

Tree.com, Inc.
Form 424B3
October 19, 2011

**Filed Pursuant to Rule 424(b)(3)
Registration No. 333-152700**

**Prospectus Supplement No. 5 to
Prospectus Dated August 12, 2011**

Tree.com, Inc.

3,678,664 Shares of Common Stock, Par Value \$0.01 Per Share

This prospectus supplement no. 5 supplements and amends information in the prospectus dated August 12, 2011 (the "Prospectus"). You should read this prospectus supplement in conjunction with the Prospectus. This supplement is qualified by reference to the Prospectus, except to the extent that the information herein supersedes the information contained in the Prospectus.

This prospectus supplement includes our Current Report on Form 8-K dated and filed October 19, 2011 (other than the portions of such documents, if any, furnished to the Securities and Exchange Commission but not deemed to have been filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended).

As indicated under "Risk Factors" on page 4 of the Prospectus, in reviewing this prospectus supplement and the Prospectus, you should carefully consider the risks beginning on page 4 of the Prospectus and in any prospectus supplements to the Prospectus dated prior to the date of this prospectus supplement.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus supplement is truthful or complete. Any representation to the contrary is a criminal offense.

This supplement is part of the Prospectus and must accompany the Prospectus to satisfy prospectus delivery requirements under the Securities Act of 1933, as amended.

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This date of this prospectus supplement is October 19, 2011.

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): **October 13, 2011**

Tree.com, Inc.

(Exact name of registrant as specified in charter)

Delaware
(State or other jurisdiction
of incorporation)

001-34063
(Commission
File Number)

26-2414818
(IRS Employer
Identification No.)

1115 Rushmore Drive, Charlotte, NC
(Address of principal executive offices)

28277
(Zip Code)

Registrant's telephone number, including area code: **(704) 541-5351**

Not Applicable

(Former name or former address, if changed since last report)

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Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
-

Item 1.01. *Entry into a Material Definitive Agreement.*

As described in Item 2.03 below, on October 13, 2011, Tree.com, Inc. (the Company), through its subsidiary Home Loan Center, Inc. (HLC) entered into a new \$100.0 million warehouse line of credit with Citibank, N.A. (Citibank). Citibank, or its affiliates, has also participated as a secondary market investor by purchasing consumer loans from HLC from time to time. The information set forth below under Item 2.03 is incorporated by reference into this Item 1.01.

Item 2.03. *Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.*

On October 13, 2011, HLC entered into a new \$100.0 million warehouse line of credit with Citibank. The new Citibank facility will be used to fund consumer residential loans that are held for sale and will be secured by such loans. The term of the new facility is through December 13, 2011. Borrowings under the facility will bear interest at the 30-day LIBOR plus 3.25%.

Under the terms of this new facility, HLC is required to maintain various financial and other covenants. These financial covenants include maintaining (i) a maximum ratio of total liabilities to tangible net worth of 10:1, (ii) a minimum liquidity of not less than the greater of (a) 3% of HLC's actual total assets, and (b) \$7.0 million, (iii) tangible net worth of greater than \$25.0 million, (iv) the ratio of (a) a book value assigned to HLC servicing portfolio to (b) HLC's tangible net worth of less than 1.5:1 and (v) HLC's consolidated net income equal to or greater than \$1.00 for at least one of the previous two consecutive fiscal quarters, as of the end of each fiscal quarter.

The terms of the new facility also include customary events of default (subject to applicable grace and notice periods), including among others, defaults based on (i) the nonpayment of principal, interest or fees, (ii) the failure of representations and warranties to be correct in any material respect, (iii) failure to observe certain other covenants, (iv) certain bankruptcy and insolvency events, (v) a change of control of HLC without consent, (vi) aggregate amount of all repurchase and indemnity obligations of HLC to its third party investors exceeds 50% of its liquidity, (vii) status as an FHA Approved Mortgagee or a VA Approved Lender is suspended or revoked, and (viii) a material adverse effect on HLC's business, property or financial condition.

Additionally, HLC is required to maintain warehouse facilities from buyers and lenders other than Citibank in an aggregate amount of at least \$50.0 million. HLC's borrowings under the facility will be guaranteed by the Company and LendingTree, LLC.

Copies of the Master Repurchase Agreement and the related Pricing Side Letter for the new facility are filed with this report as Exhibits 10.1 and 10.2, respectively, and are hereby incorporated by reference herein. The foregoing description of the Master Repurchase Agreement and Pricing Side Letter does not purport to be complete and is qualified in its entirety by reference to the full text of such exhibits.

Item 9.01. *Financial Statements and Exhibits.*

Exhibit Number	Exhibit Description
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- 10.1 Master Repurchase Agreement, dated as of October 13, 2011, by and between Home Loan Center, Inc. and Citibank, N.A.
- 10.2 Pricing Side Letter dated as of October 13, 2011 by and between Home Loan Center, Inc. and Citibank, N.A.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: October 19, 2011

TREE.COM, INC.

By: */s/ Christopher R. Hayek*
Christopher R. Hayek
Senior Vice President and Chief Accounting Officer

EXHIBIT INDEX

Exhibit Number	Exhibit Description
10.1	Master Repurchase Agreement, dated as of October 13, 2011, by and between Home Loan Center, Inc. and Citibank, N.A.
10.2	Pricing Side Letter dated as of October 13, 2011 by and between Home Loan Center, Inc. and Citibank, N.A.

EXECUTION VERSION

MASTER REPURCHASE AGREEMENT

Dated as of October 13, 2011

Between:

CITIBANK, N.A., as Buyer,

and

HOME LOAN CENTER, INC., as Seller

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ANNEX I

SCHEDULES

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SCHEDULE 2	Filing Jurisdictions and Offices
SCHEDULE 3	Subsidiaries
SCHEDULE 4	Relevant States

EXHIBITS

EXHIBIT A	Form of Monthly and Quarterly Certification
EXHIBIT B	Form of Opinion of Counsel to Seller
EXHIBIT C	Form of Confidentiality Agreement
EXHIBIT D	Form of Instruction Letter
EXHIBIT E	Form of Security Release Certification

EXECUTION VERSION

MASTER REPURCHASE AGREEMENT, dated as of October 13, 2011, between HOME LOAN CENTER, INC., a California corporation as seller (Seller) and CITIBANK, N.A., a national banking association as buyer (Buyer), which term shall include any Principal as defined and provided for in Annex I), or as agent pursuant hereto (Agent).

1. APPLICABILITY

Buyer shall, from time to time, upon the terms and conditions set forth herein, agree to enter into transactions in which Seller transfers to Buyer Eligible Loans against the transfer of funds by Buyer, with a simultaneous agreement by Buyer to transfer to Seller such Purchased Loans at a date certain, against the transfer of funds by Seller. Each such transaction shall be referred to herein as a Transaction , and, unless otherwise agreed in writing, shall be governed by this Agreement.

2. DEFINITIONS AND ACCOUNTING MATTERS

(a) Defined Terms. As used herein, the following terms have the following meanings (all terms defined in this Section 2 or in other provisions of this Agreement in the singular to have the same meanings when used in the plural and vice versa):

Accepted Servicing Practices shall mean with respect to any Loan, those accepted and prudent mortgage servicing practices (including collection procedures) of prudent mortgage lending institutions that service mortgage loans of the same type as the Loans in the jurisdiction where the related Mortgaged Property is located, and which are in accordance with FHA Regulations, VA Regulations, Ginnie Mae, Freddie Mac and Fannie Mae servicing practices and procedures for MBS pool mortgages, as defined in the FHA, VA, Ginnie Mae, Freddie Mac and Fannie Mae servicing guides including future updates, and in a manner at least equal in quality to the servicing Seller or Seller's designee provides to mortgage loans which it owns in its own portfolio.

Adjustable Rate Loan shall mean a Loan which provides for the adjustment of the Mortgage Interest Rate payable in respect thereto.

Adjustment Date shall mean with respect to each Adjustable Rate Loan, the date set forth in the related Note on which the Mortgage Interest Rate on the Loan is adjusted in accordance with the terms of the Note.

Affiliate shall mean, with respect to any Person, any other Person which, directly or indirectly, controls, is controlled by, or is under common control with, such Person. For purposes of this definition, control (together with the correlative meanings of controlled by and under common control with) means possession, directly or indirectly, of the power (a) to vote 10% or more of the securities (on a fully diluted basis) having ordinary voting power for the directors or managing general partners (or their equivalent) of such Person, or (b) to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by contract, or otherwise.

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Agency means FHA, VA, Freddie Mac, Fannie Mae or Ginnie Mae, as applicable.

Agent shall have the meaning set forth in the preamble to this Agreement.

Agreement shall mean this Master Repurchase Agreement (including all exhibits, schedules and other addenda hereto or thereto), as supplemented by the Pricing Side Letter, as it may be amended, further supplemented or otherwise modified from time to time.

ALTA shall mean the American Land Title Association.

AM Funded Wet Loan shall mean a Wet Loan to be funded in the morning on any Business Day.

Applicable Margin shall have the meaning set forth in the Pricing Side Letter.

Applicable Percentage shall have the meaning set forth in the Pricing Side Letter.

Appraised Value shall mean the value set forth in an appraisal made in connection with the origination of the related Loan as the value of the Mortgaged Property.

Approved Title Insurance Company shall mean a title insurance company as to which Buyer has not otherwise provided written notice to Seller that such title insurance company is not reasonably satisfactory to Buyer, provided, however, that Seller shall provide a list of Approved Title Insurance Companies at the reasonable request of Buyer; provided, further, however, that Real Estate Title Services, LLC and HLC Settlement Services, Inc. is deemed to be an Approved Title Insurance Company hereunder unless Buyer otherwise notifies Seller that either entity is not approved.

Assignment of Mortgage shall mean, with respect to any Mortgage, an assignment of the Mortgage, notice of transfer or equivalent instrument in recordable form, sufficient under the laws of the jurisdiction wherein the related Mortgaged Property is located to reflect the assignment of the Mortgage to Buyer.

Attorney Bailee Letter shall have the meaning assigned to such term in the Custodial Agreement.

Back-End DTI Ratio shall mean with respect to a Loan, the ratio of (i) the Mortgagor's monthly debt payments, including housing and other debt, to (ii) the Mortgagor's gross monthly income, determined in accordance with the Underwriting Guidelines.

Bankruptcy Code shall mean the United States Bankruptcy Code of 1978, as amended from time to time.

Best's shall mean Best's Key Rating Guide, as the same shall be amended from time to time.

Business Day shall mean any day other than (i) a Saturday or Sunday, (ii) a day on which the New York Stock Exchange, the Federal Reserve Bank of New York, banking and savings and loan institutions in the States of New York, the City of New York or the city or state in which

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Custodian's offices are located are closed, or (iii) a day on which trading in securities on the New York Stock Exchange or any other major securities exchange in the United States is not conducted.

Capital Lease Obligations shall mean, for any Person, all obligations of such Person to pay rent or other amounts under a lease of (or other agreement conveying the right to use) Property to the extent such obligations are required to be classified and accounted for as a capital lease on a balance sheet of such Person under GAAP, and, for purposes of this Agreement, the amount of such obligations shall be the capitalized amount thereof, determined in accordance with GAAP.

Cash Equivalents shall mean (a) securities with maturities of 90 days or less from the date of acquisition issued or fully guaranteed or insured by the United States Government or any agency thereof, (b) certificates of deposit and eurodollar time deposits with maturities of 90 days or less from the date of

acquisition and overnight bank deposits of any commercial bank having capital and surplus in excess of \$500,000,000, (c) repurchase obligations of any commercial bank satisfying the requirements of clause (b) of this definition, having a term of not more than seven days with respect to securities issued or fully guaranteed or insured by the United States Government, (d) commercial paper of a domestic issuer rated at least A-1 or the equivalent thereof by Standard and Poor's Ratings Group (S&P) or P-1 or the equivalent thereof by Moody's Investors Service, Inc. (Moody's) and in either case maturing within 90 days after the day of acquisition, (e) securities with maturities of 90 days or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory or by any foreign government, the securities of which state, commonwealth, territory, political subdivision, taxing authority or foreign government (as the case may be) are rated at least A by S&P or A by Moody's, (f) securities with maturities of 90 days or less from the date of acquisition backed by standby letters of credit issued by any commercial bank satisfying the requirements of clause (b) of this definition, or (g) shares of money market mutual or similar funds which invest exclusively in assets satisfying the requirements of clauses (a) through (f) of this definition.

Change of Control shall mean, (a) with respect to Seller, the acquisition by any Person, or two or more Persons acting in concert, of beneficial ownership (within the meaning of Rule 13d-3 of the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended) of outstanding shares of voting stock of Seller if after giving effect to such acquisition such Person or Persons owns twenty percent (20%) or more of such outstanding shares of voting stock; or (b) Seller is no longer wholly owned, directly or indirectly, by LendingTree, LLC and Tree.com, Inc.

CMI shall mean CitiMortgage, Inc.

Code shall mean the Internal Revenue Code of 1986, as amended from time to time.

Collection Account shall mean the account identified in the Collection Account Control Agreement.

Collection Account Control Agreement shall mean the collection account control agreement to be entered into by Buyer, Seller and Citibank, N.A. in form and substance acceptable to Buyer to be entered into with respect to the Collection Account within ten (10) days after the initial Purchase Date.

Combined Loan-to-Value Ratio or CLTV shall mean with respect to any Loan, the ratio of (i) the original outstanding principal amount of the Loan and any other loan which is secured by a lien on the related Mortgaged Property to (ii) the lesser of (a) (1) the Appraised Value of the Mortgaged Property at the origination of such Loan, or (2) if available, a more recently obtained Appraised Value, or (b) if the Mortgaged Property was purchased by the Mortgagor within twelve (12) months of the origination of the Loan, the purchase price of the Mortgaged Property.

Commitment Fee shall have the meaning assigned to it in Section 4(c).

Commitment Fee Percentage shall have the meaning assigned thereto in the Pricing Side Letter.

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Contractual Obligation shall mean as to any Person, any material provision of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound or any material provision of any security issued by such Person.

