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LOAN SALE AGREEMENT

BY AND BETWEEN

FEDERAL DEPOSIT INSURANCE CORPORATION, AS RECEIVER FOR [BANK NAME], [CITY], [STATE]

AND

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LOAN SALE AGREEMENT

LOAN POOL NUMBER[S] _____

This Loan Sale Agreement (this "**LSA**") is entered into effective as of _____, 20__, by and between the Federal Deposit Insurance Corporation, as Receiver [Bank Name], [City], [State] ("**Seller**"), and _____ ("**Buyer**"), and sets forth the terms and conditions by which Seller agrees to sell and Buyer agrees to purchase all the Loans set forth in the attached Schedule of Loans for the consideration stated in this LSA.

NOW THEREFORE, Seller and Buyer agree and represent as follows:

Article I
Definitions

For purposes of this LSA, the following terms have the meanings indicated:

"Accounting Records" means the general ledger and supporting subsidiary ledgers and schedules.

"Advances" means the sum of all unreimbursed amounts advanced by or on behalf of the Failed Bank, Seller, or Buyer for the benefit of an Obligor or a third party to meet required scheduled payments, or to protect the Noteholder's lien position or the Collateral, including, without limitation, (1) payment of ad valorem taxes, tax penalties, and hazard and forced placed insurance, as permitted by the terms of the Loan; and (2) for any Loan that is insured or guaranteed by a Governmental Entity, payment of expenses paid by Seller and reimbursable to Seller in accordance with the terms of the insurance or guarantee. Advances do not include Disbursements of Principal or Corporate Advances.

"Affidavit" means the document entitled "Lost Instrument Affidavit" in the form of Attachment E to this LSA.

"Assignment and Assumption" means the document entitled "Assignment and Assumption of Interests and Obligations" in the form of Attachment D to this LSA. The Assignment and Assumption contains additional definitions not included in the LSA, but such definitions are incorporated into the LSA by reference.

"Attachment" means any of the attachments to this LSA.

"Bank Closing Date" means the close of business of the Failed Bank on the date on which its Closing Authority closed the Failed Bank.

"Bankruptcy Assignment" means an Assignment of Bankruptcy Claim in the form of Attachment F to this LSA.

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"Bid" means the offer to purchase one or more Loan Pools or Loan Pool Combinations upon the terms and conditions contained in the Bid Documents that were submitted by Buyer.

"Bid Amount" means an amount equal to the sum of the Book Values for all Loans in a Loan Pool multiplied by the corresponding Bid Percentage, and for each Loan Pool Combination, the sum of the Bid Amounts for each of the Loan Pools in that Loan Pool Combination.

"Bid Certification" means the document entitled "Loan Sale Bid Certification" included as part of the Bid Documents.

"Bid Documents" means the documents that were provided to bidders and potential bidders, including Buyer, for the sale of the Loans, including, but not limited to, the following: (1) the Confidentiality Agreement, (2) the PEC, (3) the OFAC Certification; (4) the Transaction Fact Sheet, (5) the Bid Instructions, (6) the Bid Form, (7) the Bid Certification, (8) this LSA with all Attachments, and (9) the Spreadsheets, [and, (10) the Term Sheet and Transaction Documents]; all as they may be modified, amended, revised, or supplemented from time to time.

"Bid Form" means the document entitled "Loan Sale Bid Form" included as part of the Bid Documents.

"Bid Instructions" means the document entitled "Loan Sale Bid Instructions" included as part of the Bid Documents.

"Bid Percentage" means Buyer's offer, expressed as a percentage of the aggregate Book Value (as set forth on the Schedule of Loans) for an individual Loan Pool, including each Loan Pool in a Loan Pool Combination.

"Bid Valuation Date" means [date of bid valuation].

"Bill of Sale" means the document entitled "Bill of Sale" in the form of Attachment C to this LSA.

"Book Value" means a Loan's unpaid principal balance (including any principal in forbearance) as stated on the Accounting Records of the Failed Bank as of the Bid Valuation Date, as determined by Seller in its customary practice, and adjusted by (1) subtracting payments of principal received by Seller or its predecessor on or before the Bank Closing Date (including any adjustments made as a result of Foreclosed Collateral), (2) adding Disbursements of Principal made by Seller or its predecessor on or before the Bank Closing Date, and (3) adding back any principal previously charged or written off by the Failed Bank subsequent to the Bid Valuation Date. Book Value for pre-computed interest Loans includes, in addition, the amount of outstanding earned and unearned interest for such Loans. Book Value does not include any general or specific reserves on the Accounting Records of the Failed Bank.

"Borrower" means the primary obligors on a Loan; or any other party liable for the performance of obligations, except for a guarantor or surety.

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"Business Day" means any day other than a Saturday, Sunday, or federal legal holiday.

"Calculation Date" means the Bank Closing Date, which date will be used to calculate the Purchase Price. For each Loan in Loan Pools serviced by others, "Calculation Date" means the date of the most recent remittance report prior to the Closing Date.

"**Closing Authority**" means (i) with respect to a national bank, a federal savings association, or federal savings bank, the Office of the Comptroller of the Currency, (ii) with respect to a bank or savings institution chartered by a state, the agency of the state charged with primary responsibility for closing banks or savings institutions, as the case may be, (iii) the Corporation in accordance with 12 U.S.C. § 1821(c)(4), with regard to self-appointment, or (iv) the appropriate federal banking agency in accordance with 12 U.S.C. § 1821(c)(9).

"Closing" means the simultaneous delivery by Seller and Buyer of documents and funds and the performance of the other acts provided in this LSA to be performed on the Closing Date in order to consummate the Sale.

"Closing Date" means a date selected by Seller, which date will be no later than five Business Days after the Bank Closing Date.

"Collateral" means any and all collateral securing a Loan, including, without limitation, any accounts receivable; inventory; property of any kind, whether real or personal, including, but not limited to, equipment and other physical assets; and any contract and other rights and interests of an Obligor pledged pursuant to or otherwise subject to any Collateral Document. Collateral does not include Foreclosed Collateral.

"Collateral Document" means each deed of trust, mortgage, assignment of production, security agreement, assignment of security interest, personal guaranty, corporate guaranty, letter of credit, pledge agreement, collateral agreement, loan agreement, or other agreement or document, whether an original or copy, or whether similar to or different from those enumerated, securing in any manner the performance or payment by any Borrower of its obligations or the obligations of any other Obligor under any Note evidencing a Loan. Collateral Document does not include a deed of trust, mortgage, assignment of production, security agreement, assignment of security interest, pledge agreement, or collateral agreement insofar as the collateral encumbered by such agreement is Foreclosed Collateral.

"Confidentiality Agreement" means the Confidentiality Agreement executed or assented to by Buyer in anticipation of gaining access to the other documents related to the sale of the Loans.

