



# SOFTWARE SUBSCRIPTION AGREEMENT

## MASTER TERMS AND CONDITIONS

### 1. INTRODUCTION

The Software Subscription Agreement (the “**Agreement**”) is made up of these Master Terms and Conditions (the “**Master Terms**”) and all applicable Schedules, all as amended, restated or supplemented.

### 2. DEFINITIONS

DEFINITIONS	
CAPITALIZED TERM	DEFINITION
API	A Fannie Mae Application Programming Interface.
Authentication Credential	Any data (such as a PIN, digital certificate or password) or device (such as a smart card or other security token) that is used by Fannie Mae to authenticate the identity or authority of an individual or system.
Authorized User	Any employee, system or (if permitted in the relevant Schedule) Related Party registered by Licensee, or by Fannie Mae on Licensee’s behalf, to use the Licensed Application and that has been issued an active Authentication Credential.
Confidential Information	For Licensees that are SF Lenders, this term has the meaning given to such term in the Selling Guide. For all other Licensees, this term has the meaning given in Appendix A.
Corporate Administrator	An individual empowered by Licensee to legally bind Licensee, including an individual identified by Licensee as its “Corporate Administrator” for Technology Manager.
Data Breach	Any unauthorized access to, or use, disclosure, alteration, transfer, or destruction of Confidential Information or nonpublic personal information (NPI).
Licensed Application	The software, database, or mobile application, or any API, identified in a Schedule as the “Licensed Application,” including associated internet user interfaces and mobile versions of the Licensed Application, if any. Also included are components, and structures and any modifications, updates, and releases.
Licensed Materials	The Licensed Application and associated technical and user documentation that Fannie Mae makes available to Licensee.
Licensee	The party identified as “Licensee” on the Agreement, including on the Master Terms and/or relevant Schedule in any online registration tool.
Losses	For SF Lenders, this term has the meaning given such term in the Selling Guide. For all other licensees, this term has the meaning given in Appendix A.
Marks	Fannie Mae’s registered or unregistered trade names, trademarks, logos and service marks.
Performance Incident	Any error or defect in the Licensed Materials that results in a Licensed Application failing to perform substantially in accordance with its technical and user documentation.
Related Parties	A party’s affiliates, partners, officers, employees, directors, agents, contractors, representatives, successors or assigns.
Schedule	Any supplement to the Master Terms that is (a) specific to one or more Licensed Applications or services and (b) incorporated into the Master Terms. The term “Schedule” includes any addendum to the Schedule.



<b>DEFINITIONS</b>	
Selling Guide	The Fannie Mae Single Family Selling Guide, as amended, restated, supplemented or otherwise modified from time to time.
SF Lender	Any lender that is approved to sell single-family loans to Fannie Mae pursuant to the Lender Contract (as defined in the Selling Guide).
Third-Party Application	Any product, service, system, application, internet site or data that is input into or integrated or interfaced with the Licensed Application and owned or operated by a Third-Party Provider.
Third-Party Licensor	Any third party that licenses or otherwise conveys to Fannie Mae the right to use, distribute or make available any part of the Licensed Materials.
Third-Party Provider	Any third party that provides business, technology, data or other products or services.

### **3. GRANT OF RIGHTS AND IMPOSITION OF RESTRICTIONS AND OBLIGATIONS**

The table below describes rights granted to, and restrictions and obligations imposed on, Licensee.

<b>GRANT OF RIGHTS AND IMPOSITION OF OBLIGATIONS</b>	
<b>Topic</b>	<b>Description</b>
License	Fannie Mae grants Licensee a non-exclusive, non-transferable, non-sublicensable, revocable license under Fannie Mae’s intellectual property rights to access and use the Licensed Materials through its Authorized Users. Unless otherwise provided in the relevant Schedule, the Licensed Application is licensed to Licensee on a company-wide subscription basis.
Right to Copy Documentation	Licensee may copy the documentation (other than the documentation of Third-Party Licensors) to the extent necessary to exercise the license.
Restrictions on Use	Licensee’s license is subject to the following restrictions: <ul style="list-style-type: none"> <li>• Licensee and its Authorized Users may only access and use the Licensed Materials for Licensee’s internal mortgage-related business purposes and for their intended use;</li> <li>• Licensee must not resell, sublicense, distribute, allow access to or otherwise make any part of the Licensed Materials available to any person except as permitted under the Agreement;</li> <li>• Licensee must not (a) attempt to disable or circumvent any technological measure that controls access to the Licensed Application, (b) attempt to reverse engineer, decompile or otherwise derive the source code or any trade secrets from the Licensed Application, or (c) engage in any conduct intended to interfere with the operation of the Licensed Application except to the extent that such activity is expressly permitted by applicable law; and</li> <li>• Licensee must not modify, alter, translate or create derivative works based upon the Licensed Materials.</li> </ul>
Extraterritorial Use	Licensee may not access or use the Licensed Materials or any data contained in, or generated by, the Licensed Application outside of the United States and its territories unless expressly permitted in, and subject to the terms of, an applicable Schedule.



<b>GRANT OF RIGHTS AND IMPOSITION OF OBLIGATIONS</b>	
	Licensee represents and warrants that any access and use of the Licensed Materials outside the United States will comply with all applicable foreign and domestic laws, and Licensee will indemnify and hold Fannie Mae harmless from all Fannie Mae Losses that are based on or result from its access and use of the Licensed Materials outside of the United States (for SF Lenders, in accordance with the indemnification procedures set forth in the Selling Guide and for all other licensees in accordance with the indemnification procedures set forth in Appendix A).
Schedule(s)	A Schedule is effective when (a) Licensee accepts the terms and conditions and (b) Fannie Mae makes a Licensed Application referenced in the Schedule available to Licensee. Licensee accepts the terms and conditions of a Schedule on the earlier of the date that (a) it signs the Schedule or (b) it first uses a Licensed Application referenced in the Schedule.
Unauthorized Representations	Licensee must not make any statements: (a) that purport to be or might reasonably be construed to be made on behalf of Fannie Mae or its Third-Party Licensors, (b) that Fannie Mae endorses Licensee's products or services, or (c) regarding the capabilities of the Licensed Application other than those made by Fannie Mae or its Third-Party Licensors in the most recent version of the documentation.
Additional Provisions	<ul style="list-style-type: none"> <li>• In performing under this Agreement, SF Lenders must comply with all provisions of the Selling Guide relevant to: <ul style="list-style-type: none"> <li>◦ Confidentiality of Information</li> <li>◦ Indemnification</li> <li>◦ Indemnification procedures</li> <li>◦ Compliance with laws</li> <li>◦ Authority</li> <li>◦ Nonpublic personal information</li> <li>◦ Data breaches and procedures in the event of data breaches</li> <li>◦ Trade name and trademarks</li> <li>◦ Assignment</li> <li>◦ Governing law</li> <li>◦ Severability</li> </ul> </li> <li>• If Licensee is not an SF Lender, it must comply with all terms set forth in Appendix A.</li> </ul>

#### **4. OWNERSHIP OF LICENSED MATERIALS**

- 4.1. Ownership.** The Licensed Materials are protected by copyright and other intellectual property rights under applicable laws and international treaties. Title and all ownership rights to the Licensed Materials reside in Fannie Mae and its Third-Party Licensors. All rights not expressly granted to Licensee in the Agreement are reserved. The Licensed Materials are the Confidential Information of Fannie Mae and/or its Third-Party Licensors.
- 4.2. Protection.** Licensee must take all reasonable measures requested by Fannie Mae to protect the Licensed Materials from any unauthorized disclosure, access or use.



