



# Non-QM Select 5 Program Guide

**Version 6**

**May 1, 2025**

The Non-QM Select 5 program includes both Non-QM (1 and 2 year full documentation, personal and business bank statements, 1099 statements and asset depletion) and DSCR. There are two rate sheets for this program: Non-QMSelect5 and DSCRSelect5. The eligibility matrices for each rate sheet are in [Sections 3.2](#) and [3.3](#) of this guide.

All information contained herein is proprietary and shall be kept confidential

## Version 6 Update Summary

Section	Update Summary
2.0	Clarified exceptions may be allowed on a case-by-case basis with strong compensating factors.
3.2./3.3	Updated eligibility for the Non-QM and DSCR program matrices.
5.0	For DSCR loans vested in an entity, clarified a third-party fraud report is required for the entity and all members of the entity.
5.1	Amended the requirements for DSCR loans vested in an entity to require one or more members representing 51% ownership of the entity to provide a personal guarantee.
5.3	Clarified the requirements for multiple financed properties.
8.3	Updated the housing history requirements to align with the Agencies timing guidelines.
10.2	<ul style="list-style-type: none"> <li>Added a business narrative is required to describe the type of business and number of employees.</li> <li>Amended the fixed expense ratio approach to tiered.</li> <li>Clarified the eligible deposits must be multiplied by the ownership percentage in the qualifying income calculation.</li> <li>Removed third party prepared P&amp;L as an expense ratio approach.</li> </ul>
10.3	<del>Added third party prepared P&amp;L as an eligible Alternative Documentation Program.</del> Not available at this time
10.4	Added 1099 as an eligible Alternative Documentation Program.
11.0	For DSCR loans, clarified 12 months investor experience must be within the past 24 months.
14.1	Added 1 unit property with an accessory dwelling unit as an eligible property type.

14.5

- Updated the fixed percentage and declining prepayment penalty structures to apply only on the amount of the prepayment that exceeds 20% of the original principal balance in any 12 month period.
- Clarified the state term restrictions represent the maximum term.

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## 1.0 Fair Lending Statement

CW Lend operates in accordance with the provisions of the Fair Housing Act and Equal Credit Opportunity Act. The Fair Housing Act makes it unlawful to discriminate in housing-related activities against any person because of race, color, religion, national origin, sex, handicap, or familial status. The Equal Credit Opportunity Act prohibits discrimination with respect to any aspect of a credit transaction on the basis of sex, race, color, religion, national origin, marital status, age (provided the Borrower has the capacity to enter into a binding contract), receipt of public assistance, or because the Borrower has in good faith exercised any right under the Consumer Credit Protection Act. CW Lend fully supports the letter and spirit of both of these laws and will not condone discrimination in any mortgage transaction.

## 2.0 Underwriting Philosophy

All loans must be manually underwritten and documented per the requirements in this guide. CW Lend may approve exceptions on a case-by-case basis with strong compensating factors. If an exception is needed, please contact Underwriting for assistance.

Where the guidelines are silent, defer to FNMA.

### 2.1 Benefit to Borrower

In keeping with the commitment of responsible lending, all refinance transactions must have a measurable benefit to the Borrower. When determining the benefit on a refinance transaction, one (1) or more of the following items must exist to support the benefit to the Borrower:

- Lower principal and interest housing payment
- Lower total monthly payments
- Lower interest rate
- Conversion from adjustable rate to fixed rate
- Payoff of a balloon payment
- Conversion from negative amortization to fully amortizing
- Reduction of loan term
- Reduction of total interest payments
- Consolidation of debt
- Payoff of a tax lien
- Proceeds (cash-out) to Borrower in excess of the costs and fees to refinance
- Payoff of a construction loan
- Payoff off of property taxes
- Title transfer/Court order
- Eliminating mortgage insurance

Acceptable secondary benefits to be used in conjunction with other benefits are:

- Cash-out for medical needs
- Cash-out for education needs
- Payoff of a privately held mortgage

On a loan where the only benefit is monthly savings, closing costs and fees must be considered and recouped within state-specified timeframes as applicable.

Originators must adhere to any state-specific or federal benefit to Borrower compliance requirements.

## 3.0 Products

### 3.1 Products Offered

#### Fixed Rate Products

A fixed rate mortgage is a mortgage transaction in which the interest rate remains fixed throughout the amortized term.

- **Terms:** 30- and 40-year amortization. Qualified using the fully amortizing payment.
- **Interest-Only Option:** available with a 30-year term including a 10-year initial interest-only period followed by a 20-year fully amortizing period. Qualified using the fully amortizing payment calculated over the 20-year fully amortizing period.

#### Adjustable Rate Products

An Adjustable Rate Mortgage (ARM) is a mortgage transaction in which the interest rate changes at specified intervals.

- **Terms:** 5yr/6m, 7yr/6m and 10yr/6m initial adjustable rate period options with 30-year amortization. Qualified using the greater of the maximum rate that could apply at the first adjustment or the fully indexed rate. The fully indexed rate is the sum of the index and the margin.
- **Interest-Only Option:** available with a 30-year term including a 10-year initial interest-only period followed by a 20-year fully amortizing period. Qualified using the fully amortizing payment calculated over the 20-year fully amortizing period based on the greater of the maximum rate that could apply at the first adjustment or the fully indexed rate.
- **Caps**
  - 5yr/6m: 2%/1%/5% (Initial, Periodic, Lifetime)
  - 7yr/6m and 10yr/6m: 5%/1%/5%
- **Index:** 180 Day Average SOFR Index as published by the New York Federal Reserve.
- **Margin/Floor:** 3.5%
- **Rounding:** to the nearest one-eighth of one percentage point (0.125%).



- **Look-Back:** 45 days

### **Legal Documentation**

FNMA documents can be utilized for closing. If FNMA does not offer current documentation (i.e., interest only products or prepayment penalties), a document vendor such as Doc Magic or IDS should be utilized.

### 3.2 Product Matrix - Non-QM - Full and Alternative Documentation Programs

Occupancy	Maximum Loan Amount	Purchase/Rate & Term		Cash-Out	
		Maximum LTV/CLTV	Minimum Credit Score	Maximum LTV/CLTV	Minimum Credit Score
Primary	\$2,500,000	80%	620	75%	620
	\$3,000,000	90%	680	85%	680
	\$3,000,000	85%	640	80%	640
	\$3,500,000 <sup>1</sup>	70%	760		
Second Home	\$2,500,000	80%	620	75%	620
	\$3,000,000	90%	680	85%	680
	\$3,000,000	85%	640	80%	640
NOO	\$2,500,000	70%	620	65%	620
	\$3,000,000	80%	680	75%	680
	\$3,000,000	75%	640	70%	640
<sup>1</sup> 12 Year Full Documentation Only					
<b>Additional Requirements</b>					
<b>Minimum Loan Amount: \$100,000</b> <b>Maximum DTI: 50%</b> <b>Minimum Reserves:</b> -Loan Amount <=\$500,000 - 3 months PITIA -Loan Amount >\$500,000 and <=\$1,000,000 - 6 months PITIA - Loan Amount >\$1,000,000 and <=\$2,000,000 - 9 months PITIA - Loan Amount >\$2,000,000 and <=\$3,000,000 - 12 months PITIA - Loan Amount >\$3,000,000 - 18 months PITIA <b>Maximum Cash-Out: \$1,000,000</b> <b>Interest Only: reduce max LTV/CLTV 5%</b> <b>12 Month P&amp;L: maximum LTV/CLTV 80%</b>					

### 3.3 Product Matrix - DSCR Program

	DSCR >=1.00				DSCR >=.75 and <1.00			
	Purchase/Rate-Term		Cash-Out		Purchase/Rate-Term		Cash-Out	
Maximum Loan Amount	Maximum LTV/CLTV	Minimum Credit Score	Maximum LTV/CLTV	Minimum Credit Score	Maximum LTV/CLTV	Minimum Credit Score	Maximum LTV/CLTV	Minimum Credit Score
\$1,000,000	80%	680	75%	680	70%	680	65%	680
	75%	640	70%	640	65%	640	60%	660
\$1,500,000	80%	680	75%	680	70%	680	65%	680
	75%	640	70%	640				
\$2,000,000	80%	680	75%	680				
Additional Requirements								
Minimum Loan Amount: \$100,000 Minimum Reserves: 6 months PITIA Maximum Cash-Out: \$1,000,000 Interest Only: reduce max LTV/CLTV 5% Refinances of Unleased Properties: reduce max LTV/CLTV 5%.								

## 4.0 Regulatory Compliance

Seller must ensure that each loan delivered to CW Lend has been originated, closed, serviced and transferred in compliance with all applicable federal, state and local laws and regulations. To the extent applicable to the subject transaction, loans must adhere to the Ability to Repay (ATR) rule effective 3/1/21, the TILA-RESPA Integrated Disclosure (TRID) rule effective 10/3/15 and the laws and regulations listed below.

- Regulation X - RESPA
- Regulation Z - Truth in Lending
- Regulation G - SAFE Act - Federal Licensing and Registration
- Regulation H- SAFE Act - State Licensing and Regulation
- Regulation V - Fair Credit Reporting
- Regulation B - Equal Credit Opportunity
- Regulation P - Privacy of Consumer Financial Information (GLB)
- USA Patriot Act
- Fair Housing Act
- Dodd-Frank Act
- Federal high cost loan regulations.
- State, local and county high cost and usury regulations
- National Flood Insurance Act

All applicable closing documentation and disclosures pertaining to the above regulations should be included in the closed file submission.

CW Lend will not purchase loans which are: (a) Mortgage Loans subject to, 12 CFR Part 1026.32 or, 1026.34 of Regulation Z, the regulation implementing TILA, which implements the Home Ownership and Equity Protection Act of 1994, as amended, or (b) classified and/or defined, as a “high cost,” “threshold,” “predatory high risk home loan,” or “covered” loan (or a similarly-classified loan using different terminology under a law imposing additional legal liability for mortgage loans having high interest rates, points and/or fees) under any other applicable state, federal, or local law.

## 5.0 Borrower Eligibility

Borrowers must have reached the age at which the mortgage note can be enforced in the jurisdiction where the property is located. There is no maximum age limit for a borrower. The maximum exposure to CW Lend for one (1) borrower/guarantor is ten (10) loans or \$5,000,000.

Lender is required to order a third-party fraud report (Fraudguard or similar) to identify and resolve any borrower information discrepancies and indications of possible fraudulent activity. The report should also include a comparison of all participant names against

industry watch and exclusionary lists such as OFAC. For DSCR loans vested in an entity, a report is required for the entity and all members of the entity.

## 5.1 Eligible Borrowers

- United States Citizens
- Permanent Resident Aliens

Permanent Resident Aliens with an Alien Registration Card (Green Card) are eligible for financing with the same terms as United States Citizens. A Permanent Resident Alien is:

- Not a United States citizen
- Employed in the United States
- A lawful permanent resident of the United States (Green Card Holder)

If the Borrower is a Permanent Resident Alien, the file must contain evidence of lawful permanent residency.

- Non-Permanent Resident Aliens

Non-Permanent Resident Aliens are eligible. A Non-Permanent Resident Alien is:

- Not a United States citizen
- Granted the right to live and work in the United States on a temporary basis and their primary residence and employment is in the United States
- A lawful non-permanent resident of the United States (Visa Holder)

If the Borrower is a Non-Permanent Resident Alien, the file must contain evidence of lawful residency. Borrowers who are Non-Permanent Resident Aliens and provide evidence of lawful residency are eligible for financing with the same terms as United States Citizens.

A Borrower with an expired, but otherwise acceptable Visa type, is permitted with supporting documentation. For example, supporting documentation includes, but is not limited to, any of the following:

- Form I-797 which is issued when an application or petition is approved.
- Form I-797C or I-797E which must not state that the application has been declined.
- Application for extension of current visa I-539 (or equivalent) or copy of application for green card I-485 (or equivalent) and electronic verification of receipt from the USCIS web site.
- If the borrower is sponsored by the employer, the employer may verify that they are sponsoring the Visa renewal.
- In lieu of a Visa, an Unexpired Employment Authorization Document

- (EAD), or I-94 or I-797; and a letter from the employer or a verification of employment reflecting continuance is likely are required.
  - Grant of Asylum (Asylee) is permitted with letter from United States Citizenship and Immigration Services indicating eligibility and completed form I-94, Arrival and Departure Record, indicating borrower has been granted asylum in the United States.
  - Deferred Action for Childhood Arrivals (DACA) approval.

Non-Permanent Resident Aliens may qualify using either a SSN or ITIN, provided they meet all of the standard requirements related to credit, employment, income and assets.

- Inter-Vivos (Living) Revocable Trusts

Inter-Vivos (Living) Revocable Trusts are permitted. The following requirements must be satisfied:

- The trust must be established by one or more natural persons, solely or jointly. The primary beneficiary of the trust must be the individual(s) establishing the trust. The trust must become effective during the lifetime of the person establishing the trust.
- If the trust is established jointly, there may be more than one primary beneficiary as long as the income or assets of at least one of the individuals establishing the trust will be used to qualify for the mortgage.
- One (1) of the following:
  - A signed attorney's opinion of the trust is required. The opinion letter must indicate that the trust meets all requirements in this section and must also include the following: name of the trust, date executed, settler(s) of the trust, whether it is revocable or irrevocable, does the trust have multiple trustees, etc.
  - A notarized statement from the Borrower indicating that the trust has not been revoked, modified, or amended in any manner.

The trustee must include either:

- The individual establishing the trust (or at least one of the individuals, if there are two or more).
- An institutional trustee that customarily performs trust functions in and is authorized to act as trustee under the laws of the applicable state.

Other requirements:

- The trustee must have the power to hold the title and mortgage the property. This must be specified in the trust.
- One (1) or more of the parties establishing the trust must use personal income or assets to qualify for the mortgage.

- Non-Occupant Co-Borrowers

Non-occupying Co-Borrowers are permitted provided that:

- Occupying Borrower must demonstrate sole financial capacity for the mortgage by not exceeding a total Debt-to-income (DTI) ratio of 43%.
- Subject property must be 1-Unit Primary Residence for the Occupying Borrower.
- The non-occupying Borrower(s) must:
  - Sign the Note.
  - Meet the minimum credit history and credit score requirements.
  - Not be an interested party to the transaction (i.e., seller, builder, realtor, etc.), and must have family or other similar long-standing relationship with the Borrower.
- United States based Limited Liability Companies (LLC), Partnerships and Corporations (allowed on the DSCR Program Only): while ownership of the subject property may vest in an entity, individual members of the entity must act as borrowers.
  - Any business structure is limited to a maximum of four members.
  - Purpose and activities of the business are limited to ownership and management of real estate.
  - Copies of the entities Articles of Organization, Operating Agreements, Tax Identification Number, Certificate of Good Standing and other corporate documents needed to determine ownership percentage and authority to execute on behalf of the entity must be provided.
  - One or more members representing at least 51% ownership of the entity must provide a Personal Guarantee (see [Appendix A](#) for Form of Personal Guarantee). The Guaranty must be executed as an individual at loan closing and dated the same date as the Note or the loan will be ineligible for purchase. Personal guarantees from community property states must be accompanied with a Spousal Consent to Pledge.
    - Each Guarantor must complete and sign a Loan Application as an individual. The section labelled "Title will be held in what Name(s)" should be completed with the entity name. Each Guarantor is subject to the same underwriting requirements as an individual borrower.
    - Each Guarantor must sign the applicable federal and state disclosures as an individual.
    - Each Guarantor must have the authority to execute documents on behalf of the entity and sign the following documents as an authorized signer of the entity.
      - ✓ Business Purpose and Occupancy Affidavit
      - ✓ Note, Deed of Trust/Mortgage and all Riders
      - ✓ Any state and/or federally required settlement statements

- Final loan documents may not be signed with a Power of Attorney.

- **First-Time Homebuyer**

A “First-Time Homebuyer” is defined as a Borrower who had no ownership interest in a residential property in the United States during the preceding three (3) year period. A First-Time Homebuyer is permitted with the below restrictions:

- Investment Property not permitted
- Interest Only not permitted

- **Limited Power of Attorney (POA)**

A Limited Power of Attorney is acceptable when all of the following are met:

- It is specific to the transaction.
- It is recorded with the Mortgage/Deed of Trust.
- It contains an expiration date.
- It is used to execute only the final loan documents.
- The Borrower who executed the POA signed the initial 1003.
- An interested party to the transaction (such as seller, broker, loan officer, realtor, etc.) may not act as Power of Attorney.

- **Lawsuit/Pending Litigation**

If the application, title, or credit documents reveal that the Borrower is presently involved in a lawsuit or pending litigation, a statement from the Borrower’s attorney may be required. The statement must explain the circumstances of the lawsuit or litigation and discuss the Borrower’s liability and insurance coverage. A copy of the complaint and answer may also be needed. The title company closing the loan must be informed of the lawsuit or litigation and provide affirmative coverage of our first lien position. Lawsuit/pending litigation is not permitted for any cash out transaction.

