

# **SERVICING AGREEMENT**

**The City & County of Denver (Denver MMA)**

**AND**

**U.S. BANK NATIONAL ASSOCIATION**

**Dated as of January 2, 2019**

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## SERVICING AGREEMENT

**THIS SERVICING AGREEMENT** (together with any amendments or supplements hereto, the “Servicing Agreement”) is entered into as of the 2<sup>nd</sup> day of January 2019, (“Effective Date”) by and between U.S. Bank National Association, a national banking association with its principal place of business at 800 Nicollet Mall, Minneapolis, MN 55402 (the “Servicer”), and the City and County of Denver, Colorado (the “Sponsor”), a legally and regularly created, established, organized and existing home rule city, municipal corporation and political subdivision under the provisions of Article XX of the Constitution of the State of Colorado (the “State”) and the Home Rule Charter of the City and County of Denver, Colorado.

### RECITALS

**WHEREAS**, the Sponsor expects to issue new money, tax-exempt bonds or otherwise make funds available, to enable the Sponsor to finance certain qualified home Mortgage Loans through the acquisition of fully-modified mortgage-backed securities issued on behalf of and guaranteed as to timely payment of principal and interest by the Government National Mortgage Association (“GNMA”) or issued by and guaranteed as to timely payment of principal and interest by the Federal Home Loan Mortgage Corporation (“Freddie Mac”) or Federal National Mortgage Association (“Fannie Mae”) and;

**WHEREAS**, the Sponsor has heretofore implemented one or more single family mortgage purchase programs, utilizing bond and/or non-bond financing sources, and may implement additional lending programs from time to time, in each case to assist qualified borrowers in financing the costs of acquiring and owning sanitary, decent and safe dwellings and may implement additional single-family lending programs (collectively, the “Program”); and

**WHEREAS**, Section 103 and Section 143 of the Internal Revenue Code of 1986 as amended, provide that when the interest on obligations issued by or on behalf of a state or a political subdivision are to be used to finance qualifying owner-occupied residences, the gross income shall be excludable from federal income tax if such bonds meet certain requirements stated in Section 143 and Section 148 of the Code.

**NOW, THEREFORE**, in consideration of the representations, warranties and mutual terms and conditions herein contained, and for good and other valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the Servicer and the Sponsor agree as follows:

## **ARTICLE 1. GENERAL PROVISIONS**

### **SECTION 1.01. INCORPORATION OF RECITALS**

The recitals set forth above are incorporated into this Servicing Agreement as expressed terms and conditions.

### **SECTION 1.02. DEFINITIONS**

Unless otherwise indicated, all words and terms defined in this Servicing Agreement, as in effect on the date hereof, are used herein as so defined. In addition, the following terms have the meaning set forth below:

(a) “Bond” means any bond the Sponsor authorizes and issues under an Indenture, which refers to this Servicing Agreement.

(b) “Bondholder” mean the registered owner of a Bond.

(c) “Code” means the Internal Revenue Code of 1986 or, if applicable, of 1954, and any regulations issued thereunder.

(d) “Commitment Authority” means a contractual agreement between GNMA and the Servicer for the issuance of GNMA securities.

(e) “Conventional Mortgage Loan” or “Conventional” means a Mortgage Loan originated pursuant to Fannie Mae or Freddie Mac underwriting requirements on Fannie Mae or Freddie Mac uniform loan documents.

(f) “Custodian” means a neutral third party financial institution, which facilitates the purchase of an MBS, but does not have a financial interest in, on behalf of the Sponsor, under this Servicing Agreement.

(g) “Custody Agreement” means the Custody Agreement by and between the Sponsor and the Custodian.

(h) “Debtor Relief Laws” means the U.S. Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States from time to time in effect and affecting the rights of creditors generally.

(i) “FHA” means the Federal Housing Administration of the U.S. Department of Housing and Urban Development, or other successor to its functions.

(j) “FHA Insured” means Mortgage Loans with FHA mortgage insurance issued under one of the following FHA Insurance programs pursuant to the National Housing Act:

- (1) Section 203(b), Home Unsubsidized (including 223(e) declining area loans);
- (2) Section 234(c), Condominiums;
- (3) Section 203(b)(2), Veteran’s Status;
- (4) Section 203(ks) Streamline Rehabilitation Home Mortgage Insurance; or
- (5) Such other FHA insurance programs as shall be acceptable to the Sponsor and the Servicer.

(k) “FHA/RHS/VA Loans” means Mortgage Loans which are FHA Insured, RHS Guaranteed or VA Guaranteed.

(l) “Gift or Grant” means non-reimbursable funds provided by the Sponsor to a borrower for use by the borrower as funds to close the borrowers Mortgage Loan.

(m) “GSE” means Government Sponsored Enterprise which includes Fannie Mae, Freddie Mac, or GNMA.

(n) “GSE Guide” means any and all guide books, requirements, bulletins, or updates pertaining to selling and servicing mortgage loans promulgated by the GSE for which Mortgage Loans will be pooled, as the same may be amended from time to time.

(o) “Indenture” means any trust indenture or resolution and any series trust indenture or resolution issued thereunder, between the Trustee and the Sponsor.

(p) “Lender” means a home mortgage lending institution approved by the Sponsor and Servicer.

(q) “Lender Agreement” means the Lender Agreement by and between the Sponsor and a Lender.

(r) “Lender Guide” means the guide prepared by the Servicer for the origination and delivery of Mortgage Loans to be purchased by the Servicer and the eligibility, credit and security underwriting standards applicable thereto.

(s) “MBS Agreement” means the agreement with GNMA, Fannie Mae or Freddie Mac pursuant to which GNMA, Fannie Mae or Freddie Mac has agreed to guarantee the timely payment of the specific MBS.

(t) “MBS or Mortgage Backed Securities” means the GSE mortgage backed security issued by either GNMA, Fannie Mae or Freddie Mac, or any respective successor thereto, the

payments on which GNMA, Fannie Mae or Freddie Mac respectively has agreed to guarantee in exchange for FHA, VA, RHS Mortgage Loans, Fannie Mae Mortgage Loans and Freddie Mac Mortgage Loans, as applicable,

(u) “MBS Purchase Date” means the date the Sponsor, Trustee or the Custodian purchases an MBS.

(v) “Mortgage” means the written instrument creating a lien on real property to provide security for the payment of a Mortgage Loan.

(w) “Mortgage Loan” means a qualified first lien mortgage loan originated by a Lender under the Program with respect to real property, evidenced by a Mortgage Note and secured by a Mortgage.

(x) “Mortgage Note” means the promissory note evidencing the obligation to repay a Mortgage Loan.

(y) “Non-Qualifying Mortgage Loan” means any mortgage loan which does not conform to the Program, Program Guidelines, GSE Guide, or the Lender Guide including, but not limited to the following examples:

(1) The Lender fails to deliver to the Servicer all documents of the mortgage loan file (described in the Lender Guide) on a timely basis, or the Servicer determines that such documentation for mortgage loans does not conform to the requirements of the Program, the GSE Guide, or the Lender Guide.

(2) GNMA, Freddie Mac, Fannie Mae or the Servicer determines that the mortgage loan is not of acceptable quality or is not eligible for sale under the Program, the GSE Guide or the Lender Guide.

(z) “Origination Period” means the period of time during which Mortgage Loans may be reserved and closed by the Lenders, and delivered to and purchased by the Servicer pursuant to the process developed by the Servicer and the Sponsor under the Program Documents.

(aa) “Participating Lender Agreement” means the agreement signed between the Servicer and each Lender as to the terms and conditions under which the Servicer will purchase a Mortgage Loan from a Lender and the duties, obligations, representations, warranties, and covenants of the Lender to the Servicer.

(bb) “Pool” means with respect to an MBS, the Mortgage Loans held in connection with such MBS.

(cc) “Pool Purchase Agreement” means the Fannie Mae Pool Purchase Contract or the Freddie Mac Pool Purchase Contract between the Servicer and Fannie Mae or Freddie Mac relating to the sale by the Servicer of Conventional Mortgage Loans to Fannie Mae or Freddie Mac.

(dd) “Program” means the Sponsor’s program to provide financing for owner-occupied residences, as set forth in and implemented through the Program Documents.

(ee) “Program Administrator” means a party appointed by the Sponsor to administer the Sponsor’s Program.

(ff) “Program Documents” means the Participating Lender Agreement, the Custody Agreement, the Program Guidelines, the Lender Guide, and this Servicing Agreement.

(gg) “Program Guidelines” means the Sponsor guidelines of the Program Administrator for the Program, containing information relating to specific provisions of the Program.