## 5. RIGHTS AND RESPONSIBILITIES OF THE PARTIES

**5.1. Hardware; Software; Alternative Systems.** Licensee is responsible for (a) providing all hardware, software, Third-Party Applications and other materials necessary for accessing and using any Licensed Application, and (b) providing alternative systems and processes when the Licensed Application is not available.

**5.2. Third-Party Applications and Providers.** Licensee may gain access to information or functionality through a Third-Party Application, and the Licensed Application may enable transactions between Licensee and a Third-Party Provider.

✓	Licensee agrees that:
	<ul style="list-style-type: none"><li>• Fannie Mae makes no representations or warranties relating to Third-Party Providers, Third-Party Applications, or any other product, service, internet site, or other functionality provided by Third-Party Providers;</li><li>• Neither Fannie Mae nor any Third-Party Provider may enter into any agreement or incur any obligation or liability on behalf of the other;</li><li>• Fannie Mae is not bound by any agreement between Licensee and any Third-Party Provider (to which Fannie Mae is not also a party);</li><li>• The liability limitations, protections and rights given to Fannie Mae, and the restrictions and responsibilities imposed upon Licensee, under the Agreement relating to Licensee's access to or participation in Third-Party Provider sites, systems or services will apply to the relevant Third-Party Provider(s) and Licensee to the fullest extent practicable under the circumstances;</li><li>• Fannie Mae is not affiliated with and does not endorse any Third-Party Application or Third-Party Provider, nor does Fannie Mae investigate, verify or monitor any Third-Party Application or Third-Party Provider; and</li><li>• Access to any Third-Party Application is at Licensee's risk, and Licensee understands that linked internet sites may have information, practices, terms and policies that are different from Fannie Mae's. Fannie Mae is not responsible for such information, practices, terms and policies, or Licensee's use of or inability to use Third-Party Applications and specifically disclaims any liability for any of them.</li></ul>

**5.3. Feedback.** If Licensee or any Authorized User provides suggestions, ideas, or other feedback to Fannie Mae concerning the Licensed Materials ("Feedback"), Fannie Mae may use, disclose and exploit such Feedback without restriction or any obligation to account to Licensee or the individual providing the Feedback. Fannie Mae is not required to consider or implement any Feedback.

**5.4. Authorized Users.** Licensee represents and warrants that each individual or system registered by Licensee for access to and use of the Licensed Application as an Authorized User (a) is accurately identified to Fannie Mae and (b) is only accessing and using the Licensed Application as authorized for Licensee's benefit. Licensee acknowledges that the Licensed Application may enable Licensee's Authorized Users to access all of Licensee's data



in the Licensed Application, which may be more data than the Authorized User needs to perform services for Licensee. Licensee accepts sole responsibility and will indemnify and hold Fannie Mae harmless from all claims and liability arising from its Authorized Users' access to the Licensed Application and Licensee's data (for Licensees that are SF Lenders, in accordance with the indemnification procedures set forth in the Selling Guide and for all other Licensees, in accordance with the indemnification procedures set forth in Appendix A).

**5.4.1. Authentication Credentials.** Licensee must monitor and maintain the security and proper use of all Authentication Credentials issued by Licensee or by Fannie Mae for Licensee's benefit and is solely responsible for all activities that occur through the use of such Authentication Credentials, whether or not the activities were authorized by Licensee. Authentication Credentials may not be transferred among Authorized Users or other individuals or systems. Licensee must take immediate steps to disable an Authorized User's Authentication Credential if the Authorized User ceases to be associated with Licensee or no longer needs access to the Licensed Materials, and must immediately notify Fannie Mae if there is any loss, theft or unauthorized disclosure or use of an Authentication Credential. Licensee must periodically review and update its Authorized Users' access and use rights. Fannie Mae is not required to provide access to or use of the Licensed Application or data to any individual or system, and may refuse, change or revoke any Authentication Credential at any time for any reason. Licensee must revoke or reset Authentication Credentials promptly after reasonable request by Fannie Mae, but in no event less than: (a) every ninety calendar days for individuals and (b) annually for systems.

**5.4.2. Special Requirements for Authentication Credentials Used by Licensee Systems.** If Licensee implements an Authentication Credential that enables a Licensee system or Third-Party Application to act as an Authorized User (an "Authorized System"), Licensee must implement the Authorized System such that the identity, date, time and nature of any individual's access to the Licensed Application through the Authorized System can be accurately identified to Fannie Mae.

**5.5. Performance Incident Reporting.** Promptly upon becoming aware of a Performance Incident, Licensee must report it to Fannie Mae, provide supporting information as necessary to enable Fannie Mae to confirm the Performance Incident and determine its root cause, and collaborate with Fannie Mae in the containment and any remediation of such Performance Incident.

**5.6. Audit Rights.** Fannie Mae may audit Licensee's use of the Licensed Materials upon reasonable notice to Licensee, and Licensee must allow Fannie Mae or its representatives access to Licensee's systems, facilities, books and records as reasonably required to audit Licensee's compliance with the Agreement.

**5.7. Integration Interfaces and APIs.** Licensee may develop and use an integration interface ("Integration Interface") or use an API to which it has been given access, to transfer data between mortgage-related software owned or licensed by Licensee ("Licensee's Software") and one or more Fannie Mae applications, as permitted by Fannie Mae. Use



of an Integration Interface or API to transfer data between Licensee’s Software and one or more Fannie Mae applications is governed by the terms and conditions of this Agreement, including all Schedules relevant to the application(s). Unless otherwise expressly specified or made publicly available, all specifications, data standards and other documentation related to integration of Fannie Mae applications and to APIs are the Confidential Information of Fannie Mae.

**5.7.1 Integration Interfaces.** Licensee must develop, use and maintain all Integration Interfaces in compliance with applicable specifications and compatible with the most current version of the Fannie Mae application. Licensee must not transfer data via an Integration Interface if the Integration Interface is out of compliance for more than 120 days. Licensee must make available to Fannie Mae qualified personnel to promptly respond to technical questions pertaining to its Integration Interfaces.

