

SHARED-LOSS AGREEMENT

This SHARED-LOSS AGREEMENT (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 (the “Receiver”) and OneWest Bank, FSB (the “Purchaser”). The terms hereof shall modify and supplement, as necessary, the terms of the Loan Sale Agreement between the Receiver and the Purchaser of even date herewith (the “LSA”), to which this Agreement is attached as an Exhibit. To the extent any inconsistencies may arise between the terms of the LSA and this Agreement with respect to the subject matter of this Agreement, the terms of this Agreement shall control. References in this Agreement to a particular Section shall be deemed to refer to a Section in this Agreement, unless the context indicates that it is intended to be a reference to a Section of the LSA.

ARTICLE I – DEFINITIONS

The capitalized terms set forth below, as used in this Agreement, shall have the following meanings. Capitalized terms that are not otherwise defined herein are used as defined in the LSA.

“**Accounting Records**” means the subsidiary system of record on which the loan history and balance of each Shared-Loss Loan is maintained; individual loan files containing either an original or copies of documents that are customary and reasonable with respect to loan servicing, including management and disposition of other real estate; the records documenting alternatives considered with respect to loans in default or for which a default is reasonably foreseeable; records of loss calculations and supporting documentation with respect to line items on the loss calculations; and monthly delinquency reports and other performance reports customarily utilized by the Purchaser in management of loan portfolios.

“**Accrued Interest**” means, with respect to Shared-Loss Loans, the amount of earned and unpaid interest at the note rate specified in the applicable loan documents, limited to 90 days.

“**Charged-Off Loan**” means a Shared-Loss Loan that is fully charged off in accordance with the policies and procedures of IndyMac Federal Bank, FSB in effect as of January 2, 2009 (or as may be modified thereafter with the consent of the Receiver) and applicable regulatory requirements and guidelines. Notwithstanding the foregoing, no Shared-Loss Loan that is charged off as contemplated in the foregoing sentence will be considered a Charged-Off Loan until the loan is first processed under the Program, unless such loan is not a Qualifying Loan or unless the Purchaser is not permitted to apply the Program under applicable law.

“**Charge-Off Loss**” means the loss on a Charged-Off Loan calculated in accordance with applicable regulatory requirements and guidelines, limited as to the amount of includable Accrued Interest and other costs as indicated in Exhibit 2e.

“**Commencement Date**” means the Closing Date.

“**Cumulative Loss Amount**” means the sum of the Monthly Loss Amounts.

“Cumulative Shared-Loss Amount” means the excess, if any, of the Cumulative Loss Amount over the First Loss Amount.

“Customary Servicing Procedures” means, with respect to a Shared-Loss Loan, the procedures that the Purchaser customarily employs and exercises in servicing and administering mortgage loans for its own accounts and the servicing procedures established by Fannie Mae or Freddie Mac, which are in accordance with accepted mortgage servicing practices of prudent lending institutions.

“FDIC” means the Federal Deposit Insurance Corporation in its corporate capacity.

“Final Shared-Loss Month” means the earlier of (i) the calendar month in which the tenth anniversary of the Commencement Date occurs and (ii) the calendar month in which a Portfolio Sale occurs.

“First Loss Amount” means the dollar amount equal to the product of (i) 0.20 multiplied by (ii) the aggregate unpaid principal balance of the Shared-Loss Loans as shown on the Loan Schedule attached to the LSA as Attachment A, as updated as of the Closing Date in accordance with Section 2.06 of the LSA, which dollar amount represents the total amount of Losses on Shared-Loss Loans the Purchaser has agreed to realize before the Receiver is required to make payments to the Purchaser with respect to Shared-Loss Loans pursuant to Section 2.1(d) of this Agreement.

“Foreclosure Loss” means the loss realized when the Purchaser has completed the foreclosure on a Shared-Loss Loan and realized final recovery on the collateral through liquidation and recovery of any insurance proceeds. Each Foreclosure Loss shall be calculated in accordance with the form and methodology specified in Exhibit 2a.

“Guidelines” means the Statement on Loss Mitigation Strategies for Servicers of Residential Mortgages (September 2007), issued by the federal financial institutions regulatory agencies and the Conference of State Bank Supervisors, the Statement on Working with Mortgage Borrowers (April 2007), issued by the federal financial institutions regulatory agencies, the Home Equity Line of Credit Account Management Guidance (August 2008), issued by the Office of Thrift Supervision, and the Program, each as may be amended or supplemented from time to time.

“Independent Accounting Firm” means a nationally recognized certified public accounting firm selected by the Purchaser and approved by the Receiver (including approval by the Receiver of the engagement terms of such firm), which approval shall not be unreasonably withheld.