(hh) “Program Monitor” means CSG Advisors, as the Program Monitor under the Program Monitoring Agreement.

(ii) “Program Monitoring Agreement” means the Program Monitoring Agreement by and between the Sponsor and the Program Monitor.

(jj) “RHS” means Rural Housing Service of the United States Department of Agriculture or any successor to its functions.

(kk) “RHS Guaranteed” means guaranteed by RHS pursuant to the RHS’s Guaranteed Rural Housing Loan Program.

(ll) “Second Mortgage Loan” means a qualified second lien Mortgage Loan originated by a Lender under the Program with respect to a home, evidenced by a Mortgage Note and secured by a Mortgage.

(mm) “Servicer” means U.S. Bank National Association through its U.S. Bank Home Mortgage division and any successor to its duties under this Servicing Agreement.

(nn) “State” means the State of Colorado.

(oo) “Targeted Areas” means those areas within the State listed as qualified census tracts and areas of chronic distress.

(pp) “Targeted Populations” means a group of people identified as the intended recipient of Second Mortgage Loans or a Gift or Grant.

(qq) “Treasury” means the Treasury Department of the United States of America.

(rr) “Trustee” means a neutral third party financial institution appointed under the Bond documents which facilitates, but does not have a financial interest in, the purchase of an MBS under this Servicing Agreement.

(ss) “VA” means the Veterans Administration, an agency of the United States of America, or any successor to its functions.

(tt) “VA Guaranteed” means guaranteed by the Veterans Administration, an agency of the United States of America, or any successor to its functions, under the Serviceman’s Readjustment Act of 1944, as amended.

**SECTION 1.03.      SERVICER’S REPRESENTATIONS AND  
WARRANTIES**

The Servicer represents and warrants to the Sponsor that:

(a) The Servicer is a national banking association duly qualified and in good standing to transact business in the United States, and possesses all requisite authority and power to conduct any and all business contemplated by the Program Documents and to execute, deliver and comply with its obligations under the terms of the Program Documents, the execution, delivery and performance of which have been duly authorized by all necessary corporate action.

(b) The execution and delivery of this Servicing Agreement by the Servicer in the manner contemplated herein and the performance of and compliance with the terms hereof by it will not violate (i) its amended and restated articles of association or bylaws, or (ii) any laws, regulations or administrative requirements which could have any material adverse effect whatsoever upon the validity, performance or enforceability of any of the terms of this Servicing Agreement applicable to the Servicer; and will not constitute a default under or result in the breach of any material contract, agreement or other instrument to which the Servicer is a party.

(c) The execution and delivery of this Servicing Agreement by the Servicer does not require the consent or approval of any governmental authority, or if such consent or approval is required, it has been obtained.

(d) This Servicing Agreement will constitute a valid, legal and binding obligation of the Servicer, enforceable in accordance with its respective terms, except as the enforcement thereof may be limited by applicable Debtor Relief Laws.

(e) With respect to its duties hereunder, the Servicer will comply with the applicable non-discrimination provisions of the Civil Rights Act of 1964, the Fair Housing Act, 42 U.S.C. Section 3601 et. seq., the regulations promulgated thereunder, Equal Employment Opportunity (Executive Order 11246 dated September 24, 1965 as amended by Executive Order 11375 dated October 13, 1967) and the Fair Housing Amendments Act of 1988.

(f) The Servicer is a GSE-approved Sponsor, seller-servicer of Conventional, FHA Insured, VA Guaranteed, and RHS Guaranteed Mortgage Loans and is an authorized Sponsor of an MBS with experience serving as Servicer for Mortgage Loans originated under programs designed to comply with Sections 103 and 143 of the Code.

(g) The MBS, upon the issuance, execution and delivery thereof, will constitute legal, valid and binding obligations of the Servicer enforceable in accordance with their respective terms, except as the enforcement thereof may be limited by Debtor Relief Laws; provided that no MBS will

constitute a liability of, nor evidence any recorded debt against the Servicer, since each is based on and backed by Mortgage Loans, and recovery may be made from the GSE as applicable, in the event of any failure of timely payment as provided for in the MBS Agreements or contractual agreements appended to the MBS, as applicable.

(h) On the date hereof, there is no pending, or to Servicer's knowledge, threatened litigation or administrative proceedings against Servicer, which, if adversely determined, would materially affect Servicer and its assets or its ability to purchase and service Mortgage Loans and administer the Program.

#### **SECTION 1.04. SERVICER'S COVENANTS**

The Servicer covenants to the Sponsor that:

(a) The Servicer, as long as the Sponsor has an ownership interest in the MBS, shall provide to the Sponsor and the Trustee or the Custodian, in conjunction with each payment on the MBS, the reports required by the GSE with respect to Mortgage Loans underlying the MBS.

(b) The Servicer agrees that so long as it shall continue to serve in the capacity contemplated under the terms of this Servicing Agreement, it will remain in good standing and qualified to do business under the laws of the State. Servicer will not dissolve or otherwise dispose of all or substantially all of its assets and will not voluntarily consolidate with or merge into any other entity or permit one or more other entities to consolidate with or merge into it; provided, however, that the Servicer may, without violating the covenant contained in this subsection consolidate with or merge into another entity, or permit one or more entities to consolidate with or merge into it, or sell or otherwise transfer to another such entity all or substantially all of its assets as an entirety and thereafter dissolve, if the surviving, resulting or transferee entity, as the case may be, shall have a net worth equal to or greater than the net worth required by the GSE and be qualified as a GSE servicer.

(c) The Servicer is familiar with all GSE rules and regulations applicable to the Program and shall use diligent, reasonable efforts to become and to remain familiar with all GSE rules and regulations applicable to the Program, including, but not limited to, any changes or proposed changes in the GSE servicing rates, size of GSE Pools or other features affecting the purchase of Mortgage Loans under the Lender Agreement and the Participating Lender Agreement for this Program, and promptly shall notify all Lenders of such changes or proposed changes of which the Servicer becomes aware during the Origination Period for such Program.

(d) No information, statement or report of the Servicer furnished in writing and required hereunder delivered to the Lender, the Sponsor, the Custodian or the Trustee, as applicable, will, to the knowledge of the Servicer, contain any untrue statement of a material fact or omit a material fact necessary to make the information, statements or report not misleading.

(e) Neither the Servicer nor any "related person", as defined in Section 144(a)(3) of the Code, shall acquire, pursuant to an arrangement, formal or informal, Bonds in an amount related to the amount of the MBS to be acquired by the Sponsor under the Program.

(f) The Servicer will not knowingly take any action or fail to take any action or permit any action within its control to be taken which would impair the exclusion from gross income for federal income tax purposes of interest on the Bonds.

#### **SECTION 1.05. SPONSOR'S REPRESENTATIONS AND WARRANTIES**

The Sponsor represents and warrants to the Servicer to the best of its knowledge at the time of the Agreement:

(a) The Sponsor is a governmental entity validly existing under the laws of the State. The Sponsor has full power and authority to consummate all transactions, execute all Sponsor documents, and issue all Sponsor instruments issued as contemplated by the Program Documents.

(b) The Sponsor has determined that the purchase of the Mortgage Loans by the Servicer and the sale of the MBS to the Sponsor under the terms of this Servicing Agreement to finance the acquisition by eligible borrowers of residences will further and fulfill public purposes.

(c) The execution and delivery of this Servicing Agreement, the Program Documents by the Sponsor, the issuance of the Bonds, if any, by the Sponsor in the manner contemplated by the Program Documents, and the performance of and compliance with the terms of the Program Documents by the Sponsor will not, to its knowledge, violate any laws in any respect that could have any material adverse effect whatsoever upon the validity, performance, or enforceability of any of the terms of the Program Documents.

(d) This Servicing Agreement and the Indenture if applicable, and all documents and instruments contemplated hereby that are executed and delivered by the Sponsor, and any Bonds, when issued and authenticated or registered in accordance with the Indenture when applicable, will constitute valid, legal, and binding obligations of the Sponsor, enforceable in accordance with their terms, except as the enforcement thereof may be limited by applicable Debtor Relief Laws.

(e) Following execution of the Program Documents and the issuance of any Bonds, the Sponsor will apply the proceeds thereof according to the terms and conditions of the Program Documents.