## **5.2 Ineligible Borrowers**

- Irrevocable trusts
- Illinois Land Trusts
- Borrowers with diplomatic immunity or otherwise excluded from United States jurisdiction
- Borrowers less than 18 years old

## **5.3 Multiple Financed Properties**

If the subject property is a primary residence, defer to FNMA.



If the subject property is a second home or investment property, borrowers who own more than ten (10) financed properties (residential, 1-4 family), including their primary residence, are not permitted except under the DSCR Program. The DSCR Program permits up to twenty (20) financed properties (residential, 1-4 family) for borrowers/guarantors, including their primary residence, subject property and all additional financed properties. Additional financed properties (properties other than the subject property and primary residence) are limited to properties with mortgages on the credit report or third-party fraud report.

## 6.0 Occupancy

### 6.1 Primary Residence

Primary occupancy refers to a property that is occupied as the Borrower's primary residence for a major portion of the year. Primary occupancy is allowed on 1-4 family dwellings (including condominiums and PUDs). A typical primary residence meets the following criteria:

- Usually located in the same general area as the Borrower's income source.
- Borrower(s) declares their intention to occupy the subject property.

### 6.2 Second Home (Vacation Home)

Second home occupancy is a single-family dwelling that the Borrower occupies in addition to their primary residence. A typical second home will meet the following criteria:

- Must be located a reasonable distance away from the Borrower's principal residence.
- Borrower may not own any other residential real estate in the same locale or vicinity.
- Suitable for year around occupancy.
- It must be available for Borrower's exclusive use. It may not be subject to any timesharing arrangements, rental pools or other agreements which require the Borrower to rent the subject property or otherwise give control of the subject property to a management firm.
- Any rental income received will not be considered.
- 2-4 unit properties are not permitted.

### 6.3 Investment Property (Non-Owner Occupied)

An investment property is owned but not occupied by the borrower. Investment occupancy is allowed on 1- 4 family dwellings (including condominiums and PUDs).

For cash-out refinance transactions of an investment property a borrower signed Business Purpose & Occupancy Affidavit indicating the loan purpose is for the acquisition,

improvement or maintenance of a rental property is required. See [Appendix B](#) for form of Affidavit. Loans delivered without the affidavit will be subject to TILA compliance.

Cash out loan proceeds used for any personal use are not eligible as a Business Purpose loan and will be subject to TILA compliance.

## 7.0 Eligible Transaction Types

### 7.1 Purchases

A purchase transaction is one in which the proceeds are used to finance the acquisition of a property.

- A copy of the fully executed purchase contract and all attachments or addenda is required.
- For purposes of calculating the LTV, the property value is defined as the lesser of the purchase price or appraised value of the mortgaged premises.
- The seller must be on title for a minimum of 90 days from the date seller takes title to date sales contract executed (excludes new construction).
- Twelve (12) month chain of title to ensure not a flip transaction. Property flipping schemes and other similar type transactions not permitted.

When the Borrower is purchasing a new property as an Owner-Occupied residence, but will still retain ownership of their existing residence, the following requirements apply:

- If the current principal residence is pending sale but the transaction will not be closed prior to the new transaction, or the property is being converted to a second home, both the current and proposed mortgage payments (PITIA) must be included in the debt-to-income ratio used for qualification.
- If the current principal residence is being converted to an investment property, see Section 9.19 Conversion of Departing Residence to Investment Property.

### 7.2 Rate and Term Refinance (Limited Cash-Out Refinance)

For rate-term refinances, the loan amount is limited to the sum of the following:

- Existing first mortgage payoff, closing costs, fees, and any prepaid items.
- Any subordinate financing which was used to acquire the subject property.
- Any subordinate financing that was not used to purchase the subject property provided:
  - For closed end seconds, the loan is at least one (1) year seasoned as determined by the time between the note date of the subordinate lien and the application date of the new mortgage.
  - For HELOCs and other open-ended lines of credit, the loan is at least one

(1) year seasoned and there have been less than \$2,000 in total draws over the past 12 months.

- Cash to Borrower no greater than \$5,000.
- Properties listed for sale in the last six (6) months are not eligible for a refinance transaction. This timeframe is measured from the date the property was no longer listed or offered for sale to the application date of the current transaction.
- A property owned free and clear by the Borrower is not eligible for Rate/Term Refinance.
- Refinance to buy out an owner's interest is permitted and should follow FNMA guidance.

### 7.3 Cash-Out Refinance

A cash-out refinance involves a refinance that does not meet the rate term refinance definition. Typically, this would include a refinance where the Borrower received more than \$5,000 cash from the transaction or when an open-ended subordinate lien that does not meet the rate-term requirements is paid off. Cash-Out Refinances are permitted with the following requirements:

- A minimum of six (6) months must have elapsed since the most recent mortgage transaction on the subject property (either the original purchase transaction or subsequent refinance). This timeframe is measured from the note date of the previous transaction to the note date of the current transaction.
- A mortgage placed on a property previously owned free and clear by the Borrower is always considered a cash-out refinance mortgage.
- The maximum amount of cash out for a cash-out refinance transaction is \$1,000,000.
- Loans secured by a homestead in Texas are eligible provided they comply with Article 16, Section 50 of the Texas Constitution, and applicable regulations.

#### Subordinate Financing

The Borrower is not required to satisfy outstanding junior liens secured by the subject property provided:

- There is a fully executed copy of the subordination agreement verifying our lien is in first position.
- The subordinate financing was provided by a financial institution.
- A copy of the note is provided and reviewed to ensure terms are consistent with other requirements of these guidelines.
- Properties listed for sale in the last six (6) months are not eligible for a refinance transaction. This timeframe is measured from the date the property was no longer listed or offered for sale to the application date of the current transaction.

## 7.4 Continuity of Obligation

For a refinance transaction to be eligible for purchase there must be a continuity of obligation of the outstanding lien that will be satisfied through the refinance transaction.

An acceptable Continuity of Obligation exists when any of the following exist:

- There is at least one (1) Borrower obligated on the new loan who was also a Borrower obligated on the existing loan that is being refinanced.
- The Borrower has been on title and residing in the property for at least six (6) months and has either paid the mortgage for the last six (6) months or can demonstrate a relationship (parent, spouse, domestic partner, sibling, etc.) with the current obligor.
- The Borrower has recently inherited or was legally awarded the property (divorce, separation).
- The existing loan being refinanced and the title have been held in the name of a natural person or a limited liability company as long as the Borrower was a member of the limited liability company prior to transfer. The loan must have been transferred out of Limited Liability Company prior to application. Transfer of ownership from a corporation to individual does not meet Continuity of Obligation. DSCR is exempt from this requirement.

Properties that are owned free and clear meet the continuity of obligation. Loans with an acceptable continuity of obligation may be underwritten and priced as either rate and term or cash-out refinance transactions based on the requirements for each type of transaction.

## 7.5 Delayed Financing

Borrowers who purchased the subject property within the past six (6) months (measured from the date on which the property was purchased to the disbursement date of the new mortgage loan) are eligible for a cash-out refinance if all of the following requirements are met:

- The original purchase transaction was an arms-length transaction.
- The borrower(s) initially purchased the property as one of the following:
  - A natural person, an eligible inter vivos revocable trust, when the borrower is both the individual establishing the trust and the beneficiary of the trust.
  - An eligible land trust when the borrower is the beneficiary of the land trust or an LLC or partnership in which the borrower(s) have an individual or joint ownership of 100%.
- The original purchase transaction is documented by a settlement statement, which confirms that no mortgage financing was used to obtain the subject property. (A recorded trustee's deed (or similar alternative) confirming the amount paid by the grantee to trustee may be substituted for a settlement statement if a settlement statement was not provided to the purchaser at time of sale.)

- The preliminary title search or report must confirm that there are no existing liens on the subject property.
- The sources of funds for the purchase transaction are documented (such as bank statements, personal loan documents, or a HELOC on another property).
- If the source of funds used to acquire the property was an unsecured loan or a loan secured by an asset other than the subject property (such as a HELOC secured by another property), the settlement statement for the refinance transaction must reflect that all cash-out proceeds be used to pay off or pay down, as applicable, the loan used to purchase the property. Any payments on the balance remaining from the original loan must be included in the debt-to-income ratio calculation for the refinance transaction. Funds received as gifts and used to purchase the property may not be reimbursed with proceeds of the new mortgage loan.
- The new loan amount can be no more than the actual documented amount of the borrower's initial investment in purchasing the property plus the financing of closing costs, prepaid fees, and points on the new mortgage loan (subject to the maximum LTV, CLTV, and HCLTV ratios for the cash-out transaction based on the current appraised value).
- All other cash-out refinance eligibility requirements are met. Cash-out pricing is applicable.

## 7.6 Contract for Deed/Land Contract

When the proceeds of a mortgage transaction are used to pay off the outstanding balance on an installment land contract that was executed within twelve (12) months preceding the date of the loan application, the transaction must be considered a purchase transaction.

The LTV ratio for the mortgage loan must be determined by dividing the new loan amount by the lesser of the total acquisition cost (defined as the purchase price indicated in the land contract, plus any costs the purchaser incurs for rehabilitation, renovation, or energy conservation improvements) or the appraised value of the property at the time the new mortgage loan is closed. The expenditures included in the total acquisition cost must be fully documented by the borrower.

When the installment land contract was executed more than twelve (12) months before the date of the loan application, the loan will be considered a limited cash-out refinance. In this case, the LTV ratio for the mortgage loan must be determined by dividing the new loan amount by the appraised value of the property at the time of the new mortgage loan is closed.

Cash-out refinance transactions involving installment land contracts are not eligible.

## 7.7 Permanent Financing for Newly Constructed Homes

The conversion of construction-to-permanent financing involves the granting of a long-term mortgage to a borrower for the purpose of replacing interim construction financing that the borrower has obtained to fund the construction of a new residence.

Construction-to-permanent financing can be structured as a transaction with one closing or a transaction with two separate closings. The borrower must hold title to the lot, which may have been previously acquired or be purchased as part of the transaction.

All construction work, including any work that could entitle a party to file a mechanics' or materialmen's lien, must be completed and paid for, and all mechanics' liens, materialmen's liens, and any other liens and claims that could become liens relating to the construction must be satisfied before the mortgage loan is delivered. The lender must retain in its individual loan file the appraiser's certificate of completion and a photograph of the completed property. When a construction-to-permanent mortgage loan provides funds for acquisition or refinancing of an unimproved lot and the construction of a residence on the lot, the lender must retain a certificate of occupancy or an equivalent form from the applicable government authority.

The lender must use FNMA's uniform mortgage instruments to document the permanent mortgage. These documents may not be altered to include any reference to construction of the property, other than any alteration that FNMA specifically requires.

Attached units in a condo project, all co-op projects, and manufactured housing are not eligible for construction-to-permanent financing. Detached units in condo projects are permitted for construction-to-permanent financing.

The following are required for all construction-to-permanent mortgages:

- Certificate of Occupancy from applicable government authority.
- Appraisal Report 1004-D.
- For qualification purposes, if the tax assessed value of the property is based on the final fully improved value of the property, then the actual taxes may be used, otherwise taxes are calculated at 1.5% or the actual tax rate of the appraised value.

#### Single-Closing Construction-to-Permanent Mortgages:

A single-closing construction-to-permanent mortgage loan may be closed as either:

- A purchase transaction
- A limited cash-out refinance transaction

When a purchase transaction is used, the borrower is not the owner of the lot at the time of the first advance of interim construction financing, and the borrower is using the proceeds from the interim construction financing to purchase the lot and finance the construction of the property.

When a limited cash-out refinance transaction is used, the borrower must have held legal title to the lot before he or she receives the first advance of interim construction financing.

The borrower is using the proceeds from the construction financing to pay off any existing liens on the lot and finance the construction of the property. This type of transaction is not a “true” limited cash-out refinance whereby the borrower refinances a loan(s) that was used to purchase a completed property; however, all other requirements for limited cash-out refinances apply.

Cash-out refinance transactions are not eligible for single-closing construction-to permanent mortgages.

### *Calculating the LTV Ratio for Single-Closing Construction-to-Permanent Mortgages*

Single-closing construction-to-permanent mortgages are subject to the purchase and limited cash-out refinance maximum LTV, CLTV, and HCLTV ratios provided in the Product Matrix, as applicable. The LTV ratio calculation differs depending on whether the transaction is a purchase or a limited cash-out refinance, as shown in the table below.

Transaction Type	Lot Ownership Requirement	LTV Ratio Calculation
Purchase	The borrower is not the owner of record of the lot at the time of the first advance of interim construction financing	Divide the loan amount of the construction-to-permanent financing by the lesser of the purchase price (sum of the cost of construction and the sales price of the lot), or the “as completed” appraised value of the property (the lot and improvements).
Limited Cash-out Refinance	The borrower is the owner of record of the lot at the time of the first advance of interim construction financing.	Divide the loan amount of the construction-to-permanent financing by the “as completed” appraised value of the property (the lot and improvements).

### *Age of Credit and Appraisal Documents*

Single-closing transactions with credit and appraisal documents dated more than four (4) months but not exceeding eighteen (18) months old at the time of the conversion to permanent financing are eligible for delivery if all of the following conditions were met at the time of the original closing of the construction loan:

- The documents were dated within 120 days of the original closing date of the construction loan.
- The LTV, CLTV, and HCLTV ratios do not exceed 70%.
- The borrower has a minimum credit score of 700.

### *Down Payment Requirements for Single-Closing Purchase Transactions*

The borrower must use his or her own funds to make the minimum borrower contribution unless one of the following is true:

- The LTV, CLTV, or HCLTV ratio is less than or equal to 80%.

- The borrower is purchasing a one-unit principal residence and meets the requirements to use gifts, donated grant funds, or funds received from an employer to pay for some or all of the borrower's minimum contribution.

### *Modifications of Single-Closing Construction-to-Permanent Mortgages*

If the terms of the permanent financing change after the original closing date of the construction loan, the loan may be modified to reflect the new terms if it meets all of the following criteria:

- The modification must take place prior to or at the time of conversion.
- Only the following loan terms may be modified in a single-closing transaction:
  - Interest rate
  - Loan amount
  - Loan term
  - Amortization type (adjustable-rate amortization to a fixed-rate amortization)
- The loan must be underwritten based on the terms of the loan as modified and delivered.
- Increases to the loan amount are permitted only as necessary to cover documented increased costs of construction of the property.
- If the modification results in an increase in the original loan amount, the lender remains responsible for all standard title insurance requirements. In addition, the lender must obtain an endorsement to the title insurance policy that:
  - Extends the effective date of the coverage to the date of the recording of the modification agreement.
  - Increases the amount of the policy to the original loan amount, as increased.
  - Confirms that the lien of the mortgage, as modified, continues to be a first lien.
  - Both the original construction loan amount at closing and the final modified loan amount delivered must meet the loan limits currently in effect.
- The original construction loan must be documented on FNMA uniform instruments or substantially similar documents, subject to the non-standard document representations and warranties.
- The modification must be documented on one of the following:
  - Loan Modification Agreement (Providing for Fixed Interest Rate) (FNMA Form 3179).
  - Loan Modification Agreement (Providing for Adjustable Interest Rate) (FNMA Form 3161).
  - A substantially similar document, subject to the non-standard document representations and warranties.

### Two-Closings \ Construction-to-Permanent Mortgages



In a two-closing construction-to-permanent transaction, the permanent mortgage delivered may be closed as either:

- A limited cash-out refinance transaction
- A cash-out refinance transaction

Two-closing construction-to-permanent mortgages are subject to the limited cash-out and cash-out refinance maximum LTV, CLTV, and HCLTV ratios provided in the Product Matrix, as applicable. For the borrower to be eligible for a cash-out refinance transaction, the borrower must have held legal title to the lot for at least six months prior to the closing of the permanent mortgage. All other standard cash-out refinance eligibility and underwriting requirements apply.

## 7.8 Non-Arm's Length Transactions

Non-arm's length transactions involve a personal relationship or business relationship (outside of the subject transaction) between the Borrower and any interested party to the transaction. These transactions must be fully disclosed as such, and the appraiser must be informed of the non-arm's length transaction and address whether or not the market value has been affected.

A "family member" is defined as the Borrower's spouse, child, dependent, domestic partner, fiancé, fiancée, or any other individual related to the borrower by blood, marriage, adoption, or legal guardianship.

Non-arm's length transactions are considered only under the following conditions:

- Relationships are clearly disclosed with initial submission.
- Primary residence only.
- Additional risk factors are not present (i.e., distress sale, selling assets for down payment, etc.).
- Loans made to principals or employees of the lender or service provider cannot provide services on their own transactions (closing agent, title agent, appraiser, etc.).
- In purchase transactions where the lender is a corporation, partnership or any other business entity, the seller must ensure that the Borrower is not one of the owners of the business entity selling the subject property.

Family transactions occur when a family member deeds the title to their home to another family member. The following apply to family transactions:

- Relationships are clearly disclosed with initial submission.
- Primary residence only.
- Purchase contract must be provided.
- A Gift of Equity letter is required to explain the relationship and reason for the

- gift.
- Appraiser must note this is a non-arm's length transaction.
- Foreclosure bailouts are not allowed. Payoff statement and Verification of Mortgage (VOM) on subject required as verification.
- The HUD-1 must reflect all liens on title are paid and not all loan proceeds going to the family member.
- Current appraised value is used for LTV purposes.