Cooperative Corporation shall mean with respect to any Cooperative Loan, the cooperative apartment corporation that holds legal title to the related Cooperative Project and grants occupancy rights to units therein to stockholders through Proprietary Leases or similar arrangements.

Cooperative Loan shall mean a Loan that is secured by a first lien on and perfected security interest in Cooperative Shares and the related Proprietary Lease granting exclusive rights to occupy the related Cooperative Unit in the building owned by the related Cooperative Corporation.

Cooperative Project shall mean, with respect to any Cooperative Loan, all real property and improvements thereto and rights therein and thereto owned by a Cooperative Corporation including without limitation the land, separate dwelling units and all common elements.

Cooperative Shares shall mean, with respect to any Cooperative Loan, the shares of stock issued by a Cooperative Corporation and allocated to a Cooperative Unit and represented by a stock certificate.

Cooperative Unit shall mean, with respect to a Cooperative Loan, a specific unit in a Cooperative Project.

Custodial Agreement shall mean the Custodial and Disbursement Agreement, dated as of the date hereof, among Seller, Buyer, Custodian and Disbursement Agent as the same may be amended, modified and supplemented and in effect from time to time.

Custodian shall mean Deutsche Bank National Trust Company, or such other entity agreed upon by Buyer and Seller from time to time, or its successors and permitted assigns.

Custodian Loan Transmission shall have the meaning assigned thereto in the Custodial Agreement.

Default shall mean an Event of Default or any event that, with the giving of notice or the passage of time or both, could become an Event of Default.

Disbursement Account shall mean the account established by Buyer pursuant to the Custodial Agreement for the purpose of funding any Loan.

Disbursement Agent shall mean Deutsche Bank National Trust Company, or such other entity appointed by Buyer to act as disbursement agent from time to time, or its successors and permitted assigns.

Dollars or \$ shall mean lawful money of the United States of America.

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Dry Loan shall mean a first lien Loan which is underwritten in accordance with the Underwriting Guidelines and as to which the related Mortgage File contains all required Loan Documents.

DU Refinance Loan shall mean a Loan acceptable for purchase by an Agency and originated by Seller in accordance with Fannie Mae's DU Refinance Plus program.

Due Date shall mean the day of the month on which the Monthly Payment is due on a Loan, exclusive of any days of grace.

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Due Diligence Review shall mean the performance by Buyer of any or all of the reviews permitted under Section 44 hereof with respect to any or all of the Loans or Seller or related parties, as desired by Buyer from time to time.

Effective Date shall mean the date upon which the conditions precedent set forth in Section 9(a) have been satisfied.

Electronic Tracking Agreement shall mean the electronic tracking agreement among Buyer, Seller, MERSCORP, Inc. and MERS, dated as of the date hereof.

Electronic Transmission shall mean the delivery of information in an electronic format acceptable to the applicable recipient thereof. An Electronic Transmission shall be considered written notice for all purposes hereof (except when a request or notice by its terms requires execution).

Eligible Loan shall have the meaning assigned thereto in the Pricing Side Letter.

ERISA shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time.

ERISA Affiliate shall mean any entity, whether or not incorporated, that is a member of any group of organizations described in Section 414(b), (c), (m) or (o) of the Code of which Seller is a member.

Escrow Letter shall mean, with respect to any Wet Loan that becomes subject to a Transaction before the end of the applicable rescission period, an escrow agreement or letter, which is fully assignable to Buyer, stating that in the event of a Rescission or if for any other reason the Loan fails to fund on a given day, the party conducting the closing is holding all funds which would have been disbursed on behalf of the Mortgagor as agent for and for the benefit of Buyer and such funds shall be returned to Seller not later than one Business Day after the date of Rescission or other failure of the Loan to fund on a given day.

Escrow Payments shall mean, with respect to any Loan, the amounts constituting ground rents, taxes, assessments, water charges, sewer rents, municipal charges, mortgage insurance premiums, fire and hazard insurance premiums, condominium charges, and any other payments required to be escrowed by the Mortgagor with the Mortgagee pursuant to the terms of any Note or Mortgage or any other document.

Event of Default shall have the meaning provided in Section 18 hereof.

Exception shall have the meaning assigned thereto in the Custodial Agreement.

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Exception Report shall mean the exception report prepared by Custodian pursuant to the Custodial Agreement.

Fannie Mae shall mean Fannie Mae, or any successor thereto.

Fannie Mae Guides shall mean the Fannie Mae Seller's Guide, the Fannie Mae Servicing Guide and all amendments and additions thereto.

FHA shall mean the Federal Housing Administration, an agency within the United States Department of Housing and Urban Development, or any successor thereto and including the Federal

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Housing Commissioner and the Secretary of Housing and Urban Development where appropriate under the FHA Regulations.

FHA Approved Mortgagee shall mean an institution which is approved by FHA to act as servicer and mortgagee of record pursuant to FHA Regulations.

FHA Insurance Contract shall mean the contractual obligation of FHA respecting the insurance of an FHA Loan pursuant to the National Housing Act, as amended.

FHA Loan shall mean a Loan that is the subject of an FHA Insurance Contract as evidenced by a Mortgage Insurance Certificate.

FHA Regulations shall mean the regulations promulgated by HUD under the National Housing Act, codified in 24 Code of Federal Regulations, and other HUD issuances relating to FHA Loans, including the related handbooks, Circulars, Notices and Mortgagee Letters.

FHA Streamlined Loan shall mean an FHA Loan originated by Seller in accordance with the FHA's requirements under its streamlined mortgage loan program.

Freddie Mac shall mean Freddie Mac, or any successor thereto.

Freddie Mac Guides shall mean the Freddie Mac Seller/Servicer Guide, and all amendments and additions thereto.

Front-End DTI Ratio shall mean with respect to a Loan, the ratio of (i) the Mortgagor's monthly housing-related debt payments, to (ii) the Mortgagor's gross monthly income, determined in accordance with the Underwriting Guidelines.

Funding Notice shall mean Buyer's agreement to enter into a Transaction requested by Seller pursuant to a Transaction Notice. Such Funding Notice shall specify the Loans that Buyer has agreed to purchase from Seller in such Transaction, the related Purchase Date and Repurchase Date, the related Purchase Price for such Transaction, the fields set forth on Annex 1 to the Custodial Agreement and any other terms of such Transaction agreed upon between Seller and Buyer.

GAAP shall mean generally accepted accounting principles in effect from time to time in the United States of America.

Ginnie Mae shall mean the Government National Mortgage Association, or any successor thereto.

Ginnie Mae Guides shall mean the Ginnie Mae Handbook 5500.3 and all amendments and additions thereto.

Governmental Authority shall mean with respect to any Person, any nation or government, any state or other political subdivision, agency or instrumentality thereof, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and any court or arbitrator having jurisdiction over such Person, any of its Subsidiaries or any of its properties.

Gross Margin shall mean with respect to each Adjustable Rate Loan, the fixed percentage amount set forth in the related Note and the Loan Schedule that is added to the Index on each Adjustment

Date in accordance with the terms of the related Note to determine the new Mortgage Interest Rate for such Loan.

Guarantee shall mean, as to any Person, any obligation of such Person directly or indirectly guaranteeing any Indebtedness of any other Person or in any manner providing for the payment of any Indebtedness of any other Person or otherwise protecting the holder of such Indebtedness against loss (whether by virtue of partnership arrangements, by agreement to keep-well, to purchase assets, goods, securities or services, or to take-or-pay or otherwise), provided that the term Guarantee shall not include (i) endorsements for collection or deposit in the ordinary course of business, or (ii) obligations to make servicing advances for delinquent taxes and insurance, or other obligations in respect of a Mortgaged Property, to the extent required by Buyer. The amount of any Guarantee of a Person shall be deemed to be an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by such Person in good faith. The terms Guarantee and Guaranteed used as verbs shall have correlative meanings.

Guarantor shall mean each of LendingTree, LLC and Tree.com, Inc., in either case in its capacity as Guarantor under a Guaranty.

Guaranty shall mean each Guaranty Agreement, dated as of the date hereof, by a Guarantor in favor of Buyer, in each case as such agreement may be amended, modified or supplemented from time to time in accordance with its terms.

Guidelines shall mean the Freddie Mac Guides, the Fannie Mae Guides or the Ginnie Mae Guides, as applicable, as such guides have been amended from time to time with respect to Seller.

Income shall mean, with respect to any Purchased Loan at any time, any principal and/or interest thereon and all dividends, sale proceeds (including, without limitation, any proceeds from the liquidation or securitization of such Purchased Loan or other disposition thereof), rent and other collections and distributions thereon (including, without limitation, any proceeds received in respect of mortgage insurance), but not including any commitment fees, origination fees and/or servicing fees accrued in respect of periods on or after the initial Purchase Date with respect to such Purchased Loan.

Indebtedness shall mean, for any Person: (a) obligations created, issued or incurred by such Person for borrowed money (whether by loan, the issuance and sale of debt securities or the sale of Property to another Person subject to an understanding or agreement, contingent or otherwise, to repurchase such Property from such Person); (b) obligations of such Person to pay the deferred purchase or acquisition price of Property or services, other than trade accounts payable (other than for borrowed money) arising, and accrued expenses incurred, in the ordinary course of business so long as such trade accounts payable are payable within 90 days of the date the respective goods are delivered or the respective services are rendered; (c) indebtedness of others secured by a Lien on the Property of such Person, whether or not the respective indebtedness so secured has been assumed by such Person; (d) obligations (contingent or otherwise) of such Person in respect of letters of credit or similar instruments issued or accepted by banks and other financial institutions for the account of such Person; (e) Capital Lease Obligations of such Person; (f) obligations of such Person under repurchase agreements or like arrangements; (g) indebtedness of others Guaranteed by such Person; (h) all obligations of such Person incurred in connection with the acquisition or carrying of fixed assets by such Person; (i) indebtedness of general partnerships of which such Person is a general partner; and (j) any other indebtedness of such Person by a note, bond, debenture or similar instrument.

Index shall mean with respect to each Adjustable Rate Loan, the index identified on the related Loan Schedule and set forth in the related Note for the purpose of calculating the interest rate thereon.

Instruction Letter shall mean a letter agreement between Seller and each Subservicer substantially in the form of Exhibit D attached hereto, in which such Persons acknowledge Buyer's ownership interest in the Purchased Loans, and agree to remit any collections with respect to the Purchased Loans as Buyer may so direct from time to time, which Instruction Letter may be delivered by Buyer to such Subservicer in its sole discretion.

Insurance Proceeds shall mean with respect to each Purchased Loan, proceeds of insurance policies insuring such Purchased Loan or the related Mortgaged Property.

Insured Closing Letter shall mean, with respect to any Wet Loan that becomes subject to a Transaction before the end of the applicable rescission period, a letter of indemnification from an Approved Title Insurance Company, in any jurisdiction where insured closing letters are permitted under applicable law and regulation, addressed to Seller, which is fully assignable to Buyer, with coverage that is customarily acceptable to Persons engaged in the origination of mortgage loans, identifying the Settlement Agent covered thereby, which may be in the form of a blanket letter.

Interest Period shall mean, with respect to any Transaction, the period commencing on the Purchase Date with respect to such Transaction and ending on the calendar day prior to the related Repurchase Date.

Interest Rate Adjustment Date means with respect to each Adjustable Rate Loan, the date, specified in the related Note and the Loan Schedule, on which the Mortgage Interest Rate is adjusted.

Interest Rate Protection Agreement shall mean with respect to any or all of the Purchased Loans, any interest rate swap, cap or collar agreement or any other applicable hedging arrangements providing for protection against fluctuations in interest rates or the exchange of nominal interest obligations, either generally or under specific contingencies, in each case that are reasonably acceptable to Buyer.

Investment Company Act shall mean the Investment Company Act of 1940, as amended, including all rules and regulations promulgated thereunder.

Jumbo Loan shall mean a first lien mortgage loan which conforms with all current requirements, other than balance limitations therein, of Fannie Mae, Freddie Mac, FHA and VA (on and after the date on which Seller becomes a VA Approved Lender), in effect as of the date of this Agreement, as the same may be amended, supplemented or otherwise modified from time to time in accordance with terms of this Agreement.

LIBO Base Rate means the rate determined daily by Buyer on the basis of the offered rate for one-month U.S. dollar deposits, as such rate appears on Reuters Screen LIBOR01 Page as of 11:00 a.m. (London time) on such date (rounded up to the nearest whole multiple of 1/16%); provided that if such rate does not appear on Reuters Screen LIBOR01 Page, the rate for such date will be the rate determined by reference to

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such other comparable publicly available service publishing such rates as may be selected by Buyer in its sole discretion and communicated to Seller. Notwithstanding anything to the contrary herein, Buyer shall have the sole discretion to re-set the LIBO Base Rate on a daily basis.

LIBO Rate shall mean with respect to each Interest Period pertaining to a Transaction, a rate per annum determined by Buyer in its sole discretion in accordance with the following formula (rounded

upwards to the nearest 1/100th of one percent), which rate as determined by Buyer shall be conclusive absent manifest error by Buyer:

LIBO Base Rate
1.00 LIBO Reserve Requirements

The LIBO Rate shall be calculated on each Purchase Date and Repurchase Date commencing with the first Purchase Date.

LIBO Reserve Requirements shall mean for any Interest Period for any Transaction, the aggregate (without duplication) of the rates (expressed as a decimal fraction) of reserve requirements applicable to Buyer in effect on such day (including, without limitation, basic, supplemental, marginal and emergency reserves under any regulations of the Board of Governors of the Federal Reserve System or other Governmental Authority having jurisdiction with respect thereto), dealing with reserve requirements prescribed for eurocurrency funding (currently referred to as Eurocurrency Liabilities in Regulation D of such Board) maintained by a member bank of such Governmental Authority. As of the Effective Date, the LIBO Reserve Requirements shall be deemed to be zero.

Lien shall mean any mortgage, lien, pledge, charge, security interest or similar encumbrance.

Liquidity means with respect to any Person, the sum of (i) its unrestricted cash, plus (ii) its unrestricted Cash Equivalents, plus (iii) the aggregate amount of unused capacity available to such Person (taking into account applicable haircuts) under committed mortgage loan warehouse and servicer advance facilities for which such Person has unencumbered eligible collateral to pledge thereunder.