#### **SECTION 1.06. SPONSOR'S OBLIGATION TO FUND A GIFT OR GRANT**

(a) If the Lender is responsible for the initial funding of the Gift or Grant and is not reimbursed directly by the Sponsor, the Servicer will reimburse the Lender for the Gift or Grant on behalf of the Sponsor at the original amount of the Gift or Grant, contemporaneously with the Servicer's purchase of the related Mortgage Loan pursuant to the Lender Agreement, Participating Lender Agreement and the Lender Guide. The Lender shall include specific documents related to the Gift or Grant in the file delivered to the Servicer or to the Sponsor as directed in the Program Guidelines. The Servicer shall request funds from the Sponsor, through an itemized report, for all monies advanced to the Lenders on behalf of the Sponsor for a Gift or Grant. The Sponsor shall

reimburse the Servicer within 30 days of the request for any and all such Gift or Grant regardless of the status of the Mortgage Loan under the Program.

(b) If the Sponsor funds the Gift or Grant directly at loan closing or the Sponsor reimburses the Lender directly after loan closing, the Servicer will have no obligation with regards to the Gift or Grant.

## **ARTICLE 2. THE SERVICER**

### **SECTION 2.01. OVERALL RESPONSIBILITY**

The Servicer shall have general responsibility for the review, purchase and servicing of Mortgage Loans for the Program in accordance with this Servicing Agreement for and on behalf of the Sponsor. The Servicer is hereby irrevocably authorized and empowered by the Sponsor to execute and deliver for and on behalf of the Sponsor any and all instruments, documents and writings necessary or desirable to fulfill its duties and responsibilities hereunder.

### **SECTION 2.02. REVIEW AND PURCHASE OF QUALIFYING MORTGAGE LOANS**

Upon delivery from the Lender, the Servicer will review the Mortgage Loan to ensure that it is eligible for inclusion in a GNMA, Fannie Mae, or Freddie Mac Pool as applicable to the Program. The Servicer shall be entitled to rely upon the Lender as assembler and preparer of all Mortgage Loan documents, and is under no duty whatsoever to investigate or confirm any of the information set forth therein as to its honesty, accuracy, or completeness with respect to the origination, underwriting, and closing of the loan file. The Servicer will review the pertinent documents necessary to ensure the Mortgage Loan meets secondary marketing guidelines. The Servicer is under no obligation to re-verify the information contained in such documents for accuracy. The Servicer will also confirm with the Sponsor or the Program Administrator that the Mortgage Loan meets the requirements of the Program Guidelines by verifying the loan compliance approval date given by the Sponsor or the Sponsor's Program Administrator prior to the Servicer's approval to purchase the Mortgage Loan. Upon approval of the Mortgage Loan by the Servicer, the Servicer will purchase the Mortgage Loan. The Servicer will not purchase a Non-Qualifying Mortgage Loan. The Servicer will be responsible to collect certain final mortgage documents for each Mortgage Loan purchased, and have the right to charge and retain late fees for said final, recorded mortgage documents.

### **SECTION 2.03. SERVICER'S DUTIES AND RESPONSIBILITIES**

(a) Except any such amendment, release or grant which is not inconsistent with or prejudicial to the rights and interests of the applicable GSE, the Sponsor, the Trustee, the Custodian or the Bondholders, the Servicer shall not consent to any changes in the terms and conditions of any Mortgage Loan or the release of specified property from the lien of a Mortgage or the grant of an easement or right of way upon property securing a Mortgage Loan. No such change shall affect the time or amounts of payment of principal and interest on the Mortgage Loan or the obligation to pay

taxes and maintain insurance on the property securing the Mortgage Loan at the times and in the manner specified in the Mortgage Note and Mortgage.

(b) The Servicer shall diligently enforce and take all reasonable steps, actions and the proceedings necessary for the enforcement of all terms, covenants and conditions of all Mortgage Loans, including the prompt payment of all Mortgage Loan principal and interest payments and all other amounts due thereunder. Except as provided in Section 2.11 of this Servicing Agreement, the Servicer shall not release the obligations of any mortgagor under any Mortgage Loan, provided that this provision shall not be construed to prevent the Servicer from settling, in case of a default in payment thereof, any Mortgage Loan on such terms as the Servicer shall determine to be in the best interests of the Sponsor and the related Bondholders if any. If the insurers of any insurance policy contemplated under the Program shall cease to be licensed in the State, or cease to comply with the applicable provisions of the Participating Lender Agreement or GSE Guide for such insurance, the Servicer shall require the mortgagor to obtain comparable replacement policies with total coverage equal to the then existing coverage of such insurance policies from insurers so licensed and approved.

(c) The Servicer is expected and empowered to perform all loan servicing duties in accordance with and in compliance with, when applicable, VA, FHA, RHS, Freddie Mac, Fannie Mae and/or GNMA rules and regulations, and the Lender Guide. The Servicer shall be held harmless for its performance of loan servicing duties that are carried out in full compliance with the requirements of any Mortgage Loan guarantors, insurers, or the applicable GSE Guide. The Servicer shall not be responsible for carrying out any loan servicing duties and responsibilities stated herein or requested by the Sponsor that the Servicer, in its reasonable discretion, believes to be in conflict with the guidelines of the Mortgage Loan guarantors, insurers or the GSE or applicable law.

(d) From and after the acquisition of each Mortgage Loan, the Servicer shall service such Mortgage Loan and shall have full power and authority, acting alone, to take such actions as may be necessary to discharge its duties with respect to such servicing, all as set forth in the GSE Guide and the Lender Guide. In addition, the Servicer shall perform those duties set out in the Program Documents and the applicable MBS Agreement, including, but not limited to, approval of Mortgage Loan assumptions by eligible mortgagors, pursuant to FHA, VA, RHS or GSE guidelines, and keeping and reporting regularly to the Sponsor or the Program Administrator with respect to the purchasing of Mortgage Loans during the Origination Period.

#### **SECTION 2.04. SERVICING STANDARDS**

The Servicer will apply the following servicing standards for Mortgage Loans in the Program, the Servicer (a) will service such Mortgage Loans in accordance with generally accepted practices of the mortgage lending industry, this Servicing Agreement, and with the requirements of the GSE Guide, as applicable, including maintenance of all accounts required thereby, (b) will perform all such duties with due care, diligence and reasonable promptness, (c) will provide prompt monthly principal and interest payments to GNMA, Fannie Mae or Freddie Mac, as appropriate under the MBS accompanied by a statement identifying principal, interest and principal prepayment components of such payment and (d) , as long as the Sponsor has an ownership interest in the MBS,

will forward copies of such reports, if any, as are required by the GSE Guide, to the Sponsor and the Trustee or the Custodian with respect to the status of the Mortgage Loans.

#### **SECTION 2.05. ESCROW ACCOUNT**

The Servicer shall establish and maintain a separate account or accounts to be maintained in accordance with the GSE Guide and shall deposit therein all moneys received by it as escrow payments, including amounts representing collections of real estate taxes, assessments, premiums of any standard hazard insurance policy and comparable items.

#### **SECTION 2.06. COMPENSATION OF THE SERVICER**

As compensation for the performance of its duties hereunder, Lender shall pay the Servicer a one-time funding fee and a tax service fee, as well as, an amortizing second mortgage fee when applicable, or such other amounts as agreed upon in writing by the Servicer and the Sponsor pursuant to Schedule A and incorporated herein. The Servicer's compensation for servicing the Mortgage Loans shall be the permitted monthly servicing fee and any late charges permitted under the GSE Guide. The procedures for the payment thereof shall be in accordance with the GSE Guide.

#### **SECTION 2.07. ASSUMPTION RESTRICTIONS**

In any case in which a residence financed by a Mortgage Loan originated under the Program has been or is about to be conveyed by the Mortgagor and the purchaser desires to assume all the rights and obligations of the mortgagor under the Mortgage Loan, the Servicer shall enter into an assumption agreement with the person to whom such property has been or is about to be conveyed; provided that the purchaser assuming the Mortgage Loan complies with the requirements of the Program, if any. The foregoing assumption restrictions (as well as any additional assumption restrictions required by FHA, VA, RHS, Fannie Mae, or Freddie Mac) shall be incorporated in the related mortgage and kept as a part of the mortgage file. In connection with any such assumption agreement, the interest rate of the related Mortgage Note shall not be changed; however, the Servicer may charge in connection with each assumption to the extent permitted by law or regulations of FHA, VA, RHS, Fannie Mae, or Freddie Mac, a fee, to be paid by or on behalf of assumptors, plus the reasonable and customary out-of-pocket costs paid or incurred by the Servicer.