"Contract for Deed" means an executory contract with a third party to convey real property.

"Corporate Advances" means the payment of appraisal fees, broker opinion fees, attorney fees and associated legal fees, foreclosure fees, trustee fees, property inspection fees, property preservation and operating cost fees, title policies, lien search fees, or any other cost that can be directly associated with the collection and servicing of a Note; provided, however, that Corporate Advances, for any Loan sold that is insured or guaranteed by a Governmental Entity, do not include

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expenses paid by Seller or its predecessor and reimbursable to Seller in accordance with the terms of the insurance or guarantee.

"Corporation" means the Federal Deposit Insurance Corporation in its corporate capacity.

"Deconversion Date" means the date Loan servicing records are transferred to Buyer's system of record as set out in Section 3.3, which date will be a Business Day not later than 45 calendar days after the Closing Date. Loans that are subject to the Real Estate Settlement Procedures Act may have a separate Deconversion Date, but in no event will the date be earlier than 15 calendar days after the Closing Date.

"Deficiency Balance" means the remaining unpaid principal balance of any Note purchased under this LSA after crediting the proceeds of Foreclosed Collateral.

"Disbursement of Principal" means incremental funding of loan proceeds under a Note, including, without limitation, funding of a revolving credit loan or a construction loan.

"Electronic Transfer" means a document signed in ink, scanned in its entirety, and sent by secure email attachment.

"Failed Bank" means [Bank Name].

"Foreclosed Collateral" means any repossessed or foreclosed collateral, (1) that was repossessed or foreclosed on or before the Calculation Date; and (2) for which the Redemption Period, if any, expired on or before the Calculation Date.

"Governmental Entity" means the United States, any state, county, municipality, or other political subdivision, or any department or agency of any of the foregoing.

"Information Package" means the compilation of financial and other data (including without limitation the information and documents with respect to any Loan) with respect to the Failed Bank entitled "Information Package", and any amendments or supplements thereto provided to Buyer by the Corporation.

"IRS" means the Internal Revenue Service of the United States.

"Loan" means and includes: (1) any obligation evidenced by a Note or other evidence of indebtedness; (2) all rights, powers, liens, or security interests of Seller in or under the Collateral Documents; (3) any judgment founded upon a note to the extent attributable to the note and any lien arising from the note; (4) any Contract for Deed and the real property that is subject to the Contract for Deed; (5) any lease and the related leased property; (6) all of Seller's right, title, and interest in and to any Deficiency Balance; and (7) any other asset of whatever kind or type, all as identified on the attached Schedule of Loans. Loans include, without limitation, any obligations of Seller under any Related Agreements, all rights arising from the Loan or appurtenant to the Loan. Loan does not include Foreclosed Collateral.

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"Loan File" means (1) any Failed Bank documents pertaining to a Loan, either copies or originals, that are in the possession of Seller, but excluding the Note, renewals of the Note, and Collateral Documents, and also excluding the Failed Bank's internal memoranda and confidential communications between the Failed Bank and the Failed Bank's legal counsel; and (2) any files with respect to a Loan established and maintained by Seller's employees or contractors responsible for the management of that Loan following the closing of the Failed Bank, but excluding Seller's internal memoranda and confidential communications between Seller and its legal counsel. The Loan File does not include other files maintained by other employees or agents of Seller, such as Seller's legal counsel.

"Loan Pool" means one of the groups of Loans identified in the Schedule of Loans in Attachment A to this LSA.

"Loan Pool Combination" means a group of Loan Pools for which Buyer submitted a Bid linking the purchase of the Loan Pools to one another.

"LPOA" means the document entitled "Limited Power of Attorney" in the form of Attachment G to this LSA. The LPOA contains additional definitions not specifically set out in the LSA, but such definitions are incorporated into the LSA by reference.

"LSA" means this Loan Sale Agreement, including the Attachments.

"Mortgaged Property" means the land, fixtures, and improvements, if any, securing any Loan sold to Buyer under the terms and conditions of this LSA. Mortgaged Property does not include Foreclosed Collateral.

"New Loan" means a Loan made by the Failed Bank after the Bid Valuation Date that is not a continuation, amendment, modification, renewal, extension, refinancing, restructuring, or refunding of or for any then-existing Loan.

"Non-Performing Loan" means any Loan other than a Performing Loan.

"Note" means each agreement, document, and instrument evidencing a Loan (whether an original, a copy, or an electronic version), including, without limitation, each promissory note, loan agreement, shared credit or participation agreement, inter-creditor agreement, letter of credit, reimbursement agreement, draft, bankers' acceptance, transmission system confirmation of transaction, or other evidence of indebtedness of any kind evidencing each Loan, including, but not limited to, loan histories, affidavits, general collection information, correspondence, and comments pertaining to such obligations.

"Noteholder" means the holder of a Note.

"Obligations" means all obligations and commitments of Seller relating to a Loan and arising under and in accordance with the relevant Note, Related Agreements, or Collateral Documents relating to the Loan, including, without limitation, the commitment to make advances

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of funds to or for the benefit of an Obligor, and all covenants, duties, and obligations of Buyer set out in Article V of this LSA.

"Obligor" means any borrower (specifically including, without limitation, Borrower), obligor, guarantor, or surety of any Loan, or any other party liable for the full or partial payment or performance of obligations associated with any Loan, whether such party is obligated directly, indirectly, primarily, secondarily, jointly, or severally.

"OFAC Certification" means the document entitled "OFAC Certification" included as part of the Bid Documents. The OFAC Certification is used by Seller to follow U.S. Office of Foreign Assets Control (OFAC) guidance.

"Participated Loan" means any Loan subject to a shared credit, participation, or similar inter-creditor agreement under which the Failed Bank was lead or agent financial depository institution or otherwise managed the credit or sold participations, or under which the Failed Bank was a participating financial depository institution or purchased participations in a credit managed by another.

"PEC" means the document entitled "Purchaser Eligibility Certification" provided to bidders and potential bidders as part of the Bid Documents and executed by Buyer in connection with the Sale. The PEC contains additional definitions not included in the LSA, but such definitions are incorporated into the LSA by reference.

"Performing Loan" means any Loan for which the last payment of principal, interest, and any escrow amounts that are required to be paid by the terms of the Note or Collateral Documents is less than 60 days past due (for matured loans, less than 30 days past the maturity date) as of the Calculation Date as shown on the Schedule of Loans in Attachment A to this LSA, regardless of whether such Loan is in a Loan Pool consisting primarily of Performing Loans or consisting primarily of Non-Performing Loans.

"Property" means the real or personal property securing any Loan contained in a Loan Pool. Property does not include Foreclosed Collateral.

