

CONFIDENTIAL

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CUSTODIAL AND PAYING AGENCY AGREEMENT

by and among

[_____],

as the Company,

FEDERAL DEPOSIT INSURANCE CORPORATION,

as receiver of [_____], as the PMN Designee,

[_____],

as the Custodian,

[_____],

as the Paying Agent,

and

FEDERAL DEPOSIT INSURANCE CORPORATION,

as receiver of [_____], as the Collateral Agent

Dated as of [_____] , 202[__]

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Schedules and Exhibits

<u>Schedule 1</u>	Certain Definitions Used in One or More of the Transaction Documents
<u>Exhibit A</u>	Form of Purchase Money Note
<u>Exhibit B</u>	Form of Global Note
<u>Exhibit C</u>	Form of Collateral Certificate
<u>Exhibit D</u>	Review Procedures
<u>Exhibit E</u>	Form of Supplemental Delivery Certificate
<u>Exhibit F</u>	Confirmation of Release and Receipt of Custodial Documents
<u>Exhibit G</u>	Fees and Expenses of Custodian and Paying Agent
<u>Exhibit H</u>	Paying Agent Report
<u>Exhibit I</u>	Form of Lost Instrument Affidavit
<u>Exhibit J</u>	Authorized Representatives
<u>Exhibit K</u>	Form of Account Control Agreement
<u>Exhibit L</u>	Form of Distribution Date Report
<u>Exhibit M</u>	Form of Monthly Report

CUSTODIAL AND PAYING AGENCY AGREEMENT

THIS CUSTODIAL AND PAYING AGENCY AGREEMENT (as the same shall be amended in accordance with the terms hereof, this “**Agreement**”) is made and entered into as of [____], 202[____], by and among: (i) [____] (the “**Company**”); (ii) [____], as Custodian (as such term is defined below); (iii) [____], as Paying Agent (as such term is defined below); (iv) each Debtor (as such term is defined below); (v) the Federal Deposit Insurance Corporation (acting in any capacity, the “**FDIC**”), as receiver of [____] (the “**Failed Bank**”) (in such capacity, the “**Receiver**”), as PMN Designee (as such term is defined below); and (vi) the Receiver, as Collateral Agent (as such term is defined below).

RECITALS

WHEREAS, (i) pursuant to the certain Loan Sale Agreement (as such term is defined below), the Company purchased certain Loans (as such term is defined below) and assumed certain liabilities related thereto of the Failed Bank, (ii) in connection therewith, the Company has requested the Receiver to provide certain purchase money secured financing and (iii) the Receiver is willing to provide such purchase money secured financing, but only on the terms and subject to the conditions set forth herein and in the other Transaction Documents (as such term is defined below); and

WHEREAS, the Failed Bank previously owned the Loans; and

WHEREAS, pursuant to the Security Agreement (as such term is defined below), the Debtors (as such term is defined below) have pledged their right, title and interest in certain Loans and Underlying Collateral (as such term is defined below) for such Loans to the Collateral Agent for the benefit of the Note Holders, and the Security Agreement requires the Debtor to retain a document custodian, meeting the requirements set forth in the Security Agreement, to take possession of the Custodial Documents (as such term is defined below), in accordance with the terms and conditions hereof; and

WHEREAS, the Company wishes to open and maintain in its name at the Paying Agent certain accounts into which amounts will be deposited and proceeds will be distributed as provided herein, and to appoint the Paying Agent to perform the services contemplated by this Agreement commencing on the date hereof; and

WHEREAS, the parties hereto wish to enter into this Agreement to, among others, govern the allocation of the proceeds to be distributed from each account established pursuant to this Agreement and the performance of certain tasks by the Company.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and agreements contained herein, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

ARTICLE I DEFINITIONS AND CONSTRUCTION

Section 1.1 Definitions. Capitalized terms used in this Agreement have the meaning provided (i) in this Agreement (either within the body of this Agreement or Schedule 1), or (ii) if not defined herein, in the Security Agreement or in the Loan Sale Agreement.

Section 1.2 Rules of Construction. This Agreement shall be construed and interpreted in accordance with the following:

- (a) References to this Agreement includes all exhibits and schedules attached hereto.
- (b) References to “Affiliates” include only other Persons that 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.
- (c) Unless the context clearly requires otherwise, certain terms used herein (including in Schedule 1 hereto) without definition that are defined in the NY UCC have the meanings given to them in the NY UCC (such meanings to be equally applicable to both the singular and plural forms of the terms defined).
- (d) References to “the Debtors” are to the Debtors, jointly and severally.
- (e) The term “or” is not exclusive.
- (f) A reference to a law includes any amendment, modification or replacement to such law.
- (g) 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, to the extent applicable, in accordance with the terms of the Security Agreement).
- (h) 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.
- (i) 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.
- (j) 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.

(k) 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

PAYING AGENT AND WITHHOLDING ON PURCHASE MONEY NOTE

Section 2.1 Appointment of Paying Agent. Subject to the terms and conditions of this Agreement, the Paying Agent hereby agrees to perform the duties of Paying Agent specifically set forth hereunder.

Section 2.2 [Reserved].

Section 2.3 Duties. The Paying Agent shall have no duties other than those specifically set forth or provided for in this Agreement and the Account Control Agreement, and no implied covenants or obligations of the Paying Agent shall be read into this Agreement or the Account Control Agreement or any related agreement to which it is a party. The Paying Agent shall have no obligation to inquire whether any request, instruction, certificate, direction, receipt, demand, consent, resolution, statement, instrument, opinion, report, notice, document, communication, statement or calculation is in conformity with the terms of the agreement pursuant to which it is given, except those irregularities or errors manifestly apparent on the face of such document or actually known to a Responsible Officer of the Paying Agent. If, however, any remittance or communication received by the Paying Agent appears manifestly erroneous or irregular, the Paying Agent shall endeavor to make prompt inquiry to the Person originating such remittance or communication in order to determine whether a clerical error or inadvertent mistake has occurred.

Section 2.4 Withholding. If the Paying Agent is required to withhold from amounts otherwise payable to any Note Holder any tax that is legally owed in connection therewith, the Paying Agent is hereby authorized to withhold the amount of any such tax and shall timely pay over such amount to the relevant taxing authority. The Paying Agent shall provide evidence of such payment to the Collateral Agent and the Receiver within thirty (30) days after the date of such payment (or, if evidence is not available within thirty (30) days, as soon as possible thereafter). The amount of any such tax shall reduce the amount otherwise payable to such Note Holder unless such Note Holder is entitled to receive Withholding Tax Gross-Up Payments, and the Paying Agent shall timely perform any tax reporting in connection therewith. The Company hereby covenants with the Paying Agent that it will provide the Paying Agent with sufficient information so as to enable the Paying Agent to determine whether or not it is obliged to make any withholding in respect of any payments with respect to a Purchase Money Note (and if applicable, to provide the necessary detailed information to effectuate any withholding, such as setting forth applicable amounts to be withheld). Upon reasonable request from the Paying Agent, the Company will provide such information that it may have to assist the Paying Agent in making any withholdings or informational reports.

Section 2.5 Form of Purchase Money Notes.

(a) Forms Generally. Each Purchase Money Note shall be in the form of Exhibit A attached hereto, which shall be registered in the name of the owner or nominee thereof, duly

executed by the Company as herein provided. If the PMN Designee elects to have the Purchase Money Notes made DTC Eligible, then upon the Purchase Money Notes being made DTC Eligible, the outstanding Purchase Money Notes shall be exchanged for one or more global notes (having, in the aggregate, a face principal amount equal to the aggregate Original Amount of the Purchase Money Notes, as specified in, and subject to, Section 2.7(d)) in definitive, fully registered form without interest coupons substantially in the form of Exhibit B attached hereto (collectively, the “**Global Notes**”), which (I) shall be registered in the name of the Depository for such Global Note or Global Notes or the nominee of such Depository and (II) shall be held by the Paying Agent as custodian for the Depository unless the Depository instructs otherwise. Any Purchase Money Notes that have not been exchanged for Global Notes are hereinafter referred to as “**Non-Global Certificated Notes**”.

(b) OID Legend. (i) To the extent required by Sections 1272, 1273 and 1275 of the Code, and any regulations issued regarding such elections, each Purchase Money Note treated as issued at a discount to its stated redemption price at maturity for federal income tax purposes shall bear a legend in substantially the following form:

FOR THE PURPOSES OF SECTIONS 1272, 1273 AND 1275 OF THE
INTERNAL REVENUE CODE OF 1986, AS AMENDED, THIS PURCHASE
MONEY NOTE IS BEING ISSUED WITH ORIGINAL ISSUE DISCOUNT.
YOU MAY CONTACT THE COMPANY AT
_____, ATTENTION: _____,
AND THE COMPANY WILL PROVIDE YOU WITH THE ISSUE PRICE AND
THE YIELD TO MATURITY OF THIS PURCHASE MONEY NOTE.

(ii) The Company will supply to the Paying Agent, at the time and in the manner and to the extent required by applicable regulations of the United States Treasury Department, information with respect to any original issue discount accruing on the Purchase Money Notes.

Section 2.6 Authorized Amount.

(a) The aggregate face amount of Purchase Money Notes is limited to [_____] and NO/100 dollars (U.S. \$[_____] .00) (the “**Stated Note Amount**”).

(b) The Purchase Money Note has been issued in an original principal amount of [_____] and NO/100 dollars (U.S. \$[_____] .00), dated as of the date hereof.

Section 2.7 Execution, Delivery and Dating.

(a) Each Purchase Money Note was executed on behalf of the Company by one of the Authorized Representatives of the Company.

(b) Purchase Money Notes bearing the manual or facsimile signatures of individuals who were at any time the Authorized Representative of the Company shall bind the Company, notwithstanding the fact that such individuals or any of them have ceased to hold such offices prior

to the execution and delivery of such Purchase Money Notes or did not hold such offices at the date of issuance of such Purchase Money Notes.

(c) Each Purchase Money Note executed and delivered by the Company, on the date hereof or thereafter, shall be dated the date hereof.

(d) Purchase Money Notes issued upon transfer, exchange or replacement of other Purchase Money Notes shall be issued in Authorized Denominations reflecting the Original Amount of the Purchase Money Notes so transferred, exchanged or replaced, and shall be dated the date hereof, but shall represent only the actual current outstanding principal amount of, and the same rights with respect to the payment on interest as, the Purchase Money Notes so transferred, exchanged or replaced. In the event that any Purchase Money Note is divided into more than one Purchase Money Note in accordance with this Article II, the Original Amount of such Purchase Money Note shall be proportionately divided among the Purchase Money Notes delivered in exchange therefor and (subject to the preceding sentence) shall be deemed to be the Original Amount of such subsequently issued Purchase Money Notes. If any Purchase Money Note is in the custody of the Paying Agent, the Paying Agent shall, upon any payment in respect of the principal amount hereof, endorse such Purchase Money Note on Schedule A thereto to reflect such payment. In any event, the Paying Agent shall complete Schedule A of each Purchase Money Note issued upon transfer, exchange or replacement of any other Purchase Money Note(s) to set forth the amount of all payments of the Original Amount previously made on the old Purchase Money Note (or portion thereof) or Purchase Money Notes (or portions thereof) with respect to which such new Purchase Money Note is issued and the date to which interest on such old Purchase Money Note(s) has been paid.

(e) After the exchange of all outstanding Non-Global Certificated Notes for the Global Note(s) pursuant to Section 2.5 and prior to any exchange of the Global Notes for Non-Global Certificated Notes pursuant to Section 2.11(a), no Non-Global Certificated Notes shall be issued. Except pursuant to Section 2.11(a), Global Notes may only be exchanged for other Global Notes.

Section 2.8 Registration, Registration of Transfer and Exchange.

(a) The Company shall cause to be kept a register (the “**Notes Register**”) in which, subject to such reasonable regulations as it may prescribe with the consent of the PMN Designee, the Company shall provide for the registration, and the registration of transfers, of Purchase Money Notes. The Paying Agent is hereby initially appointed “**Notes Registrar**” for the purpose of registering Purchase Money Notes and transfers of such Purchase Money Notes as herein provided. Upon any resignation or removal of the Notes Registrar, the Company shall promptly appoint a successor.

(b) If a Person other than the Paying Agent is appointed by the Company as Notes Registrar, the Company will give the Paying Agent prompt notice of the appointment of a Notes Registrar and of the location, and any change in the location, of the Notes Registrar, and the Paying Agent shall have the right to inspect the Notes Register at all reasonable times and to obtain copies thereof and the Paying Agent shall have the right to rely upon a certificate executed on behalf of the Notes Registrar by an officer thereof as to the names and addresses of the Note Holders and the principal or face amounts and numbers of such Purchase Money Notes. Upon written request

at any time, the Notes Registrar promptly shall provide to the Company or the Collateral Agent a current list of Note Holders as reflected in the Notes Register.

(c) Subject to this Section 2.8, upon surrender to the Notes Registrar for registration of transfer of any Purchase Money Note, the Notes Registrar shall prepare and the Company shall execute and deliver, in the name of the designated transferee or transferees, one or more new Purchase Money Notes of any Authorized Denomination and of like terms and a like aggregate Original Amount. The Company shall furnish a copy of the executed Purchase Money Notes to the Notes Registrar.

(d) At the option of a Note Holder, a Purchase Money Note may be exchanged for Purchase Money Notes of like terms, in any Authorized Denominations and of like aggregate Original Amount upon surrender of the Purchase Money Note to be exchanged at such office or agency. Whenever any Purchase Money Note is surrendered to the Notes Registrar for exchange, the Notes Registrar shall prepare, and the Company shall execute and deliver, the Purchase Money Notes that the Note Holder making the exchange is entitled to receive and shall deliver a copy of such executed Purchase Money Note to the Notes Registrar.

(e) All Purchase Money Notes issued upon any registration of transfer or exchange of such Purchase Money Notes shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Agreement, as the Purchase Money surrendered upon such registration of transfer or exchange.

(f) Every Purchase Money Note presented or surrendered for registration of transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer in form reasonably satisfactory to the Company and the Notes Registrar duly executed by the Note Holder thereof or his attorney duly authorized in writing.

(g) No service charge shall be made to a Note Holder for any registration of transfer or exchange of Purchase Money Notes, but the Company or the Paying Agent may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

(h) Agent Members shall have no rights under this Agreement with respect to any Global Note held on their behalf by the Paying Agent, as custodian for the Depository, and the Depository may be treated by the Company, the Paying Agent, and any agent of the Company or the Paying Agent as the absolute owner of such Global Note for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Paying Agent, or any agent of the Company or the Paying Agent, from giving effect to any written certification, proxy or other authorization furnished by the Depository or impair, as between the Depository and its Agent Members, the operation of customary practices governing the exercise of the rights of a beneficial interest in any Global Note.

(i) *Subject to Section 2.8(k) but otherwise* notwithstanding any provision to the contrary herein, so long as a Purchase Money Note remains outstanding, transfers and exchanges of a Purchase Money Note, in whole or in part, shall only be made in accordance with this Section 2.8.

(j) Notwithstanding anything contained herein to the contrary, neither the Paying Agent nor the Notes Registrar shall be responsible for ascertaining whether any transfer complies with the registration provisions of or any exemptions from the Securities Act, applicable state securities Laws or the Laws of any other jurisdiction, ERISA, the Code or the Investment Company Act of 1940, as amended.

(k) Nothing in this Section 2.8 limits or qualifies, and this Section 2.8 is in all respects subject to, Section 2.11(e).

Section 2.9 Mutilated, Defaced, Destroyed, Lost or Stolen Purchase Money Notes.

(a) If (i) any mutilated or defaced Purchase Money Note is surrendered to a Paying Agent, or if there shall be delivered to the Company and the Paying Agent evidence to their reasonable satisfaction of the destruction, loss or theft of any Purchase Money Note, and (ii) there is delivered to the Company and the Paying Agent such security or indemnity as may be required by them to save each of them and any agent of any of them harmless, then, in the absence of notice to the Company or such Paying Agent that such Purchase Money Note has been acquired by a bona fide purchaser, the Company shall execute and deliver, in lieu of any such mutilated, defaced, destroyed, lost or stolen Purchase Money Note, a new Purchase Money Note, of like tenor (including the same date of issuance) and equal principal or face amount registered in the same manner, dated the date of its authentication, bearing interest from the date to which interest has been paid on the mutilated, defaced, destroyed, lost or stolen Purchase Money Note and bearing a number not contemporaneously outstanding.

(b) If, after delivery of such new Purchase Money Note, a bona fide purchaser of the predecessor Purchase Money Note presents for payment, transfer or exchange such predecessor Purchase Money Note, the Company, the Notes Registrar and the Paying Agent shall be entitled to recover such new Purchase Money Note from the Person to whom it was delivered or any Person taking therefrom, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the Company and the Paying Agent in connection therewith.

(c) In case any such mutilated, defaced, destroyed, lost or stolen Purchase Money Note has become due and payable, the Company may in its discretion, instead of issuing a new Purchase Money Note, pay such Purchase Money Note without requiring surrender thereof, except that any mutilated Purchase Money Note shall be surrendered.

(d) Upon the issuance of any new Purchase Money Note under this Section 2.9, the Company may require the payment by the Note Holder thereof of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent) connected therewith.

(e) Every new Purchase Money Note issued pursuant to this Section 2.9 in lieu of any mutilated, defaced, destroyed, lost or stolen Purchase Money Note shall constitute an original additional contractual obligation of the Company, and such new Purchase Money Note shall be entitled, subject to Section 2.9(b), to all the benefits of this Agreement equally and proportionately with any and all other Purchase Money Notes duly issued hereunder.

(f) The provisions of this Section 2.9 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, defaced, destroyed, lost or stolen Purchase Money Notes.

Section 2.10 Payments with Respect to the Purchase Money Notes. (a) All reductions in the principal amount of a Purchase Money Note (or one or more predecessor Purchase Money Notes) effected by prepayments of principal shall be binding upon all future Note Holders of such Purchase Money Note and of any Purchase Money Note issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof, whether or not such payment is noted on such Purchase Money Note. Subject to the foregoing, each Purchase Money Note delivered under this Agreement and upon registration of transfer of or in exchange for or in lieu of any other Purchase Money Note shall carry the rights of unpaid principal that were carried by such other Purchase Money Note.