**5.7.2 APIs.** Licensee must keep Licensee’s Software that is accessing a Fannie Mae API current with, at a minimum, the previous version of the API. Fannie Mae is under no obligation to make data or services available via an API.

<b>TERMS PERTAINING TO INTEGRATION INTERFACES AND APIS</b>	
✓	<b>Licensee must not:</b>
	<ul style="list-style-type: none"> <li>• misrepresent or mask its identity or the identity of Licensee’s Software or the API client when using an Integration Interface or API,</li> <li>• misrepresent the source or ownership of the content returned from an Integration Interface or API,</li> <li>• use any robot, spider, site search or other retrieval application or device to scrape, retrieve or index services or data provided by Fannie Mae, or to collect or use information about borrowers for any unauthorized purpose,</li> <li>• allow access to or use of a Licensed Application via an Integration Interface or API from any source other than Licensee’s Software,</li> <li>• use an Integration Interface or API for a purpose other than the furtherance of Licensee’s or its affiliates’ business with Fannie Mae, or</li> <li>• use an Integration Interface or API in a manner other than as intended, that exceeds rate or other limits (without obtaining Fannie Mae’s prior written consent) or is otherwise excessive, abusive or disruptive.</li> </ul>
✓	<b>Licensee is solely responsible for:</b>
	<ul style="list-style-type: none"> <li>• the accuracy, technical sufficiency and functionality of its Integration Interfaces,</li> <li>• all costs associated with its Integration Interfaces, its use of APIs, and Licensee’s Software and</li> </ul>



	<ul style="list-style-type: none"> <li>Losses incurred by Fannie Mae as a result of any malware or phishing attacks resulting from the development or use of an Integration Interface or API.</li> </ul>
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✓	<p><b>Fannie Mae may:</b></p> <ul style="list-style-type: none"> <li>modify any API or the specifications, rate limits, benefits or features provided in connection with Licensee’s use of an Integration Interface or API at any time without notice. Modifications may affect Licensee’s use of the Integration Interface or API and may require Licensee to make changes to Licensee’s Software at its own cost to continue to interface with the interfaced Fannie Mae application,</li> <li>suspend or terminate access to an API or by an Integration Interface without notice if Fannie Mae reasonably believes Licensee is in violation of this Agreement,</li> <li>monitor Licensee’s Software or activities relating to Licensee’s use of an Integration Interface or API. Licensee will provide Fannie Mae reasonable access to use Licensee’s Software for the purpose of monitoring or auditing use of the Integration Interface or API, and</li> <li>use data and information related to Licensee’s use of one or more APIs for any business purpose, including without limitation developing enhancements to the Licensed Materials.</li> </ul>
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**5.8. Recordkeeping.** Licensee may be required to maintain records of certain data pursuant to state or federal laws and regulations. Licensee is solely responsible for fulfilling such obligations. Fannie Mae is not responsible for maintaining or providing any data or reports for Licensee.

**5.9 Data Reporting.** Licensee is responsible for the accuracy and completeness of all data it submits to Fannie Mae’s systems, and Fannie Mae does not have any obligation to authenticate the source of, or verify the accuracy of, any such data. Licensee is solely responsible for the back-up and restoration of its data and other materials.

**5.10 Rights in Data.** All data, materials and records (including data and materials compiled from records) representing, related to, associated with or based on loans securitized by Fannie Mae, serviced for Fannie Mae or in which Fannie Mae has an ownership right or interest are Fannie Mae’s property and that of any other owner of a participation interest in the loan, regardless of the physical form or characteristics of the data, materials or records or whether they are developed or originated by the loan seller, servicer or others. Licensee agrees that Fannie Mae, its agents and contractors may use, reproduce, distribute and retain all such data, materials and records, and any other data, materials and records received or generated by Fannie Mae in connection with this Agreement (or, where applicable, designated in the Licensed Application for delivery to Fannie Mae) for any



purpose, including without limitation monitoring and performance of the Licensed Application, enforcement of Fannie Mae’s rights, fraud prevention, information security, supporting and improving the Licensed Materials, providing reports to Licensee and third parties, analysis, providing data and services in compliance with applicable laws, and modeling, analytics and auditing.

Licensee’s privacy statements, policies and practices must not conflict with this Section or any privacy statement included in any Licensed Application. Fannie Mae is not bound by Licensee’s privacy statements.

**5.11. Right to Modify the Licensed Materials.** Fannie Mae reserves the right, without any liability to Licensee, to (a) modify any Licensed Materials or substitute any materials contained in the Licensed Materials without materially degrading the functionality of the Licensed Application, and (b) discontinue support of any Licensed Materials.

## 6. SYSTEM AND DATA SECURITY

<b>LICENSEE’S OBLIGATIONS RELATED TO SYSTEM AND DATA SECURITY</b>	
✓	<b>Licensee must:</b>
Comply with Policies	<ul style="list-style-type: none"> <li>comply with all security policies and procedures reasonably required by Fannie Mae related to the access and use of any data or Licensed Materials;</li> </ul>
Implement Industry Standard Measures	<ul style="list-style-type: none"> <li>implement appropriate measures meeting or exceeding industry standards to ensure the security, integrity, and confidentiality of transmissions to and from Fannie Mae’s systems, including:               <ul style="list-style-type: none"> <li>encryption for the protection of data in transit,</li> <li>virus checking programs,</li> <li>disaster recovery and back-up procedures,</li> <li>procedures to prevent disclosure of data and other materials to a party other than the intended recipient, and</li> <li>methods for securely disposing of or destroying Confidential Information.</li> </ul> </li> <li>provide the same level of protection for the Licensed Materials and all data obtained from Fannie Mae’s systems that Licensee provides for its own materials and data of a similar nature but no less than an industry standard level.</li> <li>collaborate with Fannie Mae in assessing the sufficiency of these measures and Licensee’s information security program, upon Fannie Mae’s reasonable request.</li> </ul>
Not Use Data or Information for Any Unauthorized Purpose	<ul style="list-style-type: none"> <li>not use any robot, spider, site search or other retrieval application or device to scrape, retrieve or index services or data provided by Fannie Mae, or to collect or use information about borrowers for any unauthorized purpose.</li> </ul>
Not Transmit Malicious Code	<ul style="list-style-type: none"> <li>not transmit to Fannie Mae’s systems, through an API or otherwise, any materials that contain bugs, viruses, worms or other functions, routines,</li> </ul>





## LICENSEE'S OBLIGATIONS RELATED TO SYSTEM AND DATA SECURITY

	devices or instructions which may create any unauthorized access or damage to, or interruption in the functioning of, the Licensed Application or Fannie Mae's systems.
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Fannie Mae may remove from Fannie Mae's systems any material transmitted by Licensee that Fannie Mae determines is in violation of law or the Agreement or that Fannie Mae determines may lead to a Performance Incident or Data Breach. Fannie Mae has no obligation to remove, screen, police, edit or monitor any data or other material generated by Licensee or its Related Parties.