"Purchase Price" means an amount equal to the sum of (1) the Bid Amount; plus (2) Disbursements of Principal made by Seller that are not included in Book Value; plus (3) any Advances made by the Failed Bank or Seller; plus (4) interest accrued through the Bank Closing Date for each Performing Loan (except those with pre-computed interest). Interest accrued is determined by the interest due as reflected on the Spreadsheet as of the Calculation Date. No amount with respect to unpaid interest will be due for Non-Performing Loans.

"Redemption Period" means the applicable state statutory time period, if any, during which a foreclosed owner may buy back foreclosed real property from the foreclosure sale purchaser. Not all states provide for a Redemption Period. The length of a Redemption Period may vary among the states that do provide for a Redemption Period. The law of the state in which the real property is located is the applicable law in determining whether there is a Redemption Period and, if so, how long it is.

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"Related Agreements" means any and all of the following agreements or obligations, all as such agreements may be amended, amended and restated, modified, or supplemented from time to time, to the extent they relate specifically to one or more of the Loans and are assignable to Buyer: (1) agreements with collection agencies; (2) contingency fee agreements with attorneys; (3) agreements with respect to leases, tenancies, concessions, licenses and other rights of occupancy or use, and agreements with vendors, related to real property (including any related security deposits in Seller's possession), whether the real estate constitutes Collateral or other real property that is otherwise conveyed to Buyer under this LSA; (4) agreements for performance or completion bonds filed with any governmental authority for the purpose of ensuring that improvements constructed or to be constructed on property are completed in accordance with any governmental regulations or building requirements of any governmental authority applicable to the proposed or completed improvement; (5) all other documents evidencing, relating to, executed in connection with, or securing any Loan (together with all addenda, exhibits, schedules, and/or riders attached to such documents); and (6) any other agreements determined by Seller in its sole discretion to be integral to the transaction involving any Loan that should be assumed by Buyer.

"Related Party" means any party related to a Borrower in the manner delineated in 26 U.S.C.A § 267(b) or § 707(b)(1) and the regulations promulgated under such laws, as they may be amended from time to time.

"Repurchase Percentage" means the Repurchase Percentage indicated in Attachment B to this LSA.

"Repurchase Price" means, with respect to any Loan, an amount equal to the sum of (1) the Bid Amount, adjusted to reflect changes to Book Value in accordance with Section 2.4, for the Loan Pool containing such Loan, multiplied by the Repurchase Percentage; plus (2) any Advances and interest on such Loan included in the Purchase Price; minus (3) the total of amounts received after the Calculation Date by Buyer for such Loan, regardless of how applied; plus (4) Advances made by Buyer; plus (5) total Disbursements of Principal made by Seller that are not included in Book Value.

"Sale" means the sale of Loans by Seller.

"Schedule of Loans" means the list of all Loans that are the subject of this Sale identified in Attachment A to this LSA.

["**Seller Financing**" is defined in the Seller Financing Addendum.]

["**Seller Financing Addendum**" means the Seller Financing Terms and Conditions Addendum attached as Attachment H to this Agreement.]

"Settlement Date" means a date determined by Seller by which notices of discovery of adjustments to the Purchase Price pursuant to Section 2.4 must be delivered. Any Settlement Date will be a Business Day not later than 180 calendar days after the Closing Date.

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"Spreadsheet" means information on the Loans provided to bidders and potential bidders, including Buyer, as part of the Bid Documents.

"Taxes" means any taxes, assessments, levies, imposts, duties, deductions, fees, withholdings, or other charges of whatever nature, including interest and penalties, required to be paid to any taxing authority of or in any jurisdiction in which Buyer, its lending or other relevant office or agents may be located under the applicable laws, rules, and regulations of such jurisdiction with respect to the sale and transfer of the Loans, the Collateral Documents, or the rights in the Collateral, or the assignment and assumption of Obligations under the Loans, including, without limitation, any withholding taxes payable by virtue of the sale of the Loans at a discount from Book Value and any value-added taxes.

[**"Term Sheet"** means the document entitled "Financing Terms and Conditions" included as part of the Bid Documents.]

["**Transaction Documents**" means "Transaction Documents" as such term is defined in the Custodial and Paying Agency Agreement.]

"Transaction Fact Sheet" means the document entitled "Loan Sale Transaction Fact Sheet" included as part of the Bid Documents.

"Transfer Documents" means the endorsements and allonges to Notes; affidavits (if appropriate); assignments, deeds, and other documents of assignment, conveyance, or transfer required under the applicable laws, rules, and regulations to evidence Seller's transfer of the Loans, the Collateral Documents, and Seller's rights with respect to the Loans and the Collateral to Buyer. Transfer Documents do not include this LSA, the Bill of Sale, and the Assignment and Assumption [, and the Transaction Documents].

"UCC" means the Uniform Commercial Code governing commercial transactions as adopted by the State of New York.

Article II
Purchase and Sale of Loans

2.1. **Terms and Conditions of Sale.** Seller agrees to sell, assign, transfer, and convey to Buyer, and Buyer agrees to purchase and accept from Seller, all of Seller's right, title, and interest, subject to the provisions of Section 3.3, as of the Bank Closing Date, in and to each Loan in each Loan Pool on a servicing-released basis, and all rights in the Property pursuant to the Collateral Documents. Seller agrees to assign and Buyer agrees to assume all of the Obligations of the Failed Bank or Seller under and with respect to all of the Notes, Related Agreements, and Collateral Documents. Such sale, assignment, transfer, and conveyance by Seller and purchase, acceptance, and assumption by Buyer will occur at and as of the Bank Closing Date, and will be on the terms and subject to the conditions set forth in this LSA, including, without limitation, the payment of the Purchase Price by Buyer to Seller.

2.2. **Closing and Payment of Purchase Price.** The Closing must occur on the Closing Date and, at Seller's option, will be conducted electronically, by Electronic Transfer, or in person

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at a place designated by Seller. Wire transfers must be made to Seller's account in accordance with such instructions as Seller provides to Buyer in writing on or prior to the Closing Date. Buyer agrees to pay [the Purchase Price to Seller at the Closing by wire transfer of immediately available funds in the amount of the Purchase Price] [with Seller Financing in the amount of _____ Dollars ($_____) and the remainder of the Purchase Price by wire transfer of immediately available funds]. The terms and conditions of such Seller Financing, including its effect on the rights and obligations of Buyer and Seller under this Article 2 and Article 7, are set forth in the Seller Financing Addendum attached as Attachment H.]

