

ASSET CONTRIBUTION AND ASSIGNMENT AGREEMENT

BY AND BETWEEN

**THE FEDERAL DEPOSIT INSURANCE CORPORATION AS RECEIVER
FOR INDYMAC FEDERAL BANK, FSB**

AND

INDYMAC VENTURE, LLC

Dated as of March 19, 2009

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ASSET CONTRIBUTION AND ASSIGNMENT AGREEMENT

THIS ASSET CONTRIBUTION AND ASSIGNMENT AGREEMENT (as the same shall be amended or supplemented, this “**Agreement**”) is made and entered into as of the 19th day of March, 2009 by and between THE FEDERAL DEPOSIT INSURANCE CORPORATION AS RECEIVER FOR INDYMAC FEDERAL BANK, FSB (including its successors and assigns, the “**Initial Member**”) and INDYMAC VENTURE, LLC, a Delaware limited liability company (the “**Company**”).

RECITALS

WHEREAS, on July 11, 2008, the FDIC (as defined below) was appointed Receiver for IndyMac Bank, FSB (the “**Failed Thrift**”) and certain assets and obligations of the Failed Thrift were transferred to a newly-formed thrift, IndyMac Federal Bank, FSB (“**IndyMac Federal**”), for which the FDIC was appointed Conservator (the “**Conservator**”), and on March 19, 2009, the FDIC was appointed Receiver for IndyMac Federal (the “**Receiver**”);

WHEREAS, under the Federal Deposit Insurance Act, as amended, the FDIC is authorized to sell or otherwise dispose of the assets of thrift institutions for which it serves as conservator or receiver;

WHEREAS, the Initial Member owns the Loans (as defined below) described on the Loan Schedule (as defined below) attached hereto as Attachment A;

WHEREAS, the Initial Member has formed the Company and holds the sole membership interest in the Company (the “**LLC Interest**”);

WHEREAS, the Initial Member desires to contribute the Assets (as defined below) as a capital contribution to the Company, as more fully set forth herein;

WHEREAS, the Initial Member and the Company have entered into a Participation and Servicing Agreement dated as of even date hereof (the “**Participation Agreement**”), pursuant to which the Company will transfer and convey to the Initial Member a participation interest in the Assets, as more fully set forth therein;

WHEREAS, pursuant to the Limited Liability Company Interest Sale and Assignment Agreement dated as of even date hereof (the “**LLC Interest Sale Agreement**”), the Initial Member has agreed, subject to the terms and conditions of the LLC Interest Sale Agreement and the other Ancillary Documents, to sell and transfer the LLC Interest to OneWest Ventures Holdings LLC (the “**LLC Interest Transferee**”) for a purchase price equal to the Groups 6-8 Final Purchase Price (as defined below) (the completion of such sale, the “**Closing**”); and

WHEREAS, the Initial Member and the Company desire to memorialize their agreement relating to the contribution and certain other matters as set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and agreements hereinafter contained, and for other good and valuable consideration the receipt and

sufficiency of which are hereby acknowledged, the Initial Member and the Company hereby agree as follows.

ARTICLE I

DEFINITIONS AND CONSTRUCTION

Section 1.01 Definitions. For purposes of this Agreement, the following terms shall have the meanings and definitions hereinafter respectively set forth:

“**Accounting Records**” means the general ledger, supporting subsidiary ledgers and schedules, and loan servicing system records of the Initial Member.

“**Acquired Collateral**” means real or personal property to which title is acquired by the Company by foreclosure, by deed in lieu of foreclosure, by power of sale or by sale pursuant to the Uniform Commercial Code, in any such case in accordance with the Loan Documents.

“**Adjustment Date**” means, as to each Loan, the date on which the Mortgage Interest Rate is adjusted in accordance with the terms of the related Note and Mortgage.

“**Affected Loan**” has the meaning given in Section 4.04(c).

“**Affidavit and Assignment of Claim**” means an Affidavit and Assignment of Claim in the form of Attachment B to this Agreement.

“**Affiliate**” means, with respect to any specified Person, any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified Person); provided, however, that for purposes of this Agreement, the Initial Member shall not be deemed to be an Affiliate of the Company or of any Affiliate of the Company. For purposes of this definition, the term “**control**” (including the phrases “**controlled by**” and “**under common control with**”) when used with respect to any specified Person means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or interests, by contract or otherwise.

“**Agreement**” has the meaning given in the preamble, and shall include all exhibits, schedules and attachments hereto.

“**Ancillary Documents**” means the Participation Agreement (including the Servicing Agreement, the Electronic Tracking Agreement, one or more Account Control Agreements and the Custodial Agreement attached as exhibits thereto), the LLC Interest Sale Agreement (and the Guaranty required to be delivered thereby), the Limited Liability Company Operating Agreement of the Company, the Master Purchase Agreement, the FDIC Guaranty and the Confidentiality Agreement, in each case once executed and delivered, and any and all other agreements and instruments executed and delivered contemporaneously in connection with the Closing, including all account control agreements entered into pursuant to the Participation Agreement.

“**Asset-Level Statements**” has the meaning given in Section 5.01(b).

“**Assets**” has the meaning given in Section 2.01(a).

“**Assignment and Lost Instrument Affidavit**” means an Assignment and Lost Instrument Affidavit in the form of Attachment C to this Agreement.

“**Authorized Funding Draw**” has the meaning given in the Participation Agreement.

“**Bankruptcy Rule**” means the rules set forth under the Federal Rules of Bankruptcy Procedure, as may be amended from time to time.

“**Borrower**” means the borrower or other obligor with respect to a Loan.

“**Business Day**” means any day except a Saturday, Sunday or other day on which federal savings banks in California, New York or Washington, D.C. or United States federal government offices are required or authorized by Law to close.

“**Claims Termination Date**” means the first Business Day after the second anniversary of the Closing Date.

“**Closing**” has the meaning given in the recitals.

“**Closing Date**” means the date on which the Closing occurs.

“**Collateral**” means any and all real or personal property, whether tangible or intangible, securing or pledged to secure a Loan, including any account, equipment, guarantee or contract right, or other interest that is the subject of any Collateral Document and, as the context requires, includes Acquired Collateral whether or not so expressly specified.

“**Collateral Document**” means any pledge agreement, security agreement, personal or corporate guaranty, deed of trust, deed, mortgage, contract for the sale of real property, assignment, collateral agreement or other agreement or document of any kind, whether an original or a copy, whether similar to or different from those enumerated, (i) securing in any manner the performance or payment by any Borrower of its obligations or the obligations of any other Borrower under any of the Loans or the Notes evidencing the Loans or (ii) evidencing the Acquired Collateral.

“**Collection Account**” has the meaning given in the Participation Agreement.

“**Company**” has the meaning given in the preamble.

“**Confidentiality Agreement**” means the Confidentiality Agreement, dated December 31, 2008, executed by IMB HoldCo LLC.

“**Conservator**” has the meaning given in the recitals.

“**Contract for Deed**” means an executory contract with a third party to convey real property, including any installment land contract.

“**Custodial Account**” means an account maintained by the Initial Member or its agent for the deposit of principal and interest payments received in respect of one or more Loans.

“**Custodial Agreement**” has the meaning given in the Participation Agreement.

“**Custodial Documents**” has the meaning given in the Custodial Agreement.

“**Defect**” means the failure of any Asset-Level Statement to be true as of the Closing Date.

“**Defective Loan**” has the meaning given in Section 6.01.

“**Defect Notice**” has the meaning given in Section 6.03.

“**Deficiency Balance**” means the remaining unpaid principal balance of any Note purchased hereunder after crediting to it the proceeds of a foreclosure sale.

“**Document Custodian**” has the meaning given in the Participation Agreement.

“**Electronic Tracking Agreement**” has the meaning given in the Participation Agreement.

“**Environmental Hazard**” means the presence at, in or under any real property Collateral (whether held in fee simple estate or subject to a ground lease or otherwise, and including any improvements whether by buildings or facilities, and any personal property, fixtures, leases and other property or rights pertaining thereto), of any “hazardous substance,” as defined in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §9601(14), or any petroleum (including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure), at a level or in an amount that requires remediation or abatement under applicable environmental Law.

“**Escrow Account**” means an account maintained by the Initial Member or its agent for the deposit of Escrow Payments received in respect of one or more Loans.

“**Escrow Payments**” means the amounts constituting ground rents, taxes, assessments, water rates, common charges in condominiums and planned unit developments, mortgage insurance premiums, fire and hazard insurance premiums and other payments which have been escrowed by the Borrower with the Initial Member or its agent pursuant to any Loan.

“**Excess Damage Liability**” has the meaning given in Section 4.04(c).

“**Excluded Assets**” has the meaning given in the Master Purchase Agreement.

“**Excluded Liabilities**” means, collectively, all liabilities of the Initial Member other than the Assumed Liabilities.

“**Excluded Losses**” means any consequential, special or indirect damages, lost profits, lost investment or business opportunity, interest, damages to reputation, punitive damages, exemplary damages, treble damages, nominal damages and operating losses.

“**Failed Thrift**” has the meaning given in the recitals.

“**FDIC**” means the Federal Deposit Insurance Corporation in any capacity.

“**FDIC Guaranty**” means the Guaranty Agreement, dated as of March 18, 2009, by and among the FDIC, in its corporate capacity, IMB HoldCo LLC and each other Beneficiary (as defined therein) that executes a joinder thereto.

“**Foreign Jurisdiction**” means any jurisdiction other than the United States, and any subdivision of or in such other jurisdiction.

“**Foreign Loan**” means a Loan with respect to which any of the Collateral is located in any Foreign Jurisdiction.

“**GAAP**” means United States generally accepted accounting principles as in effect from time to time.

“**Governmental Authority**” means any United States or non-United States national, federal, state, local, municipal or provincial or international government or any political subdivision of any governmental, regulatory or administrative authority, agency or commission, or judicial or arbitral body.

“**Gross Margin**” means, with respect to each Loan, the fixed percentage amount set forth in the related Note which is added to the Index in order to determine the related Mortgage Interest Rate, as set forth in the Loan Schedule.

“**Groups 6-8 Final Purchase Price**” has the meaning given in the LLC Interest Sale Agreement.

“**Guarantor**” means any guarantor of all or any portion of any Loan or all or any of any Borrower’s obligations set forth and described in the Loan Documents.

“**Indemnified Parties**” has the meaning given in Section 4.14(a).

“**IndyMac Federal**” has the meaning given in the recitals.

“**Initial Calculation Date**” means the close of business on January 31, 2009.

“**Initial Member**” has the meaning given in the preamble.

“**Law**” means any applicable statute, law, ordinance, regulation, rule, code, injunction, judgment, decree or order (including any executive order) of any Governmental Authority.

“**Lien**” means any mortgage, pledge, security interest, equity interest, participation interest, lien or other charge or encumbrance, including the lien or retained security title of a conditional vendor, upon or with respect to any property or assets.

“**Limited Power of Attorney**” means a Limited Power of Attorney in the form of Attachment D to this Agreement.

“**LIP Account**” has the meaning given in the Participation Agreement.

“**LLC Interest**” has the meaning given in the recitals.

“**LLC Interest Sale Agreement**” has the meaning given in the recitals.

“**LLC Interest Transferee**” has the meaning given in the recitals.

“**Loan**” means any loan or Participated Loan listed on the Loan Schedule and any loan into which any loan or Participated Loan listed on the Loan Schedule is refinanced, and includes with respect to each such loan or Participated Loan: (i) any obligation evidenced by a Note; (ii) all rights, powers or Liens of the Initial Member or the Failed Thrift in or under the Collateral Documents; (iii) any Contract for Deed and the real property which is subject to any such Contract for Deed; and (iv) any lease and the related leased property.

“**Loan Documents**” means all documents, agreements, certificates, instruments and other writings (including all Collateral Documents) now or hereafter executed by or delivered or caused to be delivered by any Borrower, any Guarantor or any other obligor evidencing, creating, guaranteeing or securing, or otherwise executed or delivered in respect of, all or any part of a Loan or any Acquired Collateral or evidencing any transaction contemplated thereby, and all Modifications thereto.

“**Loan File**” means all documents pertaining to any Loan, either copies or originals, that are in the possession of the Initial Member or any of its employees or contractors responsible for the servicing of the Loan, other than (i) the original Note, renewals of the Note and other Custodial Documents and Collateral Documents and (ii) confidential or privileged communications between the Initial Member (or any predecessor-in-interest, including the Failed Thrift) and its legal counsel; provided, however, that the Loan Files do not include files maintained by other employees or agents of the Initial Member, or attorney-client or work product privileged materials held by the Initial Member’s legal counsel, unless in the opinion of such counsel, the disclosure of the material is not likely to result in the waiver of the attorney-client or work product privilege.

“**Loan Proceeds**” has the meaning given in the Participation Agreement.

