



# emortgage loan addendum

## to mortgage loan purchase and purchase of servicing rights agreement

This eMortgage Loan Addendum (the "Addendum") to the Mortgage Purchase Agreement (defined below) is effective as of the date executed by the undersigned participating lender (the "Participating Lender") set forth below.

### Recitals

Participating Lender has entered into a Mortgage Loan Purchase and Purchase of Servicing Rights Agreement with Colorado Housing and Finance Authority, a body corporate and political subdivision of the State of Colorado (CHFA), as amended, supplemented and revised from time to time (the "Mortgage Purchase Agreement").

Participating Lender desires to sell eMortgage Loans (defined below) to CHFA and, as a condition, CHFA requires Participating Lender to agree to and sign this Addendum which supplements and is incorporated in the Mortgage Purchase Agreement.

**Now, therefore**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Participating Lender hereby agrees, represents, warrants and covenants as follows in connection with its eMortgage Loan Activities (defined below), including its delivery and sale of eMortgage Loans to CHFA.

1. **Defined Terms.** All capitalized terms used in this Addendum will, unless otherwise defined in the body of this Addendum, the Mortgage Purchase Agreement or the Seller's Guide, have the following meanings:
  - a. **eClosing System** means an Electronic system that uses computer hardware and software that provides a Borrower the ability to electronically sign some or all of the closing documents and applies a Tamper Seal.
  - b. **Electronic** means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities, as defined in the "UETA" and/or "E-SIGN"
  - c. **Electronic Notarization** means notarization by Electronic means of a person's Electronic Signature, after proper identification by a notary public, licensed or otherwise authorized by the State, which complies with all relevant laws, regulations and rules, including, without limitation, the UETA and/or E-SIGN.
  - d. **Electronic Record** means a record created, generated, sent, communicated, received, or stored by Electronic means, as defined in the "UETA" and/or "E-SIGN." The term also includes a paper document converted into an Electronic Record.
  - e. **Electronic Signature** means an Electronic symbol or process attached to, or logically associated with, a contract or other record and executed or adopted by a person with the intent to sign the record.
  - f. **eMortgage Loan** means a mortgage loan that was originated using an eNote. An eMortgage may also have an Electronic or paper security instrument and certain other paper or Electronic Records, which are part of the mortgage file documents.
  - g. **eNote** means an Electronic Record that would be a promissory note if it was issued in paper, and that the borrower has agreed to issue as a Transferable Record.
  - h. **E-SIGN** means the federal Electronic Signatures in Global and National Commerce Act (15 U.S. Code, Chapter 96)
  - i. **eStorage System** means an Electronic computer storage system in which to store Electronic Loan file documents safely, securely, confidentially and in accordance with all Applicable Requirements (defined below).
  - j. **eVault** means an Electronic storage system that uses computer hardware and software to store and maintain eNotes and other Electronic Records.