## 7.9 Loan Seasoning

To be eligible for purchase, the period between the closing date and the lock date cannot exceed 90 days. In addition, the period between the closing date and settlement date cannot exceed 180 days.

## 7.10 Ineligible Transaction Types

- Lease Purchase Option
- Model Home Lease Back
- Builder/Seller Bailout
- Foreclosure Bailout
- Blanket Loans
- Bridge Loans on the Subject Property
- Refinancing of a subsidized loan including Habitat for Humanity, USDA, FHA with recapture or any City/County grant
- Loans with Shared Appreciation second liens

## 8.0 Credit Documentation Requirements

Determination of a Borrower's creditworthiness, as demonstrated by willingness to repay past and current debt obligations in a timely manner, is a critical aspect of credit analysis.

A credit report is required for every Borrower who executes the note. The credit report must meet all FNMA requirements, as well as any additional criteria in this guideline. The representative credit score should be determined based on the FNMA definition. An average credit score is not permitted for qualifying or pricing purposes.

### 8.1 Credit Documents Age

The credit report and credit verifications may not be greater than 120 days old at the time of closing.

## 8.2 Minimum Credit Requirements

Each Borrower must have an established credit history and the following must appear on their credit bureau report:

- A minimum of three (3) trade lines from traditional credit sources that reported for 24 months or more.
- At least one (1) of these must be open and active for the last 12 months. Authorized user accounts will not be considered as a credit reference for establishing this minimum required history, and alternative credit histories not permitted.
- VOR documented per guidelines may count as a trade line.
- On full documentation loans, DU/LPA approval can be utilized in lieu of the trade line requirements above.

## 8.3 Mortgage/Rental History

CW Lend requires a 12-month housing history on the subject property, primary residence and all additional financed properties. All payment histories must reflect 0X30 measured from the credit report date. On the credit report date, the existing mortgage(s) must be current, which means that no more than 45 days have elapsed since the last paid installment date.

For DSCR loans, only the subject property and primary residence must be listed on the application and the housing history requirements for additional financed properties (properties other than the subject property and primary residence) are limited to properties with mortgages reflected on the credit report.

Mortgage/Rental history must be documented as follows:

- A mortgage payment history from an institutional lender as verified through (i) credit bureau report reference for 12 months, (ii) a verification of mortgage completed by a financial institution or (iii) 12 months canceled checks.
- For rental verification, a credit supplement, standard VOR completed by a professional management company or 12 months bank statements or canceled checks are required.
- If a borrower is refinancing a privately held mortgage the following payment verification requirements apply:
  - The privately held mortgage payments must be verified with either cancelled checks or bank statements (if the payment is automatically withdrawn from the borrower's account).
  - Evidence must be included in the loan file that the lien being paid off is a current recorded lien against the subject property.
- Forbearance, or repayment plans, for any financed property must be completed with all related financial obligations satisfactorily met and at least three (3) consecutive timely payments made as of the application date of the new loan.

Borrowers who have lived in a rent-free situation are ineligible. If a Borrower has lived in a temporarily rent-free situation for a time period of three (3) months or less, and the prior twelve (12) months can be documented, this is acceptable (example: Borrower sold residence then lived with family rent-free until a new home was available). Borrowers whose spouse has the mortgage in only their name but can verify payments are coming from a joint account or who have other mortgaged properties with satisfactory most recent 12 month pay histories are excluded from rent free restrictions. Borrowers with a primary home that is owned free and clear are also exempt from this requirement.

For credit review purposes, timeshare obligations are considered installment.

#### **8.4 Bankruptcy, Foreclosure, Notice of Default (NOD), Deed-In-Lieu of Foreclosure and Short Sales**

- At least two (2) years must have elapsed since bankruptcy discharge, dismissal or completion, foreclosure, notice of default (NOD), short sale or deed-in-lieu measured from the date of completion to the date of application.
- A satisfactory letter of explanation for the event from the borrower is required.
- Borrower must show reestablished credit and meet the minimum credit requirement.
- If there are multiple events, at least seven (7) years must have elapsed since the last event.

#### **8.5 Collections, Charge-Offs, Judgments and Liens**

All delinquent credit that will impact title, including delinquent taxes, judgments, charge-off accounts, tax liens and mechanics' lines, must be paid off prior to or at closing. Title must insure the lien position without exception. Any item secured against the subject must be paid in full.

However, non-medical collection accounts, charged-off accounts and judgments that do not impact title are not required to be paid off if the sum total of all derogatory accounts is \$5,000 or less. When total exceeds \$5,000, all must be paid in their entirety and all past due accounts brought current. Medical collection accounts that do not impact title are not required to be paid regardless of the amount.

#### **8.6 Delinquent Credit belonging to an Ex-Spouse**

Delinquent credit which belongs to an ex-spouse may be excluded from the credit evaluation when all of the following apply:

- File contains a copy of the divorce decree or separation agreement which shows the derogatory accounts belong solely to the ex-spouse.
- Late payments that have occurred after the date of the divorce or separation.

- If debt in question is a mortgage, evidence of title transfer prior to any delinquent debt must be provided and evidence of “buyout” as part of court proceedings.

## 8.7 Delinquent Credit belonging to Co-Signer

A Co-signer is considered a Borrower on the loan, and therefore delinquent credit that belongs to a co-signer must be considered when evaluating the loan.

## 8.8 Written Explanations

A written explanation is required for significant derogatory information. The purpose for requiring a written explanation is to assist the Originator in determining whether the Borrower's credit problems were due to extenuating circumstances (factors clearly beyond the control of the Borrower) or whether they reflect financial mismanagement (the Borrower's disregard for the payment of obligations when due). In order to accomplish this purpose, it may be necessary to allow someone to assist the Borrower in preparing the explanation.

A written explanation in and of itself does not satisfy the Originator's responsibility to determine the Borrower's willingness to repay. When adverse or derogatory information is considered significant, the Originator must relate the reasons for the late payments, as stated by the Borrower, to the other information about the Borrower's credit history contained in the Mortgage file. The Originator must reasonably be able to conclude that:

- The explanation is consistent with the adverse information reported and the other information in the Mortgage file.
- The explanation establishes a credible cause for the late payments.
- The Borrower represents an acceptable credit risk and exhibits the ability and willingness to repay the Mortgage.

## 8.9 Inquiries

If the credit report indicated that a creditor has made inquiries within the previous 90-day period, the underwriter must determine whether additional credit was granted as a result of the Borrower's request. A letter from the creditor or letter of explanation from the Borrower is required for all inquiries inside this time period.

## 9.0 Full Documentation Program

Full Documentation requires 24 months of verified income and employment history that can reasonably be expected to continue, and verification of assets for funds to close (if applicable) and required reserves. Regardless of income source and in addition to other verification required or provided, each Borrower must sign an IRS Form 4506-C/8821, which must be executed by the originator to obtain full tax transcripts for the most recent two (2) years. Where the guidelines are silent on documentation in this section, defer to FNMA.

Income documentation may not be greater than 120 days old at the time of closing.

## 9.1 Income Sources and Calculation of Income

The income of each Borrower who will be obligated for the mortgage debt and whose income is being relied upon in determining ability to repay must be analyzed to determine whether their income level can be reasonably expected to continue. Borrowers are qualified based on calculated stable monthly income over the most recent two (2) year period. Stable monthly income consists of those amounts and sources which are reasonably expected to continue. Income can be reasonably expected to continue where the Borrower's employer verifies current employment and income and does not indicate that employment has been or is set to be terminated. However, an originator should not assume that income can be reasonably expected to continue if a verification of employment includes an affirmative statement that the employment is likely to cease. Income from sources other than salaries or wages, such as bonus, commission, self-employment, etc., may be considered, when properly verified and documented by the originator.

Use the most conservative approach for the income calculation when income, which is substantial or comprises the majority of qualifying income, is declining or inconsistent. An explanation for the decline must be obtained. If income has been declining or inconsistent, the lowest annual compensation over the prior two (2) year period must be used to qualify the Borrower. Unreimbursed expenses, for either the Borrower or co-Borrower, must be subtracted from qualifying income.

The source(s) of income used to qualify must be reviewed with regard to the Borrower's ability to meet their total debt obligation. Varying types and levels of income documentation may be necessary for different types of income and programs.

## 9.2 Employment and Income Stability

Employment must be stable with at least a 2-year history in the same job or jobs in the same or related field. Self-employed Borrowers must have been in business for at least 2 years. Other circumstances may also be acceptable as outlined in this section.

### Frequent Job Changes

A Borrower who changes jobs frequently to advance within the same line of work may receive favorable treatment if this can be verified. Frequent job changes without advancement or in different fields of work must be carefully reviewed to ensure consistent or increasing income levels and the likelihood of continued stable employment and income.

### Gaps in Employment

Borrower must explain, in writing, any job gaps that span one (1) month or more and be employed at current job for a minimum of 6 months.

Previously in School or Military

Originator must require the Borrower to indicate whether he or she is or has been in school or the military for the recent two full years and, if so, provide evidence supporting this claim, such as college transcripts, or discharge papers.

### 9.3 Income Documentation Requirements

Salaried Income/Wage Earner Income

Income that is derived from a consistent hourly, weekly or monthly wage, must be verified by all of the following:

- Most recent typed or computer-generated pay stub(s) covering a 30-day period (28 days for a Borrower who is paid bi-weekly) with Borrower's full name and address, employer's name, Borrower's rate of pay and year-to-date earnings. Paystub should be reviewed to confirm it does not reflect garnishments and that Social Security and Medicare are taxed at the appropriate rates.
- Typed or computer-generated IRS Form W-2's for the prior 2 years.
- Signed and executed IRS Form 4506-C/8821.
- Verbal Verification of Employment within 10 calendar days of closing.

Borrowers paid on an hourly basis or who may not work a regular 40-hour work week throughout the year, will generally have their income averaged over the minimum employment history required. If there is an indication of declining income, the current income is used instead of the average.

*Overtime and Bonus Income*

Overtime and bonus income can be used to qualify if the Borrower has received this income for the past two (2) years, and documentation submitted for the loan does not indicate this income will likely cease. If, for example, the employment verification states that the overtime and bonus income is unlikely to continue, it may not be used in qualifying.

The creditor must develop an average of bonus or overtime income for the past two (2) years. Periods of overtime and bonus income less than two (2) years may be acceptable, provided the creditor can justify and document in writing the reason for using the income for qualifying purposes.

The creditor must establish and document an earnings trend for overtime and bonus income. If either type of income shows a continual decline, the creditor must document in writing a sound rationalization for including the income when qualifying the Borrower.

A period of more than two (2) years must be used in calculating the average overtime and bonus income if the income varies significantly from year to year.

### *Commission Income*

A commissioned Borrower is one who receives more than 25 percent of their annual income from commissions. Commission income must be averaged over the previous two (2) years and unreimbursed business expenses must be subtracted from gross income. To qualify with commission income, the Borrower must provide:

- Copies of signed and dated tax returns containing all schedules for the last two (2) years and most recent typed or computer-generated pay stub(s) covering a 30-day period (28 days for a Borrower who is paid bi-weekly) with Borrower's full name and address, employer's name, Borrower's rate of pay and year-to-date earnings. Paystub should be reviewed to confirm it does not reflect garnishments and that Social Security and Medicare are taxed at the appropriate rates.
- A tax transcript obtained directly from the IRS may be used in lieu of signed tax returns.

Borrowers whose commission income was received for more than one (1) year, but less than two (2) years may be considered if the underwriter can:

- Document the likelihood that the income will continue and soundly rationalize accepting the commission income.

Borrowers whose commission income was received for less than one (1) year may be considered if:

- The Borrower's compensation was changed from salary to commission within a similar position with the same employer.
- A Borrower's income may also qualify when the portion of earnings not attributed to commissions would be sufficient to qualify the Borrower for the mortgage.

### *Tax Transcripts*

An IRS Form 4506-C/8821 document must be completed and signed by the Borrower(s) whenever the Borrower(s) discloses income on the loan application. The form must request the appropriate documentation type (IRS Form W-2s, full tax transcripts, etc.) and be executed by the originating lender prior to closing. For Borrowers with qualifying income from only salary/wage sources and fully documented through IRS Form W-2s, the IRS Form 4506-C/8821 need only be executed for IRS Form W-2s. For self-employed Borrowers, or for non-self-employed Borrowers with taxable income other than from salary/wage sources, the IRS Form 4506-C/8821 must be executed for full transcripts (tax return, wage and income and account transcript).

Documentation received from executing the IRS Form 4506-C/8821 must be reviewed and compared to the qualifying income determined from the primary income source documentation to confirm consistency. Documentation from processing the IRS Form 4506-C/8821 must be equal to or greater than the income used to qualify the loan.



### *Verbal Verification of Employment (VVOE) for Salaried Borrowers*

- The lender must independently obtain a phone number and, if possible, an address for the borrower's employer. This can be accomplished by using a telephone book, the Internet, directory assistance, or by contacting the applicable licensing bureau.
- The lender must contact the employer verbally and confirm the borrower's current employment status within ten (10) calendar days prior to the note date. Note: If the employer confirms the borrower is currently on temporary leave, the lender must consider the borrower "employed".
- The conversation must be documented. It should include the following:
  - Name and title of the person who confirmed the employment for the lender.
  - Name and title of the person who completed the verification for the employer.
  - Date of the call.
  - The source of the phone number.

### Self-Employment Income

A Borrower is considered self-employed when they have a 25% or more ownership interest in a business. Borrowers who are self-employed but are not using self-employment income to qualify, do not have to meet the self-employed income requirements below if the income is positive and not being used or the self-employment income is secondary employment (borrower is a W2 wage earner) and the loss is minimal. Qualifying income must be calculated using FNMA's cash flow analysis (Form 1084) or a comparable income analysis form.

Income from self-employment must be received by the Borrower and documented for two (2) years (or more) to be used as qualifying income. The Borrower must own the business for the most recent two (2) years.

#### *General Documentation Requirements for Self-Employed Borrower*

- Signed, dated individual tax returns, with all applicable tax schedules for the most recent two (2) years.
- For a corporation, "S" corporation, or partnership, signed and dated copies of Federal business income tax returns for the last two (2) years, with all applicable tax schedules.
- Year-to-date profit and loss (P&L) statement and balance sheet.

#### *Establishing Earnings Trend for a Self-Employed Borrower*

When qualifying income, the creditor must establish the Borrower's earnings trend from the previous two (2) years using the Borrower's tax returns. If a Borrower:

- Provides quarterly tax returns, the income analysis may include income through the period covered by the tax filing.
- Is not subject to quarterly tax returns, or does not file them, then the income shown on the P&L statement may be included in the analysis, provided the income stream based on the P&L is consistent with the previous years' earnings.
- If the P&L statements submitted for the current year show an income stream considerably greater than what is supported by the previous year's tax returns, the creditor must base the income analysis solely on the income verified through the tax returns.
- If the Borrower's earnings trend for the previous two (2) years is downward and the most recent tax return or P&L is less than the prior year's tax return, the Borrower's most recent year's tax return or P&L must be used to calculate his/her income.

### *Analyzing the Financial Strength of the Business*

The creditor must consider the business's financial strength by examining annual earnings. Annual earnings that are stable or increasing are acceptable, while businesses that show a significant decline in income over the analysis period are not acceptable.

### *Income Analysis: Individual Tax Returns (IRS Form 1040)*

The amount shown on a Borrower's IRS Form 1040 as adjusted gross income must either be increased or decreased based on the creditor's analysis of the individual tax return and any related tax schedules.

### *Guidelines for Analyzing IRS Form 1040*

The table below contains guidelines for analyzing IRS Form 1040:

IRS Form 1040 Heading	Description
<b>Wages, Salaries and Tips</b>	<p>An amount shown under this heading may indicate that the individual:</p> <ul style="list-style-type: none"> <li>• Is a salaried employee of a corporation</li> <li>• Has other sources of income</li> </ul> <p>This section may also indicate that the spouse is employed in which case the spouse's income must be subtracted from the Borrower's adjusted gross income</p>
<b>Business Income and Loss (from Schedule C)</b>	Sole proprietorship income calculated on Schedule C is business income. Depreciation or depletion may be added back to the adjusted gross income.
<b>Rent, Royalties, Partnerships (from Schedule E)</b>	Any income received from rental properties or royalties may be used as income, after adding back any depreciation shown on Schedule E.