Loan shall mean a first lien mortgage loan or Cooperative Loan, which Custodian has been instructed to hold for Buyer pursuant to the Custodial Agreement, and which Loan includes, without limitation, (i) a Note, the related Mortgage and all other Loan Documents, (ii) all right, title and interest of Seller in and to the Mortgaged Property covered by such Mortgage and (iii) the related Servicing Rights.

Loan Data Transmission shall mean a computer tape or other electronic medium generated by or on behalf of Seller and delivered or transmitted to Buyer and Custodian which provides information relating to the Loans, including the information set forth in the related Loan Schedule, in a format acceptable to Buyer.

Loan Documents shall mean, with respect to a Loan, the documents comprising the Mortgage File for such Loan.

Loan Guaranty Certificate shall mean the certificate evidencing a VA Loan Guaranty Agreement.

Loan Loss Reserves shall mean funds held by Seller to cover potential losses in connection with the mortgage loans owned in Seller's portfolio, including without limitation any amounts required to be maintained and held as a loan loss reserve in accordance with GAAP and any other regulatory requirement applicable to Seller.

Loan Schedule shall mean a hard copy or electronic format incorporating the fields reasonably required by Buyer and agreed upon by Seller, which shall include with respect to each Loan to be included in a Transaction without limitation: (i) the Loan number, (ii) the Mortgagor's name, (iii) the original principal amount of the Loan, (iv) the current principal balance of the Loan and (v) any other

information required by Buyer and any other additional information to be provided pursuant to the Custodial Agreement.

Loan-to-Value Ratio or LTV shall mean with respect to any Loan, the ratio of the outstanding principal amount of such Loan at the time of origination to the lesser of (a) (1) the Appraised Value of the Mortgaged Property at the origination of such Mortgage Loan or (2) if available, a more recently obtained Appraised Value of the Mortgaged Property, and (b) if the Mortgaged Property was purchased within twelve (12) months of the origination of the Loan, the purchase price of the related Mortgaged Property.

Margin Call shall have the meaning assigned thereto in Section 6(a) hereof.

Margin Deficit shall have the meaning assigned thereto in Section 6(a) hereof.

Market Value shall mean the value, determined by Buyer in its sole discretion, of the Loans (including the related Servicing Rights) if sold in their entirety to a single third-party purchaser taking into account the fact that the Loans may be sold under circumstances in which Seller, as originator or servicer of the Loans is in default under this Agreement. Buyer's determination of Market Value shall be conclusive upon the parties, absent manifest error on the part of Buyer. Buyer shall have the right to mark to market the Loans on a daily basis which Market Value with respect to one or more of the Loans may be determined to be zero. Seller acknowledges that Buyer's determination of Market Value is for the limited purpose of determining the value of Purchased Loans which are subject to Transactions hereunder without the ability to perform customary purchaser's due diligence and is not necessarily equivalent to a determination of the fair market value of the Loans achieved by obtaining competing bids in an orderly market in which the originator/servicer is not in default under a revolving debt facility and the bidders have adequate opportunity to perform customary loan and servicing due diligence. The Market Value shall be deemed to be zero with respect to each Loan for which such valuation is not provided. The Market Value shall be deemed to be zero with respect to each Loan that is not an Eligible Loan.

Master Netting Agreement shall mean that certain Collateral Security, Setoff and Netting Agreement dated as of the date hereof, among Buyer, Seller and certain Affiliates and Subsidiaries of Buyer and/or Seller, as such agreement may be amended from time to time.

Material Adverse Effect shall mean a material adverse effect on (a) the property, business, operations, financial condition or prospects of Seller, (b) the ability of Seller to perform its obligations under any of the Program Documents to which it is a party, (c) the validity or enforceability of any of the Program Documents, (d) the rights and remedies of Buyer under any of the Program Documents, (e) the Purchased Items, taken as a whole, or (f) the timely repurchase of the Purchased Loans or payment of other amounts payable in connection therewith.

Maximum Aggregate Purchase Price shall mean \$100,000,000.

Maximum Mortgage Interest Rate shall mean with respect to each Adjustable Rate Loan, a rate that is set forth on the related Loan Schedule and in the related Note and is the maximum interest rate to which the Mortgage Interest Rate on such Loan may be increased on any Adjustment Date.

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MERS shall mean Mortgage Electronic Registration Systems, Inc., a Delaware corporation, or any successor in interest thereto.

MERS Identification Number shall mean the eighteen digit number permanently assigned to each MERS Loan.

MERS Loan shall mean any Loan as to which the related Mortgage or Assignment of Mortgage has been recorded in the name of MERS, as agent for the holder from time to time of the Note, and which is identified as a MERS Loan on the related Loan Schedule.

Monthly Payment shall mean the scheduled monthly payment of principal and interest on a Loan as adjusted in accordance with changes in the Mortgage Interest Rate pursuant to the provisions of the Note for an Adjustable Rate Loan.

Mortgage shall mean with respect to a Loan, the mortgage, deed of trust or other instrument, which creates a first lien on either (i) with respect to a Loan other than a Cooperative Loan, the fee simple or leasehold estate in such real property or (ii) with respect to a Cooperative Loan, the Proprietary Lease and related Cooperative Shares, which in either case secures the Note.

Mortgage File shall have the meaning assigned thereto in the Custodial Agreement.

Mortgage Insurance Certificate shall mean the certificate evidencing a FHA Insurance Contract.

Mortgage Interest Rate means the annual rate of interest borne on a Note, which shall be adjusted from time to time with respect to Adjustable Rate Loans.

Mortgaged Property shall mean the real property (including all improvements, buildings, fixtures, building equipment and personal property thereon and all additions, alterations and replacements made at any time with respect to the foregoing) and all other collateral securing repayment of the debt evidenced by a Note.

Mortgagee shall mean the record holder of a Note secured by a Mortgage.

Mortgagor shall mean the obligor or obligors on a Note, including any person who has assumed or guaranteed the obligations of the obligor thereunder.

Multiemployer Plan shall mean a multiemployer plan defined as such in Section 3(37) of ERISA to which contributions have been or are required to be made by Seller or any ERISA Affiliate or as to which Seller or any ERISA Affiliate has any actual or potential liability or obligation and that is covered by Title IV of ERISA.

MV Margin Amount means, with respect to any Transaction, as of any date of determination, the amount obtained by application of the MV Margin Percentage to the Repurchase Price for such Transaction as of such date.

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MV Margin Percentage shall have the meaning assigned thereto in the Pricing Side Letter.

Net Income shall mean, for any period, the net income of any Person for such period as determined in accordance with GAAP.

Net Worth shall mean, with respect to any Person, the excess of total assets of such Person, over total liabilities of such Person, determined in accordance with GAAP.

Note shall mean, with respect to any Loan, the related promissory note together with all riders thereto and amendments thereof or other evidence of indebtedness of the related Mortgagor.

Obligations shall mean (a) all of Seller's obligation to pay the Repurchase Price on the Repurchase Date and other obligations and liabilities (including without limitation the Commitment Fee) of Seller to Buyer, its Affiliates, Custodian or any other Person arising under, or in connection with, the Program Documents or directly related to the Purchased Loans, whether now existing or hereafter arising; (b) any and all sums paid by Buyer or on behalf of Buyer pursuant to the Program Documents in order to preserve any Purchased Loan or its interest therein; (c) in the event of any proceeding for the collection or enforcement of any of Seller's indebtedness, obligations or liabilities referred to in clause (a), the reasonable expenses of retaking, holding, collecting, preparing for sale, selling or otherwise disposing of or realizing on any Purchased Loan, or of any exercise by Buyer or any Affiliate of Buyer of its rights under the Program Documents, including without limitation, reasonable attorneys' fees and disbursements and court costs; and (d) all of Seller's indemnity obligations to Buyer pursuant to the Program Documents.

Par Margin Amount means, with respect to any Transaction, as of any date of determination, the amount obtained by application of the Par Margin Percentage to the Repurchase Price for such Transaction as of such date.

Par Margin Percentage shall have the meaning assigned thereto in the Pricing Side Letter.

Participants shall have the meaning assigned thereto in Section 39 hereof.

PBGC shall mean the Pension Benefit Guaranty Corporation or any entity succeeding to any or all of its functions under ERISA.

Permitted Exceptions shall mean the following exceptions to lien priority: (i) the lien of current real property taxes and assessments not yet due and payable; (ii) covenants, conditions and restrictions, rights of way, easements and other matters of the public record as of the date of recording acceptable to mortgage lending institutions generally and specifically referred to in the lender's title insurance policy delivered to the originator of the Loan and (A) referred to or otherwise considered in the appraisal (if any) made for the originator of the Loan or (B) which do not adversely affect the appraised value of the Mortgaged Property set forth in such appraisal; and (iii) other matters to which like properties are commonly subject which do not materially interfere with the benefits of the security intended to be provided by the Mortgage or the use, enjoyment, value or marketability of the related Mortgaged Property.

Person shall mean any individual, corporation, company, voluntary association, partnership, joint venture, limited liability company, trust, unincorporated association or government (or any agency, instrumentality or political subdivision thereof).

Plan shall mean an employee benefit or other plan established or maintained by Seller or, in the case of a Plan subject to Title IV of ERISA, any ERISA Affiliate and that is covered by Title IV of ERISA, other than a Multiemployer Plan.

PM Funded Wet Loan shall mean a Wet Loan to be funded in the afternoon on any Business Day.

PMI Policy or Primary Insurance Policy shall mean a policy of primary mortgage guaranty insurance issued by a Qualified Insurer.

Post-Default Rate shall mean, in respect of the Repurchase Price for any Transaction or any other amount under this Agreement, or any other Program Document that is not paid when due to Buyer

(whether at stated maturity, by acceleration or mandatory prepayment or otherwise), a rate per annum during the period from and including the due date to but excluding the date on which such amount is paid in full equal to 5.00% per annum, plus (a) the Pricing Rate otherwise applicable to such Loan or other amount (which amount shall include the Applicable Margin), or (b) if no Pricing Rate is otherwise applicable, (i) the LIBO Rate plus (ii) the highest amount specified under the definition of Applicable Margin.

Price Differential shall mean, with respect to each Transaction as of any date of determination, the aggregate amount obtained by daily application of the Pricing Rate (or during the continuation of an Event of Default, by daily application of the Post-Default Rate) for such Transaction to the Purchase Price for such Transaction on a 360-day-per-year basis for the actual number of days elapsed during the period commencing on (and including) the Purchase Date and ending on (but excluding) the date of determination (reduced by any amount of such Price Differential in respect of such period previously paid by Seller to Buyer with respect to such Transaction).

Pricing Rate shall mean the per annum percentage rate for determination of the Price Differential as set forth in the Pricing Side Letter.

Pricing Side Letter shall mean the pricing side letter, dated as of the date hereof, among Seller and Buyer, as the same may be amended, supplemented or modified from time to time.

Principal shall have the meaning assigned thereto in Annex I.

Program Documents shall mean this Agreement, the Custodial Agreement, any Servicing Agreement, the Electronic Tracking Agreement, the Master Netting Agreement, each Guaranty, the Pricing Side Letter, the Instruction Letters, if any, the Collection Account Control Agreement, any assignment of an Interest Rate Protection Agreement and any other agreement entered into by Seller, on the one hand, and Buyer and/or any of its Affiliates or Subsidiaries (or Custodian on its behalf) on the other, in connection herewith or therewith.

Proprietary Lease shall mean the lease on a Cooperative Unit evidencing the possessory interest of the owner of the Cooperative Shares in such Cooperative Unit.

Property shall mean any right or interest in or to property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible.

Purchase Date shall mean, with respect to each Transaction, the date on which Purchased Loans are sold by Seller to Buyer hereunder.

Purchase Price shall have the meaning assigned thereto in the Pricing Side Letter.

Purchased Items shall have the meaning assigned thereto in Section 8 hereof.

Purchased Loans shall mean any Loans sold by Seller to Buyer in a Transaction, together with the related Records, the related Servicing Rights (which, for the avoidance of doubt, were sold by Seller and purchased by Buyer on the related Purchase Date), the related Takeout Commitment, if any, and with respect to each Loan, any related FHA Insurance Contract, any related VA Loan Guaranty Agreement, Seller's rights under any related Escrow Letter and/or Insured Closing Letter, Seller's rights under any takeout commitment related to the Loans and other Purchased Items with respect to the Loans, such other property, rights, titles or interest as are specified on a Funding Notice, and all instruments, chattel paper, and general intangibles comprising or relating to all of the foregoing.

Qualified Insurer shall mean an insurance company duly qualified as such under the laws of each state in which any Mortgaged Property is located, duly authorized and licensed in each such state to transact the applicable insurance business and to write the insurance provided, and approved as an insurer by Fannie Mae and Freddie Mac and whose claims paying ability is rated in the two highest rating categories by any of the rating agencies with respect to primary mortgage insurance and in the two highest rating categories by Best's with respect to hazard and flood insurance.

Qualified Originator shall mean Seller.

Records shall mean, with respect to any Purchased Loan, the Loan Documents and the Servicing Records.

Related Credit Enhancement shall have the meaning assigned to such term in Section 8(a).

Reportable Event shall mean any of the events set forth in Section 4043(b) of ERISA, other than those events as to which the thirty day notice period is waived under subsections .21, .22, .23, .24, .28, .29, .31, or .32 of PBGC Reg. § 4043 (provided that a failure to meet the minimum funding standard of Section 412 of the Code or Sections 302 or 303 of ERISA, including, without limitation, the failure to make on or before its due date a required installment under Section 430(j) of the Code or Section 303(j) of ERISA, shall be a reportable event regardless of the issuance of any waivers in accordance with Section 412(d) of the Code).

Repurchase Date shall mean the date occurring on (i) the 12th day of each month following the related Purchase Date (or if such date is not a Business Day, the following Business Day), (ii) any other Business Day set forth in the related Funding Notice, (iii) the date determined by application of Section 19, as applicable, or (iv) the Termination Date. In no event shall the Repurchase Date for any Transaction occur after the Termination Date.