“Loan Sale Loss” means the loss realized by the Purchaser upon the sale of a Shared-Loss Loan by the Purchaser to an unaffiliated person or entity with the Receiver’s consent as set forth in Section 2.6. For Shared-Loss Loans that are not Restructured Loans, Loan Sale Loss will be calculated as the unpaid principal balance of the Shared-Loss Loan less the net sale price received by the Purchaser for the Shared-Loss Loan. Loan Sale Loss for any Restructured Loan will be calculated as (a) the net sale price received by the Purchaser for the Shared-Loss Loan less (b) the net present value of estimated cash flows on the Restructured Loan that was used in

the calculation of the related Restructuring Loss plus (c) Loan principal payments collected by the Purchaser from the date the Loan was restructured to the date of sale. (See Exhibit 2d for example calculation).

“**Loss**” means a Foreclosure Loss, Restructuring Loss, Short Sale Loss, Portfolio Loss, Loan Sale Loss, Charge-Off Loss, excluding any consequential, special or indirect damages, lost profits, lost investment or business opportunity, interest (except as expressly set forth in this Agreement), damages to reputation, punitive damages, exemplary damages, treble damages, nominal damages and operating losses.

“**Monthly Certificate**” has the meaning provided in Section 2.1(b) of this Agreement.

“**Monthly Loss Amount**” means the sum of all Losses for any Shared-Loss Month.

“**Monthly Shared-Loss Amount**” means the change in the Cumulative Shared-Loss Amount from the beginning of each month to the end of each month.

“**Portfolio Loss**” means the loss realized on the Portfolio Sale of the remaining Shared-Loss Loans calculated in accordance with the terms of Article IV.

“**Portfolio Sale**” has the meaning provided in Section 4.1 of this Agreement.

“**Program**” means any of the following mortgage loan modification programs: (a) for modifications currently in process or initiated within the first 90 days following the signing of this Agreement, the modification program previously approved by the Board of Directors of IndyMac Federal Bank, FSB in Conservatorship; (b) the FDIC’s Mortgage Loan Modification Program, a copy of which is set forth in Exhibit 5 to this Agreement; and (c) any other modifications either to an individual or to a group of borrowers, with prior written consent of the FDIC.

“**Qualifying Loan**” means a Shared-Loss Loan (i) secured by collateral that is owner-occupied on which the mortgagee has a first priority lien and (ii) with respect to which either (x) the borrower is at least 60 days delinquent or (y) a default is reasonably foreseeable.

“**Receiver Recoveries**” means the amount of shared Recovery Amounts due to the Receiver, which amount is calculated at the same percentage at which the related Loss was reimbursed by the Receiver.

“**Recovery Amount**” means, with respect to any period prior to the Termination Date, the amount of collected funds received by the Purchaser that (i) are collected from a borrower or other third-party in respect of a foreclosed Loan subsequent to the reimbursement of the Purchaser by the Receiver for a Foreclosure Loss in respect of such Loan, (ii) are collected from a borrower or other third-party in respect of a Charged-Off Loan subsequent to the reimbursement of the Purchaser by the Receiver for a Charge-Off Loss in respect of such Loan, (iii) are gains realized from a Section 4.1 or Section 4.2 sale of Shared-Loss Loans for which the Purchaser has previously received a Restructuring Loss payment from the Receiver, or (iv) are received from any source other than as described in clauses (i), (ii) or (iii) above in respect of any Shared-Loss Loan subsequent to the reimbursement of the Purchaser by the Receiver for a

Loss in respect of such Loan which represents a payment under any insurance, guaranty or similar arrangement.

“**Restructuring Loss**” means the loss on a modified or restructured loan measured by the difference between (a) the principal, Accrued Interest, unreimbursed Advances and third party fees due on a loan prior to the modification or restructuring and (b) the net present value of estimated cash flows on the modified or restructured loan, discounted at the Then-Current Interest Rate. Each Restructuring Loss shall be calculated in accordance with the form and methodology specified in Exhibits 2b(i) and 2b(ii) and shall be measured after taking into account all subsidies or other payments received by the Purchaser that are intended to be for the benefit of the borrower with respect to such modified or restructured loan under any government-sponsored program affecting the Shared-Loss Loans.

“**Restructured Loan**” means a Shared-Loss Loan for which the Purchaser has received a Restructuring Loss payment from the Receiver.

“**Servicing Officer**” has the meaning provided in Section 2.1(b) of this Agreement.

“**Shared-Loss Loans**” means the Loans identified on the Loan Schedule attached to the LSA as Attachment A.

“**Shared-Loss Month**” means each calendar month between the Commencement Date and the last day of the Final Shared-Loss Month, provided that, the first Shared-Loss Month shall begin on the Commencement Date and end on the last day of that month.

“**Short-Sale Loss**” means the loss resulting from the Purchaser’s agreement with the mortgagor to accept a payoff in an amount less than the balance due on the loan. Each Short-Sale Loss shall be calculated in accordance with the form and methodology specified in Exhibit 2c.

“**Stated Threshold**” means the dollar amount equal to the product of (i) 0.30 multiplied by (ii) the aggregate unpaid principal balance of the Shared-Loss Loans as shown on the Loan Schedule attached to the LSA at Attachment A, as updated as of the Closing Date in accordance with Section 2.06 of the LSA.