2.3. **Allocation of Payments Made on Loans.** All payments received on account of any of the Loans on or before the Calculation Date belong to Seller. All payments received on account of any of the Loans after the Calculation Date belong to Buyer. In the event that a check Seller has received with respect to a Loan on or before the Calculation Date is dishonored before or after the Calculation Date, an adjustment to the Purchase Price in Seller's favor in the amount of the dishonored check will be made. In the event that Seller deposits a check received after the Calculation Date and issues a payment to Buyer, Buyer bears the risk that any such check will be dishonored, and Buyer agrees to reimburse Seller within 10 Business Days after receipt of notice by Seller to Buyer that such check was dishonored.

2.4. **Adjustments to Purchase Price; Offsets Against Deposits.**

2.4.1. **Adjustments to Purchase Price.** On or before the Settlement Date, Seller will provide Buyer with a statement detailing adjustments to the Purchase Price that Buyer or Seller discovers reflecting:

(1) any changes in Book Value:

(a) because of miscalculations, misapplied payments, unapplied payments, unrecorded Disbursements of Principal disbursed on or before the Calculation Date, or other accounting errors; or

(b) resulting from a final court decree, unappealable regulatory enforcement order, or other similar action of a legal or regulatory nature effective on or before the Calculation Date; or

(c) resulting from Foreclosed Collateral; or

(d) resulting from a dishonored check as set out in Section 2.3; and

(2) any unreimbursed Advances or Disbursements of Principal disbursed after the Calculation Date that were not previously included in the Purchase Price.

Any monies due Buyer or Seller as a result of any adjustments made pursuant to item (1) above will be calculated by multiplying the Bid Percentage by the resulting net change in Book Value.

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Any monies due Seller as a result of any adjustments made pursuant to item (2) above will be equal to 100% of the aggregate amount of payments not previously included in the Purchase Price.

No adjustment to Purchase Price will be made for any changes resulting from any calculation or adjustment of interest on any Loan as provided in Section 6.4.

The total aggregate amount owed to Seller will be determined as of the Settlement Date and subtracted from the total aggregate amount owed to Buyer. If the resulting amount, determined as of the Settlement Date, is a positive number, Seller will pay such amount to Buyer; if the resulting amount, determined as of the Settlement Date, is a negative number, Buyer will pay such amount to Seller as if such number were a positive number. Any monies due Buyer or Seller will be paid within a reasonable time after the Settlement Date. Buyer will adjust its servicing records to reflect any changes to the unpaid principal balance of any Loan made pursuant to this Section 2.4.1.

2.4.2. **Offsets Against Deposits.** With respect to any Loan, Seller reserves the right to permit or require offsets against deposit accounts of the Failed Bank. If allowed by Seller, such offsets will be retroactive to the Bank Closing Date. At such time as an offset is effected, Seller will give notice of such to Buyer and pay Buyer the amount of the offset on a dollar-for-dollar basis, and Buyer will credit such amount to the Loan according to the terms and conditions of the applicable Note as of the Bank Closing Date.

2.5. **Rebates and Refunds.** Buyer is not entitled to any rebates or refunds from Seller from any pre-computed interest Loan regardless of when the Note matures. Further, on pre-computed interest Loans, Seller will not refund any unearned discount amounts to Buyer.

2.6. **Interest Conveyed.** Seller will convey all of Seller's right, title, and interest in and to each Loan. In the event that a foreclosure (1) occurred on or before the Calculation Date, but the Redemption Period had not expired on or before the Calculation Date, or (2) occurs after the Calculation Date, Seller will convey to Buyer the Deficiency Balance, if any, together with the net proceeds, if any, of such foreclosure sale. If Seller was the purchaser at such foreclosure sale, Seller will convey to Buyer the Deficiency Balance, if any, together with a quitclaim deed to the property purchased at such foreclosure sale. Buyer acknowledges and agrees that Buyer will not acquire any interest in or to any (x) Foreclosed Collateral; (y) performance or completion bond filed with any Governmental Entity for the purpose of ensuring that improvements constructed or to be constructed on such property are completed in accordance with any Governmental Entity regulations or building requirements applicable to the proposed or completed improvements; or (z) bond or deposited funds with any court or Governmental Entity. In the case of (y) or (z) above, Buyer must substitute its funds for any such bond or deposited funds with the court or Governmental Entity, and the existing bond or deposited funds must be paid to Seller.

2.7. **Retained Claims and Release.** Buyer and Seller agree that the sale of the Loans pursuant to this LSA excludes the transfer to Buyer of all of the right, title, and interest in and to any and all claims of any nature whatsoever that might now exist or hereafter arise, whether known or unknown, that Seller has or might have against any (1) officers, directors, employees, insiders,

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accountants, attorneys, other persons employed or retained by Seller or the Failed Bank and any of its predecessors, underwriters, or any other similar persons who have caused a loss to Seller or the Failed Bank, and any of its predecessors in connection with the initiation, origination, or administration of any Loan; (2) appraisers, accountants, auditors, attorneys, investment bankers or brokers, loan brokers, deposit brokers, securities dealers, or other professional individuals or entities who performed services for Seller or the Failed Bank and any of its predecessors relative to any Loan; (3) third parties (including, without limitation, Obligors) involved in any alleged fraud or other misconduct relating to the making or servicing of any Loan; or (4) appraisers or other parties from whom Seller or any servicing agent contracted for services or title insurance in connection with the making, insuring, or servicing of any Loan.

2.8. **Taxes.** Notwithstanding that Taxes may, under applicable law, be assessed against and payable by Seller, Buyer agrees to accept responsibility for and to pay, on its own behalf or on behalf of Seller, as the case may be, any and all Taxes, and Seller has no obligation to reimburse Buyer for such Taxes. Payment of Taxes will not affect the Purchase Price. In the event that Buyer becomes aware of Taxes due, Buyer agrees to promptly notify Seller and pay such Taxes in accordance with the provisions of this Section 2.8. In the event that Taxes are payable, Buyer agrees to make payment for such Taxes to the relevant taxing authorities when due, identifying to such authorities in appropriate manner and in accordance with applicable law the nature of the payment and identifying the party on whose behalf the payment is being made. In the event that, under applicable law, Buyer is unable to make payment of Taxes on behalf of Seller, then Buyer agrees to promptly notify Seller of such inability, and Seller may, at its sole option, grant to Buyer a limited power of attorney, in such form as Seller determines, solely for the purpose of making payment of such Taxes and filing information returns with respect to such Taxes as agent for Seller. Buyer agrees to notify Seller, in accordance with the provisions of Article VIII of this LSA, promptly after payment of any Taxes that such payment has been made.

2.9. **New Loans.** Subject to Section 7.1.7, New Loans may be placed, in the sole discretion of Seller, in a Loan Pool of like Loans, and such New Loans must be purchased by Buyer on the same terms and conditions as the other Loans in the Loan Pools.

