance of funds in connection with the loan transaction on behalf of the borrower except as provided in our Guides. This warranty does not cover payment of interest from the earlier of:
   - the date of the mortgage note; or
   - the date on which the mortgage proceeds were disbursed to
   - the date one month before the first installment of principal and interest on the mortgage is due.

11. **Property Conforms To Zoning Laws.** The Lender has no knowledge that any improvement to the property is in violation of any applicable zoning law or regulation.

12. **Property Intact.** The property is not damaged by fire, wind or other cause of loss. There are no proceedings pending for the partial or total condemnation of the property.

13. **Improvements.** Any improvements that are included in the appraised value of the property are totally within the property's boundaries and building restriction lines. No improvements on adjoining property encroach on the mortgaged property unless FHA or VA regulations or our Guides permit such an encroachment.

14. **Mortgage Not Usurious.** The mortgage is not usurious and either meets or is exempt from any usury laws or regulations.

15. **Compliance With Consumer Protection Laws.** The Lender has complied with any applicable federal or state laws, regulations or other requirements on consumer credit, equal credit opportunity and truth-in-lending.

16. **Property Is Insured.** A casualty insurance policy on the property is in effect. It is written by a generally acceptable insurance company and provides fire and extended coverages for an amount at least equal to the amount required by our Guides.
A flood insurance policy is in effect on the property if any part of it is in an area listed in the Federal Register by the Federal Emergency Management Agency as an area with special flood hazards, and if insurance is available. The flood insurance is written by a generally acceptable insurance company, meets current guidelines of the Federal Insurance Administration, and is for an amount at least equal to the amount required by our Guides.

The Lender will make sure the required insurance is maintained as long as it services the mortgage. Any policy mentioned in this warranty contains a standard mortgage clause that names us or the Lender and its successors and assigns as mortgagee.

17. **Mortgage Is Acceptable Investment.** The Lender knows of nothing involving the mortgage, the property, the mortgagor or the mortgagor's credit standing that can reasonably be expected to:

- cause private institutional investors to regard the mortgage as an unacceptable investment;
- cause the mortgage to become delinquent; or
- adversely affect the mortgage's value or marketability.

18. **Mortgage Insurance Or Guaranty In Force.** If the Lender represents that the mortgage is insured or guaranteed under the National Housing Act as amended, or under the Servicemen's Readjustment Act of 1944 as amended, or by a contract with a mortgage insurance company, the insurance or guaranty is in full force. In addition, the Lender has complied with all applicable provisions and related regulations of the Act, or the insurance contract, that covers the mortgage.

19. **Adjustable Mortgages.** If the mortgage provides that the interest rate or the principal balance of the mortgage may be adjusted, all of the terms of the mortgage may be enforced by us, our successors and assigns.

These adjustments will not affect the priority of the lien warranted in “4. Lender’s Lien On Property.”

20. **Participation Information Is Correct.** All the information and statements in any participation certificate that the Lender delivers to us are complete, correct and true.

We may require the Lender to repurchase a mortgage or participation interest sold to us if any warranty made by the Lender about the mortgage or participation interest is untrue (whether the warranty is in this Contract or was made at our specific request).

We may require repurchase whether or not the Lender had actual knowledge of the untruth. We may also enforce any other available remedy.

The Lender must pay us the repurchase price within 30 days of our demand. The repurchase price, as provided in our Guides, will not be adjusted because the Lender paid us fees or charges or subscribed to our capital stock.
While untrue warranties about a particular mortgage or participation interest may be the basis for requiring repurchase of the particular mortgage or participation interest, there can be additional consequences. They may also give rise to responsibilities of the Lender under "D. Indemnification For Breach Of Warranty; Holding Us Harmless." In addition, untrue warranties can, under certain circumstances, be treated as a breach of contract that could result in the withdrawal of our approval of a Lender and the termination of this Contract (details are contained in Sections VIII and IX).

If there is a breach of warranty under this Contract, the Lender, at our request, will indemnify us and hold us harmless against any related losses, damages, judgments or legal expenses.

This section contains the basic rules governing the servicing of mortgages that we purchase, or in which we purchase a participation interest.

The servicing duties of the Lender are:

1. **Scope Of Duties.** The Lender will diligently perform all duties that are necessary or incident to the servicing of:
   - all mortgages it is servicing for us on the date this Contract takes effect; and
   - all other mortgages that the Lender is required to service by the terms of this Contract or any other existing or future agreement between us and the Lender.

2. **Mortgages To Be Serviced.** Any mortgage we have purchased from the Lender, or in which we have purchased a participation interest from the Lender, will be serviced by the Lender for us according to the terms of this Contract, unless:
   - the mortgage is not within any category of those that are required by our Guide to be serviced; or
   - we give the Lender written notification or consent that a mortgage to be purchased by us will not be serviced by the Lender.

3. **Service According To Guides.** Any mortgage serviced under this Contract, which we own or in which we have purchased a participation interest, must be serviced by the Lender according to the provisions in our Guides that are in effect on the date of this Contract or as amended in the future. This is true regardless of when:
   - the mortgage was originated;
   - the mortgage or a participation interest in it was transferred to us; or
   - the Lender began servicing the mortgage.

The Lender will also follow other reasonable instructions we give it and must strictly follow accepted industry standards when servicing a mortgage for us.
4. Service At Lender's Own Expense. The cost of servicing will be the Lender's unless our Guides expressly provide otherwise.

5. Special Responsibilities In Foreclosures. Among the other duties that may be assigned to the Lender through our special instructions or under the terms of our Guides is the responsibility to manage and appropriately dispose of property when a mortgage it is servicing for us has been foreclosed, or possession or title has been taken by us or on our behalf.

The Lender must manage and dispose of the property according to the terms of the mortgage and our Guides.

6. Service Until Need Ends. The Lender must service each mortgage continuously from the date its servicing duties begin until:
   • the mortgage's principal and interest have been paid in full;
   • the mortgage has been liquidated and the mortgaged property properly disposed of (if the Lender is required to do these things); or
   • the Lender's servicing duties are terminated according to Section IX of this Contract.

The Lender's compensation for servicing mortgages, including the management and disposal of properties, under this Contract is specified in our Guides.

We may change the Lender's compensation by modifying our Guides at any time. However, such a change will not affect mortgages that we have purchased or committed to purchase before the date of the change.

All mortgage records reasonably required to document or properly service any mortgage we own in its entirety are our property at all times. This is true whether or not the Lender developed or originated them.

The following are considered mortgage records:
   • all mortgage documents;
   • tax receipts;
   • insurance policies;
   • insurance premium receipts;
   • ledger sheets;
   • payment records;
   • insurance claim files and correspondence;
   • foreclosure files and correspondence;
   • current and historical data files; and
   • all other papers and records.
Contract

1. Lender As Custodian. The mortgage records belong to us. The Lender can have possession of the mortgage records only with our approval, and the Lender is acting as our custodian. This is true whether the Lender receives the mortgage records from an outside source or prepares them itself.

2. Delivery. When we ask for any mortgage records in writing, the Lender will deliver them to us or someone we choose. The Lender must also send us a list that identifies each mortgage, and must give us other information we request to identify the mortgages delivered.

We will not be required to sign or deliver any trust receipts before the Lender delivers the mortgage records we have requested.

If we ask the Lender in writing for reproductions of any mortgage records the Lender microfilmed or condensed, the Lender will reproduce them promptly at no cost to us or the party to whom we want them delivered.

3. Joint Ownership. If we own a participation interest in a mortgage, the other owners and we own the mortgage records jointly. For these mortgages, the Lender possesses the mortgage records as a custodian for the joint owners.

If we ask for copies of the mortgage records and servicing information about any such mortgages, the Lender will furnish them. Or, if we need any mortgage records for legal evidence or other purposes, the Lender will release them to us for a reasonable time.

The Lender will indemnify us and hold us harmless against all losses, damages, judgments or legal expenses that result from its failure in any way to perform its services and duties in connection with servicing mortgages or managing or disposing of property according to this Contract or our Guides.

If any private entity or governmental agency sues us, makes a claim against us or starts a proceeding against us based on the Lender's acts or omissions in servicing mortgages or managing or disposing of property, the Lender's obligation to indemnify and hold us harmless must be met regardless of whether the suit, claim or proceeding has merit or not.

The Lender's obligation does not apply, however, if during a suit, claim or proceeding, we give the Lender express written instructions and as a result of the Lender following them we suffer losses, damages, judgments or legal expenses.

If our Guides require, the Lender will continuously own our common stock in connection with all mortgages it services under this Contract. The amount of stock to be owned will be established by our Guides as they were in existence on the date the Lender started servicing the applicable mortgages.

VI Assignment, Consideration And Continuance

This section describes our requirements covering assignment of, consideration for and continuance of this Contract.
Contract

A. Assignment

Because the relationships created by this Contract are personal, the Lender may not, without our prior written approval, assign:

• this Contract under any circumstances, either voluntarily or involuntarily, by operation of law, or otherwise; or

• its responsibility for servicing individual mortgages we own or in which we have a participation interest. (See Section VII of this Contract for required procedures governing assignments of servicing).

B. Limited Value Of Contract To Lender

The Lender acknowledges that it has paid us no monetary consideration for making it an approved mortgage seller or servicer, except an application fee to reimburse us for the expenses of reviewing its application.

The Lender also agrees that, except for the purchase of mortgages, the servicing of mortgages, or any fee for the termination of this Contract, this Contract has no value to the Lender.

C. Requirements For Continuance

The Lender's right to continue selling and servicing mortgages under this Contract depends on, among other things, its continuing to meet the eligibility requirements in Section II of this Contract.

VII Assigning Mortgage Servicing

The Lender may not assign its responsibility for servicing all or any part of the mortgages that it is servicing for us without first obtaining our written consent.

Any Lender to which servicing is assigned must:

• be acceptable to us; and

• sign a Mortgage Selling and Servicing Contract with us.

We may require that the Lender and transferee lender sign documents and take other reasonable steps to perfect the assignment.

VIII Breaches Of Contract

The Lender's taking certain actions, or failing to take certain actions, can be treated by us as a breach of contract. A breach of contract can lead to a termination of the Contract. Termination is provided for in detail in Section IX.

Breaches of this Contract include the following:

1. Harm, Damage, Loss Or Untrue Warranties. It is a breach if any act or omission of the Lender in connection with the origination and sale to us of any mortgage or participation interest causes us harm, damage or loss. It is also a breach if the Lender sells us any mortgage or participation interest knowing that any of the mortgage warranties are untrue (these warranties are listed in Section IV A).
Breach of Contract

Contract

2. Failure to Comply With This Contract or Our Guides. It is a breach if the Lender does not comply with this Contract or our Guides through any act or omission, including, without limitation, the following:

- failure to establish and maintain accounts for our funds or mortgagors' funds as required by our Guides;
- use of our or mortgagors' funds in any manner other than that permitted by our Guides, including the Lender's failure to deposit all mortgage funds if, when, and to the extent required by our Guides;
- failure to remit all funds due to us within the time periods required by our Guides;
- failure to make or ensure, according to the provisions of each mortgage or of applicable laws or regulations, proper and timely payment of all:
  - taxes;
  - assessments;
  - leasehold payments;
  - ground rents;
  - insurance premiums (including premiums of casualty, liability and mortgage insurance and other forms of required insurance);
  - required interest on escrow funds; and
- other required payments with respect to any mortgage (including mortgaged property) serviced;

unless the Lender is relieved of these responsibilities by the express provisions of our Guides, or by our written instructions that relate to a particular mortgage or property;

- failure to renew or ensure renewal of any required insurance policy on any mortgage (including mortgaged property) serviced under this Contract;
- failure to maintain adequate and accurate accounting records and mortgage servicing records for the mortgages, or to maintain proper identification of the applicable loan files and mortgage records that prove our outstanding participation interests;
- failure to submit adequate and accurate accounting and mortgage servicing reports within the time required by our Guides; or
- failure to take prompt and diligent action under applicable law or regulation to collect past due sums on mortgages, or to take any other diligent action described in our Guides that we reasonably require for mortgages in default.
3. Failure To Properly Foreclose Or Liquidate. Where a mortgage is in default and the Lender is required or has decided to foreclose or liquidate it, it is a breach if the Lender fails to take prompt and diligent action consistent with applicable law or regulations to foreclose on or otherwise appropriately liquidate such mortgage and to perform all incident actions. It is a breach whether or not the failure results from the acts or omissions of an attorney, trustee or other person or entity the Lender chooses to effect foreclosure or liquidation.

4. Failure To Properly Manage, Dispose Of, Or Effect Proper Conveyance Of Title. It is a breach if any mortgage serviced under this Contract has been foreclosed or the possession or title to the property has been taken by us or on our behalf, or on behalf of other owners of a participation interest in the mortgage, and the Lender:
   • fails to properly manage, dispose of or effect proper conveyance of title to the mortgaged property; or
   • fails to do the above in accordance with this Contract, our Guides, and any pertinent laws, regulations, or mortgage insurance policies or contracts.

5. Lender's Financial Ability Impaired. It is a breach if there is a change in the Lender's financial status that, in our opinion, materially and adversely affects the Lender's ability to satisfactorily service mortgages.

Changes of this type include:
   • the Lender's insolvency;
   • adjudication of the Lender as a bankrupt;
   • appointment of a receiver for the Lender; or
   • the Lender's execution of a general assignment for the benefit of its creditors.

If any such change does take place:
   • no interest in this Contract will be considered an asset or liability of the Lender or of its successors or assigns; and
   • no interest in this Contract will pass by operation of law without our consent.

6. Failure To Obtain Our Prior Written Consent. It is a breach if the Lender fails to obtain our prior written consent for:
   • a sale of the majority interest in the Lender; or
   • a change in its corporate status or structure.

7. Failure To Comply With This Contract Or Our Guides. It is a breach if the Lender fails at any time to meet our standards for eligible mortgage sellers or servicers so that, in our opinion, the Lender's ability to comply with this Contract or our Guides is adversely affected.
8. **Court Findings Against Lender Or Principal Officers.** It is a breach if:

- a court of competent jurisdiction finds that the Lender or any of its principal officers has committed an act of civil fraud; or

- the Lender or any of its principal officers is convicted of any criminal act related to the Lender’s lending or mortgage selling or servicing activities or that, in our opinion, adversely affects the Lender’s reputation or our reputation or interests.

If there is a breach of contract by the Lender, we will have the right to take any reasonable action to have any breach corrected by the Lender before we exercise any right we have to terminate this Contract in whole or in part; however, we are not required to try to have a breach corrected before termination.

Any forbearance by us in exercising our right to terminate this Contract in whole or in part will not be a waiver of any present or future right we have under this Contract to so terminate it.