“**Loan Schedule**” means the schedule of Loans attached as Attachment A (and delivered in electronic format to the Company), which shall be updated as of the Closing Date. The Loan Schedule shall contain the following fields of information:

- (1) the Loan number;

- (2) the address, city, state and zip code of the Mortgaged Property;
- (3) the current Mortgage Interest Rate;
- (4) the current Monthly Payment;
- (5) the original term to maturity;
- (6) the scheduled maturity date;
- (7) the unpaid principal balance of the Loan;
- (8) the Gross Margin, if applicable;
- (9) the next Adjustment Date, if applicable; and
- (10) the paid through date or due date.

“**Loan Value**” has the meaning given in the LLC Interest Sale Agreement.

“**Loan Value Schedule**” has the meaning given in the LLC Interest Sale Agreement.

“**Losses**” has the meaning given in Section 4.14(a).

“**Master Purchase Agreement**” means the Master Purchase Agreement, dated as of March 18, 2009, by and among the Conservator (and, on the date hereof, following the appointment of the FDIC as receiver for IndyMac Federal, the Receiver by joinder as of the date hereof), IMB HoldCo LLC, OneWest Bank Group LLC and the OneWest Bank, FSB (by joinder as of the date hereof).

“**MERS**” means Mortgage Electronic Registration Systems, Incorporated.

“**MERS Registered Mortgages**” has the meaning given in Section 3.01(c).

“**MERS® System**” has the meaning given in the Participation Agreement.

“**Modification**” means any extension, renewal, substitution, replacement, supplement, amendment or modification of any agreement, certificate, document, instrument or other writing, whether or not contemplated in the original agreement, document or instrument.

“**Monthly Payment**” means, with respect to any Loan, the scheduled monthly payment of principal and interest on such Loan which is payable by the related Borrower from time to time under the related Note.

“**Mortgage**” means, with respect to a Loan, a mortgage, deed of trust or other security instrument creating a Lien upon real property and any other property described therein which secures a Note, together with any assignment, reinstatement, extension, endorsement or Modification of any thereof.

“Mortgage Interest Rate” means, with respect to each fixed rate Loan, the fixed annual rate of interest provided for in the related Note and, with respect to each adjustable rate Loan, the annual rate at which interest accrues and adjusts in accordance with the provisions of the related Note.

“Mortgaged Property” means the real property Collateral, including land, fixtures and improvements, if any, securing the repayment of any Loan.

“Note” means each note or promissory note, lost instrument affidavit, loan agreement, shared credit or Participated Loan agreement, intercreditor agreement, reimbursement agreement, any other evidence of indebtedness of any kind, or any other agreement, document or instrument evidencing a Loan, and all Modifications to the foregoing.

“Obligations” means all obligations and commitments of the Initial Member relating to a Loan and arising or due or payable after the Closing Date under and in accordance with any of the related Notes, Collateral Documents, Loan Documents or Related Agreements, including any commitment to make Authorized Funding Draws.

“Participant” has the meaning given in the Participation Agreement.

“Participant’s Share” has the meaning given in the Participation Agreement.

“Participated Loan” means any loan subject to a shared credit, participation or similar intercreditor agreement under which the Initial Member or any of its predecessors-in-interest was the lead or agent financial depository institution or otherwise managed or held the credit or sold participations, or under which the Initial Member or any of its predecessors-in-interest was a participating financial depository institution or purchased participations in a credit managed by another Person.

“Participation Agreement” has the meaning given in the recitals.

“Person” means any individual, corporation, partnership (general or limited), limited liability company, limited liability partnership, firm, joint venture, association, joint-stock company, trust, estate, unincorporated organization, governmental or regulatory body or other entity.

“Pre-Approved Charges” means the costs and expenses expressly designated as “Pre-Approved Charges” in Sections 2.06, 3.01(c), 3.04(a), 3.04(c), 3.05, 3.06, 4.02, 4.04(c), 4.05, 4.16 and 5.06, and no other costs or expenses.

“Receiver” has the meaning given in the recitals.

“Redemption Period” means the statutory time period, if any, during which a foreclosed owner may buy back foreclosed real property from the foreclosure sale purchaser under the Law of the jurisdiction in which the property is located, which period (if the jurisdiction provides for the same) may vary among the jurisdictions which do provide for a Redemption Period.

“Related Agreement” means (i) any agreement, document or instrument (other than the Note and Collateral Documents) relating to or evidencing any obligation to pay or securing any Loan (including any equipment lease, letter of credit, bankers’ acceptance, draft, system confirmation of transaction, loan history, affidavit, general collection information, and correspondence and comments relating to any obligation), (ii) any real property or rights in or to any real property (including leases, tenancies, concessions, licenses or other rights of occupancy or use and security deposits related thereto) related to any Loan, (iii) any collection, contingency fee, and tax and other service agreements that are specific to the Loans (or any of them), and (iv) any obligations under contracts of insurance or guaranty with respect to any Loans that are insured or guaranteed by any Governmental Authority. Related Agreements shall not include any performance or completion bond or letter of credit or other assurance filed with any Governmental Authority for the purpose of ensuring that improvements constructed or to be constructed are completed in accordance with any governmental regulations or building requirements applicable to the proposed or completed improvement. The term Related Agreements does not include any loan servicing agreement that exists between the Participant or the Failed Thrift and any other Person.

“Related Party” means any party related to the Borrower in the manner delineated in 26 U.S.C.A § 267(b) and the regulations promulgated thereunder, as such law and regulations may be amended from time to time.

“Released Parties” has the meaning given in Section 4.13(b).

“Remedy” has the meaning given in Section 6.01.

“Repurchase Percentage” means, with respect to any Loan, (a) the quotient (expressed as a decimal) of the Loan Value for such Loan divided by the unpaid principal balance of such Loan as of the Closing Date, divided by (b) 0.2.

“Repurchase Price” means an amount equal to (a) the Repurchase Percentage multiplied by the unpaid principal balance of the Loan as of the date of the repurchase, *plus* (b) outstanding Servicing Expenses that have been advanced with respect to such Loan by the Company but not reimbursed as of or prior to the date of the repurchase, *reduced by* (c) the amount of any positive escrow balance with respect to the Loan as of the date of the repurchase that is not transferred to the Initial Member at the time of the repurchase.

“RESPA” means the Real Estate Settlement Procedures Act of 1974, as amended, and all rules and regulations promulgated thereunder.

“Servicer” has the meaning given in the Participation Agreement.

“Servicing Expenses” has the meaning given in the Participation Agreement.

“Third Party Claim” has the meaning given such term in Section 4.14(a).

“Transfer Documents” means the endorsements and allonges to Notes, Assignment and Lost Instrument Affidavits (if applicable), assignments, deeds and other documents of assignment, conveyance or transfer required under any applicable Law to evidence the transfer to

the Company of the Assets hereunder or the assignment and assumption of the Assumed Liabilities hereunder.

“Transfer Taxes” means any taxes, assessments, levies, imposts, duties, deductions, fees, withholdings or other charges of whatever nature (other than any taxes imposed on or measured by net income or any franchise taxes), including interest and penalties thereon, required to be paid to any taxing authority with respect to the transfer of the Loans, the Collateral and the Collateral Documents, the rights in the Collateral or the assignment and assumption of the Obligations thereunder.

“Uniform Commercial Code” means the Uniform Commercial Code in effect in the applicable jurisdiction, as the same may be amended from time to time.

Section 1.02 Construction. This Agreement shall be construed and interpreted in accordance with the following:

(a) References to “Affiliates” include only other Persons which from time to time constitute “Affiliates” of such specified Person and do not include, at any particular time, other Persons that may have been, but at such time have ceased to be, “Affiliates” of such specified Person, except to the extent that any such reference specifically provides otherwise.

(b) The term “or” is not exclusive.

(c) A reference to a law includes any amendment, modification or replacement to such law.

(d) Accounting terms shall have the meanings assigned to them by GAAP applied on a consistent basis by the accounting entity to which they refer.

(e) References to any document, instrument or agreement (i) shall be deemed to include all appendices, exhibits, schedules and other attachments thereto and all documents, instruments or agreements issued or executed in replacement thereof, and (ii) shall mean such document, instrument or agreement, or replacement thereto, as amended, modified and supplemented from time to time in accordance with its terms and as the same is in effect at any given time.

(f) Unless otherwise specified, the words “hereof,” “herein” and “hereunder” and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

(g) The words “include” and “including” and words of similar import are not limiting, and shall be construed to be followed by the words “without limitation,” whether or not they are in fact followed by such words.

(h) The word “during” when used with respect to a period of time shall be construed to mean commencing at the beginning of such period and continuing until the end of such period.

(i) Unless the context otherwise requires, singular nouns and pronouns when used herein shall be deemed to include the plural and vice versa and impersonal pronouns shall be deemed to include the personal pronoun of the appropriate gender.

ARTICLE II

CONTRIBUTION AND CONVEYANCE OF ASSETS

Section 2.01 Terms and Conditions of the Contribution of Assets.

(a) Contribution of Assets. On the terms and subject to the conditions set forth in this Agreement and in the Ancillary Documents, the Initial Member hereby conveys to the Company, and the Company hereby acquires and accepts from the Initial Member, by way of a capital contribution, without representation or warranty, express or implied, except as set forth in this Agreement and the Master Purchase Agreement, all of the Initial Member's rights, title and interests in, to and under the Assets (other than the Excluded Assets). "Assets" means the following assets, whether owned, leased, licensed or otherwise contracted by, or otherwise available to, the Initial Member, and no others:

(i) all of the Initial Member's rights, title and interests in, to and under the Loans identified on the Loan Schedule attached hereto as Attachment A, which shall be updated by the Company as of the Closing Date and delivered to the Participant and the LLC Interest Transferee within forty-five (45) calendar days after the Closing Date;

(ii) all of the Initial Member's rights in, to and under the Collateral pursuant to the Collateral Documents;

(iii) all rights to causes of action, lawsuits, judgments, claims and demands of any nature available to or being pursued by or for the benefit of the Initial Member with respect to the Loans, the Collateral or the ownership, use, function, value of or other rights pertaining thereto, whether arising by way of counterclaim or otherwise, other than any claims retained by the Initial Member pursuant to Section 2.05; and

(iv) all guaranties, warranties, indemnities and similar rights in favor of the Initial Member with respect to any of the Assets.

To the extent that any party discovers, within 180 days following the Closing Date, that there were assets of the Initial Member that the parties hereto intended to be transferred in connection with the purchase and assumption contemplated in this Agreement, but that were omitted from the attachment to this Agreement, the Initial Member shall or shall cause its Affiliates promptly to assign and transfer to the Company all right, title and interest in such asset. The Initial Member and the Company agree that the conveyance contemplated by this Section and the other provisions of this Agreement is intended to be an absolute conveyance and transfer of ownership of the Assets by capital contribution.

(b) Excluded Assets. The Assets shall not include, and the Company shall not otherwise acquire, the Excluded Assets.

(c) Assumption of Liabilities. On the terms and subject to the conditions contained herein and in the Ancillary Documents (including the retention of all rights and remedies under Article XVII of the Master Purchase Agreement and under Articles V and VI hereto), the Company shall assume and agree to pay, perform and discharge in accordance with their terms all of the following obligations, debts and liabilities of the Initial Member and no others (collectively, the “**Assumed Liabilities**”):

(i) the Obligations; and

(ii) all obligations of the Initial Member with respect to (i) the lawsuits, judgments, claims and demands listed on Schedule 2.01(c), and (ii) any additional lawsuit, judgment, claim or demand involving foreclosures, bankruptcies, liens, title disputes, property condition, forfeiture, partition, easement, condemnation and eminent domain, probate, tax sale, mechanic’s liens and stop notice claims with respect to any of the Assets, but only to the extent any such additional lawsuit, judgment, claim or demand is comparable in nature, scope and substance to those listed on Schedule 2.01(c), as determined by the Initial Member in its reasonable judgment (as evidenced by written notice thereof given to the Company), if such determination is made (and such notice is provided) within sixty (60) days after the Closing Date, or by the mutual agreement of the Initial Member and the Company, if such determination is after such sixty (60)-day period.

