

**KENTUCKY HOUSING CORPORATION
CLOSING AGENT AGREEMENT**

This Closing Agent Agreement ("Agreement") is entered into this ____ day of _____, 20____, by and between **KENTUCKY HOUSING CORPORATION**, a de jure municipal corporation and political subdivision of the Commonwealth of Kentucky, having its principal office located at 1231 Louisville Road, Frankfort, Kentucky 40601 ("KHC") and _____ ("Closing Agent"), having its principal office located at _____.

1. COMMITMENT.

Pursuant to this Agreement, KHC agrees to engage Closing Agent, and Closing Agent agrees to act as KHC's agent in closing certain mortgage loans for KHC. The performance and conduct of Closing Agent in serving as KHC's agent is governed by and subject to the warranties, representations and agreements set forth in this Agreement.

2. ERRORS AND OMISSIONS INSURANCE.

Closing Agent shall maintain in full force and effect errors and omissions insurance coverage in an amount not less than \$500,000.00 per claim and \$1,000,000.00 in the aggregate and otherwise in a form and issued by a carrier acceptable to KHC. Closing Agent shall name Kentucky Housing Corporation as a Certificate Holder for said policy and provide KHC with satisfactory written evidence of such coverage as part of this Agreement.

3. FIDELITY BOND.

Notwithstanding anything contained herein to the contrary, in lieu of maintaining errors and omissions insurance pursuant to Paragraph 2, Closing Agent shall maintain in full force and effect a Fidelity bond for liability in an amount not less than \$1,000,000.00 issued by a carrier acceptable to KHC. Closing Agent shall name KHC as a Loss Payee for said Fidelity bond and provide KHC with satisfactory written evidence of such coverage as part of this Agreement.

4. CLOSING PROCEDURES MANUAL.

Throughout the term of this Agreement, Closing Agent shall comply with any and all terms and conditions of the Closing Agent Manual attached hereto as Exhibit "A" (the "Manual") and incorporated herein by reference. Closing Agent hereby acknowledges that KHC may amend the Manual from time-to-time as KHC, in its sole discretion, deems necessary. KHC shall confirm in writing by eGram any amendments to the Manual. Throughout the term of this Agreement, Closing Agent shall maintain a valid email address and subscription to KHC eGrams in order to receive notice of any applicable amendments to the Manual. Closing Agent hereby agrees to indemnify and hold harmless KHC for Closing Agent's failure to receive notice of any amendments to the Manual due to Closing Agent's failure to maintain or monitor a valid email address having a subscription to KHC eGrams. Unless notified otherwise, Closing Agent shall implement any amendments to the Manual within thirty (30) days of the date any eGram is sent providing notice of such amendment to the Manual. KHC staff shall be available to explain amendments to the Manual to Closing Agent and/or answer any questions Closing Agent may have regarding any such modified policies and procedures.

5. CLOSING AGENT POLICIES & PROCEDURES.

Closing Agent shall provide, along with Closing Agent's signed copy of this Agreement, any and all written policies and procedures of Closing Agent that address the following:

- (i) controls for Escrow Trust Accounts allowing for electronic verification of reconciliation;

- (ii) the protection of Non-public Personal Information as required by local, state and federal law;
- (iii) settlement procedures that ensure compliance with Federal and State Consumer Financial Laws as applicable to the settlement process;
- (iv) procedures related to title policy production, delivery, reporting and premium remittance; and
- (v) procedures for resolving consumer complaints.

Closing Agent shall also provide KHC with any and all other written policies and procedures of Closing Agent relevant to any and all services to be provided by the Closing Agent pursuant to this Agreement. In addition, KHC shall be entitled to, for quality control purposes, periodically conduct an on-site review of Agent's files and records to determine compliance with all KHC requirements. Upon request, Closing Agent shall grant KHC reasonable access necessary to conduct such on-site review. KHC shall take care, when practicable, to provide reasonable notice of any such on-site review.