**IX Termination Of Contract**

The reason why this Contract may be terminated and the ways in which this may be done are outlined in this section. When the Contract is terminated, the entire relationship between the Lender and us ends (with certain exceptions that are explained in this section).

The provisions of this Contract covering the sale of mortgages or participation interests under this Contract may be terminated by the Lender or by us, with or without cause, by giving notice to the other party. Notice of termination may be given at any time but must conform to Section XII of this Contract.

Termination is effective immediately upon notice of termination, unless the notice specifies later termination.

Termination will not affect any outstanding commitments we have made to purchase mortgages or participation interests from the Lender. However, if the Lender has breached this Contract, we may declare any or all outstanding commitments void.

The Lender may terminate the provisions of this Contract covering the servicing of mortgages we entirely own by giving us notice at any time. Notice must conform to Section XII of this Contract.

Termination is effective the last day of the third calendar month after the calendar month in which notice is given.

If the Lender terminates this Contract in whole or in part, we will not pay the Lender a termination fee.
C. Termination By Us Of Servicing Arrangements For Wholly-Owned Mortgages

We may terminate the provisions of this Contract covering the servicing under this Contract of any or all mortgages that we entirely own. This may be done by following the procedures outlined below.

1. Termination Without Cause. We may terminate servicing for any reason, by giving the Lender notice of the termination. If we do so, the provisions of this Contract covering the servicing of the affected mortgages will automatically terminate on the thirtieth day following the day our notice is given. Whenever we do this (and the termination is not because of any breach by the Lender as described in Section IX C2) we will pay the Lender, for each mortgage on which servicing is terminated, a lump-sum termination fee as provided in a. below. However, whenever we terminate solely in order to transfer the servicing to another Lender, and there has been no sale of our interest in the affected mortgages, the provisions of b. below will apply.

a. Termination Fee. The termination fee will be an amount equal to twice the Lender’s annualized servicing compensation, at the rate of compensation that is in effect for the mortgage as of the date of the termination, applied against the unpaid principal balance of the mortgage as of such date.

For purposes of determining the termination fee:

• The Lender’s servicing compensation consists of the servicing fee at the Applicable Servicing Rate plus any previously agreed upon excess yield that the Lender is permitted to retain on the applicable mortgage.

• “Applicable Servicing Rate” means the rate of the servicing fee for the servicing of the mortgage, expressed as an annualized fractional percentage.

[Refer to appropriate sections of our Guides for more detailed information regarding the computation of termination fees.]

b. Termination To Effect Transfer. Whenever we terminate servicing solely in order to transfer servicing of the mortgages to another Lender, and there has been no sale of our interest in the mortgages, we will give the Lender notice of the required transfer. Within the 90-day period immediately following the date our notice is given, the Lender may arrange for the sale of the servicing to another Fannie Mae-approved Lender in good standing that, in our judgment, will properly service the mortgages to be transferred. Within that 90-day period, the Lender will give notice of any proposed sale to us, together with all related information. The sale of servicing is conditioned upon our approval, which will not be unreasonably withheld. Any resulting transfer of servicing will be completed not later than 60 days after our approval of the transfer; and

• the Lender will be entitled to the proceeds of the sale of servicing, and will bear all costs and expenses related to the sale and transfer of servicing;

• the Lender will not pay us a transfer fee;

• we will not pay the Lender a termination fee;
Termination Of Contract

Contract

- we may require the purchaser of the servicing to assume any or all warranties that were made to us in connection with the sale to us of the affected mortgages; and

- the purchaser of the servicing will succeed to the Lender's obligations, rights and servicing compensation, under the provisions of this Contract covering the servicing of the affected mortgages. For all of the affected mortgages that we purchased under a net-yield contract, the servicing compensation will include the specified minimum servicing fee, plus the Lender's share of that portion of the yield which exceeds the stated net yield, as provided under the commitment contract.

[Refer to appropriate sections of our Guides for more detailed information regarding the computation of the Lender's servicing compensation.]

If at the end of the 90-day period following our notice, the Lender has not arranged to sell and transfer the servicing of the affected mortgages to another Lender acceptable to us and given us the required notice, the provisions of this Contract covering the servicing of the mortgages will automatically terminate on the fifteenth day following the end of the 90-day period, and we will transfer the servicing to a Lender of our choice. In such a case, we will pay the Lender, for each mortgage on which servicing is terminated, a termination fee computed as provided under a. above. We will deduct from the termination fee paid to the Lender a transfer fee that is the greater of $500.00 or 1/100 of 1% of the aggregate unpaid principal balance of all of the affected mortgages on which servicing is transferred.

c. General Criteria For Termination Fees. Notwithstanding anything to the contrary in this Contract, we may change the amount of termination fee that we pay, or other provisions of this Section IX C1, from time to time, by changing the appropriate provisions of our Guides. However, such a change will not affect mortgages that we have purchased or that we have committed to purchase before the date of the change.

Our written tender of the termination fee to the Lender, or its successors or assigns, is complete compensation for each mortgage serviced by the Lender on which servicing is terminated. Any sums we owe the Lender for servicing prior to the termination date are not included in the termination fee. When we pay a termination fee, the Lender will not be entitled to the proceeds for any sale of the servicing involved.

2. Termination With Cause. We may terminate if the Lender breaches any agreement in this Contract, including, without limitation, any of those breaches listed in Section VIII A. This may be done by giving the Lender notice of termination. Notwithstanding anything in this Contract to the contrary, if we terminate for breach, we may make it effective immediately, and we will not pay the Lender a termination fee or proceeds from any sale of the servicing involved. Furthermore, we will not pay a servicing termination fee if a mortgage is repurchased by the Lender because a warranty is untrue.
D. Termination
By Us Of
Servicing
Arrangements
For Mortgages
In Which We
Have A
Participation
Interest

If the Lender breaches any agreement in this Contract, including, without limitation, any breach listed in Section VIII A, we may terminate the provisions of this Contract covering the servicing of any or all mortgages in which we own a participation interest. This may be done by giving notice of termination. Such termination may be effective immediately, and we will not pay the Lender a termination fee.

1. Transfer Of Lender’s Powers. Upon termination, we will automatically succeed to all the Lender’s rights in and responsibilities for servicing of the affected mortgages. We will also have the option to exercise all the Lender’s powers relating to these mortgages, and to designate any person or firm to exercise those powers. However, exercise of the Lender’s powers must be consistent with the Lender’s and our respective participation interests.

The mortgage instruments for these mortgages and all related mortgage records will be delivered to us or a party we designate. The Lender will also deliver necessary assignments, transfers and documents of authority.

2. Transfer Of Servicing. If we terminate the Lender’s servicing of any such mortgages, we are authorized to transfer the servicing of the mortgages to new servicers and pay the new servicers a fee. The fee will apply to the total outstanding principal balance on each mortgage, including our participation interest in each mortgage as well as the participation interest of the Lender and of any other owner.

3. Liability For Fees. The Lender and all additional owners of a participation interest will be liable for their respective shares of the servicing fee we pay. They will also be liable for their respective shares of advances that, in our sole discretion, are required. Advances may be required for insurance, taxes, maintenance, improvements or other necessary outlays.

If the Lender or other owners fail to promptly provide their share of funds for advances, or for any other necessary expenses, during any period, we may supply the funds. The fact that we do this does not release the Lender or other owners from their liability. We may deduct any amount we advance the next time we owe money to the Lender or other owners.

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

E. Rights Of Termination Not Impaired

X Continuance Of Responsibilities Or Liabilities

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

XI Participation Interests-Special Provisions

This section contains special provisions that govern participation interests.

Listed below are the consequences of the sale of a participation interest.

1. Transfer Of Undivided Interest. When the Lender sells and conveys to us a participation interest in one or more mortgages, this is a transfer of an undivided interest in each mortgage.

The sale and conveyance of the participation interest will have the same force and effect as:

- a separate assignment of each mortgage executed and delivered to us by the Lender; and

- a promissory note separately endorsed or transferred to us.

2. Assurance Of Our Legal Rights. If federal or state laws or regulations now, or later, provide that the purchase of a participation interest is an extension of credit, the Lender will take whatever additional steps we may require to assure our legal rights as a purchaser of participation interests.

Such steps may include:

- placing legends on promissory notes;

- endorsing promissory notes in blank and delivering them to us; and

- executing mortgage assignments in a form acceptable to us and delivering them to us.

3. No Partnership Or Joint Venture. Neither the simultaneous ownership of interests in one or more mortgages nor any provision of this Contract will mean that a partnership or joint venture exists between the Lender and us.

The Lender will make the following payments to us, according to our Guides, for mortgages in which both the Lender and we own an interest:

1. Ratable Sharing Of Principal. The Lender will ratably share with us all mortgage principal payments.

2. Participation Share Of Interest. The Lender will pay us our participation share of interest payments up to:

- an amount sufficient for us to earn our yield on each mortgage; plus

- any amounts due us pursuant to this section.

As required by our Guides, the Lender will enforce the due-on-sale provisions and call options in the mortgages it services for us.
Contract

D. Repurchase Option

The Lender will have the option to repurchase our interest in a mortgage if:

- the Lender is required by our Guides to enforce a due-on-sale clause of a mortgage in which the Lender and we own an interest; or
- we elect to exercise a call option provision of such a mortgage.

If the Lender wishes to repurchase our interest in such a mortgage, it may do so by:

- giving us notice of its intention to repurchase; and
- paying us an amount calculated according to the provisions of our Guides.

The note rate of a mortgage is stated in the participation certificate or attached loan schedule.

1. Note Rate Increase. If, for any reason, there is an increase of the note rate of a mortgage in which we hold a participation interest, the Lender will pay us, according to our Guides, a percentage of the increase equal to the percentage represented by our participation interest in the mortgage. This amount will be in addition to our yield on the mortgage.

2. Foreclosure Expenses. The Lender will ratibly share with us any reasonable foreclosure and related expenses in connection with a mortgage in which we own a participation interest.

3. Prepayment Charges. The Lender will ratibly share with us any prepayment charges collected for mortgages in which we own a participation interest.

The Lender will not make any optional or voluntary advances to the borrower under an open-end mortgage in which we own a participation interest.

Participation interests may be assigned either by the Lender or us, as follows:

1. By Us. Without the Lender's consent we may assign:
- our participation interest in any mortgage; and
- all rights in the mortgage we own under this Contract or under any other instruments.

2. By Lender To Transferee. The Lender may sell or transfer all or part of any participation interest that it owns in any mortgage under this Contract unless expressly prohibited from doing so by our Guides.

This sale or transfer of participation interests is subject to the conditions below, as well as to our Guides as they are in effect on the date of our commitment to purchase.

For every sale or transfer, the Lender must obtain and furnish us with a properly executed instrument by which the transferee:

- agrees to be bound by the terms of this Contract; and
- acknowledges our rights and interests under this Contract with respect to the mortgage.


Contract

Our rights and interests that must be acknowledged include, without limitation, the right to assess a servicing fee against the owner of each participation interest if we:

- assume the servicing of the mortgage; or
- transfer the servicing to a new servicer under Section IX D of this Contract.

The sale or transfer of a participation interest does not relieve the Lender of any responsibility or liability under this Contract. For example, the Lender continues to be liable for any fees and other amounts charged under Section IX D3 of this Contract against the participation interest that is transferred. We may collect these amounts from the Lender or from the transferee.

3. By Lender To Bank. The Lender may be a member of, or be required to maintain reserves with a Federal Home Loan Bank or Federal Reserve Bank. If so, and the Lender transfers its participation interests in any mortgage under this Contract to such a bank to secure one or more advances, then the bank will not be deemed to have assumed the mortgage warranties found in Section IV A.

Also, such a transfer to the bank will not relieve the Lender of any responsibility or liability under this Contract.

XII Notice

Whenever notice is required under this Contract, it must be given as described in this section.

Any notice of termination given under this Contract must be:

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

Delivery and notice is given when we or the Lender mail or register the notice with any post office.

Our Guides, including any amendments or supplements, and any other notices, demands or requests under this Contract or applicable law will be:

- in writing;
- delivered in person or mailed from any post office, substation, or letter box;
- enclosed in a postage prepaid envelope; and
- addressed to the Lender to which the matter is directed.

For purposes of notice, the following rules apply:

1. Our address is the address of our regional office given in this Contract.
2. The Lender's address is that of its principal place of business given in this Contract.

Any change of address must be given in writing.
XIII Prior Agreements

This Contract supersedes any prior agreements between the Lender and us that govern selling or servicing of mortgages and participation interests to which this Contract relates.

However, this section will not release the Lender from any responsibility or liability under any prior agreements and understandings.

XIV Severability And Enforcement

If any provision of this Contract conflicts with applicable law, the other provisions of this Contract that can be carried out without the conflicting provision will not be affected.

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

XV Captions

This Contract's captions and headings are for convenience only and are not part of the Contract.

XVI Scope of Contract

The following provisions apply, whether or not they are contrary to other provisions in this Contract.

A. Restriction Of Lender

We reserve the right to restrict the Lender's sale or servicing of mortgages or of participation interests to the type that the Lender and its employees have the experience and ability to originate, sell or service.

B. Types Of Mortgages Covered

This Contract covers only the sale of mortgages and participation interests and the servicing of mortgages, within the following categories:
Contract

XVII Signatures And Date

By executing this Contract, the Lender and we agree to all of this Contract's terms and provisions. Both the Lender and we have signed and dated this Contract below.

This Contract takes effect on the date we sign it.

Lender: ___________________________

(Address)

By: ___________________________

(Authorized Signature)

(Type Name and Title)

Date: ___________________________

Federal National Mortgage Association

(Address)

By: ___________________________

(Authorized Signature)

(Type Name and Title)

Date: ___________________________
COMMITMENT TO PURCHASE FINANCIAL INSTRUMENT
and
SERVICER PARTICIPATION AGREEMENT
for the
HOME AFFORDABLE MODIFICATION PROGRAM
under the
EMERGENCY ECONOMIC STABILIZATION ACT OF 2008

This Commitment to Purchase Financial Instrument and Servicer Participation Agreement (the “Commitment”) is entered into as of the Effective Date, by and between Federal National Mortgage Association, a federally chartered corporation, as financial agent of the United States (“Fannie Mac”), and the undersigned party (“Servicer”). Capitalized terms used, but not defined contextually, shall have the meanings ascribed to them in Section 12 below.