(b) Payments in respect of interest and principal of, and any Withholding Tax Gross-Up Payment in respect of, any Purchase Money Note shall be made by or on behalf of the Company, in Dollars, to the Depository or its nominee with respect to a Global Note and to the Note Holder or its designee with respect to a Non-Global Certificated Note, by wire transfer, as directed by the Note Holder, in immediately available funds to a Dollar account maintained by the Depository or its nominee with respect to a Global Note, and to the Note Holder or its designee with respect to a Non-Global Certificated Note; provided that (i) in the case of a Non-Global Certificated Note, the Note Holder thereof shall have provided written wiring instructions to the Paying Agent on or before the related Record Date; and (ii) if appropriate instructions for any such wire transfer are not received at least 15 Business Days prior to the relevant Distribution Date or Maturity Date (or, in the case of any distribution pursuant to Section 3.5, the distribution date therefor as specified in Section 3.5), as the case may be, then such payment shall be made by check drawn on a U.S. bank mailed to the address of the Note Holder specified in the Notes Register. All notices and communications to be given to the Note Holders and all payments to be made to Note Holders in respect of the Purchase Money Notes shall be given or made only to or upon the order of the registered Note Holders. Neither the Company nor the Paying Agent shall have any responsibility or liability for any aspects of the records maintained by any of the Agent Members relating to or for payments made thereby on account of beneficial interests in a Global Note.

(c) From time to time, upon the written request of any Note Holder or the PMN Designee, the Paying Agent shall provide such Note Holder or the PMN Designee, as applicable, with a statement of the aggregate amount of principal payments that have been made with respect to the Purchase Money Notes (in absolute terms and per \$1,000 Original Amount) and the last date through which all accrued and unpaid interest on the Purchase Money Notes was paid.

Section 2.11 Mandatory Exchange; Cooperation with Receiver Dispositions. (a) A Global Note deposited with the Depository shall be exchanged for one or more Non-Global Certificated Notes issued to the beneficial owners thereof (i) if either (x) the Depository notifies the Company that it is unwilling or unable to continue as depository for such Global Note or (y) at any time the Depository ceases to be a Clearing Agency registered under the Exchange Act and a successor depository is not appointed by the Company within 90 days after such notice or (ii) upon a request to such effect by the PMN Designee while an Event of Default is continuing.

(b) Any Global Note that is exchanged for a Non-Global Certificated Note pursuant to this Section 2.11 shall be surrendered by the Depository to the Paying Agent to be so transferred, in whole or from time to time in part, without charge, and the Company shall execute, and the Paying Agent shall deliver, upon such transfer of each portion of such Global Note, an equal aggregate Original Amount of Non-Global Certificated Notes in Authorized Denominations.

(c) Subject to the provisions of subsection (b) of this Section 2.11, the Note Holder of a Global Note may grant proxies and otherwise authorize any Person, including Agent Members and Persons that may hold interests through Agent Members, to take any action which a Note Holder is entitled to take under this Agreement or the Purchase Money Notes.

(d) In the event of the occurrence of the event specified in Section 2.11(a), the Company shall promptly make available to the Paying Agent a reasonable supply of Non-Global Certificated Notes in definitive, fully registered form without interest coupons. The Company shall execute, and the Paying Agent shall deliver, in exchange for the Global Note or Global Notes, as the case may be, the same Original Amount of Non-Global Certificated Notes of Authorized Denominations.

(e) The Company acknowledges and in any event consents and agrees that the Receiver may, subject to compliance with any applicable securities Laws but otherwise without restriction (and notwithstanding anything to the contrary set forth in this Agreement or any other Transaction Document), assign, sell, transfer, participate, pledge, syndicate, securitize or otherwise hypothecate the Purchase Money Notes, or all or a portion of its rights and/or obligations under this Agreement (including all or a portion of the indebtedness evidenced thereby) and including any replacement notes described in clause (ii) below held by it), directly or indirectly (any of the foregoing by the Receiver, a “**Receiver Facility Disposition**”). The Company covenants and agrees that, notwithstanding anything to the contrary set forth in this Agreement or any other Transaction Document, the Company shall, and shall cause each other Debtor to, at its or their own expense, engage such counsel and other third parties and otherwise cooperate with and assist the Receiver, on a time-of-the-essence basis, in any actual or proposed Receiver Facility Disposition, as may be requested by the Receiver from time to time, including by:

(i) providing information and documentation required by securities disclosure and registration laws and as would otherwise customarily be provided in connection with the issuance or sale of debt by the Company, or in connection with a securitization of debt of the Company, including providing to the Note Holder for inclusion in any securitization offering document such publicly available information regarding the Company, its financial condition and any additional information reasonably requested by the Note Holder, and to deliver to the Note Holder any similar nonpublic, unaudited financial information, or as is otherwise reasonably requested by the Note Holder and which the Company is capable of providing without unreasonable effort or expense, and to indemnify the Note Holder and its Affiliates for material misstatements or omissions contained in such information; *provided however*, that the Company will not be required to make any disclosure that would violate securities or banking laws to which the Company is subject;

(ii) effecting such assignments of, or amendments or modifications to the Transaction Documents as the Receiver may specify (subject to securing any required consent

thereto of the PMN Designee) in order to effect or facilitate, or otherwise in connection with, such Receiver Facility Disposition, including assignments to any trustee for or issuing entity of a securitization of the Purchase Money Notes, or amendments or modifications (x) providing for, facilitating or otherwise appropriately reflecting the division of the Purchase Money Notes into multiple promissory notes for the same, in the aggregate, principal amount and the registration of transfers of such multiple promissory notes, and different owners of such promissory notes, or causing the Purchase Money Notes to be DTC Eligible, and (y) relating to compliance with securities laws, provided that no such amendment or modification will, without the consent of the Company (which shall not unreasonably be withheld or delayed) (A) increase the aggregate principal amount of, or the interest rate on, or accelerate the maturity date of, the indebtedness evidenced by the Purchase Money Notes (or any such replacement multiple promissory notes), (B) impose additional prepayment obligations in respect of the Purchase Money Notes (or any such replacement multiple promissory notes) or (C) otherwise increase in any material respect the financial obligations of the Company under the Transaction Documents (unless, with respect to this clause (C), the Company is indemnified against or otherwise compensated for, such increased financial obligations in a manner reasonably satisfactory to the Company);

(iii) without limiting the generality of clause (ii), entering into an indenture or a fiscal and paying agent agreement, and other agreements, with respect to the Purchase Money Notes (or the multiple promissory notes replacing the Purchase Money Notes as described in clause (ii)) or any Receiver Facility Disposition; and

(iv) providing at Company's expense opinions of counsel (which counsel shall be independent, outside counsel of the Company), certificates and other closing documents of the nature provided in connection with the execution and delivery of the relevant Transaction Documents, or as are customarily delivered and reasonably determined by the PMN Designee to be necessary in connection with any securitization of assets such as the Purchase Money Notes, in form and substance satisfactory to the Receiver.

Without limitation of the foregoing, at the option of the Receiver as the initial Note Holder (and whether or not in the context of a Receiver Facility Disposition), the relevant Transaction Documents shall be amended to provide for (i) the Purchase Money Notes to be issued in registered form, (ii) the Company to keep a register in which the Company shall provide for the registration, and the registration of transfers, of the Purchase Money Notes, and for the appointment by the Company of an agent (which may be the Paying Agent) for the purpose of registering the Purchase Money Notes and transfers thereof, all at the Company's expense, (iii) the Purchase Money Notes to be made DTC Eligible, and (iv) matters related to the foregoing. In connection with any amendment of the Purchase Money Notes to reflect the foregoing, the Company will execute and deliver (and, if relevant, cause to be duly authenticated) new Purchase Money Notes reflecting such modifications thereto (in exchange for the then-outstanding Purchase Money Notes).

(f) At the request of the Note Holder or the PMN Designee at any time (whether or not in connection with any proposed sale or transfer of the Purchase Money Notes), the Company shall, at its own expense, use all commercially reasonable best efforts to, as promptly as practicable after such request of the Note Holder or the PMN Designee, make the Purchase Money Notes DTC Eligible (which efforts shall include making any amendments to, or exchanges of, the relevant Transaction Documents requested by the Note Holder and necessary in connection with effecting

or facilitating such DTC Eligibility, executing any Letter of Representations and other documentation required by the DTC in connection with effecting such DTC Eligibility and securing CUSIP and ISIN numbers for the Purchase Money Notes). From and after the date on which the Purchase Money Notes have been made DTC Eligible, the Company will use all commercially reasonable best efforts to maintain the Purchase Money Notes as DTC Eligible unless otherwise agreed by the Note Holder.

Section 2.12 Persons Deemed Owners. The Company, the Paying Agent and any agent of the Company or the Paying Agent shall treat the Person in whose name any Purchase Money Note is registered as the owner of such Purchase Money Note on the Notes Register on the applicable Record Date for the purpose of receiving payments of principal of and interest on or other distributions with respect to such Purchase Money Note and on any other date for all other purposes whatsoever (whether or not such payments are overdue), and neither the Company, nor the Paying Agent, nor any agent of the Company or the Paying Agent, shall be affected by notice to the contrary.

Section 2.13 Cancellation. The Paying Agent shall promptly cancel any Purchase Money Note surrendered to it in connection with any payment, registration of transfer or exchange, or amendment of such Purchase Money Note. All Purchase Money Notes surrendered for payment, registration of transfer or exchange, or deemed lost or stolen, shall, if surrendered to any Person other than the Paying Agent, be delivered to the Paying Agent, and shall be promptly canceled by it and may not be reissued or resold. No Purchase Money Notes shall be issued in lieu of or in exchange for any Purchase Money Notes canceled as provided in this Section 2.13, except as expressly permitted by this Agreement. All cancelled Purchase Money Notes held by the Paying Agent shall be destroyed or held by the Paying Agent in accordance with its standard retention policy unless the Company shall direct that they be returned to it.

Section 2.14 DTC Eligibility. At the request of the Note Holder or the PMN Designee at any time (whether or not in connection with any proposed sale or transfer of the Purchase Money Notes), the Company shall, at its own expense, use all commercially reasonable best efforts to, as promptly as practicable after such request of the of the Note Holder or the PMN Designee, make the Purchase Money Notes DTC Eligible (which efforts shall include making any amendments to, or exchanges of, the Transaction Documents (including the Purchase Money Notes but excluding the Loan Sale Agreement) requested by the Note Holder or the PMN Designee and necessary in connection with effecting or facilitating such DTC Eligibility, executing any Letter of Representations and other documentation required by the DTC in connection with effecting such DTC Eligibility and securing CUSIP and ISIN numbers for the Purchase Money Notes). From and after the date on which the Purchase Money Notes have been made DTC Eligible, the Company will use all commercially reasonable best efforts to maintain the Purchase Money Notes as DTC Eligible unless otherwise agreed by the Note Holder or the PMN Designee.

ARTICLE III ACCOUNTS

Section 3.1 Collection Account.

(a) On the date hereof, the Company shall establish the Collection Account as the account numbered [] at the Paying Agent.

(b) The Debtors shall transfer, or cause to be transferred to the Paying Agent for deposit into the Collection Account all Collateral Loan Proceeds:

(i) that are received by any Debtor, including payments under Sections 2.4.1 and 2.4.2, and/or Section 7 of the Loan Sale Agreement, and proceeds under Sections 3.5 and 9.1 of the Security Agreement, within one (1) Business Day after being received by any Debtor;

(ii) that are received by a Servicer pursuant to a Legacy Assumed Servicing Contract, no later than the later of (A) one (1) Business Day after being received by any Servicer, and (B) earliest date upon which any Debtor can require the Servicer to complete such transfer; and

(iii) that are received by a Servicer pursuant a servicing agreement that is not a Legacy Assumed Servicing Contract, within one (1) Business Day after being received by such Servicer.

(c) No funds from any source other than Collateral Loan Proceeds (and interest or earnings on the Collateral Loan Proceeds) shall be commingled in the Collection Account.

(d) If the Company at any time erroneously deposits any amount into the Collection Account, the Company will have authority to request the withdrawal of such amount and instruct the Paying Agent to return such amount to the Company. The Company shall provide such requests to the Paying Agent in accordance with Section 18.1, with a copy of such request simultaneously being provided to the Collateral Agent and the PMN Designee.

(e) The Paying Agent shall invest the amounts on deposit in the Collection Account in Permitted Investments in accordance with Section 4.1.

(f) The Paying Agent shall transfer funds from the Collection Account to the Distribution Account pursuant to Section 3.2 and as otherwise set forth in this Agreement and not for any other purpose.

(g) Except as expressly permitted in this Section 3.1, in no event shall the Company (or any Debtor) have the right to withdraw, or otherwise direct the transfer of, funds from the Collection Account.

Section 3.2 Distribution Account. On the date hereof, the Company shall establish the Distribution Account at the Paying Agent as account number []. The Paying Agent shall transfer from the Collection Account to the Distribution Account, for application pursuant to Section 5.1, not later than 12:00 p.m. New York City time on the Business Day immediately preceding each Distribution Date (and not earlier than on such immediately preceding Business Day), the amount specified in the Distribution Date instructions delivered pursuant to clause (i) of Section 11.4 for such Distribution Date. The Paying Agent may invest overnight, solely in Permitted Investments of an overnight nature, any funds held in the Distribution Account on the Business Day prior to any Distribution Date. Except as otherwise expressly provided in Sections

3.3, 3.4 and 3.5, no funds from any other source shall be commingled in the Distribution Account. Except as otherwise expressly provided in Sections 3.3, 3.4 and 3.5 (with respect to amounts deposited in the Distribution Account pursuant to such sections), and subject to Section 5.2 hereof, amounts on deposit in the Distribution Account (including interest and earnings thereon) shall be allocated and may be withdrawn and disbursed only in accordance with the provisions of Section 5.1. The Paying Agent shall be authorized and directed to withdraw funds from the Distribution Account only to make disbursements in accordance with this Agreement and not for any other purpose.

Section 3.3 Funding of Voluntary Prepayments. In the event that the Company shall specify any voluntary prepayment in respect of the Purchase Money Notes pursuant to Section 11.3(d) hereof, the Company shall deposit with the Paying Agent, for application pursuant to clause (ii) of Section 11.4 hereof, not later than 12:00 p.m. New York City time on the Business Day immediately preceding the relevant Distribution Date, an amount of immediately available funds (in Dollars) equal to the amount of such voluntary prepayment (it being understood and agreed that neither funds already in the Debtor Accounts nor any Collateral Loan Proceeds may be used for such purpose). The Paying Agent shall deposit such funds into the Distribution Account. The Paying Agent may invest overnight, solely in Permitted Investments of an overnight nature, any such funds transferred to it pursuant to this Section 3.3. Such funds, including any such overnight investments (except for such income or gain), shall be held in trust by the Paying Agent for the benefit of the Note Holders to be applied on the relevant Distribution Date as specified in Section 11.4; and such funds may be disbursed only in accordance with the provisions of Section 11.4, and not for any other purpose.

Section 3.4 Funding of Certain Payment Obligations.

(a) If the distributions to be made by the Paying Agent on any Distribution Date (as specified in the Distribution Date Report for such Distribution Date) exceed the balance of collections in the Collection Account, then the Company shall deposit with the Paying Agent an amount of immediately available funds (in Dollars) equal to the amount of such shortfall pursuant to the requirements of Section 5.1(b).

(b) Not later than 12:00 p.m. New York City time on the Business Day immediately preceding the Maturity Date, the Company shall deposit with the Paying Agent immediately available funds (in Dollars) in an amount sufficient, after taking into account all distributions to be made on the Maturity Date (if it is a Distribution Date) pursuant to Section 5.1 hereof, to pay the outstanding principal amount of, all accrued and unpaid interest on, and all Withholding Tax Gross-Up Payments in respect of, the Purchase Money Notes in full on the Maturity Date. Any deposit made pursuant to this Section 3.4(b) at a time when there shall be more than one Note Holder shall be accompanied by instructions specifying the amounts to be paid to each Note Holder.

(c) The Paying Agent shall deposit into the Distribution Account any funds transferred to it pursuant to this Section 3.4. The Paying Agent may invest overnight, solely in Permitted Investments of an overnight nature, any funds transferred to it pursuant to this Section 3.4. Such funds, including any such overnight investments (except for such income or gain), shall be held in trust by the Paying Agent for the benefit of the Note Holders to be applied on the relevant

Distribution Date or the Maturity Date, as applicable (or, in the case of Section 3.4(b) and with respect to any particular Note Holder, upon later surrender of the Purchase Money Notes of such Note Holder, if required), to the payment of the relevant amounts described in Section 3.4(a) or (b), as applicable; and such funds may be disbursed only in accordance with the provisions of this Section 3.4, and not for any other purpose.

Section 3.5 Purchase Price Adjustment. If the Receiver is required to make any payment to the Company pursuant to Sections 2.4.1 and 2.4.2, and/or Section 7 of the Loan Sale Agreement, and elects to make such payment in cash to the Paying Agent (rather than by setoff against the Purchase Money Notes), then the Paying Agent shall (i) deposit any such funds paid to it into the Distribution Account and (ii) on the first Business Day following its receipt of such payment from the Receiver, apply such payment as set forth in Section 5.1(a) (for the avoidance of doubt, in such order of priority and as if references therein to “Distribution Date” instead were references to such Business Day). The Paying Agent may invest overnight, solely in Permitted Investments of an overnight nature, any such funds transferred to it by the Receiver as described above in this Section 3.5. Such funds, including any such overnight investments (except for such income or gain), shall be held in trust by the Paying Agent for the benefit of the Company, to be applied on the Business Day described above in this Section 3.5; and such funds may be disbursed only in accordance with the provisions of this Section 3.5, and not for any other purpose. With respect to any deposit made pursuant to this Section 3.5, the Company shall provide the Paying Agent with written instructions specifying the distribution of any such amounts.

Section 3.6 Income from Overnight Investment. All income or gain realized on any overnight investment of funds by the Paying Agent pursuant to Sections 3.2, 3.3, 3.4(c) and 3.5 shall be for the benefit of the Paying Agent, except as otherwise agreed between the Company and the Paying Agent.

ARTICLE IV ADDITIONAL PROVISIONS RELATED TO THE ACCOUNTS

Section 4.1 Investment of Funds in Debtor Accounts.

(a) The Paying Agent may at any time invest amounts received and retained in the Collection Account in Permitted Investments and shall make such Permitted Investments as the Company directs (which may be in the form of standing instructions). If the Paying Agent shall not have been given any such investment directions, the balance standing to the credit of the Collection Account will remain uninvested with no liability for interest thereon. It is agreed and understood that the Paying Agent may earn fees associated with Permitted Investments.

(b) If, notwithstanding Section 3.1(e) hereof, on any date when the Paying Agent is to transfer funds from the Collection Account to the Distribution Account, the amount of funds (disregarding Permitted Investments) then on deposit in the Collection Account is less than the amount that the Paying Agent is so required to transfer to the Distribution Account, the Paying Agent shall liquidate the Permitted Investments (or portions thereof) to the extent necessary to make up such shortfall. The net costs and expenses, if any, of such liquidation (including any loss of principal) shall be allocated entirely to the Collection Account. The Paying Agent shall liquidate all those Permitted Investments that can be liquidated without interest cost or penalty before it

shall liquidate any Permitted Investment, the liquidation of which would involve an interest cost or penalty. The Paying Agent shall have no liability with respect to any interest cost or penalty on the liquidation of any Permitted Investment pursuant to this Section 4.1(b).

(c) The Paying Agent shall have no liability with respect to Permitted Investments (or any losses resulting therefrom) made at the direction of the Company pursuant to this Agreement.