<b>Capital Gains and Losses (from Schedule D)</b>	<p>Capital gains or losses generally occur only one time and should not be considered when determining effective income.</p> <p>However, if the individual has a constant turnover of assets resulting in gains, the capital gain may be considered when determining the income. Two (2) years tax returns are required to evaluate an earnings trend.</p> <p>Creditor must document anticipated continuation of income through verified assets. Refer to FNMA.</p> <p>Example: A creditor can consider the capital gains for an individual who purchases old houses, remodel them, and sells them for profit.</p>
<b>Interest and Dividend Income (from Schedule B)</b>	<p>This taxable/tax-exempt income may be added back to the adjusted gross income only if it:</p> <ul style="list-style-type: none"> <li>• Has been received for the past two (2) years; and</li> <li>• Is expected to continue</li> </ul> <p>If the interest bearing assets will be liquidated as a source of the cash investment, the creditor must appropriately adjust the amount.</p>
<b>Farm Income or Loss (from Schedule F)</b>	Any depreciation shown on Schedule F may be added back to the adjusted gross income.
<b>IRA Distributions, Pensions, Annuities, and Social Security Benefits</b>	The non-taxable portion of these items may be added back to the adjusted gross income, if the income is expected to continue for the first three (3) years of the mortgage.
<b>Adjustments to Income</b>	<p>Adjustments to income may be added back to the adjusted gross income if they are:</p> <ul style="list-style-type: none"> <li>• IRA and Keogh retirement deductions</li> <li>• Penalties on early withdrawal of savings</li> <li>• Health insurance deductions</li> <li>• Alimony payments</li> </ul>
<b>Employee Business Expenses</b>	Employee Business expenses are actual cash expenses that must be deducted from the adjusted gross income.

### *Income Analysis: Corporate Tax Returns (IRS Form 1120)*

A corporation is a State-chartered business owned by its stockholders. Corporate compensation to the officers, generally in proportion to the percentage of ownership, is shown on one of the following:

- Corporate tax return IRS Form 1120
- Individual tax returns.

When a Borrower's percentage of ownership does not appear on the tax returns, the creditor must obtain the information from the corporation's accountant, along with evidence that the Borrower has the right to any compensation.

### *Analyzing Corporate Tax Returns*

In order to determine a Borrower's self-employed income from a corporation the adjusted business income must be determined and multiplied by the Borrower's percentage of ownership in the business.

The table below describes the items found on IRS Form 1120 for which an adjustment must be made in order to determine adjusted business income.

IRS Form 1120 Heading	Description
<b>Depreciation and Depletion</b>	Add the corporation's depreciation and depletion back to the after-tax income.
<b>Taxable Income</b>	Taxable income is the corporation's net income before Federal taxes. Reduced taxable income by the tax liability.
<b>Rent, Royalties, Partnerships (from Schedule E)</b>	Taxable income is the corporation's net income before Federal taxes. Reduced taxable income by the tax liability.
<b>Fiscal Year vs. Calendar Years</b>	If the corporation operates on a fiscal year that is different from the calendar year, an adjustment must be made to relate corporate income to the individual tax return.
<b>Cash Withdrawals</b>	The Borrower's withdrawal of cash from the corporation may have a severe negative impact on the corporation's ability to continue operating.

### *Income Analysis: "S" Corporation Tax Returns (IRS Form 1120S)*

An "S" corporation is generally a small, start-up business, with gains and losses passed to stockholders in proportion to each stockholder's percentage of business ownership. Income for owners of "S" corporations comes from IRS Form W-2 wages and is taxed at the individual rate. The IRS Form 1120S, Compensation of Officers line item is transferred to the Borrower's individual IRS Form 1040.

### *Analyzing "S" Corporation Tax Returns*

- "S" corporation depreciation and depletion may be added back to income in proportion to the Borrower's share of the corporation's income.
- The total amount of obligations on mortgages, notes, or bonds that are payable in less than one year. These adjustments are not required if there is evidence that these obligations roll over regularly and/or the business has sufficient liquid assets to cover them. Income should be calculated in accordance with FNMA guidance.
- Important: The Borrower's withdrawal of cash from the corporation may have a severe negative impact on the corporation's ability to continue operating and must be considered in the income analysis.

### *Income Analysis: Partnership Tax Returns (IRS Form 1065)*

A partnership is formed when two (2) or more individuals form a business, and share in profits, losses, and responsibility for running the company. Each partner pays taxes on their proportionate share of the partnership's net income.

### *Analyzing Partnership Tax Returns*

- Both general and limited partnerships report income on IRS Form 1065, and the partners' share of income is carried over to Schedule E of IRS Form 1040.
- The creditor must review IRS Form 1065 to assess the viability of the business. Both depreciation and depletion may be added back to the income in proportion to the Borrower's share of income.
- The total amount of obligations on mortgages, notes, or bonds that are payable in less than one year. These adjustments are not required if there is evidence that these obligations roll over regularly and/or the business has sufficient liquid assets to cover them. Income should be calculated in accordance with FNMA guidance.
- Important: Cash withdrawals from the partnership may have a severe negative impact on the partnership's ability to continue operating, and must be considered in the income analysis

### *Tax Transcripts*

An IRS Form 4506-C/8821 document must be completed and signed by the Borrower(s) whenever the Borrower(s) discloses income on the loan application. The form must request the appropriate documentation type (IRS Form W-2s, full tax transcripts, etc.) and be executed by the originating lender prior to closing. For Borrowers with qualifying income from only salary/wage sources and fully documented through IRS Form W-2s, the IRS Form 4506-C/8821 need only be executed for IRS Form W-2s. For self-employed Borrowers, or for non-self-employed Borrowers with taxable income other than from salary/wage sources, the IRS Form 4506-C/8821 must be executed for full transcripts (tax return, wage and income and account transcript).

Documentation received from executing the IRS Form 4506-C/8821 must be reviewed and compared to the qualifying income determined from the primary income source documentation to confirm consistency. Documentation from processing the IRS Form 4506-C/8821 must be equal to or greater than the income used to qualify the loan.

### *Verbal Verification of Employment (VVOE) for Self-Employed Borrowers*

- The lender must verify the existence of the Borrower's business within 120 calendar days prior to the note date - from a third party, such as a CPA, regulatory agency, or the applicable licensing bureau, if possible.
- By verifying a phone listing and address for the Borrower's business using a telephone book, the Internet, or directory assistance; and

- The lender must document the source of the information obtained and the name and title of the lender's employee who obtained the information.

## 9.4 Alimony, Child Support or Maintenance Income

Alimony, child support or maintenance income may be considered if:

- Payments are likely to be received consistently for the first three (3) years of the mortgage.
- The Borrower provides the required documentation, which includes a copy of the:
  - Final divorce decree
  - Legal separation agreement
  - Court order or Voluntary payment agreement
- The Borrower can provide acceptable evidence that payments have been received during the last 12 months such as:
  - Cancelled checks
  - Deposit slips
  - Tax returns or Court records

Periods less than 12 months may be acceptable, provided the creditor can adequately document the payer's ability and willingness to make timely payments.

## 9.5 Capital Gains and Losses

Capital gains or losses generally occur one-time and should not be considered when determining effective income. However, if the individual has a consistent turnover of assets resulting in gains, the capital gain may be considered when determining the income. Two (2) years signed and dated tax returns with all schedules are required to evaluate an earnings trend. Refer to FNMA for income calculation method and additional documentation requirements. Creditor must document anticipated continuation of income through verified assets.

## 9.6 Disability Income

Disability benefits may be used as qualifying income. Benefits must be verified with a copy of the award letter or a statement from the benefit's payer (employer, insurance company or other qualified and disinterested party). If the benefits have a defined expiration date, verify that the remaining term is at least three (3) years from the date of the mortgage application. If the Borrower is receiving short-term payments that will decrease to a lesser amount within the next three (3) years because they will convert to long-term benefits, the long-term benefits amount must be used as qualifying income.

## 9.7 Dividend/Interest Income

Dividend and investment income may be used as qualifying income if the file contains the following documentation:

- Individual signed and dated income tax returns with all schedules or account statements for the previous two (2) years to support history of receipt. This income must be averaged over the two (2) years.
- Sufficient assets remain after closing to continue to generate an acceptable level of earnings. If assets that generated dividend/interest income are being sold or used as a source for down payment for the subject mortgage transaction, the qualifying income must be reduced by a percentage equal to the percentage reduction in the value of the assets that generated the income.

## 9.8 Employed by a Family Member

In addition to normal employment verification, a Borrower employed by a family-owned business is required to provide evidence that they are not an owner of the business, which may include:

- Copies of signed and dated personal tax returns with all schedules, or a signed copy of the corporate tax return showing ownership percentage.

## 9.9 Employer Differential Income

If the employer subsidizes a Borrower's mortgage payment through direct payments, the amount of the payments is considered gross income and cannot be used to offset the mortgage payment directly, even if the employer pays the servicing directly.

## 9.10 Farm Income

Farm income cannot be derived from the subject property. Farm income from a separate property can be included in the Borrower's qualifying income provided that a stable and consistent two (2) year history can be documented through individual signed and dated tax returns including all schedules. Income must be adjusted for items that have a one-time occurrence (i.e., federal programs/subsidies). Farm income is typically included on Schedule F of the individual Federal tax return.

## 9.11 Foreign Income

Permitted provided the Borrower meets eligibility requirements and any foreign income is documented for two (2) years through individual signed and dated tax returns including all schedules.

## 9.12 Foster Care Income

Income derived from foster care payments may be considered if it is regular and recurring. Documentation must include:

- Individual signed and dated tax returns including all schedules for the previous two (2) years to support history of receipt and one of the following:
  - A letter from the organization providing the income.
  - Bank statements or deposit slips that support a two (2) year history.

### 9.13 Military Income

Military personnel not only receive base pay, but often times are entitled to additional forms of pay, such as:

- Income from variable housing allowances
- Clothing allowances
- Flight or hazard pay
- Rations
- Proficiency pay

The tax-exempt nature of some of the above payments should also be considered.

If the Borrower is in the military, in lieu of a verbal or written VOE, the lender must obtain either:

- A military Leave and Earnings Statement dated within 30 calendar days prior to the note date (or 31 days for longer months).
- A verification of employment through the Defense Manpower Data Center.

### 9.14 Minister/Clergy Income

Ministers and members of the clergy are generally considered self-employed unless exempted by IRS from self-employment taxes. If exempt an exception from the IRS must be provided.

Rental or housing allowance received may be considered income for qualifying the Borrower. Written documentation, such as a VOE provided by the church, must be obtained showing receipt of this income. The Borrower's pay stub must also reflect receipt of the housing allowance. If the Borrower is newly employed, obtain a copy of the church budget (in lieu of a check) showing funds have been allocated for housing allowance. The housing allowance, although not subject to federal income taxes, is subject to self-employment taxes. Gross income on Schedule SE of the Borrower's IRS Form 1040 must include housing allowance paid.

### 9.15 Note Receivable Income

In order to include notes receivable income, the Borrower must provide the following:

- A copy of the note to establish the amount and length of payment.
- Evidence that these payments have been consistently received for the last 12 months through deposit slips, deposit receipts, cancelled checks, bank or other



account statements, or individual signed and dated tax returns including all schedules.

If the Borrower is not the original payee on the note, the creditor must establish that the Borrower is able to enforce the note.

## 9.16 Non-Taxable Income

Certain types of regular income may not be subject to Federal tax. Such types of non-taxable income include:

- Some portion of Social Security, some Federal government employee retirement income, Railroad Retirement Benefits, and some State government retirement income
- Certain types of disability and public assistance payments
- Child support
- Military allowances
- Other income that is documented as being exempt from Federal income taxes

### Adding Non-Taxable Income to a Borrower's Gross Income

- The amount of continuing tax savings attributed to regular income not subject to Federal taxes may be added to the Borrower's gross income.
- The percentage of non-taxable income that may be added cannot exceed the appropriate tax rate for the income amount. Additional allowances for dependents are not acceptable.
- The creditor:
  - Must document and support the amount of income grossed up for any non-taxable income source.
  - Should use the tax rate used to calculate the Borrower's last year's income tax. If the Borrower is not required to file a Federal tax return, the tax rate to use is 25 percent.

## 9.17 Part-Time/Second Job Income

Part-time and second job income can be used to qualify the Borrower if the creditor documents that the Borrower has worked the part-time job uninterrupted for the past two (2) years and plans to continue.

Part-time income received for less than two (2) years may be included as effective income, provided that the creditor justifies and documents that the income is likely to continue.

For qualifying purposes, "part-time" income refers to employment taken to supplement the Borrower's income from regular employment; part-time employment is not a primary job and it is worked less than 40 hours.

## 9.18 Public Assistance

This may be used as income, with verification of receipt and verification from the paying entity. Benefits must have been received for the past two (2) years and documentation must indicate that the income is expected to continue for at least three (3) years.

## 9.19 Rental Income

Rental income from the subject property, as well as from a non-subject property, can be used as qualifying income. The Borrower must provide individual signed and dated tax returns for the prior two (2) years, including Schedule E, to verify a 2-year history of property management. All properties are not required to be in service for two (2) years to use rental income. Short term rental income can only be used with a 2-year history of receipt for that property on the tax returns, leases are not acceptable to document income.

A separate schedule of real estate is not required for rental properties as long as all properties are documented on the Uniform Residential Loan Application.

If rental properties are acquired since the last income tax filing and not shown on Schedule E, using a current signed lease or rental agreement, the rental income is calculated by reducing gross rental amount by 25% for vacancies and maintenance and subtracting PITIA.

When the Borrower is purchasing a new property as an Owner-Occupied residence, but will still retain ownership of their existing residence which is being converted to an investment property, the following requirements apply:

- Up to 75% of the rental income can be used to offset the mortgage payment (PITIA) of the property being retained and rented, if there is:
  - A fully executed lease agreement and either:
    - ✓ A copy of the tenant's check for security deposit as well as proof of deposit into the Borrower's account.
    - ✓ The first month of rental payment as well as proof of deposit into the Borrower's account is required.

## 9.20 Restricted Stock Units and Stock Options

Restricted Stock Units (RSUs) and Stock Options may only be used as qualifying income if the income has been consistently received for two (2) years and is identified on the pay stubs, W-2s and individual signed and dated tax returns including all schedules as income and the vesting schedule indicates the income will continue for a minimum of three (3) years at a similar level as prior three (3) years.

- A two (2) year average of prior income received from RSUs or stock options should be used to calculate the income. The income used for qualifying must be supported by future vesting based on the stock price used for qualifying and vesting schedule using a stock price based on the lower of the current stock price

or the 52- week average for the most recent twelve (12) months reporting at the time of application.

- Additional awards must be similar to the qualifying income and awarded on a consistent basis. There must be no indication the borrower will not continue to receive future awards consistent with historical awards received.
- Borrower must be currently employed by the employer issuing the RSUs/stock options for the RSUs/stock options to be considered in qualifying income.
- Stock must be a publicly traded stock and listed on a United States exchange.
- Vested restricted stock units and stock options cannot be used for reserves if using for income to qualify.

## 9.21 Retirement Income

Retirement income may be used as qualifying income. Acceptable income documentation types include:

### Pension

One of the following:

- Retirement award letter(s) from former employer along with copies of the Borrower's two (2) most recent bank statements showing receipt of income, with income clearly identified on the bank statements.
- Most recent prior year Federal tax return along with copies of the Borrower's two (2) most recent bank statements showing receipt of income, with income clearly identified on the bank statements.

### Social Security

Social Security income must be verified by a Social Security Administration benefit verification letter (sometimes called a "proof of income letter," "budget letter," "benefits letter," or "proof of award letter"). If any benefits expire within the first full three (3) years of the loan, the income source may not be used in qualifying.

If the Social Security Administration benefit verification letter does not indicate a defined expiration date within three (3) years of loan origination, the creditor shall consider the income effective and likely to continue. Pending or current re-evaluation of medical eligibility for benefit payments is not considered an indication that the benefit payments are not likely to continue.

### 401K/IRA Distribution

Distributions from a retirement account, such as a 401(k), IRA, SEP or Keogh retirement account can be used as qualifying income provided there is a three (3) year continuance. Document regular and continued receipt of the income for, as verified by:

- Letters from the organizations providing the income
- Copies of retirement award letters
- Copies of individual signed and dated tax returns including all schedules
- IRS W-2 or 1099 forms
- Proof of current receipt

When retirement income is paid in the form of a distribution from a 401(k), IRA, or Keogh retirement account, determine whether the income is expected to continue for at least three years after the date of the mortgage application. In addition:

- The borrower must have unrestricted access without penalty to the accounts.
- If the assets are in the form of stocks, bonds, or mutual funds, 70% of the value (remaining after any applicable costs for the subject transaction) must be used to determine the number of distributions remaining to account for the volatile nature of these assets.

## 9.22 Seasonal Income

Seasonal income is considered uninterrupted, and may be used to qualify the Borrower, if the creditor documents that the Borrower:

- Has worked the same job for the past two (2) years.
- Expects to be rehired the next season.

## 9.23 Teacher Income

Teachers may be paid on a 9-month, 10-month or 12-month basis. Determine how their pay is structured before calculating the income. Obtain additional documentation if uncertainty exists.

## 9.24 Tips and Gratuity

Tips and gratuity income may be acceptable if receipt of such income is typical for Borrower's occupation (i.e., waitperson, taxi driver, etc.). Income must be received for at least 24 months and documented through individual signed and dated tax returns including all schedules from the previous two (2) years. Income is averaged over the time period verified.

## 9.25 Trust Income

Income from trusts may be used if constant payments will continue for at least the first three (3) years of the mortgage term as evidenced by trust income documentation.