#### **SECTION 2.08. ASSIGNMENT OF SERVICING OBLIGATIONS**

The Servicer may assign for consideration all (but not a portion) of its servicing rights and obligations under this Servicing Agreement to another servicer, provided that such assignment is evidenced by a written agreement in which the assignee agrees to assume all of the Servicer's obligations hereunder and agrees to provide its services for the same fee as provided in this Servicing Agreement. Any such assignment is subject to the prior written consent of the applicable GSE and the Sponsor or their successors or assigns, and which consent of the Sponsor will not be unreasonably withheld, conditioned, or delayed.

#### **SECTION 2.09. LENDER MANAGEMENT**

(a) After a Lender's application is pre-approved by the Sponsor (or at the direction of another entity approved by the Issuer), the Servicer shall review each Lender's application to determine the Lender's eligibility to participate in the Program. This review will be based upon the eligibility standards adopted by the Servicer. The Servicer shall also conduct an annual recertification, which will include, but not be limited to, a review of the Lender's financial information to assure that the Lender continues to be qualified to participate in the various Programs.

(b) The Servicer reserves the right to modify the eligibility standards for Lenders at any time during the term of this Servicing Agreement. If the Servicer modifies the eligibility standards, the Servicer will notify the Sponsor and the new eligibility standards will become effective upon the date of said notification. Any new Lender applications received, or existing Lender recertifications performed on or after that notification date will be subject to the newly published eligibility standards.

(c) The Servicer will enter into a separate Participating Lender Agreement with every qualifying Lender. In the event of a conflict between the terms of the Participating Lender Agreement and the Lender Agreement, with regard to the requirements owed by the Lender to the Servicer, the Participating Lender Agreement shall control. With regard to the Program and this Servicing Agreement, the Servicer may only enter into a Participating Lender Agreement with entities that are a party to the Lender Agreement.

(d) The Servicer will be granted the authority to suspend or terminate a Lender if that Lender is found to be in breach of any of the terms or conditions of the Participating Lender Agreement or if Lender fails to meet current eligibility standards. Prior to any action to suspend or terminate a Lender, the Servicer will advise the Sponsor, by electronic message, before said action is taken. However, this notification shall be considered a courtesy not a request for approval.

#### **SECTION 2.10. SERVICER MAY PLEDGE COLLATERAL**

During any period of time in which the Servicer has purchased a Mortgage Loan from a Lender, the Servicer may pledge such Mortgage Loan to a financial institution providing the funding for such purchase until such time as an MBS is created and sold to the Sponsor, Trustee or the Custodian.

#### **SECTION 2.11. JOINDER IN LEGAL PROCEEDINGS**

Upon the request of the Servicer, and at the Servicer's sole expense, the Sponsor and/or the Trustee or the Custodian shall join as parties' plaintiff in any legal proceeding brought by the Servicer against any Lenders concerning any obligations of Lenders under the Lender Agreement or the Participating Lender Agreement. If the Sponsor and/or the Trustee or the Custodian shall join in any such legal proceeding at the request of Servicer, Servicer shall indemnify, and hold harmless, the Sponsor and the Trustee or the Custodian from any and all costs and expenses in any form and for whatever reason incurred, including, but not limited to, any and all costs and attorneys' fees of a

defendant required to be paid by the Sponsor and the Trustee or the Custodian by court order in the event of a judgment in favor of such defendant.

**SECTION 2.12. EMERGENCY MANAGEMENT/DISASTER RECOVERY PLAN**

The Servicer has implemented an emergency management/disaster recovery plan (“Recovery Plan”) and shall review its Recovery Plan annually and provide written confirmation to the Sponsor that such review has taken place upon written request of the Sponsor. The Recovery Plan shall include, at a minimum, provisions relating to business closings and facilities restoration, record keeping and retention, the integrity of computer-based systems and the recovery thereof, subcontractors, as applicable, employee availability and business interruption insurance. The Recovery Plan shall demonstrate the ability to perform all services under this Servicing Agreement without unreasonable delay.

**SECTION 2.13. LIMITATION ON LIABILITY OF DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS OF THE SERVICER**

No director, officer, employee or agent of the Servicer shall be under any personal liability to the Sponsor, the Trustee, the Custodian or the Bondholders for any action taken in good faith or for refraining from the taking of any action in good faith pursuant to this Servicing Agreement, or for errors in judgment.

**SECTION 2.14. INDEMNIFICATION OF SPONSOR**

The Servicer hereby agrees to indemnify the Sponsor and its officials, officers, employees and agents (collectively, the Indemnified Parties”) and hold the Indemnified Parties and the Sponsor harmless from any loss, damage or expense that the Sponsor may sustain as a result of any failure on the part of the Servicer to properly perform its services, duties and obligations under this Servicing Agreement or with respect to the Mortgage Loans or the MBS under this Servicing Agreement.

**ARTICLE 3. MORTGAGE POOLING**

**SECTION 3.01. NOTICE OF MORTGAGE LOAN BALANCES**

In connection with the purchase of each MBS, the Servicer shall certify to the Sponsor, the Program Monitor and to the Trustee or the Custodian, in writing, prior to each such purchase, the following: (i) the outstanding principal balance of the Mortgage Loans comprising the Pool for such MBS as of such MBS Purchase Date; (ii) the types of Mortgage Loans comprising the Pool, including the Mortgage Loans in Targeted Areas and Targeted Populations, if applicable; and (iii) that based upon reasonable review as set forth in this Servicing Agreement, the Servicer believes that all Mortgage Loans backing such MBS are qualified as Mortgage Loans under the Lender Agreement, the Participating Lender Agreement, and this Servicing Agreement and that the MBS conforms to all requirements of the GSE commitment. In connection with the purchase of the MBS on an MBS Purchase Date, the Servicer shall, upon the written request of the Trustee or the Custodian, within the specified time frames, and as agreed upon by the Servicer, certify to the

Trustee or the Custodian, in writing, prior to such purchase the outstanding principal balance of the Mortgage Loans comprising the Pools for such MBS as of such MBS Purchase Date.

The Sponsor acknowledges that loans purchased and held in the warehouse will become non-eligible to be pooled if a delinquency occurs. Sponsor will use its best judgment to direct and limit loans purchased by the Servicer and warehoused by the Servicer to a maximum of 30 days in the warehouse prior to pooling. The Sponsor agrees to purchase from the Servicer any Sponsor warehoused loan that becomes non-eligible to be pooled because timely direction for pooling was not given.

### **SECTION 3.02. SALE OF AN MBS**

(a) The procedures set forth in this Section 3.02 are applicable to the sale of the MBS by the Servicer as of the date of this Servicing Agreement.

(b) Subject to the terms and conditions hereof, the Servicer shall comply with the terms of the MBS Agreement and use its best efforts to acquire Mortgage Loans in accordance with the terms of this Servicing Agreement and the GSE Guides and at the direction of the Sponsor (or at the direction of another entity approved by the Sponsor) pool Mortgage Loans into an MBS for sale to the Sponsor, the Trustee or the Custodian. The Servicer shall pay all fees required by the GSE in connection with the issuance of an MBS.

(c) The Servicer shall acquire the Mortgage Loans and cause the aggregation of Mortgage Loans to occur in order to enable the formation of Pools and the MBS as expeditiously as possible. The specifics regarding the timing, Pool size and procedures relating thereto shall be governed by the GSE Guides and directed by the Sponsor and as agreed upon by the Servicer. The Servicer will ensure that this Program shall have at least equal priority with other similar programs of the Servicer with respect to any GSE Pool purchase contract authority.

(d) The total principal amount of any issue of an MBS shall not be less than the aggregate unpaid principal balances of the Mortgage Loans in a Pool as of the issue date of the MBS.

(e) An MBS may be issued with the special servicing option, as defined in the applicable GSE Guides.

(f) The Servicer covenants to obtain and maintain sufficient applicable Commitment Authority or Pool Purchase Agreements to meet the anticipated needs of the Program.

(g) The Sponsor is obligated to purchase or cause the Trustee or Custodian, as applicable, to purchase the MBS when issued and delivered on their behalf by the Servicer. Should the Sponsor fail to purchase or cause the Trustee or Custodian, as applicable, to purchase an MBS from Servicer within the issue month of the MBS, for such purchase, then the Servicer will have the option to sell the MBS in a recognized market and in a commercially reasonable manner at such price or prices as the Servicer may deem satisfactory and apply the proceeds thereof to the aggregate unpaid balance owed by the Sponsor under this Servicing Agreement. If sale is completed by Servicer, the Sponsor agrees to remit funds to the Servicer within 15 days of notice of the completed sale for (i) any discount in the selling price below 100% of the unpaid principal balance of the MBS; (ii) any

amounts due Servicer in excess of 100% of the unpaid principal balance of the MBS as part of the MBS purchase price; and (iii) any other reasonable loss, damage, cost or expense directly arising or resulting from the failure of the Sponsor, or the failure of the Sponsor to cause the Trustee or Custodian, as applicable, to purchase the MBS.