(d) All references in this Agreement to the Debtor Accounts and to cash, moneys or funds therein or balances thereof shall include the investments in which such moneys are invested.

(e) The Paying Agent may execute any investment directions provided to it in respect of the Permitted Investments through its Affiliates, and neither the Paying Agent nor its Affiliates shall have a duty to monitor the investment rating of any such Permitted Investments. The Paying Agent will have no obligation to invest or reinvest any funds if all or a portion of such funds are deposited with the Paying Agent after 11:00 a.m. New York City time on the day of deposit. Directions to invest or reinvest that are received after 11:00 a.m. New York City time will be treated as if received on the following Business Day in New York. Subject to Section 4.1(b) above, the Paying Agent will have the power to sell or liquidate Permitted Investments whenever the Paying Agent will be required to make a transfer pursuant to the terms hereof. The Paying Agent will have no responsibility for any investment losses resulting from the investment, reinvestment or liquidation of any funds in accordance with the terms of this Agreement.

(f) Each of the Company and the Collateral Agent acknowledges that upon its written request and at no additional cost, it has the right to receive notification after the completion of each purchase and sale of Permitted Investments or the Paying Agent's receipt of a broker's confirmation. Each of the Company and the Collateral Agent agrees that such notifications shall not be provided by the Paying Agent hereunder, and the Paying Agent shall make available, in lieu of notifications, monthly account statements that reflect such investment activity. No statement need be made available for any account if no activity has occurred in such account during such period.

Section 4.2 Interest. Except as otherwise expressly set forth herein, any interest or other earnings accrued on any balances in any Debtor Account, or on any investment thereof (including any Permitted Investments made pursuant to Section 4.1), shall be credited to and accumulated in such Debtor Account for the benefit of the Company and thereafter be applied without differentiation from other funds in such Debtor Account. For the avoidance of doubt, neither (i) earnings from the investment or reinvestment of funds in the Collection Account in Permitted Investments, nor (ii) any payments made by the Receiver under Sections 2.4.1 and 2.4.2, and/or Section 7 of the Loan Sale Agreement, shall be considered to constitute interest payments on the Collateral Loans for any purpose of this Agreement (including Sections 5.1 and 11.3).

Section 4.3 Payment Procedures. All amounts that from time to time are distributable by the Paying Agent from the Distribution Account in accordance herewith shall be paid by the Paying Agent (from amounts on deposit in the Distribution Account) not later than 12:00 p.m. New York City time on the Distribution Date (or, in the case of any distribution specified in Section 3.4(b) or 3.5, on such other date as may be specified in such sections) in immediately available funds (but not before such amounts become immediately available to it). All payments made by

the Paying Agent shall be made to such account(s) as shall be designated in writing by the Company in accordance with the relevant Distribution Date Report (or, in the case of any distribution specified in Section 3.4(b) or 3.5, in accordance with such instructions as may be delivered to the Paying Agent in accordance with such sections) and this Agreement.

ARTICLE V DISTRIBUTIONS

Section 5.1 Priority of Payments.

(a) Subject to Section 5.2 hereof, but otherwise notwithstanding any other provision in this Agreement, not later than 12:00 p.m. New York City time on each Distribution Date, the Paying Agent shall disburse amounts transferred to the Distribution Account from the Collection Account pursuant to Section 3.2 in accordance with the priorities set forth in Sections 5.1(a)(i) through (a)(v) below (the “**Priority of Payments**”) and pursuant to the Distribution Date instructions contained in the Distribution Date Reports delivered pursuant to Section 11.4:

(i) Custodian/Paying Agent Payments. First, pro rata, to pay any unpaid fees and expenses of the Custodian and the Paying Agent, including any indemnification payments, owed to the Custodian and the Paying Agent in accordance with the terms of this Agreement as of the Determination Date immediately preceding such Distribution Date;

(ii) Interest on Purchase Money Notes. Second, to the Note Holder (to its Note Holder’s Account), to pay all accrued and unpaid interest (including any interest accruing at the Default Interest Rate and any Withholding Tax Gross-Up Payment, if applicable) with respect to the Purchase Money Notes;

(iii) Borrowing Base Shortfall. Third, to the Note Holder (to its Note Holder’s Account), the amount sufficient to eliminate any Borrowing Base Shortfall, to be applied as a prepayment of the Purchase Money Notes;

(iv) Other Amounts Due. Fourth, to pay any other amounts due to the FDIC, the Receiver or the Note Holder (to its Note Holder’s Account) under the Transaction Documents not otherwise addressed by this Section 5.1; and

(v) Conditional Distribution to the Company.¹ [Fifth, [] percent (%) of any remaining portion of the amount first described above in this Section 5.1(a) shall be paid to such account as the Company may designate to the Paying Agent in writing from time to time, provided that if the Paying Agent has received written notice from the Collateral Agent that an Event of Default has occurred and is continuing or would result from the making of the distribution described in this clause (v), then, unless and until the Paying Agent has received another written notice at such address from the Collateral Agent that no Event of Default is continuing or would occur (and in any event without limitation of the Collateral Agent’s rights under the Account Control Agreement and the Security Agreement), such remaining portion shall be applied as

¹ The Receiver reserves the right, in its sole discretion, to modify or remove this provision based on the specific terms and conditions offered on each transaction.

directed in writing by the Collateral Agent from time to time (and held by the Paying Agent for the benefit of the Collateral Agent pending such directions))[]; and]

(vi) Reduction of Outstanding Principal. [Sixth], any remaining portion of the amount first described above in this Section 5.1(a) shall be paid to the Note Holder to reduce the outstanding principal amount of the Purchase Money Notes.

(b) If the aggregate amount available to be distributed on the applicable Distribution Date pursuant to clauses (i) through (iv) of Section 5.1(a) is less than the amount described in such clauses (i) through (iv), then the Company shall deposit the amount of the shortfall into the Distribution Account from its own funds no later than one (1) Business Day before the applicable Distribution Date such that the full amount of the required distributions for such Distribution Date may be made on such date.

(c) This Section 5.1 is subject to Section 5.2 hereof.

Section 5.2 Event of Default. Any other term of this Agreement to the contrary notwithstanding, the Debtor Accounts (and all funds and Permitted Investments therein or allocated thereto) shall be subject to the security interest granted to the Collateral Agent under the Security Agreement and to the terms of, and the rights and remedies of the Collateral Agent under, the Account Control Agreement.

ARTICLE VI CUSTODIAL DOCUMENTS

Section 6.1 Delivery of Custodial Documents.

(a) Delivery. The [Debtors] shall have delivered a schedule of the Collateral Loans (the “Loan Schedule”) showing the loan identification number and unpaid principal balance as of the Bank Closing Date of each Collateral Loan. The Loan Schedule will be maintained by the Collateral Agent in a Venue® virtual data room provided by Donnelley Financial Solutions to the FDIC identified as: [____], within the folder entitled “[____]”. The Receiver will deliver or cause to be delivered to the Custodian within a reasonable period of time after the Closing Date the Custodial Documents (together with an index thereof) to the Custodian at the office of the Custodian at [____] (the “Office”).

(b) Collateral Certificate; Exceptions. By no later than [____], 202[____], the Custodian shall execute and deliver to the Company, the PMN Designee, and the Collateral Agent a certificate, substantially in the form annexed hereto as Exhibit C, to the effect that the Custodian has received and reviewed the Custodial Documents, including a Collateral Schedule and Exception List (“Collateral Certificate”). In reviewing the documents provided with respect to a Collateral Loan, the Custodian shall examine the same in accordance with procedures set forth on Exhibit D hereto (the “Review Procedures”) and determine, with respect to each such document, whether it (i) appears regular on its face (i.e., is not mutilated, damaged, torn, defaced or otherwise physically altered), (ii) relates to such Collateral Loan, (iii) has been executed by the named parties thereon, (iv) where applicable, purports to be recorded and (v) appears to be what it purports to be.

(c) Custodial Documents. For each Collateral Loan, to the extent applicable and available, the “Custodial Documents” shall include the following:

(i) the original Collateral Loan Note bearing all intervening endorsements, and for each Collateral Loan Note, in each case as required pursuant to Section 3.1 of the Security Agreement, (x) an executed Debtor Allonge effecting the current endorsement of the original Collateral Loan Note in blank, (y) the following endorsement in blank stamped and executed on the original Note:

PAY TO THE ORDER OF _____.

By: _____

Name: _____

Title: _____

or (z) if such Collateral Loan Note is not available, an executed Debtor Assignment and Lost Instrument Affidavit;

(ii) the original Mortgage with evidence of recording thereon, or a certified copy thereof from the applicable Recording Office, or a copy thereof together with an officer’s certificate of the related Borrower, title company, escrow agent or closing attorney certifying that such represents a true and correct copy of the original and that such original has been submitted for recordation in the applicable Recording Office;

(iii) the originals of all assumption, modification, consolidation or extension agreements (if any) with evidence of recording thereon, or certified copies thereof from the applicable Recording Office, or copies thereof together with a certification by or other similar evidence from the applicable Recording Office or an officer’s certificate of the related Borrower, title company, escrow agent or closing attorney certifying that such represents a true and correct copy of the original and that such original has been submitted for recordation in the applicable Recording Office;

(iv) for each Mortgage, the original Debtor Mortgage Assignment in blank, signed in the name of the Company (or other applicable Debtor) in form and substance acceptable for recording and as required pursuant to Section 3.2 of the Security Agreement;

(v) for each Mortgage, the originals of all other intervening mortgage assignments (if any) with evidence of recording thereon, or certified copies thereof from the applicable Recording Office, or copies thereof together with an officer’s certificate of the related Borrower, title company, escrow agent or closing attorney certifying that such represents a true and correct copy of the original and that such original has been submitted for recordation in the applicable Recording Office;

(vi) the original attorney's opinion of title and abstract of title or the original mortgage title insurance policy or, if the original mortgage title insurance policy has not been issued, the irrevocable commitment to issue the same;

(vii) the originals of all Collateral Loan Underlying Collateral Documents executed in connection with the Collateral Loan, if available;

(viii) Uniform Commercial Code financing statements with recording information thereon from the Recording Offices if necessary to perfect the security interest of the Collateral Loan under the Uniform Commercial Code; and

(ix) any bailee letters regarding any Collateral Loan Notes or other Custodial Documents held by the bailee;

provided, that, for the avoidance of doubt, the Custodian will not be required to maintain in physical form any of the foregoing items that were provided to the Custodian only in electronic form.

(d) Supplemental Deliveries. The Debtors agree that they shall deliver or cause to be delivered to the Custodian any and all additional Custodial Documents with respect to a Collateral Loan within ten (10) days following the execution and delivery of any such instrument. All such deliveries of Custodial Documents pursuant to this Section 6.1(d) shall be accompanied by a certificate in the form of Exhibit E (a "**Supplemental Delivery Certificate**"), prepared by an Authorized Representative of the Company, itemizing the Custodial Documents being delivered to the Custodian in such delivery and identifying the Collateral Loan to which each such Custodial Document relates. After the receipt thereof, the Custodian shall (A) examine the additional Custodial Documents provided with respect to a Collateral Loan in accordance with the review procedures set forth on Exhibit D (the "**Review Procedures**") and, determine, with respect to each such document, whether it (i) appears regular on its face (i.e., is not mutilated, damaged, torn, defaced or otherwise physically altered), (ii) relates to such Collateral Loan, (iii) has been executed by the named parties thereon, (iv) where applicable, purports to be recorded and (v) appears to be what it purports to be and (B) ensure that all such Custodial Documents with respect to a Collateral Loan are placed in the file for the related Collateral Loan. In the event the Custodian determines that the Supplemental Delivery Certificate is inaccurate, the Custodian shall so notify the Company in writing no later than the first Business Day following its receipt of the Supplemental Delivery Certificate. Within twenty (20) Business Days after the receipt of the additional Custodial Documents by the Custodian, the Custodian shall provide the Company (with a copy to the Collateral Agent and PMN Designee) with a Collateral Certificate, to the effect that the Custodian has received and reviewed the additional Collateral Documents and include a revised Collateral Schedule and Exception List.

(e) Loan Schedules; Exception Lists; Review Procedures. Each Collateral Schedule and Exception List shall list all Exceptions using such codes as shall be in form and substance agreed to by the Custodian and the Company. Each Collateral Schedule and Exception List delivered by the Custodian to the Company shall supersede and cancel the Collateral Schedule and Exception List previously delivered by the Custodian to the Company hereunder and shall replace the then existing Collateral Schedule and Exception List to be attached to the Collateral Certificate.

Notwithstanding anything to the contrary set forth herein, in the event that the Collateral Schedule and Exception List attached to the Collateral Certificate is different from the most recently delivered Collateral Schedule and Exception List, then the most recently delivered Collateral Schedule and Exception List shall control and be binding upon the parties hereto. The delivery of each Collateral Schedule and Exception List to the Company shall constitute the Custodian's representation (to each of the Company, the Note Holders, the PMN Designee and the Collateral Agent) that, other than the Exceptions listed as part of the last delivered Collateral Schedule and Exception List: (i) all documents required to be delivered in respect of a Collateral Loan pursuant to Section 6.1(c) of this Agreement have been delivered and are in the possession of the Custodian as part of the Custodial Documents, (ii) all such documents have been reviewed and examined by the Custodian in accordance with the Review Procedures and appear on their face to be regular and to relate to such Collateral Loan and to satisfy the requirements set forth in Section 6.1(c) of this Agreement and (iii) subject to the provisions of Section 7.2(b), each Collateral Loan identified on such Collateral Schedule and Exception List is being held by the Custodian as the bailee for the applicable Debtor. In connection with a Collateral Schedule and Exception List delivered hereunder by the Custodian, the Custodian shall make no representations as to and shall not be responsible for verifying, except as set forth in Section 6.1(b) of this Agreement, (A) the validity, legality, enforceability, due authorization, recordability, sufficiency or genuineness of any of the Custodial Documents or (B) the collectability, insurability, effectiveness or suitability of any such Collateral Loan. To the extent that any of the documents or materials required to be provided by the Company to the Custodian pursuant to Sections 6.1(c)(ii) - (iii), (vii) and (viii) are not available as originals or as certified copies and the absence of such item would not, in the reasonable judgment of the Company, affect the value of the Collateral Loan or the ability to enforce the rights of the mortgagee or the secured party, the Company shall not be required to expend more than nominal funds to provide such original or certified copies unless or until they are necessary for the enforcement of such rights, or unless or until the PMN Designee or the Collateral Agent provides written notice to the Custodian that they require the Company to act to cure such exceptions, and all such matters shall remain as exceptions on the Collateral Schedule and Exception List.

Section 6.2 Examination of Custodian Files; Copies.

(a) The Company, the PMN Designee and the Collateral Agent and their respective agents, accountants, attorneys and auditors, and any other Persons designated by the Company, the PMN Designee or the Collateral Agent, as applicable, in writing as authorized to access and review the Custodial Documents, shall be permitted during normal business hours to examine the Custodial Documents upon reasonable prior written notice to the Custodian.

(b) Upon the request of the Company, the PMN Designee or the Collateral Agent and at the cost and expense of the requesting party, the Custodian shall provide copies of any requested Custodial Documents; provided, however, the requesting party shall reimburse the Custodian for the actual, reasonable and customary costs incurred in providing copies of such Custodial Documents.

Section 6.3 Shipment of Custodial Documents. Prior to any shipment of any Custodial Documents hereunder, the Company shall deliver to the Custodian written instructions as to the method of shipment and the shipper that the Custodian is to utilize in connection with the transmission of such Custodial Documents. The Company shall arrange for the provision of such

services at its sole cost and expense (or, at the Custodian's option, reimburse the Custodian for all costs and expenses incurred by the Custodian consistent with such instructions) and will maintain such insurance against loss or damage to the Custodial Documents as the Company may deem appropriate. It is expressly agreed that in no event shall the Custodian have any liability for any losses or damages to any Person, including the Company, arising out of actions of the Custodian pursuant to this Section 6.3 consistent with the instructions of the Company. In the event that the Custodian does not receive such written instructions, the Custodian shall be authorized and shall be indemnified as provided herein to utilize a nationally recognized courier service.

Section 6.4 Delivery of Non-Original Signatures. A facsimile, machine generated or stamp signature may be used on the endorsements of any Collateral Loan Note (including the endorsements by allonge) if and to the extent that a facsimile, machine generated or stamp signature on an endorsement or an allonge (as applicable) is legally enforceable under Law. If the Company endorses any Collateral Loan Notes using a facsimile or machine generated signature or stamp signature, it shall so inform the Collateral Agent, with a copy to the Custodian prior to the time that the Company undertakes to endorse the applicable Collateral Loans or delivers any further Custodial Documents to the Custodian. The Collateral Agent reserves the right to request that the Company provide the Collateral Agent with a written legal opinion from the Company's counsel to the effect that the facsimile or machine generated or stamp signatures are legally enforceable, to the same extent as original signatures, under Law. If the Company provides notice to the Collateral Agent, with a copy to the Custodian, that it will use facsimile or machine generated or stamp signatures on its endorsements, the Custodian shall be authorized to accept such endorsements unless and until the Collateral Agent directs otherwise in writing to the Custodian, with a copy to the Company (which the Collateral Agent will do only if it requests and does not receive a legal opinion regarding the same from the Company).

ARTICLE VII CUSTODIAN

Section 7.1 Appointment of the Custodian. Subject to the terms and conditions of this Agreement, the Debtors hereby appoint [____], to perform the duties of the Custodian, and [____], hereby accepts such appointment as Custodian, to act as the Collateral Agent's agent, custodian and bailee to hold and maintain custody of the Custodial Documents.

Section 7.2 Obligations of the Custodian.

(a) **Maintenance of Custody.** Subject to the provisions of Section 7.2(b), the Custodian shall (i) hold and maintain continuous custody of all Custodial Documents received by it in trust for and for the benefit of the Debtor in secure and fire resistant facilities, (ii) act with the same degree of care and skill that the Custodian exercises with respect to any loan files relating to similar loans owned, serviced or held as custodian by the Custodian and, in any event, in accordance with customary standards for such custody, (iii) reflect in its records the interest of the applicable Debtor therein, (iv) make disposition of the Custodial Documents only in accordance with the provisions of this Agreement and (v) subject to the provisions of Section 7.2(b), hold all Custodial Documents received by it for the exclusive use and benefit of the applicable Debtor, and make disposition

thereof only in accordance with written instructions furnished by the applicable Debtor. The Custodian shall hold the Custodial Documents in the mainland United States.