(d) Excluded Liabilities. Notwithstanding anything to the contrary in this Section 2.01, it is understood and agreed that the Company shall not, pursuant to this Agreement, assume or be liable for any Excluded Liabilities, including the following:

(i) any liabilities and obligations with respect to any claims expressly retained by the Initial Member pursuant to Section 2.05;

(ii) any liabilities or obligations of the Initial Member arising under this Agreement or any of the Ancillary Documents;

(iii) any legal and accounting fees and expenses incurred by the Initial Member in connection with the consummation of the transactions contemplated by this Agreement, except as provided in the Master Purchase Agreement;

(iv) any indebtedness of the Initial Member for borrowed money;

(v) any liability or indebtedness of the Initial Member for contingent liabilities or liabilities in respect of any injury to any Person or property;

(vi) any liabilities or obligations of the Initial Member attributable to an act, omission or circumstances that occurred or existed prior to the Closing Date, other than the Assumed Liabilities;

(vii) all liabilities and obligations arising out of or with respect to the Excluded Assets;

(viii) all obligations of the Initial Member with respect to any lawsuits, judgments, claims or demands of any nature existing on or prior to the Closing Date that are not listed on Schedule 2.01(c) or otherwise described in Section 2.01(c)(ii);

(ix) any claim against or liability of the FDIC in its capacity as receiver for the Failed Thrift or the FDIC as receiver for IndyMac Federal that, under and in accordance with applicable Law, was, is or will be subject to the receivership administrative claims processes administered by the FDIC in its capacity as receiver for the Failed Thrift or the FDIC as receiver for IndyMac Federal pursuant to 12 U.S.C. §1821(d)(3) through (13), including claims and liabilities that are affirmative or defensive, now existing or arising in the future, contingent or fixed, monetary or non-monetary, equitable or legal, or declarative or injunctive; and

(x) any claim against or liability based on any alleged act or omission of the Failed Thrift or IndyMac Federal which is not provable or allowable, or is otherwise barred against the FDIC as receiver for the Failed Thrift or the FDIC as receiver for IndyMac Federal under applicable Law, including claims and liabilities that are barred under 12 U.S.C. §§1821(c), (d), (e) (including §1821(e)(3)), (i), or (j); 12 U.S.C. §1822; 12 U.S.C. §1823; or 12 U.S.C. §1825.

Section 2.02 Allocation of Payments. All payments and other amounts received on account of any of the Loans on or before the Closing Date shall belong to the Initial Member (except with respect to payments on any Loan that have been paid in advance, which shall belong to the Company to the extent that any such prepayments are not reflected in the unpaid principal balance of such Loans as of the Closing Date). All payments and other amounts received on account of any of the Loans after the Closing Date shall belong to the Company, subject to the provisions of the Participation Agreement.

Section 2.03 Rebates and Refunds. The Company is not entitled to any rebates or refunds from the Initial Member or the Failed Thrift from any pre-computed interest Loan regardless of when the Note matures. Further, on pre-computed interest Loans, neither the Initial Member nor the Failed Thrift will refund any unearned discount amounts to the Company.

Section 2.04 Interest Conveyed. In the event a foreclosure with respect to any Loan occurs after the Closing Date, or occurred on or before the Closing Date but the Redemption Period had not expired on or before the Closing Date, the Initial Member shall convey to the Company the Deficiency Balance, if any, together with the net proceeds, if any, of such foreclosure sale. If the Initial Member was the purchaser at such foreclosure sale, the Initial Member shall convey to the Company the Deficiency Balance, if any, together with a special warranty deed to the property purchased at such foreclosure sale. The Company acknowledges and agrees that the Company shall not acquire any interest in or to any performance or completion bond or letter of credit or other assurance filed with any Governmental Authority with respect to any Loan for the purpose of ensuring that improvements constructed or to be constructed are completed in accordance with any governmental regulations or building requirements applicable to the proposed or completed improvement.

Section 2.05 Retained Claims and Release. Notwithstanding anything to the contrary contained in this Agreement, the Initial Member and the Company hereby agree that the contribution of the Loans pursuant to this Agreement will exclude the transfer to the Company of all right, title and interest of the Initial Member, the Failed Thrift and predecessors-in-interest thereto in and to any and all claims of any nature whatsoever that might now exist or hereafter arise, whether known or unknown, that the Initial Member, the Failed Thrift or predecessors-in-interest thereto have or had, as the case may be, or that any might have against any of the following (a) officers, directors, employees, insiders, accountants, attorneys, other Persons employed by the Initial Member, IndyMac Federal or the Failed Thrift or any of their predecessors-in-interest, underwriters or any other similar Persons who have caused a loss to the Initial Member, IndyMac Federal or the Failed Thrift or any of their predecessors-in-interest in connection with the origination, servicing or administration of a Loan, (b) any appraisers, accountants, auditors, attorneys, investment bankers or brokers, loan brokers, deposit brokers, securities dealers or other Persons who performed services for the Initial Member, IndyMac Federal or the Failed Thrift or any of their predecessors-in-interest relative to a Loan, (c) any third parties involved in any alleged fraud or other misconduct relating to the making or servicing of a Loan or (d) any appraiser or other Person with whom the Initial Member, IndyMac Federal or the Failed Thrift or any of their predecessors-in-interest or any servicing agent contracted for services or title insurance in connection with the making, insuring or servicing of a Loan.

Section 2.06 Taxes. Except as otherwise provided herein, the Company shall pay, indemnify and hold harmless the Initial Member from and against any Transfer Taxes, and shall timely file any returns required to be filed with respect to such Transfer Taxes; provided, however, that the Initial Member shall pay (and shall not be entitled to be reimbursed for) any Transfer Taxes in the nature of mortgage recording taxes and shall timely file any returns required to be filed with respect to such Transfer Taxes. Taxes paid by the Company pursuant to this Section shall constitute Pre-Approved Charges for purposes of the Participation Agreement.

ARTICLE III

TRANSFER OF LOANS, COLLATERAL DOCUMENTS AND SERVICING

Section 3.01 Delivery of Documents. The Company and the Initial Member agree to execute and deliver to one another the following:

(a) On the Closing Date, such Transfer Documents executed by the Initial Member as the Initial Member elects to deliver to the Company.

(b) Subject to the provisions of the Participation Agreement, the Initial Member shall deliver to the Document Custodian the original Notes and other Custodial Documents and Collateral Documents and, on or within a reasonable period of time after the Closing Date, shall deliver the Loan Files to the Company or the Servicer.

(c) If any of the mortgages and/or any other Collateral Documents securing the Loans are registered on the MERS® System (collectively, the “**MERS Registered Mortgages**”), the Company and the Initial Member shall cause the MERS Registered Mortgages to be transferred on the MERS® System on or within a reasonable time after the Closing Date. The costs imposed by MERS with respect to the transfer of the MERS Registered Mortgages shall be borne by the Company and all such costs shall constitute Pre-Approved Charges for purposes of the Participation Agreement.

Section 3.02 Forwarding Post-Closing Date Items. With respect to any checks or other funds in respect of any Loan which are received by the Initial Member within thirty (30) calendar days after the Closing Date, the Initial Member shall, to the extent no Limited Power of Attorney is granted to the Company in accordance with Section 3.04(a), promptly endorse without recourse and send the same to the Company via overnight mail. Any checks or other funds in respect of any Loan which are received by the Initial Member after such thirty (30) day period shall be endorsed without recourse by the Initial Member to the Company and sent by first class mail to the Company promptly after receipt. Except as otherwise provided herein, the Initial Member shall promptly forward to the Company all correspondence, Tax bills or any other correspondence or documentation related to any of the Loans or the other Assets which is received by the Initial Member after the Closing Date.

Section 3.04 Delivery of Loans.

(a) The Initial Member will grant a Limited Power of Attorney to the Company in the form attached hereto as Attachment D. The Company will prepare and execute on behalf of the Initial Member, within a reasonable time after the Closing Date, all Transfer Documents not delivered by the Initial Member to the Company at Closing, and the Company shall perform all acts required to be performed by the Initial Member pursuant to Section 3.01. The Initial Member shall cooperate with the Company with respect to the Company’s obligation to prepare and record (if applicable) such Transfer Documents. All Transfer Documents prepared by the Company shall be in appropriate form suitable for filing or recording (if applicable) in the relevant jurisdiction and otherwise subject to the limitations set forth herein, and the Company shall be solely responsible for the preparation, contents and form of such documents. The Company hereby releases the Initial Member from any loss or damage incurred by the Company due to the contents or form of any documents prepared pursuant to this Section 3.04 and shall indemnify and hold the Initial Member harmless from and against any claim, action or cause of action asserted by any Person, including the Company, arising out of the contents or form of any Transfer Document, including any claim relating to the adequacy or inadequacy of any such document or instrument for the purposes thereof, and the use (or purported use) by the Company of the Limited Power of Attorney in any way not expressly permitted by its terms. All expenses incurred by the Company in compliance with this Section 3.04 shall constitute Pre-Approved Charges for purposes of the Participation Agreement.

(b) The parties hereby agree that all Notes evidencing Loans shall be endorsed without recourse, and without representation or warranty by the Initial Member, express or implied, except (as to the Company) as set forth in this Agreement. The form of any endorsement of Notes or allonge to the Notes is as follows:

Pay to the order of
IndyMac Venture, LLC
Without Recourse

Federal Deposit Insurance Corporation as Receiver for IndyMac
Federal Bank, FSB

By: _____
Name: _____
Title: Attorney-in-Fact

All other documents of assignment, conveyance or transfer shall contain the following sentence: “This assignment is made without recourse, representation or warranty, express or implied, by the FDIC in any capacity.”

(c) As to Foreign Loans, the Company must retain counsel licensed in the Foreign Jurisdictions involved with the Foreign Loans. Such foreign counsel shall draft the documents necessary to assign the Foreign Loans to the Company. Expenses incurred by the Company in complying with the obligations set forth in the preceding sentence shall constitute Pre-Approved Charges for purposes of the Participation Agreement. Documents presented to the Initial Member to assign Foreign Loans to the Company must be accompanied by a letter on the foreign counsel’s letterhead, signed by the foreign counsel preparing those documents, certifying that those documents conform to the Law of the Foreign Jurisdiction. Each such document shall be delivered to the Initial Member in the English language, provided, however, that any document required for its purposes to be executed by the Initial Member in a language other than the English language shall be delivered to the Initial Member in such language, accompanied by a translation thereof in the English language, certified as to its accuracy by an executive officer or general counsel of the Company and, if such executive officer or general counsel shall not be fluently bilingual, by the translator thereof.

(d) Nothing contained herein or elsewhere in this Agreement shall require the Initial Member to make any agreement, representation or warranty or provide any indemnity in any document or instrument or otherwise, nor is the Initial Member obligated to obtain any consents or approval to the sale or transfer of the Loans or the related servicing rights, if any, or the assumption by the Company of the Obligations.

(e) The Initial Member agrees to cooperate with the Company and to execute and acknowledge any additional documents required by applicable Law or necessary to effectively transfer and assign all of the Initial Member’s right, title and interest in and to any and all Loans to the Company (subject to the rights of the Initial Member under the Participation Agreement). The Initial Member shall have no obligation to provide, review or execute any such additional documents unless the same shall have been requested of the Initial Member within 365 calendar days after the Closing Date.

Section 3.05 Recordation of Documents. The Company shall promptly submit all Transfer Documents for recordation or filing in the appropriate land, chattel, Uniform Commercial Code, and other records of the appropriate county, state or other jurisdictions

(including any Foreign Jurisdiction) to effect the transfer of the Assets to the Company, and to render legal, valid and enforceable the obligations of the Borrowers to the Company and the assumption by the Company of Assumed Liabilities. The Company shall also be responsible for following up on the status of Transfer Documents submitted for recordation. Expenses incurred by the Company in complying with the obligations set forth in this Section shall constitute Pre-Approved Charges for purposes of the Participation Agreement.

Section 3.06 Additional Actions; Transaction Costs. The Initial Member shall, if such is affirmatively required under applicable Law, take such actions as are necessary to effect the purposes of this Article III. All Taxes, fees, costs and expenses incurred in connection with the transfer of the Assets to the Company shall constitute Pre-Approved Charges for purposes of the Participation Agreement.

ARTICLE IV

COVENANTS, DUTIES AND OBLIGATIONS OF THE COMPANY

Section 4.01 Servicing of Loans. From and after the Closing Date, the Company shall service the Loans in compliance with the Participation Agreement.

Section 4.02 Insured or Guaranteed Loans. If any Loans being transferred pursuant to this Agreement are insured or guaranteed by any Governmental Authority, and such insurance or guaranty is not being specifically terminated by the Initial Member, the Company acknowledges and agrees that such Loans must be serviced by a servicer, lender or mortgagee approved by such Governmental Authority, if such approval is required. The Company further acknowledges and agrees that, upon assumption of the Assumed Liabilities with respect to the Loans, it assumes full responsibility for determining whether or not any such insurance or guarantees are in full force and effect on the Closing Date and, with respect to those Loans with respect to which any such insurance or guarantee is in effect on the date of this Agreement, the Company acknowledges and agrees that, upon assumption of the Assumed Liabilities with respect to the Loans, it assumes full responsibility for taking any and all actions as may be necessary to insure such insurance or guarantees remain in full force and effect. The Company acknowledges and agrees that, upon assumption of the Obligations with respect to the Loans, it assumes and agrees to fulfill all of the Initial Member's or IndyMac Federal's obligations under the contracts of insurance or guaranty. Any out-of-pocket fees due to any insurer or guarantor incurred by the Company to fulfill its obligations set forth in the preceding sentence shall constitute Pre-Approved Charges for purposes of the Participation Agreement.