Repurchase Price shall mean the price at which Purchased Loans are to be transferred from Buyer to Seller upon termination of a Transaction, which will be determined in each case (including Transactions terminable upon demand) as the sum of the outstanding Purchase Price for such Purchased Loans and the Price Differential as of the date of such determination.

Requirement of Law shall mean as to any Person, the certificate of incorporation and by-laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

Rescission shall mean the right of a Mortgagor to rescind the related Note and related documents pursuant to applicable law.

Responsible Officer shall mean, as to any Person, the chief executive officer or, with respect to financial matters, the chief financial officer of such Person; provided, that in the event any such officer is unavailable at any time he or she is required to take any action hereunder, Responsible Officer shall mean any officer authorized to act on such officer's behalf as demonstrated by a certificate of corporate resolution.

Restricted Payments shall mean with respect to any Person, collectively, all dividends or other distributions of any nature (cash, securities, assets or otherwise), and all payments, by virtue of redemption or otherwise, on any class of equity securities (including, without limitation, warrants, options

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or rights therefor) issued by such Person, whether such securities are now or may hereafter be authorized or outstanding and any distribution in respect of any of the foregoing, whether directly or indirectly.

Section 404 Notice shall mean the notice required pursuant to Section 404 of the Helping Families Save Their Homes Act of 2009 (P.L. 111-22), which amends 15 U.S.C. Section 1641 et seq., to be delivered by a creditor that is an owner or an assignee of a mortgage loan to the related Mortgagor within thirty (30) days after the date on which such mortgage loan is sold or assigned to such creditor.

Security Release Certification shall mean a security release certification in substantially the form set forth in Exhibit E hereto.

Servicer shall mean Seller in its capacity as servicer of the Loans, or another servicer of the Loans approved by Buyer.

Servicing Agreement shall have the meaning provided in Section 43(c) hereof.

Servicing Delivery Requirement shall have the meaning assigned thereto in Section 13(hh).

Servicing File shall mean with respect to each Loan, the file retained by Seller (in its capacity as Servicer) consisting of all documents that a prudent originator and servicer would have, including copies of the Loan Documents, all documents necessary to document and service the Loans, including FHA and VA approval (if any) and any and all documents required to be delivered pursuant to any of the Program Documents.

Servicing Records shall have the meaning assigned thereto in Section 43(b) hereof.

Servicing Rights shall mean contractual, possessory or other rights of Seller or any other Person to service a Loan, whether arising under the Servicing Agreement, the Custodial Agreement or otherwise, to administer or service a Purchased Loan or to possess related Servicing Records.

Servicing Transmission shall mean a computer-readable magnetic or other electronic format acceptable to the parties.

Settlement Agent shall have the meaning assigned thereto in the Custodial Agreement.

Subservicer shall have the meaning provided in Section 43(c) hereof.

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Subsidiary shall mean, with respect to any Person, any corporation, partnership or other entity of which at least a majority of the securities or other ownership interests having by the terms thereof ordinary voting power to elect a majority of the board of directors or other persons performing similar functions of such corporation, partnership or other entity (irrespective of whether or not at the time securities or other ownership interests of any other class or classes of such corporation, partnership or other entity shall have or might have voting power by reason of the happening of any contingency) is at the time directly or indirectly owned or controlled by such Person or one or more Subsidiaries of such Person or by such Person and one or more Subsidiaries of such Person.

Takeout Commitment shall mean, (i) with respect to any Loan (other than a Jumbo Loan), an irrevocable commitment issued by a Takeout Investor in favor of Seller pursuant to which such Takeout Investor agrees to purchase such Loan at a specific price on a forward delivery basis acceptable to Buyer in its sole discretion and (ii) with respect to any Jumbo Loan, a flow loan purchase and sale arrangement

with a Takeout Investor acceptable to Buyer in its sole discretion, pursuant to which such Takeout Investor may purchase such Jumbo Loan on a forward delivery basis .

Takeout Investor shall mean Fannie Mae, Freddie Mac, or another third party investor acceptable to Buyer, which has agreed to purchase Loans pursuant to a Takeout Commitment.

Tangible Net Worth shall mean, with respect to any Person as of any date of determination, the consolidated Net Worth of such Person and its Subsidiaries, less the consolidated net book value of all assets of such Person and its subsidiaries (to the extent reflected as an asset in the balance sheet of such Person or any Subsidiary at such date) which will be treated as intangibles under GAAP, including, without limitation, such items as deferred financing expenses, net deferred taxes, net leasehold improvements, good will, trademarks, trade names, service marks, copyrights, patents, licenses and unamortized debt discount and expense; provided, that residual securities issued by such Person or its Subsidiaries shall not be treated as intangibles for purposes of this definition.

Termination Date shall mean December 13, 2011, or such earlier date on which this Agreement shall terminate in accordance with the provisions hereof or by operation of law.

Total Indebtedness shall mean with respect to any Person, for any period, the aggregate Indebtedness of such Person and its Subsidiaries during such period, less the amount of any nonspecific consolidated balance sheet reserves maintained in accordance with GAAP and less the amount of any non-recourse debt, including any securitization debt.

Transaction has the meaning assigned thereto in Section 1.

Transaction Notice shall mean Seller's request to enter into a Transaction delivered to Buyer pursuant to the terms of this Agreement, specifying the Loans that Seller requests to sell to Buyer in such Transaction, the fields set forth on Annex 1 to the Custodial Agreement and any other loan-level details as agreed upon between Seller and Buyer. Each Transaction Notice shall be in the form of a Loan Data Transmission, or, if such Transaction Notice is provided in another format, shall have attached thereto a Loan Data Transmission.

Trust Receipt shall have the meaning provided in the Custodial Agreement.

Underwriting Guidelines shall mean collectively, the underwriting guidelines of Seller, which, other than with respect to any balance limitations applicable to Jumbo Loans, comply with all current requirements of Fannie Mae, Freddie Mac, FHA and VA, in effect as of the date of this Agreement, as the same may be amended, supplemented or otherwise modified from time to time in accordance with terms of this Agreement, and which have been approved in writing by Buyer.

Uniform Commercial Code shall mean the Uniform Commercial Code as in effect on the date hereof in the State of New York; provided that if by reason of mandatory provisions of law, the perfection or the effect of perfection or non-perfection of the security interest in any Purchased Items is governed by the Uniform Commercial Code as in effect in a jurisdiction other than New York, Uniform Commercial Code shall mean

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the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such perfection or effect of perfection or non-perfection.

USC shall mean the United States Code, as amended.

VA shall mean the U.S. Department of Veterans Affairs, an agency of the United States of America, or any successor thereto including the Secretary of Veterans Affairs.

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VA Approved Lender shall mean a lender which is approved by VA to act as a lender in connection with the origination of VA Loans.

VA Loan shall mean a Loan which is the subject of a VA Loan Guaranty Agreement as evidenced by a Loan Guaranty Certificate.

VA Loan Guaranty Agreement shall mean the obligation of the United States to pay a specific percentage of a Loan (subject to a maximum amount) upon default of the Mortgagor pursuant to the Servicemen's Readjustment Act, as amended.

VA Regulations shall mean the regulations promulgated by the Veterans Administration pursuant to the Servicemen's Readjustment Act, as amended, codified in 36 Code of Federal Regulations, and other VA issuances relating to VA Loans, including related Handbooks, Circulars and Notices.

Wet Loan shall mean a wet-funded first lien Loan which is (i) underwritten in accordance with the Underwriting Guidelines, (ii) purchased by Buyer from Seller by delivering funds to the Disbursement Agent subject to Seller's obligation to deliver the required Loan Documents within the Wet Loan Maximum Dwell Time and (iii) does not contain all the required Loan Documents in the Mortgage File, which in order to be deemed to an Eligible Loan shall have the following additional characteristics:

- (a) the proceeds thereof have been funded by wire transfer or cashier's check, cleared check or draft or other form of immediately available funds to the Settlement Agent from Seller for such Wet Loan;
- (b) Seller shall have obtained an Insured Closing Letter and an Escrow Letter with respect to such Wet Loan, and such letters shall be maintained in the possession of Seller and provided to Buyer upon request, if required;
- (c) the proceeds thereof have not been returned to Seller or its agent from the Settlement Agent for such Wet Loan;
- (d) such Wet Loan has been closed and funded to the order of the Mortgagor;
- (e) upon recordation such Loan will constitute a first lien on the premises described therein; and
- (f) all required Loan Documents shall have been delivered to Custodian within seven (7) days of the related Purchase Date.

Wet Loan Maximum Dwell Time shall mean, with respect to any Wet Loan, the period commencing on the related Purchase Date and ending on the seventh (7th) calendar day thereafter.

(b) Accounting Terms and Determinations. Except as otherwise expressly provided herein, all accounting terms used herein shall be interpreted, and all financial statements and certificates and reports as to financial matters required to be delivered to Buyer hereunder shall be prepared, in accordance with GAAP.

(c) Interpretation. The following rules of this subsection (c) apply unless the context requires otherwise. A gender includes all genders. Where a word or phrase is defined, its other grammatical forms have a corresponding meaning. A reference to a subsection, Section, Annex or Exhibit is, unless otherwise specified, a reference to a Section of, or annex or exhibit to, this Agreement.

A reference to a party to this Agreement or another agreement or document includes the party's successors and permitted substitutes or assigns. A reference to an agreement or document (including any Program Document) is to the agreement or document as amended, modified, novated, supplemented or replaced, except to the extent prohibited thereby or by any Program Document and in effect from time to time in accordance with the terms thereof. A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it. A reference to writing includes a facsimile transmission and any means of reproducing words in a tangible and permanently visible form. A reference to conduct includes, without limitation, an omission, statement or undertaking, whether or not in writing. The words hereof, herein, hereunder and similar words refer to this Agreement as a whole and not to any particular provision of this Agreement. The term including is not limiting and means including without limitation. In the computation of periods of time from a specified date to a later specified date, the word from means from and including, the words to and until each mean to but excluding, and the word through means to and including.

Except where otherwise provided in this Agreement, any determination, consent, approval, statement or certificate made or confirmed in writing with notice to Seller by Buyer or an authorized officer of Buyer provided for in this Agreement is conclusive and binds the parties in the absence of manifest error. A reference to an agreement includes a security interest, guarantee, agreement or legally enforceable arrangement whether or not in writing related to such agreement.

A reference to a document includes an agreement (as so defined) in writing or a certificate, notice, instrument or document, or any information recorded in computer disk form. Where Seller is required to provide any document to Buyer under the terms of this Agreement, the relevant document shall be provided in writing or printed form unless Buyer requests otherwise. At the request of Buyer, the document shall be provided in computer disk form or both printed and computer disk form.

This Agreement is the result of negotiations among, and has been reviewed by counsel to, Buyer and Seller, and is the product of all parties. In the interpretation of this Agreement, no rule of construction shall apply to disadvantage one party on the ground that such party proposed or was involved in the preparation of any particular provision of this Agreement or this Agreement itself. Except where otherwise expressly stated, Buyer may give or withhold, or give conditionally, approvals and consents and may form opinions and make determinations at its absolute discretion. Any requirement of good faith, discretion or judgment by Buyer shall not be construed to require Buyer to request or await receipt of information or documentation not immediately available from or with respect to Seller, a servicer of the Purchased Loans, any other Person or the Purchased Loans themselves.

3. THE TRANSACTIONS

(a) Subject to the terms and conditions of the Program Documents, Buyer shall from time to time as requested by Seller, enter into Transactions with an aggregate Purchase Price for all Purchased Loans acquired by Buyer not to exceed the Maximum Aggregate Purchase Price. Buyer shall have the obligation, subject to the terms and conditions of the Program Documents, to enter into Transactions up to the Maximum Aggregate Purchase Price. Buyer and Seller agree that the Purchased Loans transferred to Buyer in any Transaction hereunder may include Eligible Loans which are Wet Loans (subject to any applicable sub-limits regarding Wet Loans set forth herein or any Program Document).

(b) Unless otherwise agreed, Seller shall request that Buyer enter into a Transaction by delivering (i) to Buyer, Custodian and Disbursement Agent a Transaction Notice, (ii) to Buyer, Custodian and Disbursement Agent an estimate of the Purchase Price for Eligible Loans to be purchased on the Purchase Date (which estimate may be included in a Transaction Notice) and (iii) to Custodian, the

Mortgage Files for each such Eligible Loan proposed to be included in a Transaction by the times set forth in the Custodial Agreement, each in accordance with the times specified in the Custodial Agreement.

Each Transaction Notice shall specify the proposed Purchase Date, Purchase Price, Pricing Rate and Repurchase Date. In addition, each Transaction Notice shall set forth the related Purchase Price allocable to each individual Loan. Each Transaction Notice shall clearly indicate those Loans that are intended to be Wet Loans and Dry Loans and include a Loan Schedule in respect of the Loans that Seller proposes to include in the related Transaction.

Buyer shall notify Seller of its agreement to enter into a Transaction and confirm the terms of such Transaction by delivering to Seller a Funding Notice specifying the Loans Buyer agrees to purchase on the related Purchase Date, and any other terms of the related Transaction. In the event of a conflict between the terms set forth in the Transaction Notice delivered by Seller to Buyer and Custodian and the terms set forth in the related Funding Notice delivered by Buyer to Seller, the terms of the related Funding Notice shall control. In the event of a conflict between the terms set forth in this Agreement and the terms set forth in any Funding Notice, the terms of such Funding Notice shall control to the extent that the Funding Notice notes such conflict and specifies that the Funding Notice shall control.

By entering into a Transaction with Buyer, Seller consents to the terms set forth in the related Funding Notice. The Funding Notice, together with this Agreement, shall constitute conclusive evidence of the terms agreed to between Buyer and Seller with respect to the Transaction to which the Funding Notice relates.

Seller agrees to immediately report to Custodian and Buyer by facsimile transmission or such other method acceptable to Custodian and Buyer within one Business Day of discovery that any Wet Loans that were previously subject to a Transaction do not close for any reason and any Loans which are subject to a Rescission.