### 7. SUPPORT

**7.1. Fannie Mae Support.** During the hours posted on the applicable Fannie Mae internet site or otherwise provided to Licensee, Fannie Mae personnel will be available to Licensee via the Fannie Mae Technology Support Center to respond to technical questions regarding the functionality of the Licensed Application and to help Licensee identify, verify and resolve Performance Incidents caused by the Licensed Materials.

**7.2. Consulting and Other Services.** Fannie Mae may provide certain consulting, implementation, training, installation, integration and other services to Licensee. All such services are provided on an "as-is" basis without warranty of any kind.

### 8. FEES, TAXES AND BILLING

Licensee must pay all applicable fees and charges listed in any Schedule or related rate sheet. Fannie Mae may increase or decrease such charges on 20 days' prior notice to Licensee. Licensee's continued use of the applicable Licensed Materials constitutes Licensee's acceptance of any such adjustments. Payment is due upon receipt of invoice. Taxes related to Licensee's access to or use of the Licensed Application are the responsibility of Licensee.

### 9. DISCLAIMER

THE LICENSED MATERIALS ARE PROVIDED TO LICENSEE 'AS IS' WITHOUT REPRESENTATIONS, WARRANTIES OR PROMISES OF ANY KIND. FANNIE MAE AND ITS THIRD-PARTY LICENSORS SPECIFICALLY DISCLAIM ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE, AND ANY WARRANTIES OF TITLE, NON-INFRINGEMENT AND QUIET ENJOYMENT. FANNIE MAE DOES NOT WARRANT THAT ALL OR ANY PORTION OF THE LICENSED APPLICATION WILL PERFORM WITHOUT INTERRUPTION OR ERROR OR IN COMPLIANCE WITH LAWS, THAT ALL PERFORMANCE INCIDENTS WILL BE CORRECTED, THAT THE LICENSED MATERIALS WILL MEET LICENSEE'S REQUIREMENTS OR OPERATE IN THE CONFIGURATION WHICH LICENSEE MAY SELECT FOR USE, OR THAT DATA OR OTHER INFORMATION GENERATED BY OR STORED IN THE LICENSED APPLICATION WILL BE ACCURATE OR COMPLETE.

### 10. LIMITATION OF LIABILITY



- 10.1. WHEN LICENSED MATERIALS ARE PROVIDED AT NO CHARGE.** IF FANNIE MAE IS PROVIDING THE LICENSED MATERIALS TO LICENSEE AT NO CHARGE, THEN, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL FANNIE MAE OR ITS THIRD-PARTY LICENSORS OR THEIR RESPECTIVE RELATED PARTIES HAVE ANY LIABILITY UNDER OR IN CONNECTION WITH THE AGREEMENT TO LICENSEE OR ANYONE CLAIMING UNDER OR THROUGH LICENSEE, WHETHER FOR DIRECT, INDIRECT, PUNITIVE, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES, OR FOR ANY LOST PROFITS, BUSINESS INTERRUPTION LOSSES, LOSSES OF GOODWILL, SAVINGS OR DATA REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE, DUTY TO WARN AND STRICT LIABILITY IN TORT) OR OTHERWISE, EVEN IF THE DAMAGES SUFFERED OR INCURRED BY THE INJURED PARTY WERE FORESEEABLE.
- 10.2 WHEN LICENSED MATERIALS ARE PROVIDED FOR A FEE.** IF FANNIE MAE IS PROVIDING THE LICENSED MATERIALS TO LICENSEE FOR A FEE, THEN, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL FANNIE MAE OR ITS THIRD-PARTY LICENSORS OR THEIR RESPECTIVE RELATED PARTIES HAVE ANY LIABILITY UNDER OR IN CONNECTION WITH THE AGREEMENT TO LICENSEE OR ANYONE CLAIMING UNDER OR THROUGH LICENSEE (A) FOR ANY PUNITIVE, EXEMPLARY, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR SPECIAL DAMAGES, OR FOR ANY LOST PROFITS, BUSINESS INTERRUPTION LOSSES, LOSSES OF GOODWILL, SAVINGS OR DATA; OR (B) IN AN AMOUNT, IN THE AGGREGATE FOR ALL CLAIMS, THAT EXCEEDS THE LESSER OF (x) THE TOTAL FEES ACTUALLY PAID BY LICENSEE TO FANNIE MAE UNDER THE AGREEMENT DURING THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING THE OCCURRENCE OF THE EVENT GIVING RISE TO LIABILITY AND (y) \$25,000, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE, DUTY TO WARN AND STRICT LIABILITY IN TORT) OR OTHERWISE, EVEN IF THE DAMAGES SUFFERED OR INCURRED BY THE INJURED PARTY WERE FORESEEABLE.
- 10.3** THE LIMITATIONS CONTAINED IN THIS SECTION 10 REPRESENT THE PARTIES' AGREEMENT AS TO THE ALLOCATION OF RISK BETWEEN THEM AND FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES.

## **11. CLAIMS OF INFRINGEMENT**

- 11.1.** If a third party asserts a claim against Licensee or its Related Parties alleging that their possession or use of the Licensed Materials in compliance with the Agreement infringes an intellectual property right of a third party that arises or is enforceable under the laws of the United States or, if in Fannie Mae's opinion such a claim is likely to be made, Fannie Mae may at its expense, (a) procure for Licensee the right to continue to access and use the Licensed Materials, (b) replace the Licensed Materials to avoid infringement, (c) modify the Licensed Materials to avoid infringement, or (d) terminate the relevant license(s) and Schedule(s) without Fannie Mae having any liability to Licensee relating to such termination. THE PROVISIONS IN THIS SECTION 11 ARE LICENSEE'S SOLE AND EXCLUSIVE REMEDIES AND FANNIE MAE'S SOLE LIABILITIES AND OBLIGATIONS FOR ANY CLAIMS BROUGHT AGAINST LICENSEE OR ITS RELATED PARTIES ALLEGING INTELLECTUAL PROPERTY INFRINGEMENT.