Article III
Transfer of Loans, Collateral Documents, and Servicing

3.1. **Delivery of Documents.** Buyer and Seller agree to execute and deliver to one another the following files and documents:

3.1.1. At Closing, Buyer will deliver to Seller:

(1) An original of the Assignment and Assumption, in the form of Attachment D to this LSA, executed by Buyer.

(2) A corporate resolution certified by Buyer's corporate secretary or, if Buyer is not a corporation, other evidence satisfactory to Seller as to Buyer's authority: (a) to purchase the Loans and assume the Obligations under the Loans;

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and (b) to execute and deliver this LSA and all related instruments required to consummate the Sale and to carry out all of its Obligations under this LSA.

(3) An original of this LSA executed by Buyer.

(4) Other documents as Seller may reasonably require as evidence of Buyer's good standing, existence, or authority.

3.1.2. At Closing, Seller will deliver to Buyer:

(1) An original Bill of Sale transferring all of Seller's right, title, and interest in and to the Loans to Buyer, in the form of Attachment C to this LSA, executed by Seller.

(2) An original of the Assignment and Assumption, in the form of Attachment D to this LSA, executed by Seller.

(3) An original of this LSA executed by Seller.

(4) Such Transfer Documents executed by Seller as Seller elects to deliver at Closing.

3.1.3. Within a reasonable time after the Closing Date, Seller will deliver to Buyer the Note, the Loan Files, and the Collateral Documents pertaining to the Loans sold.

3.1.4. After Closing, Seller, in Seller's sole discretion, may elect to grant an LPOA to selected Buyer employees. If Seller elects to grant an LPOA, Seller will provide it to Buyer within a reasonable time after the Closing Date. If Buyer is granted an LPOA, Buyer, at Buyer's expense, must prepare and execute on behalf of Seller, **within a reasonable time** [but in no event later than the earlier of (1) the second anniversary date of the Closing Date, and (2) the date the applicable Receiver chooses, in its sole discretion, to terminate the applicable receivership of the applicable Failed Bank], all Transfer Documents not delivered by Seller to Buyer at Closing. All Transfer Documents prepared by Buyer must be in appropriate form suitable for filing or recording, if applicable, in the relevant jurisdiction and otherwise subject to the limitations set forth in this LSA, and Buyer is solely responsible for the preparation, contents, and form of the documents. Buyer expressly releases Seller from any loss or damage incurred by Buyer due to the contents and form of any documents prepared by Buyer, and Buyer agrees to indemnify, defend, and hold harmless Seller for any and all actions or causes of action by any person, including Buyer, arising out of the contents or form of the Transfer Documents, including, without limitation, any claim relating to the adequacy or inadequacy of any of the documents or instruments for the purposes intended. Notwithstanding the foregoing, Buyer agrees not to use the LPOA to execute conveyances of real property, including, without limitation, any quitclaim deed pursuant to Section 2.6 or any Special Warranty Deed pursuant to Section 5.12; instead, Buyer must prepare such conveyances for Seller's review, and if approved by Seller, Seller's execution.

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The form that Buyer agrees to use for endorsing promissory notes or preparing allonges to promissory notes is as follows:

Pay to the order of

_____

Without Recourse

FEDERAL DEPOSIT INSURANCE
CORPORATION, AS RECEIVER FOR
[BANK NAME], [CITY], [STATE]

By: _____

Name: _____

Attorney-in-Fact

All other documents of assignment, conveyance, or transfer must contain this sentence: "This assignment is made without recourse, representation, or warranty, express or implied, by the Federal Deposit Insurance Corporation (FDIC) in its corporate capacity or in its receivership capacity."

In addition, for any Loan that is a high-cost mortgage subject to 12 C.F.R. §1026.34, all documents of assignment, conveyance, or transfer must contain this sentence: "Notice: This is a mortgage subject to special rules under the Federal Truth in Lending Act. Purchasers or assignees of this mortgage could be liable for all claims and defenses with respect to the mortgage that the consumer could assert against the creditor."

3.1.5. In the event that Seller elects not to provide Buyer with an LPOA in accordance with Section 3.1.4, then all Transfer Documents not delivered by Seller to Buyer at Closing will be prepared and executed by one of the following methods, at Seller's option:

(1) Seller, at Seller's expense, will prepare and execute all endorsements and allonges to Notes or Affidavits, if applicable, not delivered by Seller to Buyer at Closing and provide them to Buyer within a reasonable time after the Closing Date. Buyer, at Buyer's expense, will prepare all other Transfer Documents not delivered by Seller to Buyer at Closing and will deliver such documents to Seller for execution within a reasonable time after the Closing Date. All Transfer Documents prepared by Buyer are subject to the terms and conditions for Transfer Documents specified in Section 3.1.4. If any Transfer Document delivered by Buyer to Seller for execution is unacceptable to Seller for any reason whatsoever, Seller may return such document to Buyer along with an explanation as to why the document is unacceptable to Seller. When requesting execution of

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any such document, Buyer must furnish Seller with the Loan Pool and the Loan numbers set forth on the Schedule of Loans, and a copy of the Notes, a copy of the Collateral Documents or other documents to be transferred, and copies of any previous assignments of the applicable Collateral Document or other document; or

(2) Seller, at Seller's expense, will prepare and execute all Transfer Documents not delivered by Seller to Buyer at Closing and provide them to Buyer within a reasonable time after the Closing Date. Seller will furnish all such documents to Buyer in appropriate form suitable for filing or recording, if applicable, in the relevant jurisdiction and otherwise subject to the limitations set forth in this LSA.

3.1.6. Nothing contained in this Article III or otherwise in this LSA requires Seller to make any agreement, representation, or warranty or to provide any indemnity in any such document or instrument or otherwise. Neither is Seller obligated to obtain any consents or approval to the sale or transfer of the Loans or the related servicing rights, if any, or the assumption by Buyer of the Obligations.

3.1.7. Seller agrees to execute any additional documents required by applicable law or necessary to effectively transfer and assign any and all Loans to Buyer. Seller has no obligation to provide, review, or execute any such additional documents unless such document has been requested of Seller within one year of the Closing Date.

3.2. **Recordation of Documents.** Buyer is responsible for, and agrees to **promptly** deliver, at its sole cost and expense, all appropriate documents and instruments with respect to each Loan for recordation or filing in the appropriate land, chattel, UCC, and other records of the appropriate county, state, and other jurisdictions to effect the transfer of the Loans and the Collateral Documents and all rights in the Collateral, and to render legal, valid, and enforceable the obligations of Obligors to Buyer and the assumption by Buyer of any Obligations related to a Loan arising under and in accordance with the relevant Note and Collateral Documents. In accordance with Section 2.8, Buyer is responsible for and agrees to pay any and all Taxes, fees, costs, and expenses incurred in connection with such recording, including, without limitation, notarization fees and stamp, transfer, and similar Taxes or fees.