Required trust income documentation includes a copy of the Trust Agreement or other trustee statement, confirming the:

- Amount of the trust
- Frequency of distribution
- Duration of payments

Trust account funds may be used for the required cash investment if the Borrower provides adequate documentation that the withdrawal of funds will not negatively affect income. The Borrower may use funds from the trust account for the required cash investment, but the trust income used to determine repayment ability cannot be affected negatively by its use.

## 9.26 Unemployment Compensation

Income derived from unemployment compensation is generally not to be considered stable due to the limited duration of its receipt. An exception to this would be a Borrower employed in a field where weather affects the ability to work and where unemployment compensation is often received (i.e., construction). The income may be used to qualify on an exception basis when a two (2) year employment history in the same field of work is verified along with a two (2) year history of receipt of unemployment compensation. There must also be a reasonable assurance that this income will continue. Verified income is averaged over the time period verified. Individual signed and dated tax returns including all schedules must be used to establish a history of the receipt of these benefits.

## 9.27 VA Survivors Benefits/Dependent Care

Direct compensation for service-related disabilities from the Department of Veterans Affairs (VA) is acceptable, provided the creditor receives documentation from the VA.

Education benefits used to offset education expenses are not acceptable.

## 9.28 Welfare Benefits

Income from government assistance programs is acceptable provided the paying agency provides documentation that the income is expected to continue for at least three (3) years. The file also must contain direct written verification from the welfare agency addressing the amount, duration and frequency of benefits.

## 9.29 Unacceptable Income

The following types of income are unacceptable:

- Gambling winnings (except lottery continuing for five (5) years)
- Educational benefits
- Refunds of federal, state, or local taxes
- Illegal income or income not reported to IRS
- Any income generated from the cannabis or hemp industry
- Any income generated from the adult entertainment industry
- Installment Sales and Land Contracts

## 10.0 Alternative Documentation Programs

The documentation that is required for the Non-Qualified Mortgage Programs is used to determine whether the Borrower's ability to repay the mortgage debt is reasonable.

Reasonable ability to repay the mortgage debt is based (among other information) on the Borrower's employment history, income source and past credit experience which must be commensurate with the loan request. For example, information on the Credit Report must corroborate information on the application. Borrower's income source must be documented and verified by a third party and must also establish a reasonable expectation that it will continue. Inconsistencies must be investigated.

All files must include the completed initial application. All income sources must be itemized on the signed loan application when applicable.

Where the guidelines are silent on documentation in this section, defer to FNMA.

### 10.1 1 Year Documentation Program

Loans that are part of the 1 Year Documentation require only one (1) year of income documents versus the Full Documentation Program which requires two (2) years. Originators should refer to the full documentation guidelines for specifics on income requirements but obtain one (1) year of income documentation instead of two (2) except as stated below.

#### Wage Earners

- One (1) year W-2 plus most recent pay stub including year-to-date earnings (YTD must cover minimum of 30 days) or a Written Verification of Employment that follows FNMA guidance.
- IRS 1040 is not required unless also using other sources of income to qualify such as self-employment, interest/dividends, rental income, retirement/social security or child support/alimony.
- 4506-C /8821 W-2 transcripts if 1040 transcripts are not required. In the case where taxes have been filed and the wage transcripts are not available from the

IRS, the IRS response to the request must reflect “No Record Found” and must be present in the loan file. Evidence of any IRS filing extensions must be present in the file.

- Verbal Verification of Employment is required for all wage earners and must be completed within ten (10) calendar days of the closing date. The verification should include the name, phone number and title of the contact at the place of employment along with the company name, address and borrower’s job description and title.

### Self-Employed Borrowers

- Borrowers must be at least 25% self-employed to qualify.
- One (1) year personal and business tax returns along with all schedules and K-1’s plus a borrower prepared P&L covering the time period since the last tax filing.
- All borrowers must also provide evidence that the business has been in existence for at least two (2) years via a CPA/Tax Preparer Letter, confirmation from a regulatory or state agency or applicable licensing bureau.
- Self-employed income in a licensed profession (i.e., Medical, Legal, Accounting) will be considered from a business that has been in existence for less than two (2) years but greater than one (1) year if the borrower has at least two (2) years of documented previous experience in the same profession or evidence of formal education in a related field.
- IRS 1040 personal and business 4506-C/8821 tax transcripts required for the tax return year used for qualifying.

## **10.2 Bank Statement Program**

Only self-employed Borrowers are eligible for the Bank Statement Program. Borrowers may provide either 12 or 24 consecutive months of bank statements. A Borrower who submits tax returns will not be eligible for Bank Statement Documentation. A business narrative is required from the borrower to describe the type of business and number of employees. Income from other sources that do not require tax returns, such as W-2 wage earners or fixed income, are eligible. Rental income can be used as supplemental income and must be documented with a current lease and supported with 12 or 24 months statements (must be same number of statements utilized for self-employed bank statement income) that match lease agreement. Rental income should be calculated per FNMA requirements.

For both the Personal and Business Bank statement programs, the Borrower’s business ownership percentage must be at least 25%. Businesses and banks must be United States based and bank statements must be in English and United States dollars.

Maximum NSF’s are 3 within the most current 12 months or 6 in the last 24 months. Satisfactory letter of explanation required for NSF’s within the most current 3 months.

### Personal Bank Statements

- Minimum of 12 consecutive monthly personal bank statements.
- 4506-C/8821 transcripts not required.
- Two (2) months of business bank statements must be provided to validate borrower utilizes separate bank accounts for personal and business banking transactions.
- Borrowers operating a business out of a personal account (comingling) may qualify under the business bank statement program.
- All Borrowers must also provide evidence that the business has been in existence for at least two years via CPA/Tax Preparer Letter, confirmation from regulatory or state agency or applicable licensing bureau.
- Verify percentage of ownership via reliable third party.
- Self-employed income in a licensed profession (i.e., Medical, Legal, Accounting) will be considered from a business that has been in existence for less than two (2) years but greater than one (1) year if the borrower has at least two (2) years of documented previous experience in the same profession, or evidence of formal education in a related field.

#### *Personal Bank Statement Documentation Review*

- Transfers between personal accounts must be excluded, as well as any deposits that are not consistent with self-employed income (credit card refunds, IRS refunds, etc.).
- Transfers from business accounts can be included.
- Any deposits into a personal account deemed to derive from a source other than the business (rents, SSI, joint account holder wage income, IRS refunds, etc.) must be excluded from the analysis.
- Large deposits exceeding 50% of monthly income (as defined by FNMA) that are being used to qualify, must be documented with an LOE and must be consistent with the business profile. If LOE is sufficient, no additional sourcing is required.
- Qualifying Income Calculation: Personal bank statement average (total eligible deposits / 12 or 24 months).

#### Business Bank Statements

- Minimum of 12 month's consecutive business bank statements.
- Comingled funds may be considered if the borrower's sole proprietorship is also the borrowers name (i.e., Doctors, Lawyers, Consultants).
- Transfers from personal accounts must be excluded, as well as any deposits that are not consistent with self-employed income (credit card refunds, IRS refunds, etc.).
- Income for qualification must be multiplied by borrowers verified percentage of ownership in business.
- 4506-C/8821 transcripts not required.



- All Borrowers must also provide evidence that business has been in existence for at least two years via CPA/Tax Preparer Letter, confirmation from regulatory or state agency, or applicable licensing bureau.
- Verify percentage of ownership via reliable third party.
- Self-employed income in a licensed profession (i.e., Medical, Legal, Accounting) will be considered from a business that has been in existence for less than two (2) years but greater than one (1) year if the Borrower has at least two (2) years of documented previous experience in the same profession, or evidence of formal education in a related field.

### *Business Bank Statement Qualifying Income*

Qualifying income is determined by one of the following approaches.

- Tiered Expense Ratio
  - Expense ratio is determined based on business type (service or product) and number of employees.

Business Type	Employees		
Service (Offers Services)	0	1-5	>5
Examples: Consulting, Accounting, Legal, Therapy, Counseling, Financial Planning, Insurance, Information Technology	15%	30%	50%
Product (Sells Goods)	0	1-5	>5
Examples: Retail, Food Services, Restaurant, Manufacturing, Contracting, Construction	25%	50%	85%

- Qualifying Income Calculation: eligible deposits from the business bank statements multiplied by the ownership percentage are reduced by the expense ratio based on the business type and number of employees to determine the qualifying income of the business.
- Third Party Prepared Expense Ratio
  - CPA or licensed tax preparer letter providing the expense ratio of the business.
  - Letter must be signed and dated by third party.
  - Third Party cannot be an employee or a relative of the Borrower.
  - Qualifying Income Calculation: eligible deposits from the business bank statements multiplied by the ownership percentage are reduced by the expense ratio to determine the qualifying income of the business.
  - The minimum expense ratio allowed is 15%.

**10.3 ~~Third Party Profit and Loss Statement~~ PROGRAM NOT AVAILABLE AT THIS TIME**

- Borrowers must provide evidence that the business has been in existence for at least two years via a CPA/Tax Preparer, confirmation from regulatory or state agency or applicable licensing bureau.
- The Borrower's business ownership percentage must be at least 50%. The ownership percentage must be verified via a CPA/Tax Preparer, Operating Agreement or equivalent.
- Verification that the business is active and operating no more than 10 calendar days prior to the Note Date is required with one of the following:
  - Evidence of current work (executed contracts or signed invoices)
  - Evidence of current business receipts
  - Business website demonstrating activity supporting current business operations
- 12-month P&L must cover the four (4) most recent completed quarters and be prepared by a CPA or licensed tax preparer. The third party must have a valid license (CPA, EA or CTEC), not be an employee of the company and have prepared or filed the most recent two years business tax filings. The minimum expense ratio is 15%.
- Compare the two most recent months business bank statements to the P&L. Gross deposits on the bank statements must support the gross revenue on the P&L within +/- 10%.
- Qualifying Income Calculation: monthly net income from the P&L multiplied by the ownership percentage.

**10.4 1099**

- Borrower to have a verified 2-year history of earning 1099 income.
- Income source required to be from the same industry for borrower's earning 100% commission or for independent contractors
- 1 or 2-years of 1099s are permitted. 4506-C/8821 required with a transcript for the 1099s.
- Qualifying income is the 12 or 24-month average from the total number of 1099s multiplied by 85% (Net Margin)
- YTD earnings must be documented to support ongoing receipt of 1099 income with either of the following and must be within 10% of qualifying income:
  - Checks or a single check stub with YTD totals
  - YTD bank statements
- Funding VVOE required within 10 calendar days of the Note Date

## 10.5 Asset Depletion

Assets must be held in the borrower's name including trust accounts where the borrowers are the owner and only trustees of the trust. Business assets are not permitted. Banks must be United States based and bank statements must be in English and United States dollars. This can be combined with other sources of income (i.e., rent, pension, social security etc.) and W-2 income but cannot be used in conjunction with other asset-related income derived from the same source such as Interest/Dividend income, Capital Gains, etc.

Assets must be documented with 90 days of bank statements dated within 60 days of the Note date. Large deposits (see section 13.6) must be sourced or seasoned for 90 days.

- Qualifying Income: Qualified Assets divided by 120 (ten (10) year utilization draw schedule).
- Qualified Assets: Net Assets (excluding any funds being used for down payment, cash to close and/or reserves) multiplied by the following percentages:
  - 100% of the value of checking/savings/money market.
  - 85% of the value of stock/bonds/mutual funds/CDs.
  - 80% for all retirement assets regardless of age. Must meet FNMA criteria for unrestricted access.

## 11.0 DSCR Program

Loans that are part of the DSCR Program are calculated solely from the income of the subject property in lieu of documenting Borrower income. Borrower employment and income are not required and there is no calculation for debt-to-income.

### General Requirements

- Investment properties only.
- Loan must be deemed business purpose loans and be exempt from the ATR, QM and HPML requirements.
- Maximum loan term 360 months.
- Interest Only Permitted.
- Eligible Property Types: single-family residence, PUD, Warrantable Condo and 2-4 Units.
- Must have a minimum of twelve (12) months ownership and management of income-producing residential or commercial real estate within the past 24 months.
- First-Time Homebuyers are not permitted.
- Business Purpose and Occupancy Affidavit (See Appendix B for Form of Affidavit)

### Income Calculation

Debt Service Coverage Ratio = Gross Income / Proposed PITIA or ITIA

- **Tenant Occupied:** Use the lower of the (a) executed lease agreement or (b) market rent from appraisal.
  - Determined by fully executed lease in file with tenant currently occupying or will occupy within 30 days of the Note date.
  - An expired lease agreement that has verbiage that states the lease agreement becomes a month-to-month lease once the initial lease/rental term expires is allowed.
  - On a multi-unit property, the occupancy (tenant occupied or non-tenant occupied) and income calculation method is determined independently for each unit. In addition, a multi-unit property is considered tenant occupied and is not subject to the reduction in maximum LTV/CLTV for a refinance of an unleased property if at least one of the units is tenant occupied.
- **Non-Tenant Occupied:** market rent from the appraisal may be used solely.
  - On a multi-unit property, the occupancy (tenant occupied or non-tenant occupied) and income calculation method is determined independently for each unit. In addition, a multi-unit property is considered non-tenant occupied and is subject to the 5% reduction in maximum LTV/CLTV for a refinance of an unleased property if none of the units are tenant occupied.
- Short Term Rental income can be used, see section below.
- For Interest Only loans, DSCR is based on ITIA payment.

Short Term Rental Calculation- The following requirements apply to short-term rentals from on-line services such as Airbnb or VRBO:

- Mortgage refinancing only (no purchase transactions)
- Minimum 12-month rental history
- DSCR would be calculated based on average actual rental income calculated over 12 months based on statements from the on-line service. No market rents are used in calculations.
- Third party verification (city, county, etc.) required to confirm short term rentals are legally permissible and licensed where applicable.

## 12.0 Debts and Liabilities

### 12.1 Debt-to-Income Ratio

The qualifying total Debt-to-Income (DTI) ratio compares the Borrower's total monthly debt obligations with their qualified monthly gross income.

The Borrower's total monthly obligations include the following:

- Monthly Housing Expense

- Monthly Principal and Interest Payment
  - 1/12th of the annual hazard insurance premium
  - 1/12th of the annual real estate taxes (greater of the actual or 1/12th of 1.5% of sales price if new construction)
  - 1/12th of the annual flood insurance premium (when applicable)
  - Monthly leasehold payments (when applicable)
  - Monthly homeowner association dues, condominium maintenance fees, monthly assessments (when applicable)
  - Monthly payment for other secured financing (when applicable)
  - HELOC monthly payment as reported on credit, if the HELOC is at a 0 balance, a monthly payment does not need to be developed
- Outstanding Monthly Obligations
    - All installment debt with over ten (10) payments remaining.
    - All revolving debt payments.
    - Alimony, child support or maintenance payments with more than ten (10) payments remaining.
    - Real estate net rental losses from all investment properties owned.
    - Other obligations where a monthly payment is legally required.

## 12.2 Installment Debt

Defer to FNMA.

## 12.3 Lease Obligations

Defer to FNMA.

## 12.4 Projected Obligations

Debt payments, such as student loan or a balloon-payment note, scheduled to begin or come due within 12 months of the mortgage loan closing, must be included as a monthly debt obligation when calculating the DTI ratio. Debt payments do not have to be classified as projected obligations if the Borrower provides written evidence that the debt will be deferred to a period outside the 12-month time frame. Proof of the deferment is required.

## 12.5 Revolving Debt

Defer to FNMA.

## **12.6 Business Debt**

Defer to FNMA.

## **12.7 Contingent and Co-Signed Liabilities**

Defer to FNMA.

## **12.8 Asset Secured Loans**

Defer to FNMA.

## **12.9 Open Thirty (30) Day Charge Accounts**

Defer to FNMA.

## **12.10 Alimony/Child Support/Maintenance**

Defer to FNMA.

# **13.0 Assets and Source of Funds**

The file must evidence third party verification of sufficient funds for down payment, closing costs and reserves. The fiscal position of the Borrower, including accumulation of verifiable assets, is a strong indication of creditworthiness. An established pattern of savings demonstrates skill in financial management. Evidence that the savings are liquid also strengthens the loan transaction as these funds are readily available to repay debt obligations, pay unexpected expenses and provide protection against short term interruption of income.

## **13.1 Age of Asset Documentation**

The verification of assets (including the source of funds) may not be greater than 120 days old at the time of closing. If funds are required for closing, then the most recent account statement(s) at the time of the validation of funds will be required.

## 13.2 Asset Documentation/Acceptable Funds

Assets must be sourced/seasoned for 30 days and may be verified using one of the following:

- Direct written verification, completed by the depository.
- Recent account statements covering a period of one (1) month for each bank, brokerage, mutual fund account or investment portfolio. Account statements must provide all of the following information:
  - Borrower as the account holder
  - Account number
  - Time period covered
  - Current balance in US Dollars (\$); and
  - Statement date.