Section 4.03 Reporting to or for the Applicable Taxing Authorities. The Initial Member shall be responsible for providing to customers and submitting to the Internal Revenue Service all Internal Revenue Service information returns related to the Loans for all applicable periods ending on or prior to December 31, 2008. The Company shall be responsible for submitting all Internal Revenue Service information returns related to such Loans for all applicable periods commencing thereafter. Internal Revenue Service information returns include reports on Forms 1098 and 1099. The Company shall be responsible for submitting all information returns required under applicable Law of any Foreign Jurisdiction, to the extent such are required to be filed by the Company or the Initial Member under such Law, relating to such

Loans, for the calendar or tax year beginning January 1, 2009 and thereafter. The Initial Member shall provide the Company with any information that is required to comply with any of the Company's Tax reporting responsibilities, including the responsibilities described herein; provided that, such information is in the possession of the Initial Member and not in the possession of the Company, IMB HoldCo LLC or OneWest Bank Group LLC.

Section 4.04 Loans in Litigation.

(a) With respect to any Loans that, at the Closing Date, are subject to any type of pending litigation that is listed on Schedule 2.01(c) or of which the Company has received written notice of from the Initial Member, the Company shall notify the FDIC's Regional Counsel, 1601 Bryan Street, Dallas, Texas 75201, within thirty (30) Business Days after the Closing Date, or within thirty (30) Business Days after receiving such written notice, as the case may be, of the name of the attorney selected by the Company to represent the Company's interests in the litigation. The Company shall, within thirty (30) Business Days after the Closing Date, or within thirty (30) Business Days after receiving the written notice described above, as the case may be, notify the clerk of the court or other appropriate official and all counsel of record that ownership of the Loan was transferred from the Initial Member to the Company. Subject to the provisions of Section 4.04(c) and 4.04(d), the Company shall have its attorney file appropriate pleadings and other documents and instruments with the court or other appropriate body within thirty five (35) Business Days after the Closing Date, or within thirty (30) Business Days after receiving the written notice described above, as the case may be, substituting the Company's attorney for the Initial Member's attorney, removing the Initial Member and IndyMac Federal (or any predecessor-in-interest) as a party to the litigation and substituting the Company as the real party-in-interest. Nothing contained in this Agreement shall preclude the Company from retaining the same attorney retained by the Initial Member (or the Failed Thrift) to handle litigation with respect to the Loans, provided, that, with respect to litigation referred to in Section 4.04(c), the Company shall not retain the same counsel that represents the Initial Member in connection with such litigation unless the FDIC's Regional Counsel (referred to above) agrees in writing to such dual representation. Except as otherwise provided in Section 4.04(b) (and the Company's compliance with its obligations therein), in the event the Company fails to comply with this Section 4.04(a) within thirty five (35) Business Days after the Closing Date, or within thirty (30) Business Days after receiving the written notice described above, as the case may be, (1) the Initial Member may, but shall have no obligation to, continue to pursue or defend such litigation on behalf of the Company and (2) in the event the Initial Member does continue to pursue or defend such litigation, the Company shall be liable for and hereby agrees to pay all costs and expenses incurred by the Initial Member in connection therewith, which expenses shall constitute Servicing Expenses.

(b) If the Company is unable, as a matter of applicable Law or due to the actions or inactions of third parties unrelated to the Company and over whom the Company has no control, to cause the Initial Member and IndyMac Federal (or any predecessor-in-interest) to be replaced by the Company as party-in-interest in any pending litigation as required by Section 4.04(a), the Company shall provide to the FDIC's Regional Counsel, at the address specified above, within thirty-five (35) Business Days after the Closing Date, or within thirty-five (35) Business Days after receiving the written notice described in Section 4.04(a), as the case may be, evidence to such effect, including reference to any applicable Law, and stating the reasons for

such inability. In any such event, (i) the Company shall cause its attorney to conduct such litigation at the Company's expense, which expense will constitute Servicing Expenses; (ii) the Company shall cause the removal of the Initial Member and IndyMac Federal (or its predecessor-in-interest) and substitution of the Company as party-in-interest in such litigation as soon as reasonably practicable; (iii) the Company shall use commercially reasonable efforts to cause such litigation to be resolved by judgment or settlement in as reasonably efficient a manner as practical; (iv) the Initial Member shall cooperate with the Company and the Company's attorney as reasonably required to bring such litigation or any settlement relating thereto to a reasonable and prompt conclusion; and (v) no settlement shall be agreed upon by the Company or its agents or counsel without the express prior written consent of the Initial Member, unless such settlement includes an irrevocable and complete waiver and release of any and all potential claims against the Initial Member and IndyMac Federal (or its predecessor-in-interest) in relation to such litigation or the subject Loans or obligations by any Person asserting any claim in the litigation and any Borrower, and any and all losses, liabilities, claims, causes of action, damages, demands, taxes, fees, costs and expenses relating thereto shall be paid by the Company without recourse of any kind to the Initial Member or IndyMac Federal (or its predecessor-in-interest) (other than to the extent the same constitute Servicing Expenses). The Company shall provide to the Participant twenty (20) Business Days following the Closing Date a status report for each pending litigation regarding replacement of the Company as the party-in-interest. The Company shall pay all of the costs and expenses incurred by it in connection with the actions required to be taken by it pursuant to Section 4.04(a) and this Section 4.04(b), which expenses shall constitute Servicing Expenses, including all legal fees and expenses and court costs, which expenses shall constitute Servicing Expenses, and shall reimburse the Initial Member for all reasonable out-of-pocket costs, including all legal expenses, incurred by the Initial Member on or after the Closing Date with respect to any such litigation, including costs incurred in connection with the dismissal thereof or withdrawal therefrom.

(c) In the event there is asserted against the Initial Member or IndyMac Federal (or its predecessor-in-interest) or the Company any claim or action with respect to one or more Loans that is based upon or arises out of any act or omission of the Initial Member or IndyMac Federal (or its predecessor-in-interest) on or prior to the Closing Date (and not any act or omission of or on behalf of the Company) and that alleges liability that, in the opinion of both the Initial Member and the Company, is reasonably likely to exceed the liability of the Company as the assignee and owner of the Loan after the Closing Date, (i) the Company shall be responsible for and shall control and assume the defense of the Company and the Company's interest in the Loans, at the Company's own expense and by the Company's own counsel, which counsel must be reasonably satisfactory to the Initial Member; and (ii) the Initial Member shall be responsible for and shall control and assume the defense of the Initial Member and the Failed Thrift at the Initial Member's own expense. To the extent their interests are not in conflict, the Company and the Initial Member shall cooperate in the defense of any such claims or action and shall use commercially reasonable efforts to work together to resolve or settle such claims or action in a manner that is mutually agreeable and in their respective best interests. The Company shall obtain the prior written approval of the Initial Member before ceasing to defend against any such claims or action. The costs and expenses incurred by the Company in connection with its defense of any claim or action described in this Section 4.04(c), including (x) reasonable attorneys' fees and expenses incurred to defend against (or investigate) the same or pursue counterclaims or cross-claims against other parties, (y) awards or judgments assessed against the

Company with respect to any such claim or action, or (z) the costs of any settlement of such claim or action, shall constitute Pre-Approved Charges for purposes of the Participation Agreement. If, as a result of any claim or action subject to the provisions of this Section 4.04(c), (i) there is entered against the Company either (1) a final, non-appealable monetary judgment holding the Company liable for damages in excess of an amount equal to the Loan Value of the Loan relating to or that is the subject of such claim (such Loan, the “**Affected Loan**”) divided by 0.2 (such excess amount, the “**Excess Damage Liability**”), or (2) a final monetary judgment that is appealable, which the Initial Member agrees in writing need not be appealed further by the Company, and that imposes an Excess Damage Liability on the Company, or (ii) the Company enters into a final settlement agreement with the consent of the Initial Member (such consent not to be unreasonably withheld), pursuant to which the Company is obligated to pay an Excess Damage Liability, then, in any such case, the Initial Member shall reimburse the Company for the Excess Damage Liability and the Initial Member shall be entitled, at its option, to repurchase the Affected Loan at its Repurchase Price; provided, however, that the Initial Member shall not be liable pursuant to this sentence for any liability imposed upon the Company that arises as a result of any act or omission of the Company.

(d) The provisions of Sections 4.04(a), 4.04(b) and 4.04(c) are subject to the right of the Initial Member to retain claims pursuant to Section 2.05 of this Agreement, including any such claims as may have been asserted in litigation pending as of the Closing Date. If the Initial Member determines to pursue any claim retained pursuant to Section 2.05, then, at the Initial Member’s discretion, litigation involving any such claims shall be bifurcated, with the Initial Member remaining the real party-in-interest and retaining control over (and being responsible for pursuing and bearing the related costs to pursue) claims retained by it pursuant to Section 2.05 and with the Company substituting itself as the real party-in-interest and taking control of (and being responsible for pursuing and bearing the cost of pursuing) the remaining claims in the litigation.

(e) Notwithstanding the foregoing, the Company shall retain all rights and remedies under Article XVII of the Master Purchase Agreement and under Articles V and VI hereto.

Section 4.05 Loans in Bankruptcy. In accordance with Bankruptcy Rules 3001 and 3002, the Company shall take all actions necessary to file, within thirty (30) Business Days after the Closing Date, (i) proofs of claims in pending bankruptcy cases involving any Loans for which the Initial Member or IndyMac Federal (or its predecessors-in-interest) have not already filed a proof of claim, and (ii) all documents required by Bankruptcy Rule 3001 and to take all such similar actions as may be required in any relevant jurisdiction in any pending bankruptcy or insolvency case or proceeding in such jurisdiction involving any Loans in order to evidence and assert the Company’s rights. The Company shall prepare and provide to the Initial Member within thirty (30) Business Days after the Closing Date, an Affidavit and Assignment of Claim or any similar forms as may be required in any relevant Foreign Jurisdiction and shall be acceptable to the Initial Member, for each Loan where a Borrower under such Loan is in bankruptcy as of the Closing Date. The Company hereby releases the Initial Member and IndyMac Federal (and its predecessors-in-interest) and the FDIC from any claim, demand, suit or cause of action the Company may have as a result of any action or inaction on the part of the Initial Member or IndyMac Federal (or its predecessors-in-interest) or the FDIC with respect to such Loan and the

Company further agrees to reimburse the Initial Member for any cost or expense incurred by the Initial Member as a result of the Company's failure to file an Affidavit and Assignment of Claim or similar forms as required herein. In the event the Company fails to comply with this Section 4.05 within thirty-five (35) days after the Closing Date, (1) the Initial Member may, but shall have no obligation to, file proofs of claim or other documents as the Initial Member determines may be necessary or appropriate to evidence and assert the Company's rights and, (2) in the event the Initial Member does take any such actions, the Company shall be liable for and hereby agrees to pay all costs and expenses incurred by the Initial Member in connection therewith. The provisions of this Section are subject to the right of the Initial Member to retain claims pursuant to Section 2.05 of this Agreement, including any such claims as may have been asserted in litigation pending as of the Closing Date. If the Initial Member determines to pursue any claim retained pursuant to Section 2.05, then, at the Initial Member's discretion, litigation involving any such claims shall be bifurcated, with the Initial Member remaining the real party-in-interest and retaining control over (and being responsible for pursuing and bearing the related costs to pursue) claims retained by it pursuant to Section 2.05 and with the Company substituting itself as the real party-in-interest and taking control of (and being responsible for pursuing and bearing the cost of pursuing) the remaining claims in the litigation. Costs and expenses incurred by the Company pursuant to this Section 4.05 (including costs and expenses incurred by the Initial Member which are subsequently reimbursed by the Company) shall constitute Pre-Approved Charges for purposes of the Participation Agreement.

Section 4.06 Loan Related Insurance. As of the Closing Date, the Initial Member shall cause to be assigned, to the extent assignable, all existing insurance policies in respect of the Collateral of each Loan. As of the Closing Date, the Company shall cause to be put into place for the Collateral with respect to each Loan with respect to which the Borrower has failed to maintain required fire, hurricane, flood and hazard insurance with extended coverage as is customary in the area in which the Collateral is located and in such amounts and with such deductibles as, in the reasonable judgment of the Company, are prudent. Upon the cancellation of any insurance policy maintained by the Initial Member or the Failed Thrift with respect to any Loan and the receipt by the Company or the Initial Member of any refund of any premiums previously paid with respect thereto, such refunded amount shall inure to the benefit of the Borrowers with respect to the affected Loans, and such refunded amount shall be remitted to (or retained by) the Company and applied as appropriate to adjust the escrow accounts with respect to such affected Loans.