✓	<b>Fannie Mae (and its Third-Party Licensors) have no obligation to the extent that any claim of infringement is based upon Licensee's:</b>
	<ul style="list-style-type: none"><li>• access or use of the Licensed Materials in violation of the Agreement,</li><li>• integration, modification or marking of the Licensed Materials, or any portion of the Licensed Materials, where, in the absence of such integration, modification or marking, the Licensed Materials would not be infringing (unless such integration, modification or marking has been specifically authorized in writing by Fannie Mae),</li><li>• use of the Licensed Materials in combination with other software, documentation, hardware or data, if use without such software, documentation, hardware or data would not be infringing,</li><li>• use of a superseded version of the Licensed Materials if infringement could have been avoided by the use of the current version provided by Fannie Mae,</li><li>• use of the Licensed Materials in practicing any infringing process,</li><li>• use of the Licensed Materials in a manner for which they were not designed,</li><li>• activities after Fannie Mae has notified Licensee that Fannie Mae believes such activities may result in such infringement,</li><li>• designs, specifications or instructions, or</li><li>• use of any marks, including without limitation Fannie Mae's Marks, in violation of the Selling Guide, where Licensee is an SF Lender, or of Appendix A, where Licensee is not.</li></ul>



## 12. TERM AND TERMINATION

TERM AND TERMINATION	
Topic	Description
Term	The Agreement will remain in effect until terminated as provided in the Agreement (or any applicable Schedule with respect to a Licensed Application).
Termination	<ul style="list-style-type: none"> <li>• Fannie Mae may terminate these Master Terms or any Schedules at any time and without cause (i) with respect to any approved seller-servicer upon 60 days' prior written notice and (ii) with respect to a party that is not an approved seller-servicer, immediately upon written notice to the other party.</li> <li>• Any Licensee may terminate the Master Terms or any Schedules at any time, for any reason, upon 30 days' prior written notice to Fannie Mae.</li> <li>• In addition, Fannie Mae may terminate the Master Terms or any Schedule(s) or suspend or terminate Licensee's access to and use of one or more Licensed Applications immediately upon written notice to Licensee if:               <ul style="list-style-type: none"> <li>◦ Licensee has committed a breach of the Master Terms or any Schedules or its Lender Contract (if applicable),</li> <li>◦ Licensee attempts to cause or causes a Licensed Application or Fannie Mae system to malfunction or suffer damage,</li> <li>◦ Licensee enters into any proceeding that relates to insolvency or protection of creditor's rights,</li> <li>◦ Licensee's Mortgage Selling and Servicing Contract with Fannie Mae is suspended or terminated in whole or in part,</li> <li>◦ Fannie Mae determines that it no longer has the right to provide a Third-Party Application to Licensee,</li> <li>◦ in accordance with Section 11.1, or</li> <li>◦ in accordance with Section 13 ("Issued Bulletins; Amendments").</li> </ul> </li> <li>• At Fannie Mae's sole discretion, Licensee may be given the opportunity to cure a breach that Fannie Mae determines to be curable. In such case, the cure period will run for 30 days from receipt of the notice of the breach, or such time as Fannie Mae allows in the notice, provided that Licensee diligently pursues the cure throughout that period.</li> </ul>
Survival	Neither party will have any continuing obligations to the other upon the effective date of termination except that any provisions of the Agreement that contemplate their continuing effectiveness, including "Additional Provisions" and "Unauthorized Representations" in Section 3, Sections 4, 5.2 through 5.11, 7 through 10, "Survival" and "Certain Licensee Termination Obligations" in Section 12, Section 13 and Sections A1 through A10 of Appendix A, survive any termination of the Master Terms or a Schedule.
Certain Licensee Termination Obligations	Upon termination of the Master Terms or any individual Schedule, Licensee must (a) return or destroy all copies of Confidential Information received in connection with the Master Terms or the terminated Schedule(s), (b) immediately cease accessing and using the applicable Licensed Materials, and (c) destroy all copies of the associated documentation delivered (or made available) by Licensee. Upon



<b>TERM AND TERMINATION</b>	
	request from Fannie Mae, Licensee must have a duly authorized officer of Licensee certify Licensee's compliance with this section.

### 13. GENERAL PROVISIONS

<b>GENERAL PROVISIONS</b>	
<b>Topic</b>	<b>Description</b>
Notices	<p>All notices must be in writing (with electronic mail or Fannie Mae postings to Fannie Mae internet sites deemed to be a "writing" for this purpose) and delivered by (a) hand, (b) a reputable overnight courier (fees prepaid), (c) first class United States mail, registered or certified mail, return receipt requested (postage prepaid), (d) electronic mail, or (e) posting by Fannie Mae to an applicable Fannie Mae internet site.</p> <p>Any notice directed to Fannie Mae shall be addressed to "Fannie Mae Legal Department, Attn: Official Contract Notice," at Fannie Mae's corporate headquarters or to an e-mail address confirmed in writing by Fannie Mae as valid for receipt of notices. Except as provided in (e) above, any notice directed to Licensee shall be addressed to a Corporate Administrator at an address or electronic mail address provided to Fannie Mae by Licensee or Licensee's corporate headquarters.</p>
Issued Bulletins; Amendments	<p>Fannie Mae may issue hard-copy bulletins or electronic bulletins (via electronic mail or posted to an applicable Fannie Mae internet site) amending the Agreement on a prospective basis, effective on the date specified by Fannie Mae in the bulletin.</p> <p>Fannie Mae will issue each bulletin at least 20 calendar days before its effective date, except for bulletins granting license rights in additional licensed applications and those relating to software and other materials provided by Third-Party Licensors, which Fannie Mae may issue at any time prior to their effective date.</p> <p>In addition, upon suspension or termination of Licensee's Mortgage Selling and Servicing Contract with Fannie Mae, whether in whole or in part, Fannie Mae may amend the Agreement by providing written notice to Licensee, and the terms included in such notice will be effective immediately. Any decision to amend the Agreement upon suspension or termination of Licensee's Mortgage Selling and Servicing Contract is at Fannie Mae's sole discretion.</p> <p>Licensee may reject any bulletin by providing written notice to Fannie Mae within 15 calendar days after receipt of such bulletin, or within 7 calendar days after receipt of a written notice amending Licensee's Agreement, in which case Fannie Mae may terminate the Agreement or any affected Schedule(s) effective as of the</p>