6. GENERAL REPRESENTATIONS, WARRANTIES AND COVENANTS.

Closing Agent hereby makes the following covenants, warranties and representations upon which KHC may rely:

- 6.1 Valid Standing. Closing Agent is and will continue to be duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and will continue to be duly qualified to do business in the Commonwealth of Kentucky throughout the term of this Agreement. Closing Agent warrants that it has and will continue to maintain all licenses, registrations and certifications required by law to carry out its business endeavors as a Closing Agent;
- 6.2 Authority to Execute Agreement. Closing Agent has and will maintain full corporate or partnership power and authority to execute and deliver the documents contemplated by this Agreement and to perform in accordance with each of the terms thereof and the terms of the Guides. The execution, delivery and performance of this Agreement by Closing Agent and the consummation of the transactions contemplated hereby have been duly and validly authorized. This Agreement is a legal, valid, binding and enforceable obligation of Closing Agent, and all requisite corporate or partnership action has been taken by Closing Agent to make this Agreement valid and binding upon Closing Agent and enforceable in accordance with its terms;
- 6.3 No Defense. Closing Agent has the ability to perform each and every obligation and/or requirement imposed on Closing Agent pursuant to this Agreement, and no offset, counterclaim, or defense exists to the full performance by Closing Agent of the requirements of this Agreement;
- 6.4 Validity of Information Submitted. Neither Closing Agent's Application, nor any statement, report or other document furnished or to be furnished by Closing Agent pursuant to this Agreement contains any untrue statement of material fact or omits to state a material fact necessary to make the statements contained herein or therein not misleading. Closing Agent will promptly notify KHC in writing of any investigation or adverse finding or action taken by any regulatory agency;
- 6.5 No Pending Litigation. There is no pending, or to the best of Closing Agent's knowledge, threatened litigation, which may affect the execution, delivery or enforceability of this Agreement; the ability of Closing Agent to perform its obligations under this Agreement; or the title or interest of Closing Agent in and to any Mortgage Loan Application or the real property providing collateral for any Mortgage Loan. Should Closing Agent receive notice of litigation, which may affect Closing Agent's ability to perform its obligations under this Agreement, Closing Agent shall notify KHC immediately;

- 6.6 Compliance with Applicable Law. Closing Agent has complied with and has not violated any law, ordinance, regulation, rule or other order applicable to its business or properties, the violation of which might adversely affect the operations or financial condition of Closing Agent to consummate the Mortgage Loans contemplated by this Agreement. Closing Agent shall at all times comply with all federal, state, and local laws, regulations, and/or ordinances applicable to it and in particular, but without limitation, shall not, at any time, (i) discourage or dissuade any person from applying for a Mortgage Loan; (ii) offer or negotiate different interest rates or terms, or (iii) treat any applicant or potential applicant differently, on the basis of that person's race, sex, religion, national origin, age, color, disability, or familial status; or the fact that the person derives all or part of his/her income from any public assistance program; or the fact that the person has in good faith exercised any right under the Federal Consumer Credit Protection Act or any state anti-discrimination law and local fair and responsible lending laws, regulations, commentary and principles, including the Equal Credit Opportunity Act (ECOA), the Fair Housing Act (FHA), The Home Mortgage Disclosure Act (HMDA), and Section 1031 of the Dodd Frank Act relating to Unfair, Deceptive, or Abusive Acts or Practices (UDAAP); or based upon any other characteristic of the person, which is defined to be a prohibited basis for credit discrimination under any state or federal law or regulation;
- 6.7 Quality Control. Closing Agent shall maintain a quality control system acceptable to KHC and the appropriate insuring, guaranteeing agency, or Government Sponsored Entity (GSE). Any significant findings shall be reported to KHC within 30 days. Closing Agent will make available to KHC, immediately upon request, records of all activity under the system. In addition, KHC shall be entitled to review Mortgage Loans for quality control purposes periodically and may conduct an on-site review of Closing Agent's files and records to determine compliance with all KHC requirements. Upon request KHC shall be granted admission for such on-site review immediately, but KHC shall take care, when practicable, to provide reasonable notice;
- 6.8 Broker or Finder Fee. Closing Agent has not conducted the negotiations with respect to this Agreement, nor with respect to the transactions contemplated by this Agreement, in such manner as to give rise to any claim against KHC for brokerage commission, finder's fee or similar payment;
- 6.9 Disclosure. Closing Agent shall not disclose or distribute information regarding this Agreement, KHC's credit guidelines, any loan applicant's non-public personal information or any other material or information deemed confidential by KHC, to any other party without the express written consent of an authorized signer of KHC. However, Closing Agent may disclose or distribute such information if it is requested by law, judicial process, or in conjunction with KHC's audit or examination of Closing Agent's records under federal or state regulations or laws, provided Closing Agent promptly sends written notice of such legal request to KHC so that KHC may seek a protective order or other remedy to prevent the disclosure of such information if desired. Additionally, KHC and Closing Agent will comply with the privacy provisions of the Gramm-Leach-Bliley Act. Closing Agent shall provide to each loan applicant Closing Agent's Notice under the Gramm-Leach-Bliley Privacy Act as required by law;
- 6.10 Annual Re-Certification. Closing Agent agrees to complete KHC's annual re-certification process to ensure it continues to meet required minimum standards for Closing Agents.