The following items are acceptable for down payment and closing costs:

- Funds from a Borrower's checking account, savings account, money market or certificate of deposit held at a financial institution or brokerage.
- Gift or grant which does not have to be repaid may be permitted.
- Proceeds from the sale of the Borrower's personal asset(s). Value of assets must be verified; provide evidence of sale (i.e., bill of sale, copy of check, etc.).
- Proceeds from a loan which is secured by a Borrower's personal asset. For example, loans secured by other real estate are acceptable. Terms of the loan must be verified. Repayment of the loan must be included in the total expense ratio.
- Proceeds from a loan secured by a financial asset (such as 401(k), or mutual fund) may be used. Documentation must be provided verifying the asset, the withdrawal, and the Borrower's receipt of funds. Loans that are secured against a liquid asset owned by the Borrower (such as 401(k) or mutual fund) do not have to be included as a debt liability if appropriate documentation is provided.
- Proceeds from liquidated stock, retirement accounts, certificates of deposit, pension or other savings plan. Note: "Penny" stocks are not considered liquid. Ownership of the account must be verified along with Borrower's actual receipt of funds.
- Proceeds from sale of other real estate. If part of the down payment is expected to be paid from the sale of the Borrower's current home, an executed closing statement verifying sufficient net proceeds must be received with the closing package.
- Funds from a business account (if the Borrower is the sole owner of the company or the other owner is the non-borrowing spouse and the company's CPA or licensed tax preparer provides a statement indicating withdrawal of the funds will not negatively impact the business or meets FNMA guidance for cash flow analysis) may be used for down payment and closing costs.

- Any payment received as a result of being a party to the sales transaction (i.e., real estate sales commission) after Borrower has met the minimum down payment requirement.

### 13.3 Unacceptable Funds

- Gift funds which must be repaid in full or in part
- Personal unsecured loans
- Cash-on-hand
- Cryptocurrency
- Sweat Equity
- Gifts from seller-funded programs.
- Shared Appreciation second liens

### 13.4 Reserves

Reserves are those assets remaining after down payment and closing costs have been paid. The Borrower must have adequate cash reserves available that are appropriate to the transaction. Cash reserves, as a reflection of the Borrower's savings prior to the subject loan transaction, may be an indicator of the Borrower's earnings and their spending patterns.

The following items are acceptable sources for reserves:

- The full value of any non-retirement liquid asset the Borrower has available for withdrawal from any financial institution or brokerage, including funds on deposit in the Borrower's checking, savings, money market or certificate of deposit account or other depository account, stocks, bonds, mutual funds.
- Government Securities and other securities that are traded on an exchange or marketplace generally available to the public (e.g. NYSE, NASDAQ, OTC or Chicago Board of Trade) for which the price can be readily verified through financial publications.
- Savings Bonds may be counted at 100% of face value if mature. If the bonds are not mature, the amount counted toward reserves is based on the redeemable value at the time of underwriting.
- Cash Value Life Insurance (rather than face value) that is verified. The Borrower must be the owner of the policy and not the beneficiary.
- Cash-out proceeds from the subject transaction.
- Funds from a business account (if the Borrower is the sole owner of the company or the other owner is the non-borrowing spouse and the company's CPA or licensed tax preparer provides a statement indicating withdrawal of the funds will not negatively impact the business or meets FNMA guidance for cash flow analysis) may be used for reserves.



- Retirement Accounts, including personal IRA and SEP-IRA accounts that are owned by the Borrower, 401(k), KEOGH, 403(b) and other IRS qualified retirement plans:
  - Up to 60% of the vested amount, less any outstanding loans secured by the account funds, may be counted toward Reserves, and
  - Confirm the account is vested and allows withdrawals regardless of current employment status or if the borrower is of retirement age, 100% of funds may be used for reserves if the account is not also an income source.

Additional information regarding reserves:

- Assets and reserves must be sourced and seasoned for at least 30 days.
- Large disparities between the current balance and the opening balances may require additional verification or documentation.
- Large or irregular deposits must be explained and may require further documentation.
- Gift funds may not be used to meet the reserve requirements.

Funds for the needed reserves may be verified by any of the following:

- Verification of Deposit (such as FNMA Form 1006) executed by the financial institution, to include the current balance and the average balances for the preceding two (2) months.
- One (1) month checking and/or savings account statements (indicating opening and closing balances to indicate a full 30 days of asset verification).
- One (1) quarterly account statement.
- For reserves generated from asset sales from taxable or tax-deferred accounts: One (1) month of statements from brokerage, retirement savings or pension account (including IRA and 401k). Balances for tax-deferred accounts must be reduced by 40% to reflect income taxes and penalties when withdrawn. Taxable accounts with stocks, bonds and mutual funds must be reduced by 30% to reflect income taxes. Statements from the investment management company or bank are required to verify the ownership of the account/asset, the value of the asset at the time of sale or liquidation, and the Borrower's actual receipt of the funds realized from the sale or liquidation of the assets if needed to complete the transaction.
- One (1) month brokerage statements on publicly traded stocks and bonds, mutual funds, money market accounts, and CD's, (indicating opening and closing balances to indicate a full 30 days of asset verification).

## 13.5 Down Payment

On purchase transactions, a minimum of 3% of the purchase price must come from the Borrower's own funds. Funds used for down payment to close must be fully documented. The loan application must clearly state the source of funds for down payment and closing costs.

Documentation used to validate the Borrower's source of funds and the seasoning requirements below must be in line with the amount of actual funds the Borrower is required to bring to closing.

Acceptable documentation to season the funds (to verify that they are from the Borrower's own resources):

- Settlement Statement or Final Closing Disclosure from the sale of another property.
- Verification of Deposit (such as FNMA Form 1006) executed by the financial institution, to include the current balance and the average balances for the preceding two (2) months.
- One (1) month of checking and/or savings account statements (indicating opening and closing balances to indicate a full 30 days of asset verification).
- One (1) quarterly account statement.
- One (1) month statements from brokerage, retirement savings or pension account (including IRA and 401k). Balances for tax-deferred accounts must be reduced by 40% to reflect income taxes and penalties when withdrawn. Taxable accounts with stocks, bonds and mutual funds must be reduced by 30% to reflect income taxes. Statements from the investment management company or bank are required to verify the ownership of the account/asset, the value of the asset at the time of sale or liquidation, and the Borrower's actual receipt of the funds realized from the sale or liquidation of the assets if needed to complete the transaction.
- Other forms of verification may be acceptable, so long as the verification clearly indicates that the funds were in the Borrower's possession for at least 60 days prior to transfer.

The source of any earnest money deposits must be verified with a copy of the Borrower's check or other evidence of payment (wire receipt) from a third party unaffiliated with the transaction along with one (1) month bank statements (up to and including the date the check was cleared). Bank statements must evidence a sufficient average balance to support the amount of the earnest money deposit.

Any other funds required to close must be supported by one (1) month documentation as listed above.

## 13.6 Large Deposits

Any large deposit not consistent with the Borrower's employment, earnings or savings profile must be fully explained and sourced with acceptable documentation in order to be eligible for down payment, closing costs, earnest money deposit and reserves. A large deposit is considered to be any amount greater than either: one (1) month total gross income or five (5%) of the loan amount.

A signed letter of explanation from the Borrower is required in these instances and must sufficiently explain and source the funds. All funds used for these purposes must be from an acceptable source and clearly not the result of undisclosed Borrower funds, debt, or an incentive from an interested party such as a seller, real estate agent or developer.

### 13.7 Gift Funds

Gift funds can be used for down payment or to pay closing costs. The following parameters apply:

- Signed gift letter is provided, indicating:
  - Donor's relationship to Borrower (per FNMA definition)
  - Donor's address, and phone number
  - Dollar amount of gift
  - Certification it is an outright gift with no repayment required
- Evidence of the donor's ability to provide and transfer funds per FNMA requirements.
- Borrower minimum contribution is 3% of purchase price from their own source of seasoned funds.

Gifts of equity may be given provided all of the following are met:

- Signed gift letter is provided.
- Gift of equity is listed on the HUD-1 or Closing Disclosure.

Gift funds not permitted:

- From any donor other than a relative or Family Member of the Borrower.
- From any donor that is a party to the transaction, (other than a gift of equity from the seller).
- From any donor that is a real estate builder, developer or in the business of owning, financing, or selling real estate.
- Investment properties

### 13.8 Joint Accounts

Funds held jointly with a non-borrowing spouse are considered the Borrower's funds. Funds held jointly with any other non-borrowing person may be considered if joint account holder is also a title holder on the subject property or a written verification of deposit or an access letter is provided showing the Borrower has authorized access to all funds as though they solely belong to the Borrower.

## 13.9 Trade Equity IRS 1031 Exchange

Assets for the down payment from a “like-kind exchange,” also known as a 1031 exchange, are eligible if properly documented and in compliance with Internal Revenue Code Section 1031.

## 14.0 Property

### 14.1 Eligible Property Types

- 1-4 unit attached/detached owner-occupied and investment properties.
- 1 unit with an accessory dwelling unit may be acceptable if all of the following are met:
  - Subject is typical, common and readily acceptable in the subject’s market area
  - Appraisal contains three (3) comparable properties with similar additional accessory units
  - Rental income from the accessory unit may not be used to qualify
  - Existence of the unit must not jeopardize any future hazard insurance claim
  - Subject properties must conform to all zoning laws and regulations. Legal non-conforming use may be acceptable provided its current use does not adversely affect its market value and marketability
  - Accessory unit is substantially smaller than the primary unit
- 1-unit second homes.
- All condominiums must meet FNMA warrantable Condominium requirements. Acceptable project reviews include:
  - Limited Review Process
  - Full Review Process
  - Full Review: Attached Units in New and Newly Converted Condo Projects
  - Project Eligibility Review Service (PERS) Approved projects
  - Exempt from warrantability review: Detached Condos and 2-4 unit Condo projects

Confirm there is sufficient hazard and flood insurance (if applicable) per FNMA requirements. This may include but is not limited to H-06 Coverage, a Blanket Insurance Policy and liability insurance.

- Attached/detached Planned Unit Development (PUD).
- All cooperatives (co-ops) must meet FNMA requirements including but not limited to the following.

- Investment properties not allowed.
  - Subordinate financing not allowed.
- Properties with age-related deed restrictions are acceptable provided:
  - Senior Communities comply with applicable laws.
  - Appraiser notates that the age-related deed restriction was considered in the valuation of the property.
- Maximum lot size 20 acres.
- Leasehold Properties

Leasehold properties are eligible provided the appraisal indicates leasehold property is common for the subject's area. Leaseholds are reviewed for compliance with the following:

- The term of the leasehold estate must run for at least five (5) years beyond the maturity date of the mortgage, unless fee simple title will vest at an earlier date in the borrower.
  - The lease must provide that the leasehold can be assigned, transferred, mortgaged, and sublet an unlimited number of times either without restriction or on payment of reasonable fee and delivery of reasonable documentation to the lessor. The lessor may not require a credit review or impose other qualifying criteria on any assignee, transferee, mortgagee, or sublessee.
  - The lease must provide for the borrower to retain voting rights in any homeowners' association.
  - The lease must provide that in addition to the obligation to pay lease rents, the borrower will pay taxes, insurance, and homeowners' association dues (if applicable), related to the land in addition to those he or she is paying on the improvements.
  - The lease must be valid, in good standing, and in full force and effect in all respects.
  - The lease must not include any default provisions that could give rise to forfeiture or termination of the lease, except for nonpayment of the lease rents.
  - The lease must include provisions to protect the mortgagee's interests in the event of a property condemnation.
  - The lease must be serviced by either the lender that delivers the mortgage or the servicer it designates to service the mortgage; and
  - The lease must provide lenders with:
    - ✓ The right to receive a minimum of 30 days' notice of any default by the Borrower.
    - ✓ The option to either cure the default or take over the borrower's rights under the lease.
- Rural Properties

A property indicated by the appraisal as rural, or containing any of the following characteristics, is usually considered a rural property:

- Neighborhood is less than 25% built-up.
- Area around the subject is zoned agricultural.
- The photographs of the subject show a dirt road.
- Comparables are more than five (5) miles away from the subject property.
- Subject is located in a community with a population of less than 25,000.
- Distance to schools and/or amenities are greater than 25 miles.
- Subject property and or comparables have lot sizes greater than ten (10) acres.
- Subject property and or comparables have outbuilding or large storage sheds.

Rural properties must comply with the following criteria:

- The primary use must be residential.
- The property must not be agricultural, or otherwise providing a source of income to the Borrower or for the subject loan.
- The lot size and acreage must be typical for the area and similar to the surrounding properties.
- The maximum acreage allowed is 20 acres.
- The present use must be the “highest and best use” for the subject property.
- The condition, quality and use of outbuildings may be considered in determining the market value of the subject property when the appraiser clearly supports the adjustments with similar comparable information.
- Subject property cannot be subject to any idle acreage tax benefit or other tax incentive program.

## 14.2 Ineligible Property Types

- Manufactured Homes
- Modular Homes
- Geodesic/Dome Homes
- Earth/Burm Homes
- Condotels or Condo Hotels
- Log Homes
- Condominium Conversions
- Non-Warrantable Condominiums
- Timeshares

- Unique Properties
- Mixed Use Properties
- Commercially Zoned Properties
- Properties Greater than 20 Acres
- Properties with less than 600 Square Feet
- Farms/Working farms
- Primary residence and second homes located in the state of New York (investment properties held for business purposes are allowed)
- Properties located in the state of North Dakota
- Properties located in Puerto Rico, Guam and US Virgin Islands
- Corporate Properties
- Properties with Environmental Hazards
- Dwellings with >4 Units
- Rooming/Boarding Houses
- Properties Purchased through Auctions
- Raw Land
- Properties with Lagoons/Cesspools
- Properties designated by the government as places of worship
- Escrow Holdback not allowed. Any inadequacies determined by the appraisal must be remediated prior to closing.
- Properties located in Lava Zones

### 14.3 Declining Markets

Reduce maximum LTV/CLTV by ten (10%) for any property located in an area of declining property values as reported by appraiser.

### 14.4 Land-to-Value

Acreage and land value must be typical and common for the subject's market. Maximum acreage permitted is 20 acres. Special consideration must be taken for properties with land values that exceed 35% of the total property value to ensure the value is justified and the property has marketability. The appraisal report must provide data which indicates like-size properties with similar land values are typical and common in the subject's market area.

### 14.5 Appraisal Requirements

- All appraisals are required to use appraisal report forms that are acceptable to FNMA/FHLMC and comply with the Appraisal Independence Requirements (AIR) published by FNMA/FHLMC and other applicable AIR requirements such as those in Regulation Z under TILA.

- Appraised value must be "as-is" and not subject to future improvements. Property must be in average or better condition.
- The appraisal must be completed within 120 days of closing. After 120 days an appraisal update can be utilized in lieu of a new appraisal but, in all cases, the original appraisal cannot exceed 180 days.
- When an appraisal report will be more than 120 days old on the date of the note, the appraiser must inspect the exterior of the property and review current market data to determine whether the property has declined in value since the date of the original appraisal. A new appraisal report is required for any appraisal > 180 days old. This inspection and results of the analysis must be reported on the Appraisal Update and/or Completion Report (Form 1004D), with interior and exterior photos.
  - If the appraiser indicates on the Form 1004D that the property value has declined, then the Originator must obtain a new appraisal for the property.
  - If the appraiser indicates on the Form 1004D that the property value has not declined, then the Originator may proceed with the loan in process without requiring any additional fieldwork.
- One full appraisal is required on all loans. Two full appraisals are required for loan amounts >\$2,000,000 and loans subject to 12 C.F.R. § 1026.35 of Regulation Z. The lower of the two (2) appraised values will be used to determine the LTV/CLTV/HCLTV, unless the sales price is lower than both appraisals (in which case the sales price will be used to determine loan to value). Appraisals must be completed by two (2) different, independent appraisers.
- Appraisals transfer or assigned from another lender are acceptable.

## 14.6 Third Party Appraisal Review

- The seller must order a Collateral Desktop Analysis (CDA) with or without MLS from Clear Capital for each loan that does not include two appraisals. A copy of the appraisal desk review report should be submitted in the loan file.
- If the desk review produces a value in excess of a 10% negative variance to the appraised value, the loan is not eligible for purchase; however, the seller has the option to order a Field Review to support value. If the field review also produces a value in excess of a 10% negative variance to the appraised value, then the loan remains not eligible for purchase.

## 14.7 Properties Located in a Disaster Area

The following policy applies to properties located in Presidential/State or FEMA declared disaster areas.

Property appraised prior to disaster: For loans secured by properties appraised prior to the Presidential/State declaration, the following post-disaster guidelines apply:



- An exterior inspection of the subject property is required.
- The original appraiser must perform the inspection and provide a certification stating:
  - Subject property is free from damage and is in the same condition as previously appraised.
  - Marketability and value remain the same.

## 15.0 Additional Loan Attributes and Policies

### 15.1 Secondary/Subordinate Financing

Secondary financing is permitted when it meets all of the following:

- Made subordinate to the first lien.
- Title indicates it is in second lien position.
- Maximum CLTV/HCLTV does not exceed the maximum LTV allowed on the Product Matrix.
- Term of subordinate lien must be less than or equal to the term of the first lien.

Calculation of the CLTV ratio is the sum of the following divided by the property value:

- The original loan amount of the first mortgage.
- The drawn portion (outstanding principal balance) of a HELOC.
- The unpaid principal balance of all closed-end subordinate financing.