## **ARTICLE 4. REPORTING**

### **SECTION 4.01. NOTICES AND REPORTS TO THE SPONSOR**

(a) The Servicer shall cooperate with the Sponsor and/or the Sponsor's Program Administrator developing and implementing an electronic data exchange process for the exchange of loan reservation data and other data as agreed upon by the Sponsor and the Servicer through such time the Mortgage Loan is purchased and pooled by the Servicer.

(b) As long as the Sponsor has an ownership interest in the MBS, the Sponsor shall be given access to information with respect to delinquencies, foreclosures and prepayments of Mortgage Loans underlying such MBS, effective as of the previous month-end cutoff; through the Servicer's on-line mortgage reports system.

(c) The Servicer shall exercise due diligence in reporting to the Sponsor any occurrences observed in the administration of the Program, which, in the reasonable judgment of the Servicer, would be of interest to the Sponsor or which would have the effect of violating the terms and conditions of the Program, as set forth in the Program Documents.

(d) The Servicer, as long as the Sponsor has an ownership interest in the MBS, shall provide to the Sponsor copies of any report submitted to the Trustee or the Custodian for disclosure to the secondary market.

(e) The Servicer will provide financial information regarding its business, and its servicing portfolio in such form as may be reasonably requested from time to time, in order to permit the Sponsor to comply with federal disclosure requirements.

(f) The Servicer will make a database available to the Sponsor that will include for each Mortgage Loan the loan number, loan date, borrower name, address, original loan amount, loan balance, amount of the Second Mortgage Loan that has been forgiven, if any, and information on a default of the Mortgage Loan or Second Mortgage Loan, if any.

### **SECTION 4.02. REPORTS TO TRUSTEE**

Throughout the term of this Servicing Agreement, and as long as the Sponsor has an ownership interest in the MBS, the Servicer shall simultaneously submit to the Trustee copies of all reports required by the GSE Guide to be submitted to GSE and with respect to the MBS issued under the Program, information required for disclosure to the secondary market.

## ARTICLE 5. TERM AND TERMINATION

### SECTION 5.01. TERM OF SERVICING AGREEMENT

This Servicing Agreement shall be in full force and effect as of the Effective Date and shall continue in effect so long as the terms of any Mortgage Loans or Second Mortgage Loans pursuant to this Servicing Agreement shall continue, or until terminated pursuant to the terms of this Servicing Agreement.

### SECTION 5.02. SPONSOR'S RIGHT TO TERMINATE

(a) The Sponsor may terminate this Servicing Agreement without cause with advance written notice of 120 days to the Servicer.

(b) Upon the occurrence of any one or more of the following events (and after any applicable cure period), the Sponsor may terminate this Servicing Agreement immediately (subject to any applicable cure period):

(i) Failure by the Servicer duly to observe or perform in any respect any covenant, condition or agreement in this Servicing Agreement to be observed or performed, for a period of 30 days after written notice, specifying such failure and requesting that it be remedied, is given to the Servicer by the Sponsor unless the Sponsor shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice is correctable and cannot be corrected within the applicable time period, the Sponsor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Servicer within the applicable period and diligently pursued until the default is corrected.

(ii) A decree or order of a court or agency or supervisory authority having jurisdiction for the appointment of a conservator or receiver or liquidator (1) in any insolvency, readjustment of debt, marshalling of assets and liabilities or similar proceedings, or for the winding-up or liquidation of its affairs, shall have been entered against the Servicer and such decree or order shall have remained in force, undischarged or unstayed for a period of 60 days; and (2) in any proceedings initiated by the Office of the Comptroller of the Currency, shall have been entered against Servicer and such decree or order shall have remained in force undischarged or unstayed for a period of 48 hours.

(iii) The Servicer shall consent to the appointment of a conservator or receiver or liquidator in any insolvency, readjustment of debt, marshalling of assets and liabilities or similar proceedings of or relating to the Servicer or of or relating to all or substantially all of its property.

(iiii) The Servicer shall file a petition to take advantage of any applicable insolvency or reorganization statute, make an assignment for the benefit of its creditors, or voluntarily suspend payment of its obligations.

(v) The Sponsor shall discover or be notified that any representation of or warranty by the Servicer set forth herein or in the other Program Documents is false in any material respect.

(vi) The procedures, guidelines and policies of the GSE may be amended or modified in the future to such an extent that it may become impractical or impossible for the Servicer to perform pursuant to this Servicing Agreement, in which event the Servicer shall not be held in default of this Servicing Agreement for such failure to perform.

### **SECTION 5.03. THE SERVICER'S RIGHT TO TERMINATE**

(a) The Servicer may terminate this Servicing Agreement without cause with advance written notice of 120 days to the Sponsor.

(b) The Servicer may immediately upon notice from the Sponsor to Servicer that the Sponsor's funds to purchase an MBS are no longer available, the Servicer may resign from the obligations and duties imposed on it pursuant to this Servicing Agreement to continue to purchase Mortgage Loans and to pool Mortgage Loans into an MBS pursuant to the Program, provided that any Mortgage Loan for which a reservation has been granted prior to the effective date of Servicer's resignation shall, to the extent such Mortgage Loan meets the terms and conditions of this Servicing Agreement, be purchased by the Servicer and pooled into an MBS for purchase by the Sponsor, the Trustee or the Custodian. With respect to an MBS delivered to the Sponsor, the Trustee or the Custodian on or prior to the effective date of the Servicer's resignation, the Servicer shall continue to be subject to the obligations and duties imposed on it hereunder with respect to such MBS (and the underlying Mortgage Loans) unless this Servicing Agreement shall have been assigned to a successor servicer as provided in Section 5.04 hereof.

(c) The Servicer may resign from the obligations and duties imposed on it pursuant to this Servicing Agreement if the Servicer determines that the procedures, guidelines and policies of a GSE have been amended or modified since the Effective Date to such an extent that it is impractical or impossible for the Servicer to perform pursuant to this Servicing Agreement. Such resignation shall be effective on the date on which the Servicer provides written notice of such to the Sponsor, and, in such event the Servicer shall not be held in default of this Servicing Agreement for such failure to perform.

### **SECTION 5.04. EFFECT OF TERMINATION**

(a) On or after the receipt by the Servicer of written notice from the Sponsor pursuant to Section 5.02 (b), all authority, power, and obligations of the Servicer under this Servicing Agreement shall terminate; however, Servicer shall continue to service all Mortgage Loans it had purchased and is actively servicing pursuant to this Servicing Agreement. The Sponsor is authorized and empowered to execute and deliver, on behalf of the Servicer, as attorney-in-fact or otherwise, any and all documents and other instruments, and to do or accomplish all other acts or things necessary or appropriate, to effect the purposes of any such termination.

(b) On or after the receipt by the Sponsor of the written notice by the Servicer as provided in Section 5.03, all authority, power, and obligations of the Servicer under this Servicing Agreement shall terminate; however, Servicer shall continue to service all Mortgage Loans it had purchased and is actively servicing pursuant to this Servicing Agreement. Servicer will continue to purchase and pool into an MBS for purchase by the Sponsor, the Trustee or the Custodian, any Mortgage Loan for which a reservation has been granted prior to the effective date of Servicer's resignation, to the extent such Mortgage Loan meets the terms and conditions of this Servicing Agreement. The Servicer agrees to cooperate with the Sponsor in effecting the termination of the Servicer's responsibilities hereunder. Any amounts collected pursuant to action taken under this Section 5.04 shall be applied in accordance with the provisions of the Indenture when applicable. Upon termination, the Servicer shall be entitled to the payments for services that were rendered and/or reimbursement for all Second Mortgage Loan or Gift or Grant funds reimbursed to Lenders by the Servicer on behalf of the Sponsor prior to the effective date of the Servicer's resignation.