7. CORPORATE EXISTENCE; CHANGE IN OWNERSHIP OR MANAGEMENT.

Closing Agent shall preserve its corporate existence and be qualified to do business in all jurisdictions where required and obtain and retain all necessary licenses to do its business. Closing Agent shall give KHC sixty (60) days prior written notice of any of the following: (i) liquidate, merge or consolidate with any person, firm or corporation; (ii) sell, lease, transfer or otherwise dispose of all or any substantial part of its stock (or other evidence of ownership) or its assets, whether now or hereafter acquired; or (iii) make or permit any material change in its stock ownership or in the composition of its current senior management.

8. CONFLICT OF INTEREST LAWS AND PRINCIPLES.

Closing Agent hereby certifies by its signature hereinafter that it is legally entitled to enter into this Agreement with KHC and certifies that it is not and will not be violating any conflict of interest statute (KRS 45A.330-45A.340, 45A.990, 164.390, or any other applicable statute) or principle by the performance of this Agreement.

9. VIOLATION OF TAX AND EMPLOYMENT LAWS.

KRS 45A.485 requires Closing Agent to reveal to KHC, prior to entering into this Agreement, any final determination of a violation by Closing Agent within the previous five (5) year period of the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342. These statutes relate to the Kentucky sales and use tax, corporate and utility tax, income tax, wage and hours laws, occupational safety and health laws, unemployment insurance laws and workers compensation insurance laws, respectively. In order to comply with the provisions of KRS 45A.485, Closing Agent shall report any such final determination(s) of violation(s) to KHC by providing the following information regarding the final determination(s): the Chapter of the KRS violated, the date of the final determination, and the state agency, which issued the final determination. KRS 45A.485 also provides that, for the duration of this Agreement, Closing Agent shall be in continuous compliance with the provisions of those Kentucky statutes, which apply to Closing Agent's operations, and that Closing Agent's failure to reveal a final determination as described above or failure to comply with the above statutes for the duration of the Agreement, shall be grounds for KHC's cancellation of this Agreement and Closing Agent's disqualification from eligibility for future KHC contracts for a period of two (2) years.

10. CAMPAIGN FINANCE.

Closing Agent certifies that it has not contributed more than the amount specified in KRS 121.056(2) to the campaign of the gubernatorial candidate elected at the election last preceding the date of this Agreement. Closing Agent further swears under penalty of perjury, as provided by KRS 523.020, that neither Closing Agent nor any company which Closing Agent may represent, has knowingly violated any provisions of the campaign finance laws of the Commonwealth of Kentucky, and that the award of this Agreement to Closing Agent or any company which Closing Agent may represent will not violate any provisions of the campaign finance laws of the Commonwealth of Kentucky.

11. NON-DISCRIMINATION.

During the performance of this Agreement, Closing Agent agrees as follows:

- A. Closing Agent will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex or age. Closing Agent further agrees to comply with the provisions of Section 504 of the Rehabilitation Act of 1973, P.L. 93-112, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified handicapped individuals under any program or activity receiving federal financial assistance. Closing Agent shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, age or handicap. Such action shall include, but not be limited to the following: employment, upgrading, promotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Closing Agent agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of the nondiscrimination clause.
- B. Closing Agent will, in all solicitations or advertisements for employees placed by or on behalf of Closing Agent, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, age or handicap.

12. ACCESS TO RECORDS.

The Parties hereby agree the Commonwealth of Kentucky Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this Agreement for the purpose of financial audit or program review. The Parties also recognize that any books, documents, papers, records or other evidence received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884.