Calculation of the HCLTV ratio is the sum of the following divided by the property value:

- The original loan amount of the first mortgage.
- The full amount of any HELOCs (whether or not funds have been drawn).
- The unpaid principal balance of all closed-end subordinate financing.

The following are not permitted with any subordinate financing:

- Loans made by any individual or any non-financial institution.
- Loan terms that restrict prepayment. (Terms that require payment of certain closing costs that were waived with the opening of the financing are not considered a prepayment penalty).
- Loans with a negative amortization feature.
- Loans with a balloon payment feature.
- Loans with an interest rate significantly below market rates.
- Shared appreciation second liens.

If the secondary financing is a simultaneous closing, then the following required:

- A copy of the loan approval from the institution providing the secondary financing prior to closing.
- A copy of the executed note at closing.

If the secondary financing is a subordinate, then the following items are required.

- The terms of the current second lien. An unsigned copy of the subordination agreement prior to closing.
- A copy of the executed subordination agreement at closing.

## 15.2 Chain of Title

- All transactions require a minimum 12-month chain of title.
- For purchase transactions seller must have taken title to the subject property a minimum of 90 days prior to date sales contract executed.

## 15.3 Balloon Mortgage

Balloon mortgages are not eligible for purchase.

## 15.4 Temporary Rate Buydowns

Temporary Rate Buydowns are not eligible for purchase.

## 15.5 Prepayment Penalty

Allowed on investment properties held for business purposes.

The following structures may be used:

- **Six Months Interest:** the prepayment penalty (PPP) term may vary from one to five years. The PPP charge will be equal to six months of interest on the amount of the prepayment that exceeds 20% of the original principal balance (penalties applicable to curtailments less than 20% of the original principal balance are also allowed). The PPP is applicable regardless of the reason for the prepayment of principal including prepayments resulting from the sale or refinance of the subject property or curtailments that exceed 20% of the original balance in any 12 month period (penalties applicable to curtailments less than 20% of the original balance in any 12 month period are also allowed).

- **Fixed Percentage or Declining Structure:** the PPP charge will be equal to the percentage in effect at the time of the prepayment on the amount of the prepayment that exceeds 20% of the original principal balance (penalties applicable to curtailments less than 20% of the original principal are also allowed). The PPP is applicable regardless of the reason for the prepayment of principal including prepayments resulting from the sale or refinance of the subject property or curtailments that exceed 20% of the original balance in any 12 month period (penalties applicable to curtailments less than 20% of the original principal balance in any 12 month period are also allowed). The following fixed or declining structures may be used.

### **5 Year Term**

- 5%/5%/5%/5%/5%
- 5%/4%/3%/2%/1%

### **4 Year Term**

- 5%/5%/5%/5%

### **3 Year Term**

- 5%/5%/5%
- 5%/4%/3%
- 3%/2%/1%

### **2 Year Term**

- 5%/5%
- 5%/4%
- 2%/1%

### **1 Year Term**

- 5%
- 1%

Prepayment penalties are not required but there may be price improvements for loans with a PPP.

CW Lend does not allow prepayment penalties in the following states.

- AK
- IL
- KS
- MN
- NM

CW Lend allows prepayment penalties with restrictions in the following states.

- LA: restricted to declining structures only if the term is greater than 1 year.
- MI: restricted to a maximum term of 1 year with a maximum penalty of 1% of the balance at the time of prepayment.
- MO: restricted to a maximum term of 2 years with a maximum penalty of 2% of the balance at the time of prepayment.
- MS: restricted to declining structures only if the term is greater than 1 year.
- NJ: restricted to limited liability companies (LLCs) and corporations only.
- OH: not allowed on loan amounts  $\leq \$112,957$  or applicable state limit. Restricted to a maximum term of 1 year with a maximum penalty of 1% of the original principal amount.
- PA: not allowed on 1 and 2 unit properties with loan amounts  $\leq \$319,777$  or applicable state limit.
- RI: restricted to a maximum term of 1 year with a maximum penalty of 1% of the balance at the time of prepayment.

These requirements do not constitute legal advice and the Seller is responsible for compliance with all applicable federal and state laws, regulations and restrictions.

## 15.6 Financing Concessions (Seller Paid Closing Costs)

Financing concessions are considered to be funds originating from an interested party to pay closing costs on a purchase transaction.

Allowable financing concessions include any of the following:

- Permanently reduce the interest rate on the mortgage.
- Make contributions related to the mortgage financing charges which traditionally would be paid by the Borrower, including but not limited to the payment of discount points, loan fees, commitment fees and/or origination fees, property taxes, and insurance escrows.
- Pay the cost of other items traditionally paid by the Borrower such as application fees, appraisal fees, transfer taxes, tax stamps, attorney fees, surveys, non-recurring closing costs and title insurance.
- HOA Dues are not allowed to be included in an interested party contribution.

- Maximum third-party concessions (as a percentage of the purchase price) are equal to 6% for LTVs of 80% and less; 3% for LTVs greater than 80%.

The dollar amount of financing concessions in excess of the allowable percentage as indicated above is deducted from the purchase price prior to determining the adjusted LTV/CLTV/HCLTV.

## 15.7 Sales Concessions or Property Inducements

Concessions not addressed above or in excess of the allowed percentage of the purchase price are considered to be a sales concession. Sales concessions must be deducted from the purchase price prior to determining an adjusted LTV.

In cases where the appraisal does not clearly and adequately reflect the presence and effect of any financing and/or sales concessions, make a downward adjustment to the appraised value of the subject property to reflect the cost of the contribution. The revised LTV is based on the lesser of the appraised value or reduced sales price.

## 15.8 Homeowners Insurance

The subject property must be protected (including when vacant) against loss or damage from fire and other perils within the standard extended coverage. The coverage amount must meet FNMA requirements. In FL, insurers coverage checklist is acceptable in lieu of a replacement cost endorsement. In addition, homeowner's insurance must meet the following:

- The loan file must evidence the existence of Homeowners Insurance for the subject property. Acceptable proof would be front and back copy of canceled check, HUD-1 showing payment, and receipt for payment of the premium, the insurance binder or the policy.
- In those states that require the originator to accept an insurance binder, the original policy must be received prior to loan funding.
- The policy must be effective for at least 60 days after the date of funding.

The hazard insurance policy must be written by a carrier that meets the following requirements:

- Carriers rated by A.M. Best Company, Inc. must either:
  - A "B" or better Financial Strength Rating in Best's Insurance Reports
  - An "A" or better Financial Strength Rating and a Financial Size Category of "VIII" or greater in Best's Insurance Reports Non-US Edition
- Carriers rated by Demotech, Inc. must have an "A" or better rating in Demotech's Hazard Insurance Financial Stability Ratings.

- Carriers rated by Standard and Poor's must have a "BBB" or better Insurer Financial Strength Rating in the Standard and Poor's Ratings Direct Insurance Service.

The following alternative policies are also acceptable:

- Policies underwritten by a state's Fair Access to Insurance Requirements (FAIR) plan or other state insurance plan, if it is the only coverage that can be obtained.

## 15.9 Project Hazard Insurance Requirements

If the subject property is an attached PUD (townhouse) or a condominium, the respective Associations may acquire a blanket policy to cover the project. Insurance must cover 100% of the insurable replacement cost of the project improvements, including the individual units in a condominium project. Coverage does not need to include land, foundations, excavations, or other items that are usually excluded from insurance coverage.

The owners' association must maintain a commercial general liability insurance policy for the entire project—including all common areas and elements, public ways, and any other areas that are under its supervision. The insurance must also cover commercial spaces that are owned by the owners' association, even if they are leased to others. The commercial general liability insurance policy must provide coverage for bodily injury and property damage that result from the operation, maintenance, or use of the project's common areas and elements.

An insurance policy that includes either of the following endorsements will assure full insurable value replacement cost coverage:

- A Guaranteed Replacement Cost Endorsement (under which the insurer agrees to replace the insurable property regardless of the cost) and, if the policy includes a coinsurance clause, an Agreed Amount Endorsement (which waives the requirement for coinsurance).
- A Replacement Cost Endorsement (under which the insurer agrees to pay up to 100% of the subject property's insurable replacement cost, but no more) and, if the policy includes a coinsurance clause, an Agreed Amount Endorsement (which waives the requirement for coinsurance).

The amount of liability coverage must be at least \$1,000,000 for bodily injury and property damage for any single occurrence.

The policy must provide for at least ten (10) days' written notice to the owners' association before the insurer can cancel or substantially modify it. For condominium projects, similar notice must also be given to each holder of a first mortgage or share loan on an individual unit in the project.

Unless a higher maximum amount is required by state law, the maximum deductible amount for policies covering the common elements in a PUD project and for policies covering condominium projects is the lesser of \$10,000 or 5% of the policy face amount. However, for losses related to individual PUD units that are covered by the blanket policy for the project, the maximum deductible related to the individual unit may not exceed 5% of the face amount of the insurance policy. Funds to cover these deductible amounts must be included in the operating reserve account that is maintained by the owners' association.

## 15.10 Flood Insurance

Flood insurance is required for any property located within any area designated by the Federal Emergency Management Agency (FEMA) as an Area of Special Flood Hazard. This is typically denoted as Flood Zone A or Zone V (coastal areas). Properties in Flood Zone A or V must be located in a community which participates in the FEMA program to be eligible for financing.

Determine whether a subject property is in a flood zone must be established by a Flood Certificate provided by the Federal Emergency Management Agency (FEMA). In addition, the appraisal report must accurately reflect the flood zone.

If the subject property is located in a Special Flood Hazard Area, flood insurance is required. The amount of flood insurance must be at least equal to the lesser of 100% of the insurable value of the facilities or the maximum coverage available under the appropriate National Flood Insurance Administration program. For condominium projects, the condo association must provide a project blanket policy (RCBAP) with coverage for the building in which the unit is located. Coverage must be the lesser of: 100% of the replacement cost of the building in which the unit is located, including all the common elements and property, or (the maximum coverage available under the National Flood Insurance Administration Program times the number of units in the building).

Other requirements:

- Deductibles permitted up to the maximum deductible available under the National Flood Insurance Program (NFIP).
- The Borrower name and the subject property must be on the flood insurance application or binder.
- The flood insurance policy must contain a mortgagee clause, naming Loan Purchaser as the loss payee.
- Evidence of coverage must be provided at closing; and
- The insurance must be maintained throughout the duration of the loan.

The flood insurance requirement may be waived if:

- The subject property improvements are not in the area of Special Flood Hazard, even though part of the land is in Flood Zone A or V; or
- The Borrowers obtain a letter from FEMA stating that its maps have been amended so that the subject property is no longer in an area of Special Flood Hazard.

## 15.11 Escrows

Unless required by applicable state law, escrow waivers are permitted.

Flood insurance premiums are required to be escrowed on mortgages made, increased, extended or renewed after Jan. 1, 2016, for customers in special flood hazard areas, as designated on Federal Emergency Management Agency maps. Loans secured by properties that are covered by a blanket condo, HOA or similar group policy are not subject to escrow provided the policy meets the requirements under the Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters) and Homeowner Flood Insurance Affordability Act of 2014 (HFIAA).

## 16.0 Title and Closing Documentation

### 16.1 Forms

- CW Lend plan codes are available via IDS. In addition, FNMA documents can be utilized for closing. If FNMA does not offer current documentation (i.e., interest only products or prepayment penalties), a document vendor such as Doc Magic or IDS should be utilized.
- Copy of security instrument submitted in the file must be a true and certified stamped copy of the original recorded security instrument.

### 16.2 Title

All loans must be covered by a title insurance policy or other approved form of title evidence that has been paid in full, and is valid, binding and remains in full force and effect.

The title insurer must be qualified to do business in the state where the subject property is located. The title insurer and policy must conform to FNMA/Freddie Mac requirements. The following general requirements apply:

- The title policy must be written on one (1) of the following forms:
  - The 2006 American Land Title Association (ALTA) standard form.
  - The ALTA short form.
  - The ALTA form with amendments required by state law in states in which standard ALTA forms of coverage are not used or in which the 2006 ALTA forms have not yet been adopted, provided those amendments are acceptable to FNMA or Freddie Mac.
- The amount of title insurance coverage must be at least equal to the original principal amount of the mortgage; 12-month chain of title.
- Borrower name must be indicated on the title commitment.
- If Borrower's marital status appears to be different than on 1003, the discrepancy must be addressed.



- Seller's name must be cross referenced to the purchase agreement and valuation chain of title.
- Title policy must ensure the Originator or the Originator's correspondent as its name appears in the security instrument and must also include the language "its successors and assigns as their interest may appear." MERS cannot be named as the title policy beneficiary.

### 16.3 Project Related Title Insurance

The following specific requirements apply to title insurance coverage condominiums:

- An ALTA 4-06 or 4.1-06 endorsement or equivalent is required to be attached and incorporated into the text of the policy.
- If the homeowner's association owns the common areas or facilities of the project separately, the title insurance must insure that ownership.
- The title policy must provide for the following:
  - That the mortgage must be superior to any lien for unpaid common expense assessments.
  - Against any impairment or loss of title by any past, present, or future violations of any covenants, conditions, or restrictions of the master deed for the project.
  - That the unit does not encroach on another unit or any of the common areas/facilities.
  - That the mortgage is secured by a unit in the condo project that has been created in compliance with applicable statutes.
  - The real estate taxes are assessable and lien able only against the condo unit and its undivided interest in the common elements rather than the project as a whole.

An ALTA 13.1-06 endorsement or equivalent is required to be attached and incorporated into the text of the policy for Leasehold Estates.

### 16.4 Acceptable Title Exceptions

- Customary public utility subsurface easements, the location of which are fixed and can be verified. The exercise of rights of easement will not interfere with the use and enjoyment of any present improvement of the subject property or proposed improvements upon which the appraisal or loan is based.
- Above-surface public utility easements that extend along one (1) or more property lines for distribution purposes or along the rear property line for drainage, provided they do not extend more than 12 feet from the subject property lines and do not interfere with any of the buildings or improvements, or with the use of the subject property; restrictions, provided their violation will not result in the

- forfeiture or reversion of title or a lien of any kind for damages, or have an adverse effect on the fair market value of the subject property.
- Mutual easement agreements that establish joint driveways or party walls constructed on the subject property and on an adjoining property, provided all future owners have unlimited and unrestricted use of them.
  - Encroachments on one (1) foot or less on adjoining property by eaves or other overhanging projections or by driveways provided there is at least a ten (10) foot clearance between the buildings on the subject property and the property line affected by the encroachments.
  - Encroachments on the subject property by improvements on adjoining property provided these encroachments extend one (1) foot or less over the property line of the subject property, have a total area of 50 square feet or less, do not touch any buildings, and do not interfere with the use of any improvements on the subject property or the use of the subject property not occupied by improvements.
  - Encroachments on adjoining properties by hedges or removable fences.
  - Liens for real estate or ad valorem taxes and assessments not yet due and payable; or
  - Outstanding oil, water, or mineral rights as long as they do not materially alter the contour of the property or impair its value or usefulness for its intended purposes.

## 16.5 Survey Requirements

If not insured against loss by title insurance, each loan must contain a survey. Surveys must be certified, dated, and signed by the licensed civil engineer or registered surveyor performing the survey. Unimproved land surveys are not acceptable.

Surveys must be reviewed for easements, encroachments, flood zone impacts and possible boundary violations taking into account the location of the dwelling on the property.

## Appendix A - Form of Personal Guarantee

### GUARANTY

This **GUARANTY** (the “Guaranty”) is made and dated as of \_\_\_\_\_, by \_\_\_\_\_  
\_\_\_\_\_ ([each, a] “Guarantor”) <sup>1</sup> for the benefit of \_\_\_\_\_ [Lender/Originator Name] (“Lender”).

### RECITALS

**WHEREAS**, on or about the date hereof, \_\_\_\_\_ [Borrower Entity Name] (“Borrower”) and Lender entered into that certain \_\_\_\_\_ [Name of loan agreement] (as the same may be hereafter amended, restated, supplemented or otherwise modified pursuant to the terms thereof, the “Loan Agreement”), whereby Lender agreed to make a secured loan (the “Loan”) available to Borrower for the acquisition of an investment or business purpose property.

**WHEREAS**, in connection with the Loan, Borrower has executed and delivered to Lender a Note in favor of Lender (as the same may be hereafter amended, restated, renewed, extended, supplemented or otherwise modified pursuant to the terms thereof, the “Note”) in the principal amount of the Loan, payment of which is secured by a mortgage (the “Mortgage”) and certain other loan documents (the “Loan Documents”).

**WHEREAS**, [each] Guarantor is a [member/stockholder/partner] <sup>2</sup> of Borrower.

**WHEREAS**, the execution and delivery of this Guaranty by [each] Guarantor is a condition precedent to the making of the Loan by Lender.