“**Termination Date**” means the last day of the Final Shared-Loss Month.

“**Then-Current Interest Rate**” means the most recently published Freddie Mac survey rate for 30-year fixed-rate loans or, if such Freddie Mac survey rate is not available, then another comparable nationally published rate for 30-year fixed-rate loans.

ARTICLE II – SHARED-LOSS ARRANGEMENT

2.1 Shared-Loss Arrangement.

(a) Loss Mitigation and Consideration of Alternatives. For each Shared-Loss Loan in default or for which a default is reasonably foreseeable, the Purchaser shall undertake, or shall use reasonable best efforts to cause third-party servicers to undertake, reasonable and

customary loss mitigation efforts in compliance with the Guidelines and Customary Servicing Procedures. The Purchaser shall document its consideration of foreclosure, loan restructuring (if available), charge-off and short-sale (if a short-sale is a viable option and is proposed to the Purchaser) alternatives and shall select the alternative that is reasonably estimated by the Purchaser to result in the least Loss. The Purchaser shall retain all analyses of the considered alternatives and servicing records and allow the Receiver to inspect them upon reasonable notice.

(b) Monthly Certificates. Not later than fifteen (15) days after the end of each Shared-Loss Month, beginning with the month in which the Commencement Date occurs and ending with the Final Shared-Loss Month, the Purchaser shall deliver to the Receiver a certificate, signed by an officer of the Purchaser involved in, or responsible for, the administration and servicing of the Shared-Loss Loans whose name appears on a list of servicing officers furnished by the Purchaser to the Receiver (a “Servicing Officer”), setting forth in such form and detail as the Receiver may reasonably specify (a “Monthly Certificate”):

(A) a schedule substantially in the form of Exhibit 1A listing:

(i) each Shared-Loss Loan for which a Loss is being claimed, the related Loss amount for each Shared-Loss Loan, and the total Monthly Loss Amount for all Shared-Loss Loans;

(ii) the Cumulative Shared-Loss Amount as of the beginning and end of the month;

(iii) the Monthly Shared-Loss Amount;

(iv) the result obtained in clause (v) multiplied by 80%, which is used to compute the amount to be paid by the Receiver or the Purchaser, as applicable, under Section 2.1(d) of this Agreement, or the result in clause (v) multiplied by 95%, if the Stated Threshold has been met;

(v) the amount of Receiver Recoveries based on the calculations in Exhibit 1B, listing each loan for which a recovery was received during the month and the Recovery Amount, with the amount of Receiver Recoveries calculated at the same percentage at which the related Loss was reimbursed by the Receiver; and

(vi) the net amount due from the Receiver after deducting the amount of Receiver Recoveries from the amount of reimbursable Losses due to the Purchaser.

(B) for each of the Shared-Loss Loans for which a Loss is claimed for that Shared-Loss Month, a schedule showing the calculation of the Loss Amount using the form and methodology shown in Exhibit 2a, Exhibit 2b(i), Exhibit 2b(ii), Exhibit 2c, or Exhibit 2e, as applicable.

(C) for each of the Restructured Loans where a gain or loss is realized in a sale under Section 4.1 or Section 4.2, a schedule showing the calculation using the form and methodology shown in Exhibit 2d.

(D) a portfolio performance and summary schedule substantially in the form shown in Exhibit 3.

(c) Monthly Data Download. Not later than fifteen (15) days after the end of each month, beginning with the month in which the Commencement Date occurs and ending with the Final Shared-Loss Month, the Purchaser shall provide the Receiver:

(i) the servicing file in machine-readable format including but not limited to the following fields for each outstanding Shared-Loss Loan, as applicable:

- (A) Loan number
- (B) FICO score
- (C) Origination date
- (D) Original principal amount
- (E) Maturity date
- (F) Paid-to date
- (G) Last payment date
- (H) Loan status (bankruptcy, in foreclosure, etc.)
- (I) Delinquency counters
- (J) Current principal balance
- (K) Current escrow account balance
- (L) Updated value
- (M) Updated valuation date
- (N) Interest rate
- (O) Monthly principal and interest payment amount
- (P) Monthly escrow payment for taxes and insurance
- (Q) Interest rate type (fixed or adjustable)
- (R) If adjustable: index, margin, next interest rate reset date
- (S) Payment/Interest rate cap and/or floor
- (T) Underwriting type (Full doc, Alt Doc, No Doc)
- (U) Lien type (1st, 2nd)
- (V) Amortization type (amortizing or I/O, neg am or HELOC revolver)
- (W) Property address, including city, state, zip code
- (X) A code indicating whether the Mortgaged Property is owner-occupied
- (Y) Property type (single-family detached, condominium, duplex, etc.)
- (Z) Negative amortization cap
- (AA) Loan type

(ii) An Excel or similar file for real property held as a result of foreclosure on a Shared-Loss Loan listing:

- (A) Foreclosure date
- (B) Unpaid loan principal balance
- (C) Appraised value or BPO value, as applicable
- (D) Projected liquidation date

(d) Payments With Respect to Shared-Loss Loans.