Section 4.07 Loans with Escrow Accounts. Escrow funds, custodial funds and other amounts or balances related to the Loans on deposit in Escrow Accounts, Custodial Accounts or other accounts held or controlled by the Initial Member shall be transferred by the Initial Member, along with the related accounts, to the Company on the Closing Date. It is intended that the Initial Member will use commercially reasonable efforts to cause such Escrow Accounts, Custodial Accounts and other accounts to be retitled in the name of the Company. All such funds and related accounts shall become the responsibility of the Company when transferred by the Initial Member. Any negative escrow balances shall be netted against the amount of any positive escrow balances held in the Escrow Accounts transferred to the Company.

Section 4.08 [Reserved]

Section 4.09 Notice to Borrowers. The Company shall, on a timely basis in accordance with RESPA and any other applicable Laws, and pursuant to the Limited Powers of Attorney granted to it in accordance with Section 3.05(a), prepare and transmit to each Borrower a joint “hello” and “goodbye” letter, at the Company’s expense. The form of such letter shall be subject to the review and reasonable approval of the Initial Member.

Section 4.10 Notice of Claim. The Company shall promptly notify the Initial Member, in accordance with the notice provisions of Section 7.04, of any claim, threatened claim or litigation against the Initial Member or the Failed Thrift arising out of any Asset of which the Company becomes aware.

Section 4.11 Use of the FDIC’s Name and Reservation of Statutory Powers. The Company shall not use or permit the use by its agents, successors or assigns of any name or combination of letters that is similar to “FDIC” or “Federal Deposit Insurance Corporation.” The Company will not represent or imply that it is affiliated with, authorized by or in any way related to the FDIC. The Company shall be entitled to assert (and claim the benefit of) the statute of limitations established under 12 U.S.C. § 1821 (d)(14). However, the Company acknowledges and agrees that the assignment of any Loan or Collateral Document pursuant to the terms of this Agreement shall not constitute the assignment of any other rights, powers or privileges granted to the Initial Member pursuant to the provisions the Federal Deposit Insurance Act, including those granted pursuant to 12 U.S.C. § 1821(d), 12 U.S.C. § 1823(e) and 12 U.S.C. § 1825, all such rights and powers being expressly reserved by the Initial Member, nor shall the Company assert or attempt to assert any such right, power or privilege in any pending or future litigation involving any Loan transferred hereunder.

Section 4.12 Prior Servicer Information. The Company acknowledges and agrees that the Initial Member might not have access to information from prior servicers of a Loan and that the Initial Member has not requested any information not in the possession of the Initial Member or its servicing contractor from any prior servicer of a Loan. The Company acknowledges and agrees that the Initial Member will not be required under the terms of this Agreement to request any information from any prior servicer.

Section 4.13 Release of Initial Member.

(a) Except as otherwise specifically provided in Article VI of this Agreement or in the Participation Agreement or any other Ancillary Document, the Company hereby releases and forever discharges the Initial Member, the Failed Thrift and its predecessors-in-interest, and the FDIC, and all of their respective officers, directors, employees, agents, attorneys, contractors and representatives, and all of their respective successors, assigns (other than the Company) and Affiliates, from any and all claims (including any counterclaim or defensive claim), demands, causes of action, judgments or legal proceedings and remedies of whatever kind or nature that the Company had, has or might have in the future, whether known or unknown, which are related in any manner whatsoever to the Loans, the servicing of the Loans by the Initial Member, the Failed Thrift or its predecessors-in-interest, the FDIC or any Person acting on behalf of the Initial Member, the Failed Thrift or its predecessors-in-interest, or the FDIC, or the acquisition of the Loans (other than gross negligence or willful misconduct); provided, however, that nothing contained in this Section 4.13(a) shall constitute or be

interpreted as a waiver of any express right that the Company has under this Agreement or any of the Ancillary Documents.

(b) The Company agrees that it will not renew, extend, renegotiate, compromise, settle or release any Note or Loan or any right of the Company founded upon or growing out of this Agreement, except upon payment in full thereof, unless all Borrowers on said Note or Loan shall first release and discharge the Failed Thrift, the FDIC and the Initial Member with respect to such Loan and their respective agents and assigns (other than the Company) (the “**Released Parties**”) from all claims, demands and causes of action which any such Borrower may have against any such Released Party arising from or growing out of any act or omission occurring prior to the date of such release.

Section 4.14 Indemnification.

(a) The Company shall indemnify and hold harmless the Initial Member and the Initial Member’s Affiliates, and their respective officers, directors, employees, partners, principals, agents and contractors (the “**Indemnified Parties**”), from and against any losses, damages, liabilities, costs and expenses (including reasonable attorneys’ fees and litigation and similar costs, and other out-of-pocket expenses incurred in investigating, defending, asserting or preparing the defense or assertion of any of the foregoing), deficiencies, claims, interest, awards, judgments, penalties and fines, other than Excluded Losses (collectively, “**Losses**”), arising out of or resulting from any breach by the Company or any of its Affiliates or any of their respective officers, directors, employees, partners, principals, agents or contractors of any of the Company’s obligations under or covenants or agreements contained in this Agreement (including any claim asserted by the Initial Member against the Company to enforce its rights hereunder or by any third party), or any third-party allegation or claim based upon facts alleged that, if true, would constitute such a breach, or any gross negligence, bad faith or willful misconduct (including any act or omission constituting theft, embezzlement, breach of trust or violation of any Law). Such indemnity shall survive the termination of this Agreement. In order for an Indemnified Party to be entitled to any indemnification provided for under this Agreement in respect of, arising out of or involving a Loss or a claim or demand made by any Person against the Indemnified Party (a “**Third Party Claim**”), such Indemnified Party shall deliver notice thereof to the Company promptly after receipt by such Indemnified Party of written notice of the Third Party Claim, describing in reasonable detail the facts giving rise to any claim for indemnification hereunder, the amount of such claim (if known) and such other information with respect thereto as is available to the Indemnified Party and as the Company may reasonably request. The failure or delay to provide such notice, however, shall not release the Company from any of its obligations under this Section 4.13 except to the extent that it is materially prejudiced by such failure or delay.

(b) If for any reason the indemnification provided for herein is unavailable or insufficient to hold harmless the Indemnified Parties, the Company shall contribute to the amount paid or payable by the Indemnified Parties as a result of the Losses of the Indemnified Parties in such proportion as is appropriate to reflect the relative fault of the Indemnified Parties, on the one hand, and the Company (including any Servicer or subservicer), on the other hand in connection with a breach of the Company’s obligations under this Agreement.

(c) If the Company confirms in writing to the Indemnified Party within fifteen (15) days after receipt of a Third Party Claim the Company's responsibility to indemnify and hold harmless the Indemnified Party therefor, the Company may elect to assume control over the compromise or defense of such Third Party Claim at the Company's own expense and by the Company's own counsel, which counsel must be reasonably satisfactory to the Indemnified Party, provided that (i) the Indemnified Party may, if such Indemnified Party so desires, employ counsel at such Indemnified Party's own expense to assist in the handling (but not control the defense) of any Third Party Claim; (ii) the Company shall keep the Indemnified Party advised of all material events with respect to any Third Party Claim; (iii) the Company shall obtain the prior written approval of the Indemnified Party before ceasing to defend against any Third Party Claim or entering into any settlement, adjustment or compromise of such Third Party Claim involving injunctive or similar equitable relief being imposed upon the Indemnified Party or any of its Affiliates; and (iv) the Company will not, without the prior written consent of the Indemnified Party, settle or compromise or consent to the entry of any judgment in any pending or threatened action in respect of which indemnification may be sought hereunder (whether or not any such Indemnified Party is a party to such action), unless such settlement, compromise or consent by its terms obligates the Company to satisfy the full amount of the liability in connection with such Third Party Claim and includes an unconditional release of such Indemnified Party from all liability arising out of such Third Party Claim.

(d) Notwithstanding anything contained herein to the contrary, the Company shall not be entitled to control (and if the Indemnified Party so desires, it shall have sole control over) the defense, settlement, adjustment or compromise of (but the Company shall nevertheless be required to pay all Losses incurred by the Indemnified Party in connection with such defense, settlement or compromise): (i) any Third Party Claim that seeks an order, injunction or other equitable relief against the Indemnified Party or any of its Affiliates; (ii) any action in which both the Company (or any Affiliate) and the Indemnified Party are named as parties and either the Company (or such Affiliate) or the Indemnified Party determines with advice of counsel that there may be one or more legal defenses available to it that are different from or additional to those available to the other party or that a conflict of interest between such parties may exist in respect of such action; and (iii) any matter that raises or implicates any issue relating to any power, right or obligation of the FDIC under any Law. If the Company elects not to assume the compromise or defense against the asserted liability, fails to timely and properly notify the Indemnified Party of its election as herein provided, or, at any time after assuming such defense, fails to diligently defend against such Third Party Claim in good faith, the Indemnified Party may pay, compromise or defend against such asserted liability (but the Company shall nevertheless be required to pay all Losses incurred by the Indemnified Party in connection with such defense, settlement or compromise). In connection with any defense of a Third Party Claim (whether by the Company or the Indemnified Party), all of the parties hereto shall, and shall cause their respective Affiliates to, cooperate in the defense or prosecution thereof and to in good faith retain and furnish such records, information and testimony, and attend such conferences, discovery proceedings, hearings, trials and appeals, as may be reasonably requested by a party hereto in connection therewith.

(e) Under no circumstances shall any liability of the Company under the provisions of this Section 4.13 constitute a Servicing Expense or otherwise be charged to the

Initial Member or the Participant or be deducted from the Participant's Share of any Loan Proceeds.

Section 4.15 Cooperation. The Initial Member and the Company shall mutually cooperate in order to facilitate an orderly transition of the Assets and Assumed Liabilities to the Company. Each party will cooperate in good faith with the other and will take all appropriate action that may be reasonably necessary or advisable to carry out any of the transactions contemplated hereunder. From and after the Closing Date, the Initial Member will promptly refer all inquiries with respect to the Assets (including ownership thereof) and Assumed Liabilities to the Company, and the Company will promptly refer all inquiries with respect to the Excluded Assets (including ownership thereof) and Excluded Liabilities to the Initial Member.

Section 4.16 Additional Title Documents. The Initial Member and the Company each agree, at any time, and from time to time, upon the request of any party hereto, to execute and deliver such additional instruments and documents of conveyance (in form suitable for recording in the applicable jurisdiction, if applicable) as shall be reasonably necessary to vest in the Company its full legal or equitable title in and to the Assets. The Company shall prepare such instruments and documents of conveyance (in form and substance reasonably satisfactory to the Initial Member) as shall be necessary to vest title to the Assets in the Company. The Company shall be responsible for recording such instrument and documents of conveyance and all expenses incurred by the Company pursuant to this Section 4.16 shall constitute Pre-Approved Charges for purposes of the Participation Agreement.

Section 4.17 Contracts for Deed. The Company shall comply with all Obligations set forth in any Contract for Deed contained in any Loan subject to this Agreement. Pursuant to the provisions of Section 3.01 hereof, the Initial Member may require the Company to prepare and furnish special warranty deeds (or equivalent) or such other form of deed as may be required by the Contract for Deed for the Initial Member's approval, execution and acknowledgement, conveying the real property and any interest therein subject to any such contract to the Company. Title curative work, if required, shall be at the Company's sole cost and expense.

Section 4.18 Leases. The Company shall comply with all Obligations set forth in any lease related to any Loan, unless, in the opinion of the Company, complying with the Obligations of such lease would not be in the best interests (in terms of maximizing the value of the Loan) of the Company and the Initial Member or would otherwise be inconsistent with the Servicing Standard (as defined in the Participation Agreement). Pursuant to the provisions of Section 3.01 hereof, the Initial Member may require the Company to prepare and furnish applicable Transfer Documents for the Initial Member's approval and execution.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

Section 5.01 Assets Conveyed "AS IS"; Company Acknowledgements.

(a) THE ASSETS ARE CONVEYED TO THE COMPANY "AS IS" AND "WITH ALL FAULTS," WITHOUT ANY REPRESENTATION, WARRANTY OR

GUARANTY WHATSOEVER, INCLUDING AS TO COLLECTIBILITY, ENFORCEABILITY, VALUE OF COLLATERAL, ABILITY OF ANY OBLIGOR TO REPAY, CONDITION, FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY OR ANY OTHER WARRANTY WITH RESPECT TO THE LOANS, WHETHER EXPRESS OR IMPLIED OR BY OPERATION OF LAW, BY ANY PERSON, INCLUDING THE INITIAL MEMBER, THE FAILED THRIFT OR THE FDIC, OR ANY PREDECESSOR OR AFFILIATE OF THE INITIAL MEMBER, THE FAILED THRIFT OR THE FDIC, OR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR CONTRACTORS.