**NOW, THEREFORE**, intending to be legally bound, [each] Guarantor, in consideration of the matters described in the foregoing Recitals, which Recitals are incorporated herein and made a part hereof, and for other good and valuable consideration the receipt and sufficiency of which are acknowledged, hereby covenants and agrees for the benefit of Lender and its respective successors, transferees, and assigns as follows:

1. Each Guarantor, for itself, and its respective successors and assigns, jointly and severally, irrevocably, absolutely and unconditionally hereby guarantees the payment of all debts, liabilities, obligations, or undertakings owed by Borrower to Lender and its successors, transferees, and assigns, arising under or relating to the Loan Agreement, whether direct or indirect, absolute or contingent, due or to become due, voluntary or involuntary, whether now existing or hereafter arising, including (a) the full and prompt payment of the principal of and interest on the Note when due, whether at stated maturity, upon acceleration or otherwise, and at all times thereafter; and (b) the full and prompt payment of all sums which may now be or may hereafter become due and owing under the Note, the Loan Agreement, the Mortgage or the Loan Documents (collectively and severally, the “Obligations”), whether or not such Obligations are from time to time reduced, or extinguished and thereafter increased or incurred and whether or not such Obligations may be or hereafter become otherwise unenforceable.

1 Note to Draft: The Guarantor(s) shall be: (a) for Limited Liability Companies, the members, (b) for partnerships, the partners and (c) for Corporations, the stockholders. Each member/partner/stockholder must provide such guarantee.

2 Note to Draft: To be updated to reflect the number and names of each Guarantor, as well as the type of owner each Guarantor is (dependent upon Borrower entity type).

This is a guaranty of performance and payment and not of collection and shall be enforceable directly against Guarantor without resorting to any action against Borrower. This Guaranty shall continue in full force and effect until all of the Obligations have been fully and irrevocably paid and discharged pursuant to the terms of the Note and Loan Agreement.

2. This is an absolute, present and continuing guaranty of payment and not of collection. Guarantor agrees that this Guaranty may be enforced by Lender without the necessity at any time of resorting to or exhausting any other security or collateral given in connection herewith or with the Note, Loan Agreement, Mortgage or any other Loan Documents through foreclosure or sale proceedings, as the case may be, under any Mortgage or otherwise, or resorting to any other guaranties, and Guarantor hereby waives any right to require Lender to join any Borrower in any action brought hereunder or to commence any action against or obtain any judgment against any Borrower or to pursue any other remedy or enforce any other right. Guarantor further agrees that nothing contained herein or otherwise shall prevent Lender from pursuing concurrently or successively all rights and remedies available to it at law and/or in equity or under the Note, Loan Agreement, any Mortgage or any other Loan Documents, and the exercise of any of its rights or the completion of any of its remedies shall not constitute a discharge of Guarantor's obligations hereunder, it being the purpose and intent of Guarantor that the obligations of Guarantor hereunder shall be absolute, independent and unconditional under any and all circumstances whatsoever. None of Guarantor's obligations under this Guaranty or any remedy for the enforcement thereof shall be impaired, modified, changed or released in any manner whatsoever by any impairment, modification, change, release or limitation of the liability of the Borrower under the Note, Loan Agreement, any Mortgage or other Loan Documents or by reason of the bankruptcy of the Borrower or by reason of any creditor or bankruptcy proceeding instituted by or against the Borrower. This Guaranty shall continue to be effective or be reinstated (as the case may be) if at any time payment of all or any part of any sum payable pursuant to the Note, Loan Agreement, any Mortgage or any other Loan Document is rescinded or otherwise required to be returned by Lender upon the insolvency, bankruptcy, dissolution, liquidation, or reorganization of the Borrower, or upon or as a result of the appointment of a receiver, intervenor, custodian or conservator of or trustee or similar officer for, the Borrower or any substantial part of its property, or otherwise, all as though such payment to Lender had not been made, regardless of whether Lender contested the order requiring the return of such payment. In the event of the foreclosure of any Mortgage and of a deficiency, Guarantor hereby promises and agrees forthwith to pay the amount of such deficiency notwithstanding the fact that recovery of said deficiency against Borrower would not be allowed by applicable law; however, the foregoing shall not be deemed to require that Lender institute foreclosure proceedings or otherwise resort to or exhaust any other collateral or security prior to or concurrently with enforcing this Guaranty.

3. Lender may, without notice to or the further consent of Borrower or Guarantor, transfer or assign this Guaranty in whole or in part to any person acquiring an interest in the Obligations. In the event Lender or any holder of the Note shall assign the Note to any lender or other entity for an amount not in excess of the amount which will be due, from time to time, from Borrower to Lender under the Note with interest not in excess of the rate of interest which is payable by Borrower to Lender under the Note, Guarantor will accord full recognition thereto and agree that all rights and remedies of Lender or such holder hereunder shall be enforceable against Guarantor by such lender or other entity with the same force and effect and to the same extent as would have been enforceable by Lender or such holder but for such assignment. This Guaranty and the liability and obligations of Guarantor hereunder are binding upon Guarantor and its successors and assigns, and this Guaranty inures to the benefit of and is enforceable by Lender and its successors, transferees, and assigns. This Guaranty may not be assigned by the Guarantor without the express written consent of Lender.

4. Guarantor does hereby (a) waive notice of acceptance of this Guaranty by Lender and any and all notices and demands of every kind which may be required to be given by any statute, rule or law, (b) agree to refrain from asserting, until after repayment in full of the Loan, any defense, right of set-off or other claim which Guarantor may have against Borrower (c) waive any defense, right of set-off or other claim which Guarantor or the Borrower may have against Lender, or the holder of the Note, (d) waive any and all rights Guarantor may have under any anti-deficiency statute or other similar protections, (e) waive presentment for payment, demand for payment, notice of nonpayment or dishonor, protest and notice of protest, diligence in collection and any and all formalities which otherwise might be legally required to charge Guarantor with liability, and (f) waive any failure by Lender to inform Guarantor of any facts Lender may now or hereafter know about the Borrower, the Loan, or the transactions contemplated by the Loan Agreement, it being understood and agreed that Lender has no duty so to inform and that Guarantor is fully responsible for being and remaining informed by Borrower of all circumstances bearing on the risk of nonperformance of Borrower's obligations. Credit may be granted or continued from time to time by Lender to Borrower without notice to or authorization from Guarantor, regardless of the financial or other condition of such Borrower at the time of any such grant or continuation. Lender shall have no obligation to disclose or discuss with Guarantor its assessment of the financial condition of such Borrower. Guarantor acknowledges that no representations of any kind whatsoever have been made by Lender. No modification or waiver of any of the provisions of this Guaranty shall be binding upon Lender except as expressly set forth in a writing duly signed and delivered by Lender.

Guarantor further agrees that Guarantor's liability as guarantor shall not be impaired or affected by any renewals or extensions which may be made from time to time, with or without the knowledge or consent of Guarantor of the time for payment of interest or principal under the Note or by any forbearance or delay in collecting interest or principal under the Note, or by any waiver by Lender under the Loan Agreement, any Mortgage or any other Loan Documents, or by Lender's failure or election not to pursue any other remedies it may have against Borrower or Guarantor, or by any change or modification in the Note, Loan Agreement, any Mortgage or any other Loan Document, or by the acceptance by Lender of any additional security or any increase, substitution or change therein, or by the release by Lender of any security or any withdrawal thereof or decrease therein, or by the application of payments received from any source to the payment of any obligation other than the Obligations even though Lender might lawfully have elected to apply such payments to any part or all of the Obligations, it being the intent hereof that, subject to Lender's compliance with the terms of this Guaranty, Guarantor shall remain liable for the payment of the Obligations, until the Obligations have been paid in full, notwithstanding any act or thing which might otherwise operate as a legal or equitable discharge of a surety. Guarantor further understands and agrees that Lender may at any time enter into agreements with Borrower to amend and modify the Note, Loan Agreement, any Mortgage or other Loan Documents, and may waive or release any provision or provisions of the Note, Loan Agreement, Mortgages and other Loan Documents or any thereof, and, with reference to such instruments, may make and enter into any such agreement or agreements as Lender and Borrower may deem proper and desirable, without in any manner impairing or affecting this Guaranty or any of Lender's rights hereunder or Guarantor's obligations hereunder.

5. This Guaranty shall be deemed to be made under and shall be governed by the laws of the State of New York, without reference to conflicts of laws principles. The terms and provisions hereof may not be waived, altered, modified or amended except in writing duly signed by Lender and by Guarantor.

6. Guarantor further agrees that its liability hereunder shall be primary, and that in any right of action which shall accrue to the Lender under the Loan Agreement, the Lender may, at its option, proceed against any Guarantor and the Borrower, jointly or severally, without first having commenced any action or obtained any

judgment against Borrower.

7. Notwithstanding any payment or payments made by the Guarantor hereunder or any set-off or application of funds of the Guarantor by the Lender, the Guarantor shall not be entitled to be subrogated to any of the rights of the Lender against the Borrower or any other guarantor or any collateral security or guarantee or right of offset held by the Lender for the payment of the Obligations, nor shall the Guarantor seek or be entitled to seek any contribution or reimbursement from the Borrower or any other guarantor in respect of payments made by the Guarantor hereunder, until all amounts owing to the Lender by the Borrower on account of the Obligations are paid in full. The Guarantor hereby subordinates all of its subrogation rights against Borrower to the full payment of Obligations due Lender. Any indebtedness of Borrower to Guarantor now or hereafter existing is hereby subordinated to the payment of the Obligations. Guarantor agrees that, until the Obligations have been paid in full, Guarantor will not seek, accept, or retain for its own account, any payment from Borrower on account of such subordinated debt. Any payments to Guarantor on account of such subordinated debt shall be collected and received by Guarantor in trust for Lender and shall be paid over to Lender on account of the Obligations without impairing or releasing the obligations of Guarantor hereunder.

Any amounts received by Lender from any source on account of the Loan may be utilized by Lender for the payment of the Obligations and any other obligations of Borrower to Lender in such order as Lender may from time to time elect. Additionally, if the indebtedness guaranteed hereby is less than the full indebtedness evidenced by the Note, all rents, proceeds and avails of the underlying property, including proceeds of realization of Lender's collateral, shall be deemed applied on the indebtedness of Borrower to Lender that is not guaranteed by Guarantor until such unguaranteed indebtedness of Borrower to Lender has been fully repaid before being applied upon the indebtedness guaranteed by Guarantor.

8. Guarantor's obligations hereunder are independent of the obligations of Borrower, and a separate action or actions may be brought and prosecuted against Guarantor whether or not action is brought against Borrower or any such assignee or whether or not Borrower or any such assignee be joined in any such action or actions.

9. Guarantor shall not be released by any act or event (other than performance) which might, but for this provision of this Guaranty, be deemed a legal or equitable discharge of a surety, or by reason of any waiver, extension, modification, forbearance or delay or costs or by Lender's failure to proceed promptly or otherwise as against Borrower or Guarantor, or by reason of any action taken or omitted or circumstance which may or might vary the risk or affect the rights or remedies of Guarantor as against Borrower, or by reason of any further dealings between Borrower and Lender, whether relating to the Loan Agreement or otherwise, and Guarantor hereby expressly waives and surrenders any defense to its liability hereunder based upon any of the foregoing acts, omissions, things, agreements, waivers or any of them; it being the purpose and intent of this Guaranty that the obligations of Guarantor hereunder are absolute and unconditional under any and all circumstances.

10. Guarantor waives (a) any right to require Lender to (i) proceed against Borrower or any other person or entity; (ii) proceed against or exhaust any security held from Borrower or Guarantor; (iii) pursue any other remedy in Lender's power which Guarantor cannot itself pursue, and which would lighten its burden; (b) any defense based upon any legal disability of Borrower, or any assignee of the Loan Agreement, or any discharge or limitation of the liability of Borrower, or any assignee of the Loan Agreement, to Lender, whether consensual or arising by operation of law or any bankruptcy, reorganization, receivership, insolvency, or debtor-relief proceeding, or from any other cause; and (c) presentment, demand, protest and notice of any kind. Guarantor

waives all demands upon and notices to Borrower, or any assignee of the Loan Agreement, and to Guarantor, including demands for performance, notices of non-performance, notices of nonpayment and notice of acceptance of this Guaranty.

11. In the event that any action, suit, or other proceeding is instituted concerning or arising out of this Guaranty, the prevailing party shall recover all of such party's costs and attorneys' fees incurred in each and every such action, suit, or other proceeding, including any and all appeals or petitions therefrom, from the non-prevailing party. As used herein, "attorneys' fees" shall mean the full and actual costs of any legal services actually rendered in connection with the matters involved, calculated on the basis of the usual fee charged by the attorneys performing such services.

**12. GUARANTOR AND LENDER (BY ITS ACCEPTANCE HEREOF) HEREBY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHT UNDER THIS GUARANTY OR ANY OTHER LOAN DOCUMENT OR RELATING THERETO OR ARISING FROM THE LENDING RELATIONSHIP WHICH IS THE SUBJECT OF THIS GUARANTY AND AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.**

13. The parties hereto intend and believe that each provision in this Guaranty comports with all applicable local, state and federal laws and judicial decisions. However, if any provision or provisions, or if any portion of any provision or provisions, in this Guaranty is found by a court of law to be in violation of any applicable local, state or federal ordinance, statute, law, administrative or judicial decision, or public policy, and if such court should declare such portion, provision or provisions of this Guaranty to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent of all parties hereto that such portion, provision or provisions shall be given force to the fullest possible extent that they are legal, valid and enforceable, that the remainder of this Guaranty shall be construed as if such illegal, invalid, unlawful, void or unenforceable portion, provision or provisions were not contained therein, and that the rights, obligations and interest of Lender or the holder of the Note under the remainder of this Guaranty shall continue in full force and effect.

14. Guarantor will take such further actions as may be reasonably requested by Lender from time to time to effect the purposes of this Guaranty, including without limitation the execution and delivery of all reasonably necessary documents.

15. This Guaranty may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument, and in making proof of this Guaranty it shall not be necessary to produce or account for more than one such counterpart.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the undersigned have executed this Guaranty as of the date first above written.

[\_\_\_\_\_] <sup>3</sup>

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_

3 Note: Form to be updated with additional signature blocks if there are multiple Guarantors.



## Appendix B - Business Purpose & Occupancy Affidavit (the “Affidavit”)

LOAN NO: \_\_\_\_\_ (the “Loan”)

BORROWER(S) NAME: \_\_\_\_\_

BORROWER(S) ADDRESS: \_\_\_\_\_

PROPERTY ADDRESS: \_\_\_\_\_ (the “Property”)

I, the undersigned borrower(s), hereby declare that the following is true and correct:

1. **I have applied for this Loan and am seeking financing for the Property, subject to the terms and conditions of certain documentation related to the Loan (the “Loan Documents”), for business purposes only.** I do not intend to use the proceeds of the Loan for personal, family, or household purposes.
2. **The proceeds of the Loan will be used to purchase, improve, or maintain the Property.** If I have not executed a lease with a tenant (or tenants) at or before closing of the Loan, I intend to, and will use commercially reasonable methods and effort to obtain a tenant (or tenants) for the Property following closing of the Loan.
3. **Neither I nor any family member intend or expect to occupy the Property at any time. I will not, under any circumstances, occupy the Property at any time while the Loan remains outstanding.** In addition, I will not claim the Property as my primary or secondary residence for any purposes for the duration of my Loan. I now reside, and for the duration of my Loan will continue to reside, elsewhere.
4. **I understand that Lender originating the Loan in reliance upon this Affidavit.** If this Affidavit is not true and correct, and in consideration of Lender making the Loan, I agree to indemnify Lender and its agents, affiliates, subsidiaries, parent companies, successors and assigns and hold them harmless from and against any and all loss, damage, liability or expense, including costs and reasonable attorneys’ fees, which they may incur as a result of or in connection with my misrepresentation. I further understand that any misrepresentation in this Affidavit will constitute an event of default under the terms of this Loan and the related Loan Documents, and may result in the immediate acceleration of my debt and the institution of foreclosure proceedings, eviction, and any other remedies allowable by law.
5. **I understand that the agreements and covenants contained herein shall survive the closing of the Loan.**
6. **I understand that, based on the contents of this Affidavit, the Loan is a business-purpose loan secured by non-owner-occupied real property.** I understand that this means that the Loan may not be subject to the requirements of certain federal and state consumer protection, mortgage lending, or other laws, including but not limited to the provisions of the Truth in Lending Act (15 U.S.C. § 1601 et seq.), Real Estate Settlement Procedures Act (12 U.S.C. § 2601 et seq.), Gramm-Leach Bliley Act (15 U.S.C. §§ 6802-6809), Secure and Fair Enforcement Mortgage Licensing Act (12 U.S.C. § 5101 et seq.), and Homeowners Protection Act (12 U.S.C. § 4901 et seq.), and that my ability to avail myself of protections offered under federal and state laws for consumer-purpose residential mortgage loans may be limited.
7. **I understand that any false statements, misrepresentations, or material omissions I make in this Affidavit may result in civil and criminal penalties.**

*[Signature Page Follows]*

<b>Initial(s):</b>	<b>The Property is not and will not be occupied by me or any family member, or if Borrower is an entity, any member or owner of the Borrower entity.</b>

Borrower(s) / Borrowing Entity Members:

[\_\_\_\_\_]

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

[\_\_\_\_\_]

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

## ACKNOWLEDGMENT

State of \_\_\_\_\_ )  
 County of \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_ (insert name and title of the officer) personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of \_\_\_\_\_ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)