

Loan Origination System Addendum

This Loan Origination System Addendum dated as of _____, 2020 to the Purchase Agreement for Single Family Loans, VHDA Form No. CD 171 dated 06/20 (which, as amended from time to time, is referred to herein as the Agreement”), is made by and between _____ (“Originating Lender”) and the Virginia Housing Development Authority (the “Authority”).

RECITALS: The Authority has entered into a Loan Originations System Contract (“License Agreement”) with Accenture LLP (“Accenture”) to provide a loan originations system for the Authority’s single family loan programs (“Application Service”). A condition of the License Agreement is that the Authority enter into an agreement with each correspondent originator for which the Authority provides access to the Application Service that includes terms at least as protective of Accenture as the terms set forth in this License Agreement.

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

No Representations. The Authority does not, by way of the Agreement or otherwise, make any representations or warranties, express or implied, on behalf of or relating to Accenture or the Application Service.

A. Privacy, Security, Notification and Confidentiality.

i. Privacy. As an agent, service provider or data processor for the Authority, Accenture may receive nonpublic personal information (“NPP Information”), as defined by the Gramm-Leach-Bliley Act, 15 U.S.C. §6801 et. seq. (the “Act”).

ii. Security. In the License Agreement, Accenture agrees to not, directly or through any affiliate of Accenture, knowingly or negligently disclose such NPP Information to any other person that is a nonaffiliated third party of both the Authority and Accenture, unless such disclosure would be lawful if made directly to such other person by the Authority. Accenture further agrees that it will maintain the confidentiality of the NPP Information disclosed to them and limit use of such NPP Information solely for the purposes for which it was disclosed in an effort to protect the same from unauthorized disclosure, copying, use, distribution, installation, or transfer of possession by implementing commercially reasonable administrative, technical and physical measures using the same standards it would use to protect its own NPP Information of like kind, but in no event less than a reasonable standard of care. The exceptions to Accenture’s obligation to maintain such confidentiality of NPP Information is if any use, publication or disclosure of the NPP Information (i) is made with the consent of Authority, or (ii) is required by federal, state or local laws, rules, regulations and other applicable legal requirements or is in response to a request from any governmental, regulatory or self-regulatory agencies. Accenture has further agreed to notify Authority of any intentional or inadvertent release of NPP Information as soon as practicable, upon discovery, and to take any actions reasonably necessary or required by law.

Except for the obligations of Accenture under the License Agreement, Originating Lender is responsible for the security, confidentiality and integrity of all messages and content Originating Lender receives, transmits through or stores on the Application Service and for any authorized or unauthorized

access to any account or passwords issued to Originating Lender. Originating Lender is responsible for maintaining the confidentiality of any account or password issued to Originating Lender. Originating Lender agrees to comply with all laws and regulations applicable to the gathering, processing, storing, transmitting, dissemination and use of any personal and business information including, without limitation, borrower information.

iv. Notification. Originating Lender shall notify the Authority as promptly as reasonably possible of any suspected unauthorized use of or access to the Application Service. In the event of unauthorized use arising from Originating Lender or Originating Lender's agents' possession of or access to the Application Service, Originating Lender shall fully cooperate in any appropriate action the Authority or Accenture may take or request to protect its rights in the Application Service.