- k. **MERS® RON Video Storage Solution** means the eStorage System established and maintained by MERSCORPHoldings, Inc. for the purpose of providing a secure, reliable and centralized long-term storage and access to the RON Video (defined below) for MERS® System Members which system indexes and tracks the RON Videos by a MIN (Mortgage Identification Number) registered to a particular Mortgage Loan on the MERS® System and/or MERS® eRegistry.
  - l. **Remote Online Notarization (RON)** means an Electronic Notarization performed by means of an Electronic device or process that allows a notary public and a signatory, who is not in the same physical location as the notary public, to complete a notarial act and communicate with each other simultaneously through an audio-visual System.
  - m. **RON Video** means the video recording of the notarial ceremony for a Remote Online Notarization which the notary public is required to record and store for a specific period of time per State requirements.
  - n. **Tamper Seal** means a digital signature applied to an Electronic Record. The Tamper Seal can be verified to ensure that no changes have been made to the Electronic Record since the seal was put in place.
  - o. **Transferable Record** means an Electronic Record as described in Section 16 of UETA and in E-SIGN under Title 15 U.S. Code §7021. A Transferable Record is referred to herein as an eNote.
  - p. **UETA** means the Uniform Electronic Transactions Act of 1999, promulgated by the U.S. Uniform Law Commission for consideration and enactment by the States. Reference to the UETA herein, means the UETA, promulgated by the U.S. Uniform Law Commission, as enacted by Colorado.
2. **eMortgage Loan Purchase Conditions.** In addition to CHFA's mortgage loan purchase conditions under the Mortgage Purchase Agreement, among material conditions of CHFA's purchase of eMortgage Loans from Participating Lender are those provided below.
- a. The eMortgage Loan including, but not limited to, any Electronic Signatures and Electronic Notarizations, whether in person or remote, must comply in full with: i) all Mortgage Purchase Agreement and CHFA Seller's Guide requirements, including any such requirements specific to eMortgage Loans; ii) all applicable insurer, guarantor, Fannie Mae, Freddie Mac and Ginnie Mae requirements, including those relating to eMortgage Loans; and iii) E-SIGN, UETA and any and all other applicable local, state and federal legal, regulatory and other requirements (collectively, "Applicable Requirements").
  - b. Applicable Requirements apply to all eMortgage loan activities which include, but are not limited to, those relating to: eMortgage Loan-related systems (e.g. eVaults, eClosing Systems, eStorage Systems, etc.), use of any required eMortgage Loan documents, forms and content, as applicable (e.g. any required eMortgage Note forms, etc.), Electronic Signatures including which of the loan documents may be signed electronically, remote and/or in person Electronic Notarizations, RON Video recordings, record-keeping, audits, policies and procedures, oversight requirements, and use of interim funding from a warehouse provider (collectively, the "eMortgage Loan Activities").
  - c. Any and all eMortgage Loan documents must fully comply in form, content or in all other respects with insurer, guarantor, Fannie Mae, Freddie Mac and Ginnie Mae requirements, as applicable including, but not limited to, any eCustodian requirements.
  - d. All Electronic Signatures and Electronic Notarizations, whether notarized in person or remotely, on the eMortgage Loan closing documents fully comply with and are permitted on the given document or instrument under the Applicable Requirements. The processes and providers used to obtain any and all Electronic Signatures and Electronic Notarizations whether notarized in person or remotely, including the transfer and storage of any RON Video recordings, meet all Applicable Requirements and include any and all required consents, disclosures, video recordings and records, as applicable. It is Participating Lender's responsibility to ensure Electronic Signatures and any Electronic Notarizations on a given closing document are in fact permitted by the Applicable Requirements.
  - e. As such, if a loan including, but not limited to, an eMortgage Loan is closed with one or more electronically signed loan closing documents, Participating Lender is solely responsible for ensuring that such Electronic Signature and Electronic Notarization, if any, is in fact permitted for such document under and obtained in compliance with the CHFA Seller's Guide and any other Applicable Requirements. As part of Participating Lender's review, Participating Lender should check whether the CHFA Seller's Guide, as updated from time to time, allows the particular loan closing document, including eMortgage Loan document, to be signed electronically.
  - f. Participating Lender's eClosing System(s), eVault(s) and eStorage System(s) comply with and will remain in compliance with the Applicable Requirements for so long as Participating Lender conducts eMortgage Loan Activities, including delivery and sale of eMortgage Loans to CHFA.

- g. The eClosing System(s), eVault(s) and eStorage System(s) used by Participating Lender (i) are listed as a reviewed and approved eMortgage system by the insurer, guarantor, Fannie Mae, Freddie Mac or Ginnie Mae, as applicable, as reflected on their respective approved vendor list, if any; or (ii) have been reviewed, approved or otherwise deemed acceptable by the insurer, guarantor, Freddie Mac, Fannie Mae or Ginnie Mae, as applicable, before Participating Lender delivers eMortgages to CHFA under the respective program.
  - h. At any time, upon CHFA's request, Participating Lender shall identify its eClosing System, eVault, and eStorage System providers to CHFA and provide evidence, in form acceptable to CHFA, that such providers have received requisite approvals from the insurer, guarantor, Freddie Mac, Fannie Mae, or Ginnie Mae, as applicable.
  - i. Participating Lender agrees to complete trainings that CHFA may require, from time to time, to help ensure compliance with CHFA's eMortgage Loan Activities requirements.
  - j. Participating Lender represents and warrants to and covenants with CHFA, as eNote transferee, and CHFA's successors and/or assigns, as successor transferees, that:
    - i. Participating Lender's eClosing System(s), eStorage System(s) and eVault(s) complies with E-SIGN, UETA and any and all other legal requirements including of the insurer, guarantor, Fannie Mae, Freddie Mac, and Ginnie Mae, as applicable;
    - ii. All eMortgage Loans sold to CHFA by Participating Lender comply with all other Applicable Requirements including, but not limited to, those in the Mortgage Purchase Agreement, CHFA Seller's Guide, and CHFA Loan submission checklists; and
    - iii. Participating Lender shall comply with eNote recourse requirements and eNote transfer warranty requirements in the Applicable Requirements. For eMortgage Loans sold under CHFA's conventional programs, this includes those required of the Seller/Service, as eNote transferor, under the applicable Fannie Mae or Freddie Mac Guide.
  - k. If Participating Lender uses third party originators, correspondents or mortgage brokers (each a "TPO" and collectively, the "TPOs"), Participating Lender is solely and absolutely responsible for: (i) all acts, omissions and errors of each TPO in connection with eMortgage Loans sold under the Mortgage Purchase Agreement to CHFA; and (ii) compliance of each of such TPOs' eClosing Systems, eVaults and eStorage Systems with all Applicable Requirements. The foregoing responsibilities are in addition to all other Participating Lender responsibilities regarding TPOs, as provided in the Mortgage Purchase Agreement and CHFA Seller's Guide.
  - l. If Participating Lender, or its designated title company or closing agent, utilizes Remote Online Notarization for Electronic Notarization of a Borrower's signature on any Loan documents, including without limitation the security instrument for such Mortgage Loan, Participating Lender is required to upload and store the RON Video through the MERS RON Video Storage Solution prior to delivery to CHFA. The Participating Lender shall be responsible for complying with any and all terms and conditions required by MERS for use of the MERS RON Video Storage Solution.
- 3. CHFA Second Mortgage Loans.** Participating Lender may only originate and deliver CHFA Second Mortgage Loans as eMortgage Loans, if specifically permitted under the CHFA Seller's Guide, as updated from time to time, and all other Applicable Requirements. As such, Participating Lender should confirm whether CHFA Second Mortgage Loans are permitted in the form of an eMortgage Loan prior to closing. If an eMortgage CHFA Second Mortgage Loan is permitted, any such CHFA Second Mortgage Loan closed as an eMortgage Loan must be closed using the CHFA-approved standardized eNote and deed of trust forms, as revised from time to time.