<b>GENERAL PROVISIONS</b>	
<b>Topic</b>	<b>Description</b>
	<p>effective date of the bulletin or written notice. Unless Licensee provides such rejection notice within the 15-day period, Licensee is deemed to have accepted such amendments, and such amendments will form part of the Agreement as of the effective date of such bulletin or written notice. Licensee's continued use of any affected Licensed Application is an acknowledgment of its acceptance.</p> <p>Otherwise, the terms of the Agreement may be amended solely by a writing executed by a duly authorized representative of each party to be bound thereby. The Agreement may not be amended by any purchase order or other written instrument submitted by Licensee, whether or not formally rejected by Fannie Mae.</p>
Entire Agreement; Priority	<p>The Agreement constitutes the complete and exclusive statement of the agreement between the parties regarding the subject matter of each Schedule (or, if no Schedule has been entered into, regarding access to Fannie Mae's technology and systems), and supersedes all prior or contemporaneous communications, proposals or agreements, oral or written, relating to the subject matter of the Agreement.</p> <p>Without further action on the part of either party, any (a) schedules entered into pursuant to such agreement(s) are deemed to be Schedules under the Master Terms and (b) references in any Schedules and associated forms to "Licensed Software" are deemed to be references to "Licensed Application." If there is any conflict between a term or condition of any Schedule and the Master Terms, the term or condition contained in the Schedule will take precedence over the conflicting term or condition of the Master Terms, but only in connection with the Licensed Materials that are governed by that Schedule.</p>
Jurisdiction; Waiver of Jury Trial	<p>All disputes between the parties that cannot be settled by mutual agreement must be resolved solely and exclusively in the courts located within the state of New York, and each party hereby consents to the jurisdiction of such courts and irrevocably waives any objections thereto, including on the basis of improper venue or <u>forum non conveniens</u>.</p> <p><b>EACH OF THE PARTIES IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THE AGREEMENT.</b></p>
Third-Party Beneficiaries	<p>Applicable Third-Party Licensors are intended beneficiaries of the Agreement and may rely upon and directly enforce the terms and conditions of the Agreement to the extent it affects their rights or obligations. There are no other third party beneficiaries of the Agreement.</p>
U.S. Government	<p>If Licensee is any unit or agency of the U.S. Government, the Licensed Materials are provided as "commercial computer software" and "commercial computer software documentation," respectively, under FAR 12.212 and, accordingly, use, duplication, and disclosure of the Licensed Materials by the U.S. Government is subject to restrictions set forth in the Agreement.</p>



GENERAL PROVISIONS	
Topic	Description
Foreign Users	Licensee must ensure that the Licensed Materials are not used by any national (citizen or lawful permanent resident) of “Country Group E,” as that term is defined by the Export Administration Regulations, 15 C.F.R. 740 et. seq., nor may Licensee take any steps to facilitate such use.
No Implied Waiver	No term, provision or clause of the Agreement will be deemed waived and no breach excused unless such waiver or excuse is in writing and executed by a duly authorized representative of the party to be bound by it. Any waiver by a party of a breach by the other party does not constitute a consent to, waiver of, or excuse for any different or subsequent breach.
Independent Parties	The parties are independent contractors. Nothing in the Agreement will be construed to make the parties partners, joint venturers, representatives or agents of each other, nor may either party so represent to any third person. Third-Party Providers and Fannie Mae are not partners, joint venturers, representatives or agents of each other.

## **Appendix A**

**If Licensee is not an SF Lender, then: (a) Appendix A is applicable and is expressly incorporated by reference, and (b) Licensee must comply with the provisions in this Appendix A. If Licensee is an SF lender, then Appendix A is not applicable and does not form part of this Agreement**

### **A1. Definitions**

“**Confidential Information**” means information disclosed by or on behalf of Fannie Mae relating to technical specifications; product development strategy and activity; pricing and financial information; designs; unpublished patent applications; inventions; improvements; writings and other works of authorship; drawings; models; software (including source code and object code); algorithms; flow charts; and all other documentation or information of a confidential, proprietary, or trade secret nature which a reasonable person would recognize as such, or which is specifically designated as confidential, and any compilation or summary of this information. Confidential Information includes nonpublic personal information and the Licensed Materials.

“**Losses**” means losses, damages, penalties, settlements, liabilities, judgments, claims, counterclaims, defenses, actions, costs, expenses, attorney’s fees, and other legal fees.

### **A2. Trade Name and Trademarks**

Subject to the limitations set forth below, Fannie Mae grants to Licensee a nonexclusive, royalty-free, non-assignable and non-sublicensable license to use and display the Fannie Mae Marks within the United States, its territories and possessions, solely in connection with the sale, offering for sale, advertising and rendering of Licensee’s financial services and for the purposes of making truthful, accurate, and non-misleading references to Fannie Mae or Fannie Mae’s products or services. As such, Licensee may not



register, use or refer to a domain name that contains the Fannie Mae name, a Fannie Mae Mark, or any derivation of a Fannie Mae name or Mark, to conduct or promote its own activities.

<b>TERMS RELATED TO LICENSE TO USE FANNIE MAE MARKS</b>	
<b>Topic</b>	<b>Description</b>
Exclusions from License	This license does not apply to Fannie Mae’s House-on-the-Hill logo or any other corporate logos, slogans or tag lines used by Fannie Mae to identify itself in the marketplace. This license does not give Licensee any additional right, title, or interest in any Fannie Mae Marks.
Marks Belong Entirely to Fannie Mae	Licensee using Fannie Mae’s Marks agrees that Fannie Mae’s Marks are distinctive, famous Marks that are valid, enforceable, and belong entirely to Fannie Mae.
No Endorsement by Fannie Mae	Use of the Marks by Licensee, and of the Fannie Mae name in particular, may not in any way state or imply that Fannie Mae has endorsed Licensee’s products or services, nor constitute co-branded marketing by Licensee.
No Confusion	Licensee may not use the Marks in the promotion of its products or services in a way that is likely to cause confusion, mistake or likely to deceive the public about the actual source or sponsor of the products or services.
Services and Products to Comply with Applicable Requirements	<p>Licensee’s right to use Fannie Mae Marks under this license is conditioned on Licensee’s agreement that the nature and quality of all services that it provides, offers, or sells in connection with its use of the Marks will meet industry standards and comply with Fannie Mae’s requirements.</p> <p>Licensee may use a Mark only in connection with the particular products or services for which Fannie Mae uses the Mark or for which Fannie Mae has registered (or applied to register) to use the particular Mark. If Licensee is not certain about the characteristics of the products or services for which the particular Mark is to be used, it should request clarification from Fannie Mae.</p>
No Right to Challenge	Licensee has no right to challenge the validity or enforceability of the Marks, to sublicense the use of any the Marks, or to benefit from the value of any goodwill that might be created by Licensee’s use of the Marks.
Fannie Mae’s Remedies	If Fannie Mae believes that Licensee’s referencing of Fannie Mae Marks does not comply with the requirements in this Agreement, Fannie Mae may require Licensee to immediately either comply with the Agreement or discontinue use of the Marks. If appropriate, Fannie Mae may pursue equitable remedies, including specific performance or injunctive relief, to remedy Licensee’s breach.
Termination	<p>The license to use the Marks is terminated automatically when this Agreement is terminated or, as applied to a Licensed Application, when Licensee’s license in the Licensed Application is terminated.</p> <p>Fannie Mae also may terminate the license to use the Marks in connection with a default under this Agreement or if there is a material breach of the Fannie Mae trademark license, even if Fannie Mae decides not to terminate this Agreement in whole or in part.</p>





### A3. Confidentiality of Information; Nonpublic Personal Information; Data Breaches and Procedures

All Confidential Information disclosed by Fannie Mae will be considered the property of Fannie Mae (or applicable third-party owner or Third Party Licensor, as applicable).