(b) Pledge of Loans to the Collateral Agent. Pursuant to the terms and conditions of the Security Agreement, the Company has pledged all of its respective rights, title and interest in and to the Collateral Loans and the Custodial Documents to the Collateral Agent for the benefit of the Secured Parties as security for the Secured Obligations. Accordingly, notwithstanding anything to the contrary contained in this Agreement, the Custodian acknowledges and agrees that it holds possession of the Collateral Loan Notes and the other Custodial Documents for the Collateral Agent's benefit and as bailee for the Collateral Agent, and the Custodian shall mark its records to reflect the pledge of the Collateral Loans and the Custodial Documents by the Company to the Collateral Agent; provided, however, that, subject to the provisions of Section 7.2(d), such pledge shall not affect the right of the Custodian to rely on instructions from the Company hereunder. The Custodian's records shall reflect the pledge of the Collateral Loans and the Custodial Documents by the Debtors to the Collateral Agent until such time as the Custodian receives instructions from the Company that the Loans are no longer pledged by any Debtor to the Collateral Agent, at which time the Custodian shall change its records to reflect the release of the pledge of such Loans and the Custodial Documents and that the Custodian is holding the Loans and the Custodial Documents as custodian for, and for the benefit of, the Company or its respective designees. The Custodian shall (i) make a written request for the return of all Custodial Documents improperly removed from the Custodian's possession within fifteen (15) days after their removal (if the same are not returned before such time) and thereafter, continue to use commercially reasonable efforts to obtain the return of such improperly removed Custodial Documents until such time as the Custodial Documents are returned and (ii) upon the Collateral Agent's and/or the Company's request, provide to the Collateral Agent and the Company an aging report identifying the released (and unreturned) Custodial Documents.

(c) Qualification To Conduct Business. Nothing contained in this Agreement shall be construed to require the Custodian to qualify to do business in any jurisdiction other than (i) any jurisdiction in which any Custodial Document is or may be held by the Custodian from time to time under this Agreement or (ii) any jurisdiction in which the ownership of its property or the conduct of its business requires such qualification and in which the failure to qualify could have a material adverse effect on the Custodian or its property or business or on the ability of the Custodian to perform its duties and obligations under this Agreement.

(d) Event of Default Under the Security Agreement. Any term of this Agreement to the contrary notwithstanding, upon the Custodian's receipt from the Collateral Agent of written notice at its Office that an Event of Default has occurred and is continuing, the Custodian promptly shall notify the Collateral Agent in writing and seek instructions from (and take instructions only from) the Collateral Agent as to any action to be taken by the Custodian hereunder.

(e) Third Party Demands. In the event that (i) the Company or the Custodian shall be served by a third party with any type of levy, attachment, writ or court order with respect to any Custodial Document or (ii) a third party shall institute any court proceeding by which any Custodial Document shall be required to be delivered otherwise than in accordance with the provisions of this Agreement, the party receiving such service shall promptly deliver or cause to be delivered to the other parties to this Agreement copies of all court papers, orders, documents

and other materials concerning such proceedings. The Custodian shall, to the extent permitted by law, continue to hold and maintain all of the Custodial Documents that are the subject of such proceedings pending a final, nonappealable order of a court of competent jurisdiction permitting or directing disposition thereof. Upon final determination of such court, the Custodian shall release such Custodial Documents as directed by the Company, which shall give a direction consistent with such court determination.

(f) Release of Custodial Documents. Subject to the provisions of Section 7.2(d), the Custodian shall retain the Custodial Documents in its possession and custody at all times during the term hereof unless any one of the following events has occurred:

(i) If the Custodian has resigned or has been removed in accordance with the provisions of Section 9.1, the Custodian shall deliver the Custodial Documents to the successor Custodian in accordance with Section 9.1.

(ii) If the Custodian has received a notice from an Authorized Representative of the Company stating that the Company has received all amounts due under a Collateral Loan, or a discounted payoff as payment in full of such Collateral Loan, the Custodian shall release the related Custodial Documents to the Company in accordance with the instructions provided in such notice.

(iii) If the Custodian has received notice from an Authorized Representative of the Company that the Company needs the Custodial Documents in order to foreclose on a Mortgaged Property, accept a deed in lieu thereof or modify or restructure the terms thereof, the Custodian shall release the related Custodial Documents to the Company in accordance with the instructions provided in such notice.

(iv) If the Custodian has received notice from an Authorized Representative of the Company that the Company has agreed to sell a Collateral Loan or the Collateral Loan Underlying Collateral in accordance with Section 7.12(b) of the Security Agreement, the Custodian shall deliver the related Custodial Documents to the Company in accordance with the instructions provided in such notice.

(v) If the Custodian has received notice from an Authorized Representative of the Company stating that any Collateral Loan shall be removed from the Collateral in accordance with Section 9.2 of the Security Agreement, the Custodian shall release the related Custodial Documents to the Company in accordance with the instructions provided in such notice.

(g) No Other Duties. The Custodian shall have no duties or responsibilities as Custodian except those that are specifically set forth herein and shall not be liable except for the performance of such duties and obligations. No implied covenants or obligations shall be read into this Agreement.

(h) No Investigation. The Custodian shall be under no obligation to make any investigation into the facts or matters stated in any resolution, certificate, statement, acknowledgement, consent, order or other document that is included in the Custodial Documents.

(i) Cooperation. The Company shall cooperate and use commercially reasonable efforts to provide any additional documentation or information reasonably requested by the Custodian in performing its duties and obligations hereunder.

(j) Survival. The provisions of this Section 7.2 shall survive the resignation or removal of the Custodian and the termination of this Agreement.

ARTICLE VIII FEES AND EXPENSES

Section 8.1 Fees and Expenses. Each of the Custodian and the Paying Agent shall charge such fees for its services and be reimbursed for such of its expenses under this Agreement as are set forth on Exhibit G (or such other fees as reasonably agreed between the Custodian or Paying Agent, as applicable, and the Company), which fees and expenses must be reasonable and customary. The Company shall pay such fees and expenses pursuant to the Priority of Payments. The provisions of this Section 8.1 shall survive any resignation or removal of [_____] as Custodian or [_____] as Paying Agent or the termination or assignment of this Agreement. Nothing in this Section 8.1 shall be construed to limit in any way the right of the Custodian and/or the Paying Agent to receive indemnification and reimbursement from the Company pursuant to Section 13.1.

ARTICLE IX REMOVAL OR RESIGNATION

Section 9.1 Removal or Resignation of Custodian and/or Paying Agent.

(a) Resignation of Custodian and/or Paying Agent. Subject to the provisions of Section 9.1(c), the Custodian may at any time resign and terminate its obligations as Custodian under this Agreement upon at least sixty (60) days' prior written notice to the PMN Designee and the Collateral Agent. Promptly upon the Custodian's resignation, subject to the provisions of the Security Agreement, the Custodian shall appoint, by written instrument, and with the prior written consent of the Collateral Agent, a Qualified Custodian as the successor Custodian. In the event that no successor shall have been appointed as Custodian within such sixty (60) day period, the Custodian may petition any court of competent jurisdiction to appoint a successor Custodian at the expense (including attorneys' fees and expenses) of the Company. Subject to the provisions of Section 9.1(c), the Paying Agent may at any time resign and terminate its obligations as Paying Agent under this Agreement upon at least sixty (60) days' prior written notice to the PMN Designee and the Collateral Agent. Promptly upon the Paying Agent's resignation, the Paying Agent shall appoint, by written instrument, and with the prior written consent of the Collateral Agent, a Qualified Paying Agent as the successor Paying Agent. In the event that no successor shall have been appointed as Paying Agent within such sixty (60) day period, the Paying Agent may petition any court of competent jurisdiction to appoint a successor Paying Agent at the expense (including attorneys' fees and expenses) of the Company.

(b) Removal. Subject to the provisions of Section 9.1(c), the Company (with the prior written consent of the Collateral Agent) or the Collateral Agent may remove and discharge the

Paying Agent and/or the Custodian (or any successor Paying Agent or successor Custodian thereafter appointed) without cause from the performance of its respective obligations under this Agreement upon at least thirty (30) days' prior written notice to the Paying Agent and/or the Custodian, respectively. Promptly after the giving of such notice to the Custodian and/or the Paying Agent, subject to the provisions of the Security Agreement, the Company shall appoint, by written instrument, and with the prior written consent of the Collateral Agent, a successor Custodian and/or a successor Paying Agent. In the event that no successor shall have been appointed as Paying Agent or in the event that no successor shall have been appointed as Custodian within such sixty (60) day period, the Paying Agent or Custodian, as applicable, may petition any court of competent jurisdiction to appoint a successor Paying Agent or successor Custodian, as applicable, at the expense (including attorneys' fees and expenses) of the Company.

(c) Effectiveness. No resignation or removal of the Person serving as Custodian and/or the Person serving as Paying Agent pursuant to Section 9.1(a) or (b) shall be effective prior to the appointment of a successor Custodian and/or a successor Paying Agent, respectively, the acceptance of such appointment by such successor Custodian and/or such successor Paying Agent and, in the case of the successor Paying Agent, the execution and delivery by such successor Paying Agent of an Account Control Agreement in the form of Exhibit K or otherwise satisfactory to the Collateral Agent. Upon appointment of a successor Custodian and/or a successor Paying Agent, the successor Custodian and/or successor Paying Agent shall execute, acknowledge and deliver an instrument accepting such appointment under, and agreeing to be bound by the terms of, this Agreement, at which time the resignation or removal of the predecessor Custodian and/or predecessor Paying Agent shall become effective, and the successor Custodian and/or successor Paying Agent, without any further act, deed or conveyance, shall become fully vested with all rights, powers, duties and obligations of the Custodian or the Paying Agent, as applicable, under this Agreement, as if such Person were the originally named Custodian or originally name Paying Agent, as applicable, hereunder. One original counterpart of each such instrument shall be delivered to each Debtor, the PMN Designee, the Collateral Agent, the predecessor Custodian and/or the predecessor Paying Agent, and the successor Custodian and/or the successor Paying Agent.

(d) Transfer of Documents and Funds. In the event of any removal or resignation of the Custodian, the outgoing Custodian shall promptly transfer to the successor Custodian, as directed, all Custodial Documents, and each Debtor and the outgoing Custodian shall execute and deliver such instruments and do such other things as may reasonably be required for more fully and certainly vesting and confirming in the successor Custodian all rights, powers, duties and obligations of the Custodian under this Agreement. In the event of any removal or resignation of the Paying Agent, the outgoing Paying Agent shall promptly transfer to the successor Paying Agent, as directed, all funds deposited in the Debtor Accounts, and each Debtor and the outgoing Paying Agent shall execute and deliver such instruments and do such other things as may reasonably be required for more fully and certainly vesting and confirming in the successor Paying Agent all rights, powers, duties and obligations of the Paying Agent under this Agreement.

(e) Costs. The Company shall be responsible for payment to any successor Custodian and any successor Paying Agent of all fees and expenses of such successor Custodian and such successor Paying Agent and any fees and expenses for transferring Custodial Documents and funds

deposited in the Debtor Accounts to such successor Custodian and such successor Paying Agent, respectively.

ARTICLE X REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 10.1 Representations, Warranties and Covenants.

(a) Each of the Custodian and the Paying Agent for itself, on the one hand, and each Debtor, on the other hand, represent and warrant to each other (and to each of the Note Holders, the PMN Designee and the Collateral Agent) as follows:

(i) it has the requisite power and authority and the legal right to execute and deliver, and to perform its obligations under, this Agreement, and has taken all necessary corporate or other action to authorize its execution, delivery and performance of this Agreement;

(ii) no consent or authorization of, filing with, or other act by or in respect of, any Governmental Authority, and no consent of any other Person (including any stockholder or creditor) is required in connection with the execution, delivery, performance, validity or enforceability of this Agreement by it;

(iii) this Agreement has been duly executed and delivered on behalf of it and constitutes a legal, valid and binding obligation of it enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general principles of equity (whether enforcement is sought in a proceeding in equity or at law).

(b) The Custodian represents and warrants to each of the Debtors, the Note Holders, the PMN Designee and the Collateral Agent, that the Custodian (i) is a bank, trust company or title insurance company subject to supervision and examination by a federal or state regulatory authority, (ii) is experienced in providing services of the type required to be performed by the Custodian under this Agreement, (iii) is qualified and licensed to do business in each jurisdiction in which the Custodial Documents will be held to the extent required unless and to the extent the failure to be so qualified or licensed will not have a material adverse effect on the Custodian or its ability to perform its obligations hereunder, (iv) is not prohibited from exercising custodial powers in any jurisdiction in which the Custodial Documents are or will be held, (v) has combined capital and surplus as reported in its most recent report of condition in amounts acceptable to the Note Holders, the PMN Designee and the Collateral Agent, (vi) has the facilities to safeguard the Collateral Loan Documents and other Custodial Documents, and (vii) is not the Company, any Debtor, or an Affiliate of the Company or any Debtor (or of any Servicer with respect to the Company or any Debtor).

(c) The Paying Agent represents and warrants to each of the Debtors, the Note Holders, the PMN Designee and the Collateral Agent, that the Paying Agent (i) is a bank, trust company or title insurance company subject to supervision and examination by a federal or state regulatory authority, (ii) is experienced in providing services of the type required to be performed by the Paying Agent under this Agreement, (iii) has combined capital and surplus as reported in its most recent report of condition in amounts acceptable to the Note Holders, the PMN Designee and the

Collateral Agent, (iv) either (x) has the facilities to safeguard the funds deposited in the Debtor Accounts or (y) if the Paying Agent is a securities intermediary, has the means to maintain complete, accurate and secure records of the financial assets credited to the Debtor Accounts and the amounts held in the underlying deposit accounts that are allocated to the Debtor Accounts, (v) if the Paying Agent is a securities intermediary, maintains underlying deposit accounts with an FDIC insured depository institution approved by the Collateral Agent and (vi) is not the Company, any Debtor, or an Affiliate of the Company or any Debtor (or of any Servicer with respect to the Company or any Debtor).

Section 10.2 Insurance. At its own expense, the Custodian shall maintain at all times and keep in full force and effect (a) fire and other casualty insurance, (b) fidelity insurance, (c) theft of documents insurance, (d) forgery insurance and (e) errors and omissions insurance for the Custodial Documents. All such insurance shall be in amounts, with standard coverage and subject to deductibles, as are customary for insurance typically maintained by financial institutions which act as paying agent and as custodian of collateral substantially similar to the Custodial Documents. Upon written request, the Company shall be entitled to receive a certificate of the respective insurer that such insurance is in full force and effect.

ARTICLE XI REPORTS

Section 11.1 Paying Agent Report.

(a) The Paying Agent shall cause to be furnished to the Company, the PMN Designee and the Collateral Agent no later than 12:00 noon, New York City time, on each Distribution Date, a report for the applicable Due Period (the “**Paying Agent Report**”) with respect to the Debtor Accounts held by the Paying Agent pursuant to this Agreement setting forth in reasonable detail the balances of and any investments in such Debtor Accounts as of such date and all deposits (including Collateral Loan Proceeds deposits) to and disbursements from such Debtor Accounts, including the date on which made, since the date of the previous report, and such other information as may otherwise be agreed by the parties with respect to such Due Period, all as set forth on Exhibit H. The Paying Agent shall follow the procedures and perform the calculations and reconciliations required to prepare the Paying Agent Report, in each case as set forth on Exhibit H.

(b) The Paying Agent Report shall be based on information included in (i) the Distribution Date Report for the applicable Due Period and (ii) the internal records of the Paying Agent relating to distributions from the Distribution Account.

(c) In addition to the foregoing, the Paying Agent shall give the Company, the PMN Designee and the Collateral Agent online access to view daily account balances and investments in the Debtor Accounts and incoming funds and disbursements from the Debtor Accounts.

Section 11.2 Custodial Report; Additional Reports.

(a) Within two (2) Business Days after receipt of a written request of the Company, the PMN Designee or the Collateral Agent for a Custodial Report, an updated Collateral Schedule and Exception List or (after the first delivery of a Collateral Certificate) an updated Collateral

Certificate, the Custodian shall provide the requesting party with the Custodial Report, the updated Collateral Schedule and Exception List or the update Collateral Certificate, as applicable.

(b) The Custodian shall provide any additional information or reports relating to the Custodial Documents or the Debtor Accounts and the transactions therein, respectively, reasonably requested from time to time by the Company, the PMN Designee or the Collateral Agent.

Section 11.3 Debtor Distribution Date Accounting. Not later than five (5) Business Days prior to each Distribution Date, the Company shall prepare and deliver to the Paying Agent, the Collateral Agent and the PMN Designee (i) a report, in the form of Exhibit L, which shall specify the amounts and recipients of all funds to be distributed, on the immediately following Distribution Date, from (A) the Collateral Loan Proceeds remitted to the Collection Account with respect to the prior Due Period, and (B) voluntary prepayments of the Purchase Money Notes (from Company funds other than Collateral Loan Proceeds or funds already in the Debtor Accounts), all as determined as of the date of such report (the “**Determination Date**”) and certified by an Authorized Representative (who shall be the chief financial officer or treasurer (or an equivalent officer)) of the Company (with respect to any particular Distribution Date, the “**Distribution Date Report**”) and (ii) a report, in the form of Exhibit M, which shall specify collateral activity during the Due Period with respect to such Distribution Date and be certified by an Authorized Representative (who shall be the chief financial officer or treasurer (or an equivalent officer)) of the Company (the “**Monthly Report**”). The Collateral Agent may, in its sole discretion, upon notice to the Company, provide a revised form of Distribution Date Report and/or Monthly Report to be used by the Company for reports to be distributed by the Company pursuant to clause (i) and/or (ii) above in respect of subsequent Due Periods. The Distribution Date Report with respect to any particular Distribution Date shall contain the information listed below, the information indicated on the form of Distribution Date Report, and any other information reasonably requested by the Collateral Agent:

(a) the aggregate amount of Collateral Loan Proceeds remitted to the Collection Account with respect to the prior Due Period (together with any interest or other earnings in the Collection Account with respect to the prior Due Period);

(b) the portion of the amount described in sub-clause (a) that consisted of interest payments collected on the Collateral Loans;

(c) for the Collection Account and the Distribution Account:

(i) the amount to be transferred from the Collection Account to the Distribution Account on the Business Day immediately preceding such Distribution Date (pursuant to Section 3.2), which shall equal the amount described in clause (a); and

(ii) the amounts payable from the Distribution Account (following the transfer from, and from the amounts to be transferred from, the Collection Account to the Distribution Account described in clause (c)(i)) on such Distribution Date pursuant to the Priority of Payments (to the parties and subject to the provisos set forth therein), which also (for the avoidance of doubt) shall aggregate the amount described in Section 11.3(c)(i);

(d) the amount of any voluntary prepayment to be made on such Distribution Date (from Company funds other than Collateral Loan Proceeds or funds already in the Debtor Accounts) in respect of the outstanding principal amount of the Purchase Money Notes in accordance with the terms of the Purchase Money Notes;

(e) the beginning and ending balance of the Purchase Money Notes on such Distribution Date; and

(f) the amount of any additional payment to be made by the Paying Agent on such Distribution Date pursuant to Section 3.4(a) hereof.

