

MINNESOTA HOUSING FINANCE AGENCY

**FIRST SUPPLEMENT TO
PARTICIPATION AGREEMENT
FOR
MINNESOTA HOUSING SINGLE FAMILY
MORTGAGE BACKED SECURITIES
MORTGAGE REVENUE BOND PROGRAMS
(AFFORDABLE ADVANTAGE MORTGAGE LOANS)**

THIS FIRST SUPPLEMENT TO PARTICIPATION AGREEMENT is made and entered into by and between _____ (the "Lender"), with its office located at _____; the Minnesota Housing Finance Agency ("Minnesota Housing"), with its office located at 400 Sibley Street - Suite 300, St. Paul, Minnesota 55101-1998; and U.S. Bank, National Association, d/b/a U.S. Bank Home Mortgage – MRBP Division, with its principal office located at 17500 Rockside Road, Bedford, Ohio 44146-2099 (with any other entity appointed as servicer by Minnesota Housing, the "Servicer").

RECITALS:

- A. Minnesota Housing, the Lender and the Servicer have entered into a Participation Agreement for Minnesota Housing Single Family Mortgage Backed Securities, Mortgage Revenue Bond Programs (the "Original Participation Agreement").
- B. The Federal National Mortgage Association ("Fannie Mae") has developed a new Initiative, commonly known as "Affordable Advantage™," and an associated mortgage product available only to state housing finance agencies, such as Minnesota Housing ("Affordable Advantage Mortgages"). Affordable Advantage Mortgages may have up to 100% loan-to-value ratios without private mortgage guaranty insurance (although mortgagors must contribute at least \$1,000 of their own funds). Affordable Advantage Mortgages have a higher Fannie Mae guaranty fee and Minnesota Housing must agree to repurchase Affordable Advantage Mortgages in certain limited circumstances.
- C. Affordable Advantage Mortgages, unlike other Mortgage Loans, must be acquired by the Agency and sold by the Agency to Fannie Mae. As with other Mortgage Loans, the Servicer shall initially purchase the Affordable Advantage Mortgages from Lenders and when they are ready to be pooled into Fannie Mae Securities, sell them to the Agency.

- D. The Agency has determined to offer Affordable Advantage Mortgages as part of MMP. The Agency has revised its Manual and the Servicer has revised its Servicer Guide to include the applicable terms and conditions relating to Affordable Advantage Mortgages. In order to originate Affordable Advantage Mortgages, Lenders must execute this First Supplement to their Participation Agreements.
- E. The parties desire to enter into this First Supplement to make additional provision for Affordable Advantage Mortgages and to permit the Lender to originate Affordable Advantage Mortgages in accordance with the terms and conditions set forth in the Original Purchase Agreement as amended and supplemented by this First Supplement (as so amended and supplemented, the "Participation Agreement") and the provisions contained in the Manual and the Servicer Guide.

NOW, THEREFORE, the parties agree as follows:

1. **Definitions.** Terms used with initial capital letters but not defined herein shall have the meanings given such terms in the Original Participation Agreement.
2. **Acknowledgment by Lender.** The Lender acknowledges that Minnesota Housing will be acquiring Affordable Advantage Mortgages after they are purchased from the Lender by the Servicer and before they are pooled into one or more mortgage-backed securities, and that under Fannie Mae's Affordable Advantage product, Minnesota Housing has an obligation to repurchase Affordable Advantage Mortgages in certain limited circumstances.
3. **Additional Repurchase Obligation of Lender.** In addition to the remedies available to Minnesota Housing and the Servicer and the repurchase obligation of the Lender to the Servicer under Section 12 of the Original Participation Agreement, the Lender further hereby agrees to repurchase any Affordable Advantage Mortgage Loan purchased or owned by Minnesota Housing pursuant to this Participation Agreement, at any time during the life of such Affordable Advantage Mortgage Loan, upon the occurrence of any of the following events:
 - (a) Minnesota Housing has evidence of any violations of any rule, regulation, or requirement of Minnesota Housing, the Servicer or of Fannie Mae.
 - (b) Any false statement, misstatement, or act or omission of material fact contained in the Mortgage Loan documentation resulting from the Lender's

negligence or failure to exercise due diligence as disclosed by actual inspection by Minnesota Housing or its representative, or otherwise disclosed.

(c) Minnesota Housing is required to repurchase any Affordable Advantage Mortgage Loan sold or pledged by it to Fannie Mae, by reason of the Lender's negligence or failure to exercise due diligence or a deficiency in or omission with respect to the documents, instruments, and agreements, pertaining to any Affordable Advantage Mortgage Loan.

(d) Minnesota Housing has evidence that any representation or warranty made by the Lender under the Participation Agreement with respect to any Affordable Advantage Mortgage Loan is, in whole or in part and with or without knowledge of the Lender, false at the time when made by the Lender or becomes false upon the occurrence of subsequent events.

(e) Any material fraud, misrepresentation or act or omission with respect to the information submitted on a particular Affordable Advantage Mortgage Loan is determined to exist by the Servicer, Minnesota Housing, or Fannie Mae. This includes, but is not limited to, mortgagor or other third party fraud or misrepresentation, and any misrepresentation of the mortgagor's income, funds on deposit, or employment, or of the occupancy status of the mortgaged residence.

(f) The Lender's breach of any covenant or obligation to the Servicer or Minnesota Housing with respect to the Affordable Advantage Mortgage Loan under this Participation Agreement, the Servicer Guide or the Manual.

The repurchase price for any Affordable Advantage Mortgage Loan that the Lender is required to repurchase from Minnesota Housing shall be an amount equal to the then unpaid principal balance of the Affordable Advantage Mortgage Loan on the date of repurchase, plus accrued interest, any premium paid to the Lender upon purchase of the Affordable Advantage Mortgage Loan, and direct expenses (including attorneys' fees) incurred by Minnesota Housing for any actions taken by it concerning, as a result of, or in connection with, any of the events or circumstances set forth herein as cause for repurchase. Minnesota Housing's exercise of its right to have the Lender repurchase any Affordable Advantage Mortgage Loan hereunder shall be in addition to, and not in lieu of, any other rights or remedies which Minnesota Housing may have against the Lender hereunder or under applicable law.

- 4. Effect of First Supplement.** This First Supplement is part of and shall be deemed incorporated in the Original Participation Agreement, and the Original Participation Agreement, as amended and supplemented by this First Supplement, shall be in full force and effect.
- 5. Effective Date.** This First Supplement shall become effective if and when (i) the Lender submits an executed copy of this First Supplement to Minnesota Housing, (ii) Minnesota Housing and the Servicer have each executed this First Supplement, and (iii) Minnesota Housing returns a fully executed copy of this First Supplement to the Lender.

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IN WITNESS WHEREOF, each party has caused this First Supplement to Participation Agreement to be executed by its duly authorized officer or officers.

LENDER

By: _____
(Signature of Authorized Officer)

(Printed or Typewritten Name of Authorized Officer)

Its: _____

Date: _____

(Include Additional Signature Below if Required by the Lender's Bylaws)

By: _____

Its: _____

Date: _____

MINNESOTA HOUSING FINANCE AGENCY

By: _____

Its: Assistant Commissioner

Date: _____

**U.S. BANK, NATIONAL ASSOCIATION,
d/b/a U.S. Bank Home Mortgage – MRBP Division**

By: _____

Its: _____

Date: _____