Recitals

WHEREAS, the U.S. Department of the Treasury (the “Treasury”) has established a Home Affordable Modification Program (the “Program”) pursuant to section 101 and 109 of the Emergency Economic Stabilization Act of 2008 (the “Act”), as section 109 of the Act has been amended by section 7002 of the American Recovery and Reinvestment Act of 2009;

WHEREAS, the Program includes loan modification and other foreclosure prevention services;

WHEREAS, Fannie Mae has been designated by the Treasury as a financial agent of the United States in connection with the implementation of the Program;

WHEREAS, Fannie Mae will, in its capacity as a financial agent of the United States, fulfill the roles of administrator, record keeper and paying agent for the Program, and in conjunction therewith must standardize certain mortgage modification and foreclosure prevention practices and procedures as they relate to the Program, consistent with the Act and in accordance with the directives of, and guidance provided by, the Treasury;

WHEREAS, Federal Home Loan Mortgage Corporation (“Freddie Mac”) has been designated by the Treasury as a financial agent of the United States and will, in its capacity as a financial agent of the United States, fulfill a compliance role in connection with the Program; all references to Freddie Mac in the Agreement shall be in its capacity as compliance agent of the Program;

WHEREAS, all Fannie Mae and Freddie Mac approved servicers are being directed through their respective servicing guides and bulletins to implement the Program with respect to mortgage loans owned, securitized, or guaranteed by Fannie Mae or Freddie Mac (the “GSE Loans”); accordingly, this Agreement does not apply to the GSE Loans;

WHEREAS, all other servicers, as well as Fannie Mae and Freddie Mac approved servicers, that wish to participate in the Program with respect to loans that are not GSE Loans (collectively, “Participating Servicers”) must agree to certain terms and conditions relating to the respective roles and responsibilities of Program participants and other financial agents of the government; and

WHEREAS, Servicer wishes to participate in the Program as a Participating Servicer on the terms and subject to the conditions set forth herein.

Accordingly, in consideration of the representations, warranties, and mutual agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Fannie Mae and Servicer agree as follows.
Agreement

1. Services

A. Subject to Section 10.C., Servicer shall perform the loan modification and other foreclosure prevention services (collectively, the “Services”) described in (i) the Financial Instrument attached hereto as Exhibit A (the “Financial Instrument”); (ii) the Program guidelines and procedures issued by the Treasury, including, without limitation, the net present value assessment requirements of the Program (the “Program Guidelines”); and (iii) any supplemental documentation, instructions, bulletins, letters, directives, or other communications, including, but not limited to, business continuity requirements, compliance requirements, performance requirements and related remedies, issued by the Treasury, Fannie Mae, or Freddie Mac in order to change, or further describe or clarify the scope of, the rights and duties of the Participating Servicers in connection with the Program (the “Supplemental Directives” and, together with the Program Guidelines, the “Program Documentation”). The Program Documentation will be available to all Participating Servicers at www.financialstability.gov. The Program Documentation, as the same may be modified or amended from time to time in accordance with Section 10 below, is hereby incorporated into the Commitment by this reference.

B. Servicer’s representations and warranties, and acknowledgement of and agreement to fulfill or satisfy certain duties and obligations, with respect to its participation in the Program and under the Agreement are set forth in the Financial Instrument. Servicer’s certification as to its continuing compliance with, and the truth and accuracy of, the representations and warranties set forth in the Financial Instrument will be provided annually in the form attached hereto as Exhibit B (the “Annual Certification”), beginning on June 1, 2010 and again on June 1 of each year thereafter during the Term (as defined below).

C. The recitals set forth above are hereby incorporated herein by this reference.

2. Authority and Agreement to Participate in Program

A. Servicer shall perform the Services for all mortgage loans its services, whether it services such mortgage loans for its own account or for the account of another party, including any holders of mortgage-backed securities (each such other party, an “Investor”). Servicer shall use reasonable efforts to remove all prohibitions or impediments to its authority, and use reasonable efforts to obtain all third party consents and waivers that are required, by contract or law, in order to effectuate any modification of a mortgage loan under the Program.

B. Notwithstanding subsection A., if (x) Servicer is unable to obtain all necessary consents and waivers for modifying a mortgage loan, or (y) the pooling and servicing agreement or other similar servicing contract governing Servicer’s servicing of a mortgage loan prohibits Servicer from performing the Services for that mortgage loan, Servicer shall not be required to perform the Services with respect to that mortgage loan and shall not receive all or any portion of the Purchase Price (as defined below) otherwise payable with respect to such loan.

C. Notwithstanding anything to the contrary contained herein, the Agreement does not apply to GSE Loans. Servicers are directed to the servicing guides and bulletins issued by Fannie Mae and Freddie Mac, respectively, concerning the Program as applied to GSE Loans.

D. Servicer’s performance of the Services and implementation of the Program shall be subject to review by Freddie Mac and its agents and designees as more fully set forth in the Agreement.

3. Set Up; Prerequisite to Payment

Servicer will provide to Fannie Mae: (a) the set up information required by the Program Documentation and any ancillary or administrative information requested by Fannie Mae in order to process Servicer’s participation in the Program as a Participating Servicer on or before the Effective Date of the Commitment; and (b) the data elements for each mortgage eligible for the Program.
as and when described in the Program Documentation and the Financial Instrument. Purchase Price payments will not be remitted pursuant to Section 4 with respect to any modified mortgage for which the required data elements have not been provided.

4. Agreement to Purchase Financial Instrument; Payment of Purchase Price

A. Fannie Mae, in its capacity as a financial agent of the United States, agrees to purchase, and Servicer agrees to sell to Fannie Mae, in such capacity, the Financial Instrument that is executed and delivered by Servicer to Fannie Mae in the form attached hereto as Exhibit A, in consideration for the payment by Fannie Mae, as agent, of the Purchase Price (defined below). The conditions precedent to the payment by Fannie Mae of the Purchase Price are: (a) the execution and delivery of the Commitment and the Financial Instrument by Servicer to Fannie Mae; (b) the execution and delivery by Fannie Mae of the Commitment to Servicer; (c) the delivery of copies of the fully executed Commitment and Financial Instrument to Treasury on the Effective Date; (d) the performance by Servicer of the Services described in the Agreement, in accordance with the terms and conditions thereof, to the reasonable satisfaction of Fannie Mae and Freddie Mac; and (e) the satisfaction by Servicer of such other obligations as are set forth in the Agreement.

B. Solely in its capacity as the financial agent of the United States, and subject to subsection C below, Fannie Mae shall: (i) remit compensation payments to Servicer; (ii) remit incentive payments to Servicer for the account of Servicer and for the credit of borrowers under their respective mortgage loan obligations; and (iii) remit payments to Servicer for the account of Investors, in each case in accordance with the Program Documentation (all such payments, collectively, the “Purchase Price”); all payments remitted to Servicer for the credit of borrowers or for the account of Investors under the Program Documentation shall be applied by Servicer to the borrowers’ respective mortgage loan obligations, or remitted to Servicer to Investors, as required by the Program Documentation. Fannie Mae shall have no liability to Servicer with respect to the payment of the Purchase Price, unless and until: (a) Servicer and all other interested parties have satisfied all pre-requisites set forth herein and in the Program Documentation relating to the Program payment structure, including, but not limited to, the delivery of all data elements required by Section 3 of this Commitment; and (b) the Treasury has provided funds to Fannie Mae for remittance to Servicer, together with written direction to remit the funds to Servicer in accordance with the Program Documentation.

C. The Purchase Price will be paid to Servicer by Fannie Mae as the financial agent of the United States as and when described herein and in the Program Documentation in consideration for the execution and delivery of the Financial Instrument by Servicer on or before the Effective Date of the Agreement, upon the satisfaction of the conditions precedent to payment described in subsections A and B above.

D. The value of the Agreement is limited to $659,000,000 (the “Program Participation Cap”). Accordingly, the aggregate Purchase Price payable to Servicer under the Agreement may not exceed the amount of the Program Participation Cap. For each loan modification that becomes effective, the aggregate remaining Purchase Price available to be paid to Servicer under the Agreement will be reduced by the maximum Purchase Price potentially payable with respect to that loan modification. In the event the Purchase Price actually paid with respect to that loan modification is less than the maximum Purchase Price potentially payable, the aggregate remaining Purchase Price available to be paid to Servicer under the Agreement will be increased by the difference between such amounts. Notwithstanding the foregoing, no agreements with borrowers intended to result in new loan modifications will be effected under the Agreement, and no payments will be made with respect to any new loan modifications from and after the date on which the aggregate Purchase Price paid or payable to Servicer under the Agreement equals the Program Participation Cap. The Treasury may, from time to time in its sole discretion, adjust the amount of the Program Participation Cap. Servicer will be notified of all adjustments to the Program Participation Cap in writing by Fannie Mae.

E. Servicer shall maintain complete and accurate records of, and supporting documentation for, the borrower payment, including, but not limited to, PITIA (principal, interest, taxes, insurance (including homeowner’s insurance and hazard and flood insurance) and homeowner’s association and/or condo fees), and delinquency information and data provided to Fannie Mae regarding each agreement relating to a trial modification period and each loan modification agreement executed under the Program, which will be relied upon by Fannie Mae when calculating, as financial agent for the United States, the Purchase Price to be paid by the Treasury through Fannie Mae or any other financial agent. Servicer agrees to provide Fannie Mae and Freddie Mac with documentation and
other information with respect to any amounts paid by the Treasury as may be reasonably requested by such parties. In the event of a discrepancy or error in the amount of the Purchase Price paid hereunder, at Fannie Mae’s election, (x) Servicer shall remit to Fannie Mae the amount of any overpayment within thirty (30) days of receiving a refund request from Fannie Mae, or (y) Fannie Mae may immediately offset the amount of the overpayment against other amounts due and payable to Servicer by Fannie Mae, as financial agent of the United States, upon written notice to Servicer. Servicer shall still be obligated to credit the respective mortgage loan obligations of borrowers, and to the respective accounts of Investors, any portion of the Purchase Price to which they are entitled (if any) notwithstanding such offset unless otherwise directed by Fannie Mae.

F. At the election and upon the direction of the Treasury and with prior written notice to Servicer, Fannie Mae may deduct from any amount to be paid to Servicer any amount that Servicer, Investor, or borrower is obligated to reimburse or pay to the United States government, provided, however, that any amount withheld under this subsection F will be withheld only from the amounts payable to, or for the account or credit of, the party which is liable for the obligation to the United States government.

G. In the event that the Agreement expires or is terminated pursuant to Section 5 or Section 6, and subject to Fannie Mae’s rights under Section 6, Fannie Mae shall, solely in its capacity as the financial agent of the United States, continue to remit all amounts that are properly payable pursuant to subsection A above to Servicer in accordance with the Program Documentation until paid in full, provided, however, that Purchase Price payments will be made only with respect to qualifying mortgage loan modifications that were submitted by Servicer and accepted by Fannie Mae for inclusion in the Program in accordance with the Program Documentation prior to the date of expiration or termination and that do not exceed the Program Participation Cap.

H. Notwithstanding anything to the contrary contained in subsection G above, in the event that the Agreement is terminated pursuant to Section 6 B in connection with an Event of Default by Servicer under Section 6 A, no compensation with respect to any loan will be paid to Servicer for the account of the Servicer subsequent to termination; subject to Fannie Mae’s rights under Section 6, Fannie Mae’s only continuing obligations as financial agent of the United States subsequent to termination will be to remit payments to Servicer (or, at Fannie Mae’s discretion, an alternative provider) for the account of borrowers and Investors, as provided in the Agreement.

I. Notwithstanding anything to the contrary contained in subsection F above, in the event that the Agreement is terminated pursuant to Section 6 C in connection with an Event of Default by an Investor or a borrower under Section 6 A, no compensation with respect to any loan will be paid to Servicer for the credit or account of the defaulting party subsequent to termination; subject to Fannie Mae’s rights under Section 6, Fannie Mae’s only continuing obligations as financial agent of the United States subsequent to termination will be to remit payments to Servicer for the credit or account of non-defaulting parties as described in the Program Documentation.

J. Notwithstanding anything to the contrary contained herein, Fannie Mae, in its capacity as the financial agent of the United States, may reduce the amounts payable to Servicer under Section 4 B, or obtain repayment of prior payments made under Section 4 B, in connection with an Event of Default by Servicer or in connection with an evaluation of performance that includes any specific findings by Freddie Mac that Servicer’s performance under any performance criteria established pursuant to the Program Documentation is materially insufficient; provided, however, Fannie Mae will seek to obtain repayment of prior payments made under Section 4 B only with respect to loan modifications that are determined by Fannie Mae or Freddie Mac to have been impacted by, or that Fannie Mae or Freddie Mac believes may have been, or may be, impacted, by the Event of Default or findings giving rise to this remedy. These remedies are not exclusive; they are available in addition to, and not in lieu of, any other remedies available to Fannie Mae at law or in equity.

K. Notwithstanding anything to the contrary contained herein, Fannie Mae, in its capacity as the financial agent of the United States, may reduce the amounts payable to Servicer for the credit or account of an Investor or a borrower under Section 4 B, or obtain repayment of prior payments made for the credit or account of such parties under Section 4 B, in connection with an Event of Default by an Investor or a borrower. Servicer will reasonably cooperate with, and provide reasonable support and assistance to, Fannie Mae and Freddie Mac in connection with their respective roles and, in Fannie Mae’s case, in connection with its efforts to obtain repayment of prior payments made to Investors and borrowers as provided in this subsection. These remedies are not
exclusive; they are available in addition to, and not in lieu of, any other remedies available to Fannie Mae at law or in equity.

5. Term

A. Qualifying mortgage loans may be submitted by Servicer and accepted by Fannie Mae as described in the Financial Instrument and the Program Documentation from and after the Effective Date until December 31, 2012 (the "Initial Term"), subject to Program extensions by the Treasury or earlier termination of the Agreement by Fannie Mae pursuant to the provisions hereof or suspension or termination of the Program by the Treasury, provided, however, no new qualifying mortgage loans may be submitted by Servicer or accepted by Fannie Mae from and after the date on which the Program Participation Cap is reached.

B. Servicer shall perform the Services described in the Program Documentation in accordance with the terms and conditions of the Agreement during the Initial Term and any extensions thereof (the Initial Term, together with all extensions thereof, if any, the "Term"), and during such additional period as may be necessary to: (i) comply with all data collection, retention and reporting requirements specified in the Program Documentation during and for the periods set forth therein; and (ii) complete all Services that were initiated by Servicer, including, but not limited to, mortgage modifications and the completion of all documentation relating thereto, during the Term. Servicer agrees that it will work diligently to complete all Services as soon as reasonably possible after the end of the Term or earlier termination.

C. The Agreement may be terminated by Fannie Mae or Servicer prior to the end of the Term pursuant to Section 6 below.

6. Defaults and Early Termination

A. The following constitute events of default under the Agreement (each, an "Event of Default" and, collectively, "Events of Default"):  

(1) Servicer fails to perform or comply with any of its material obligations under the Agreement, including, but not limited to, circumstances in which Servicer fails to ensure that all eligibility criteria and other conditions precedent to modification specified in the Program Documentation are satisfied prior to effectuating modifications under the Program.