(g) [RESERVED]

Any Distribution Date Report delivered at a time when there shall be more than one Note Holder shall specify the amounts to be distributed or paid to each Note Holder, which shall be in accordance with their respective Pro Rata Shares. Any specification in a Distribution Date Report of a voluntary prepayment described in Section 11.3(d), shall be irrevocable, and (without limitation of the foregoing) shall obligate the Company to deposit the funds necessary to effect the voluntary prepayment described in Section 11.3(d) as specified in Section 3.3 hereof.

Section 11.4 Distribution Date Instructions. Each Distribution Date Report delivered pursuant to Section 11.3 shall contain, or be accompanied by, irrevocable instructions to the Paying Agent to: (i)(x) transfer from the Collection Account to the Distribution Account the amount described in Section 11.3(c)(i), and (y) withdraw on the related Distribution Date from the Distribution Account and pay or transfer (on the relevant Distribution Date) the amounts described in Section 11.3(c)(ii) (in any event subject to the provisos set forth in Section 5.1 of this Agreement); and (ii) make on the relevant Distribution Date (x) the additional voluntary prepayments in respect of the Purchase Money Notes specified in Section 11.3(d) (to each Note Holder in accordance with its Pro Rata Share), and (y) the additional payments described in Section 11.3(f), in each case to the extent applicable.

Section 11.5 Custodial Documents Release Confirmation. Concurrently with the delivery of each Distribution Date Report and Monthly Report, the Company shall prepare and deliver to the Collateral Agent a confirmation statement in the form of Exhibit F (the “**Custodial Documents Release Confirmation**”), which shall specify, with respect to the immediately prior Due Period, all Collateral Loans and Custodial Documents that the Company has instructed the Custodian to reflect in its records as having been released from the Collateral in accordance with the Security Agreement. The Collateral Agent may, in its sole discretion, upon notice to the Company, provide a revised form of Custodial Documents Release Confirmation to be used by the Company for subsequent Due Periods.

Section 11.6 Books and Records. The Paying Agent shall maintain all such accounts, books and records as may be necessary to properly record all transactions carried out by it with respect to the Debtor Accounts, including all disbursements therefrom. The Paying Agent shall permit each Debtor, the PMN Designee and the Collateral Agent to examine such accounts, books and records that relate to any Debtor Account, provided that any such examination shall occur upon reasonable notice and during normal business hours. The Custodian shall maintain a

complete and accurate set of files, books and records regarding the Collateral Loans and the Collateral Loan Underlying Collateral. This obligation to maintain a complete and accurate set of records shall encompass all files in the Custodian's custody, possession or control pertaining to the Collateral Loans and the Collateral Loan Underlying Collateral, including all Custodial Documents.

ARTICLE XII NO ADVERSE INTERESTS

Section 12.1 No Adverse Interests. By execution of this Agreement, the Company (i) represents and warrants that no Responsible Officer of the Company has any actual knowledge of any adverse interest, by way of security or otherwise, in the right, title or interest of the Company in or to any Collateral Loan and (ii) covenants that promptly after any Responsible Officer of the Company shall first have any actual knowledge of any such adverse interest (whether existing on the date hereof or hereafter arising), the Company shall notify the Collateral Agent and the PMN Designee thereof (which notice shall describe such adverse interest in reasonable detail). The Collateral Loans shall not be subject to any security interest, lien or right to set-off by the Company or any third party claiming through the Company, and the Company shall not pledge, encumber, hypothecate, transfer, dispose of, or otherwise grant any third-party interest in, any of its right, title or interest in the Collateral Loans.

ARTICLE XIII LIABILITY AND INDEMNIFICATION

Section 13.1 Liability; Indemnification.

(a) The Debtors shall indemnify and hold harmless each of the Custodian and the Paying Agent and the respective directors, officers, agents and employees of the Custodian and the Paying Agent against any and all Losses of any kind or nature whatsoever that may be imposed on, incurred by, or asserted against it or them in any way relating to or arising out of this Agreement the Account Control Agreement or any other related agreement or any action taken or not taken by it or them hereunder unless such Losses were imposed on, incurred by or asserted against the Custodian and/or the Paying Agent because of the breach by the Custodian and/or the Paying Agent of its respective obligations hereunder, which breach was caused by negligence, lack of good faith, fraud or willful misconduct on the part of the Custodian and/or the Paying Agent, respectively, or any directors, officers, agents or employees of the Custodian and/or the Paying Agent, respectively. The foregoing indemnification shall survive any resignation or removal of the Custodian and/or the Paying Agent or the termination or assignment of this Agreement.

(b) In the event that the Custodian fails to produce a Custodial Document that was not identified as a missing Custodial Document constituting an Exception in the then controlling Collateral Schedule and Exception List within two (2) Business Days after required or requested by the Company, and such Custodial Document is not outstanding pursuant to an instruction for release pursuant to any of clauses (ii) through (v) of Section 7.2(f) (a "**Custodial Delivery Failure**"), then (i) with respect to any missing Collateral Loan Note with respect to which a Custodial Delivery Failure has occurred and has continued in excess of three (3) Business Days, the Custodian promptly shall deliver to the Company upon request a Lost Instrument Affidavit in

the form attached as Exhibit I (unless the original Collateral Loan Note shall have been delivered prior to such time) and (ii) with respect to any missing document related to such Collateral Loan, including a missing Collateral Loan Note, (A) the Custodian shall indemnify each Debtor and each Secured Party in accordance with Section 13.1(c) and (B) at the Company's option, at any time the long term obligations of the Custodian are rated below the second highest rating category of Moody's, S&P, or Fitch, the Custodian shall obtain and maintain an insurance bond naming the Debtors and the Collateral Agent, and their successors in interest and assigns as loss payees, insuring against any Losses associated with the loss of such document, in an amount equal to the then outstanding principal balance of the related Collateral Loan or such lesser amount requested by the Company in the Company's sole discretion.

(c) The Custodian hereby indemnifies and holds harmless the Debtors and the Secured Parties and their respective directors, officers, employees, agents and designees, against any and all Losses of any kind or nature whatsoever that may be imposed on, incurred by, or asserted against it or them in any way relating to or arising out of a Custodial Delivery Failure or the Custodian's negligence, lack of good faith, fraud or willful misconduct or any breach of any of the conditions, representations, warranties or obligations of the Custodian contained herein; provided that in no event shall the Custodian or any directors, officers, agents or employees of the Custodian have any liability with respect to any special, indirect, punitive or consequential damages suffered by any Debtor. The Paying Agent hereby indemnifies and holds harmless the Debtors and the Secured Parties and their respective directors, officers, employees, agents and designees, against any and all Losses of any kind or nature whatsoever that may be imposed on, incurred by, or asserted against it or them in any way relating to or arising out of the Paying Agent's negligence, lack of good faith, fraud or willful misconduct or any breach of any of the representations, warranties or obligations of the Paying Agent contained herein; provided that in no event shall the Paying Agent or any directors, officers, agents or employees of the Paying Agent have any liability with respect to any special, indirect, punitive or consequential damages suffered by any Debtor. The foregoing indemnification shall survive any termination or assignment of this Agreement.

ARTICLE XIV CUSTODIAN AND PAYING AGENT

Section 14.1 Reliance of Custodian and Paying Agent.

(a) Documents; Communications. The Custodian and the Paying Agent may rely conclusively on any request, instruction, certificate, direction, receipt, demand, consent, resolution, statement, instrument, opinion, report, notice or other document or communication furnished to the Custodian and/or the Paying Agent hereunder or under any Collateral Loan Document that the Custodian and/or the Paying Agent believes in good faith (i) to have been signed or presented by an Authorized Representative and (ii) conforms in form to the requirements of this Agreement; provided, however, that in the case of any request, instruction, certificate, direction, receipt, demand, consent, resolution, statement, instrument, opinion, report, notice or other document or communication which by any provision hereof is specifically required to be furnished to the Custodian and/or the Paying Agent, the Custodian and/or the Paying Agent shall be under a duty to examine the same in accordance with the requirements of this Agreement and any Collateral Loan Document.

(b) Requested Instructions. Subject to the provisions of Section 7.2(d), in which case the Custodian and/or the Paying Agent shall take instructions only from the Collateral Agent, and subject to Section 5.2 hereof, if the Custodian and/or the Paying Agent requests instructions from the Company, the Collateral Agent and the PMN Designee with respect to any act, action or failure to act in connection with this Agreement, the Custodian and/or the Paying Agent shall be entitled (without incurring any liability therefor to any Debtor, any Secured Party or any other Person) to refrain from taking such action and continue to refrain from acting unless and until the Custodian and/or the Paying Agent shall have received written instructions from the Company, the PMN Designee and the Collateral Agent.

(c) Certificates. Whenever the Custodian and/or the Paying Agent shall deem it necessary or desirable that a matter be proved or established in connection with taking or omitting any action by it hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence, lack of good faith, fraud or willful misconduct on the part of the Custodian and/or the Paying Agent, be deemed to be conclusively proved or established by a certificate of an Authorized Representative of the relevant Party delivered to the Custodian and/or the Paying Agent.

(d) Reliance on Experts. The Custodian and/or the Paying Agent may consult with and obtain advice from reputable and experienced outside counsel, certified public accountants that are nationally recognized, or other experts and the advice or any opinion of such counsel, accountants or other experts shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith and in accordance with such advice or opinion of counsel, accountants or other experts.

(e) Limited Risk. None of the provisions of this Agreement, except for those that by their terms explicitly state otherwise, shall require the Custodian or the Paying Agent to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not assured to it.

(f) Merger or Consolidation. Any corporation into which the Custodian and/or the Paying Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Custodian and/or the Paying Agent shall be a party, or any corporation succeeding to the business of the Custodian and/or the Paying Agent, as applicable, except for any such Person who is or, upon consummation of such transaction, will be an Affiliate of any Debtor or of any Servicer for any Debtor, shall be the successor of the Custodian and/or the Paying Agent hereunder without the execution or filing of any paper with any party hereto or any further act on the part of any of the parties hereto except where an instrument of transfer or assignment is required by law to effect such succession, anything herein to the contrary notwithstanding; provided that any such successor shall satisfy the representations, warranties and covenants set forth in Section 10.1 of this Agreement. The Custodian and/or the Paying Agent or successor Custodian and/or the successor Paying Agent, as applicable shall provide the Company with written notice prior to or within ten (10) days after the consummation of any such transaction.

ARTICLE XV TAXES

Section 15.1 Tax Reports. Neither the Custodian nor the Paying Agent shall be responsible for the preparation or filing of any reports or returns relating to federal, state or local income taxes with respect to this Agreement, other than in respect of the Custodian's and the Paying Agent's respective compensation or for reimbursement of expenses or as required by Section 2.4.

Section 15.2 Stamp and Other Similar Taxes. The Debtors agree to indemnify and hold harmless the Custodian and the Paying Agent from, and shall reimburse the Custodian and the Paying Agent for, any present or future claim for liability for any stamp or other similar tax and any penalties or interest with respect thereto, which may be assessed, levied or collected by any jurisdiction in connection with this Agreement. The obligations of the Debtors under this Section 15.2 shall survive the termination of the other provisions of this Agreement.

ARTICLE XVI TERM

Section 16.1 Term. This Agreement shall terminate upon (a) the first to occur of (i) the distribution of the proceeds in accordance with the terms hereof of the final liquidation of all of the Collateral Loans and all of the Collateral Loan Underlying Collateral and (ii) written notice from the Collateral Agent of the payment in full of the Secured Obligations and the release of the Liens granted to the Collateral Agent pursuant to the Security Agreement, (b) the release and delivery in accordance with the terms of this Agreement of all of the Custodial Documents held by or in the possession of the Custodian and (c) the satisfaction and discharge of all Purchase Money Notes in full. Notwithstanding anything to the contrary herein, this Agreement may be terminated without cause upon at least thirty (30) days' prior written notice to the Custodian and the Paying Agent, by notice to such effect executed by each of the Company, the PMN Designee and the Collateral Agent.

ARTICLE XVII AUTHORIZED REPRESENTATIVES

Section 17.1 Authorized Representatives. Each individual designated as an Authorized Representative of any Person is authorized to give and receive notices, requests and instructions and to deliver certificates and documents in connection with this Agreement on behalf of such Person, and the specimen signature for each such Authorized Representative, initially authorized hereunder, is set forth on Exhibit J. From time to time, any Person may, by delivering to the other parties hereto a revised copy of Exhibit J, change such Person's Authorized Representative (and amend this Agreement to so provide), but until a new Exhibit J with the information regarding the successor Authorized Representative is delivered to a party in accordance with this Agreement, that party shall be entitled to rely conclusively on the Exhibit J last delivered hereunder.

ARTICLE XVIII NOTICES

Section 18.1 Notices. All notices, requests, demands, and other communications required or permitted to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be delivered (x) in the case of the PMN Designee or the Collateral Agent, to the applicable electronic mail address specified below and (y) in the case of any other party, to the applicable address or (to the extent electronic mail addresses are provided by any party) electronic mail address of the parties specified below for such Person. All such notices and other communications shall be deemed to be given or made upon the earlier to occur of (i) actual receipt (or refusal thereof) by the relevant party hereto and (ii) (A) if delivered by hand or by nationally recognized courier service, when signed for (or refused) by or on behalf of the relevant party hereto; (B) if delivered by mail, four (4) Business Days after deposit in the mails, postage prepaid; and (C) if delivered by electronic mail, when delivered. In no event shall a voice mail message be effective as a notice, communication or confirmation hereunder. From time to time, any Person may designate a new address for purposes of notice hereunder by notice to such effect to the other Persons identified below.

If to any Debtor:

[_____]
[_____]
[_____]
Attention: [_____]
E-mail Address: [_____]

with a copy to:

[_____]
[_____]
[_____]
Attention: [_____]
E-mail Address: [_____]

If to the PMN Designee or the Collateral Agent:

[Federal Deposit Insurance Corporation
Structured Transactions and Oversight Section
3501 North Fairfax Dr.
VA SQ 3701-10038
Arlington, Virginia 22203
Attention:
E-mail Address:

and

Federal Deposit Insurance Corporation

Legal Division
3501 Fairfax Drive, Room VS-E-7056
Arlington, Virginia 22226-3500
Attention: , [Assistant General Counsel]
E-mail Address:]

If to the Paying Agent:

[
[
[
Attention: [
E-mail Address:]

with a copy to:

[
[
[
Attention: [
E-mail Address:]

If to the Custodian:

[
[
[
Attention: [
E-mail Address:]

with a copy to:

[
[
[
Attention: [
E-mail Address:]

**ARTICLE XIX
MISCELLANEOUS**

Section 19.1 Governing Law. EACH PARTY TO THIS AGREEMENT AGREES AND ELECTS THAT, IN ACCORDANCE WITH SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, THIS AGREEMENT IS TO 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, AND EACH PARTY TO THIS AGREEMENT UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT EITHER (1) THE LAWS OF ANY OTHER JURISDICTION GOVERN THIS AGREEMENT OR (2) THE PROVISIONS OF THIS SECTION 19.1 DO NOT APPLY TO ANY OTHER TRANSACTION DOCUMENT. NOTHING IN THIS AGREEMENT SHALL REQUIRE ANY UNLAWFUL ACTION OR INACTION BY ANY PARTY TO THIS AGREEMENT.

Section 19.2 Waiver of Jury Trial. EACH OF THE DEBTORS, THE PMN DESIGNEE, THE COLLATERAL AGENT AND THE COMPANY 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 19.3 Jurisdiction; Venue and Service.

(a) Each of the Debtors and the Company, for itself and its Affiliates, hereby irrevocably and unconditionally:

(i) consents to the jurisdiction of the United States District Court for the Southern District of New York and to the jurisdiction of the United States District Court for the District of Columbia for any suit, action or proceeding against it or any of its Affiliates commenced by the FDIC (in any capacity) arising out of, relating to, or in connection with this Agreement or any Transaction Document, and waives any right to:

(A) remove or transfer such suit, action or proceeding to any court or dispute-resolution forum other than the court in which the FDIC (in the capacity in which it is a party in such suit, action, or proceeding) files the suit, action or proceeding without the consent of the FDIC (in the capacity in which it is a party in such suit, action, or proceeding);

(B) assert that venue is improper in either the United States District Court for the Southern District of New York or the United States District Court for the District of Columbia; or

(C) assert that the United States District Court for the Southern District of New York or the United States District Court for the District of Columbia is an inconvenient forum.

(ii) consents to the jurisdiction of the Supreme Court of the State of New York for any suit, action or proceeding against it or any of its Affiliates commenced by the FDIC (in any capacity) arising out of, relating to, or in connection with this Agreement or any Transaction Document, and waives any right to:

(A) remove or transfer such suit, action or proceeding to any other court or dispute-resolution forum without the consent of the FDIC (in the capacity in which it is a party in such suit, action or proceeding);

(B) assert that venue is improper in the Supreme Court of the State of New York; or

(C) assert that the Supreme Court of the State of New York is an inconvenient forum.

(iii) agrees to bring any suit, action or proceeding by any Debtor or the Company, or its Affiliates, against the FDIC (in any capacity) arising out of, relating to, or in connection with this Agreement or any Transaction Document exclusively in either the United States District Court for the Southern District of New York or the United States District Court for the District of Columbia, and waives any right to remove or transfer such suit, action or proceeding to any other court or dispute-resolution forum without the consent of the FDIC (in the capacity in which it is a party in such suit, action or proceeding), and agrees to consent thereafter to transfer of the suit, action or proceeding to either the United States District Court for the Southern District of New York or the United States District Court for the District of Columbia at the option of the FDIC (in the capacity in which it is a party in such suit, action or proceeding);

(iv) agrees, if the United States District Court for the Southern District of New York and the United States District Court for the District of Columbia both lack jurisdiction to hear a suit, action or proceeding falling within Section 19.3(a)(iii), to bring that suit, action or proceeding exclusively in the Supreme Court of the State of New York, and waives any right to remove or transfer such suit, action or proceeding to any other court or dispute-resolution forum without the consent of the FDIC (in the capacity in which it is a party in such suit, action or proceeding); and

(v) agrees, in any suit, action or proceeding that is brought in the Supreme Court of the State of New York for New York County in accordance with the above provisions of this Section 19.3(a), to request that such suit, action or proceeding be referred to the Commercial Division of such Court.

(b) Each of the Debtors and the Company hereby irrevocably and unconditionally agrees that any final judgment entered against it in any suit, action or proceeding falling within Section 19.3(a) may be enforced in any court of competent jurisdiction.

(c) Subject to the provisions of Section 19.3(d), each of the Debtors and the Company hereby irrevocably and unconditionally agrees that service of all writs, process and summonses in any suit, action or proceeding pursuant to Section 19.3(a) or Section 19.3(b) may be effected by the mailing of copies thereof by registered or certified mail, postage prepaid, to it at its address for notices pursuant to Section 18.1 (with copies to such other Persons as specified therein); provided, however, that nothing contained in this Section 19.3(c) shall affect the right of any party to serve process in any other manner permitted by Law. Each of the Debtors and Company, in each case on behalf of itself and its Affiliates, further agrees that any such service of writs, process or summonses in any suit, action or proceeding pursuant to Section 19.3(a) or Section 19.3(b) on FDIC (in any capacity) is to be in accordance with requirements of applicable Law (including 12 CFR Section 309.7(a)), with additional delivery of a copy of such writ, process or summons to the FDIC (in its applicable capacity(ies)) pursuant to the notice provisions in Section 18.1.