13. ASSIGNMENT.

Closing Agent shall have no power to transfer or otherwise assign any of the rights, obligations, or duties arising under this Agreement. It is also hereby expressly understood and agreed that this paragraph shall be deemed to apply to prevent the attempted transfer, or assignment of any causes of action of any nature whatsoever that might arise under, or otherwise relate to this Agreement.

14. GOVERNING LAW; INTERPRETATION.

This Agreement shall be governed by and construed under the laws of the Commonwealth of Kentucky and shall be binding upon the parties, their heirs, personal representatives, successors and assigns. Parties agree to the jurisdiction of the Franklin Circuit Court or the eastern district of the federal court division in Frankfort, Kentucky.

15. INDEMNIFICATION.

Closing Agent agrees to defend, indemnify and hold KHC harmless from and in respect to or proximately resulting from, any claims, losses, damages, expenses (including reasonable attorney's fees), costs, obligations and liabilities which result from:

- A. Any untrue or incorrect representation, warranty or covenant of Closing Agent contained herein;
- B. The repudiation, breach or default by Closing Agent of any representation, warranty or covenant of this Agreement;
- C. The fact that any Mortgage Loan is found defective which defect results from the breach of any representation, warranty or covenant of this Agreement, including but not limited to: (1) losses incurred by reason of the fact that a private mortgage insurer withdraws or reduces the insurance; (2) violation of any state or federal law; or (3) reasonable attorney's fees incurred by KHC in defense of any claims or liabilities or in enforcement of the terms and provisions of this Agreement, including this indemnity; or (4) Insuring Agency deems defective and requires repurchase;

16. EVENTS OF DEFAULT.

Each of the following shall constitute an Event of Default on the part of Closing Agent under this Agreement: (i) any breach by Closing Agent of any of Closing Agent's representations, warranties, or covenants set forth in this Agreement; (ii) the failure of Closing Agent to perform any of its obligations under this Agreement including, without limitation, those obligations contained in the Manual, as amended from time-to-time; or (iii) the occurrence of any act of insolvency or bankruptcy concerning Closing Agent.

17. TERMINATION, SUSPENSION, AND DEBARMENT.

KHC may at any time and at its sole discretion, suspend or revoke Closing Agent's approval to provide services pursuant to this Agreement. Such suspension or revocation may be with or without cause. Cause for suspension and revocation includes, without limitation, any Event of Default defined in Paragraph 11, hereof.

18. TERM OF AGREEMENT & ANNUAL RENEWAL.

Unless otherwise terminated pursuant to the terms hereunder, the initial term of this Agreement shall lapse as of June 30, 2016. Upon Closing Agent's completion of KHC's Closing Agent annual re-certification process, this Agreement may be extended for an unlimited number of one year terms, at the sole discretion of KHC.

19. RIGHT OF OFFSET.

KHC shall have the right to deduct any penalties, fees, taxes or other charges or obligations of any kind owed by Closing Agent to KHC from any amount to be paid by KHC to Closing Agent pursuant to this Agreement.

20. NOTICE.

Any notice required or permitted to be given under this Agreement shall be in writing and answered personally at the address set forth below or sent by United States Mail, postage prepaid, addressed as follows:

To KHC: Kentucky Housing Corporation
 Attn: Managing Director of Single-Family Programs
 1231 Louisville Road
 Frankfort, KY 40601

To Closing Agent: _____

21. ENTIRE AGREEMENT; AMENDMENT.

This Agreement and any and all attachments hereto contain the entire agreement of the parties with respect to the subject matter hereof, and there are no representations, inducements, or other provisions other than those expressed in writing and included herein. This Agreement restates, and supersedes any and all prior Closing Agent Agreements between the parties. KHC shall have the right to amend this Agreement with written notice to Closing Agent.

22. WAIVER.

The waiver of any breach of this Agreement by either party shall not constitute a continuing waiver of any subsequent breach of either the same or another provision of this Agreement.

23. SURVIVAL.

All of the covenants, agreements, representations and warranties made herein by the parties hereto shall survive and continue in effect after the consummation of the transactions contemplated herein. Any provisions of this Agreement that are prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without rendering the remaining portions of this Agreement invalid or unenforceable.

WITNESS the signatures of the parties effective as of the date first written above

Closing Agent:

KENTUCKY HOUSING CORPORATION

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____