(2) Servicer: (a) ceases to do business as a going concern; (b) makes a general assignment for the benefit of, or enters into any arrangement with creditors in lieu thereof; (c) admits in writing its inability to pay its debts as they become due; (d) files a voluntary petition under any bankruptcy or insolvency law or files a voluntary petition under the reorganization or arrangement provisions of the laws of the United States or any other jurisdiction; (e) authorizes, applies for or consents to the appointment of a trustee or liquidator of all or substantially all of its assets; (f) has any substantial part of its property subjected to a levy, seizure, assignment or sale for or by any creditor or governmental agency; or (g) enters into an agreement or resolution to take any of the foregoing actions.

(3) Servicer, any employee or contractor of Servicer, or any employee or contractor of Servicer's contractors, or any Investor or borrower, commits a grossly negligent, willful or intentional, or reckless act (including, but not limited to, fraud) in connection with the Program or the Agreement.

(4) Any representation, warranty, or covenant made by Servicer in the Agreement or any Annual Certification is or becomes materially false, misleading, incorrect, or incomplete.

(5) An evaluation of performance that includes any specific findings by Freddie Mac, in its sole discretion, that Servicer's performance under any performance criteria established pursuant to the Program Documentation is materially insufficient, or any failure by Servicer to comply with any
directive issued by Fannie Mae or Freddie Mac with respect to documents or data requested, findings made, or remedies established, by Fannie Mae and/or Freddie Mac in conjunction with such performance criteria or other Program requirements.

B. Fannie Mae may take any, all, or none of the following actions upon an Event of Default by Servicer under the Agreement:

1. Fannie Mae may: (i) withhold some or all of the Servicer's portion of the Purchase Price until, in Fannie Mae's determination, Servicer has cured the default; and (ii) choose to utilize alternative means of paying any portion of the Purchase Price for the credit or account of borrowers and Investors and delay paying such portion pending adoption of such alternative means.

2. Fannie Mae may: (i) reduce the amounts payable to Servicer under Section 4.B; and/or (ii) require repayment of prior payments made to Servicer under Section 4.B, provided, however, Fannie Mae will seek to obtain repayment of prior payments made under Section 4.B only with respect to loan modifications that are determined by Fannie Mae or Freddie Mac to have been impacted, or that Fannie Mae or Freddie Mac believes may have been, or may be, impacted, by the Event of Default giving rise to the remedy.

3. Fannie Mae may require Servicer to submit to additional Program administrator oversight, including, but not limited to, additional compliance controls and quality control reviews.

4. Fannie Mae may terminate the Agreement and cease its performance hereunder as to some or all of the mortgage loans subject to the Agreement.

5. Fannie Mae may require Servicer to submit to information and reporting with respect to its financial condition and ability to continue to meet its obligations under the Agreement.

C. Fannie Mae may take any, all, or none of the following actions upon an Event of Default involving an Investor or a borrower in connection with the Program:

1. Fannie Mae may withhold all or any portion of the Purchase Price payable to, or for the credit or account of, the defaulting party until, in Fannie Mae's determination, the default has been cured or otherwise remedied to Fannie Mae's satisfaction.

2. Fannie Mae may: (i) reduce the amounts payable to Servicer for the credit, or account of, the defaulting party under Section 4.B; and/or (ii) require repayment of prior payments made to the defaulting party under Section 4.B. Servicer will reasonably cooperate with, and provide reasonable support and assistance to, Fannie Mae and Freddie Mac in connection with their respective roles and, in Fannie Mae's case, in connection with its efforts to obtain repayment of prior payments made to Investors and borrowers as provided in this subsection.

3. Fannie Mae may require Servicer to submit to additional Program administrator oversight, including, but not limited to, additional compliance controls and quality control reviews.

4. Fannie Mae may cease its performance hereunder as to some or all of the mortgage loans subject to the Agreement that relate to the defaulting Investor or borrower.

D. In addition to the termination rights set forth above, Fannie Mae may terminate the Agreement immediately upon written notice to Servicer.
(1) at the direction of the Treasury;

(2) in the event of a merger, acquisition, or other change of control of Servicer;

(3) in the event that a receiver, liquidator, trustee, or other custodian is appointed for the Servicer; or

(4) in the event that a material term of the Agreement is determined to be prohibited or unenforceable as referred to in Section 11 C

E. The Agreement will terminate automatically:

(1) in the event that the Financial Agency Agreement, dated February 18, 2009, by and between Fannie Mae and the Treasury is terminated; or

(2) upon the expiration or termination of the Program.

F. The remedies available to Fannie Mae upon an Event of Default under this Section are cumulative and not exclusive; further, these remedies are in addition to, and not in lieu of, any other remedies available to Fannie Mae at law or in equity.

G. If the event of termination of the Agreement under any circumstances, Servicer and Fannie Mae agree to cooperate with one another on an ongoing basis to ensure an effective and orderly transition or resolution of the Services, including the provision of any information, reporting, records and data required by Fannie Mae and Freddie Mac.

H. If an Event of Default under Section 6.A.1, Section 6.A.4, or Section 6.A.5 occurs and Fannie Mae determines, in its sole discretion, that the Event of Default is curable and elects to exercise its right to terminate the Agreement, Fannie Mae will provide written notice of the Event of Default to Servicer and the Agreement will terminate automatically thirty (30) days after Servicer’s receipt of such notice, if the Event of Default is not cured by Servicer to the reasonable satisfaction of Fannie Mae prior to the end of such thirty (30) day period. If Fannie Mae determines, in its sole discretion, that an Event of Default under Section 6.A.1, Section 6.A.4, or Section 6.A.5 is not curable, or if an Event of Default under Section 6.A.2 or Section 6.A.3 occurs, and Fannie Mae elects to exercise its right to terminate the Agreement under Section 6.B.4, Fannie Mae will provide written notice of termination to the Servicer on or before the effective date of the termination.

7. Disputes

Fannie Mae and Servicer agree that it is in their mutual interest to resolve disputes by agreement. If a dispute arises under the Agreement, the parties will use all reasonable efforts to promptly resolve the dispute by mutual agreement. If a dispute cannot be resolved informally by mutual agreement at the lowest possible level, the dispute shall be referred up the respective chain of command of each party in an attempt to resolve the matter. This will be done in an expeditious manner. Servicer shall continue diligent performance of the Services pending resolution of any dispute. Fannie Mae and Servicer reserve the right to pursue other legal or equitable rights they may have concerning any dispute. However, the parties agree to take all reasonable steps to resolve disputes internally before commencing legal proceedings.

8. Transfer or Assignment

A. Servicer must provide written notice to Fannie Mae and Freddie Mac pursuant to Section 9 below of: (i) any transfers or assignments of mortgage loans subject to this Agreement; and (ii) any other transfers or assignments of Servicer’s rights and obligations under this Agreement. Such notice must include payment instructions for payments to be made to the transferee or assignee of the mortgage loans subject to the notice (if applicable), and evidence of the assumption by such transferee or assignee of the mortgage loans or other rights and obligations that are transferred, in the form of Exhibit C (the “Assignment and
**Assumption Agreement**. Servicer acknowledges that Fannie Mae will continue to remit payments to Servicer in accordance with Section 4.B with respect to mortgage loans that have been assigned or transferred, and that Servicer will be liable for underpayments, overpayments and misdirected payments, unless and until such notice and an executed Assignment and Assumption Agreement are provided to Fannie Mae and Freddie Mac. Any purported transfer or assignment of mortgage loans or other rights or obligations under the Agreement in violation of this Section is void.

B. Servicer shall notify Fannie Mae as soon as legally possible of any proposed merger, acquisition, or other change of control of Servicer, and of any financial and operational circumstances which may impair Servicer’s ability to perform its obligations under the Agreement.

9. Notices

All legal notices under the Agreement shall be in writing and referred to each party’s point of contact identified below at the address listed below, or to such other point of contact at such other address as may be designated in writing by such party. All such notices under the Agreement shall be considered received: (a) when personally delivered; (b) when delivered by commercial overnight courier with verification receipt; (c) when sent by confirmed facsimile; or (d) three (3) days after having been sent, postage prepaid, via certified mail, return receipt requested. Notices shall not be made or delivered in electronic form, except as provided in Section 12.B below, provided, however, that the party giving the notice may send an e-mail to the party receiving the notice advising that party that a notice has been sent by means permitted under this Section.

To Servicer:

Ocwen Financial Corporation, Inc.
1661 Worthington Road, Suite 100
West Palm Beach, FL 33409
Attention: [Redacted]
Facsimile: [Redacted]
email: [Redacted]

To Fannie Mae:

Fannie Mae
3900 Wisconsin Avenue, NW
Washington, DC 20016
Attention: General Counsel
Facsimile: [Redacted]
email: [Redacted]

To Treasury:

Chief
Office of Homeownership Preservation
Office of Financial Stability
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220
Facsimile: (202) 622-9219

- 8 -
To Freddie Mac:

Freddie Mac
8100 Jones Branch Drive
McLean, VA 22102
Attention: Vice President, Making Home Affordable -- Compliance
Facsimile: (703) 903-2544
Email to: MHA_Compliance@freddiemac.com

10. Modifications

A. Subject to Sections 10 B. and 10 C., modifications to the Agreement shall be in writing and signed by Fannie Mae and Servicer.

B. Fannie Mae and the Treasury each reserve the right to unilaterally modify or supplement the terms and provisions of the Program Documentation that relate (as determined by Fannie Mae or the Treasury, in their reasonable discretion) to the compliance and performance requirements of the Program, and related remedies established by Freddie Mac, and/or to technical, administrative, or procedural matters or compliance and reporting requirements that may impact the administration of the Program.

C. Notwithstanding Sections 10 A. and 10 B., any modification to the Program Documentation that materially impact the borrower eligibility requirements, the amount of payments of the Purchase Price to be made to Participating Servicers, Investors and borrowers under the Program, or the rights, duties, or obligations of Participating Servicers, Investors or borrowers in connection with the Program (each, a “Program Modification” and, collectively, the “Program Modifications”) shall be effective only on a prospective basis; Participating Servicers will be afforded the opportunity to opt-out of the Program when Program Modifications are published with respect to some or all of the mortgage loans sought to be modified under the Program on or after the effective date of the Program Modification, at Servicer’s discretion. Opt-out procedures, including, but not limited to, the time and process for notification of election to opt-out and the window for such election, will be set forth in the Program Documentation describing the Program Modification provided, however, that Servicer will be given at least thirty (30) days to elect to opt-out of a Program Modification. For the avoidance of doubt, during the period during which Servicer may elect to opt-out of a Program Modification and after any such opt-out is elected by Servicer, Servicer will continue to perform the Services described in the Financial Instrument and the Program Documentation (as the Program Documentation existed immediately prior to the publication of the Program modification prompting the opt-out) with respect to qualifying mortgage loan modifications that were submitted by Servicer and accepted by Fannie Mae prior to the opt-out.

11. Miscellaneous

A. The Agreement shall be governed by and construed under Federal law and not the law of any state or locality, without reference to or application of the conflicts of law principles. Any and all disputes between the parties that cannot be settled by mutual agreement shall be resolved solely and exclusively in the United States Federal courts located within the District of Columbia. Both parties consent to the jurisdiction and venue of such courts and irrevocably waive any objections thereto.

B. The Agreement is not a Federal procurement contract and is therefore not subject to the provisions of the Federal Property and Administrative Services Act (41 U.S.C. §§ 251-260), the Federal Acquisition Regulations (48 CFR Chapter 1), or any other Federal procurement law.

C. Any provision of the Agreement that is determined to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of the Agreement, and no such prohibition or unenforceability in any jurisdiction shall invalidate such provision in any other jurisdiction.
D. Failure on the part of Fannie Mae to insist upon strict compliance with any of the terms hereof shall not be deemed a waiver, nor will any waiver hereunder at any time be deemed a waiver at any other time. No waiver will be valid unless in writing and signed by an authorized officer of Fannie Mae. No failure by Fannie Mae to exercise any right, remedy, or power hereunder will operate as a waiver thereof. The rights, remedies, and powers provided herein are cumulative and not exhaustive of any rights, remedies, and powers provided by law.

E. The Agreement shall inure to the benefit of and be binding upon the parties to the Agreement and their permitted successors-in-interest.

F. The Commitment and the Assignment and Assumption Agreement (if applicable) may be executed in two or more counterparts (and by different parties on separate counterparts), each of which shall be an original, but all of which together shall constitute one and the same instrument.

G. The Commitment, together with the Financial Instrument, the Annual Certifications, the Assignment and Assumption Agreement (if applicable) and the Program Documentation, constitutes the entire agreement of the parties with respect to the subject matter hereof. In the event of a conflict between any of the foregoing documents and the Program Documentation, the Program Documentation shall prevail. In the event of a conflict between the Program Guidelines and the Supplemental Directives, the Program Guidelines shall prevail.

H. Any provisions of the Agreement (including all documents incorporated by reference thereto) that contemplate their continuing effectiveness, including, but not limited to, Sections 4, 5 B, 6 F, 6 G, 9, 11 and 12 of the Commitment, and Sections 2, 3, 5, 7, 8, 9 and 10 of the Financial Instrument, and any other provisions (or portions thereof) in the Agreement that relate to, or may impact, the ability of Fannie Mae and Freddie Mac to fulfill their responsibilities as agents of the United States in connection with the Program, shall survive the expiration or termination of the Agreement.

12. Defined Terms; Incorporation by Reference

A. All references to the "Agreement" necessarily include, in all instances, the Commitment and all documents incorporated into the Commitment by reference, whether or not so noted contextually, and all amendments and modifications thereto. Specific references throughout the Agreement to individual documents that are incorporated by reference into the Commitment are not inclusive of any other documents that are incorporated by reference, unless so noted contextually.

B. The term "Effective Date" means the date on which Fannie Mae transmits a copy of the fully executed Commitment and Financial Instrument to Treasury and Servicer with a completed cover sheet, in the form attached hereto as Exhibit D (the "Cover Sheet"). The Commitment and Financial Instrument and accompanying Cover Sheet will be faxed, emailed, or made available through other electronic means to Treasury and Servicer in accordance with Section 9.

C. The Program Documentation and Exhibit A - Form of Financial Instrument, Exhibit B - Form of Annual Certification, Exhibit C - Form of Assignment and Assumption Agreement and Exhibit D - Form of Cover Sheet (in each case, in form and, upon completion, in substance), including all amendments and modifications thereto, are incorporated into this Commitment by this reference and given the same force and effect as though fully set forth herein.

[SIGNATURE PAGE FOLLOWS; REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
In Witness Whereof, Servicer and Fannie Mae by their duly authorized officials hereby execute and deliver this Commitment to Purchase Financial Instrument and Servicer Participation Agreement as of the Effective Date.