(d) Nothing in this Section 19.3 shall constitute consent to jurisdiction in any court by the FDIC (in any capacity), or in any way limit the right of the FDIC (in any capacity) to remove, transfer, seek to dismiss, or otherwise respond to any suit, action, or proceeding against it in any forum.

Section 19.4 Signatures; Electronic Delivery; Counterparts. Transmission by telecopier, facsimile, e-mail, or other form of electronic transmission (including electronic document execution platforms such as DocuSign and Adobe Sign) of an executed counterpart of any Transaction Document will be deemed to constitute due and sufficient delivery of such counterpart. No signatory to such Transaction Document may raise the use of a telecopier machine, facsimile machine, e-mail, or other form of electronic transmission (including electronic document execution platforms such as DocuSign and Adobe Sign) for delivery of any counterpart of a Transaction Document as a defense to the formation or enforceability of such Transaction Document, and each such Person forever waives any such defense. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute one and the same instrument.

Section 19.5 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, 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 19.5 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 19.1.

Section 19.6 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 Laws, as they may pertain to such party's performance of its obligations hereunder.

Section 19.7 Entire Agreement. This Agreement contains the entire agreement, and supersedes any and all other prior agreements, whether oral or written, between the Debtors, the PMN Designee, the Collateral Agent and the Company with respect to the subject matter hereof.

Section 19.8 Assignment; Binding Effect. Except as is permitted pursuant to the provisions of this Agreement providing for successor Custodians and successor Paying Agents, neither the Custodian nor the Paying Agent shall assign or delegate this Agreement or any of its respective rights or obligations hereunder without the prior written consent of the Debtors, the PMN Designee and the Collateral Agent and any such purported assignment or delegation without such consent shall be void *ab initio*. This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective successors and permitted assigns (including, for the avoidance of doubt, the Persons from time to time serving as the Collateral Agent and/or the PMN Designee (in their respective capacities as such)), and no other Person or Persons shall have any rights or remedies under or by reason of this Agreement.

Anything in this Agreement to the contrary notwithstanding, Section 19.3 hereof inures to the benefit of, and is enforceable by (without limitation), the FDIC in its corporate capacity, and said Section 19.3 may not be modified or waived in relation to the “FDIC” without the prior written consent of the FDIC in its corporate capacity.

Section 19.9 Rights Cumulative. The rights, powers and remedies of the Custodian, the Paying Agent, the PMN Designee and the Collateral Agent under this Agreement shall be in addition to all rights, powers and remedies given to the Custodian, the Paying Agent, the PMN Designee and the Collateral Agent by virtue of any statute or rule of law, or any other agreement, all of which rights, powers and remedies shall be cumulative and may be exercised successively or concurrently.

Section 19.10 Amendments. This Agreement may be amended from time to time by written agreement signed by the Debtors, the Collateral Agent, the PMN Designee, the Custodian and the Paying Agent.

Section 19.11 Headings. Paragraph 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 19.12 Effect of Joinder Agreement. Upon execution of a Joinder Agreement by the Collateral Agent and a prospective “Debtor”, such prospective “Debtor” shall thereafter for all purposes hereof be a party hereto as a “Debtor”, with the same effect as if it had executed this Agreement. Each Debtor expressly agrees that its obligations arising hereunder shall not be affected or diminished by the addition or release of any other Debtor hereunder, nor by any election of the Collateral Agent not to cause any particular Person to become a Debtor hereunder. This Agreement shall be fully effective as to any Person that is or becomes a party hereto as a “Debtor” regardless of whether any other Person becomes or fails to become or ceases to be a “Debtor” hereunder. The Company forthwith shall deliver to the Collateral Agent and the PMN Designee a

fully executed original copy of any Joinder Agreement pursuant to which any Person becomes a “Debtor” hereunder.

Section 19.13 AML Law. The parties hereto acknowledge that in accordance with such Laws, regulations and executive orders of the United States or any state or political subdivision thereof as are in effect from time to time applicable to financial institutions relating to the funding of terrorist activities and money laundering, including without limitation the USA Patriot Act (Pub. L. 107-56) and regulations promulgated by the Office of Foreign Asset Control (collectively, “AML Law”), the Paying Agent is required to obtain, verify, and record information relating to individuals and entities that establish a business relationship or open an account with the Paying Agent. Each party hereby agrees that it shall provide the Paying Agent with such identifying information and documentation as the Paying Agent may request from time to time in order to enable the Paying Agent to comply with all applicable requirements of AML Law.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the PMN Designee, the Collateral Agent, the Company and the Debtor, the Custodian and the Paying Agent have each caused this Agreement to be executed as of the date first written above.

Company and Debtor

[_____]

By: _____
Name:
Title:

SAMPLE

Custodian

[_____]

By: _____

Name:

Title:

SAMPLE

Paying Agent

[_____]

By: _____

Name:

Title:

SAMPLE

PMN Designee

**FEDERAL DEPOSIT INSURANCE
CORPORATION**, as Receiver of
[_____] , as PMN Designee

By: _____
Name:
Title:

Collateral Agent

**FEDERAL DEPOSIT INSURANCE
CORPORATION**, as Receiver of
[_____] , as Collateral Agent

By: _____
Name:
Title:

Schedule 1

Definitions for Custodial and Paying Agency Agreement and Security Agreement

“Acceptable Investment Rating” means any of the top three rating categories that may be assigned to any security, obligation or entity by the Rating Agencies.

“Acceptable Rating” means, in each case with respect to loan servicers or special loan servicers of commercial and/or residential mortgage loans (or the applicable ratings category that includes such loans), (i) a rating of “Average (Select Servicer List)” (or better) or other comparable rating by S&P Global Ratings, (ii) a rating of Level 3 Servicer Rating (or better) or other comparable rating by Fitch Ratings Inc., (iii) a rating of “MOR CS3” (or better) or other comparable rating by DBRS Morningstar, or (iv) a rating of “Pass” or other comparable rating by Kroll Bond Rating Agency.

“Account Control Agreement” means (i) the Account Control Agreement, dated as of the date of the Security Agreement, among the Company, the Paying Agent, and the Collateral Agent, in the form of Exhibit K to the Custodial and Paying Agency Agreement or (ii) any analogous agreement among the Company, the Collateral Agent and any successor to [____], as Paying Agent, in the form of Exhibit K to the Custodial and Paying Agency Agreement or otherwise satisfactory to the Collateral Agent.

“Accountants” means the independent certified public accountants of the Company.

“Acquired Property” means the Underlying Collateral to which title is (at or after the Closing) acquired by or on behalf of any Debtor, or the Failed Bank, by foreclosure, by deed in lieu of foreclosure, by power of sale or by sale pursuant to the Uniform Commercial Code, or otherwise.

“Affiliate” means, with respect to any specified Person, (i) any other Person directly or indirectly Controlling or Controlled by or under common Control with such specified Person, (ii) any Person owning or Controlling ten percent (10%) or more of the outstanding voting securities, voting equity interests, or beneficial interests of the Person specified, (iii) any officer, director, general partner, managing member, trustee, employee or promoter of the Person specified or any Immediate Family Member of such officer, director, general partner, managing member, trustee, employee or promoter, (iv) any corporation, partnership, limited liability company or trust for which any Person referred to in clause (ii) or (iii) acts in that capacity, or (v) any Person who is an officer, director, general partner, managing member, trustee or holder of ten percent (10%) or more of the outstanding voting securities, voting equity interests or beneficial interests of any Person described in clauses (i) through (iv).

“Agent Members” means members of, or participants in, DTC and the Clearing Agencies.

“Agents” means, collectively, the Collateral Agent and the PMN Designee, and each agent or sub-agent appointed by any of them from time to time pursuant to the Security Agreement.

“Attorney Costs” means and includes all reasonable fees, expenses and disbursements of any law firm or other external legal counsel.

“Authorized Denominations” means minimum denominations of \$[] and integral multiples of \$[] in excess thereof.

“Authorized Representative” means, with respect to any Person, each individual designated, in writing as required by Section 17.1 of the Custodial and Paying Agency Agreement, by such Person to the Custodian to act as an authorized representative of such Person for purposes of the Custodial and Paying Agency Agreement.

“Bank Closing Date” has the meaning given to it in the Loan Sale Agreement.

“Bankruptcy Code” means Title 11 of the United States Code (11 U.S.C. §§101, et seq.).

“Borrower” means any borrower with respect to any Loan.

“Borrowing Base Shortfall” means, as of any Determination Date, the amount by which (i) the aggregate UPB of the Collateral Loans as of the end of the Due Period to which such Determination Date relates (excluding Collateral Loans identified for removal in the Distribution Date Report on the basis of Section 9.1 of the Security Agreement) is less than (ii) [] percent ([]%) of the aggregate unpaid balance of the Purchase Money Notes as of such Determination Date, less any voluntary prepayment in respect of the Purchase Money Notes to be made by the Company pursuant to Section 3.3 identified in the Distribution Date Report issued on such Determination Date.

“Business Day” means any day except (i) a Saturday, Sunday or other day on which commercial banks in the State of New York or United States federal government offices are required or authorized by Law to close, or (ii) with respect to any day on which any party to the Custodial and Paying Agency Agreement owes an obligation to the Custodian or the Paying Agent or on which the Custodian or the Paying Agent owes an obligation to any other party to the Custodial and Paying Agency Agreement, any day on which the Company’s offices are closed.

“C&I Loans” means Loans that constitute commercial & industrial loans.

“Clearing Agency” means an organization registered as a “clearing agency” pursuant to Section 17A of the Exchange Act.

“Closing” means the consummation of the purchase of the Loans contemplated by Section 2.1 of the Loan Sale Agreement.

“Closing Date” means the date on which the Closing occurred, which is [], 202[].

“Code” means the United States Internal Revenue Code of 1986, together with the regulations promulgated thereunder, as may be amended from time to time.

“Collateral” has the meaning given in Section 3.1 of Security Agreement.

“Collateral Agent” means the Person serving as the “Collateral Agent” from time to time pursuant to Article X of the Security Agreement. Until the effectiveness of its resignation or

replacement in accordance with Article X of the Security Agreement, the Receiver is the Collateral Agent.

“Collateral Books and Records” has the meaning given in Section 3.1 of Security Agreement.

“Collateral Certificate” has the meaning given in Section 6.1(b) of the Custodial and Paying Agency Agreement.

“Collateral Loans” means the portion of Loans identified in writing by the Collateral Agent to the Company on or prior to the date hereof as Collateral Loans and included on the Loan Schedule, subject to removal of Loans from the pool of Collateral Loans pursuant to Section 9.1 of the Security Agreement. Only Loans (a) from Eligible Classes that (b) in each case are fully funded may be included in the pool of Collateral Loans.

“Collateral Loan Documents” means any Loan Documents relating to the Collateral Loans.

“Collateral Loan Notes” means any Loan Notes relating to the Collateral Loans.

“Collateral Loan Proceeds” means any Loan Proceeds relating to the Collateral Loans.

“Collateral Loan Underlying Collateral” means any Underlying Collateral relating to the Collateral Loans.

“Collateral Loan Underlying Collateral Document” means any Underlying Collateral Document relating to the Collateral Loans.

“Collateral Schedule and Exception List” means a list of the Collateral Loans identifying, with respect to each Collateral Loan, each Exception.

“Collection Account” means a segregated trust or custodial account established and maintained at the Paying Agent (pursuant to the Custodial and Paying Agency Agreement) for the purpose of holding and distributing Collateral Loan Proceeds and funding the Distribution Account for payments that are permitted under the Priority of Payments, and bearing, as of the date hereof, account number [_____].

“Company” has the meaning given in the preamble of the Custodial and Paying Agency Agreement and the Security Agreement.

[RESERVED]

“Contract for Deed” means an executory contract with a third party to convey real property to such third party upon payment of the amounts set forth therein and/or the performance of any other obligations described therein, including any installment land contract.

“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.

“CRE Loans” means Loans that constitute commercial real estate loans.

“Custodial Delivery Failure” has the meaning given in Section 13.1(b) of the Custodial and Paying Agency Agreement.

“Custodial and Paying Agency Agreement” means the Custodial and Paying Agency Agreement, dated as of [____], 202[____], by and among the Custodian, the Paying Agent, the Company, the PMN Designee and the Collateral Agent.

“Custodial Documents” means the documents listed or described in Section 6.1(c) of the Custodial and Paying Agency Agreement and Section.

“Custodial Report” means a report prepared by the Custodian, which shall be in a form acceptable to the Company and the Collateral Agent, detailing, with respect to any Collateral Loan with respect to which any Custodial Documents have been released by the Custodian, the following: (i) the borrower name and any identification number assigned to the Collateral Loan, (ii) the location to which the Custodial Documents with respect to such Collateral Loan were delivered by the Custodian, and (iii) the date on which such Custodial Documents were released by the Custodian.

“Custodian” means [____], or any successor custodian that is a Qualified Custodian and is acceptable and approved by the Collateral Agent.

“Customary Servicing Procedures” means, collectively, the procedures (including collection procedures) that the Qualified Servicer customarily employs and exercises in servicing and administering mortgage loans for its own account, if and only to the extent such servicing procedures are in accordance with the procedures established by the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation (as in effect from time to time), accepted mortgage servicing practices of prudent lending institutions, and all applicable Law.

“Debt” means, as applied to any Person, without duplication, (i) all indebtedness of such Person for borrowed money, (ii) all obligations of such Person for the deferred purchase price of property or services (excluding trade payables arising in the ordinary course of business), (iii) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (iv) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (v) all obligations of such Person as lessee under leases that have been or should be, in accordance with GAAP, recorded as capitalized leases, or (vi) all indebtedness or obligations of others of the kinds referred to in clauses (i) through (v) above in respect of which such Person has entered into or issued any [Reserved].

“Debtor” means (i) each entity (if any) listed on the signature pages hereof under the caption “Debtor”, (ii) each entity that becomes a party hereto as a “Debtor” pursuant to Section

7.12 of the Security Agreement, and (iii) the Company, including as Issuer of any Purchase Money Note.

“Debtor Accounts” means, collectively, [the][each] Collection Account and [the][each] Distribution Account.

“Debtor Allonge” means an allonge in the form of Exhibit C to the Security Agreement but with such deviations from such form, approved by the Collateral Agent, as may be required for such form to be sufficient under the Law of the jurisdiction governing the applicable Loan to reflect the assignment and pledge of such Loan.

“Debtor Assignment and Lost Instrument Affidavit” means an instrument in the form of Exhibit E to the Security Agreement but with such deviations from such form, approved by the Collateral Agent, as may be required for such form to be sufficient under the Law of the jurisdiction governing the applicable Loan to reflect the assignment and pledge of such Loan.

“Debtor Mortgage Assignment” means, with respect to any Mortgage, an instrument in the form of Exhibit D to the Security Agreement but with such deviations from such form, approved by the Collateral Agent, as may be required for such form to be in recordable form under the Law of the jurisdiction wherein the related Mortgaged Property is located and otherwise sufficient under such Law to reflect the assignment and pledge of the Mortgage.

“Debtor Relief Laws” means FIRREA, the Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States, states, commonwealths, territories, laws of other nations or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

“Debtor Transaction Documents” means, with respect to any particular Debtor, each Transaction Document to which such Debtor is (or is required or contemplated to be) a party, or by which such Debtor is (or is required or contemplated to be) bound (including by execution of a Joinder Agreement), including (in the case of the Company) the Purchase Money Notes.

“Default” means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would constitute an Event of Default.

“Default Interest Rate” means the Note Interest Rate (as defined in the applicable Purchase Money Note) plus, to the fullest extent permitted by Law, []% per annum (calculated on the basis of a 360-day year and the actual number of days elapsed).

“Deficiency Balance” means the remaining unpaid principal balance of any Loan Note or Loan after crediting to it the proceeds of any foreclosure sale, deed in lieu of foreclosure or any other exercise of remedies with respect to Underlying Collateral.

“Deposit Account” is a “deposit account” as defined in Section 9-102(a)(29) of the NY UCC.

“Depository” or **“DTC”** means the Depository Trust Company, its nominees, and their respective successors.

“Determination Date” has the meaning given in Section 11.3 of the Custodial and Paying Agency Agreement.

“Disposition” or **“Dispose”** means the sale, transfer, license, lease, or other disposition (including any sale and leaseback transaction) of any property by any Person (or the granting of any option or other right to do any of the foregoing), including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

“Distribution Account” means a segregated trust or custodial account established and maintained at the Paying Agent (pursuant to the Custodial and Paying Agency Agreement) for the sole purpose of holding and distributing funds deposited into such account in accordance with the Custodial and Paying Agency Agreement, and bearing, as of the date hereof and for so long as the Company is the Paying Agent, account number [_____].

“Distribution Date” means the twenty-fifth (25th) day of each calendar month commencing [_____] 25, 20[___]; *provided*, that, at the election of the Receiver, the Distribution Date may be amended to any other date no later than the twenty-fifth (25th) day of each calendar month if the Receiver determines it is necessary in connection with a securitization. In the event that any deadline or date for payment or performance falls on a Distribution Date that is not a Business Day, then such deadline or other date for payment or performance shall be automatically extended to the immediately following Business Day.

“Distribution Date Report” has the meaning given in Section 11.3 of the Custodial and Paying Agency Agreement.

“Dollar”, **“Dollars”** and **“\$”** mean lawful money of the United States.

“DTC Eligible” or **“DTC Eligibility”** means eligible for deposit at DTC and for trading through DTC’s book-entry system, or the status of being eligible for deposit at DTC and for trading through DTC’s book-entry system, respectively.

“Due Period” means (i) with respect to the first Distribution Date, the calendar month of [_____] 202[___], and (ii) with respect to any Distribution Date thereafter, the calendar month prior to the month in which the Distribution Date occurs.

“Eligible Classes” means Loans that constitute CRE Loans, Single Family Residential Loans, C&I Loans and such other Loans as the Receiver may determine in its sole discretion.

“Embargoed Person” means any person subject to trade restrictions under United States law, including, without limitation, the International Emergency Economic Powers Act, 50 U.S.C. §§1701, *et seq.*, The Trading with the Enemy Act, 50 U.S.C. §§ App. 1, *et seq.*, any foreign assets control regulations of the United States Treasury Department (31 C.F.R., Subtitle B, Chapter V, as amended), or any enabling legislation or regulations promulgated thereunder or any executive order relating thereto (including Executive Order 13224 of September 21, 2001 Blocking Property

and Prohibiting Transactions With Persons who Commit, Threaten to Commit or Support Terrorism (66 Fed. Reg. 49079 (2001)) or 31 C.F.R. §594.101, et seq.) with the result that a purchase of assets or any other transaction entered into with respect to any assets (including, without limitation, any investment in any structured transaction), whether directly or indirectly, is prohibited by or in violation of law.