(c) Pursuant to the Custodial Agreement, Custodian will be required to review any Loan Documents delivered with respect to the Loans prior to 4:30 p.m. (New York City time) on any Business Day on the same day. In accordance with the times specified in the Custodial Agreement, Custodian will be required to deliver to Buyer, via Electronic Transmission acceptable to Buyer, Custodian Loan Transmission and an Exception Report showing the status of all Loans then held by Custodian, including but not limited to the Dry Loans and the Wet Loans which are subject to Exceptions, and the time the related Loan Documents have been released pursuant to Sections 5(a) or 5(b) of the Custodial Agreement. In accordance with the times specified in the Custodial Agreement, Custodian will be required to deliver to Buyer, on each Purchase Date, one or more Trust Receipts (as defined in the Custodial Agreement) relating to either Wet Loans or Dry Loans. The original copies of such Trust Receipts shall be delivered to 333 West 34th Street, 4th Floor, New York, New York 10001, Attention: Adam Capizzi for the account of Citibank, N.A., telephone number (212) 615-7725, as agent for Buyer by overnight delivery using a nationally recognized insured overnight delivery service.

(d) Upon Seller's request to enter into a Transaction pursuant to Section 3(a), Buyer shall, assuming all conditions precedent set forth in this Section 3 and in Sections 9(a) and (b) have been met, and provided no Default shall have occurred and be continuing, purchase the Eligible Loans included in the related Funding Notice by transferring to the Disbursement Account, via wire transfer in accordance with the terms of Section 11 of the Custodial Agreement (pursuant to written wire transfer instructions provided by Seller on or prior to such Purchase Date), the Purchase Price in immediately available funds on the related Purchase Date and not later than the related time set forth in the Custodial Agreement. Seller acknowledges and agrees that the Purchase Price paid in connection with any Purchased Loan that

is purchased in any Transaction includes a mutually negotiated premium allocated to the portion of such Purchased Loans that constitutes the related Servicing Rights.

(e) Anything herein to the contrary notwithstanding, if, on or prior to the determination of any LIBO Base Rate:

(i) Buyer determines, which determination shall be conclusive, that quotations of interest rates for the relevant deposits referred to in the definition of LIBO Base Rate in Section 2 are not being provided in the relevant amounts or for the relevant maturities for purposes of determining rates of interest for Transactions as provided herein;

(ii) Buyer determines, which determination shall be conclusive, that the Applicable Margin plus the relevant rate of interest referred to in the definition of LIBO Base Rate in Section 2 upon the basis of which the rate of interest for Transactions is to be determined is not likely to adequately cover the cost to Buyer of purchasing and holding the Loans hereunder; or

(iii) it becomes unlawful for Buyer to enter into Transactions with a Pricing Rate based on the LIBO Base Rate;

then Buyer shall give Seller prompt notice thereof and, so long as such condition remains in effect, Buyer shall be under no obligation to purchase Loans hereunder, and Seller shall, at its option, either repurchase the Purchased Loans then subject to a Transaction or pay a Pricing Rate at a rate per annum as determined by Buyer taking into account the increased cost to Buyer of purchasing and holding the Loans.

(f) Seller shall repurchase the related Purchased Loans from Buyer on each related Repurchase Date. Each obligation to repurchase exists without regard to any prior or intervening liquidation or foreclosure with respect to any Purchased Loan. Seller is obligated to obtain the related Purchased Loans from Buyer or its designee (including Custodian) at Seller's expense on (or after) the related Repurchase Date.

(g) Provided that the applicable conditions in Sections 9(a) and (b) have been satisfied and provided further no Default shall have occurred and be continuing, unless Buyer is notified to the contrary not later than 11:00 a.m. New York City time at least two (2) Business Days prior to any such Repurchase Date, on each related Repurchase Date each Purchased Loan shall automatically become subject to a new Transaction. In such event, the related Repurchase Date on which such Transaction becomes subject to a new Transaction shall become the Purchase Date for such Transaction. Seller shall deliver an updated Transaction Notice with respect to such Purchased Loans. For each new Transaction, unless otherwise agreed, (y) the accrued and unpaid Price Differential shall be settled in cash on each related Repurchase Date, and (z) the Pricing Rate shall be as set forth in the Pricing Side Letter.

(h) If Seller intends to repurchase any Loans on any day which is not a Repurchase Date, Seller shall give prior written notice thereof to Buyer by 2:00 p.m. (New York City time) on the date of repurchase. If such notice is given, the Repurchase Price specified in such notice shall be due and payable on the date specified therein, together with the Price Differential to such date on the amount prepaid.

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(i) If any Requirement of Law (other than with respect to any amendment made to Buyer's certificate of incorporation and by-laws or other organizational or governing documents) or any change in the interpretation or application thereof or compliance by Buyer with any request or directive (whether or not having the force of law) from any central bank or other Governmental Authority made subsequent to the date hereof:

(i) shall subject Buyer to any tax of any kind whatsoever with respect to this Agreement or any Loans purchased pursuant to it (excluding net income taxes) or change the basis of taxation of payments to Buyer in respect thereof;

(ii) shall impose, modify or hold applicable any reserve, special deposit, compulsory advance or similar requirement against assets held by deposits or other liabilities in or for the account of Transactions or extensions of credit by, or any other acquisition of funds by any office of Buyer which is not otherwise included in the determination of the LIBO Base Rate hereunder; or

(iii) shall impose on Buyer any other condition;

and the result of any of the foregoing is to increase the cost to Buyer, by an amount which Buyer deems to be material, of effecting or maintaining purchases hereunder, or to reduce any amount receivable hereunder in respect thereof, then, in any such case, Seller shall promptly pay Buyer such additional amount or amounts as will compensate Buyer for such increased cost or reduced amount receivable thereafter incurred.

If Buyer shall have determined that the adoption of or any change in any Requirement of Law (other than with respect to any amendment made to Buyer's certificate of incorporation and by-laws or other organizational or governing documents) regarding capital adequacy or in the interpretation or application thereof or compliance by Buyer or any corporation controlling Buyer with any request or directive regarding capital adequacy (whether or not having the force of law) from any Governmental Authority made subsequent to the date hereof shall have the effect of reducing the rate of return on Buyer's or such corporation's capital as a consequence of its obligations hereunder to a level below that which Buyer or such corporation (taking into consideration Buyer's or such corporation's policies with respect to capital adequacy) by an amount deemed by Buyer to be material, then from time to time, Seller shall promptly pay to Buyer such additional amount or amounts as will thereafter compensate Buyer for such reduction.

If Buyer becomes entitled to claim any additional amounts pursuant to this subsection, it shall promptly notify Seller of the event by reason of which it has become so entitled. A certificate as to any additional amounts payable pursuant to this subsection submitted by Buyer to Seller shall be conclusive in the absence of manifest error. Buyer agrees that Seller shall not be required to compensate Buyer pursuant to the provisions of this Section 3(i) for any increased costs incurred or reductions in Buyer's rate of return suffered more than six (6) months prior to the date that Buyer notifies Seller of the event giving rise to such increased costs or reductions and of Buyer's intention to claim compensation therefor (except that, if the change in law giving rise to such increased costs or reductions is retroactive, then the six-month period referred to above shall be extended to include the period of retroactive effect thereof).

(j) Buyer and Seller hereby agree that upon Buyer's completion of its credit and due diligence review of Seller, in the event that Buyer elects to offer a one-year extension of the term of this Agreement to Seller upon terms and conditions substantially similar to those provided herein and in the other Program Documents, Buyer and Seller shall each use commercially reasonable efforts and negotiate in good faith to promptly execute and deliver all required documents to effect such extension.

4. PAYMENTS; COMPUTATION; COMMITMENT FEE

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(a) Payments. All payments to be made by Seller under this Agreement shall be made in Dollars, in immediately available funds, without deduction, set-off or counterclaim, to Buyer, except to

the extent otherwise provided herein, at the following account maintained by Buyer at Citibank, New York, Account Number _____
For the A/C of Citibank, N.A., ABA# _____, Reference: Home Loan Center, not later than 5:00 p.m., New York City
time, on the date on which such payment shall become due (each such payment made after such time on such due date to be deemed to have
been made on the next succeeding Business Day). Seller acknowledges that it has no rights of withdrawal from the foregoing account.

(b) Computations. The Price Differential shall be computed on the basis of a 360-day year for the actual days elapsed (including the first day but excluding the last day) occurring in the period for which payable.

(c) Commitment Fee. Seller agrees to pay to Buyer a commitment fee equal to \$41,666.66 (the Commitment Fee), such payment to be made in Dollars, in immediately available funds, without deduction, set off or counterclaim in two equal installments of \$20,833.33 each. The first installment of the Commitment Fee shall be payable on or prior to October 13, 2011, and the second installment of the Commitment Fee shall be payable on or prior to November 11, 2011. Buyer may, in its sole discretion, net any installment of the Commitment Fee then due and payable from the proceeds of any Purchase Price paid to Seller. In the event that the Termination Date is accelerated to a date which is prior to the payment in full of the Commitment Fee, the Commitment Fee shall be payable on the Termination Date. The Commitment Fee is and shall be deemed to be fully earned as of the date hereof and each installment shall be non-refundable when paid.

5. TAXES; TAX TREATMENT

(a) All payments made by Seller under this Agreement shall be made free and clear of, and without deduction or withholding for or on account of, any present or future taxes, levies, imposts, deductions, charges or withholdings, and all liabilities (including penalties, interest and additions to tax) with respect thereto imposed by any Governmental Authority, excluding income taxes, branch profits taxes, franchise taxes or any other tax imposed on the net income by the United States, a state or a foreign jurisdiction under the laws of which Buyer is organized or of its applicable lending office, or any political subdivision thereof (collectively, Taxes), all of which shall be paid by Seller for its own account not later than the date when due. If Seller is required by law or regulation to deduct or withhold any Taxes from or in respect of any amount payable hereunder, it shall: (a) make such deduction or withholding; (b) pay the amount so deducted or withheld to the appropriate Governmental Authority not later than the date when due; (c) deliver to Buyer, promptly, original tax receipts and other evidence satisfactory to Buyer of the payment when due of the full amount of such Taxes; and (d) pay to Buyer such additional amounts as may be necessary so that such Buyer receives, free and clear of all Taxes, a net amount equal to the amount it would have received under this Agreement, as if no such deduction or withholding had been made.

(b) In addition, Seller agrees to pay to the relevant Governmental Authority in accordance with applicable law any current or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies (including, without limitation, mortgage recording taxes, transfer taxes and similar fees) imposed by the United States or any taxing authority thereof or therein that arise from any payment made hereunder or from the execution, delivery or registration of, or otherwise with respect to, this Agreement (Other Taxes).

(c) Seller agrees to indemnify Buyer for the full amount of Taxes (including additional amounts with respect thereto) and Other Taxes, and the full amount of Taxes of any kind imposed by any jurisdiction on amounts payable under this Section 5, and any liability (including penalties, interest and

expenses) arising therefrom or with respect thereto, provided that Buyer shall have provided Seller with evidence, reasonably satisfactory to Seller, of payment of Taxes or Other Taxes, as the case may be.

(d) Any Buyer that is not incorporated under the laws of the United States, any State thereof, or the District of Columbia (a Foreign Buyer) shall provide Seller with properly completed United States Internal Revenue Service (IRS) Form W-8BEN or W-8ECI or any successor form prescribed by the IRS, certifying that such Foreign Buyer is entitled to benefits under an income tax treaty to which the United States is a party which reduces the rate of withholding tax on payments of interest or certifying that the income receivable pursuant to this Agreement is effectively connected with the conduct of a trade or business in the United States on or prior to the date upon which each such Foreign Buyer becomes a Buyer. Each Foreign Buyer will resubmit the appropriate form on the earliest of (A) the third anniversary of the prior submission or (B) on or before the expiration of thirty (30) days after there is a change in circumstances with respect to such Foreign Buyer as defined in Treas. Reg. Section 1.1441(e)(4)(ii)(D). For any period with respect to which a Foreign Buyer has failed to provide Seller with the appropriate form or other relevant document pursuant to this Section 5(d) (unless such failure is due to a change in treaty, law, or regulation occurring subsequent to the date on which a form originally was required to be provided), such Foreign Buyer shall not be entitled to any gross-up of Taxes or indemnification under Section 5(c) with respect to Taxes imposed by the United States; provided, however, that should a Foreign Buyer, which is otherwise exempt from a withholding tax, become subject to Taxes because of its failure to deliver a form required hereunder, Seller shall take such steps as such Foreign Buyer shall reasonably request to assist such Foreign Buyer to recover such Taxes.

(e) Without prejudice to the survival or any other agreement of Seller hereunder, the agreements and obligations of Seller contained in this Section 5 shall survive the termination of this Agreement. Nothing contained in this Section 5 shall require Buyer to make available any of its tax returns or other information that it deems to be confidential or proprietary.

(f) Each party to this Agreement acknowledges that it is its intent for purposes of U.S. federal, state and local income and franchise taxes to treat each Transaction as indebtedness of Seller that is secured by the Purchased Loans and that the Purchased Loans are owned by Seller in the absence of an Event of Default by Seller. All parties to this Agreement agree to such treatment and agree to take no action inconsistent with this treatment, unless required by law.

6. MARGIN MAINTENANCE

(a) If at any time either (i) the aggregate Market Value of all Purchased Loans subject to all Transactions is less than the aggregate MV Margin Amount for all such Transactions, or (ii) the aggregate unpaid principal balance of the Purchased Loans subject to all Transactions is less than the aggregate Par Margin Amount for all such Transactions (either such event, a Margin Deficit), then Buyer may, by notice to Seller, require Seller in such Transactions to transfer to Buyer cash within the time period specified in clause (b) below, so that both (x) the cash and aggregate Market Value of the Purchased Loans will thereupon equal or exceed such aggregate MV Margin Amount and (y) the cash and unpaid principal balance of such Purchased Loans, will thereupon equal or exceed such aggregate Par Margin Amount (either such requirement, a Margin Call). Buyer shall deposit such cash into a non-interest bearing account until the next succeeding Repurchase Date.

(b) Notice required pursuant to Section 6(a) may be given by any means provided in Section 21 hereof. Any notice given shall be met, and the related Margin Call satisfied, within twenty-four (24) hours. The failure of Buyer, on any one or more occasions, to exercise its rights under this Section 6, shall not change or alter the terms and conditions to which this Agreement is subject or limit the right of Buyer to do so at a later date. Seller and Buyer each agree that a failure or delay by Buyer to

exercise its rights hereunder shall not limit or waive Buyer's rights under this Agreement or otherwise existing by law or in any way create additional rights for Seller.