#### **4. Participating Lender Requirements.**

##### **a. Notice of Changes.**

- i. Participating Lender agrees to promptly notify CHFA in writing of any changes to the information it previously provided CHFA relating to its eMortgage Loan Activities including, but not limited to, any such information provided under its CHFA Participating Lender Application, under any separate application to deliver eMortgage Loans to CHFA, and under its CHFA Annual Reporting Requirements responses and submittals. Further, Participating Lender shall notify CHFA in writing promptly after becoming aware of the suspension or termination of its approval or authorization to sell to or service eMortgage Loans for Fannie Mae or Freddie Mac, or to participate in any insurer or guarantor eMortgage Loan programs. In addition to repurchase obligations described in Section 8 below, any eMortgage Loan that does not meet applicable Fannie Mae, Freddie Mac, Ginnie Mae, insurer or guarantor requirements due in whole or in part to such suspension or termination will be subject to repurchase.

- ii. Participating Lender will also promptly notify CHFA in writing of any change to its warehouse lenders, vendors or contractors that impacts CHFA's ability to deliver or sell Mortgage Loans, including eMortgage Loans, to Fannie Mae, Freddie Mac or Ginnie Mae and Participating Lender shall be subject to Repurchase for any such Mortgage Loans, including eMortgage Loans, that are deemed ineligible for the applicable insurance, guarantee or such delivery or sale due to such change(s).
- b. Fannie Mae-Approved Seller/Servicer of eMortgage Loans.** In addition to any other CHFA eMortgage Loan delivery approval requirements, prior to Participating Lender's sale of any eMortgage Loans under any of CHFA's Fannie Mae single family mortgage loan programs (collectively, the "Fannie Mae Program"), Participating Lender will have first obtained Fannie Mae's approval as a Fannie Mae-approved Seller/Servicer of eMortgage Loans and will maintain such approval throughout the period of time Participating Lender sells such eMortgage Loans to CHFA, if applicable. Participating Lender shall immediately cease delivering and selling eMortgage Loans to CHFA under any Fannie Mae Program, if its approval as a Fannie Mae Seller/Servicer of eMortgage Loans has been suspended or terminated. Notwithstanding any other provision in this Addendum, the requirement for Participating Lender to be a Fannie Mae-approved Seller/Servicer of eMortgage Loans may be lifted by CHFA, in its discretion, if and as provided in the Seller's Guide.
- c. Freddie Mac-Approved Seller/Servicer of eMortgage Loans.** In addition to any other CHFA eMortgage Loan delivery approval requirements, prior to Participating Lender's sale of any eMortgage Loans under any of CHFA's Freddie Mac single family mortgage loan programs (collectively, the "Freddie Mac Program"), Participating Lender will have first obtained Freddie Mac's approval as a Freddie Mac-approved Seller/Servicer of eMortgage Loans and will maintain such approval throughout the period of time Participating Lender sells such eMortgage Loans to CHFA, if applicable. Participating Lender shall immediately cease delivering and selling eMortgage Loans to CHFA under any Freddie Mac Program, if its approval as a Freddie Mac Seller/Servicer of eMortgage Loans has been suspended or terminated. Notwithstanding any other provision in this Addendum, the requirement for Participating Lender to be a Freddie Mac-approved Seller/Servicer of eMortgage Loans may be lifted by CHFA, in its discretion, if and as provided in the Seller's Guide.
- 5. Approval Suspension and Termination.** Upon and in accordance with prior written notice to Participating Lender, CHFA may at any time modify, suspend or terminate Participating Lender's approval or authorization to deliver or sell eMortgage Loans to CHFA if, in CHFA's judgement, Participating Lender is not meeting or not able to comply with the Applicable Requirements.
- 6. Audits.** Upon and in accordance with CHFA's request, Participating Lender will timely provide CHFA: a) copies of any audits of its eClosing System(s), eVault(s) and eStorage System(s) conducted, including those conducted in accordance with Statement on Standards for Attestation Engagements (SSAE) 18 or other comparable types of audit, except to the extent it is legally prohibited from doing so; b) Participating Lender's policies, procedures or other information relating to its eMortgage Loan Activities; and c) any other information CHFA reasonably deems necessary or appropriate, including in connection with any CHFA internal or external audits, quality control or quality assurance reviews, or any other related reviews of eMortgage Loans sold to CHFA.
- 7. Effect of Addendum.**
- a. Participating Lender acknowledges and agrees that its obligations under and CHFA's rights and remedies in connection with this Addendum are in addition to those in the Mortgage Purchase Agreement, as supplemented by this Addendum, and the CHFA Seller's Guide.
  - b. If at any time there is a conflict between the provisions of the Mortgage Purchase Agreement, as supplemented by this Addendum, and the provisions of the CHFA Seller's Guide particularly as it relates to eMortgage Loans, the CHFA Seller's Guide, as updated from time to time, shall control.
- 8. eMortgage Loan Repurchase.**
- a. Participating Lender agrees to repurchase upon CHFA's demand, in accordance with the terms of the Mortgage Purchase Agreement and CHFA Seller's Guide, any eMortgage Loan that is determined by CHFA, in its sole discretion, to: (i) be unenforceable, invalid or ineffective because of the manner in which the eMortgage and/or related eNote was originated, registered, transferred, sold or stored and maintained; (ii) not be in compliance with ESIGN or UETA, as enacted in Colorado; and/or (iii) not otherwise be in compliance with the Mortgage Purchase Agreement, as supplemented by this Addendum, the CHFA Seller's Guide and/or any other Applicable Requirements.
  - b. This remedy is in addition to any other CHFA remedies provided by law, the Mortgage Purchase Agreement or the CHFA Seller's Guide. The repurchase requirements described in this Addendum are governed by the repurchase process set forth in the Mortgage Purchase Agreement, CHFA Seller's Guide and all other Applicable