(i) Losses Under the Stated Threshold. Not later than thirty (30) days after the end of each calendar quarter, the Receiver shall pay to the Purchaser, in immediately available funds, an amount equal to eighty percent (80%) of the sum of the Monthly Shared-Loss Amounts reported on the Monthly Certificates received by the Receiver with respect to such calendar quarter, less the sum of the Receiver Recoveries reported on the Monthly Certificates (provided that the Purchaser has delivered all of such Monthly Certificates to the Receiver within fifteen (15) days after the end of such calendar quarter). If any Monthly Certificates with respect to a calendar quarter are delivered more than fifteen (15) days after the end of such calendar quarter but within fifteen (15) days after the end of any subsequent calendar quarter, such delayed Monthly Certificates shall be included in the calculation of the sum of Monthly Shared-Loss Amounts and Receiver Recoveries for such subsequent calendar quarter. If the sum of the total Receiver Recoveries exceeds the sum of the Losses reimbursable by the Receiver as reported on such Monthly Certificates, the Purchaser shall pay to the Receiver, in immediately available funds no later than thirty (30) days after the end of such calendar quarter, an amount equal to such excess. To the extent that either the Receiver or the Purchaser does not make any payment required by this Section 2.1(d)(i) within thirty (30) days following the end of the calendar quarter, any amount not paid shall thereafter accrue interest at LIBOR plus 250 basis points until paid. For purposes of this Agreement, "LIBOR" shall be as determined in accordance with the Mortgage Loan Master Repurchase Agreement dated as of the date hereof between the Receiver and the Purchaser.

(ii) Losses in Excess of the Stated Threshold. From the time that, and for so long as, the Stated Threshold has been met, the loss/recovery sharing percentages shall change from 80/20 to 95/5 and thereafter the Receiver shall pay to the Purchaser, in immediately available funds no later than thirty (30) days after the end of each calendar quarter, an amount equal to ninety-five percent (95%) of the sum of the Monthly Shared-Loss Amounts reported on the Monthly Certificates received by the Receiver during such calendar quarter, less the sum of Receiver Recoveries (provided that the Purchaser has delivered all of such Monthly Certificates to the Receiver within fifteen (15) days after the end of such calendar quarter). Notwithstanding the foregoing, in the month in which the Cumulative Loss Amount surpasses the Stated Threshold, the portion of the Monthly Shared-Loss Amount up to the Stated Threshold will be paid at 80%, and the portion of the Monthly Shared-Loss Amount in excess of the Stated Threshold will be paid at 95%. If any Monthly Certificates with respect to a calendar quarter are delivered more than fifteen (15) days after the end of such calendar quarter but within fifteen (15) days after the end of any subsequent calendar quarter, such delayed Monthly Certificates shall be included in the calculation of the sum of Monthly Shared-Loss Amounts for such subsequent calendar quarter. If the sum of the total Receiver Recoveries exceeds the sum of the

Losses reimbursable by the Receiver as reported on such Monthly Certificates, the Purchaser shall pay to the Receiver, in immediately available funds no later than thirty (30) days after end of such calendar quarter, an amount equal to such excess. To the extent that either the Receiver or the Purchaser does not make any payment required by this Section 2.1(d)(ii) within the required thirty (30)-day period, any amount not paid shall thereafter accrue interest at LIBOR plus 250 basis points until paid.

(e) Limitations on Shared-Loss Payment.

(i) The Receiver shall not be required to make any payments pursuant to Section 2.1(d) with respect to any Loss in the event that the Receiver determines that the Purchaser has not complied with the criteria set forth in this Agreement (including the analysis and documentation requirements of Section 2.1(a), the obligation to adhere to the Customary Servicing Procedures or, with respect to a claimed Restructuring Loss on any Qualifying Loan, the obligation to modify or restructure the loan according to the terms of the Program). If the Receiver makes such a determination, the Receiver shall promptly provide a written notice to the Purchaser detailing the grounds for such determination. If the Purchaser disagrees with such determination, it shall promptly provide a written notice (a "Notice of Disagreement") to the Receiver detailing the Purchaser's compliance with the criteria set forth in this Agreement and otherwise detailing the Purchaser's grounds for such disagreement (a "Disagreement"). If the Purchaser demonstrates to the satisfaction of the Receiver, in the Receiver's reasonable judgment, that the grounds for the Receiver's determination were insufficient, no longer exist or have been cured, then the Receiver shall pay the Purchaser the amounts affected by the Receiver's determination within fifteen (15) days after such demonstration by the Purchaser. In the event that the Receiver is not required to make any payment with respect to any Loss claimed pursuant to Section 2.1(d), the Receiver and the Purchaser shall make the necessary adjustments to the Monthly Shared-Loss Amount(s) for the applicable Monthly Certificate(s) and the payment pursuant to Section 2.1(d) above shall be adjusted accordingly.