7. **INCOME PAYMENTS**

Where a particular term of a Transaction extends over the date on which Income is paid in respect of any Purchased Loan subject to that Transaction, such Income shall be the property of Buyer. Notwithstanding the foregoing, and provided no Default has occurred and is continuing, Buyer agrees that Seller shall be entitled to receive an amount equal to all Income received in respect of the Purchased Loans, whether by Buyer, Custodian or any servicer or any other Person, which is not otherwise received by Seller, to the full extent it would be so entitled if the Purchased Loans had not been sold to Buyer; provided that any Income received by Seller while the related Transaction is outstanding shall be deemed to be held by Seller solely in trust for Buyer pending the repurchase on the related Repurchase Date; provided further that upon the occurrence of a default, Seller shall either (i) hold all such Income in the Collection Account or (ii) at the sole option of Buyer, cause all such Income to be remitted directly to the account designated by Buyer. Provided no Default has occurred, Buyer shall, as the parties may agree with respect to any Transaction (or, in the absence of any such agreement, as Buyer shall reasonably determine in its sole discretion), on the Repurchase Date following the date any Income is received by Buyer (or a servicer on its behalf) either (i) transfer (or permit the servicer to transfer) to Seller such Income with respect to any Purchased Loans subject to such Transaction, or (ii) if a Margin Deficit then exists, apply the Income payment to reduce the amount, if any, to be transferred to Buyer by Seller upon termination of such Transaction. Buyer shall not be obligated to take any action pursuant to the preceding sentences (A) to the extent that such action would result in the creation of a Margin Deficit, unless prior thereto or simultaneously therewith Seller transfers to Buyer cash sufficient to eliminate such Margin Deficit, or (B) if an Event of Default with respect to Seller has occurred and is then continuing at the time such Income is paid.

8. **SECURITY INTEREST; BUYER'S APPOINTMENT AS ATTORNEY-IN-FACT**

(a) Seller and Buyer intend that the Transactions hereunder be sales to Buyer of the Purchased Loans (including, without limitation, the related Servicing Rights) and not loans from Buyer to Seller secured by the Purchased Loans. However, in order to preserve Buyer's rights under this Agreement in the event that a court or other forum recharacterizes the Transactions hereunder as other than sales, and as security for Seller's performance of all of its Obligations, Seller hereby grants Buyer a perfected first priority security interest in all of Seller's rights, title and interest in and to the following property, whether now existing or hereafter acquired: (i) all Purchased Loans identified on a Funding Notice delivered by Buyer to Seller and Custodian from time to time, (ii) all related Loan Documents, including without limitation all promissory notes, (iii) any other collateral pledged or otherwise relating to such Purchased Loans, together with all files, material documents, instruments, surveys (if available), certificates, correspondence, appraisals, computer records, computer storage media, Loan accounting records and other books and records relating thereto, (iv) the Servicing Records, and the related Servicing Rights, (v) all rights of Seller to receive from any third party or to take delivery of any Servicing Records or other documents which constitute a part of the Mortgage File or Servicing File, all rights of Seller to receive from any third party or to take delivery of any Records or other documents which constitute a part of the Mortgage File or Servicing File, (vi) the Collection Account and all Income relating to such Purchased Loans, (vii) all Loan Guaranty Certificates, other mortgage guaranties and insurance (issued by governmental agencies or otherwise) and any Mortgage Insurance Certificate or other document evidencing such mortgage guaranties or insurance relating to any Purchased Loans and all claims and payments thereunder and all rights of Seller to receive from any third party or to take delivery of any of the foregoing, (viii) all interests in real property collateralizing any Purchased Loans, (ix) all other insurance policies and insurance proceeds relating to any Purchased Loans or the related Mortgaged

Property and all Insurance Proceeds and all rights of Seller to receive from any third party or to take delivery of any of the foregoing, (x) all Interest Rate Protection Agreements relating to any or all of the Purchased Loans, (xi) any purchase agreements or other agreements, contracts or any related takeout commitments relating to or constituting any or all of the foregoing and in each case related to the Purchased Loans and all rights to receive documentation relating thereto, (xii) all accounts, chattel paper, commercial tort claims, deposit accounts, documents, equipment, general intangibles, goods, instruments, inventory, investment property, letter of credit rights, and securities accounts those terms is defined in the Uniform Commercial Code and all cash and Cash Equivalents and all products and proceeds relating to or constituting any or all of the foregoing and related to the Purchased Loans, and (xiii) any and all replacements, substitutions, distributions on or proceeds of any or all of the foregoing (collectively the Purchased Items). Seller acknowledges and agrees that its rights with respect to the Purchased Items (including without limitation, any security interest Seller may have in the Purchased Loans and any other collateral granted by Seller to Buyer pursuant to any other agreement) are and shall continue to be at all times junior and subordinate to the rights of Buyer hereunder.

Seller acknowledges and agrees that its rights with respect to the Purchased Items (including without limitation, any security interest Seller may have in the Purchased Loans and any other collateral granted by Seller to Buyer pursuant to any other agreement) are and shall continue to be at all times junior and subordinate to the rights of Buyer hereunder. Seller further acknowledges that it has no rights to the Servicing Rights related to the Purchased Loans. Without limiting the generality of the foregoing and for the avoidance of doubt, in the event that Seller is deemed to retain any residual Servicing Rights, Seller grants, assigns and pledges to Buyer a first priority security interest in all of its rights, title and interest in and to the Servicing Rights as indicated hereinabove. In addition, Seller, in its capacity as Servicer, further grants, assigns and pledges to Buyer a first priority security interest in and to all Servicing Records and rights to receive Servicing Records or other documents that constitute a part of the Mortgage File or Servicing File with respect to any Purchased Loan, and all Income related to the Purchased Loans received by Seller, in its capacity as Servicer, and all rights to receive such Income, and all products, proceeds and distributions relating to or constituting any or all of the foregoing (collectively, and together with the pledge of Servicing Rights in the immediately preceding sentence, the Related Credit Enhancement). The Related Credit Enhancement is hereby pledged as further security for Seller's Obligations to Buyer hereunder.

(b) At any time and from time to time, upon the written request of Buyer, and at the expense of Seller, Seller will promptly and duly execute and deliver, or will promptly cause to be executed and delivered, such further instruments and documents and take such further action as Buyer may reasonably request for the purpose of obtaining or preserving the full benefits of this Agreement and of the rights and powers herein granted, including, without limitation, the filing of any financing or continuation statements under the Uniform Commercial Code in effect in any jurisdiction with respect to the Purchased Items and the liens created hereby. Seller also hereby authorizes Buyer to file any such financing or continuation statement without the signature of Seller to the extent permitted by applicable law. A carbon, photographic or other reproduction of this Agreement shall be sufficient as a financing statement for filing in any jurisdiction. This Agreement shall constitute a security agreement under applicable law.

(c) Seller shall not (i) change the location of its chief executive office/chief place of business from that specified in Section 12(m) hereof, (ii) change its name, identity or corporate structure (or the equivalent) or change the location where it maintains its records with respect to the Purchased Items, or (iii) reincorporate or reorganize under the laws of another jurisdiction unless it shall have given Buyer at least thirty (30) days prior written notice thereof and shall have delivered to Buyer all Uniform Commercial Code financing statements and amendments thereto as Buyer shall request and taken all other

actions deemed reasonably necessary by Buyer to continue its perfected status in the Purchased Items with the same or better priority.

(d) Seller hereby irrevocably constitutes and appoints Buyer and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of Seller and in the name of Seller or in its own name, from time to time in Buyer's discretion, for the purpose of carrying out the terms of this Agreement, including without limitation, protecting, preserving and realizing upon the Purchased Items, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary or desirable to accomplish the purposes of this Agreement, including without limitation, to protect, preserve and realize upon the Purchased Items, to file such financing statement or statements relating to the Purchased Items without Seller's signature thereon as Buyer at its option may deem appropriate, and, without limiting the generality of the foregoing, Seller hereby gives Buyer the power and right, on behalf of Seller, without assent by, but with notice to, Seller, if a Default shall have occurred and be continuing, to do the following:

(i) in the name of Seller, or in its own name, or otherwise, to take possession of and endorse and collect any checks, drafts, notes, acceptances or other instruments for the payment of moneys due with respect to any Purchased Items and to file any claim or to take any other action or proceeding in any court of law or equity or otherwise deemed appropriate by Buyer for the purpose of collecting any and all such moneys due with respect to any Purchased Items whenever payable;

(ii) to pay or discharge taxes and Liens levied or placed on or threatened against the Purchased Items;

(iii) (A) to direct any party liable for any payment under any Purchased Items to make payment of any and all moneys due or to become due thereunder directly to Buyer or as Buyer shall direct, including, without limitation, to send goodbye letters and Section 404 Notices on behalf of Seller and any applicable Servicer; (B) to ask or demand for, collect, receive payment of and receipt for, any and all moneys, claims and other amounts due or to become due at any time in respect of or arising out of any Purchased Items; (C) to sign and endorse any invoices, assignments, verifications, notices and other documents in connection with any Purchased Items; (D) to commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect the Purchased Items or any proceeds thereof and to enforce any other right in respect of any Purchased Items; (E) to defend any suit, action or proceeding brought against Seller with respect to any Purchased Items; (F) to settle, compromise or adjust any suit, action or proceeding described in clause (E) above and, in connection therewith, to give such discharges or releases as Buyer may deem appropriate; and (G) generally, to sell, transfer, pledge and make any agreement with respect to or otherwise deal with any Purchased Items as fully and completely as though Buyer were the absolute owner thereof for all purposes, and to do, at Buyer's option and Seller's expense, at any time, and from time to time, all acts and things which Buyer deems necessary to protect, preserve or realize upon the Purchased Items and Buyer's Liens thereon and to effect the intent of this Agreement, all as fully and effectively as Seller might do.

Seller hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof. This power of attorney is a power coupled with an interest and shall be irrevocable. This power of attorney shall not revoke any prior powers of attorney granted by Seller.

Seller also authorizes Buyer, if a Default shall have occurred and be continuing, from time to time, to execute, in connection with any sale provided for in Section 19 hereof, any endorsements, assignments or other instruments of conveyance or transfer with respect to the Purchased Items.

(e) The powers conferred on Buyer hereunder are solely to protect Buyer's interests in the Purchased Items and shall not impose any duty upon it to exercise any such powers. Buyer shall be accountable only for amounts that it actually receives as a result of the exercise of such powers, and neither it nor any of its officers, directors, employees or agents shall be responsible to Seller for any act or failure to act hereunder, except for its or their own gross negligence or willful misconduct.

(f) If Seller fails to perform or comply with any of its agreements contained in the Program Documents and Buyer performs or complies, or otherwise cause performance or compliance, with such agreement, the reasonable out-of-pocket expenses of Buyer incurred in connection with such performance or compliance, together with interest thereon at a rate per annum equal to the Post-Default Rate, shall be payable by Seller to Buyer on demand and shall constitute Obligations.

(g) Buyer's duty with respect to the custody, safekeeping and physical preservation of the Purchased Items in its possession, under Section 9-207 of the Uniform Commercial Code or otherwise, shall be to deal with it in the same manner as Buyer deals with similar property for its own account. Neither Buyer nor any of its directors, officers or employees shall be liable for failure to demand, collect or realize upon all or any part of the Purchased Items or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Purchased Items upon the request of Seller or otherwise.

(h) All authorizations and agencies herein contained with respect to the Purchased Items are irrevocable and powers coupled with an interest.

(i) At Buyer's sole option, exercisable prospectively or retrospectively with respect to the Purchased Loans in whole or in part, and without notice to Seller or any other person, (i) the sale of the Purchased Loans to Buyer on each Purchase Date may be deemed a sale of a 100% participation interest, constituting 100% beneficial ownership, of the related Purchased Loans, in lieu of a sale to Buyer of the Purchased Loans themselves, (ii) to such extent Seller is deemed to retain legal title to the Purchased Loans solely to service or supervise the servicing thereof and (iii) this Agreement will be deemed the related participation agreement in such event.

9. CONDITIONS PRECEDENT

(a) As conditions precedent to the initial Transaction, Buyer shall have received on or before the date on which such initial Transaction is consummated the following, in form and substance satisfactory to Buyer and duly executed by each party thereto (as applicable):

(i) Program Documents. The Program Documents (including all exhibits, annexes and schedules related thereto) duly executed and delivered by Seller (or Guarantor, as applicable) and being in full force and effect, free of any modification, breach or waiver; provided, however, that the Collection Account Control Agreement may be delivered within ten (10) days following the initial Purchase Date.

(ii) Organizational Documents. An officer's certificate of Seller, together with a good standing certificate of Seller dated as of a recent date, but in no event more than ten (10) days prior to the date of such initial Transaction, and certified copies of the charter and by-laws (or equivalent documents) of Seller and Servicer, and of all corporate or other authority for Seller

with respect to the execution, delivery and performance of the Program Documents and each other document to be delivered by Seller, as applicable, from time to time in connection herewith (and Buyer may conclusively rely on such certificate until it receives notice in writing from Seller to the contrary).

(iii) Incumbency Certificate. An incumbency certificate of the secretary of Seller certifying the names, true signatures and titles of such Person s representatives duly authorized to request Transactions hereunder and to execute the Program Documents and the other documents to be delivered thereunder.

(iv) Legal Opinion. A legal opinion of counsel to Seller, substantially in the form attached hereto as Exhibit B.

(v) Filings, Registrations, Recordings. (i) Any documents (including, without limitation, financing statements) required to be filed, registered or recorded in order to create, in favor of Buyer, a perfected, first-priority security interest in the Purchased Items, subject to no Liens other than those created hereunder, shall have been properly prepared and executed for filing (including the applicable county(ies) if Buyer determines such filings are necessary in its reasonable discretion), registration or recording in each office in each jurisdiction in which such filings, registrations and recordations are required to perfect such first-priority security interest; and (ii) UCC lien searches, dated as of a recent date, in no event more than fourteen (14) days prior to the date of such initial Transaction, in such jurisdictions as shall be applicable to Seller and the Purchased Items, the results of which shall be satisfactory to Buyer.