(b) The Company acknowledges that (i) the Initial Member has performed limited due diligence with respect to the Assets and, therefore, none of the Initial Member, the Failed Thrift or the FDIC makes (or can make) any representations, warranties or guaranties with respect to the Assets or the presence or absence of Defects, (ii) the statements set forth in Section 5.09 (the “**Asset-Level Statements**”) are being provided solely as a means for providing the Company with a basis for a remedy in the event a Defect is discovered, so long as all conditions for obtaining a remedy are otherwise met, (iii) the only remedies available to the Company in connection with any Defect are those that are set forth in Section 6.01, and (iv) in no event will the existence of any Defect be evidence of bad faith, misconduct or fraud, even in the event that it is shown that the Initial Member, the Failed Thrift or the FDIC, or any of their respective directors, employees, officers or agents, knew or should have known of the existence of any facts relating to the existence of such Defect.

(c) Nothing contained in this Agreement shall be construed as a representation, warranty or guaranty with respect to the Assets or that no Defect exists with respect thereto, whether oral or written, past or present, express or implied or by operation of law, and each of the Initial Member, the Failed Thrift and the FDIC specifically disclaims, and the Company expressly waives and releases the Initial Member, the Failed Thrift and the FDIC from, any and all liability or other obligation under this Agreement with respect to any of the following:

- (i) except for the remedies set forth in Section 6.01, any Defect; or
- (ii) any fraud or misrepresentation of any kind in connection with the origination or servicing of a Loan, whether committed by the mortgagor, the originator, a servicer, an appraiser or any other party involved in the origination or servicing of such Loan; or
- (iii) any underwriting deficiency or failure to properly underwrite a Loan in any way related to any of the following: (x) a failure to properly verify Borrower information, such as income, credit history or rental history, (y) a failure to properly verify the value of the Collateral, including as a result of a fraudulent or inaccurate appraisal or otherwise, or (z) the reliance on any fraudulent or overstated Borrower information or appraisal.

Section 5.02 No Warranties or Representations with Respect to Escrow Accounts. Without limiting the generality of Section 5.01, the Initial Member makes no warranties or

representations of any kind or nature as to the sufficiency of funds held in any escrow account to discharge any obligations related in any manner to an escrow obligation, as to the accuracy of the amount of any monies held in any escrow account or as to the propriety of any previous disbursements or payments from any escrow account.

Section 5.03 No Warranties or Representations as to Amounts of Unfunded Principal. Without limiting the generality of Section 5.01, the Initial Member makes no warranties or representations of any kind or nature as to the amount of any additional or future advances of principal the Company may be obligated to make.

Section 5.04 Disclaimer Regarding Calculation or Adjustment of Interest on any Loan. Without limiting the generality of Section 5.01, the Initial Member makes no warranties or representations of any kind or nature as to the accuracy of any calculation or adjustment of interest on any Loan, including any adjustable rate Loan, whether such calculation or adjustment is made by the Failed Thrift, the FDIC, the Initial Member or any Affiliate, agent or contractor of any of the foregoing, or any predecessor-in-interest of the Initial Member or any other party.

Section 5.05 No Warranties or Representations with Regard to Information. The Initial Member makes no warranties or representations of any kind or nature as to the completeness or accuracy of any information provided by or on behalf of the Initial Member with respect to any Loan. The Company acknowledges that, for example, and not by way of limitation, some Loan Files may be missing forms or notices, or may contain incomplete or inaccurate forms or notices, that may be required by one or more federal or state consumer protection statutes.

Section 5.06 Intervening or Missing Assignments. The Company acknowledges and agrees that the Initial Member shall have no obligation to secure or obtain any missing intervening assignment or any assignment to the Initial Member or the Failed Thrift that is not contained in the Loan File or among the Collateral Documents. The Company shall bear all responsibility and expense of securing from the appropriate source any intervening assignment or any assignment to the Initial Member or the Failed Thrift that may be missing from the Collateral Documents, but the cost thereof shall constitute a Pre-Approved Charge for purposes of the Participation Agreement.

Section 5.07 No Warranties or Representations as to Documents. The Initial Member makes no warranties or representations of any kind or nature as to the effectiveness or enforceability in any Foreign Jurisdiction of this Agreement or any other document or instrument delivered or prepared in connection herewith, whether or not prepared and executed in the forms provided herewith, all of such forms being provided for reference only.

Section 5.08 Representations and Warranties of the Initial Member. Notwithstanding the provisions of Sections 5.01 to 5.07, the Initial Member hereby makes the following representations and warranties to the Company as of the Closing Date:

(a) The Initial Member has all requisite corporate power and authority to execute and deliver this Agreement and all other related agreements and to perform its obligations hereunder and thereunder. The execution, delivery and performance of this Agreement (including all instruments of transfer to be delivered pursuant to this Agreement and

all other related agreements) and the consummation of the transactions contemplated hereby by the Initial Member have been duly and validly authorized and, assuming the due authorization, execution and delivery by the Company, this Agreement evidences the valid and binding obligation of the Initial Member, enforceable against the Initial Member in accordance with its terms, except as enforceability may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting or relating to the enforcement of creditors' rights generally and (ii) general principles of equity.

(b) None of the execution and delivery of this Agreement by the Initial Member, the consummation of the transactions contemplated hereby, or the fulfillment of or compliance with the terms and conditions of this Agreement by the Initial Member, will conflict with or result in a breach of any of the terms, conditions or provisions of the Initial Member's charter or by-laws or other constituent documents.

(c) There is no action, suit, proceeding or investigation pending against the Initial Member which, either individually or in the aggregate, if adversely decided against the Initial Member would reasonably be expected to materially and adversely affect the Initial Member's ability to perform its obligations under this Agreement.

(d) No consent, approval, authorization or order of any court, governmental agency or body, or non-governmental entity is required for the execution, delivery and performance of, or the consummation of the transactions contemplated by, this Agreement by the Initial Member, except for those consents, approvals, authorizations and orders that (x) have been obtained on or prior to the Closing Date, or (y) have not been and will not be obtained due to the Initial Member's exercise of its statutory authority to transfer assets without obtaining any approval, assignment or consent with respect to such transfer.

(e) Except for Barclays Capital Inc. (including any predecessor company or company acquired by Barclays Capital Inc.) and Deutsche Bank Securities, Inc., and the fees and expenses payable to each of them (which fees and expenses will not be the responsibility of the Company), the Initial Member has not employed any broker, investment banker or registered financial adviser in a manner that would reasonably be expected to result in any liability on the part of the Company for any broker's fees, commissions or similar fees in connection with the consummation of the transactions contemplated hereby.

Section 5.09 Asset-Level Statements with Respect to Loans. Notwithstanding the provisions of Sections 5.01 to 5.07, the Initial Member hereby makes the following statements with respect to each Loan as of the Closing Date:

(a) None of the following has occurred with respect to the Loan: (i) the Borrower has been discharged in a no asset bankruptcy proceeding, (ii) there is no Collateral securing the Loan and out of which the Loan may be satisfied, or (iii) all Guarantors or sureties of the Note, if any, or the obligations contained therein, have similarly been discharged in no asset bankruptcies.

(b) A court of competent jurisdiction has not entered a final judgment (other than a bankruptcy decree or judicial foreclosure order) holding that neither the Borrower nor any Guarantor or surety owes an enforceable obligation to pay the holder of the Note or its assignees.

(c) Neither the Failed Thrift nor the Initial Member has executed and delivered to the Borrower a release of liability from all obligations under the Note.

(d) No title defect exists in connection with the property which is the subject of a Contract for Deed, which requires a prior order or judgment of a court to enable the Initial Member to convey title to such property in accordance with the terms and conditions set forth in the Contract for Deed.

(e) The Initial Member is the owner of the Loan (or, in the case of a Participated Loan, the Initial Member is the owner of the pro rata interest in such Participated Loan set forth on the Loan Schedule).

(f) There does not exist any Environmental Hazard.

ARTICLE VI

REMEDIES FOR DEFECTIVE ASSETS

Section 6.01 Remedy. In the event a Defect is discovered with respect to any Loan (a “**Defective Loan**”), then, subject to the terms and conditions of this Article VI, the Initial Member shall, at the Initial Member’s sole option, either (i) cure the Defect (which may include, among other things, a purchase price adjustment), if the Initial Member determines that the Defect is curable using commercially reasonable means, or (ii) repurchase the Defective Loan at the Repurchase Price (each, a “**Remedy**”). IN NO EVENT SHALL ANY DEFECT OR THE OBLIGATION TO PROVIDE A REMEDY HEREUNDER WITH RESPECT TO A DEFECTIVE ASSET BE EVIDENCE OF ANY BAD FAITH, MISCONDUCT OR FRAUD ON THE PART OF THE INITIAL MEMBER, THE FAILED THRIFT OR THE FDIC EVEN IF IT IS SHOWN THAT THE INITIAL MEMBER, THE FAILED THRIFT OR THE FDIC OR ANY AFFILIATE THEREOF, OR ANY OF THEIR RESPECTIVE DIRECTORS, EMPLOYEES, OFFICERS, CONTRACTORS OR AGENTS, (A) KNEW OR SHOULD HAVE KNOWN OF THE EXISTENCE OF ANY FACTS RELATING TO SUCH DEFECT, (B) CAUSED SUCH DEFECT OR (C) FAILED TO MITIGATE SUCH DEFECT OR ANY OF THE LOSSES RESULTING THEREFROM.

Section 6.02 Conditions Precedent to Remedy. The obligation of the Initial Member to provide a Remedy for any Defective Loan is contingent upon the satisfaction (as determined by the Initial Member in its sole discretion) or waiver (which may be granted by the Initial Member in its sole discretion) of each of the following conditions:

(a) the Company has delivered the Defect Notice and any supporting evidence required by Section 6.03 to the Initial Member on or prior to the Claims Termination Date, and has provided the Initial Member with all additional supporting evidence requested by the Initial Member pursuant to, and within the timeframe set forth in, Section 6.03;

(b) neither the Company nor the Servicer has taken any action or omitted to take any action (other than as required by Section 6.02(c)) with respect to the Defective Loan that (x) materially and adversely affects the Initial Member's ability to process the request for, or provide, a Remedy, or (y) materially and adversely affects the ability or increases the cost to cure the Defect, or the Initial Member's ability to mitigate Losses, or otherwise results in a Loss (including any Excluded Losses) to the Initial Member;

(c) the Company or the Servicer has serviced or otherwise maintained the Defective Loan in accordance with the customary and usual standards of practice of prudent servicers servicing or maintaining similar assets; and

(d) if the Company is seeking a Remedy as a result of the Asset-Level Statement set forth in Section 5.09(f) failing to be true with respect to a Loan as of the Closing Date, the following additional criteria must be met:

(i) the presence of Environmental Hazards was not disclosed in such Loan, the Loan File or other material provided by the Initial Member to the LLC Interest Transferee or any of its Affiliates prior to submission of the bid to purchase the LLC Interest that was accepted by the Initial Member;

(ii) as of the date the Remedy is requested, the Loan has an unpaid principal balance greater than \$250,000.00;

(iii) the Company has delivered to the Initial Member the following, each of which must be satisfactory in form and substance to the Initial Member in its sole discretion: (a) a Phase I environmental assessment, from a qualified and reputable firm, of the real property Collateral; (b) a Phase II environmental assessment or lead-based paint survey of such Collateral from a qualified and reputable firm, which assessment shall confirm (x) the existence of Environmental Hazards on such Collateral and (y) that the regulator is likely to require remediation; and (c) in the case of a Loan, a written certification of the Company under penalty of perjury that no action has been taken by or on behalf of the Company (I) to initiate foreclosure proceedings in the case of the Loan or (II) to accept a deed-in-lieu-of-foreclosure in connection with such Loan; and

(iv) neither the Company nor the Servicer has caused or materially exacerbated the Environmental Hazard or increased any resulting Loss.

Section 6.03 Notice and Evidence of Defect. The Company shall notify the Initial Member of each Defective Loan with respect to which the Company seeks a Remedy under Section 6.01 promptly upon discovery of the Defect, but in any event no later than ten (10) Business Days after the end of the month in which such discovery is made. Such notice (the "**Defect Notice**") shall be in writing on the Company's letterhead and shall include the following information:

(a) the Company's tax identification number and wire transfer instructions;

(b) the identification of the particular Asset-Level Statement in Section 5.09 that the Company believes was untrue as to the Loan as of the Closing Date;

(c) evidence supporting the basis for requesting a Remedy and the satisfaction of the conditions precedent to the Initial Member's obligation to provide a Remedy or, if any conditions precedent have not been satisfied, a request for a waiver of such conditions precedent, including the reasons why the Company believes such waiver should be granted; and

(d) a certification by the Company that the Defect Notice is being submitted in good faith and is complete and accurate in all respects to the best of the Company's knowledge.