(ii) If the Purchaser has delivered a Notice of Disagreement, the parties shall promptly commence good faith negotiations with a view to resolving the Disagreement. If the parties do not resolve the Disagreement within ten (10) Business Days after the delivery of the Notice of Disagreement to the Receiver (with such resolution evidenced by a written agreement signed by the Purchaser and the Receiver), such Disagreement or portion thereof that is not resolved shall be referred by the Purchaser to the Independent Accounting Firm for resolution. The Purchaser shall provide the Independent Accounting Firm with a copy of this Agreement, the Notice of Disagreement and any supporting documentation that has been exchanged by the parties. The Independent Accounting Firm shall decide the Disagreement by determining, based solely on the terms of this Agreement and the documents made available to it in accordance with this Section 2.1(e)(ii), whether the Purchaser has complied with the criteria set forth in this Agreement (including the analysis and documentation requirements of Section 2.1(a), the obligation to adhere to the Customary Servicing Procedures or, with respect to a claimed Restructuring Loss on any Qualifying Loan, the obligation to modify or restructure the loan according to the terms of the Program), and shall not determine the amount of such payment. The Independent Accounting Firm shall issue a written decision, a copy of which shall be provided to each party, setting forth the resolution of the Disagreement. Such resolution by the Independent Accounting Firm shall be final and binding upon the parties and the parties

expressly acknowledge the foregoing. The Purchaser and the Receiver shall use their best efforts to cause the Independent Accounting Firm to render its determination as soon as practicable after the referral to it of the Disagreement but in any event shall direct the Independent Accounting Firm to render its decision no later than thirty (30) days after the date on which the Independent Accounting Firm receives all of the information to be provided to it in accordance with this Section 2.1(e)(ii). The Purchaser and the Receiver each shall cooperate with the Independent Accounting Firm and provide such firm with reasonable access to such Accounting Records and personnel as the Independent Accounting Firm reasonably requests in order to render its determination. Either the Purchaser and the Receiver may enforce the decision of the Independent Accounting Firm in a court of competent jurisdiction, but neither the Purchaser and the Receiver shall challenge or seek to appeal the decision of the Independent Accounting Firm, and each expressly waives any right it may otherwise have to so challenge such decision. The fees and expenses of the Independent Accounting Firm shall be shared equally by the Purchaser and the Receiver. Following the resolution of the Disagreement, the Receiver and the Purchaser shall make the necessary adjustments to the Monthly Shared-Loss Amount(s) for the applicable Monthly Certificate(s) and the payment pursuant to Section 2.1(d) above shall be adjusted accordingly to include or exclude the amount of the claimed Loss in accordance with the decision of the Independent Accounting Firm.

(iii) Notwithstanding anything to the contrary contained herein, if, at any time after the Receiver makes a payment to the Purchaser pursuant to Section 2.1(d), the Receiver determines that such payment should not have been made because the Purchaser had not complied with the criteria set forth in this Agreement, the Receiver may provide a written notice to the Purchaser detailing the grounds for such determination and requesting that the full amount of such payment be returned to the Receiver. If the Purchaser disagrees with such determination, it shall promptly submit a Notice of Disagreement to the Receiver detailing the grounds for such Disagreement, and such Disagreement shall be resolved as provided in this Section 2.1(e). If the Purchaser does not submit a Notice of Disagreement to the Receiver within ten (10) Business Days after receipt of written notice of the Receiver's determination or if the Disagreement with respect to the Receiver's determination is resolved in the Receiver's favor, then, at the sole option of the Receiver, (i) the Receiver may offset the full amount of the payment that was the subject of the Notice of Disagreement against any other payments the Receiver is required to make to the Purchaser pursuant to Section 2.1(d) or (ii) the Purchaser shall, within two (2) Business Days after a request for payment is made by the Receiver, return to the Receiver the full amount of the payment that was the subject of the Notice of Disagreement, and, in either case, the Receiver and the Purchaser shall make any necessary adjustments to all affected Monthly Certificate(s).

(f) Shared-Loss Payment Clean-up Call.

(i) At any time after the date on which the aggregate remaining unpaid principal balance of the Shared-Loss Loans is reduced to ten percent (10%) of the aggregate unpaid principal balance of the Shared-Loss Loans as of the Closing Date, the Receiver may make a single election, by giving notice in writing to the Purchaser, to make a final cash payment to the Purchaser in settlement of all remaining obligations owed to the Purchaser under this Agreement. The amount of such final cash payment shall be equal to the difference between (x) the value of the Shared-Loss Loans applying the shared-loss protection

provided for in this Agreement and (y) the value of such Shared-Loss Loans without the shared-loss protection, such values to be determined by taking the average of the valuations provided by two independent third party appraisers who are experienced in the valuation of loans similar to the Shared-Loss Loans, one of whom shall be selected by the Receiver and one of whom shall be selected by the Purchaser. Each party shall bear the costs and expenses of the third party appraiser that it selects. After the Receiver makes such final cash payment to the Purchaser, each party shall be relieved of its obligations under this Agreement.