(vi) Fees and Expenses. Buyer shall have received all fees and expenses (including without limitation, the Commitment Fee) required to be paid by Seller on or prior to the initial Purchase Date, which fees and expenses may be netted out of any purchase proceeds paid by Buyer hereunder.

(vii) Financial Statements. Buyer shall have received (A) the financial statements referenced in Section 12(b) and (B) the unaudited consolidated balance sheets of Seller as of August 31, 2011.

(viii) Underwriting Guidelines. Buyer and Seller shall have agreed upon Seller s current Underwriting Guidelines for Loans and Buyer shall have received a copy thereof certified by a Responsible Officer of Seller.

(ix) Consents, Licenses, Approvals, etc. Buyer shall have received copies certified by Seller of all consents, licenses and approvals, if any, required in connection with the execution, delivery and performance by Seller of, and the validity and enforceability of, the Loan Documents, which consents, licenses and approvals shall be in full force and effect, including but not limited to, evidence of VA approval as lender, evidence of FHA approval as Mortgagee and Servicer of the Loans, as well as FHA approval of any servicer or Subservicer of the Loans.

(x) Insurance. Buyer shall have received evidence in form and substance satisfactory to Buyer showing compliance by Seller as of such initial Purchase Date with Section 13(v) hereof.

(xi) Other Documents. Buyer shall have received such other documents as Buyer or its counsel may reasonably request.

- (b) The obligation of Buyer to enter into each Transaction pursuant to this Agreement (including the initial Transaction) is subject to the following further conditions precedent, both immediately prior to any Transaction and also after giving effect thereto and to the intended use thereof:
- (i) No Default or Event of Default shall have occurred and be continuing.
- (ii) Both immediately prior to entering into such Transaction and also after giving effect thereto and to the intended use of the proceeds thereof, the representations and warranties made by Seller in Section 12 and Schedule 1 hereof, and in each of the other Program Documents, shall be true and complete on and as of the Purchase Date in all material respects (in the case of the representations and warranties in Section 12(w) and Schedule 1, solely with respect to Loans which have not been repurchased by Seller) with the same force and effect as if made on and as of such date (or, if any such representation or warranty is expressly stated to have been made as of a specific date, as of such specific date). At the request of Buyer, Buyer shall have received an officer's certificate signed by a Responsible Officer of Seller certifying as to the truth and accuracy of the above, which certificate shall specifically include a statement that Seller is in compliance with all governmental licenses and authorizations and is qualified to do business and in good standing in all required jurisdictions.
- (iii) The then aggregate outstanding Purchase Price for all Purchased Loans, when added to the Purchase Price for the requested Transaction, shall not exceed the Maximum Aggregate Purchase Price.
- (iv) Subject to Buyer's right to perform one or more Due Diligence Reviews pursuant to Section 44 hereof, Buyer shall have completed its Due Diligence Review of the Loan Documents for each Loan subject to such Transaction and such other documents, records, agreements, instruments, Mortgaged Properties or information relating to such Loans as Buyer in its reasonable discretion deems appropriate to review and such review shall be satisfactory to Buyer in its reasonable discretion.
- (v) Buyer shall have made a determination in its sole discretion that each Loan or any pool of Loans is (A) eligible for sale in the secondary market taking into consideration the characteristics of such Loan or the aggregate characteristics of such pool of Loans and (B) is eligible for purchase under the terms of this Agreement.
- (vi) Buyer or its designee shall have received on or before the day of a Transaction with respect to any Purchased Loans (unless otherwise specified in this Agreement) the following, in form and substance satisfactory to Buyer and (if applicable) duly executed:
- (A) the Transaction Notice with respect to such Purchased Loans, delivered pursuant to Section 3(a);
- (B) the Trust Receipt with respect to such Purchased Loans, with the Funding Notice attached; and

(C) such certificates, customary opinions of counsel or other documents as Buyer may reasonably request, provided that such opinions of counsel shall not be required routinely in connection with each Transaction but shall only be required from time to time as deemed necessary by Buyer in its commercially reasonable judgment.

(vii) In the event that the Loans to be purchased would cause the aggregate outstanding principal balance of Purchased Loans secured by Mortgaged Property from any state to exceed 10% of the aggregate outstanding principal balance of Loans purchased hereunder, then unless the related Mortgage Loan Documents are on Fannie Mae and Freddie Mac approved forms, Seller shall, upon request by Buyer, deliver an opinion of counsel acceptable to Buyer in such state, substantially in the form of items number 12 and 13 of Exhibit B.

(viii) With respect to any Loan that was funded in the name of an Affiliate of Seller, Buyer may, in its sole discretion, require Seller to provide evidence sufficient to satisfy Buyer that such Loan was acquired in a legal sale, including without limitation, an opinion, in form and substance and from an attorney, in both cases, acceptable to Buyer in its sole discretion, that such Loan was acquired in a legal sale.

(ix) None of the following shall have occurred and/or be continuing: (i) an event or events resulting in the inability of Buyer to finance its purchases of assets with traditional counterparties at rates which would have been reasonable prior to the occurrence of such event or events or a material adverse change in the financial condition of Buyer that affects (or can reasonably be expected to affect) materially and adversely the ability of Buyer to fund its obligations under or otherwise comply with the terms of this Agreement, or (ii) an event beyond the control of Buyer which Buyer reasonably determines may result in Buyer's inability to perform its obligations under this Agreement including, without limitation, acts of God, strikes, lockouts, riots, acts of war or terrorism, epidemics, nationalization, expropriation, currency restrictions, fire, communication line failures, computer viruses, power failures, earthquakes, or other disasters of a similar nature to the foregoing shall have occurred or be continuing.

(x) Each Loan shall conform to Seller's Underwriting Guidelines or Buyer shall have received Underwriting Guidelines for such Loans acceptable to Buyer in its reasonable discretion.

(xi) Buyer shall have received all information requested from Seller relating to Interest Rate Protection Agreements pursuant to Section 13(y), and Buyer shall have determined that such Interest Rate Protection Agreements are acceptable to Buyer in its sole discretion.

(xii) If any Purchased Loans are serviced by a Person other than Seller (a Subservicer), Buyer shall have received, no later than 10:00 a.m. three (3) days prior to the requested Purchase Date, an Instruction Letter in the form attached hereto as Exhibit D, executed by Seller in blank to the attention of each Subservicer and executed by such Subservicer, with the related Servicing Agreement attached thereto in form and substance acceptable to Buyer.

(xiii) Buyer shall have determined that all actions necessary or, in the reasonable opinion of Buyer, desirable to maintain Buyer's perfected interest in the Purchased Loans and other Purchased Items have been taken, including, without limitation, duly executing and filing Uniform Commercial Code financing statements on Form UCC-1.

(xiv) Seller shall have paid to Buyer all fees and expenses owed to Buyer in accordance with this Agreement and any other Program Document including, without limitation the amount of any Commitment Fees then due and owing, and all of Buyer's attorney fees and expenses and due diligence expenses then due and owing.

(xv) Buyer or its designee shall have received any other documents reasonably requested by Buyer.

(xvi) There is no Margin Deficit at the time immediately prior to entering into a new Transaction.

(xvii) With respect to each Purchased Loan that is subject to a security interest (including any precautionary security interest) immediately prior to the Purchase Date, Buyer shall have received a Security Release Certification for such Purchased Loan that is duly executed by the related secured party and Seller. Such secured party shall have filed Uniform Commercial Code termination statements in respect of any Uniform Commercial Code filings made in respect of such Loan, and each such release and Uniform Commercial Code termination statement has been delivered to Buyer prior to each Transaction and to Custodian as part of the Mortgage File.

10. RELEASE OF PURCHASED LOANS

Upon timely payment in full of the Repurchase Price then owing with respect to a Purchased Loan and the satisfaction of all other Obligations (if any) then outstanding, unless a Default or Event of Default shall have occurred and be continuing, then (a) Buyer shall be deemed to have terminated any security interest that Buyer may have in such Purchased Loan and any Purchased Items solely related to such Purchased Loan and (b) with respect to such Purchased Loan, Buyer shall direct Custodian to release such Purchased Loan and any Purchased Items solely related to such Purchased Loan to Seller unless such release and termination would give rise to or perpetuate a Margin Deficit. Seller shall give at least two (2) Business Days prior written notice to Buyer if such repurchase shall occur on any date other than the Repurchase Date.

If such release and termination gives rise to or perpetuates a Margin Deficit, Buyer shall notify Seller of the amount thereof and prior to such release and termination Seller shall thereupon satisfy the Margin Call in the manner specified in Section 6.

11. RELIANCE

With respect to any Transaction, Buyer may conclusively rely upon, and shall incur no liability to Seller in acting upon, any request or other communication that Buyer reasonably believes to have been given or made by a person authorized to enter into a Transaction on Seller's behalf.

12. REPRESENTATIONS AND WARRANTIES

Seller represents and warrants to Buyer that throughout the term of this Agreement:

(a) Existence. Seller (a) is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction in which it was formed, (b) has all requisite corporate or other power, and has all governmental licenses, authorizations, consents and approvals, necessary to own its assets and carry on its business as now being or as proposed to be conducted, except where the lack of such licenses, authorizations, consents and approvals would not be reasonably likely to have a Material Adverse Effect, (c) is qualified to do business and is in good standing in all other jurisdictions in which the nature of the business conducted by it makes such qualification necessary, except where failure so to qualify would not be reasonably likely (either individually or in the aggregate) to have a Material Adverse Effect, and (d) is in compliance in all

material respects with all Requirements of Law.

(b) Financial Condition. Seller has heretofore furnished to Buyer a copy of its audited consolidated balance sheets and the audited consolidated balance sheets of its consolidated Subsidiaries, each as at December 31, 2010 with the opinion thereon of Deloitte & Touche LLP, a copy of which has been provided to Buyer. Seller has also heretofore furnished to Buyer the related consolidated statements

of income and retained earnings and of cash flows for Seller and its consolidated Subsidiaries for the one year period ending December 31, 2010, setting forth in comparative form the figures for the previous year. All such financial statements are complete and correct in all material respects and fairly present the consolidated financial condition of Seller and its Subsidiaries and the consolidated results of their operations for the fiscal year ended on said date, all in accordance with GAAP applied on a consistent basis. Since December 31, 2010, there has been no development or event nor any prospective development or event which has had or should reasonably be expected to have a Material Adverse Effect.

(c) Litigation. There are no actions, suits, arbitrations, investigations or proceedings pending or, to its knowledge, threatened against Seller or any of its Subsidiaries or Affiliates or affecting any of the property thereof before any Governmental Authority, (i) as to which individually or in the aggregate there is a reasonable likelihood of an adverse decision which would be reasonably likely to have a Material Adverse Effect or (ii) which questions the validity or enforceability of any of the Program Documents or any action to be taken in connection with the transactions contemplated thereby and there is a reasonable likelihood of a Material Adverse Effect or adverse decision.

(d) No Breach. Neither (a) the execution and delivery of the Program Documents, nor (b) the consummation of the transactions therein contemplated in compliance with the terms and provisions thereof will conflict with or result in a breach of the charter or by-laws of Seller, or any applicable law, rule or regulation, or any order, writ, injunction or decree of any Governmental Authority, or other material agreement or instrument to which Seller, or any of its Subsidiaries, is a party or by which any of them or any of their property is bound or to which any of them or their property is subject, or constitute a default under any such material agreement or instrument, or (except for the Liens created pursuant to this Agreement) result in the creation or imposition of any Lien upon any property of Seller or any of its Subsidiaries, pursuant to the terms of any such agreement or instrument.

(e) Action. Seller has all necessary corporate or other power, authority and legal right to execute, deliver and perform its obligations under each of the Program Documents to which it is a party; the execution, delivery and performance by Seller of each of the Program Documents to which it is a party has been duly authorized by all necessary corporate or other action on its part; and each Program Document has been duly and validly executed and delivered by Seller and constitutes a legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms.

(f) Approvals. No authorizations, approvals or consents of, and no filings or registrations with, any Governmental Authority, or any other Person, are necessary for the execution, delivery or performance by Seller of the Program Documents to which it is a party or for the legality, validity or enforceability thereof, except for filings and recordings in respect of the Liens created pursuant to this Agreement.

(g) Taxes. Seller and its Subsidiaries have filed all Federal income tax returns and all other material tax returns that are required to be filed by them and have paid all taxes due pursuant to such returns or pursuant to any assessment received by any of them, except for any such taxes, if any, that are being appropriately contested in good faith by appropriate proceedings diligently conducted and with respect to which adequate reserves have been provided. The charges, accruals and reserves on the books of Seller and its Subsidiaries in respect of taxes and other governmental charges are, in the opinion of Seller, adequate. Any taxes, fees and other governmental charges payable by Seller in connection with a Transaction and the execution and delivery of the Program Documents have been paid.

(h) Investment Company Act. Neither Seller nor any of its Subsidiaries is an investment company, or a company controlled by an investment company, within the meaning of the

Investment Company Act of 1940, as amended. Seller is not subject to any Federal or state statute or regulation which limits its ability to incur indebtedness.

(i) No Legal Bar. The execution, delivery and performance of this Agreement, the other Program Documents, the sales hereunder and the use of the proceeds thereof will not violate any Requirement of Law or Contractual Obligation of Seller or of any of its Subsidiaries and will not result in, or require, the creation or imposition of any Lien (other than the Liens created hereunder) on any of its or their respective properties or revenues pursuant to any such Requirement of Law or Contractual Obligation.

(j) Compliance with Law. No practice, procedure or policy employed or proposed to be employed by Seller in the conduct of its business violates any law, regulation, judgment, agreement, regulatory consent, order or decree applicable to it which, if enforced, would result in a Material Adverse Effect with respect to Seller.

(k) No Default. Neither Seller nor any of its Subsidiaries is in default under or with respect to any of its Contractual Obligations in any respect which should reasonably be expected to have a Material Adverse Effect. No Default or Event of Default has occurred and is continuing.

(l) Collateral: Collateral Security.