SERVICER: Ocwen Financial Corporation, Inc

By: [Signature]
Name: Ronald Paris
Title: President
Date: 4/16/09

FANNIE MAE, solely as Financial Agent of the United States

By: [Signature]
Name: Leslie Peele
Title: Vice President
Date: 4/16/09

EXHIBITS

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<thead>
<tr>
<th>Exhibit</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exhibit A</td>
<td>Form of Financial Instrument</td>
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<tr>
<td>Exhibit B</td>
<td>Form of Annual Certification</td>
</tr>
<tr>
<td>Exhibit C</td>
<td>Form of Assignment and Assumption Agreement</td>
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<tr>
<td>Exhibit D</td>
<td>Form of Cover Sheet</td>
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EXHIBIT A

FORM OF FINANCIAL INSTRUMENT
FINANCIAL INSTRUMENT

This Financial Instrument is delivered as provided in Section 1 of the Commitment to Purchase Financial Instrument and Servicer Participation Agreement (the “Commitment”), entered into as of the Effective Date, by and between Federal National Mortgage Association (“Fannie Mae”), a federally chartered corporation, acting as financial agent of the United States, and the undersigned party (“Servicer”). This Financial Instrument is effective as of the Effective Date. All of the capitalized terms that are used but not defined herein shall have the meanings ascribed to them in the Commitment.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Servicer agrees as follows:

1. **Purchase Price Consideration; Services.** This Financial Instrument is being purchased by Fannie Mae pursuant to Section 4 of the Commitment in consideration for the payment by Fannie Mae, in its capacity as a financial agent of the United States, of various payments detailed in the Program Documentation and referred to collectively in the Commitment as the “Purchase Price.” The conditions precedent to the payment by Fannie Mae of the Purchase Price are: (a) the execution and delivery of this Financial Instrument and the Commitment by Servicer to Fannie Mae; (b) the execution and delivery by Fannie Mae of the Commitment to Servicer; (c) the delivery of copies of the fully executed Commitment and Financial Instrument to Treasury on the Effective Date; (d) the performance by Servicer of the Services described in the Agreement; and (e) the satisfaction by Servicer of such other obligations as are set forth in the Agreement. Servicer shall perform all Services in consideration for the Purchase Price in accordance with the terms and conditions of the Agreement, to the reasonable satisfaction of Fannie Mae and Freddie Mac.

2. **Authority and Agreement to Participate in Program.** Subject to the limitations set forth in Section 2 of the Agreement, Servicer shall use reasonable efforts to remove all prohibitions or impediments to its authority and to obtain all third party consents and waivers that are required, by contract or law, in order to effectuate any loan modification under the Program.

3. **Audits, Reporting and Data Retention**

   (a) Freddie Mac, the Federal Housing Finance Agency and other parties designated by the Treasury or applicable law shall have the right during normal business hours to conduct unannounced, informal onsite visits and to conduct formal onsite and offsite physical, personnel and information technology testing, security reviews, and audits of Servicer and to examine all books, records and data related to the Services provided and Purchase Price received in connection with the Program on thirty (30) days’ prior written notice.

   (b) Servicer will collect, record, retain and provide to Treasury, Fannie Mae and Freddie Mac all data, information and documentation relating to the Program and borrowers, loans and loan modifications implemented, or potentially eligible for modification, under the Program and any trials conducted in connection with the Program, as required by the Program Documentation. All such data, information and documentation must be provided to the Treasury, Fannie Mae and Freddie Mac as when and in the manner specified in the Program Documentation. In addition, Servicer shall provide copies of executed contracts and tapes of loan pools related to the Program for review upon request.

   (c) Servicer shall promptly take corrective and remedial actions associated with reporting and reviews as directed by Fannie Mae or Freddie Mac and provide to Fannie Mae and Freddie Mac such evidence of the effective implementation of corrective and remedial actions as Fannie Mae and Freddie Mac shall reasonably require. Freddie Mac may conduct additional reviews based on its findings and the corrective actions taken by Servicer.
(d) In addition to any other obligation to retain financial and accounting records that may be imposed by Federal or state law, Servicer shall retain all information described in Section 3(b), and all data, books, reports, documents, audit logs and records, including electronic records, related to the performance of Services in connection with the Program. In addition, Servicer shall maintain a copy of all computer systems and application software necessary to review and analyze these electronic records. Unless otherwise directed by Fannie Mae or Freddie Mac, Servicer shall retain these records for at least 7 years from the date the data or record was created, or for such longer period as may be required pursuant to applicable law. Fannie Mae or Freddie Mac may also notify Servicer from time to time of any additional record retention requirements resulting from litigation and regulatory investigations in which the Treasury or any agents of the United States may have an interest, and Servicer agrees to comply with these litigation and regulatory investigations requirements.

4. Internal Control Program

(a) Servicer shall develop, enforce and review on a quarterly basis for effectiveness an internal control program designed to: (i) ensure effective delivery of Services in connection with the Program and compliance with the Program Documentation; (ii) effectively monitor and detect loan modification fraud; and (iii) effectively monitor compliance with applicable consumer protection and fair lending laws. The internal control program must include documentation of the control objectives for Program activities, the associated control techniques, and mechanisms for testing and validating the controls.

(b) Servicer shall provide Freddie Mac with access to all internal control reviews and reports that relate to Services under the Program performed by Servicer and its independent auditing firm to enable Freddie Mac to fulfill its duties as a compliance agent of the United States; a copy of the reviews and reports will be provided to Fannie Mac for record keeping and other administrative purposes.

5. Representations, Warranties and Covenants. Servicer makes the following representations, warranties and covenants to Fannie Mac, Freddie Mac and the Treasury, the truth and accuracy of which are continuing obligations of Servicer. In the event that any of the representations, warranties, or covenants made herein cease to be true and correct, Servicer agrees to notify Fannie Mac and Freddie Mac immediately.

(a) Servicer is established under the laws of the United States or any state, territory, or possession of the United States or the District of Columbia, and has significant operations in the United States. Servicer has full corporate power and authority to enter into, execute, and deliver the Agreement and to perform its obligations thereunder and has all licenses necessary to carry on its business as now being conducted and as contemplated by the Agreement.

(b) Servicer is in compliance with, and covenants that all Services will be performed in compliance with, all applicable Federal, state and local laws, regulations, regulatory guidance, statutes, ordinances, codes and requirements, including, but not limited to, the Truth in Lending Act, 15 USC 1601 et seq., the Home Ownership and Equity Protection Act, 15 USC § 1639, the Federal Trade Commission Act, 15 USC § 41 et seq., the Equal Credit Opportunity Act, 15 USC § 701 et seq., the Fair Credit Reporting Act, 15 USC § 1681 et seq., the Fair Housing Act and other Federal and state laws designed to prevent unfair, discriminatory or predatory lending practices and all applicable laws governing tenant rights. Subject to the following sentence, Servicer has obtained or made, or will obtain or make, all governmental approvals or registrations required under law and has obtained or will obtain all consents necessary to authorize the performance of its obligations under the Program and the Agreement. The performance of Services under the Agreement will not conflict with, or be prohibited in any way by, any other agreement or statutory restriction by which Servicer is bound.
provided, however, that Fannie Mae acknowledges and agrees that this representation and warranty is qualified solely by and to the extent of any contractual limitations established under applicable servicing contracts to which Servicer is subject. Servicer is not aware of any other legal or financial impediments to performing its obligations under the Program or the Agreement and shall promptly notify Fannie Mae of any financial and/or operational impediments which may impair its ability to perform its obligations under the Program or the Agreement. Servicer is not delinquent on any Federal tax obligation or any other debt owed to the United States or collected by the United States for the benefit of others, excluding any debt or obligation that is being contested in good faith.

(c) Servicer covenants that: (i) it will perform its obligations in accordance with the Agreement and will promptly provide such performance reporting as Fannie Mae may reasonably require; (ii) all mortgage modifications and all trial period modifications will be offered to borrowers, fully documented and serviced in accordance with the Program Documentation; and (iii) all data, collection information and other information reported by Servicer to Fannie Mae and Freddie Mac under the Agreement, including, but not limited to, information that is relied upon by Fannie Mae or Freddie Mac in calculating the Purchase Price or in performing any compliance review will be true, complete and accurate in all material respects, and consistent with all relevant servicing records, as and when provided.

(d) Servicer covenants that it will: (i) perform the Services required under the Program Documentation and the Agreement in accordance with the practices, high professional standards of care, and degree of attention used in a well-managed operation, and no less than that which the Servicer exercises for itself under similar circumstances; and (ii) use qualified individuals with suitable training, education, experience and skills to perform the Services. Servicer acknowledges that Program participation may require changes to, or the augmentation of, its systems, staffing and procedures, and covenants and agrees to take all actions necessary to ensure it has the capacity to implement the Program in accordance with the Agreement.

(c) Servicer covenants that it will comply with all regulations on conflicts of interest that are applicable to Servicer in connection with the conduct of its business and all conflicts of interest and non-disclosure obligations and restrictions and related mitigation procedures set forth in the Program Documentation (if any).

(f) Servicer acknowledges that the provision of false or misleading information to Fannie Mae or Freddie Mac in connection with the Program or pursuant to the Agreement may constitute a violation of: (a) Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or (b) the civil False Claims Act (31 U.S.C. §§ 3729-3733). Servicer covenants to disclose to Fannie Mae and Freddie Mac any credible evidence, in connection with the Services, that a management official, employee, or contractor of Servicer has committed, or may have committed, a violation of the referenced statutes.

(g) Servicer covenants to disclose to Fannie Mae and Freddie Mac any other facts or information that the Treasury, Fannie Mae or Freddie Mac should reasonably expect to know about Servicer and its contractors to help protect the reputational interests of the Treasury, Fannie Mae and Freddie Mac in managing and monitoring the Program.

(h) Servicer covenants that it will timely inform Fannie Mae and Freddie Mac of any anticipated Event of Default.
(i) Servicer acknowledges that Fannie Mae or Freddie Mac may be required to assist the Treasury with responses to the Privacy Act of 1974 (the "Privacy Act"), 5 USC § 552a, inquiries from borrowers and Freedom of Information Act, 5 USC § 552, inquiries from other parties, as well as formal inquiries from Congressional committees and members, the Government Accounting Office, Inspectors General and other government entities, as well as media and consumer advocacy group inquiries about the Program and its effectiveness. Servicer covenants that it will respond promptly and accurately to all search requests made by Fannie Mae or Freddie Mac, comply with any related procedures which Fannie Mae or Freddie Mac may establish, and provide related training to employees and contractors. In connection with Privacy Act inquiries, Servicer covenants that it will provide updated and corrected information as appropriate about borrowers' records to ensure that any system of record maintained by Fannie Mae on behalf of the Treasury is accurate and complete.

(j) Servicer acknowledges that Fannie Mae is required to develop and implement customer service call centers to respond to borrowers' and other parties' inquiries regarding the Program, which may require additional support from Servicer. Servicer covenants that it will provide such additional customer service call support as Fannie Mae reasonably determines is necessary to support the Program.

(k) Servicer acknowledges that Fannie Mae and/or Freddie Mac are required to develop and implement practices to monitor and detect loan modification fraud and to monitor compliance with applicable consumer protection and fair lending laws. Servicer covenants that it will fully and promptly cooperate with Fannie Mae's inquiries about loan modification fraud and legal compliance and comply with any anti-fraud and legal compliance procedures which Fannie Mae and/or Freddie Mac may require. Servicer covenants that it will develop and implement an internal control program to monitor and detect loan modification fraud and to monitor compliance with applicable consumer protection and fair lending laws, among other things, as provided in Section 4 of this Financial Instrument and acknowledges that the internal control program will be monitored, as provided in such Section.

(l) Servicer shall sign and deliver an Annual Certification to Fannie Mae and Freddie Mac beginning on June 1, 2010 and again on June 1 of each year thereafter during the Term, in the form attached as Exhibit B to the Agreement.

6 Use of Contractors. Servicer is responsible for the supervision and management of any contractor that assists in the performance of Services in connection with the Program. Servicer shall remove and replace any contractor that fails to perform. Servicer shall ensure that all of its contractors comply with the terms and provisions of the Agreement. Servicer shall be responsible for the acts or omissions of its contractors as if the acts or omissions were by the Servicer.

7 Data Rights.

(a) For purposes of this Section, the following definitions apply:

(i) "Data" means any recorded information, regardless of form or the media on which it may be recorded, regarding any of the Services provided in connection with the Program.

(ii) "Limited Rights" means non-exclusive rights to, without limitation, use, copy, maintain, modify, enhance, disclose, reproduce, prepare derivative works, and distribute, in any manner, for any purpose related to the administration, activities, review, or audit of, or public reporting regarding, the Program and to permit others to do so in connection therewith.
(iii) "NPI" means nonpublic personal information, as defined under the GLB

(iv) "GLB" means the Gramm-Leach-Bliley Act, 15 U.S.C. 6801-6809

(b) Subject to Section 7(c) below, Treasury, Fannie Mae and Freddie Mac shall have Limited Rights, with respect to all Data produced, developed, or obtained by Servicer or a contractor of Servicer in connection with the Program, provided, however, that NPI will not be transferred by Fannie Mae in violation of the GLB and, provided, further, that Servicer acknowledges and agrees that any use of NPI by, the distribution of NPI to, or the transfer of NPI among, Federal, state and local government organizations and agencies does not constitute a violation of the GLB for purposes of the Agreement. If requested, such Data shall be made available to the Treasury, Fannie Mae, or Freddie Mac upon request, or as and when directed by the Program Documentation, in industry standard useable format.

(c) Servicer expressly consents to the publication of its name as a participant in the Program, and the use and publication of Servicer’s Data, subject to applicable state and federal laws regarding confidentiality, in any form and on any media utilized by Treasury, Fannie Mae or Freddie Mac, including, but not limited to, on any website or webpage hosted by Treasury, Fannie Mae, or Freddie Mac, in connection with the Program, provided that no Data placed in the public domain will: (i) contain the name, social security number, or street address of any borrower or other information that would allow the borrower to be identified; or, (ii) if presented in a form that links the Servicer with the Data, include information other than program performance and participation related statistics such as the number of modifications, performance of modifications, characteristics of the modified loans, or program compensation or fees, with any information about any borrower limited to creditworthiness characteristics such as debt, income, and credit score. In any Data provided to an enforcement or supervisory agency with jurisdiction over the Servicer, these limitations on borrower information do not apply.

8 Publicity and Disclosure

(a) Servicer shall not make use of any Treasury name, symbol, emblem, program name, or product name, in any advertising, signage, promotional material, press release, Web page, publication, or media interview, without the prior written consent of the Treasury.

(b) Servicer shall not publish, or cause to have published, or make public use of Fannie Mae’s name, logos, trademarks, or any information about its relationship with Fannie Mae without the prior written permission of Fannie Mae, which permission may be withdrawn at any time in Fannie Mae’s sole discretion.