3.3. **Transfer of Servicing.** The Loans are sold and conveyed to Buyer on a servicing-released basis. From and after the Bank Closing Date, all rights, obligations, liabilities, and responsibilities with respect to the servicing of the Loans will pass to Buyer, and Seller will be discharged from all liability for the servicing of the Loans, including any liability arising from any limited interim servicing provided by Seller pursuant to this Section 3.3. To provide for the orderly transfer of the servicing to Buyer, Seller will provide, at Seller's expense, limited interim servicing of the Loans on Buyer's behalf from the Bank Closing Date through and including the Deconversion Date, as follows: (1) receive payments and post them to the system of record, (2) maintain records reflecting payments received, (3) provide Buyer on request a schedule of payments processed, and (4) provide payoff information to Buyer regarding particular Loans, as applicable. Seller may engage agents of Seller's own choosing to perform such limited interim

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servicing. Seller's performance of this limited interim servicing ceases on the day immediately following the Deconversion Date.

Article IV
Representations and Warranties of Buyer

Buyer represents and warrants to Seller as of the Bank Closing Date and as of the Closing Date:

4.1. **Buyer's Authorization.** Buyer and the undersigned duly authorized representative of Buyer, acting individually, represent that Buyer is authorized to enter into this LSA and that all laws, rules, regulations, charter provisions, and bylaws to which Buyer may be subject have been duly complied with, and that such representative is authorized to act upon behalf of and bind Buyer to the terms of this LSA.

4.2. **Compliance with Law.** Buyer (which, for purposes of this Section 4.2, includes Buyer's subsidiaries) is not in violation of any statute, regulation, order, decision, judgment or decree of, or any restriction imposed by, any Governmental Entity, or any court or other tribunal having jurisdiction over Buyer or any assets of Buyer, or any foreign government or agency having such jurisdiction, with respect to the conduct of the business of Buyer, or the ownership of the properties of Buyer, that, either individually or in the aggregate with all other such violations, would materially and adversely affect the business, operations, or condition (financial or otherwise) of Buyer or the ability of Buyer to perform, satisfy, or observe any obligation or condition under this LSA. The execution, delivery, or the performance by Buyer of this LSA will not result in any violation by Buyer of, or be in conflict with, any provision of any applicable law, rule, or regulation, or any order, writ, or decree of any court or Governmental Entity.

4.3. **Execution and Enforceability.** This LSA has been duly executed and delivered by Buyer, and when duly authorized, executed, and delivered by Seller, this LSA will constitute a legal, valid, and binding obligation, enforceable in accordance with its terms.

4.4. **Representations Remain True.** All information and documents provided to Seller or its agents by or on behalf of Buyer in connection with this LSA and the Sale, including, but not limited to, the PEC, the OFAC Certification, and the Confidentiality Agreement, are true and correct in all material respects and do not fail to state any fact necessary to make the information and documents not misleading.

Article V
Covenants, Duties, and Obligations of Buyer

5.1. **Servicing of Loans.** From the day immediately following the Deconversion Date, Buyer agrees to (1) comply with all applicable federal, state, and other laws, rules, and regulations with respect to the ownership or servicing of the Loans, including, without limitation, the Fair Debt Collection Practices Act (15 U.S.C. § 1692 *et seq*., as amended) and similar state requirements, rules, and regulations; and (2) abide by, and be subject to, all of the terms and

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conditions of the Collateral Documents and other instruments and documents governing or relating to the Loans or the servicing rights and other rights related to the Loans.

5.2. **Disbursements of Principal.** Buyer accepts, assumes, and expressly agrees to perform in accordance with the terms of all Obligations under the Notes and the Collateral Documents, including, without limitation, all Obligations for Disbursements of Principal, and Buyer expressly agrees to indemnify, defend, and hold harmless Seller and Seller's agents, employees, and affiliates from and against any and all claims, demands, and causes of action arising out of claims of breach or default by Buyer of such Obligations. Buyer agrees to notify Seller within 10 Business Days of notice or knowledge of any such claim or demand.

5.3. **Collection Agency and Contingency Fee Agreements.** Buyer takes the Loans subject to any agreements with collection agencies currently in force or contingency fee agreements with attorneys and agrees to fulfill all Obligations of Seller under such agreements. Buyer agrees to indemnify, defend, and hold harmless Seller and Seller's agents, employees, and affiliates from and against any and all claims, demands, causes of action, losses, damages, penalties, forfeitures, or judgments made or rendered against Seller or any legal fees or other costs, fees, or expenses incurred by Seller arising out of or based upon such agreements with collection agencies or contingency fee agreements with attorneys. Buyer agrees to notify Seller within 10 Business Days of notice or knowledge of any such claim or demand.

5.4. **Insured or Guaranteed Loans.** If any Loans being transferred pursuant to this LSA are insured or guaranteed by any Governmental Entity, and such insurance or guaranty is not being specifically terminated by Seller, Buyer represents that Buyer has been approved by such Governmental Entity and is an approved lender or mortgagee, as appropriate, if such approval is required. Buyer recognizes and acknowledges that if Buyer does not have the required approval, then the consequences may include, without limitation, denial or termination of any such insurance or guarantees by the Governmental Entity. Buyer assumes full responsibility for determining whether or not such insurance or guarantees are in full force and effect on the Bank Closing Date. With respect to those Loans whose insurance or guaranty is in full force and effect on the Bank Closing Date, Buyer assumes full responsibility for doing all things necessary to ensure such insurance or guarantees remain in full force and effect. Buyer agrees to assume all of Seller's Obligations under the contracts of insurance or guaranty, agrees to indemnify, defend, and hold harmless Seller from and against any and all claims of breach of Seller's Obligations after the Bank Closing Date, and agrees to cooperate with Seller where necessary to complete forms required by the insuring or guaranteeing Governmental Entity to effect or complete the transfer to Buyer.

5.5. **Buyer's Due Diligence.** Buyer represents that Buyer has made an independent evaluation of the Loans and Loan Files and any electronic data made available pertaining to the Loans being purchased under this LSA. Buyer also represents that Buyer has conducted such other investigations as Buyer deems appropriate and as are consistent with the terms of the Confidentiality Agreement executed or assented to by Buyer in connection with this transaction, including, without limitation, searches of UCC, title, court, bankruptcy, and other public records. Buyer agrees and represents that Buyer is entering into this LSA solely on the basis of Buyer's own investigations and Buyer's judgment as to the nature, validity, enforceability, collectability, and value of the Loans and all other facts material to their purchase, including, but not limited to,

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the legal matters and risks relating to the collection and enforcement, and the performance of obligations in any jurisdiction. Buyer further acknowledges that no employee or representative of Seller has been authorized to make any statements or representations other than those specifically contained in this LSA.