(c) In the event of termination, without cause, pursuant to 5.02 (a) by the Sponsor and the Sponsor's request for the removal of the existing servicing pursuant to this Servicing Agreement, the Servicer shall be entitled to compensation for the removal of such servicing. Such compensation shall be calculated as follows (the "Servicing Reclamation Price"):

(i) The Sponsor and the Servicer shall each select a mortgage industry recognized servicing value appraiser to establish the Servicing Reclamation Price. The Servicing Reclamation Price shall be the discounted net present value of all future income which Servicer is entitled to receive under this Servicing Agreement for the then current portfolio of Mortgage Loans being serviced less all reasonable costs and expenses incurred in connection with servicing the Mortgage Loans. The discount rate used will be the then current typical rate used in the mortgage industry to value the types of Mortgage Loans serviced under the Servicing Agreement. Should the two appraised values differ by ten percent (10%) or less, the average of the two appraisals shall be the Service Reclamation Price. Should the appraised values differ by more than ten percent (10%), the two appraisers shall select a third mortgage industry recognized servicing value appraiser who shall determine the Service Reclamation Price based solely upon the data, assumptions and valuation methodologies used by the two appraisers previously appointed. The determination made by the third mortgage industry recognized servicing value appraiser shall be the conclusive determination of the Servicer Reclamation Price hereunder. The Sponsor and the Servicer shall each bear their respective costs of the appraiser they select hereunder and shall equally share in the cost of the third appraiser, if used. Sponsor shall bear the cost of the servicing transfer so long as Sponsor approves the expense prior to the effective date of the transfer.

#### **SECTION 5.05. MERGER**

Upon merger by or sale of the assets of the Servicer, the Servicer shall provide notice within a reasonable time after such merger or sale of assets becomes public information, to the Sponsor and the Trustee or the Custodian, except for mergers with or sales to entities with ownership and management that is not materially different to that of the Servicer. Thereafter, the Sponsor and the Trustee or the Custodian shall provide written notice of the merger or sale of assets to each GSE, and if any GSE raises objections, the Servicer agrees to the termination of this Servicing Agreement

under terms reasonably acceptable to the Sponsor and the Trustee or the Custodian. Any entity into which the Servicer may be merged or consolidated, or any entity resulting from any merger, conversion or consolidation to which the Servicer shall be a party, pursuant to the terms hereof, or any entity succeeding to the business of the Servicer, pursuant to the terms hereof, shall be the successor of the Servicer hereunder and shall assume in writing all of the obligations of the Servicer hereunder.

#### **SECTION 5.06. NO REMEDY EXCLUSIVE**

Unless otherwise expressly provided, no remedy herein conferred upon or reserved is intended to be exclusive of any other available remedy, but each remedy shall be cumulative and shall be in addition to other remedies given under this Servicing Agreement or existing at law or in equity. In order to entitle the Sponsor or the Trustee or the Custodian, on behalf of the Sponsor, to exercise any remedy reserved to the Sponsor in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article.

### **ARTICLE 6. MISCELLANEOUS PROVISIONS**

#### **SECTION 6.01. BOOKS AND RECORDS**

(a) The Servicer shall make available to the Sponsor, or the Sponsor's designee, such statements, records, reports, data and information as the Sponsor, or the Sponsor's designee, may request pertaining to matters covered by this Servicing Agreement. The Servicer shall, during normal business hours and as often as the Sponsor may deem reasonably necessary, make available to the Sponsor, including its auditor, for examination all of its records and data with respect to all matters covered by this Servicing Agreement and shall permit the Sponsor or its designated or authorized representative to audit and inspect all invoices, materials, payrolls, records of personal conditions of employment and other data relating to all matters covered by this Servicing Agreement. Servicer shall make such records available for inspection and copying by the Sponsor or Sponsor's designee at an office designated by the Servicer under reasonable conditions, upon 7 business days' advance notice. Such records shall be maintained for a minimum period of three (3) years following payment or services hereunder.

(b) The Servicer agrees to keep proper books, records and accounts in accordance with the GSE Guide and sufficient to comply with reporting requirements applicable to the Bonds imposed by the Code.

#### **SECTION 6.02. SERVICER'S ACCESS TO PRIVILEGED INFORMATION**

Through normal servicing activities, including the servicing of delinquencies, the Servicer may sometimes obtain privileged information concerning the mortgagors and their residences. All such information must be used in a manner consistent with any applicable laws or regulations regarding disclosure of nonpublic personal information.



with copies to:

Office of Economic Development  
Attn: Executive Director  
201 West Colfax Avenue  
Department 1011  
Denver, CO 80202  
E-mail: Michael.Kerrigan@denvergov.org

Denver City Attorney's Office  
Attn: City Attorney  
457 Bannock Street  
Room 353  
Denver, CO 80202  
E-mail: JoAnn.Weinstein@denvergov.org

As to the Servicer:

U.S. Bank National Association  
Attn: Client Sales Executive  
6000 Lombardo Center Suite 100  
CN-OH-SH1  
Seven Hills, Ohio 44131  
E-mail: jason.hubbard2@usbank.com

#### **SECTION 6.06. SEVERABILITY**

If any provision of this Servicing Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, and in lieu of such invalid or unenforceable provision there shall be added, if possible and agreed upon in writing by Sponsor and Servicer, a provision similar in terms to this Servicing Agreement that may be valid and enforceable.

#### **SECTION 6.07. FURTHER ASSURANCES AND CORRECTIVE INSTRUMENTS**

To the extent permitted by law, the Sponsor and the Servicer agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the intention of or facilitating the performance of this Servicing Agreement.

#### **SECTION 6.08. NO RIGHTS CONFERRED ON OTHERS**

Nothing in this Servicing Agreement shall confer any right upon any person other than the Sponsor, the Servicer, the Trustee or the Custodian and the Bondholders.

**SECTION 6.09. MEMBERS AND OFFICERS NOT LIABLE**

This instrument is executed by the members or officers or both of the Sponsor and the Servicer in their capacities as said members or officers. No covenant, stipulation, obligation or agreement contained herein shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, agent, counsel, officer or employee of the Sponsor and the Servicer in his or her individual capacity, and neither members of the Sponsor and the Servicer or any officers executing this Servicing Agreement shall be liable personally on this Servicing Agreement or be subject to any personal liability by the execution thereof.

**SECTION 6.10. SERVICER'S RIGHT TO AMEND THE SERVICING AGREEMENT**

The Servicer shall have the right from time to time, in its sole discretion, to amend all or any portion of this Servicing Agreement for the purpose of providing for any and all modifications, updates, changes, amendments or supplements to applicable laws or regulations. The Servicer shall give the Sponsor written notice including specific language changes of such an amendment not less than 30 days before the effective date of such amendment unless the Servicer shall be obligated by law or regulation to implement such amendment in a shorter time period, in which case, the Servicer shall provide the Sponsor with as much advance notice as is practical, but such change shall be effective on the date prescribed by the applicable law or regulation; provided, however, that the Sponsor shall not be liable or deemed in breach of this Servicing Agreement due to the Sponsor's failure to comply with any changes with respect to which the Sponsor has not yet received notice from the Servicer unless the Sponsor already has knowledge of the change. Amendments to this agreement per this section are presumed effective, unless Sponsor objects in writing and rebuts the amendment's necessity with relation to applicable laws or regulations. Further, the Servicer reserves the right to make changes to Schedule A or the accompanying Exhibits as provided therein.

**SECTION 6.11. COUNTERPARTS**

This Servicing Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall constitute one and the same Servicing Agreement.

**SECTION 6.12. FORCE MAJEURE**

Notwithstanding anything to the contrary contained herein, no party shall be liable to the other party for any failure or delay on its part to perform, and shall be excused from performing, any of its obligations hereunder if such failure, delay or nonperformance results in whole or in part from any cause beyond the reasonable control of such party, including, without limitation, any act of God; any epidemics or pandemics; any fire, flood or weather condition; any earthquake or other natural disaster; any act of a public enemy, act of terrorism, war, government collapse, government restriction, civil disturbance, riot, explosion, strike or other labor dispute, labor or material shortage, energy crises, blackouts or brownouts; any interruption or shortage of, or failure or delay in, transportation, utilities, networks, material, supplies, equipment, machinery, power or spare parts; and any act of any military or civil authority.

**SECTION 6.13. WAIVER**

No course of dealing and no failure by a party to enforce any provision of or to exercise any right under this Servicing Agreement shall be construed as a waiver of such provision or right or affect the validity of this Servicing Agreement or limit, prevent or impair the right of any party subsequently to enforce such provision or exercise such right. The waiver by a party of any breach or default of this Servicing Agreement by the other party shall be in writing, and will not operate or be construed as a waiver of any subsequent or other breach or default. No rights may be waived except by an instrument of writing signed by the party charged with such waiver. No assent, expressed or implied, to any breach of any one or more covenants, provisions or conditions of the Agreement shall be deemed or taken to be a waiver of any succeeding or other breach.