Promptly upon request by the Initial Member, but in any event no later than ten (10) Business Days thereafter, the Company shall supply the Initial Member with any additional evidence or information that the Initial Member may reasonably request.

Section 6.04 Processing of Remedy Request. Within a reasonable period of time following the receipt by the Initial Member of the Defect Notice and all additional information that the Initial Member may have requested pursuant to Section 6.03, the Initial Member will notify the Company as to whether the request for a Remedy with respect to a Defective Loan has been accepted or rejected and, if accepted, the Remedy that the Initial Member expects to provide and the expected timing for such Remedy. Subject to the terms and conditions of this Article VI, the Initial Member will use commercially reasonable efforts to provide the selected Remedy to the Company within sixty (60) days after providing the above-referenced notice to the Company.

Section 6.05 Re-delivery of Notes, Files and Other Documents. If the Remedy to be provided by the Initial Member pursuant to Section 6.01 is the repurchase of the Defective Loan, the Company shall do the following as applicable with respect to the Loan to be repurchased: (i) re-endorse and deliver the Note to the Initial Member (or its designee), (ii) assign all Collateral Documents associated with such Loan and reconvey any real property subject to a Contract for Deed or transferred by special warranty deed pursuant to Section 2.04, and execute and deliver such other documents or instruments as shall be necessary or appropriate to convey the Loan to the Initial Member (or its designee), (iii) deliver to the Initial Member (or its designee) the Loan File, along with any additional records compiled or accumulated by the Company pertaining to the Loan, (iv) take such actions as are necessary to transfer from the Company to the Initial Member any litigation or bankruptcy action involving the Defective Loan in accordance with the provisions of Sections 4.04 and 4.05, as applicable, substituting the duties of the Company for the Initial Member and the Initial Member for the Company, and with respect to the Affidavit and Assignment of Claim, a form of which is attached as Attachment B, substituting the duties of the Assignor (as defined therein) for the Assignee (as defined therein) and the Assignee for the Assignor, and (v) deliver to the Initial Member (or its designee) a certification, notarized and executed under penalty of perjury by a duly authorized representative of the Company, certifying that, as of the date of repurchase by the Initial Member, neither the Company nor the Servicer has taken any of the actions set forth in clauses (a) through (m) of Section 6.06. The documents evidencing such conveyance shall be substantially the same as those executed pursuant to Article III of this Agreement to convey the Loan to the Company. In all cases in which the Company recorded or filed among public records any document or instrument evidencing a transfer of the Loan to the Company, the Company shall cause to be recorded or filed among such records a similar document or instrument evidencing the conveyance of the Loan to the Initial Member.

Section 6.06 Waiver of Remedy. The Initial Member may determine that it will not repurchase any Defective Loan if, without the prior written consent of the Initial Member, the Company or the Servicer: (a) modifies any of the terms of the Defective Loan (including the terms of any Collateral Document or Contract for Deed), other than the permanent refinancing of the Defective Loan in connection with the final Authorized Funding Draw; (b) exercises forbearance with respect to any scheduled payment on the Defective Loan; (c) accepts or executes new or modified lease documents assigned by the Initial Member to the Company with respect to the Defective Loan; (d) sells, assigns or transfers the Defective Loan or any interest therein (other than the participation interest in the Loans issued to the Initial Member pursuant to the Participation Agreement); (e) fails to comply with the Participation Agreement in the maintenance, collection, servicing and preservation of the Defective Loan, including delinquency prevention, collection procedures and protection of the Collateral as warranted; (f) initiates any litigation in connection with the Defective Loan, or the related Collateral, other than litigation to force payment or to realize on the Collateral securing the Defective Loan; (g) completes any action with respect to foreclosure on, or accepts a deed-in-lieu of foreclosure for any Collateral securing the Defective Loan; (h) causes, by action or inaction, the priority of title to the Defective Loan, Collateral and other related security to be lower in priority than the priority of title that existed at the time the Defective Loan was conveyed by the Initial Member; (i) causes, by action or inaction, the security for the Defective Loan to be different than that conveyed by the Initial Member, except as may be required by the terms of the Collateral Documents; (j) causes, by action or inaction, a claim of third parties to arise against the Company that, as a result of repurchase of the Defective Loan under this Agreement, might be asserted against the Initial Member; (k) causes, by action or inaction, a Lien with respect to the Defective Loan to arise (other than a Lien in favor of the Initial Member); (l) is the Borrower or any Related Party under such Defective Loan; or (m) makes a disbursement in respect of the Defective Loan other than an Authorized Funding Draw or the funding of a Servicing Expense as and to the extent permitted by the Participation Agreement. With respect to any Defective Loan that fails to qualify for a repurchase because of any of the foregoing actions or inactions of the Company or the Servicer, if the Initial Member determines that a Defect is not curable using commercially reasonable means, and the Company has not proposed an alternate cure that is reasonably acceptable to the Initial Member, then, unless the Initial Member waives the restrictions of this Section 6.06, the Initial Member will be relieved of its obligation to provide any Remedy for such Defect.

Section 6.07 Satisfaction of Obligation to Provide Remedy. At such time as the Initial Member shall have provided a Remedy with respect to a Defect, the Company shall have no further or additional rights to, and shall be deemed to have released the Initial Member from any obligation to provide, any additional or different Remedy with respect to such Defect. If the Initial Member repurchases a Defective Loan, the Company shall have no further or additional rights to, and shall be deemed to have released the Initial Member from any obligation to provide, any additional or different remedy with respect to such Defective Loan, even if a Defect other than the one specified in the Defect Notice is subsequently identified.

Company before the Closing: Manager, Structured Transactions
c/o Federal Deposit Insurance Corporation
550 17th Street, NW (Room F-7008)
Washington, D.C. 20429-0002
Attention: George Alexander

with a copy to: Senior Counsel
FDIC Legal Division
Litigation and Resolutions Branch, Receivership Section
Special Issues Unit
3501 Fairfax Drive (Room E-7056)
Arlington, Virginia 22226
Attention: David Gearin

Company after the Closing: IndyMac Venture, LLC
888 East Walnut Street
Pasadena, California 91101-7211
Attention: Steven Mnuchin

with a copy to: Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, New York 10006
Attention: Paul E. Glotzer

Initial Member: Manager, Structured Transactions
c/o Federal Deposit Insurance Corporation
550 17th Street, NW (Room F-7008)
Washington, D.C. 20429-0002
Attention: George Alexander

with a copy to: Senior Counsel
FDIC Legal Division
Litigation and Resolutions Branch, Receivership Section
Special Issues Unit
3501 Fairfax Drive (Room E-7056)
Arlington, Virginia 22226
Attention: David Gearin

ARTICLE VIII

MISCELLANEOUS PROVISIONS

Section 8.01 Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall be ineffective, but such ineffectiveness shall be limited as follows: (i) if such provision is prohibited or unenforceable in such jurisdiction only as to a particular Person or Persons and/or under any particular circumstance or circumstances, such provision shall be ineffective, but only in such jurisdiction and only with respect to such

particular Person or Persons and/or under such particular circumstance or circumstances, as the case may be; (ii) without limitation of clause (i), such provision shall in any event be ineffective only as to such jurisdiction and only to the extent of such prohibition or unenforceability, and such prohibition or unenforceability in such jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction; and (iii) without limitation of clauses (i) or (ii), such ineffectiveness shall not invalidate any of the remaining provisions of this Agreement. Without limitation of the preceding sentence, it is the intent of the parties to this Agreement that in the event that in any court proceeding, such court determines that any provision of this Agreement is prohibited or unenforceable in any jurisdiction (because of the duration or scope (geographic or otherwise) of such provision, or for any other reason) such court shall have the power to, and shall, (x) modify such provision (including without limitation, to the extent applicable, by limiting the duration or scope of such provision and/or the Persons against whom, and/or the circumstances under which, such provision shall be effective in such jurisdiction) for purposes of such proceeding to the minimum extent necessary so that such provision, as so modified, may then be enforced in such proceeding and (y) enforce such provision, as so modified pursuant to clause (x), in such proceeding. Nothing in this Section is intended to, or shall, limit (1) the ability of any party to this Agreement to appeal any court ruling or the effect of any favorable ruling on appeal or (2) the intended effect of Section 8.02.

Section 8.02 Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH FEDERAL LAW, BUT IF FEDERAL LAW DOES NOT PROVIDE A RULE OF DECISION IT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK EXCLUDING ANY CONFLICT OF LAWS RULE OR PRINCIPLE THAT MIGHT REFER THE GOVERNANCE OR THE CONSTRUCTION OF THIS AGREEMENT TO THE LAW OF ANOTHER JURISDICTION. Nothing in this Agreement shall require any unlawful action or inaction by any party hereto.

Section 8.03 Cost, Fees and Expenses. Except as otherwise provided herein, each party hereto agrees to pay all costs, fees and expenses which it has incurred in connection with or incidental to the matters contained in this Agreement, including fees and disbursements to its accountants, brokers, financial advisors and counsel.

Section 8.04 Waivers; Amendment and Assignment. No provision of this Agreement may be amended or waived except in writing executed by all of the parties to this Agreement. This Agreement and the terms, covenants, conditions, provisions, obligations, undertakings, rights and benefits hereof shall be binding upon, and shall inure to the benefit of, the undersigned parties and their respective heirs, executors, administrators, representatives, successors and permitted assigns, and no other Person or Persons (including Borrowers or any co-lender or other Person with any interest in or liability under any of the Loans) shall have any rights or remedies under or by reason of this Agreement. Notwithstanding the foregoing, this Agreement may not be transferred or assigned without the express prior written consent of the Initial Member and any attempted assignment without such consent shall be void *ab initio*.

Section 8.05 No Presumption. This Agreement shall be construed fairly as to each party hereto and if at any time any such term or condition is desired or required to be interpreted or construed, no consideration shall be given to the issue of who actually prepared, drafted or

requested any term or condition of this Agreement or any agreement or instrument subject hereto.

Section 8.06 Entire Agreement. This Agreement and the Ancillary Documents contain the entire agreement between the Initial Member (including in its capacity as Participant) and the Company and/or its Affiliates with respect to the subject matter hereof and supersede any and all other prior agreements, whether oral or written. In the event of a conflict between the terms of this Agreement and the terms of any Transfer Document or other document or instrument executed in connection herewith or in connection with the transactions contemplated hereby, including any translation into a foreign language of this Agreement for the purpose of any Transfer Document, or any other document or instrument executed in connection herewith which is prepared for notarization, filing or any other purpose, the terms of this Agreement shall control, and furthermore, the terms of this Agreement shall in no way be or be deemed to be amended, modified or otherwise affected in any manner by the terms of such Transfer Document or other document or instrument.

Section 8.07 Jurisdiction; Venue and Service. Each of the Company, for itself and its Affiliates, and the Initial Member hereby irrevocably and unconditionally:

(a) (i) agrees that any suit, action or proceeding instituted against it by any other party with respect to this Agreement may be instituted, and that any suit, action or proceeding by it against any other party with respect to this Agreement shall be instituted, only in the United States District Court for the Southern District of New York or the United States District Court for the District of Columbia (and appellate courts from any of the foregoing), (ii) consents and submits, for itself and its property, to the jurisdiction of such courts for the purpose of any such suit, action or proceeding instituted against it by any other party and (iii) agrees that a final judgment in any such suit, action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law;

(b) agrees that service of all writs, process and summonses in any suit, action or proceeding pursuant to Section 8.07(a) may be effected by the mailing of copies thereof by registered or certified mail, postage prepaid, to its address for notices pursuant to Article VII (with copies to such other Persons as specified therein); provided, however, that nothing contained in this Section 8.07 shall affect the ability of any party to be served process in any other manner permitted by Law;

(c) (i) waives any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement brought in any court specified in Section 8.07(a), (ii) waives any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum and (iii) agrees not to plead or claim either of the foregoing; and

(d) agrees that nothing contained in this Section 8.07 shall be construed as a limitation on any removal rights the FDIC may have.

Section 8.08 Waiver of Jury Trial. EACH OF THE COMPANY, FOR ITSELF AND ITS AFFILIATES, AND THE INITIAL MEMBER HEREBY IRREVOCABLY AND

UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY OF ANY DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT AND AGREES THAT ANY SUCH DISPUTE SHALL BE TRIED BEFORE A JUDGE SITTING WITHOUT A JURY.

Section 8.09 Counterparts; Facsimile Signatures. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original but all of which together shall constitute but one and the same agreement. This Agreement and any amendments hereto, to the extent signed and delivered by facsimile or other electronic means, shall be treated in all manner and respects as an original agreement and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. No signatory to this Agreement shall raise the use of a facsimile machine or other electronic means to deliver a signature or the fact that any signature or agreement was transmitted or communicated through the use of a facsimile machine or other electronic means as a defense to the formation or enforceability of a contract and each such Person forever waives any such defense.