5.6 **Reporting to or for the Applicable Taxing Authorities.** Seller is responsible for submitting all IRS information returns related to the Loans sold under this LSA for all applicable periods to and including the Deconversion Date. Buyer is responsible for submitting all IRS information returns related to the Loans sold under this LSA for all applicable periods from and after the day immediately following the Deconversion Date. Information returns include 1098 and 1099 reporting.

5.7. **Loans in Litigation.** With respect to any Loan sold pursuant to this LSA that is the subject of any type of pending litigation, whether offensive or defensive, Buyer agrees to provide Seller with notice, at the addresses specified in Article VIII, within 15 Business Days of the Closing Date, of the name of the attorney selected by Buyer to represent Buyer's interests in the litigation. Buyer agrees to, within 15 Business Days of the Closing Date, notify the clerk of the court or other appropriate official and all counsel of record that ownership of the Loan was transferred from Seller to Buyer. Buyer agrees to have its attorney file appropriate pleadings and other documents and instruments with the court or other appropriate body within 20 Business Days of the Closing Date, substituting Buyer's attorney for Seller's attorney and also removing Seller as a party to the litigation and substituting Buyer as the real party-in-interest. In connection with such removal and substitution, Buyer must substitute funds for any existing bond or funds deposited with the court by or for Seller or any predecessor and must pay the amount of the bond or deposited funds to Seller within 20 Business Days of the Closing Date. Except as provided in the next succeeding sentence, should Buyer fail to comply with the provisions of this Section 5.7 within 20 Business Days after the Closing Date, Seller may, at its option, dismiss with or without prejudice or withdraw from, any such pending litigation.

In the event that Buyer is unable, as a matter of applicable law, to cause Seller to be replaced by Buyer as party-in-interest in any such litigation, Buyer agrees to provide Seller with notice, at the addresses specified in Article VIII, within 20 Business Days of the Closing Date, including a legal opinion of Buyer's legal counsel, qualified in the relevant jurisdiction, to such effect and stating the reasons for such failure. In such event, (1) Buyer agrees to cause its attorney to conduct such litigation at Buyer's sole cost and expense; (2) Buyer agrees to cause the removal of Seller and substitution of Buyer as party-in-interest in such litigation at the earliest time possible under applicable law; (3) Buyer agrees to use its best efforts to cause such litigation to be resolved by judgment or settlement in as reasonably efficient a manner as practical; (4) Seller will cooperate with Buyer and Buyer's attorney as reasonably required in Seller's sole judgment to bring such litigation or any settlement relating to such litigation to a reasonable and prompt conclusion; (5) no settlement may be agreed upon by Buyer or its agents or counsel without the express prior written consent of Seller, unless such settlement includes an irrevocable and complete waiver and release of any and all potential claims against Seller in relation to such litigation or the subject Loans or Obligations by any person, including, without limitation, Buyer and any Obligor, and any and all losses, liabilities, claims, causes of action, damages, demands, taxes, fees, costs, and expenses relating to such litigation are duly and expressly agreed, valid, and enforceable, to be

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paid by Buyer without recourse of any kind to Seller; and (6) Buyer agrees to pay all costs and expenses of Seller and Seller's counsel, if any, engaged in connection with such litigation as provided for in the next succeeding sentence.

Buyer agrees to reimburse Seller, upon demand, for Seller's legal expenses in such litigation. Buyer agrees to pay all of the costs and expenses incurred by it in connection with the actions provided for in this Section 5.7, including, without limitation, all legal fees and expenses and court costs, and agrees to pay or reimburse Seller, upon demand, for Seller's legal expenses in connection with such litigation incurred on or after the Closing Date, including the dismissal of or withdrawal from such litigation.

For purposes of Section 5.7, if any Loan is subject to litigation in the name of a subsidiary or affiliate of Seller, rather than in the name of Seller, then the provisions of Section 5.7 will apply to Buyer as though Seller were the named party in the litigation.

5.8. **Loans in Bankruptcy.** In accordance with Bankruptcy Rule 3001(e), Buyer agrees to take all actions necessary to file within 30 Business Days of the Closing Date, (1) proofs of claims in pending bankruptcy cases involving any Loans purchased for which Seller has not already filed a proof of claim, and (2) all documents required by Rule 3001(e)(2) of the Federal Rules of Bankruptcy Procedure and to take all such similar actions as may be required in any relevant jurisdiction in any pending bankruptcy or insolvency case or proceeding in such jurisdiction involving any Loans purchased in order to evidence and assert Buyer's rights. Buyer agrees to prepare and provide to Seller within 30 Business Days of the Closing Date, a Bankruptcy Assignment or any similar forms as may be required in any relevant jurisdiction and acceptable to Seller, for each Loan purchased pursuant to this LSA where an Obligor under such Loan is in bankruptcy at Closing. Buyer releases Seller from any claim, demand, suit, or cause of action Buyer may have as a result of any action or inaction on the part of the Failed Bank or Seller with respect to such Loan, and Buyer further agrees to reimburse Seller for any cost or expense incurred by Seller as a result of Buyer's failure to file a Bankruptcy Assignment or similar forms as required in this LSA.

5.9. **Loan-Related Insurance.** As of the Bank Closing Date, Buyer is responsible for having itself substituted as loss payee on all Loan-related insurance in which the Failed Bank or Seller is currently listed as a loss payee. Any loss after the Bank Closing Date to an Obligor, to a participant in a Participated Loan, or to Buyer, or to the value or collectability of any Loan due to Seller's cancellation of any insurance is the sole responsibility of Buyer.

5.10. **Loans with Escrow Accounts.** Buyer agrees to assume, undertake, and discharge any and all Obligations of Seller with respect to any escrow, maintenance of escrow, and payments from escrow of monies paid by or on account of a Borrower. Seller will transfer to Buyer that sum of monies held by Seller through the Deconversion Date that represents undisbursed escrow payments.

5.11. **Participated Loans.** Buyer agrees to assume the role of lead lender for any Loan in which a portion of the Loan was participated to one or more other entities and in which Seller was the lead lender as of the Bank Closing Date. Buyer agrees to accept any such Participated

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Loan subject to all of the participants' right, title, and interest in such Participated Loan. In the event that any Loan purchased is a Participated Loan, whether or not Seller was the lead lender as of the Bank Closing Date, Buyer agrees to, within 30 days after the Closing Date, notify all participants that Buyer has purchased the participation interest of the Failed Bank.

5.12. **Contracts for Deed.** Buyer agrees to comply with all Obligations set forth in any Contract for Deed contained in any Loan Pool subject to this LSA. Pursuant to the provisions of Section 3.1, Seller may require Buyer to prepare and furnish a Special Warranty Deed for Seller's approval and execution, conveying the real property subject to any such contract to Buyer. Title curative work, if required, will be at Buyer's sole cost and expense.