**SECTION 6.14. ENTIRE SERVICING AGREEMENT**

This Servicing Agreement, the Schedules, the Exhibits and the Supplement constitute the entire agreement between the parties with respect to the subject matter hereof, and supersedes and replaces in their entirety any and all prior agreements between the parties with respect to such subject matter, either oral or in writing.

**SECTION 6.15. NO DISCRIMINATION IN EMPLOYMENT**

In connection with the performance of all work under this Servicing Agreement, the Servicer agrees not to refuse to hire, discharge, promote, or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability; and further agrees to insert the foregoing in all contracts entered into in furtherance of this Servicing Agreement. The Servicer agrees to insert the foregoing provision only in any subcontract of services that will be provided under this Agreement directly related to the implementation of the Program.

**SECTION 6.16. PROFESSIONAL LIABILITY (ERRORS AND OMISSIONS)**

Servicer shall maintain limits of \$1,000,000 policy aggregate limit.

[SIGNATURE PAGE FOLLOWS]

**IN WITNESS WHEREOF**, we have set our hands and seals as of the date first written above.

Dated this 1st day of January, 2019

**By the Servicer:**

**U.S. Bank National Association**

\_\_\_\_\_  
(Signature of Authorized Signer)

\_\_\_\_\_  
(James R. Coreno)

\_\_\_\_\_  
(VP- HFA Division Manager)

**CITY AND COUNTY OF DENVER**

By: \_\_\_\_\_  
Debra Johnson,  
Clerk and Recorder, Ex-Officio Clerk  
of the City and County of Denver

By: \_\_\_\_\_  
Michael B. Hancock, MAYOR

**APPROVED AS TO FORM:**

KRISTIN M. BRONSON, Attorney  
For the City and County of Denver

**REGISTERED AND COUNTERSIGNED:**

By: \_\_\_\_\_  
Assistant City Attorney

By: \_\_\_\_\_  
Brendan J. Hanlon, CFO

By: \_\_\_\_\_  
Timothy O'Brien, Auditor

## Schedule A

### FLAT FOUR MONTH PRICING

The Service Release Premium (SRP) paid by the Servicer to the Sponsor will be based on a comparison of the last four months of Sponsor loan reservations evaluating weighted average Note Rates registered under the Sponsor's program versus the average MBA Weekly Mortgage Applications Survey for FHA and Conventional loans to establish the Sponsor's overall weighted average spread to market for the same time period illustrated in Exhibit A.

The SRP table shown in Exhibit B will be set for a **period of one year**. Exhibit B also indicates the fixed SRP slotting by service fee for the four-month period. The SRP **slotting** will be effective for MBS pool settlements for the **specified four-month time frame** as shown in Exhibit C. The Sponsor's weighted average spread to market for the Pricing Grid will be established approximately 75 days prior to the initial four-month flat pricing, and approximately 75 days prior to each subsequent four-month change (Exhibit D).

With respect to the acquisition of Mortgage Loans and the sale of Mortgage Backed Securities to the Sponsor, the Servicer reserves the right to reevaluate and change the SRP pricing, fees and/or credit terms stated on this Schedule A or the accompanying Exhibits. Such changes may be made at any time with a 30-day advance written notice to the Sponsor, unless a shorter time frame is mandated by Fannie Mae, Freddie Mac, Ginnie Mae or any Regulatory Agency.

### **STANDARD FEES**

Funding: \$400

Tax Service: \$80

Amortizing Second Mortgage: \$175

Deferred Second Mortgage: \$0

FHA loans with credit scores below 660 (640-659): 0.50% of the loan amount at pool settlement

FHA manually underwritten loans: 1%

No Fee for Manufactured Housing loans at 680 FICO score.

### **MAXIMUM DEBT-TO-INCOME RATIO'S:**

Government Insured: 45%

Agency: 50%

**MINIMUM CREDIT SCORE: 640 FICO**

**City and County of Denver**

**Exhibit A**

**HFA & MBA survey Rate Comparisons**

Month	Govt Reservations		MBA Avg Rate			Conv Reservations		MBA Avg Rate			
	Res \$000	HFA Rate	Govt Mo Avg		Over (Under)	Res \$000	HFA Rate	Conv Mo Avg		Over (Under)	
Jul-18	928	6.00	4.79		1.22%	1,147	5.75	4.79		0.97%	
Aug-18	1,122	5.87	4.80		1.07%	2,031	5.75	4.81		0.94%	
Sep-18	420	6.13	4.91		1.22%	1,442	5.78	4.91		0.87%	
Oct-18	0	6.42	5.03		1.39%	1,568	6.08	5.09		0.98%	
<b>Weighted Avg</b>		<b>5.96%</b>	<b>4.81%</b>		<b>1.15%</b>		<b>5.84%</b>	<b>4.90%</b>		<b>0.94%</b>	
		<b>FHA % 20</b>					<b>CON % 80</b>				

**Exhibit B**

**Denver, CO / DN New Benchmark & Slotting  
SRP table effective 6/1/2018 to 5/31/2019**

HFA reservation Spread to MBA FHA and Conv	1.15%	0.94%
--	-------	-------

Spread to market From To	FHA 44	FHA 19	FHA 31.5	FHA 56.5	Gov 69	Conv 25
	1.251%	0	0	0	0	0
1.001% 1.250%	64	2	32	95	109	33
0.751% 1.000%	73	4	38	108	123	38
0.501% 0.750%	82	7	45	120	137	44
0.251% 0.500%	86	8	47	125	143	47
0.000%	90	8	49	131	150	51
-0.251% -0.500%	98	11	55	142	163	55
-0.501% -0.750%	106	13	60	151	174	59
-0.751% -1.000%	113	15	65	161	185	63
-1.001% -1.250%	119	17	69	169	194	66
-1.251% 0.000%	119	17	69	169	194	66

**Exhibit C Slot 3 of 3 2018 - 2019**

**Shaded line is FIXED SRP for four month settlement period.**

**Price effective for settlements with Issue Dates of 2/1/2019 thru 5/31/2019**

	GOVT	Conv	FHA 44	FHA 19	FHA 31.5	FHA 56.5	Gov 69	Conv 25
SRP	1.15%	0.94%	64	2	32	95	109	38
VA deduct		50	14	(48)	(18)	45	59	

  

	Govt	Conv	FHA 44	FHA 19	FHA 31.5	FHA 56.5	Gov 69	Conv 25
Prior slot	1.12%	0.84%	73	4	38	108	123	38

**Exhibit D**

Price Slotting	Notification M/YR	Pool delivery M/YR
Slot 1	Mar-18	6/18 - 9/18
Slot 2	Jul-18	10/18 - 1/19
Slot 3	Nov-18	2/19 - 5/19
New pricing	Mar-19	6/19 - 9/19



## **SCHEDULE B**

### **SECOND MORTGAGE LOANS**

This Schedule B to the Servicing Agreement applies to servicing of qualifying Second Mortgage Loans.

#### **ARTICLE B-1. SECOND MORTGAGE LOAN PROGRAM ADMINISTRATION**

##### **SECTION B-1.01. SECOND MORTGAGE LOAN FUNDING PROCEDURES**

The Lender or the Sponsor may, dependent upon the Program Guidelines, be responsible for the initial funding of Second Mortgage Loan.

(a) The Lender must register the Mortgage Loan and the Second Mortgage Loan simultaneously with the Sponsor or the Sponsor's Program Administrator.

(b) The Sponsor (or the Lender on behalf of the Sponsor) shall be legally obligated for the funding of a Second Mortgage Loan at loan closing.

##### **SECTION B-1.02. SECOND MORTGAGE LOAN REIMBURSEMENT PROCEDURES**

If the Lender is responsible for the initial funding of the Second Mortgage Loan, the Servicer will reimburse the Lender for the Second Mortgage Loan on behalf of the Sponsor at the original loan amount of such loan, or amortized balance when applicable, contemporaneously with the Servicer's purchase of the related Mortgage Loan pursuant to the Lender Agreement, Participating Lender Agreement and the Lender Guide. The Lender shall include specific Second Mortgage Loan documents in the file delivered to the Servicer or to the Sponsor as directed in the Program Guidelines. The Servicer, Program Administrator, or the Sponsor, through their established monitoring system, shall monitor and determine whether the mortgagor is compliant with the terms and conditions of the Second Mortgage Loan as identified in this Schedule B and the Program Guidelines. Upon receipt of notice by the Sponsor from the Servicer of the Servicer's reimbursement to the Lender for the Second Mortgage Loan, the Sponsor shall reimburse the Servicer for such reimbursement to the Lender, and thereafter the Servicer may retain Second Mortgage Loan documents as directed by the Sponsor pursuant to the terms of this Schedule B.