Section 8.10 Headings. Section titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provisions hereof. All Section and paragraph references contained herein shall refer to Sections and paragraphs in this Agreement unless otherwise specified.

Section 8.11 Compliance with Law. Except as otherwise specifically provided herein, each party to this Agreement shall, at its own cost and expense, obey and comply with all applicable Laws, as they may pertain to such party's performance of its obligations hereunder.

Section 8.12 Right to Specific Performance. THE COMPANY HEREBY ACKNOWLEDGES AND AGREES THAT THE DAMAGES TO BE INCURRED BY THE INITIAL MEMBER AS A RESULT OF THE COMPANY'S BREACH OF THIS AGREEMENT WILL BE DIFFICULT, IF NOT IMPOSSIBLE, TO ASCERTAIN, THAT DAMAGES WILL NOT BE AN ADEQUATE REMEDY AND THAT ANY BREACH OR THREATENED BREACH OF ANY OF THE PROVISIONS OF THIS AGREEMENT BY THE COMPANY MAY CAUSE IMMEDIATE IRREPARABLE HARM FOR WHICH THERE MAY BE NO ADEQUATE REMEDY AT LAW. ACCORDINGLY, THE PARTIES AGREE THAT, IN THE EVENT OF ANY SUCH BREACH OR THREATENED BREACH, THE INITIAL MEMBER SHALL BE ENTITLED TO (I) IMMEDIATE AND PERMANENT EQUITABLE RELIEF (INCLUDING INJUNCTIVE RELIEF AND SPECIFIC PERFORMANCE OF THE PROVISIONS OF THIS AGREEMENT) FROM A COURT OF COMPETENT JURISDICTION (IN ADDITION TO ANY OTHER REMEDY TO WHICH IT MAY BE ENTITLED AT LAW OR IN EQUITY), AND (II) SOLELY IN THE CASE OF A BREACH OF SECTION 4.11 HEREOF, LIQUIDATED DAMAGES IN THE AMOUNT OF \$25,000 FOR EACH BREACH OF SUCH SECTION. THE PARTIES AGREE AND STIPULATE THAT THE INITIAL MEMBER SHALL BE ENTITLED TO EQUITABLE (INCLUDING INJUNCTIVE) RELIEF WITHOUT POSTING A BOND OR OTHER SECURITY AND THE COMPANY FURTHER WAIVES ANY DEFENSE IN ANY SUCH ACTION FOR SPECIFIC PERFORMANCE OR INJUNCTIVE RELIEF THAT A REMEDY AT LAW WOULD BE ADEQUATE AND ANY REQUIREMENT UNDER LAW TO POST

SECURITY AS A PREREQUISITE TO OBTAINING EQUITABLE RELIEF. NOTHING CONTAINED IN THIS SECTION SHALL LIMIT EITHER PARTY'S RIGHT TO ANY REMEDIES AT LAW, INCLUDING THE RECOVERY OF DAMAGES FOR BREACH OF THIS AGREEMENT.

Section 8.13 No Third Party Beneficiaries. This Agreement is made for the sole benefit of the Initial Member and the Company and their respective successors and permitted assigns, and no other Person or Persons (including any Borrower or co-lender or other Person with any interest in or liability under any of the Loans) shall have any rights or remedies under or by reason of this Agreement. Notwithstanding the foregoing, the FDIC shall be considered a third party beneficiary to this Agreement.

Section 8.14 Timing. The Company agrees that, although the Initial Member has agreed to use commercially reasonable efforts to take certain actions pursuant to this Agreement within specified periods of time, the failure of the Initial Member to take any such actions within such specified periods of time shall not be dispositive evidence of a breach by the Initial Member of this Agreement.

Section 8.15 Survival. The covenants, representations and warranties in this Agreement shall survive the execution of this Agreement and the consummation of the transactions contemplated hereunder.


Section 8.16 Termination. This Agreement shall terminate upon the termination of the Master Purchase Agreement in accordance with its terms.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Asset Contribution and Assignment Agreement to be executed as of the day and year first above written.

INITIAL MEMBER:


**FEDERAL DEPOSIT INSURANCE
CORPORATION AS RECEIVER FOR
INDYMAC FEDERAL BANK, FSB**

By: 
Name: Ralph Malami
Title: Manager, Non Structured Sales
and Asset Management

COMPANY:

**INDYMAC VENTURE, LLC, a Delaware
Limited Liability Company**

By: Federal Deposit Insurance Corporation as
Receiver for IndyMac Federal Bank, FSB, as Sole
Member and Manager

By: 
Name: Ralph Malami
Title: Manager, Non Structured Sales
and Asset Management

ATTACHMENT A

LOAN SCHEDULE

SEE SECTION VI (GROUPS 6-8), SCHEDULES TO ASSET CONTRIBUTION AND
ASSIGNMENT AGREEMENT, ON THE SCHEDULES CD.

to such extent. The Assignor further notifies the Obligor, the Bankruptcy Court and all other interested parties that all further notices relating to the Bankruptcy Claim to such extent, and all payments or distributions of money or property in respect of the Bankruptcy Claim to such extent, shall be delivered or made to the Assignee.

This transfer was not for the purpose of the enhancement of any claim in a pending bankruptcy. The transfer of the debt was pursuant to the Agreement, through which numerous debts were sold; no specific amount of the total consideration was assigned to the debt that forms the basis of Bankruptcy Claim.

This assignment shall also evidence the unconditional transfer of the Assignor's interest in any security held for the claim.

IN WITNESS WHEREOF, the Assignor has caused this Affidavit and Assignment of Claim to be executed this ____ day of _____, 20__.

FEDERAL DEPOSIT INSURANCE
CORPORATION AS RECEIVER FOR
INDYMAC FEDERAL BANK, FSB

By: _____

Name:

Title: Attorney-in-Fact

ACKNOWLEDGMENT

STATE OF _____ §

§

COUNTY OF _____ §

Before me, the undersigned authority, a Notary Public in and for the county and state aforesaid, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, as Attorney-in-Fact of the Federal Deposit Insurance Corporation as Receiver for IndyMac Federal Bank, FSB acting in the capacity stated above, and acknowledged to me that s/he executed the same as the act of the Federal Deposit Insurance Corporation as Receiver for IndyMac Federal Bank, FSB, for the purposes and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office on this the ___ day of _____, _____.

[SEAL]

Notary Public
My Commission expires: _____

upon the Company, its successors or assigns. All such rights, benefits, causes or claims, representations and warranties (if any) shall be as set forth in the Asset Contribution and Assignment Agreement between the Company and the Initial Member dated March 19, 2009 (the "Contribution Agreement").

6. That, pursuant to the terms and conditions of the aforementioned Contribution Agreement, the Instrument (including, without limitation, any and all rights the Initial Member may have to enforce payment and performance of the Instrument, including any rights under Section 3-309 of the Uniform Commercial Code) is hereby assigned effective as of the date hereof, without recourse, representation or warranty, to the Company, except as set forth in the Contribution Agreement and the Master Purchase Agreement (as defined in the Contribution Agreement). A copy of the Instrument is attached to this affidavit, if available.

FEDERAL DEPOSIT INSURANCE
CORPORATION AS RECEIVER FOR
INDYMAC FEDERAL BANK, FSB

By: _____

Name:

Title: Attorney-in-Fact

ACKNOWLEDGMENT

STATE OF _____ §

§

COUNTY OF _____ §

Before me, the undersigned authority, a Notary Public in and for the county and state aforesaid, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, as Attorney-in-Fact of the Federal Deposit Insurance Corporation as Receiver for IndyMac Federal Bank, FSB acting in the capacity stated above, and acknowledged to me that s/he executed the same as the act of the Federal Deposit Insurance Corporation as Receiver for IndyMac Federal Bank, FSB, for the purposes and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office on this the _____ day of _____, 20____.

Notary Public

[SEAL]

My Commission expires: _____

ATTACHMENT D

LIMITED POWER OF ATTORNEY

[Sale Name]

(Note to Preparer: When preparing the actual Limited Power of Attorney, delete this instruction and the reference to Attachment D above.)

KNOW ALL PERSONS BY THESE PRESENTS, that the FEDERAL DEPOSIT INSURANCE CORPORATION (“FDIC”) as Receiver for IndyMac Federal Bank, FSB, hereafter called the “Receiver”, hereby designates the individual(s) set out below (the “Attorney(s)-in-Fact”) for the sole purpose of executing the documents outlined below:

WHEREAS, the undersigned has full authority to execute this instrument on behalf of the FDIC as Receiver under applicable Resolutions of the FDIC’s Board of Directors and redelegations thereof.

NOW THEREFORE, the FDIC as Receiver grants to the above-named Attorney(s)-in-Fact the authority, subject to the limitations herein, as follows:

1. To execute, acknowledge, seal and deliver on behalf of the FDIC as Receiver for IndyMac Federal Bank, FSB all instruments of transfer and conveyance, appropriately completed, with all ordinary or necessary endorsements, acknowledgments, affidavits and supporting documents as may be necessary or appropriate to evidence the sale and transfer of any asset pursuant to that certain Asset Contribution and Assignment Agreement, dated as of _____, ____ 2009, between the Receiver and IndyMac Venture, LLC.

The form which the Attorney(s)-in-Fact shall use for endorsing promissory notes or preparing allonges to promissory notes is as follows:

Pay to the order of
IndyMac Venture, LLC
Without Recourse

FEDERAL DEPOSIT INSURANCE
CORPORATION as Receiver for IndyMac Federal
Bank, FSB

By: _____
Name: _____
Title: Attorney-in-Fact

All other documents of assignment, conveyance or transfer shall contain this sentence: "This assignment is made without recourse, representation or warranty, express or implied, by the FDIC in its corporate capacity or as Receiver."

2. To grant to each Attorney-in-Fact full power and authority to do and perform all acts necessary to carry into effect the powers granted by this Limited Power of Attorney as fully as the FDIC or the Receiver might or could do with the same validity as if all and every such act had been herein particularly stated, expressed and especially provided for.

This Limited Power of Attorney shall be effective from _____, 2009 and shall continue in full force and effect through _____, 2010, unless otherwise terminated by an official of the FDIC authorized to do so by the Board of Directors ("Revocation"). At such time this Limited Power of Attorney will be automatically revoked. Any third party may rely upon this document as the named individual(s)' authority to continue to exercise the powers herein granted unless a Revocation has been recorded in the public records of the jurisdiction where this Limited Power of Attorney has been recorded, or unless a third party has received actual notice of a Revocation.

IN WITNESS WHEREOF, the FDIC by its duly authorized officer empowered by appropriate resolution of its Board of Directors, has caused these presents to be executed and subscribed in its name this ___ day of _____, 2009.

**FEDERAL DEPOSIT INSURANCE
CORPORATION as Receiver for IndyMac
Federal Bank, FSB**

By: _____
Name:
Title: Attorney-in-Fact

[CONTINUED ON NEXT PAGE]

(CORPORATE SEAL) ATTEST: _____
Name: Herbert J. Messite
Title: Counsel

Signed, sealed and delivered
in the presence of

By: _____
Name: _____
Witness

By: _____
Name: _____
Witness

[ACKNOWLEDGMENT ON NEXT PAGE]

ACKNOWLEDGMENT

UNITED STATES OF AMERICA)
)
DISTRICT OF COLUMBIA)

On this ___ day of _____, 2009, before me, Notary Public in and for the District of Columbia, personally appeared _____ and Herbert J. Messite, with a business address of 550 17th Street, NW, Washington, DC 20429, who, being duly sworn, severally depose and say:

First, _____, first affiant, for himself, says that he is _____ of the Federal Deposit Insurance Corporation, the Corporation in whose name the foregoing Limited Power of Attorney has been subscribed, that the said Limited Power of Attorney was subscribed on behalf of the said Corporation by due authority of the Corporation’s Board of Directors, and that the said _____ acknowledges that said Limited Power of Attorney to be the free act and deed of the said Corporation.

Second, Herbert J. Messite, second affiant, for himself, says that he is a Counsel with the Federal Deposit Insurance Corporation, the Corporation in whose name the foregoing Limited Power of Attorney has been subscribed, that the seal affixed to the said Limited Power of Attorney is the corporate seal of the said Federal Deposit Insurance Corporation, that the said Limited Power of Attorney was subscribed on behalf of the said Corporation and its seal thereto affixed by due authority of the Corporation’s Board of Directors, and that the said Herbert J. Messite acknowledged the said Limited Power of Attorney to be the free act and deed of the said Corporation.

**Notary Public, District of Columbia
United States of America**

My Commission Expires:

SCHEDULE 2.01 (c)

ASSUMED LITIGATION

SEE SECTION VI (GROUPS 6-8), SCHEDULES TO ASSET CONTRIBUTION AND
ASSIGNMENT AGREEMENT, ON THE SCHEDULES CD.