Topic	Description
Licensee Responsibilities	<p>Licensee must:</p> <ul style="list-style-type: none"><li>• Take appropriate steps to ensure the security, integrity, and confidentiality of Confidential Information and must comply with all relevant applicable laws and regulations, including laws protecting borrower privacy.</li><li>• Not disclose Confidential Information to third parties, without Fannie Mae’s prior written approval, except on a need-to-know basis to Licensee’s partners, affiliates, officers, employees, directors, contractors, counsels, agents or representatives, provided they are subject to confidentiality obligations at least as stringent as those set forth in this Section A3.</li><li>• Not use Confidential Information in any way that could be viewed as a conflict of interest, a breach of confidentiality or privacy, or the gaining of an unfair advantage from the relationship with Fannie Mae.</li><li>• Implement commercially reasonable measures meeting or exceeding industry standards to ensure the security, integrity, and confidentiality of Confidential Information, including using industry-standard encryption for data in transit and virus checking programs designed to prevent the transmission and receipt of viruses and other malicious code, implementing appropriate disaster recovery and back-up procedures, implementing appropriate procedures to prevent disclosure of data and other materials to a party other than the intended recipient, and employing methods for securely disposing or destroying such information.<ul style="list-style-type: none"><li>◦ These measures must meet, at least, the same level of protection that the Receiving Party seeks for its own information of a similar nature.</li><li>◦ Licensee must collaborate with Fannie Mae in assessing the sufficiency of these measures and Licensee’s information security program, upon reasonable request.</li></ul></li><li>• Instruct its Related Parties who may receive Confidential Information about the requirements of this Section A3, and the processes and procedures necessary to comply with them.</li></ul>
Restrictive Legends	<ul style="list-style-type: none"><li>• Licensee must abide by and reproduce and include any restrictive legend or proprietary rights notice that appears in or on any Confidential Information of Fannie Mae or any Third-Party Licensor (or other third-party owner) that it is authorized to reproduce.</li><li>• Licensee also agrees that it will not remove, alter, cover or distort any trademark, trade name, copyright or other proprietary rights notices, legends, symbols or labels appearing on or in any Confidential Information of Fannie Mae or any Third-Party Licensor (or other third-party owner).</li></ul>



Data Breach Response Program	Licensee must maintain a response program consistent with the requirements of the Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice, as published in the Federal Register, for all Fannie Mae mortgage loans.
Required Actions in Case of Data Breach	Licensee must address any Data Breach with prompt and effective corrective action, including cooperation with Fannie Mae in the investigation and remediation of such Data Breach, as well as prompt disclosure and notification where legally required and taking all steps reasonably requested by Fannie Mae to mitigate the consequences of such Data Breach. Licensee must fully cooperate with Fannie Mae to enable compliance with its legal and privacy incident management obligations.
Notifications in Connection with a Data Breach	<p>Licensee must:</p> <ul style="list-style-type: none"> <li>• provide written notice to the borrowers and any state agencies or other bodies in accordance with privacy and data security breach laws;</li> <li>• maintain a copy of the notice in the individual mortgage loan file (if Licensee maintains the mortgage loan file);</li> <li>• notify Fannie Mae's Privacy Office (see E-1-03, List of Contacts in the Selling Guide) of any incident as soon as reasonably practicable via email. Notification must be within 72 hours if there is a data breach that <ul style="list-style-type: none"> <li>◦ affects 10 or more borrowers,</li> <li>◦ requires notice to state agencies or other regulatory bodies designated by privacy and data security breach laws, or</li> <li>◦ involves the intentional unauthorized access or misuse of borrower NPI; and</li> </ul> </li> <li>• request permission from Fannie Mae's Privacy Office (see E-1-03, List of Contacts in the Selling Guide) to use Fannie Mae's name if the Licensee intends to refer to Fannie Mae in any notices sent to affected borrowers or regulatory agencies.</li> </ul> <p>The written notice of a data breach to Fannie Mae's Privacy Office (see E-1-03, List of Contacts in the Selling Guide) must include:</p> <ul style="list-style-type: none"> <li>• a detailed description of the scope of the incident, including the number of impacted individuals and states where they reside;</li> <li>• a description of the related NPI;</li> <li>• the root cause (if known);</li> <li>• the response plan; and</li> <li>• a copy of the breach notice that the Licensee plans to send to the borrower(s) or an explanation as to why it is not sending a breach notice.</li> </ul>
Remedies	Fannie Mae may seek immediate equitable relief to enjoin any unauthorized use or disclosure of Confidential Information, in addition to all other rights and remedies it may have at law or otherwise.
Exclusions	The obligations in this Section do not apply to information that is or becomes public through no fault of Licensee, was previously known or is disclosed to Licensee free of any obligation to keep it confidential or is independently developed by Licensee without reference or access to the Confidential Information.



Disclosure Required by Applicable Law	<p>The restrictions on disclosure to a third party do not apply to the extent Licensee is required to disclose the Confidential Information by applicable law, provided that Licensee:</p> <ul style="list-style-type: none"><li>• uses all reasonable efforts to give Fannie Mae notice at least ten business days prior to such disclosure, and</li><li>• discloses only that portion of the Confidential Information that Licensee’s legal counsel determines is legally required to be furnished, and requests that the information remain confidential.</li></ul> <p>This notice requirement is waived if Licensee is required by law to disclose Confidential Information in response to a request from a governmental agency, regulator or self-regulatory authority that has authority to regulate or oversee Fannie Mae’s business (including bank examiners, securities examiners, and regulators’ inspector general offices), so long as Licensee formally requests that the Confidential Information be treated in confidence and exempt from Freedom of Information Act and other open records laws requests.</p>
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Fannie Mae may remove from Fannie Mae’s systems any material transmitted by Licensee that Fannie Mae determines is in violation of law or the Agreement or that Fannie Mae determines may lead to a Performance Incident or Data Breach. Fannie Mae has no obligation to remove, screen, police, edit or monitor any data or other material generated by Licensee or its Related Parties.

#### **A4. Feedback on New Processes and Technologies, Technology Upgrades, or Service Offerings**

Licensee may provide feedback in connection with a new process, technology, technology upgrade, or service offering yet to be released into production by Fannie Mae. The feedback may include comments and recommendations. When Licensee provides such feedback, it grants Fannie Mae an unlimited, worldwide, perpetual, and irrevocable license under Licensee’s intellectual property rights, without duty to account, to disclose, incorporate, practice, deploy, or adapt such feedback.