(i) Immediately prior to the sale of any Loan by Seller, Seller was the sole owner of such Loan and had good and marketable title thereto, free and clear of all Liens, in each case except for Liens to be released simultaneously with the sale of the Loans to Buyer hereunder and no Person other than Seller has any Lien on any Loan.

(ii) The provisions of this Agreement are effective to create in favor of Buyer a valid security interest in all right, title and interest of Seller in, to and under the Purchased Items.

(iii) Upon receipt by Custodian of each Note, endorsed in blank by a duly authorized officer of Seller, Buyer shall have a fully perfected first priority security interest therein, in the Loan evidenced thereby and in Seller's interest in the related Mortgaged Property.

(iv) Upon the filing of financing statements on Form UCC-1 naming Buyer as Secured Party and Seller as Debtor, and describing the Purchased Items, in the jurisdictions and recording offices listed on Schedule 2 attached hereto, the security interests granted hereunder in the Purchased Items will constitute fully perfected first priority security interests under the Uniform Commercial Code in all right, title and interest of Seller in, to and under such Purchased Items, which can be perfected by filing under the Uniform Commercial Code.

(m) Chief Executive Office; Chief Operating Office. Seller's chief executive office and chief operating office on the Effective Date is located at 163 Technology Drive, Irvine, California 92618.

(n) Location of Books and Records. The location where Seller keeps its books and records including all computer tapes and records relating to the Purchased Items is its chief executive office or chief operating office or the offices of Custodian.

(o) True and Complete Disclosure. The information, reports, financial statements, exhibits and schedules furnished in writing by or on behalf of Seller or any of its Subsidiaries to Buyer in connection with the negotiation, preparation or delivery of this Agreement and the other Program Documents or included herein or therein or delivered pursuant hereto or thereto, when taken as a whole, do not contain any untrue statement of material fact or omit to state any material fact necessary to make the statements herein or therein, in light of the circumstances under which they were made, not misleading. All written information furnished after the date hereof by or on behalf of Seller or any of its Subsidiaries to Buyer in connection with this Agreement and the other Program Documents and the transactions contemplated hereby and thereby will be true, complete and accurate in every material respect, or (in the case of projections) based on reasonable estimates, on the date as of which such information is stated or certified. There is no fact known to a Responsible Officer that, after due inquiry, could reasonably be expected to have a Material Adverse Effect that has not been disclosed herein, in the other Program Documents or in a report, financial statement, exhibit, schedule, disclosure letter or other writing furnished to Buyer for use in connection with the transactions contemplated hereby or thereby.

(p) Leverage Ratio; Liquidity; Tangible Net Worth; Profitability. (A) The ratio of Seller's Total Indebtedness to Tangible Net Worth is not greater than 10:1, (B) Seller has Liquidity in an amount equal to not less than the greater of (1) 3% of Seller's actual total assets (as set forth on Seller's most recent month-end balance sheets), and (2) \$7,000,000, (C) the Tangible Net Worth of Seller exceeds \$25,000,000 and (D) as of the end of the immediately preceding calendar quarter, Seller's consolidated net income for at least one (1) of the previous two (2) consecutive fiscal quarters is equal to or greater than \$1.00.

(q) ERISA. Each Plan which is not a Multiemployer Plan, and, to the knowledge of Seller, each Multiemployer Plan, is in compliance in all material respects with, and has been administered in all material respects in compliance with, the applicable provisions of ERISA, the Code and any other Federal or State law. No event or condition has occurred and is continuing as to which Seller would be under an obligation to furnish a report to Buyer under Section 13(a)(xi) hereof. The present value of all accumulated benefit obligations under each Plan subject to Title IV of ERISA (based on the assumptions used for purposes of Statement of Financial Accounting Standards No. 87) did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair market value of the assets of such Plan, and the present value of all accumulated benefit obligations of all Plans (based on the assumptions used for purposes of Statement of Financial Accounting Standards No. 87) did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair market value of the assets of all such Plans. Seller and its Subsidiaries do not provide any material medical or health benefits to former employees other than as required by the Consolidated Omnibus Budget Reconciliation Act, as amended, or similar state or local law at no cost to the employer (collectively, "COBRA").

(r) Licenses. Buyer will not be required as a result of purchasing the Loans to be licensed, registered or approved or to obtain permits or otherwise qualify (i) to do business in any state in which it is not currently so required or (ii) under any state or other jurisdiction's consumer lending, fair debt collection or other applicable state or other jurisdiction's statute or regulation.

(s) Filing Jurisdictions/Relevant States. Schedule 2 sets forth all of the jurisdictions and filing offices in which a financing statement should be filed in order for Buyer to perfect its security interest in the Purchased Items that can be perfected by filing. Schedule 4 sets forth all of the states or other jurisdictions in which Seller originates Loans in its own name or through brokers on the date of this Agreement.

(t) Reserved.

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- (u) No Burdensome Restrictions. No Requirement of Law or Contractual Obligation of Seller or any of its Subsidiaries has a Material Adverse Effect.
- (v) Subsidiaries. All of the Subsidiaries of Seller at the date hereof are listed on Schedule 4 to this Agreement.
- (w) Origination and Acquisition of Loans. The Loans were originated by Seller, and the origination and collection practices used by Seller or Qualified Originator, as applicable, with respect to the Loans have been, in all material respects legal, proper, prudent and customary in the residential mortgage loan origination and servicing business, and in accordance with FHA and/or VA standards as applicable, and in accordance with the Underwriting Guidelines. All Loans are in conformity with the Underwriting Guidelines. Each of the Loans complies with the representations and warranties listed in Schedule 1 hereto.
- (x) No Adverse Selection. Seller used no selection procedures that identified the Eligible Loans, when taken as a whole, as being less desirable or valuable than other comparable Loans owned by Seller.
- (y) Seller Solvent; Fraudulent Conveyance. As of the date hereof and immediately after giving effect to each Transaction, the fair value of the assets of Seller is greater than the fair value of the liabilities (including, without limitation, contingent liabilities if and to the extent required to be recorded as a liability on the financial statements of Seller in accordance with GAAP) of Seller and Seller is and will be solvent, is and will be able to pay its debts as they mature and does not and will not have an unreasonably small capital to engage in the business in which it is engaged and proposes to engage. Seller does not intend to incur, or believe that it has incurred, debts beyond its ability to pay such debts as they mature. Seller is not contemplating the commencement of insolvency, bankruptcy, liquidation or consolidation proceedings or the appointment of a receiver, liquidator, conservator, trustee or similar official in respect of Seller or any of its assets. Seller is not transferring any Loans with any intent to hinder, delay or defraud any of its creditors.
- (z) MERS. Seller is a member of MERS in good standing.
- (aa) No Broker. Seller has not dealt with any broker, investment banker, agent, or other person, except for Buyer, who may be entitled to any commission or compensation in connection with the sale of Purchased Loans pursuant to this Agreement; provided, that if Seller has dealt with any broker, investment banker, agent, or other person, except for Buyer, who may be entitled to any commission or compensation in connection with the sale of Purchased Loans pursuant to this Agreement, such commission or compensation shall have been paid in full by Seller.
- (bb) FHA/VA. Each of Seller and/or any other Qualified Originator, if applicable, is an FHA Approved Mortgagee and a VA Approved Lender, in good standing to service mortgages and has not been suspended as a mortgagee or servicer by the FHA or VA, as applicable. Seller and the Subservicer are not under review or investigation and do not have knowledge of imminent or future investigation, by the FHA or VA.
- (cc) Seller's Internal Mortgage Tracking System. Each printout and paper copy produced by Seller's internal mortgage tracking system and delivered to Buyer is true, complete and accurate in all material respects.

(dd) Servicer Approvals; Compliance with Guidelines. Seller (in its capacity as Servicer) and each subservicer servicing any Purchased Loans hereunder has all consents, licenses and approvals necessary to service loans on behalf of each Agency and has remained at all times in compliance with the Guidelines.

(ee) Insured Closing Letter. As of the date hereof and as of the date of each delivery of a Wet Loan, the Settlement Agent has obtained an Insured Closing Letter, closing protection letter or similar authorization letter from a nationally recognized title insurance company approved by Buyer, copies of which shall be maintained in the possession of Seller and provided to Buyer upon request, if required. Among other things, the Insured Closing Letter covers any losses occurring due to the fraud, dishonesty or mistakes of the closing agent. The Insured Closing Letter inures to the benefit of, and the rights thereunder may be enforced by, the loan originator and its successors and assigns, including Buyer.

(ff) Escrow Letter. As of the date hereof and as of the date of each delivery of a Wet Loan, the Settlement Agent has executed an escrow agreement or letter, copies of which shall be maintained in the possession of Seller and provided to Buyer upon request, if required, stating that in the event of a Rescission of or if for any reason the Loan fails to fund on a given day, the party conducting the closing is holding all funds which would have been disbursed on behalf of the Mortgagor as agent for the benefit of Buyer and such funds shall be redeposited in the Disbursement Account for the benefit of Buyer not later than one Business Day after the date of Rescission or other failure of the Loan to fund on a given day. Such Escrow Letter inures to the benefit of, and the rights thereunder may be enforced by, the loan originator and its successors and assigns, including Buyer.

(gg) Freddie Mac. Seller and/or any other Qualified Originator, if applicable, is a seller approved by Freddie Mac, in good standing to originate mortgages and has not been suspended as a mortgagee by Freddie Mac. Seller is not under review or investigation or have knowledge of imminent or future investigation, by Freddie Mac.

(hh) Fannie Mae. To the extent Seller's status with Fannie Mae returns to active and at all times thereafter, Seller and/or any other Qualified Originator, if applicable, is a seller approved by Fannie Mae, in good standing to originate mortgages and has not been suspended as a mortgagee by Fannie Mae. To the extent Seller's status with Fannie Mae returns to active and at all times thereafter, Seller is not under review or investigation or have knowledge of imminent or future investigation, by Fannie Mae.

13. COVENANTS OF SELLER

Seller covenants and agrees with Buyer that during the term of this Agreement:

(a) Financial Statements and Other Information; Financial Covenants.

Seller shall deliver to Buyer:

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(i) As soon as available and in any event within 30 days after the end of each calendar month, the consolidated balance sheets of Seller and its consolidated Subsidiaries as at the end of such month, the related unaudited consolidated statements of income and retained earnings and of cash flows for Seller and its consolidated Subsidiaries for such period and the portion of the fiscal year through the end of such period, and consolidated statements of liquidity of Seller and its consolidated Subsidiaries as at the end of such period, setting forth in each case in comparative form the figures for the previous year, accompanied by a certificate of a Responsible Officer of Seller, which certificate shall state that said consolidated financial statements fairly present the consolidated financial condition and results of operations of Seller

and its Subsidiaries in accordance with GAAP, consistently applied, as at the end of, and for, such month (subject to normal year-end audit adjustments);

(ii) As soon as available and in any event within 45 days after the end of each of the first three quarterly fiscal periods of each fiscal year of Seller, the consolidated balance sheets of Seller and its consolidated Subsidiaries as at the end of such period and the related unaudited consolidated statements of income and retained earnings and of cash flows for Seller and its consolidated Subsidiaries for such period and the portion of the fiscal year through the end of such period, and consolidated statements of liquidity of Seller and its consolidated Subsidiaries as at the end of such period, setting forth in each case in comparative form the figures for the previous year, accompanied by a certificate of a Responsible Officer of Seller, which certificate shall state that said consolidated financial statements fairly present the consolidated financial condition and results of operations of Seller and its Subsidiaries in accordance with GAAP, consistently applied, as at the end of, and for, such period (subject to normal year-end audit adjustments);

(iii) As soon as available and in any event within 90 days after the end of each fiscal year of Seller, the consolidated balance sheets of Seller and its consolidated Subsidiaries as at the end of such fiscal year and the related consolidated statements of income and retained earnings and of cash flows for Seller and its consolidated Subsidiaries for such year, and consolidated statements of liquidity of Seller and its consolidated Subsidiaries as at the end of such year, setting forth in each case in comparative form the figures for the previous year, accompanied by an opinion thereon of independent certified public accountants of recognized national standing, which opinion shall not be qualified as to scope of audit or going concern and shall state that said consolidated financial statements fairly present the consolidated financial condition and results of operations of Seller and its consolidated Subsidiaries at the end of, and for, such fiscal year in accordance with GAAP;

(iv) Together with each set of the financial statements delivered pursuant to clauses (i) through (iii) above, a certificate of a Responsible Officer of Seller in the form of Exhibit A attached hereto;

(v) From time to time at the request of Buyer, Seller shall provide Buyer with a paper copy produced by Seller's internal mortgage tracking system reflecting that the Purchased Loans are registered in the name of Buyer within three (3) Business Days of such request;

(vi) From time to time such other information regarding the financial condition, operations, well being or business of Seller as Buyer may reasonably request (including but not limited to any information regarding any repurchase and indemnity requests or demands made upon Seller by any third party investors (including any Agency)), within one (1) Business Day of such request;

(vii) As soon as available, and in any event within five (5) days after the date on which any audit reports with respect to Seller or its subsidiaries are required to be delivered to HUD or any Agency, copies of any such reports, performed and delivered in compliance with all requirements of HUD or such Agency and accompanied by an opinion thereon of an independent certified public accountant;

(viii) (a) As soon as available, and in any event within five (5) days after the date on which any appraisals, evaluations or broker's price opinions are completed with respect to Seller's servicing portfolio, copies of any such appraisals, evaluation reports or broker's price

opinions and (b) promptly at the end of each quarterly fiscal period of each fiscal year, any valuation report regarding Seller's servicing portfolio conducted by a nationally recognized valuation provider reasonably acceptable to Buyer;

(ix) Promptly after receipt by Seller of a request from Buyer, any loan level information requested by Buyer with respect to mortgage loans held on the books of Seller (including but not limited to all mortgage loans held for investment by Seller);

(x) Promptly after receipt by Seller of a request from Buyer, Seller shall provide copies of its latest Quality Control Program reports and all responses made by the management of Seller to address any issues, risks, vulnerabilities or adverse findings contained in such Quality Control Program.

(xi) As soon as reasonably possible, and in any event within fifteen (15) days after a Responsible