(c) Servicer shall not publish, or cause to have published, or make public use of Freddie Mac’s name (i.e., “Freddie Mac” or “Federal Home Loan Mortgage Corporation”), logos, trademarks, or any information about its relationship with Freddie Mac without the prior written permission of Freddie Mac, which permission may be withdrawn at any time in Freddie Mac’s sole discretion.

9 Limitation of Liability. IN NO EVENT SHALL FANNIE MAE, THE TREASURY, OR FREDDIE MAC, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR AFFILIATES BE LIABLE TO SERVICER WITH RESPECT TO THE PROGRAM OR THE AGREEMENT, OR FOR ANY
ACT OR OMISSION OCCURRING IN CONNECTION WITH THE FOREGOING, FOR ANY DAMAGES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO DIRECT DAMAGES, INDIRECT DAMAGES, LOST PROFITS, LOSS OF BUSINESS, OR OTHER INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES OF ANY NATURE OR UNDER ANY LEGAL THEORY WHATSOEVER, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER OR NOT THE DAMAGES WERE REASONABLY FORESEEABLE; PROVIDED, HOWEVER, THAT THIS PROVISION SHALL NOT LIMIT FANNIE MAE'S OBLIGATION TO REMIT PURCHASE PRICE PAYMENTS TO SERVICER IN ITS CAPACITY AS FINANCIAL AGENT OF THE UNITED STATES IN ACCORDANCE WITH THE AGREEMENT.

10. Indemnification. Servicer shall indemnify, hold harmless, and pay for the defense of Fannie Mae, the Treasury and Freddie Mac, and their respective officers, directors, employees, agents and affiliates against all claims, liabilities, costs, damages, judgments, suits, actions, losses and expenses, including reasonable attorneys' fees and costs of suit, arising out of or resulting from: (a) Servicer's breach of Section 5 (Representations, Warranties and Covenants) of this Financial Instrument; (b) Servicer's negligence, willful misconduct or failure to perform its obligations under the Agreement; or (c) any injuries to persons (including death) or damages to property caused by the negligent or willful acts or omissions of Servicer or its contractors. Servicer shall not settle any suit or claim regarding any of the foregoing without Fannie Mae's prior written consent if such settlement would be adverse to Fannie Mae's interest, or the interests of the Treasury or Freddie Mac. Servicer agrees to pay or reimburse all costs that may be incurred by Fannie Mae and Freddie Mac in enforcing this indemnity, including attorneys' fees.

IN WITNESS WHEREOF, Servicer hereby executes this Financial Instrument on the date set forth below.

Ocwen Financial Corporation, Inc

[Signature]
Ronald Faris
President

[Date]
4/16/09
EXHIBIT B

FORM OF ANNUAL CERTIFICATION
ANNUAL CERTIFICATION

This Annual Certification is delivered as provided in Section 1.B. of the Commitment to Purchase Financial Instrument and Servicer Participation Agreement (the "Commitment"), effective as of [INSERT], by and between Federal National Mortgage Association ("Fannie Mae"), a federally chartered corporation, acting as financial agent of the United States, and the undersigned party ("Servicer"). All terms used, but not defined herein, shall have the meanings ascribed to them in the Commitment.

Servicer hereby certifies, as of [INSERT DATE ON WHICH CERTIFICATION IS GIVEN], that:

1. Servicer is established under the laws of the United States or any state, territory, or possession of the United States or the District of Columbia, and has significant operations in the United States. Servicer had full corporate power and authority to enter into, execute, and deliver the Agreement and to perform its obligations hereunder and has all licenses necessary to carry on its business as now being conducted and as contemplated by the Agreement.

2. Servicer is in compliance with, and certifies that all Services have been performed in compliance with, all applicable Federal, state and local laws, regulations, regulatory guidance, statutes, ordinances, codes and requirements, including, but not limited to, the Truth in Lending Act, 15 USC § 1601 et seq., the Home Ownership and Equity Protection Act, 15 USC § 1639, the Federal Trade Commission Act, 15 USC § 41 et seq., the Equal Credit Opportunity Act, 15 USC § 701 et seq., the Fair Credit Reporting Act, 15 USC § 1681 et seq., the Fair Housing Act and other Federal and state laws designed to prevent unfair, discriminatory or predatory lending practices and all applicable laws governing tenant rights. Subject to the following sentence, Servicer has obtained or made all governmental approvals or registrations required under law and has obtained all consents necessary to authorize the performance of its obligations under the Program and the Agreement. The performance of Services under the Agreement has not conflicted with, or been prohibited in any way by, any other agreement or statutory restriction by which Servicer is bound, except to the extent of any contractual limitations under applicable servicing contracts to which Servicer is subject. Servicer is not aware of any other legal or financial impediments to performing its obligations under the Program or the Agreement and has promptly notified Fannie Mae of any financial and/or operational impediments which may impair its ability to perform its obligations under the Program or the Agreement. Servicer is not delinquent on any Federal tax obligation or any other debt owed to the United States or collected by the United States for the benefit of others, excluding any debts or obligations that are being contested in good faith.

3. (i) Servicer has performed its obligations in accordance with the Agreement and has promptly provided such performance reporting as Fannie Mae and Freddie Mac have reasonably required; (ii) all mortgage modifications and all trial period modifications have been offered by Servicer to borrowers, fully documented and serviced by Servicer in accordance with the Program Documentation; and (iii) all data, collection information and other information reported by Servicer to Fannie Mae and Freddie Mac under the Agreement, including, but not limited to, information that was relied upon by Fannie Mae and Freddie Mac in calculating the Purchase Price and in performing any compliance review, is true, complete and accurate in all material respects, and consistent with all relevant servicing records, as and when provided.

4. Servicer has: (i) performed the Services required under the Agreement in accordance with the practices, high professional standards of care, and degree of attention used in a well-managed operation, and no less than that which the Servicer exercises for itself under similar circumstances; and (ii) used qualified individuals with suitable training, education, experience and skills to perform the Services. Servicer acknowledges that Program participation required changes to, or the augmentation of, its systems, staffing and procedures; Servicer took all actions necessary to ensure that it had the capacity to implement the Program in accordance with the Agreement.

5. Servicer has complied with all regulations on conflicts of interest that are applicable to Servicer in connection with the conduct of its business and all conflicts of interest and non-disclosure obligations and restrictions and related mitigation procedures set forth in the Program Documentation (if any).

6. Servicer acknowledges that the provision of false or misleading information to Fannie Mae or Freddie Mac in connection with the Program or pursuant to the Agreement may constitute a violation of (a) Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or (b) the civil False Claims Act (31 U.S.C. §§ 3729-3733). Servicer has disclosed to Fannie Mae and Freddie Mac any credible evidence, in connection with the Services, that a management official, employee, or contractor of Servicer has committed, or may have committed, a violation of the referenced statutes.
7 Servicer has disclosed to Fannie Mae and Freddie Mac any other facts or information that the Treasury, Fannie Mae or Freddie Mac should reasonably expect to know about Servicer and its contractors to help protect the reputational interests of the Treasury, Fannie Mae and Freddie Mac in managing and monitoring the Program.

8 Servicer acknowledges that Fannie Mae and Freddie Mac may be required to assist the Treasury with responses to the Privacy Act of 1974 (the "Privacy Act"), 5 USC § 552, inquiries from borrowers and Freedom of Information Act, 5 USC § 552, inquiries from other parties, as well as formal inquiries from Congressional committees and members, the Government Accounting Office, Inspectors General and other government entities, as well as media and consumer advocacy group inquiries about the Program and its effectiveness. Servicer has responded promptly and accurately to all search requests made by Fannie Mae and Freddie Mac, complied with any related procedures which Fannie Mae and Freddie Mac have established, and provided related training to employees and contractors. In connection with Privacy Act inquiries, Servicer has provided updated and corrected information as appropriate about borrowers' records to ensure that any system of record maintained by Fannie Mae on behalf of the Treasury is accurate and complete.

9 Servicer acknowledges that Fannie Mae is required to develop and implement customer service call centers to respond to borrowers' and other parties' inquiries regarding the Program, which may require additional support from Servicer. Servicer has provided such additional customer service call support as Fannie Mae has reasonably requested to support the Program.

10 Servicer acknowledges that Fannie Mae and/or Freddie Mac are required to develop and implement practices to monitor and detect loan modification fraud and to monitor compliance with applicable consumer protection and fair lending laws. Servicer has fully and promptly cooperated with Fannie Mae's inquiries about loan modification fraud and legal compliance and has complied with any anti-fraud and legal compliance procedures which Fannie Mae and/or Freddie Mac have required. Servicer has developed and implemented an internal control program to monitor and detect loan modification fraud and to monitor compliance with applicable consumer protection and fair lending laws, among other things, as provided in Section 4 of the Financial Instrument.

In the event that any of the certifications made herein are discovered not to be true and correct, Servicer agrees to notify Fannie Mae and Freddie Mac immediately.

[INSERT FULL LEGAL NAME OF SERVICER]:

_________________________________________  ____________________________
[Name of Authorized Official]                  Date

[Title of Authorized Official]
EXHIBIT C

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT
ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement (the "Assignment and Assumption Agreement") is entered into as of [INSERT DATE] by and between [INSERT FULL LEGAL NAME OF ASSIGNOR] ("Assignor") and [INSERT FULL LEGAL NAME OF ASSIGNEE] ("Assignee"). All terms used, but not defined, herein shall have the meanings ascribed to them in the Underlying Agreement (defined below).

WHEREAS, Assignor and Federal National Mortgage Association, a federally chartered corporation, as financial agent of the United States ("Fannie Mae"), are parties to a Commitment to Purchase Financial Instrument and Servicer Participation Agreement, a complete copy of which (including all exhibits, amendments and modifications thereto) is attached hereto and incorporated herein by this reference (the "Underlying Agreement");

WHEREAS, Assignor has agreed to assign to Assignee: (i) all of its rights and obligations under the Underlying Agreement with respect to the mortgage loans identified on the schedule attached hereto as Schedule 1 ("Schedule 1") and/or (ii) certain other rights and obligations under the Underlying Agreement that are identified on Schedule 1; and

WHEREAS, Assignee has agreed to assume the mortgage loans and other rights and obligations under the Underlying Agreement identified on Schedule 1.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Assignment. Assignor hereby assigns to Assignee all of Assignor’s rights and obligations under the Underlying Agreement with respect to the mortgage loans identified on Schedule 1 and such other rights and obligations under the Underlying Agreement that are identified on Schedule 1.

2. Assumption. Assignee hereby accepts the foregoing assignment and assumes all of the rights and obligations of Assignor under the Underlying Agreement with respect to the mortgage loans identified on Schedule 1 and such other rights and obligations under the Underlying Agreement that are identified on Schedule 1.

3. Effective Date. The date on which the assignment and assumption of rights and obligations under the Underlying Agreement is effective is [INSERT EFFECTIVE DATE OF ASSIGNMENT/ASSUMPTION].

4. Successors. All future transfers and assignments of the mortgage loans, rights and obligations transferred and assigned hereby are subject to the transfer and assignment provisions of the Underlying Agreement. This Assignment and Assumption Agreement shall inure to the benefit of, and be binding upon, the permitted successors and assigns of the parties hereto.

5. Counterparts. This Assignment and Assumption Agreement may be executed in counterparts, each of which shall be an original, but all of which together constitute one and the same instrument.
IN WITNESS WHEREOF, Assignor and Assignee, by their duly authorized officials, hereby execute and deliver this Assignment and Assumption Agreement, together with Schedule 1, effective as of the date set forth in Section 3 above.

ASSIGNOR: [INSERT FULL LEGAL NAME OF ASSIGNOR]  ASSIGNEE: [INSERT FULL LEGAL NAME OF ASSIGNEE]

By: ________________________________                  By: ________________________________
Name: ____________________________________          Name: ____________________________________
Title: ____________________________________           Title: ____________________________________
Date: ____________________________________            Date: ____________________________________
SCHEDULE 1

To

ASSIGNMENT AND ASSUMPTION AGREEMENT
EXHIBIT D

FORM OF COVER SHEET
Cover Sheet for Transmission of
Commitment to Purchase Financial Instrument and Servicer Participation Agreement

To: [INSERT FULL LEGAL NAME OF SERVICER] ("Servicer"); [INSERT SERVICER CONTACT]

From: Federal National Mortgage Association, a federally chartered corporation, as financial agent of the United States ("Fannie Mae")

Copy To: The U.S. Department of the Treasury, [INSERT TREASURY CONTACT]

Date: [INSERT DATE OF TRANSMISSION]

Method of Transmission: [Facsimile to [INSERT FAX NUMBER OF SERVICER]] [[Email with PDF file attached to [INSERT SERVICER EMAIL ADDRESS]][Specify other method of electronic delivery]]

NOTICE

This transmission constitutes notice to Servicer that the Commitment to Purchase Financial Instrument and Servicer Participation Agreement, by and between Fannie Mae and Servicer (the "Commitment") and the Financial Instrument attached thereto have been fully executed and are effective as of the date of this transmission. The date of this transmission shall be the "Effective Date" of the Commitment and the Financial Instrument.

Copies of the fully executed Commitment and Financial Instrument are attached to this transmission for your records.
COMMITMENT TO PURCHASE FINANCIAL INSTRUMENT
and
SERVICER PARTICIPATION AGREEMENT
for the
HOME AFFORDABLE MODIFICATION PROGRAM
under the
EMERGENCY ECONOMIC STABILIZATION ACT OF 2008

This Commitment to Purchase Financial Instrument and Servicer Participation Agreement (the "Commitment") is entered into as of the Effective Date, by and between Federal National Mortgage Association, a federally chartered corporation, as financial agent of the United States ("Fannie Mae"), and the undersigned party ("Servicer"). Capitalized terms used, but not defined contextually, shall have the meanings ascribed to them in Section 12 below.

Recitals

WHEREAS, the U.S. Department of the Treasury (the "Treasury") has established a Home Affordable Modification Program (the "Program") pursuant to section 101 and 109 of the Emergency Economic Stabilization Act of 2008 (the "Act"), as section 109 of the Act has been amended by section 7002 of the American Recovery and Reinvestment Act of 2009;

WHEREAS, the Program includes loan modification and other foreclosure prevention services;

WHEREAS, Fannie Mae has been designated by the Treasury as a financial agent of the United States in connection with the implementation of the Program;

WHEREAS, Fannie Mae will, in its capacity as a financial agent of the United States, fulfill the roles of administrator, record keeper and paying agent for the Program, and in conjunction therewith must standardize certain mortgage modification and foreclosure prevention practices and procedures as they relate to the Program, consistent with the Act and in accordance with the directives of, and guidance provided by, the Treasury;

WHEREAS, Federal Home Loan Mortgage Corporation ("Freddie Mac") has been designated by the Treasury as a financial agent of the United States and will, in its capacity as a financial agent of the United States, fulfill a compliance role in connection with the Program; all references to Freddie Mac in the Agreement shall be in its capacity as compliance agent of the Program;

WHEREAS, all Fannie Mae and Freddie Mac approved servicers are being directed through their respective servicing guides and bulletins to implement the Program with respect to mortgage loans owned, securitized, or guaranteed by Fannie Mae or Freddie Mac (the "GSE Loans"); accordingly, this Agreement does not apply to the GSE Loans;

WHEREAS, all other servicers, as well as Fannie Mae and Freddie Mac approved servicers, that wish to participate in the Program with respect to loans that are not GSE Loans (collectively, "Participating Servicers") must agree to certain terms and conditions relating to the respective roles and responsibilities of Program participants and other financial agents of the government; and

WHEREAS, Servicer wishes to participate in the Program as a Participating Servicer on the terms and subject to the conditions set forth herein.