#### **A5. Loan Quality, Loan Performance Data and NPI**

Fannie Mae may at times share loan quality and loan performance data and other NPI with Licensee in compliance with permitted purposes outlined in the Gramm-Leach-Bliley Act and other applicable privacy laws. Licensee must use such data only for those limited permitted purposes.

#### **A6. Fannie Mae Obligations; Specific Transactions**

Fannie Mae will not disclose confidential information received from Licensee in furtherance of this Agreement to a third party, except as required or permitted by law. For specific transactions or dealings, Licensee and Fannie Mae may enter into a separate written confidentiality agreement. This separate confidentiality agreement will control in case of conflict with the provisions of Section A3. Fannie Mae may also agree in a separate written agreement that the confidentiality obligations set forth in Section A3 will apply to Fannie Mae.



## **A7. Compliance with Laws**

Licensee must be aware of, and in full compliance with, all federal, state, and local laws (e.g., statutes, regulations, ordinances, administrative rules, and orders that have the effect of law, and judicial rulings and opinions), including those that apply to any of its origination, selling, or servicing practices or other business practices (including the use of technology) that may have a material effect on Fannie Mae. Among other things, this means that Licensee must comply with any applicable law that addresses fair housing, fair lending, equal credit opportunity, truth in lending, wrongful discrimination, appraisals, real estate settlement procedures, privacy, data security, escrow account administration, mortgage insurance cancellation, debt collection, credit reporting, electronic signatures or transactions, electronic notarization (including remote notarization), predatory lending, anti-money laundering, export, terrorist activity, communications decency, the importation and exportation of software and data, ability to repay, state community and marital property, or the enforcement of any of the terms of relevant mortgages. Licensee bears sole responsibility for complying with such laws, rules, regulations and conventions. Such compliance obligations shall in no event be considered imposed upon or shared by Fannie Mae or its Third-Party Licensors by virtue of Licensee's use of the Licensed Application.

## **A8. Indemnification**

Licensee must indemnify and hold harmless Fannie Mae, its Third-Party Licensors and each of the foregoing entities' affiliates, partners, successors and assigns and employees, officers, directors, agents, contractors and representatives individually when they are acting in their corporate capacity) harmless from and against all Losses that are based on, or result or arise from any third-party claim relating to (i) any breach of the Agreement (except to the extent the Losses resulted solely from Licensee following the written instructions of Fannie Mae relating to the claim or Fannie Mae or its Third-party Licensors directly caused such Fannie Mae Losses), (ii) activities that occur through the use of an Authentication Credential issued to Licensee, whether or not the activities were authorized by Licensee, (iii) any software, information or data submitted to Fannie Mae technology using an Authentication Credential issued to Licensee or submitted on behalf of Licensee, (iv) Licensee's use of the Licensed Materials in conjunction with any third-party software or system, (v) any defamatory or illegal material, or material that violates any right of a third party, that is transmitted to Fannie Mae systems using an Authentication Credential issued to Licensee.

## **A9. Indemnification Procedures**

The indemnities set forth above (i) apply regardless of whether Fannie Mae is a party to the lawsuit or other proceeding; or the claim, suit or proceeding has merit and (ii) do not modify or otherwise affect Fannie Mae's right to manage its defense for any claim, suit, or proceeding in accordance with its own judgment. If Fannie Mae chooses its own counsel, Licensee will still be obligated to the full extent of the indemnities set forth above, including paying the attorney's fees and costs of counsel selected by Fannie Mae. If Fannie Mae decides that its interests and Licensee's coincide, Fannie Mae may decide to cooperate with Licensee in a joint defense.

Unless otherwise expressly provided in the Agreement, Fannie Mae will determine without regard to "materiality" or similar limitations if there are any Fannie Mae Losses and the amount of all Fannie Mae Losses. All payments for indemnification are due within 60 days after written demand or if appealed, within 15 days after an appeal is denied. Fannie Mae may offset the amount of any unpaid indemnification payment due from Licensee against amounts Fannie Mae owes to Licensee.



**A10. General Provisions**

<b>Topic</b>	<b>Description</b>
Severability	If any provision of this Agreement is declared invalid or unenforceable, then, to the extent possible, all of the remaining provisions of this Agreement will remain in full force and effect.
Governing Law	The Agreement is governed by and construed in accordance with the laws of New York, without application of its conflicts of law rules.
Assignment	Licensee may not assign this Agreement without Fannie Mae's prior written consent, except by operation of law. Licensee must notify Fannie Mae within 30 days of any assignment by operation of law. Fannie Mae reserves the right to terminate the Agreement if no such notice is given or upon receipt of such notice.
Electronic Signatures and Transmissions	Electronic signatures, including faxed signatures and scanned copies of ink signatures, will be deemed to be originals for all purposes, and the parties intend and agree to be legally bound by such and other electronic transmissions between them.

## Software Subscription Agreement

### FILE TRANSFER PORTAL Schedule

#### LICENSED APPLICATION/ADDITIONAL TERMS

1. Licensed Application. Fannie Mae licenses to Licensee the application known as the File Transfer Portal together with, as permitted, any associated APIs (each, a “**Licensed Application**”) pursuant to this Schedule and the Master Terms and Conditions between Fannie Mae and Licensee (the “**Master Terms**”) into which this Schedule is incorporated (together, the “**Agreement**”). As of the effective date of this Schedule, the Licensed Application allows Licensee to transfer mortgage data.
2. Integration. Licensee may choose to implement or develop or implement and develop one or more interfaces that will transfer data electronically between a mortgage-related system and the Licensed Application. If Licensee places such an interface into production, the following terms will apply:
  - a. Maintenance of Interface. Except as expressly permitted, Licensee agrees to maintain the interface in good working order and, along with the mortgage-related system, at all times compatible with the most current version of the Licensed Application. Licensee understands and agrees that errors and deficiencies in the performance of the Licensed Application, including accuracy of results, may result from Licensee’s failure to perform such maintenance and Fannie Mae will bear no responsibility for any errors, deficiencies or inaccuracy of results.
  - b. Cooperation. Licensee shall designate and make available to Fannie Mae qualified personnel to promptly respond to technical questions pertaining to the interface and the mortgage-related system (as integrated with the Licensed Application).
  - c. Maintenance of Interface. Licensee shall use reasonable efforts to ensure that the interface and data transmitted by the interface will be free of all known bugs, viruses and other functions, routines, devices and instructions which may create any unauthorized access to, or interruption in the functioning of, the Licensed Application or Fannie Mae’s systems.
3. Termination. For any Licensee who is not a Fannie Mae seller/servicer, the following applies:

In addition to the termination provision in the Section of the Master Terms entitled “Term and Termination,” Fannie Mae may, at any time and without cause, immediately suspend or terminate Licensee’s right to access and use the Licensed Application, or may terminate this Schedule, upon written notice to Licensee.