##### **SECTION B-1.03. REIMBURSEMENT OF SERVICER**

The Servicer shall request funds from the Sponsor, through an itemized report, for all monies advanced to the Lenders on behalf of the Sponsor for Second Mortgage Loans. The Sponsor shall reimburse the Servicer within 30 days of the request for any and all such Second Mortgage Loan(s) regardless of the status of the Mortgage Loan or the Second Mortgage Loan under the Program.

#### **SECTION B-1.04. REMITTANCES AND REPORTS**

(a) The Servicer shall provide or make available to the Sponsor and its Trustee or its Custodian the following information:

(i) On a monthly basis, a trial balance of all amortizing stand-alone Second Mortgage Loans. The trial balance shall identify each Mortgage Loan by loan number, mortgagor name and Second Mortgage Loan unpaid principal balance. The report shall also include a reconciliation of all activity since the prior reporting period, which shall include a detailed accounting of foreclosed Mortgage Loans and repayments.

(ii) On a monthly basis, a remittance report which summarizes the payments forwarded to the Trustee for collection of amortizing stand-alone Second Mortgage Loan payments. The remittance method will be actual interest-actual principal.

(b) The Servicer, pursuant to the authority granted the Servicer as the attorney-in-fact for the Sponsor, shall be responsible for the execution, filing and recording of all Mortgage satisfactions for satisfied Second Mortgage Loans. The Servicer shall recover the actual costs of filing and recording such Mortgage satisfactions from the mortgagor at the time of payoff.

(c) The Servicer shall administer and service the Second Mortgage Loans in accordance with the terms and provisions of this Schedule B.

(d) The Servicer shall deal directly with mortgagors, title companies and attorneys requesting payoffs of these Second Mortgage Loans. Funds collected for the Second Mortgage Loan payoffs shall be directed to the Trustee/Sponsor at least monthly.

#### **SECTION B-1.05. REPURCHASE OF MORTGAGE LOANS AND SECOND MORTGAGE LOANS**

The Lender shall be required to repurchase a Non-Qualifying Mortgage Loan's related Second Mortgage Loan when the Lender is obligated to repurchase the Non-Qualifying Mortgage Loan under the Participating Lender Agreement.

#### **SECTION B-1.06. COMPENSATION AND EXPENSES FOR SERVICING**

(a) The Servicer will have the right to collect from the Lender an agreed upon upfront fee at the time of loan purchase for Amortizing Second Mortgage Loans as a processing fee.

(b) Any miscellaneous costs incurred by Servicer to carry out additional duties requested by the Sponsor that are not provided for in this Servicing Agreement, shall be billed to the Sponsor at reasonable cost and paid by the Sponsor within 30 days upon receipt of billing.

(c) The Servicer shall, as within Fannie Mae and Freddie Mac servicing guidelines, also be entitled to retain any late charges stated in the Second Mortgage Loan documents and paid by the mortgagors, any ancillary fees charged for customary services provided to the mortgagors.

## **ARTICLE B-2. COLLECTION AND DISBURSEMENT DUTIES OF THE SERVICER**

### **SECTION B-2.01. LOAN SERVICING GUIDELINES**

(a) The Servicer shall have full power and authority, acting alone, to do any and all things in connection with such servicing that it may deem necessary or desirable and shall exercise the same degree of care that it exercises with respect to the servicing of the related Mortgage Loans. The Servicer shall service the Second Mortgage Loans in compliance with the FNMA or FHLMC guides. The Servicer shall execute and deliver any and all instruments, documents, and writings necessary to service the Second Mortgage Loans.

(b) The Servicer shall be held harmless for failing to perform any requirements of this Schedule B that conflict with the FNMA or the FHLMC guides.

(c) If the Sponsor requests the Servicer to service any new or modified Second Mortgage Loan that will require services that are in addition to or contrary to the servicing duties stated herein or in the Second Mortgage Loan documents, the request must be pre-approved in writing by the Servicer. No Second Mortgage Loans will be included in the Bond issuance governed by the Servicing Agreement without the Servicer's prior written approval. Any additional services approved by the Servicer may require additional servicing fees.

(d) Services performed by the Servicer for Second Mortgage Loans will be limited to collecting and processing monthly loan payments and calculating and remitting payoff funds. The Servicer shall NOT calculate, accrue, accumulate or collect interest payable on any non-amortizing Second Mortgage Loan. The Servicer shall not be obligated to provide any legal services to secure the Second Mortgage Loan debt by means of foreclosure proceedings on behalf of the Sponsor, unless the Sponsor and the Servicer, on a loan by loan basis, establish a written agreement for the fees paid by the Sponsor and the functions to be performed by the Servicer.

(e) In circumstances when there are not sufficient funds from equity of the sale to pay the debt, the Sponsor will calculate what the Servicer is permitted to accept. The Servicer will not be responsible for any calculations to reduce the debt due to the sale of the property.

### **SECTION B-2.02. SECOND MORTGAGE LOAN PAYMENT COLLECTION**

(a) In the event of a default of a Second Mortgage Loan, Servicer shall take whatever appropriate action needed to collect the Second Mortgage Loan payments.

(b) The Sponsor shall be responsible for the decision whether to join a foreclosure of a Second Mortgage Loan with a foreclosure on the corresponding Mortgage Loan. Upon such joinder by the Sponsor, the Sponsor shall provide written notification to the Servicer. The Sponsor shall bear all costs associated with such joinder, bidding for the property at foreclosure sale and liquidating the acquired property in recovery of its investment.

**SECTION B-2.03. REMITTANCE OF SECOND MORTGAGE LOAN PAYMENTS**

The Servicer shall collect payments on each Second Mortgage Loan. The Servicer will deposit all payments of principal and interest received on the Second Mortgage Loans in a separate designated trust account for the benefit of the Trustee under the Program and insured by the FDIC. The cutoff date will be the 10<sup>th</sup> day of each month. If the 10<sup>th</sup> day falls on a weekend/holiday, the business day prior will be designated as the cutoff date. Servicer shall remit to the Trustee all payments received on Second Mortgage Loans each month within 5 business days after the cutoff date to an account designated by the Sponsor either as the Revenue Account for the Subordinate Bonds or otherwise, and as follows:

(\_\_Name of Trustee here\_\_)  
ABA \_\_\_\_\_  
A/C \_\_\_\_\_  
A/C \_\_\_\_\_  
Ref A/C \_\_\_\_\_  
Attn \_\_\_\_\_

**SECTION B-2.04. GUIDELINES FOR DEALING WITH DELINQUENCIES**

The Servicer will determine and carry out the most effective form of contact with specific mortgagors during the various stages of delinquency. All collection efforts will be conducted in compliance with applicable state and federal laws and regulations.

**SECTION B-2.05. DELINQUENCY OF MORTGAGOR**

All amortizing Second Mortgage Loans shall require monthly payment according to the terms of the Second Mortgage Loan documents or in accordance with State law. Any late charge shall be calculated in accordance with State law. If full monthly payments of principal, interest and other charges are not paid on or before the first day of the month following the month in which they become due and payable, the Servicer shall notify the mortgagor of such delinquency.

**SECTION B-2.06. TRANSFERS AND ASSUMPTIONS**

All Second Mortgage Loans originated under the Program shall not be transferable or assumable and are due and payable in full upon the sale of the property, the refinance or the payoff of the corresponding Mortgage Loan.

**SECTION B-2.07. MORTGAGE LOAN DOCUMENTS**

Servicer may retain Second Mortgage Loan documents as directed by the Sponsor. Copies of the Second Mortgage Loan documents shall be maintained in accordance with the Servicer's standard policies and procedures.

**ARTICLE B-3. WAREHOUSE OBLIGATIONS OF THE SERVICER**

**SECTION B-3.01. WAREHOUSE OBLIGATIONS**

The Servicer hereby agrees to provide warehouse services for the Sponsor with respect to designated Second Mortgage Loans serviced under this Schedule B. The Servicer agrees to warehouse Second Mortgage Loans designated by the Sponsor until such time as the Sponsor delivers to the Servicer the purchase price of the designated Second Mortgage Loans. The Sponsor has a responsibility to reimburse the Servicer for any and all Second Mortgage Loans purchased by the Servicer under the Program as per Section B-1.03.

**SECTION B-3.02. TERMS OF DESIGNATED SECOND MORTGAGE LOANS**

The Second Mortgage Loans purchased in accordance with this Article B-3 shall bear such terms and conditions as are designated in the loan documents.

[END OF SCHEDULE B]