(ii) Notwithstanding anything to the contrary in clause (i) above, the Receiver may, in its sole discretion, after review of the valuations provided by the third party appraisers, by written notice to the Purchaser, elect not to make the final cash payment to the Purchaser, and the Receiver shall not have any obligation to cash-settle its remaining obligations and such obligations shall remain in full force and effect. If the Receiver elects not to make the final cash payment to the Purchaser after the valuation of the third party appraisers has been performed, the costs and expenses of such appraisers shall be borne by the Receiver. Within fifteen (15) days after the value of the Shared-Loss Loans is determined in accordance with Section 2.1(f)(i), the Receiver shall either (a) pay to the Purchaser the final cash payment or (b) deliver a notice of its election not to make the final cash payment.

(g) Payments by Wire-Transfer. All payments under this Agreement shall be made by wire-transfer in accordance with the wire-transfer instructions on Exhibit 4.

2.2 Auditor Report; Right to Audit

(a) Within ninety (90) days after the end of each calendar year during which the Receiver makes any payment to the Purchaser under this Agreement, the Purchaser shall deliver to the Receiver a report signed by its independent public accountants stating that, in the course of their annual audit of the Purchaser's books and records, nothing has come to their attention suggesting that any computations required to be made by the Purchaser during such calendar year pursuant to this Article II were not made by the Purchaser in accordance herewith. In the event that the Purchaser cannot comply with the preceding sentence, it shall promptly submit to the Receiver corrected computations together with a report signed by its independent public accountants stating that, after giving effect to such corrected computations, nothing has come to their attention suggesting that any computations required to be made by the Purchaser during such year pursuant to this Article II were not made by the Purchaser in accordance herewith. In such event, the Purchaser and the Receiver shall make all such accounting adjustments and payments as may be necessary to give effect to each correction reflected in such corrected computations, retroactive to the date on which the corresponding incorrect computation was made.

(b) Not more than once per calendar quarter, the Receiver or the FDIC may perform an audit or audits to determine the Purchaser's compliance with the provisions of this Agreement, including this Article II, by providing not less than ten (10) Business Days' prior written notice. If the Receiver or the FDIC has given the Purchaser prior notice of an audit in accordance with the preceding sentence, the Purchaser shall provide access to pertinent records and proximate working space in the Purchaser's facilities. The scope of the audit shall be limited to the books and records described in Section 2.3 and shall be of reasonable duration. The

Receiver or the FDIC, as the case may be, shall bear the expense of any such audit. In the event that any corrections are necessary as a result of such an audit or audits, the Purchaser and the Receiver shall make such accounting adjustments and payments as may be necessary to give retroactive effect to such corrections.

2.3 Books and Records. The Purchaser shall at all times keep or cause to be kept books and records sufficient to ensure and document compliance with the terms of this Agreement, including but not limited to (a) documentation of alternatives considered with respect to defaulted loans or loans for which default is reasonably foreseeable as set forth in Section 2.1(a), (b) documentation showing the calculation of Loss for claims submitted to the Receiver, (c) retention of documents that support each line item on the Loss claim forms, and (d) documentation with respect to the Recovery Amount on loans for which the Receiver has made a loss-share payment.

2.4 Information. The Purchaser shall promptly provide to the Receiver such other information, including but not limited to financial statements, computations, and bank policies and procedures, relating to the performance of the provisions of this Agreement, as the Receiver may reasonably request from time to time.

2.5 Tax Ruling. The Purchaser shall not at any time, without the Receiver's prior written consent, seek to qualify for any special tax treatment or benefits associated with any payments made by the Receiver pursuant to this Agreement.

2.6 Sale or Assignment of Shared-Loss Loans. The Receiver shall be relieved of its obligations with respect to a Shared-Loss Loan upon payment of a Foreclosure Loss amount, a Short Sale Loss amount or a Charge-Off Loss amount with respect to such Shared-Loss Loan or upon the sale of a Shared-Loss Loan by the Purchaser to an unaffiliated person or entity, provided that, if the Purchaser has received the Receiver's prior written consent to sell a Shared-Loss Loan to an unaffiliated person or entity (which consent may be granted or withheld in the Receiver's sole discretion), any Loan Sale Loss relating thereto may be included in the calculation of the Monthly Shared-Loss Amount hereunder. The Purchaser shall provide the Receiver with timely notice of any such sale. Notwithstanding the foregoing, the Receiver shall not be relieved of its obligations under this Agreement in the case of, and the Purchaser shall be permitted to sell or assign its rights under this Agreement in connection with, (i) any change in the ownership or control of the Purchaser, (ii) a merger by the Purchaser with or into any other entity, (iii) a sale by the Purchaser of all or substantially all of its assets and (iv) any pledge or collateral assignment of rights by the Purchaser of its rights under this Agreement as collateral for any Federal Home Loan Bank financing or other third party financing, or any securitization transaction, with respect to the Shared-Loss Loans that is completed with the prior written consent of the Receiver, which consent shall not be unreasonably withheld provided that there is no monetization by the Purchaser of the assignment of the benefits of this Agreement. In determining whether to grant consent for any transaction referenced in clause (iv) above, the Receiver will consider the equitable allocation of the economic benefits associated with any proposed assignment of the benefits of this Agreement.