“Environmental Hazard” means the presence at, in or under any Collateral or Underlying Collateral (whether held in fee simple 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 such term is defined in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §9601(14), or of any other Hazardous Materials.

“Environmental Laws” means any and all Federal, state, local, and foreign Laws, regulations, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution, the protection of the environment, natural resources or human health or to the release of any materials into the environment, including those related to air emissions and discharges to waste or public systems.

“ERISA” means the United States Employee Retirement Income Security Act of 1974, as amended from time to time, and any successor statute of similar import, in each case, as in effect from time to time. References to sections of ERISA also refer to any successor sections.

“Event of Default” has the meaning given to that term in Section 4.1 of the Security Agreement.

“Exception” means, with respect to any Collateral Loan, any variance from the requirements of Section 6.1(b) of the Custodial and Paying Agency Agreement, including any missing Custodial Document and any document that does not meet the applicable requirements set forth in Section 6.1(c) of the Custodial and Paying Agency Agreement.

“Exchange Act” means the United States Securities Exchange Act of 1934, as amended.

“Failed Bank” has the meaning given in the preamble to the Custodial and Paying Agency Agreement and the Security Agreement.

“FDIC” has the meaning given in the preamble to the Custodial and Paying Agency Agreement and the Security Agreement.

“Financial Asset” is a “financial asset” within the meaning of Section 8-102(a)(9) of the NY UCC.

“FIRREA” means the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. 101-73, 103 Stat. 183.

“Fiscal Year” means the fiscal year of the Company.

“Fitch” means Fitch, Inc. and any successor thereto.

“FRB” means the Board of Governors of the Federal Reserve System of the United States.

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

“Global Note” has the meaning given to that term in Section 2.5(a) of the Custodial and Paying Agency Agreement.

“Governmental Authority” means (i) any United States or non-United States national, federal, state, local, municipal, provincial or international government or any political subdivision of any thereof or (ii) any governmental, regulatory or administrative authority, agency or commission, or judicial or arbitral body of any of the foregoing described in clause (i).

[RESERVED]

“Hazardous Materials” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, radiation, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Laws.

“Immediate Family Member” means, with respect to any individual, his or her spouse, parents, parents-in-law, grandparents, descendants, nephews, nieces, brothers, sisters, brothers-in-law, sisters-in-law, children (whether natural or adopted), children-in-law, stepchildren, grandchildren and grandchildren-in-law.

“Indemnified Parties” has the meaning given in Section 11.4 of the Security Agreement.

“Insolvency Event” means, with respect to any specified Person, the occurrence of any of the following events:

- (i) the specified Person makes a general assignment for the benefit of creditors;
- (ii) the specified Person files a voluntary petition for relief in any Insolvency Proceeding;
- (iii) the specified Person is adjudged bankrupt or insolvent or there is entered against the specified Person an order for relief in any Insolvency Proceeding;
- (iv) the specified Person files a petition or answer seeking for the specified Person any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any Law;
- (v) a trustee, receiver or liquidator is appointed in respect of such Person or all or any substantial part of such Person’s properties, or such Person seeks or consents to such appointment;

(vi) the specified Person files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the specified Person in any proceeding described in clauses (i) through (v) above;

(vii) such Person is “critically undercapitalized”, as such term is defined in Section 1831(o)(b)(1)(E) of Title 12 of the United States Code.

(viii) the specified Person becomes unable to pay its obligations as they become due or the sum of such specified Person’s debts is greater than all of such Person’s property, at a fair valuation;

(ix) at least sixty (60) days have passed following the commencement of any proceeding against the specified Person seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any Law, and such proceeding has not been dismissed; or

(x) the specified Person is the subject of a proceeding under FIRREA.

“Insolvency Proceeding” means any proceeding under any Debtor Relief Law.

“Investment Company Act” means the Investment Company Act of 1940, as amended from time to time.

[RESERVED]

“Joinder Agreement” means an agreement substantially in the form of Exhibit A to the Security Agreement.

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

“Legacy Assumed Servicing Contract” means a servicing agreement to which the Failed Bank was a party as of the Bank Closing Date that was assumed by the Company as of the Bank Closing Date.

“Lien” means any mortgage, deed of trust, pledge, security interest, charge, restriction on or condition to transfer, voting or exercise or enjoyment of any right or beneficial interest, option, right of first refusal, easement, covenant, restriction and any other lien, claim or encumbrance of any nature whatsoever.

“Loan” means (x) any loan or Loan Participation listed or described on the Loan Schedule, and (y) any loan into which any loan or Loan Participation described in clause (x) is refinanced or modified (excluding any such refinancing wherein the proceeds are applied pursuant to the terms of this Agreement), and includes with respect to each such loan or Loan Participation listed or described in clause (x) or (y) or other related asset or Related Agreement: (i) any obligation evidenced by any Loan Note; (ii) all rights, powers or Liens of any Debtor in or under the Collateral Loan Underlying Collateral and Collateral Loan Underlying Collateral Documents; (iii) all rights of any Debtor pursuant to any Contract for Deed and in or to the real property that is subject to

any such Contract for Deed; (iv) all rights of any Debtor pursuant to any lease and in or to the related leased property; (v) all rights of any Debtor under the Related Agreements; (vi) all rights of any Debtor to any Deficiency Balances; (vii) 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 any Debtor with respect to any of the ownership, use, function, value of or other rights pertaining to any of the foregoing, whether arising by way of counterclaim or otherwise; and (viii) all guaranties, warranties, indemnities and similar rights in favor of any Debtor with respect to any of the foregoing.

“Loan Documents” means all documents, agreements, certificates, instruments and other writings (including all Underlying Collateral Documents) now or hereafter executed by or delivered or caused to be delivered by any Borrower, any Obligor 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 evidencing any transaction contemplated thereby (including, for this purpose, title insurance policies and endorsements thereto), and all Modifications thereto.

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

“Loan Participation” means any loan identified on the Loan Schedule that is subject to a shared credit, participation, co-lending or similar inter-creditor agreement under which the Failed Bank was, or any Debtor is, the lead or agent financial depository institution or otherwise managed or held the credit or sold participations, or under which the Failed Bank was, or any Debtor is, a participating financial depository institution or purchased participations in a credit managed by another Person.

“Loan Participation Agreement” means an agreement under which the Failed Bank was and, after the Closing Date, any Debtor is the lead or agent financial depository institution or otherwise managed or held a shared credit or sold participations, or pursuant to which the Failed Bank was and, after the Closing Date, any Debtor is a participating financial depository institution or purchased participations in a credit managed by another Person.

“Loan Proceeds” means all of the following: (i) any and all proceeds with respect to any or all of the Loans, any or all of the Underlying Collateral, including principal, interest, default interest, prepayment fees, premiums and charges, extension and exit fees, late fees, assumption fees, other fees and charges, insurance proceeds and condemnation payments (or any portion thereof) that are not used and disbursed to repair, replace or restore the related Underlying Collateral in accordance with the terms of the Loan Documents; (ii) any and all proceeds from sales or other dispositions or refinancings of any or all of the Loans; (iii) any proceeds from making a draw under any letter of credit or certificate of deposit held with respect to any Loan, provided that such draw is permitted by the terms of the Loan Documents; (iv) any recoveries from Borrowers or Obligors of any kind or nature with respect to the Loans; (v) any deposits or down payments forfeited by prospective purchasers or lessees of apartments or other units for space at any Underlying Collateral; (vi) any payments to the Company pursuant to Sections 2.4.1 and 2.4.2,

and/or Section 7 of the Loan Sale Agreement (excluding any such payment to the extent directly set off (by the Receiver) against, or otherwise directly applied (by the Receiver) to, amounts owed by the Company under the Purchase Money Notes), regardless (for the avoidance of doubt) of whether or not such payments are with respect to Collateral; (vii) any and all other proceeds with respect to any of the Collateral; and (viii) any interest or other earnings accrued and paid on any of the amounts described in the foregoing clauses (i) through (vii) while held in the Collection Account or any other account; provided, however, that, with respect to proceeds of any Loan Participation (including as a result of any sale or other disposition of such Loan Participation or of Underlying Collateral relating thereto), the Loan Proceeds shall exclude any amounts payable to others under the applicable Loan Participation Agreement.

“Loan Sale Agreement” means the Loan Sale Agreement, dated as of [____], 202[____], between the Receiver and the Company.

[RESERVED]

“Losses” has the meaning given in Section 11.4(a) of the Security Agreement.

“Lost Instrument Affidavit” means an instrument in the form of Exhibit I to the Custodial and Paying Agency Agreement.

“Majority Note Holders” means, at any date of determination, the Note Holders (according to the Notes Register) holding more than fifty percent (50%) of the aggregate unpaid principal amount of the Purchase Money Notes outstanding at such date.

“Material Adverse Change” shall be considered to have occurred if, at any date, the consolidated financial condition or consolidated operations of the Company and its consolidated subsidiaries [or the Recourse Guarantor] as of such date has materially adversely changed as compared to the consolidated financial condition or consolidated operations of the Company and its consolidated subsidiaries [or the Recourse Guarantor] immediately after the consummation of the transactions contemplated to be consummated on such date pursuant to the Loan Sale Agreement and the other Transaction Documents.

“Maturity Date” means [month/day____, 20[____]](or, if such day is not a Business Day, the immediately following Business Day).

“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 Report” has the meaning given in Section 11.3 of the Custodial and Paying Agency Agreement.

“Moody’s” means Moody’s Investors Service, Inc. and any successor thereto.

“Mortgage” means the mortgage, deed of trust or other instrument, including any Modifications thereto, creating a first or junior lien on or ownership interest in a Mortgaged Property.

“Mortgaged Property” means (i) the underlying real property or interest in real property, whether or not improved by buildings or facilities, and any personal property, fixtures, leases and other property or rights pertaining thereto, securing a mortgage loan, or (ii) with respect to any other type of loan, the collateral securing such loan. The Underlying Collateral for a Loan may include one or more of the collateral types described in clauses (i) or (ii).

“Note Holder” means, with respect to any Purchase Money Note, the Person whose name appears on the Notes Register as the registered holder of such Purchase Money Note.

“Note Holder’s Account” means, as to any Note Holder, the account of such Note Holder specified in writing by such Note Holder to the Collateral Agent and Paying Agent from time to time.

“Notes Register” has the meaning given to that term in Section 2.8(a) of the Custodial and Paying Agency Agreement.

“Notes Registrar” has the meaning given to that term in Section 2.8(a) of the Custodial and Paying Agency Agreement.

“NY UCC” means the Uniform Commercial Code as in effect on the date of the Security Agreement in the State of New York, as amended from time to time, and any successor statute.

“Obligor” means (i) 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 or (ii) any other Person (other than the Borrower, the lender(s) and any administrative or other agent) that is obligated pursuant to the Loan Documents with respect to a Loan, and shall include the guarantor under any completion guaranty or similar document.

“OFAC” has the meaning given in Section 6.1(h) of the Security Agreement.

“Office” has the meaning given in Section 6.1(a) of the Custodial and Paying Agency Agreement.

“Organizational Documents” means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

“Original Amount” means, with respect to a Purchase Money Note, the stated original principal amount of such Purchase Money Note.

“Paying Agent” means [_____], or any successor paying agent that is a Qualified Paying Agent and is acceptable and approved by the Collateral Agent.

“Paying Agent Report” has the meaning given in Section 11.1(a) of the Custodial and Paying Agency Agreement.

“Perfection Requirements” has the meaning given in Section 6.1(e) of the Security Agreement.

“Permitted/Excluded Liens” means the Liens granted to the Collateral Agent pursuant to the Transaction Documents and the following Liens (excluding any such Lien imposed pursuant to Section 401(a)(29) or 412(n) of the Code or by ERISA, any such Lien relating to or imposed in connection with liability under any Environmental Laws, and any such Lien expressly prohibited by any applicable terms of the Security Agreement): (i) any Lien on the Collateral in favor of any Person claiming by, through or under the Failed Bank, to the extent that such Lien secured obligations other than obligations assumed by the Company pursuant to the Loan Sale Agreement, and (ii) to the extent constituting a Lien, the rights of the Receiver under the Loan Sale Agreement.

“Permitted Investments” means any one or more of the following obligations or securities having at the time of purchase, or at such other time as might be specified, the required ratings, if any, provided for in this definition:

(i) direct obligations of, or guaranteed as to timely payment of principal and interest by, the United States of America or any agency or instrumentality of the United States of America, the obligations of which are backed by the full faith and credit of the United States of America;

(ii) demand and time deposits in or certificates of deposit of, or bankers' acceptances issued by, any other bank or trust company, savings and loan association or savings bank (which, for the avoidance of doubt, shall not include the Company), provided that, in the case of obligations that are not fully FDIC-insured deposits, the commercial paper and/or long-term unsecured debt obligations of such depository institution or trust company (or in the case of the principal depository institution in a holding company system, the commercial paper or long-term unsecured debt obligations of such holding company) have an Acceptable Investment Rating;

(iii) general obligations of or obligations guaranteed by any state of the United States or the District of Columbia receiving ratings of not less than the highest rating of each Rating Agency rating such obligations;

(iv) commercial paper issued by any Person organized under the laws of any state of the United States of America and rated at least “Prime-1” (or the then equivalent grade) by Moody's, at least “A-1” (or the then equivalent grade) by S&P, or at least “F1” (or the then equivalent grade) by Fitch, in each case with maturities of not more than 30 days from the date of acquisition thereof;

(v) private debt issued by any Person organized under the laws of any state of the United States of America and rated at least “Aaa” (or the then equivalent grade) by Moody's, at least “AAA” (or the then equivalent grade) by S&P, or at least “AAA” (or the then equivalent grade) by Fitch;

(vi) mutual funds or money market funds in which investments are limited to the obligations referred to in clauses (i) through (v) of this definition; and

(vii) with the prior written consent of the Collateral Agent, any other demand, money market or time deposit or other obligation, security or investment.

“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.

“PMN Designee” means the Receiver, or such other Person (including the FDIC, in its corporate capacity) as may be designated to constitute the “PMN Designee” from time to time by the Person then constituting the “PMN Designee”.

“Priority of Payments” has the meaning given in Section 5.1(a) of the Custodial and Paying Agency Agreement.

“Pro Rata Share” means, as of any date of determination, (i) with respect to any distribution pursuant to Section 3.5 or 5.1(a) of the Custodial and Paying Agency Agreement, for any Note Holder, a fraction the numerator of which equals the then-outstanding aggregate unpaid principal amount of the Purchase Money Notes registered in the name of such Note Holder according to the Notes Register and the denominator of which equals the then-outstanding aggregate unpaid principal amount of all of the Purchase Money Notes, and (ii) with respect to any voluntary prepayment of the Purchase Money Notes pursuant to Sections 11.3(d) and 11.4 of the Custodial and Paying Agency Agreement, for any Note Holder, a fraction the numerator of which equals the then-outstanding aggregate unpaid principal amount of the Purchase Money Notes registered in the name of such Note Holder according to the Notes Register and the denominator of which equals the then-outstanding aggregate unpaid principal amount of all of the Purchase Money Notes.

“Proceedings” means any suit in equity, action at law or other judicial or administrative proceeding.

“Purchase Money Note” means that certain Purchase Money Note dated of [____], 202[____], issued by the Company to the Receiver (as the same may hereafter be amended, supplemented, restated, replaced, increased, extended, consolidated or severed from time to time).

“Purchase Money Notes” means, collectively, each Purchase Money Note and each other promissory note, if any, issued by the Company pursuant to the Loan Sale Agreement, or any note or notes executed upon registration of transfer of, or in exchange for, or in lieu of, such Purchase Money Note in accordance with the terms of the Custodial and Paying Agency Agreement (as each of the same may hereafter be amended, supplemented, restated, replaced, increased, extended, consolidated or severed from time to time).

“Qualified Custodian” means any Person that (i) is a bank or trust company subject to supervision and examination by any federal or state regulatory authority, (ii) is experienced in

providing services of the type required to be performed by the Custodian under the Custodial and Paying Agency Agreement, (iii) is qualified and licensed to do business in each jurisdiction in which the Custodial Documents will be held to the extent required unless and to the extent the failure to be so qualified or licensed will not have a material adverse effect on the Custodian or the ability of the Custodian to perform its obligations under the Custodial and Paying Agency Agreement, (iv) is not prohibited from exercising custodial powers in any jurisdiction in which the Custodial Documents are or will be held, (v) has combined capital and surplus as reported in its most recent report of condition in amounts acceptable to the Collateral Agent and has a rating no less than Baa3 by Moody's, BBB- by S&P, or BBB- by Fitch, or their respective equivalent, (vi) has the facilities to safeguard the Collateral Loan Documents and other Custodial Documents, and (vii) is not the Company, any Debtor, or an Affiliate of the Company or any Debtor (or of any Servicer with respect to the Company or any Debtor).

[RESERVED]

"Qualified Paying Agent" means any Person that (i) is a bank, trust company or title insurance company subject to supervision and examination by any federal or state regulatory authority, (ii) is experienced in providing services of the type required to be performed by the Paying Agent under the Custodial and Paying Agency Agreement, (iii) has combined capital and surplus as reported in its most recent report of condition in amounts acceptable to the Collateral Agent, (iv) either (x) has the facilities to safeguard the funds deposited in the Debtor Accounts or (y) if such Person is a securities intermediary, has the means to maintain complete, accurate and secure records of the financial assets credited to the Debtor Accounts and the amounts held in the underlying deposit accounts that are allocated to the Debtor Accounts, (v) if such Person is a securities intermediary, maintains underlying deposit accounts with an FDIC insured depository institution approved by the Collateral Agent and (vi) is not the Company, any Debtor, or an Affiliate of the Company or any Debtor (or of any Servicer with respect to the Company or any Debtor).

"Qualified Servicer" means any Servicer that (a) is properly licensed and qualified to conduct business in each jurisdiction in which such licenses and qualifications to conduct business are necessary for the Servicing to be conducted by or through such Person, (b) has the management capacity and experience to service Loans of the type and number held by the Company and to be serviced by such Servicer, including both performing and non-performing Loans, especially commercial real estate loans secured by commercial properties and residential real estate loans secured by residential properties, as applicable, (c) has the ability to track, process and post payments, to furnish tax reports to Borrowers, (d) has an Acceptable Rating, [(e) in the event any of the serviced Loans are (or are required pursuant to the terms of this Agreement to be) registered on the MERS® System, is a member of MERS], and (f) unless otherwise approved in writing by the Receiver in its sole discretion, is not the Company, any Debtor, or an Affiliate of the Company or any Debtor.

[RESERVED]

[RESERVED]

“Rating Agencies” means each of Moody’s, S&P, Fitch and such other rating agencies as are nationally recognized.