Accordingly, in consideration of the representations, warranties, and mutual agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Fannie Mae and Servicer agree as follows.
Agreement

1. Services

A. Subject to Section 10.C., Servicer shall perform the loan modification and other foreclosure prevention services (collectively, the "Services") described in (i) the Financial Instrument attached hereto as Exhibit A (the "Financial Instrument"); (ii) the Program guidelines and procedures issued by the Treasury, including, without limitation, the net present value assessment requirements of the Program (the "Program Guidelines"); and (iii) any supplemental documentation, instructions, bulletins, letters, directives, or other communications, including, but not limited to, business continuity requirements, compliance requirements, performance requirements and related remedies, issued by the Treasury, Fannie Mae, or Freddie Mac in order to change, or further describe or clarify the scope of, the rights and duties of the Participating Servicers in connection with the Program (the "Supplemental Directives" and, together with the Program Guidelines, the "Program Documentation"). The Program Documentation will be available to all Participating Servicers at www.financialstability.gov. The Program Documentation, as the same may be modified or amended from time to time in accordance with Section 10 below, is hereby incorporated into the Commitment by this reference.

B. Servicer's representations and warranties, and acknowledgement of and agreement to fulfill or satisfy certain duties and obligations, with respect to its participation in the Program and under the Agreement are set forth in the Financial Instrument. Servicer's certification as to its continuing compliance with, and the truth and accuracy of, the representations and warranties set forth in the Financial Instrument will be provided annually in the form attached hereto as Exhibit B (the "Annual Certification"), beginning on June 1, 2010 and again on June 1 of each year thereafter during the Term (as defined below).

C. The recitals set forth above are hereby incorporated herein by this reference.

2. Authority and Agreement to Participate in Program

A. Servicer shall perform the Services for all mortgage loans its services, whether it services such mortgage loans for its own account or for the account of another party, including any holders of mortgage-backed securities (each such other party, an "Investor"). Servicer shall use reasonable efforts to remove all prohibitions or impediments to its authority, and use reasonable efforts to obtain all third party consents and waivers that are required, by contract or law, in order to effectuate any modification of a mortgage loan under the Program.

B. Notwithstanding subsection A., if (x) Servicer is unable to obtain all necessary consents and waivers for modifying a mortgage loan, or (y) the pooling and servicing agreement or other similar servicing contract governing Servicer's servicing of a mortgage loan prohibits Servicer from performing the Services for that mortgage loan, Servicer shall not be required to perform the Services with respect to that mortgage loan and shall not receive all or any portion of the Purchase Price (as defined below) otherwise payable with respect to such loan.

C. Notwithstanding anything to the contrary contained herein, the Agreement does not apply to GSE Loans. Servicers are directed to the servicing guides and bulletins issued by Fannie Mae and Freddie Mac, respectively, concerning the Program as applied to GSE Loans.

D. Servicer's performance of the Services and implementation of the Program shall be subject to review by Freddie Mac and its agents and designees as more fully set forth in the Agreement.

3. Set Up; Prerequisite to Payment

Servicer will provide to Fannie Mae: (a) the set up information required by the Program Documentation and any ancillary or administrative information requested by Fannie Mae in order to process Servicer's participation in the Program as a Participating Servicer; or before the Effective Date of the Commitment; and (b) the data elements for each mortgage eligible for the Program
as and when described in the Program Documentation and the Financial Instrument. Purchase Price payments will not be remitted pursuant to Section 4 with respect to any modified mortgage for which the required data elements have not been provided.

4. Agreement to Purchase Financial Instrument; Payment of Purchase Price

A. Fannie Mae, in its capacity as a financial agent of the United States, agrees to purchase, and Servicer agrees to sell to Fannie Mae, in such capacity, the Financial Instrument that is executed and delivered by Servicer to Fannie Mae in the form attached hereto as Exhibit A, in consideration for the payment by Fannie Mae, as agent, of the Purchase Price (defined below). The conditions precedent to the payment by Fannie Mae of the Purchase Price are: (a) the execution and delivery of the Commitment and the Financial Instrument by Servicer to Fannie Mae; (b) the execution and delivery by Fannie Mae of the Commitment to Servicer; (c) the delivery of copies of the fully executed Commitment and Financial Instrument to Treasury on the Effective Date; (d) the performance by Servicer of the Services described in the Agreement, in accordance with the terms and conditions thereof, to the reasonable satisfaction of Fannie Mae and Freddie Mac; and (e) the satisfaction by Servicer of such other obligations as are set forth in the Agreement.

B. Solely in its capacity as the financial agent of the United States, and subject to subsection C. below, Fannie Mae shall: (i) remit compensation payments to Servicer; (ii) remit incentive payments to Servicer for the account of Servicer and for the credit of borrowers under their respective mortgage loan obligations; and (iii) remit payments to Servicer for the account of investors, in each case in accordance with the Program Documentation (all such payments, collectively, the “Purchase Price”); all payments remitted to Servicer for the credit of borrowers or for the account of investors under the Program Documentation shall be applied by Servicer to the borrowers’ respective mortgage loan obligations, or remitted by Servicer to investors, as required by the Program Documentation. Fannie Mae shall have no liability to Servicer with respect to the payment of the Purchase Price, unless and until: (a) Servicer and all other interested parties have satisfied all pre-requisites set forth herein and in the Program Documentation relating to the Program payment structure, including, but not limited to, the delivery of all data elements required by Section 3 of this Commitment; and (b) the Treasury has provided funds to Fannie Mae for remittance to Servicer, together with written direction to remit the funds to Servicer in accordance with the Program Documentation.

C. The Purchase Price will be paid to Servicer by Fannie Mae as the financial agent of the United States as and when described herein and in the Program Documentation in consideration for the execution and delivery of the Financial Instrument by Servicer on or before the Effective Date of the Agreement, upon the satisfaction of the conditions precedent to payment described in subsections A. and B. above.

D. The value of the Agreement is limited to $633,000,000 (the “Program Participation Cap”). Accordingly, the aggregate Purchase Price payable to Servicer under the Agreement may not exceed the amount of the Program Participation Cap. For each loan modification that becomes effective, the aggregate remaining Purchase Price available to be paid to Servicer under the Agreement will be reduced by the maximum Purchase Price potentially payable with respect to that loan modification. In the event the Purchase Price actually paid with respect to that loan modification is less than the maximum Purchase Price potentially payable, the aggregate remaining Purchase Price available to be paid to Servicer under the Agreement will be increased by the difference between such amounts. Notwithstanding the foregoing, no agreements with borrowers intended to result in new loan modifications will be effected under the Agreement, and no payments will be made with respect to any new loan modifications from and after the date on which the aggregate Purchase Price paid or payable to Servicer under the Agreement equals the Program Participation Cap. Treasury may, from time to time in its sole discretion, adjust the amount of the Program Participation Cap. Servicer will be notified of all adjustments to the Program Participation Cap in writing by Fannie Mae.

E. Servicer shall maintain complete and accurate records of, and supporting documentation for, the borrower payment, including, but not limited to, PITI (principal, interest, taxes, insurance (including homeowner’s insurance and hazard and flood insurance) and homeowner’s association and/or condo fees), and delinquency information and data provided to Fannie Mae regarding each agreement relating to a trial modification period and each loan modification agreement executed under the Program, which will be relied upon by Fannie Mae when calculating, as financial agent for the United States, the Purchase Price to be paid by the Treasury through Fannie Mae or any other financial agent. Servicer agrees to provide Fannie Mae and Freddie Mac with documentation and
other information with respect to any amounts paid by the Treasury as may be reasonably requested by such parties. In the event of
a discrepancy or error in the amount of the Purchase Price paid hereunder, at Fannie Mae’s election, (x) Servicer shall remit to
Fannie Mae the amount of any overpayment within thirty (30) days of receiving a refund request from Fannie Mae, or (y) Fannie
Mae may immediately offset the amount of the overpayment against other amounts due and payable to Servicer by Fannie Mae, as
financial agent of the United States, upon written notice to Servicer. Servicer shall still be obligated to credit to the respective
mortgage loan obligations of borrowers, and to the respective accounts of Investors, any portion of the Purchase Price to which they
are entitled (if any) notwithstanding such offset unless otherwise directed by Fannie Mae.

F. At the election and upon the direction of the Treasury and with prior written notice to Servicer, Fannie Mae may deduct from
any amount to be paid to Servicer any amount that Servicer, Investor, or borrower is obligated to reimburse or pay to the United
States government, provided, however, that any amount withheld under this subsection F. will be withheld only from the amounts
payable to, or for the account or credit of, the party which is liable for the obligation to the United States government.

G. In the event that the Agreement expires or is terminated pursuant to Section 5 or Section 6, and subject to Fannie Mae’s rights
under Section 6, Fannie Mae shall, solely in its capacity as the financial agent of the United States, continue to remit all amounts
that are properly payable pursuant to subsection A. above to Servicer in accordance with the Program Documentation until paid in
full, provided, however, that Purchase Price payments will be made only with respect to qualifying mortgage loan modifications
that were submitted by Servicer and accepted by Fannie Mae for inclusion in the Program in accordance with the Program
Documentation prior to the date of expiration or termination and that do not exceed the Program Participation Cap.

H. Notwithstanding anything to the contrary contained in subsection G. above, in the event that the Agreement is terminated
pursuant to Section 6 B. in connection with an Event of Default by Servicer under Section 6 A., no compensation with respect to
any loan will be paid to Servicer for the account of the Servicer subsequent to termination; subject to Fannie Mae’s rights under
Section 6, Fannie Mae’s only continuing obligations as financial agent of the United States subsequent to termination will be to
remit payments to Servicer (or, at Fannie Mae’s discretion, an alternative provider) for the account of borrowers and Investors, as
provided in the Agreement.

I. Notwithstanding anything to the contrary contained in subsection F. above, in the event that the Agreement is terminated
pursuant to Section 6 C. in connection with an Event of Default by an Investor or a borrower under Section 6 A., no compensation
with respect to any loan will be paid to Servicer for the credit or account of the defaulting party subsequent to termination; subject
to Fannie Mae’s rights under Section 6, Fannie Mae’s only continuing obligations as financial agent of the United States
subsequent to termination will be to remit payments to Servicer for the credit or account of non-defaulting parties as described in
the Program Documentation.

J. Notwithstanding anything to the contrary contained herein, Fannie Mae, in its capacity as the financial agent of the United States,
may reduce the amounts payable to Servicer under Section 4.B., or obtain repayment of prior payments made under Section 4.B., in
connection with an Event of Default by Servicer or in connection with an evaluation of performance that includes any specific
findings by Freddie Mac that Servicer’s performance under any performance criteria established pursuant to the Program
Documentation is materially insufficient; provided, however, Fannie Mae will seek to obtain repayment of prior payments made
under Section 4.B. only with respect to loan modifications that are determined by Fannie Mae or Freddie Mac to have been impacted
by, or that Fannie Mae or Freddie Mac believes may have been, or may be, impacted, by the Event of Default or findings giving rise
to this remedy. These remedies are not exclusive; they are available in addition to, and not in lieu of, any other remedies available to
Fannie Mae at law or in equity.

K. Notwithstanding anything to the contrary contained herein, Fannie Mae, in its capacity as the financial agent of the United States,
may reduce the amounts payable to Servicer for the credit or account of an Investor or a borrower under Section 4.B., or obtain
repayment of prior payments made for the credit or account of such parties under Section 4.B., in connection with an Event of
Default by an Investor or a borrower. Servicer will reasonably cooperate with, and provide reasonable support and assistance to,
Fannie Mae and Freddie Mac in connection with their respective roles and, in Fannie Mae’s case, in connection with its efforts to
obtain repayment of prior payments made to Investors and borrowers as provided in this subsection. These remedies are not
exclusive; they are available in addition to, and not in lieu of, any other remedies available to Fannie Mae at law or in equity.

5. Term

A. Qualifying mortgage loans may be submitted by Servicer and accepted by Fannie Mae as described in the Financial Instrument and the Program Documentation from and after the Effective Date until December 31, 2012 (the "Initial Term"); subject to Program extensions by the Treasury or earlier termination of the Agreement by Fannie Mae pursuant to the provisions hereof or suspension or termination of the Program by the Treasury, provided, however, no new qualifying mortgage loans may be submitted by Servicer or accepted by Fannie Mae from and after the date on which the Program Participation Cap is reached.

B. Servicer shall perform the Services described in the Program Documentation in accordance with the terms and conditions of the Agreement during the Initial Term and any extensions thereof (the Initial Term, together with all extensions thereof, if any, the "Term"); and during such additional period as may be necessary to: (i) comply with all data collection, retention and reporting requirements specified in the Program Documentation during and for the periods set forth therein; and (ii) complete all Services that were initiated by Servicer, including, but not limited to, mortgage modifications and the completion of all documentation relating thereto, during the Term. Servicer agrees that it will work diligently to complete all Services as soon as reasonably possible after the end of the Term or earlier termination.

C. The Agreement may be terminated by Fannie Mae or Servicer prior to the end of the Term pursuant to Section 6 below.

6. Defaults and Early Termination

A. The following constitute events of default under the Agreement (each, an "Event of Default" and, collectively, "Events of Default"): 

(1) Servicer fails to perform or comply with any of its material obligations under the Agreement, including, but not limited to, circumstances in which Servicer fails to ensure that all eligibility criteria and other conditions precedent to modification specified in the Program Documentation are satisfied prior to effectuating modifications under the Program.

(2) Servicer: (a) ceases to do business as a going concern; (b) makes a general assignment for the benefit of, or enters into any arrangement with creditors in lieu thereof; (c) admits in writing its inability to pay its debts as they become due; (d) files a voluntary petition under any bankruptcy or insolvency law or files a voluntary petition under the reorganization or arrangement provisions of the laws of the United States or any other jurisdiction; (e) authorizes, applies for or consents to the appointment of a trustee or liquidator of all or substantially all of its assets; (f) has any substantial part of its property subjected to a levy, seizure, assignment or sale for or by any creditor or governmental agency; or (g) enters into an agreement or resolution to take any of the foregoing actions.