ARTICLE III – RULES REGARDING THE ADMINISTRATION OF SHARED-LOSS LOANS

3.1 Agreement with Respect to Administration. The Purchaser shall (and shall cause any of its Affiliates to which the Purchaser transfers any Shared-Loss Loans or shall use reasonable best efforts to cause any third-party servicer to) manage, administer, and collect the Shared-Loss Loans while owned by the Purchaser or any Affiliate thereof during the term of this Agreement in accordance with the rules set forth in this Article III. The Purchaser shall be responsible to the Receiver in the performance of its duties hereunder and shall provide to the Receiver such reports as the Receiver reasonably deems advisable, including but not limited to the reports required by Sections 2.1, 2.2 and 3.3 hereof, and shall permit the Receiver to monitor the Purchaser's performance of its duties hereunder.

3.2 Duties of the Purchaser.

(a) In performance of its duties under this Article III, the Purchaser shall or shall cause any Affiliate or shall use reasonable best efforts to cause any third-party servicer to:

(i) manage and, administer each Shared-Loss Loan in accordance with Purchaser's usual and prudent business and servicing practices and Customary Servicing Procedures;

(ii) exercise its best business judgment in managing, administering and collecting amounts owed on the Shared-Loss Loans;

(iii) use commercially reasonable efforts to maximize recoveries with respect to Losses on Shared-Loss Loans without regard to the effect of maximizing collections on assets held by the Purchaser or any of its Affiliates that are not Shared-Loss Loans;

(iv) retain sufficient staff to perform its duties hereunder; and

(v) comply with the terms of the Guidelines for any Shared-Loss Loans meeting the requirements set forth therein. Subject to the approval of the FDIC, the Purchaser may propose exceptions to the Program for a group of Loans with similar characteristics, with the objectives of (1) minimizing the loss to the Purchaser and the FDIC and (2) maximizing the opportunity for qualified homeowners to remain in their homes with affordable mortgage payments.

(b) Any transaction with or between any Affiliate of the Purchaser with respect to any Shared-Loss Loan including, without limitation, the execution of any contract pursuant to which any Affiliate of the Purchaser will manage, administer or collect any of the Shared-Loss Loans, shall be subject to the prior written approval of the Receiver.

3.3 Shared-Loss Asset Records and Reports. The Purchaser shall establish and maintain such records as may be appropriate to account for the Shared-Loss Loans to enable the Purchaser to prepare and deliver to the Receiver such reports as the Receiver may reasonably

require from time to time regarding the Shared-Loss Loans and the Monthly Certificates required by Section 2.1 of this Agreement.

3.4 Related Loans.

(a) The Purchaser shall use its reasonable best efforts to determine which loans are “Related Loans”, as hereinafter defined. Except as otherwise required by law, the Purchaser shall not manage, administer or collect any “Related Loan” in any manner that would have the effect of increasing the amount of any collections with respect to the Related Loan to the detriment of the Shared-Loss Loan to which such loan is related; provided, that the Purchaser shall not be in breach of this Section 3.4(a) with respect to any actions taken by the Purchaser in compliance with Section 5.20 of the LSA or the Program. A “Related Loan” means any other loan or extension of credit held by the Purchaser at any time on or prior to the end of the Final Shared-Loss Month that is made to a Borrower under a Shared-Loss Loan and is not a Shared-Loss Loan.

(b) The Purchaser shall prepare and deliver to the Receiver with the Monthly Certificates for the calendar months ending June 30 and December 31 a schedule of all Related Loans on the Accounting Records of the Purchaser as of the end of each such semi-annual period.

3.5 Legal Action; Utilization of Special Receivership Powers. The Purchaser shall notify the Receiver in writing (such notice to be given in accordance with Article V below and to include all relevant details) prior to utilizing in any legal action any special legal power or right which the Purchaser derives as a result of having acquired an asset from the Receiver, and the Purchaser shall not utilize any such power unless the Receiver shall have consented in writing to the proposed usage. The Receiver shall have the right to direct such proposed usage by the Purchaser and the Purchaser shall comply in all respects with such direction. Upon request of the Receiver, the Purchaser will advise the Receiver as to the status of any such legal action. The Purchaser shall immediately notify the Receiver of any judgment in litigation involving any of the aforesaid special powers or rights.