Requirements. Such process may include transfers of the eNote to Participating Lender's or, if applicable, its warehouse lender's eVault system and initiating a "Change of Control" and "Change of Location" of such eNotes to Participating Lender, or its warehouse lender, in accordance with Applicable Requirements.

**9. Indemnification.**

- a. Participating Lender agrees to indemnify and hold harmless CHFA and its directors, officers, employees, agents, designees, successors and assigns (collectively, the "CHFA Parties") for any and all liabilities, obligations, damages, penalties, actions, judgments, suits, losses, costs and expenses of any kind or nature, including reasonable fees and expenses of counsel, court costs and costs of appeal which may be imposed on, incurred by, or asserted against CHFA and/or the CHFA Parties as the result of any error, omission, negligence or willful misconduct by Participating Lender or any of its TPO's or vendors which causes the invalidity, ineffectiveness or unenforceability of any or all eNotes or other eMortgage Loan-related documents delivered to CHFA, including to CHFA's eVault, for or in connection with purchase of the eMortgage Loan by CHFA.
- b. Unless otherwise required by law, in no event shall Participating Lender, CHFA, or their respective directors, officers, employees, agents, vendors, designees, successors or assigns be held liable for any special, exemplary, punitive, indirect or consequential damages resulting from any error, omission or negligence by either party in connection herewith.

**10. Electronic Signatures.** The Electronic Signature of Participating Lender or CHFA included in this Addendum, if applicable, in any form, is intended to authenticate this writing, bind it hereto, and to otherwise have the same force and effect as a manual signature. Delivery of a copy of this Addendum bearing an original or Electronic Signature by Electronic mail in portable document format (.pdf) form, or by any other Electronic means intended to preserve the original form of the document, will have the same effect as physical delivery of the paper document bearing an original or Electronic Signature.

**11. Interpretation of Agreement.** Whenever the singular number is used in this Addendum and when required by the context, the same shall include the plural and vice versa. Whenever the words "include," "includes" or "including" are used in this Addendum, they shall be deemed to be followed by the words "without limitation."

**[Signature Page Follows; Remainder of Page Intentionally Blank]**

**In Witness Whereof**, Participating Lender has caused this Addendum to be executed by its representative who is duly authorized to bind Participating Lender hereunder.

\_\_\_\_\_  
Participating Lender

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Acknowledged and Agreed to by  
Colorado Housing and Finance Authority**

By: \_\_\_\_\_

Cris A. White, Executive Director and CEO

Date: \_\_\_\_\_