“Received” has the meaning given in Section 3.1(b) of the Custodial and Paying Agency Agreement.

“Receiver” has the meaning given in the preamble to the Custodial and Paying Agency Agreement and the Security Agreement.

“Receiver Facility Disposition” has the meaning given in Section 2.11(e) of the Custodial and Paying Agency Agreement.

“Record Date” means, with respect to any Distribution Date, the Business Day immediately preceding such Distribution Date for the purpose of determining the Note Holders entitled to receive a payment in respect of principal or other amounts on such Distribution Date.

“Recording Office” means the appropriate recording office of the jurisdiction in which the Mortgaged Property is located with respect to any given Loan.

[RESERVED]

[RESERVED]

“Related Agreement” means (i) any agreement, document or instrument (other than the Loan Note and Underlying 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 agreement relating to real property or rights in or to any real property (including leases, property or asset management agreements, brokerage agreements, or other agreements granting tenancies, concessions, licenses or other rights of occupancy or use and security deposits related thereto) related specifically only to the Loans, the Underlying Collateral or any of the foregoing, (iii) any collection or contingency fee, and tax and other service agreements that are specific only to the Loans (or any of them) and that are assignable, (iv) any letter of assurance, letter of credit or similar instrument evidencing an obligation of any Debtor or the Failed Bank that was issued for the benefit of any Person and relates in any way to a Loan or the acquisition, development or construction of any project with respect to which the proceeds of such Loan were used or were intended to be used, and (v) any interest rate swap arrangement between the Borrower and any of the Failed Bank or a Debtor (in each case as the applicable lender, agent or other creditor under the Loan) that relates to any Loan.

“Related Entities” has the meaning given in Section 11.4(a) of the Security Agreement.

“Responsible Officer” means, (a) with respect to the Paying Agent, any managing director, director, associate, principal, vice president, assistant vice president, secretary, assistant secretary, treasurer, assistant treasurer, or any other officer directly responsible for the administration of this Agreement; and (b) with respect to the Company, the chief executive officer, chief operating officer, chief financial officer or treasurer of the Company. Any document delivered hereunder that is signed by a Responsible Officer shall be conclusively presumed to have

been authorized by all necessary corporate, limited liability company and/or other action on the part of the Company and a Responsible Officer of the Company shall be conclusively presumed to have acted on behalf of the Company.

“Review Procedures” has the meaning given in Section 6.1(d) of the Custodial and Paying Agency Agreement.

“S&P” means Standard & Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business.

“Sale” has the meaning given in Section 5.3(a) of the Security Agreement.

“Secured Obligations” means (i) (x) all debts, liabilities and obligations of any Debtor under or otherwise in respect of the Purchase Money Notes, including on account of principal, interest and any Withholding Tax Gross-Up Payments, (y) without limitation of sub-clause (x), the principal of, and interest, and all other amounts (including any Withholding Tax Gross-Up Payment) payable at any time (or from time to time) by any Debtor under, or otherwise in respect of, the Purchase Money Notes, and (z) all other debts, liabilities, obligations, covenants and duties of any Debtor under, or arising under, the Purchase Money Notes and/or the Security Agreement, and (ii) all debts, liabilities, obligations, covenants and duties of any Debtor to any Secured Party (not covered under clause (i)) under, or arising under, any Transaction Document, in the case of each of (i) and (ii) whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Debtor of any proceeding under any Debtor Relief Laws naming such Person as a debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding. Without limiting the generality of the foregoing, the Secured Obligations of the Debtor under the Transaction Documents include (x) the obligation (including guarantee obligations) to pay principal, interest, charges, expenses, fees, costs and other charges of attorneys, indemnities and other amounts payable by any Debtor (A) under the Purchase Money Notes or the Security Agreement or (B) to any Secured Party under any Transaction Document and (y) the obligation of any Debtor to reimburse any amount in respect of any of the foregoing that any of the Note Holder or the Collateral Agent, in its sole discretion, may elect to pay or advance on behalf of such Debtor.

“Secured Parties” means, collectively, the Note Holders, the Indemnified Parties and the “Participating Holders” (as such term is defined in the Purchase Money Notes).

“Securities Account” is a “securities account” as defined in Section 8-501 of the NY UCC.

“Securities Act” means the Securities Act of 1933, as amended.

“Security Agreement” means the Security Agreement, dated as [____], 202[____], among the Company, the Receiver, as PMN Designee, and the Receiver, as Collateral Agent.

“Servicer” means, with respect to any specified Person, (i) any other Person retained by such specified Person, or by any Affiliate of such specified Person, to service, manage or administer any of the Loans or any of the Underlying Collateral, and (ii) any Person retained by

any retained Person described in clause (i) to service, manage or administer any of the Loans or any of the Underlying Collateral.

“Servicing Agreement” means each servicing agreement entered into by any Debtor, or any Affiliate of any Debtor, with any Servicer (or by any such Servicer with any other Servicer), in each case with respect to the servicing, management or administration of any of the Loans or any of the Underlying Collateral.

“Servicing Records” means all servicing records (including any and all servicing agreements, files, documents, records, data bases, computer tapes, copies of computer tapes, proof of insurance coverage, insurance policies, appraisals, other closing documentation, payment history records and any other records) relating to or evidencing the servicing of the Loans.

“Single Family Residential Loans” means Loans that constitute single family residential mortgage loans. For the avoidance of doubt, home equity mortgage loans and lines of credit do not qualify as Single Family Residential Loans.

“Subsidiary” means, with respect to any specified Person, each of (i) any other Person not less than a majority of the overall economic equity in which is owned, directly or indirectly through one of more intermediaries, by such specified Person, and (ii) without limitation of clause (i), any other Person who or which, directly or indirectly through one or more intermediaries, is Controlled by such specified Person (it being understood with respect to clause (i) that a pledge for collateral security purposes of an equity interest in a Person shall not be deemed to affect the ownership of such equity interest by the pledgor so long as such pledgor continues to be entitled, in all material respects, to all the income with respect to such equity interest).

“Supplemental Delivery Certificate” has the meaning given in Section 6.1(d) of the Custodial and Paying Agency Agreement.

“Transaction Documents” means (i) the Custodial and Paying Agency Agreement, the Security Agreement, the Loan Sale Agreement, [RESERVED] the Account Control Agreement, the Purchase Money Notes, and any Joinder Agreement that may be executed and delivered pursuant to the Security Agreement, and (ii) any and all other agreements, instruments or certificates executed and delivered by any Debtor in connection with the execution and delivery of, or otherwise pursuant to, any of the agreements specified in clause (i).

“Underlying Collateral” means any and all real or personal property, whether tangible or intangible or mixed, securing or pledged to secure a Loan, including any account, equipment, guaranty or contract right, equity, partnership or other interest that is the subject of any Underlying Collateral Document.

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

“Uniform Commercial Code” or **“UCC”** means the Uniform Commercial Code as in effect in any applicable jurisdiction, as amended from time to time.

“United States” and **“U.S.”** mean the United States of America.

“UPB” means unpaid principal balance.

“Withholding Tax Gross-Up Payment” means any “Withholding Tax Gross-Up Payment” as defined in any Purchase Money Note.

SAMPLE

EXHIBIT A
PURCHASE MONEY NOTE

[attached hereto]

SAMPLE

EXHIBIT B
FORM OF GLOBAL NOTE
[attached hereto]

SAMPLE

EXHIBIT C
FORM OF COLLATERAL CERTIFICATE

_____, 2____

[Company, PMN Designee and Collateral Agent information]

Re: Custodial and Paying Agency Agreement, dated [____], 202[____] (the “**Custodial and Paying Agency Agreement**”), by and among [____], as Debtor and Company, Federal Deposit Insurance Corporation, as Receiver of [____], as PMN Designee and Collateral Agent, [____], as Custodian, and [____], as Paying Agent

Ladies and Gentlemen:

In accordance with the provisions of Section 6.1(b) of the Custodial and Paying Agency Agreement, the undersigned, as Custodian, hereby certifies that other than the Exceptions listed as part of the Collateral Schedule and Exceptions List attached hereto (a) (i) it has received all of the Custodial Documents required to be delivered with respect to each Loan identified on the Collateral Schedule and Exceptions List attached hereto, and (ii) the Custodial Documents for each such Loan are as listed on such Collateral Schedule and Exceptions List, (b) all documents have been reviewed and examined by the Custodian in accordance with the Review Procedures, and (c) based upon its examination of the Custodial Documents, such documents appear (i) regular on their face (*i.e.*, are not mutilated, damaged, torn, defaced or otherwise physically altered); (ii) to relate to the Loans with respect to which they purport to relate; (iii) to have been executed by the named parties; (iv) to be what they purport to be; and (v) where applicable, to be recorded.

The Custodian makes no representations in or by this Certificate and/or the Custodial and Paying Agency Agreement as to: (i) the validity, legality, enforceability or genuineness of any of the Custodial Documents or any of the Loans, or (ii) the collectability, insurability, effectiveness or suitability of any of the Loans.

Initially capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the Custodial and Paying Agency Agreement.

In confirmation of your acknowledgement of the foregoing, please sign this certificate in the place provided below and return an executed copy to us.

[_____] ,
as the Custodian

By: _____
Name:
Title:

Acknowledged:

[_____] ,
as Company

By: _____
Name:
Title:

EXHIBIT D
REVIEW PROCEDURES

1. The Loan Note and Mortgage each appear to bear an original signature or signatures purporting to be the signature or signatures of the Person or Persons named as the maker and Borrower, or in the case of copies of the Mortgage, that such copies bear a reproduction of such signature.
2. The amount of the Loan Note is the same as the amount specified on the related Mortgage and Loan Schedule.
3. The original mortgagee is the same as the payee on the Loan Note.
4. The Mortgage contains a legal description other than address, city and state; provided that Custodian shall have no responsibility for the accuracy, validity or completeness of such legal description.
5. The notary section (acknowledgment) is present and attached to the related Mortgage and is signed.
6. None of the original Loan Note, the copy of the Mortgage, or the original Debtor Mortgage Assignment, contain any notations on their face which appear in the good faith judgment of Custodian to evidence any claims, liens, security interests, encumbrances or restrictions on transfer or any other alterations which appear irregular on their face, or if altered, such alterations have the initials of the person(s) named as the Borrower.
7. The Loan Note is endorsed in blank by the original payor or the last endorsee.
8. The original Debtor Mortgage Assignment in blank appears to bear the original signature of the named mortgagee or beneficiary including any subsequent assignors, as applicable, or in the case of copies with respect to intervening mortgage assignments, that such copies appear to bear a reproduction of such signature or signatures, and the intervening mortgage assignments evidence a complete chain of assignment and transfer of the related Mortgage from the originating Person to the Debtor. The Custodian shall have no obligation to determine whether the certifications referenced in the foregoing sentence are authorized or issued by any particular person or officer or by a person who is in fact an Authorized Representative or is otherwise authentic.
9. The date of each intervening mortgage assignment is on or after the date of the related Mortgage and/or the immediately preceding assignment, as the case may be.
10. The notary section (acknowledgment) is present and attached to each intervening assignment and is signed.
11. Based upon a review of the Loan Note, the Loan number, the mortgagor's name, the address of the Mortgaged Property, the original amount of the Loan Note, the original mortgage

interest rate, the date of the Loan Note, the first payment date and the maturity date and any other fields as mutually agreed upon as set forth in the Loan Schedule are correct.

12. Each document has been executed by the named parties herein.

13. The Mortgage and mortgage assignments (including Debtor Mortgage Assignments) have evidence of recording.

14. With respect to security certificates evidencing certificated securities that have been pledged as Collateral, such security certificates have been endorsed in blank or are accompanied by share transfer powers or other instruments of transfer duly endorsed in blank.

SAMPLE

EXHIBIT E

FORM OF SUPPLEMENTAL DELIVERY CERTIFICATE

_____, 2____

Re: Custodial and Paying Agency Agreement, dated [____], 202[____] (the “**Custodial and Paying Agency Agreement**”), by and among [____], as Debtor and Company, Federal Deposit Insurance Corporation, as Receiver of [____], as PMN Designee and Collateral Agent, [____], as Custodian, and [____], as Paying Agent

Ladies and Gentlemen:

In accordance with the provisions of Section 6.1(d) of the Custodial and Paying Agency Agreement, the Company, hereby certifies that: (i) attached is a list of additional Custodial Documents relating to the Collateral Loans, identifying with respect to each such Custodial Document the related Collateral Loan, and (ii) enclosed with this certificate are the Custodial Documents listed on the attached.

Initially capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the Custodial and Paying Agency Agreement.

In confirmation of your acknowledgement of the foregoing, please sign this certificate in the place provided below and return an executed copy to us.

[_____] ,
as Company

By: _____
Name:
Title:

Acknowledged:

[_____] ,
as Custodian

By: _____
Name:
Title:

EXHIBIT F

CONFIRMATION OF RELEASE AND RECEIPT OF CUSTODIAL DOCUMENTS

Due Period: [_____, 20__]

To: _____

Attention:

Re: Custodial and Paying Agency Agreement, dated [_____], 202[__] (the “**Custodial and Paying Agency Agreement**”), by and among [_____], as Debtor and Company, Federal Deposit Insurance Corporation, as Receiver of [_____], as PMN Designee and Collateral Agent, [_____], as Custodian, and [_____], as Paying Agent

In connection with the administration of the Custodial Documents held by you as the Custodian pursuant to the Custodial and Paying Agency Agreement, during the Due Period, we have requested the release, and acknowledge and certify receipt of, the Custodial Documents for the Collateral Loan(s) described on Schedule A hereto for the reasons indicated on Schedule A by reference to the codes below.

Initially capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the Custodial and Paying Agency Agreement.

<u>Reason for Requesting Documents</u>	<u>Reason Code</u>
Loan to be paid in full or received or discounted pay-off accepted or to be accepted as payment in full.	A
Loan to be foreclosed on, or to be modified or restructured, or deed to be accepted in lieu thereof or required pursuant to court order or other reason related to litigation, as permitted under the Custodial and Paying Agency Agreement.	B
Loan agreed to be sold in accordance with <u>Section 7.12(c)</u> or <u>7.12(e)</u> of the Security Agreement.	C
Loan to be removed from the Collateral in accordance with <u>Section 9.2</u> of the Security Agreement.	D

[_____] ,
Debtor

By: _____
Name:
Title:

SAMPLE

SCHEDULE A
TO
CONFIRMATION OF RELEASE AND RECEIPT OF CUSTODIAL DOCUMENTS

Released Collateral Loan	UPB	Reason Code

SAMPLE

EXHIBIT G

FEES OF THE CUSTODIAN AND THE PAYING AGENT

The Custodian shall be paid the following fees pursuant to Section 8.1 of this Agreement:

The Paying Agent shall be paid the following fees pursuant to Section 8.1 of this Agreement:

EXHIBIT H
PAYING AGENT REPORT

For the Due Period of: [] to []

To: [Company, PMN Designee and Collateral Agent information]

Re: Custodial and Paying Agency Agreement, dated [], 202[] (the “**Custodial and Paying Agency Agreement**”), by and among [], as Debtor and Company, Federal Deposit Insurance Corporation, as Receiver of [], as PMN Designee and Collateral Agent, [], as Custodian, and [], as Paying Agent

Pursuant to Section 11.1(a) of the Custodial and Paying Agency Agreement, the Paying Agent hereby advises you of the following information concerning funds in and distributions to be made from the Distribution Account.

Initially capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the Custodial and Paying Agency Agreement.

Balance in Distribution Account as of		\$
[]	=	

**Distributions from Funds Transferred From
Collection Account to Distribution Account**

Funds in Distribution Account	=	\$
Per <u>Section 5.1(a)(i)</u> [Custodian/Paying Agent Payments]	=	\$
Per <u>Section 5.1(a)(ii)</u> - [Interest on Purchase Money Notes (including any interest accruing at the Default Interest Rate and any Withholding Tax Gross-Up Payment, if applicable)]	=	\$
Per <u>Section 5.1(a)(iii)</u> [Elimination of Borrowing Base Shortfall]	=	
Per <u>Section 5.1(a)(iv)</u> [Amounts owed under the Transaction Documents]	=	\$
Per <u>Section 5.1(a)(v)</u> [Conditional Distribution to the Company] ²	=	\$
[Per <u>Section 5.1(a)(vi)</u> [Reduction of Outstanding Principal]]	=	\$

² The Receiver reserves the right, in its sole discretion, to modify or remove this provision based on the specific terms and conditions offered on each transaction.

Voluntary Prepayments of Purchase Money \$
Notes, per Section 11.3(d) =

Additional Interest Payments (Not from Debtor
Accounts or Loan Proceeds) In Respect of Purchase \$
Money Notes, per Section 3.4(a) =

Additional Withholding Tax Gross-Up Payments \$
(Not from Debtor Accounts or Loan Proceeds) In Respect
of Purchase Money Notes, per Section 3.4(a) =

Notes:

[_____] , as Paying Agent

By: _____

Name:

Title:

STATE OF _____ §
COUNTY OF _____ §

Custodial and Paying Agency Agreement

any individual or entity for the collection of any sums due under or with respect to the Instrument), liabilities, losses, damages, costs and expenses (including reasonable attorneys' fees) incurred by any of the Indemnified Parties and arising out of or resulting from (i) the Custodian's inability to find the Instrument and deliver it to the Company, or (ii) any inaccuracy or misstatement of fact, or a breach of any representation, warranty or agreement or duty contained, in this affidavit.

7. This affidavit shall be governed by and construed in accordance with the laws of the State of New York without reference to any rules of conflicts of laws that might refer the governance or construction of this affidavit to the law of any other jurisdiction.

_____, as
Custodian

By: _____
Name: _____
Title: _____

Signed and sworn to before me this ____ day of
_____, _____.

Notary Public

[SEAL]

My Commission expires: _____

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 _____ of _____ acting in the capacity stated above, and acknowledged to me that s/he executed the same as the act of _____, 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: _____

EXHIBIT J

AUTHORIZED REPRESENTATIVES

1. Authorized Representatives of the Debtor:

_____	_____
	[Signature]
_____	_____
	[Signature]
_____	_____
	[Signature]

2. Authorized Representative of the Custodian:

_____	_____
	[Signature]
_____	_____
	[Signature]
_____	_____
	[Signature]

3. Authorized Representative of the Paying Agent:

_____	_____
	[Signature]
_____	_____
	[Signature]
_____	_____
	[Signature]

4. Authorized Representative of the PMN Designee:

[Name]

[Signature]

5. Authorized Representative of the Collateral Agent:

[Name]

[Signature]

SAMPLE

EXHIBIT K

FORM OF ACCOUNT CONTROL AGREEMENT

[attached hereto]

SAMPLE

EXHIBIT L

FORM OF DISTRIBUTION DATE REPORT

[attached hereto]

SAMPLE

EXHIBIT M
FORM OF MONTHLY REPORT

[attached hereto]

SAMPLE