ARTICLE IV – PORTFOLIO SALE

4.1 Purchaser Portfolio Sale of Remaining Shared-Loss Loans. The Purchaser shall have the right, subject to the prior written consent of the Receiver, to liquidate for cash consideration all Shared-Loss Loans held by the Purchaser at any time prior to the Termination Date (“Portfolio Sale”). If the Purchaser exercises its option under this Section 4.1, it must give thirty (30) days’ prior notice in writing to the Receiver setting forth the details and schedule for the Portfolio Sale which shall be conducted by means of sealed bid sales to third parties, not including any of the Purchaser’s Affiliates, contractors, or any Affiliates of the Purchaser’s contractors. Sales of Restructured Loans shall be sold in a separate pool from Shared-Loss Loans not restructured. The Receiver will review the Purchaser’s proposed Portfolio Sale in a timely fashion and its prior written consent will not be unreasonably withheld; provided, however, that the Receiver shall be entitled to refuse such consent if the Receiver determines that the Portfolio Loss exceeds an equitable representation of the risk of credit loss on the remaining Shared-Loss Loans. For the avoidance of doubt, no consent of the Receiver shall be required for a Portfolio

Sale with respect to which no Portfolio Loss is claimed, and the Receiver shall be relieved of its obligations under this Agreement with respect to any Portfolio Sale effected without the Receiver's consent.

4.2 Purchaser Liquidation of Remaining Shared-Loss Loans. In the event that the Purchaser does not conduct a Portfolio Sale pursuant to Section 4.1, the Receiver shall have the right, exercisable in its sole and absolute discretion, to require the Purchaser to liquidate for cash consideration, any Shared-Loss Loans held by the Purchaser at any time after the date that is six months prior to the Termination Date. If the Receiver exercises its option under this Section 4.2, it must give notice in writing to the Purchaser, setting forth the time period within which the Purchaser shall be required to liquidate the Shared-Loss Loans. The Purchaser will comply with the Receiver's notice and must liquidate the Shared-Loss Loans as soon as reasonably practicable by means of sealed bid sales to third parties, not including any of the Purchaser's Affiliates, contractors, or any Affiliates of the Purchaser's contractors. The selection of any financial advisor or other third party broker or sales agent retained for the liquidation of the remaining Shared-Loss Loans pursuant to this Section shall be subject to the prior approval of the Receiver, such approval not to be unreasonably withheld, delayed or conditioned.

4.3 Calculation of Sale Gain or Loss. For Shared-Loss Loans that are not Restructured Loans, gain or loss on the sales under Section 4.1 or Section 4.2 will be calculated as the net sale price received by the Purchaser less the unpaid principal balance of the remaining Shared-Loss Loans. For any Restructured Loan sold under Section 4.1 or Section 4.2, gain or loss on sale will be calculated as (a) the net sale price received by the Purchaser less (b) the net present value of estimated cash flows on the Restructured Loan that was used in the calculation of the related Restructuring Loss plus (c) Loan principal payments collected by the Purchaser from the date the Loan was restructured to the date of sale. (See Exhibit 2d for example calculation).

ARTICLE V – LOSS-SHARING NOTICES GIVEN TO RECEIVER AND PURCHASER

All notices, demands and other communications hereunder shall be in writing and shall be delivered by hand, or overnight courier, receipt requested, addressed to the parties as follows:

If to the Receiver, to: Manager, Non-Structured Sales and Asset Management
c/o Federal Deposit Insurance Corporation
550 17th Street, NW (Room F-7014)
Washington, D.C. 20429-0002
Attention: Ralph Malami

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: Senior Counsel

With respect to a notice under Section 3.5 of this Agreement, copies of such notice shall also be sent to:

Federal Deposit Insurance Corporation
Legal Division
1910 Pacific Avenue
Dallas, Texas 75201
Attention: Regional Counsel

If to Purchaser, to: 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

Such persons and addresses may be changed from time to time by notice given pursuant to the provisions of this Article V. Any notice, demand or other communication delivered pursuant to the provisions of this Article V shall be deemed to have been given on the date actually received.

ARTICLE VI – MISCELLANEOUS

6.1 Expenses. Except as otherwise expressly provided herein, all costs and expenses incurred by a party hereto in connection with this Agreement shall be borne by such party whether or not the transactions contemplated herein shall be consummated.

6.2 Successors and Assigns; Specific Performance. All terms and provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto only; provided, however, that, the Receiver may assign or otherwise transfer this Agreement (in whole or in part) to the FDIC without the consent of the Purchaser. Notwithstanding anything to the contrary contained in this Agreement, except as is expressly permitted in this Section 6.2 or Section 2.6, the Purchaser may not assign or otherwise transfer this Agreement (in whole or in part) without the prior written consent of the Receiver, which consent may be granted or withheld by the Receiver in its sole discretion, and any attempted assignment or transfer in violation of this provision shall be void *ab initio*.

6.3 Governing Law. FEDERAL LAW OF THE UNITED STATES SHALL CONTROL THIS AGREEMENT. TO THE EXTENT THAT FEDERAL LAW DOES NOT SUPPLY A RULE OF DECISION, THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. Nothing in this Agreement will require any unlawful action or inaction by either party.

6.4 WAIVER OF JURY TRIAL. EACH OF THE PURCHASER, FOR ITSELF AND ITS AFFILIATES, AND THE RECEIVER HEREBY IRREVOCABLY AND