v. Confidentiality. For purposes of this Addendum, "Confidential Information" includes all trade secrets and confidential information of Accenture and its licensors, including but not limited to the Application Service, software (both source and object code), documentation, algorithms, development techniques, support techniques, methodologies, formulae, business plans, research and development strategies, prospect names and lists, work product resulting from or related to the Application Service or software, internal personnel, financial, marketing and other business information, and product and service prices, as well as know-how and proprietary information related to the foregoing (collectively, the "Confidential Information"). However, "Confidential Information" does not include NPP Information. The Originating Lender acknowledges that, if Originating Lender shall learn of Confidential Information or otherwise have access to Confidential Information, such Confidential Information constitutes highly valuable information not generally known by competitors and disclosure of such Confidential Information to competitors and other third parties would cause undue harm. As such, except as otherwise expressly provided herein, Originating Lender will retain the Confidential Information using the same standards it would use to protect its own Confidential Information of like kind, but in no event less than a reasonable standard of care to protect the same by preventing any unauthorized disclosure, copying, use, distribution, installation, or transfer of possession of the Confidential Information. Originating Lender further agrees that it shall return to Accenture, upon Accenture's request, any such Confidential Information and copies thereof. The restrictions set forth above shall not apply to information that the recipient can establish (a) is generally known within the industry at the time of its disclosure; (b) is lawfully received by the recipient from a third party not bound in a confidential relationship to the discloser; (c) was already in the recipient's possession at the time such information was disclosed by the discloser to the recipient; or (d) was independently developed by the recipient without use of the information disclosed under the Agreement. If a portion or aspect of the Confidential Information becomes generally known, only that portion or aspect shall not be governed by this Addendum and all other aspects of the Confidential Information shall remain subject to the provisions of this Addendum. If Originating Lender violates any of the provisions of this section, the Authority or Accenture (in addition to any other and additional rights or remedies it may have at law, in equity, or by statute) shall be entitled to seek immediate and permanent injunctive relief, it being agreed that the damages that the Authority or Accenture would sustain upon such violation are difficult or impossible to ascertain in advance. The posting of a bond shall not be required as a pre-condition to such injunctive relief.

B. Indemnity. Originating Lender will defend any third party claim against Accenture and pay any damages and costs finally awarded against Accenture by a court of competent jurisdiction or that are

included in a settlement approved by Originating Lender where such claim arises out of or relates to the wrongful use of the Application Service by Originating Lender. This obligation is contingent upon: (a) Accenture's prompt written notification to Originating Lender of the claim; (b) Accenture's tender to Originating Lender of the claim and settlement negotiations; (c) at Originating Lender's option, Originating Lender's sole control of the defense and settlement negotiations related to the claim; (d) Accenture's assistance (at Originating Lender's expense) in the defense or settlement of the claim; and (e) Accenture not making any admission prejudicial to the defense of the claim, except as required by court procedures. Originating Lender shall have no obligation to pay damages or settlement amounts negotiated by Accenture. Originating Lender must get Accenture's written permission to settle the claim if the settlement involves Accenture admitting liability or provides for any equitable or non-monetary damages.

C. Disclaimer of Warranty.

i. Application Service Warranty. Accenture represents and warrants that the Application Service shall function in conformity with the License Agreement. Changes in laws or regulations shall not be deemed to be defects in the Application Service.

ii. Accenture's Representations and Warranties under the License Agreement.

In the License Agreement, Accenture represents and warrants that with each Loan Document Package created under the License Agreement: (a) the form and verbiage of the Loan Documents conform to applicable federal and state law, and to the requirements of Fannie Mae, Freddie Mac, Federal Housing Administration (FHA), Rural Housing Services (RHS) and Veterans Affairs (VA) (individually, an "Agency" or collectively, the "Agencies"), as applicable; (b) the form and verbiage of the Federal Disclosures conforms with applicable federal law; (c) the form and verbiage of the state Disclosures conform with applicable state law; (d) any software provided by Accenture to the Authority pursuant to the License Agreement shall not infringe upon any copyright, patent, trade secret or other proprietary right of a third party.

In the event Accenture or the Authority become aware of any errors or suspected errors in any Documents, Originating Lender, if necessary, has an affirmative duty to cooperate fully with Accenture to allow Accenture to mitigate any actual or potential damages. Notwithstanding the foregoing, Accenture's act of mitigating any actual or potential damages shall not be an admission of liability, errors or omissions. Accenture will have no liability for any damages or costs directly resulting from the distribution of any Documents that the Authority or Originating Lender has actual knowledge are not in material compliance with applicable law, regulation or Agency guidelines.