(3) Servicer, any employee or contractor of Servicer, or any employee or contractor of Servicer's contractors, or any Investor or borrower, commits a grossly negligent, willful or intentional, or reckless act (including, but not limited to, fraud) in connection with the Program or the Agreement.

(4) Any representation, warranty, or covenant made by Servicer in the Agreement or any Annual Certification is or becomes materially false, misleading, incorrect, or incomplete.

(5) An evaluation of performance that includes any specific findings by Freddie Mac, in its sole discretion, that Servicer's performance under any performance criteria established pursuant to the Program Documentation is materially insufficient, or any failure by Servicer to comply with any
directive issued by Fannie Mae or Freddie Mac with respect to documents or data requested, findings made, or remedies established, by Fannie Mae and/or Freddie Mac in conjunction with such performance criteria or other Program requirements.

B. Fannie Mae may take any, all, or none of the following actions upon an Event of Default by Servicer under the Agreement:

1. Fannie Mae may: (i) withhold some or all of the Servicer’s portion of the Purchase Price until, in Fannie Mae’s determination, Servicer has cured the default; and (ii) choose to utilize alternative means of paying any portion of the Purchase Price for the credit or account of borrowers and Investors and delay paying such portion pending adoption of such alternative means.

2. Fannie Mae may: (i) reduce the amounts payable to Servicer under Section 4.B; and/or (ii) require repayment of prior payments made to Servicer under Section 4.B, provided, however, Fannie Mae will seek to obtain repayment of prior payments made under Section 4.B. only with respect to loan modifications that are determined by Fannie Mae or Freddie Mac to have been impacted, or that Fannie Mae or Freddie Mac believes may have been, or may be, impacted, by the Event of Default giving rise to the remedy.

3. Fannie Mae may require Servicer to submit to additional Program administrator oversight, including, but not limited to, additional compliance controls and quality control reviews.

4. Fannie Mae may terminate the Agreement and cease its performance hereunder as to some or all of the mortgage loans subject to the Agreement.

5. Fannie Mae may require Servicer to submit to information and reporting with respect to its financial condition and ability to continue to meet its obligations under the Agreement.

C. Fannie Mae may take any, all, or none of the following actions upon an Event of Default involving an Investor or a borrower in connection with the Program:

1. Fannie Mae may withhold all or any portion of the Purchase Price payable to, or for the credit or account of, the defaulting party until, in Fannie Mae’s determination, the default has been cured or otherwise remedied to Fannie Mae’s satisfaction.

2. Fannie Mae may: (i) reduce the amounts payable to Servicer for the credit, or account of, the defaulting party under Section 4.B; and/or (ii) require repayment of prior payments made to the defaulting party under Section 4.B. Servicer will reasonably cooperate with, and provide reasonable support and assistance to, Fannie Mae and Freddie Mac in connection with their respective roles and, in Fannie Mae’s case, in connection with its efforts to obtain repayment of prior payments made to Investors and borrowers as provided in this subsection.

3. Fannie Mae may require Servicer to submit to additional Program administrator oversight, including, but not limited to, additional compliance controls and quality control reviews.

4. Fannie Mae may cease its performance hereunder as to some or all of the mortgage loans subject to the Agreement that relate to the defaulting Investor or borrower.

D. In addition to the termination rights set forth above, Fannie Mae may terminate the Agreement immediately upon written notice to Servicer:
(1) at the direction of the Treasury;

(2) in the event of a merger, acquisition, or other change of control of Servicer;

(3) in the event that a receiver, liquidator, trustee, or other custodian is appointed for the Servicer; or

(4) in the event that a material term of the Agreement is determined to be prohibited or unenforceable as referred to in Section 11.C.

E. The Agreement will terminate automatically:

(1) in the event that the Financial Agency Agreement, dated February 18, 2009, by and between Fannie Mae and the Treasury is terminated; or

(2) upon the expiration or termination of the Program.

F. The remedies available to Fannie Mae upon an Event of Default under this Section are cumulative and not exclusive; further, these remedies are in addition to, and not in lieu of, any other remedies available to Fannie Mae at law or in equity.

G. In the event of termination of the Agreement under any circumstances, Servicer and Fannie Mae agree to cooperate with one another on an ongoing basis to ensure an effective and orderly transition or resolution of the Services, including the provision of any information, reporting, records and data required by Fannie Mae and Freddie Mac.

H. If an Event of Default under Section 6.A.1., Section 6.A.4., or Section 6.A.5. occurs and Fannie Mae determines, in its sole discretion, that the Event of Default is curable and elects to exercise its right to terminate the Agreement, Fannie Mae will provide written notice of the Event of Default to Servicer and the Agreement will terminate automatically thirty (30) days after Servicer’s receipt of such notice, if the Event of Default is not cured by Servicer to the reasonable satisfaction of Fannie Mae prior to the end of such thirty (30) day period. If Fannie Mae determines, in its sole discretion, that an Event of Default under Section 6.A.1., Section 6.A.4., or Section 6.A.5. is not curable, or if an Event of Default under Section 6.A.2. or Section 6.A.3. occurs, and Fannie Mae elects to exercise its right to terminate the Agreement under Section 6.B.4., Fannie Mae will provide written notice of termination to the Servicer on or before the effective date of the termination.

7. Disputes

Fannie Mae and Servicer agree that it is in their mutual interest to resolve disputes by agreement. If a dispute arises under the Agreement, the parties will use all reasonable efforts to promptly resolve the dispute by mutual agreement. If a dispute cannot be resolved informally by mutual agreement at the lowest possible level, the dispute shall be referred up the respective chain of command of each party in an attempt to resolve the matter. This will be done in an expeditious manner. Servicer shall continue diligent performance of the Services pending resolution of any dispute. Fannie Mae and Servicer reserve the right to pursue other legal or equitable rights they may have concerning any dispute. However, the parties agree to take all reasonable steps to resolve disputes internally before commencing legal proceedings.

8. Transfer or Assignment

A. Servicer must provide written notice to Fannie Mae and Freddie Mac pursuant to Section 9 below of: (i) any transfers or assignments of mortgage loans subject to this Agreement; and (ii) any other transfers or assignments of Servicer’s rights and obligations under this Agreement. Such notice must include payment instructions for payments to be made to the transferee or assignee of the mortgage loans subject to the notice (if applicable), and evidence of the assumption by such transferee or assignee of the mortgage loans or other rights and obligations that are transferred, in the form of Exhibit C (the "Assignment and
Assumption Agreement"). Servicer acknowledges that Fannie Mae will continue to remit payments to Servicer in accordance with Section 4.B. with respect to mortgage loans that have been assigned or transferred, and that Servicer will be liable for underpayments, overpayments and misdirected payments, unless and until such notice and an executed Assignment and Assumption Agreement are provided to Fannie Mae and Freddie Mac. Any purported transfer or assignment of mortgage loans or other rights or obligations under the Agreement in violation of this Section is void.

B. Servicer shall notify Fannie Mae as soon as legally possible of any proposed merger, acquisition, or other change of control of Servicer, and of any financial and operational circumstances which may impair Servicer’s ability to perform its obligations under the Agreement.

9. Notices

All legal notices under the Agreement shall be in writing and referred to each party’s point of contact identified below at the address listed below, or to such other point of contact at such other address as may be designated in writing by such party. All such notices under the Agreement shall be considered received: (a) when personally delivered; (b) when delivered by commercial overnight courier with verification receipt; (c) when sent by confirmed facsimile; or (d) three (3) days after having been sent, postage prepaid, via certified mail, return receipt requested. Notices shall not be made or delivered in electronic form, except as provided in Section 12 B. below, provided, however, that the party giving the notice may send an e-mail to the party receiving the notice advising that party that a notice has been sent by means permitted under this Section.

To Servicer:

GMAC Mortgage, LLC
1100 Virginia Drive
Ft. Washington, PA 19034
Attention: [BLACKED OUT]
Facsimile: [BLACKED OUT]
email: [BLACKED OUT]

To Fannie Mae:

Fannie Mae
3900 Wisconsin Avenue, NW
Washington, DC 20016
Attention: General Counsel
Facsimile: [BLACKED OUT]
email: [BLACKED OUT]

To Treasury:

Chief
Office of Homeownership Preservation
Office of Financial Stability
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220
Facsimile: (202) 622-9219
To Freddie Mac:
Freddie Mac  
8100 Jones Branch Drive  
McLean, VA 22102  
Attention: Vice President, Making Home Affordable -- Compliance  
Facsimile: (703) 903-2544  
Email to: MHA_Compliance@freddiemac.com

10. Modifications

A. Subject to Sections 10.B. and 10.C., modifications to the Agreement shall be in writing and signed by Fannie Mae and Servicer.

B. Fannie Mae and the Treasury each reserve the right to unilaterally modify or supplement the terms and provisions of the Program Documentation that relate (as determined by Fannie Mae or the Treasury, in their reasonable discretion) to the compliance and performance requirements of the Program, and related remedies established by Freddie Mac, and/or to technical, administrative, or procedural matters or compliance and reporting requirements that may impact the administration of the Program.

C. Notwithstanding Sections 10.A. and 10.B., any modification to the Program Documentation that materially impact the borrower eligibility requirements, the amount of payments of the Purchase Price to be made to Participating Servicers, Investors and borrowers under the Program, or the rights, duties, or obligations of Participating Servicers, Investors or borrowers in connection with the Program (each, a “Program Modification” and, collectively, the “Program Modifications”) shall be effective only on a prospective basis; Participating Servicers will be afforded the opportunity to opt-out of the Program when Program Modifications are published with respect to some or all of the mortgage loans sought to be modified under the Program on or after the effective date of the Program Modification, at Servicer’s discretion. Opt-out procedures, including, but not limited to, the time and process for notification of election to opt-out and the window for such election, will be set forth in the Program Documentation describing the Program Modification, provided, however, that Servicer will be given at least thirty (30) days to elect to opt-out of a Program Modification. For the avoidance of doubt, during the period during which Servicer may elect to opt-out of a Program Modification and after any such opt-out is elected by Servicer, Servicer will continue to perform the Services described in the Financial Instrument and the Program Documentation (as the Program Documentation existed immediately prior to the publication of the Program modification prompting the opt-out) with respect to qualifying mortgage loan modifications that were submitted by Servicer and accepted by Fannie Mae prior to the opt-out.

11. Miscellaneous

A. The Agreement shall be governed by and construed under Federal law and not the law of any state or locality, without reference to or application of the conflicts of law principles. Any and all disputes between the parties that cannot be settled by mutual agreement shall be resolved solely and exclusively in the United States Federal courts located within the District of Columbia. Both parties consent to the jurisdiction and venue of such courts and irrevocably waive any objections thereto.

B. The Agreement is not a Federal procurement contract and is therefore not subject to the provisions of the Federal Property and Administrative Services Act (41 U.S.C. §§ 251-260), the Federal Acquisition Regulations (48 CFR Chapter 1), or any other Federal procurement law.

C. Any provision of the Agreement that is determined to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of the Agreement, and no such prohibition or unenforceability in any jurisdiction shall invalidate such provision in any other jurisdiction.
D. Failure on the part of Fannie Mae to insist upon strict compliance with any of the terms hereof shall not be deemed a waiver, nor will any waiver hereunder at any time be deemed a waiver at any other time. No waiver will be valid unless in writing and signed by an authorized officer of Fannie Mae. No failure by Fannie Mae to exercise any right, remedy, or power hereunder will operate as a waiver thereof. The rights, remedies, and powers provided herein are cumulative and not exhaustive of any rights, remedies, and powers provided by law.

E. The Agreement shall inure to the benefit of and be binding upon the parties to the Agreement and their permitted successors-in-interest.

F. The Commitment and the Assignment and Assumption Agreement (if applicable) may be executed in two or more counterparts (and by different parties on separate counterparts), each of which shall be an original, but all of which together shall constitute one and the same instrument.

G. The Commitment, together with the Financial Instrument, the Annual Certifications, the Assignment and Assumption Agreement (if applicable) and the Program Documentation, constitutes the entire agreement of the parties with respect to the subject matter hereof. In the event of a conflict between any of the foregoing documents and the Program Documentation, the Program Documentation shall prevail. In the event of a conflict between the Program Guidelines and the Supplemental Directives, the Program Guidelines shall prevail.

H. Any provisions of the Agreement (including all documents incorporated by reference thereto) that contemplate their continuing effectiveness, including, but not limited to, Sections 4, 5 B., 6 F., 6 G., 9, 11 and 12 of the Commitment, and Sections 2, 3, 5, 7, 8, 9 and 10 of the Financial Instrument, and any other provisions (or portions thereof) in the Agreement that relate to, or may impact, the ability of Fannie Mae and Freddie Mac to fulfill their responsibilities as agents of the United States in connection with the Program, shall survive the expiration or termination of the Agreement.

12. Defined Terms; Incorporation by Reference

A. All references to the “Agreement” necessarily include, in all instances, the Commitment and all documents incorporated into the Commitment by reference, whether or not so noted contextually, and all amendments and modifications thereto. Specific references throughout the Agreement to individual documents that are incorporated by reference into the Commitment are not inclusive of any other documents that are incorporated by reference, unless so noted contextually.

B. The term “Effective Date” means the date on which Fannie Mae transmits a copy of the fully executed Commitment and Financial Instrument to Treasury and Servicer with a completed cover sheet, in the form attached hereto as Exhibit D (the “Cover Sheet”). The Commitment and Financial Instrument and accompanying Cover Sheet will be faxed, emailed, or made available through other electronic means to Treasury and Servicer in accordance with Section 9.

C. The Program Documentation and Exhibit A – Form of Financial Instrument, Exhibit B – Form of Annual Certification, Exhibit C – Form of Assignment and Assumption Agreement and Exhibit D – Form of Cover Sheet (in each case, in form and, upon completion, in substance), including all amendments and modifications thereto, are incorporated into this Commitment by this reference and given the same force and effect as though fully set forth herein.

[SIGNATURE PAGE FOLLOWS; REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
In Witness Whereof, Servicer and Fannie Mae by their duly authorized officials hereby execute and deliver this Commitment to Purchase Financial Instrument and Servicer Participation Agreement as of the Effective Date.

SERVICER: GMAC Mortgage, LLC

By: ________________________________
Name: Joseph A. Pesabene
Title: EVP and Chief Servicing Officer
Date: 4/13/09

FANNIE MAE, solely as Financial Agent of the United States

By: ________________________________
Name: Leslie Geiger
Title: Vice President
Date: 4/13/09

EXHIBITS

Exhibit A  Form of Financial Instrument
Exhibit B  Form of Annual Certification
Exhibit C  Form of Assignment and Assumption Agreement
Exhibit D  Form of Cover Sheet