Specifically excluded from this warranty are circumstances where there are conflicts and inconsistencies between federal and state laws or regulations rendering compliance indeterminable by a person with the requisite expertise, skill and knowledge in the industry. Accenture excludes from this warranty, anything that is not expressly included herein. This warranty does not extend the Custom Documents, or any unauthorized modifications to the Documents.

All capitalized terms in this section not otherwise defined in this Addendum shall have the meaning set forth in the License Agreement.

iii. No Other Warranty.

EXCEPT FOR THE FOREGOING REPRESENTATIONS AND WARRANTIES, ACCENTURE MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE DOCUMENTS OR THE LOAN DOCUMENT PACKAGES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OTHER THAN CONTEMPLATED BY THE LICENSE AGREEMENT. ORIGINATING LENDER UNDERSTANDS AND ACKNOWLEDGES THAT ACCENTURE DOES NOT ENGAGE IN THE PRACTICE OF LAW AND THUS MAY NOT RENDER LEGAL ADVICE.

EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THE LICENSE AGREEMENT, ACCENTURE PROVIDES THE APPLICATION SERVICES ON AN "AS IS" AND "AS AVAILABLE" BASIS, AND ORIGINATING LENDER'S USE OF THE APPLICATION SERVICES IS AT ITS OWN RISK. ACCENTURE DOES NOT MAKE, AND HEREBY DISCLAIMS ANY AND ALL OTHER EXPRESS AND IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND TITLE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. ACCENTURE DOES NOT WARRANT THAT THE OPERATION OF THE APPLICATION SERVICE WILL BE UNINTERRUPTED, ERROR FREE OR COMPLETELY SECURE.

THIRD PARTY SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, AND LICENSEE'S USE OF SUCH THIRD PARTY SERVICE IS AT ITS OWN RISK. ACCENTURE DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS AND IMPLIED WARRANTIES AND LIABILITIES WITH RESPECT TO THIRD PARTY SERVICES INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND TITLE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE.

iv. Disclaimer Of Actions Caused By Or Under The Control Of Third Parties.

Accenture does not and cannot control the flow of data to or from Accenture's network and other portions of the Internet. Such flow depends in large part on the performance of Internet services provided or controlled by third parties. At times, actions or inactions of such third parties can impair or disrupt connections to the Internet (or portions thereof.). Accenture cannot guarantee that such events will not occur, and Originating Lender acknowledges, agrees and understands that Accenture is not liable for such events.

D. Limitation of Liability.

THE TOTAL, AGGREGATE LIABILITY OF A PARTY FOR ANY AND ALL CLAIMS UNDER THE LICENSE AGREEMENT FOR ANY REASON SHALL BE LIMITED TO DIRECT DAMAGES NOT TO EXCEED AN AMOUNT EQUAL TO THE FEES PAID BY THE AUTHORITY UNDER THE LICENSE AGREEMENT FOR THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM. IN NO EVENT WILL ANY PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY (WHETHER IN CONTRACT, TORT

(INCLUDING NEGLIGENCE) OR OTHERWISE) FOR ANY LOSS OF PRODUCTION, LOSS OR CORRUPTION OF DATA, LOSS OF PROFITS OR OF CONTRACTS, LOSS OF BUSINESS OR OF REVENUES, LOSS OF OPERATION TIME, WASTED MANAGEMENT TIME, LOSS OF GOODWILL OR REPUTATION, IN EACH CASE WHETHER CAUSED DIRECTLY OR INDIRECTLY, OR TO GIVE AN ACCOUNT OF PROFITS TO COMPANY OR ANY THIRD PARTY, OR FOR ANY INDIRECT, INCIDENTAL, EXEMPLARY, SPECIAL, PUNITIVE OR CONSEQUENTIAL LOSS, DAMAGE, COST OR EXPENSE WHATSOEVER AND WHETHER OR NOT ACCENTURE HAS BEEN ADVISED OF THEIR POSSIBILITY.

The parties have executed this Addendum by their duly authorized officers as of the date first set forth above.

Originating Lender:

The Authority:

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

By: _____

By: _____

Title: _____

Title: Director, Homeownership Programs