5.13. **Leases.** Buyer agrees to comply with all Obligations set forth in any lease related to any Loan Pool subject to this LSA. Pursuant to the provisions of Section 3.1, Seller may require Buyer to prepare and furnish applicable Transfer Documents for Seller's approval and execution.

5.14. **Files and Records.** Buyer agrees to abide by all applicable federal, state, and other laws, rules, and regulations regarding the handling and maintenance of all documents and records relating to the Loans purchased under this LSA, including, but not limited to, the length of time such documents and records are to be retained. Buyer further agrees to: (1) allow Seller the continuing right to use, inspect, and make extracts from or copies of any such documents or records upon Seller's reasonable notice to Buyer; (2) allow Seller the possession, custody, and use of original documents for any lawful purpose and upon reasonable terms and conditions; and (3) give reasonable notice to Seller of Buyer's intention to destroy or dispose of any documents or files and to allow Seller, at its own expense, to recover the documents or files from Buyer.

5.15. **Reimbursement for Use of Seller's Employees.** In the event of litigation with respect to the Loans purchased by Buyer in which Seller or its employees are requested or required by subpoena, court order, or otherwise, to perform any acts including, but not limited to, testifying in litigation, preparing responses to subpoenas or other legal process or pleadings, or performing any review of public or private records such as tracing funds, whether said litigation is commenced by Buyer or any other party, Buyer agrees to reimburse Seller for the time expended by each of Seller's employees involved in the performance of said acts at the rate of the greater of $100 per hour per employee or the then prevailing hourly rate per employee charged by Seller or FDIC to perform such services, plus all associated travel, lodging, and per diem costs. Seller may, in its sole and absolute discretion, determine and assign the personnel necessary to perform said acts. Buyer also agrees to reimburse Seller for copies made in the course of performing said acts at the rate of 25 cents per copy. Nothing in this Section 5.15 requires Seller to provide Buyer with any information or service in this regard.

5.16. **Notice to Borrowers.** Buyer or, at Seller's option, Seller will promptly after the Closing Date, but in no event later than 30 calendar days after the Closing Date, at Buyer's cost and expense, give notice of this transfer to all Borrowers or Loan servicers, in the case of Borrowers located in the United States, by first class U.S. mail at their current or last known address of record or, in the case of Borrowers located outside of the United States, in such manner as may be required under the laws, rules, and regulations of the applicable jurisdiction in order to effectively give notice to such Borrowers of the transfer of the Loans. In the event that there is no

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known address for a Borrower, no personal notice to that Borrower will be necessary. Upon subsequently locating such Borrower, Buyer must send such notice to such Borrower. Buyer is liable to Seller for any and all costs and expenses incurred by Seller as a result of Buyer's failure to comply with the provisions of this Section 5.16. Such costs and expenses include, but are not limited to, salaries of Seller's personnel and other administrative expenses, the time expended by each of Seller's employees involved in the performance of said acts at the rate of the greater of $100 per hour per employee or the then prevailing hourly rate per employee charged by Seller or FDIC to perform such services, plus all associated travel, lodging, and per diem costs. Seller may, in its sole and absolute discretion, determine and assign the personnel necessary to perform said acts. Buyer also agrees to reimburse Seller for copies made in the course of performing said acts at the rate of 25 cents per copy. Nothing in this Section 5.16 requires Seller to provide Buyer with any information or service in this regard.

5.17. **Notice of Claim.** Buyer agrees to immediately notify Seller of any claim, threatened claim, or litigation against Seller or the Failed Bank arising out of any Loan contained in a Loan Pool purchased by Buyer that comes to its attention.

5.18. **Use of FDIC's Name and Reservation of Statutory Powers.** Buyer agrees that it will not use or permit the use by its agents, successors, or assigns of any name or combination of letters that is similar to "FDIC" or "Federal Deposit Insurance Corporation." Buyer will not represent or imply that it is affiliated with, or in any way related to, FDIC, in any capacity. Buyer acknowledges and agrees that (1) the assignment of any Loan or Collateral Document pursuant to the terms of this LSA will not constitute the assignment of any other rights, powers, or privileges granted to Seller pursuant to the provisions the Federal Deposit Insurance Act, including, without limitation, those granted pursuant to 12 U.S.C. § 1821(d), 12 U.S.C. § 1823(e), and 12 U.S.C. § 1825, all such rights and powers being expressly reserved by Seller, and (2) Buyer will not assert or attempt to assert any such right, power, or privilege in any pending litigation or future litigation involving any Loan purchased under this LSA; provided, however, that nothing contained in this Section 5.18 or otherwise in this LSA or any instrument executed in connection with this Sale precludes Buyer from asserting the statute of limitations established under 12 U.S.C. § 1821(d)(14) or a jurisdictional defect or lack of jurisdiction (including under 12 U.S.C. § 1821(d)(13)(D)). Buyer and Seller agree that breach of the provisions of this Section 5.18 will result in actual, substantial, and irreparable harm to Seller, for which Seller has no adequate remedy at law. It is therefore agreed that, in the event of any such breach, Seller is entitled to equitable relief, including specific performance and injunctive relief (and Buyer will not object to any claim for such relief by Seller), together with such attorneys' fees and other fees and expenses as Seller incurs in enforcing its remedies and may incur in preventing further or continuing breach of said provision. Nothing in this LSA will be construed as prohibiting Seller from pursuing any other remedies available to it for any such breach or threatened breach.

5.19. **Prior Servicer Information.** Buyer acknowledges and agrees that Seller might not have access to information from prior servicers of a Loan and that Seller has not requested any information not in the possession of Seller or its servicer from any prior servicer of a Loan. Buyer acknowledges and agrees that Seller is not required under the terms of this LSA to request any information from any prior servicer.

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5.20. **Release of Seller.**

5.20.1. Except as otherwise specifically provided in Article VII, Buyer releases and forever discharges Seller, FDIC, all of their respective officers, directors, employees, agents, attorneys, contractors, and representatives, and their successors, assigns, and affiliates, from any and all claims (including any counterclaim or defensive claim), demands, causes of action, judgments, legal proceedings, and remedies of whatever kind or nature that Buyer now has or might have in the future, whether now known or unknown, that are related in any manner whatsoever to any Loan or this LSA.

5.20.2. Buyer agrees that it will not renew, extend, renegotiate, compromise, settle, or release any Note or Loan or any right of Buyer founded upon or in connection with this LSA, except upon payment in full of the Note or Loan, unless all Obligors on the Note or Loan first release and discharge Seller and Seller's agents, employees, affiliates, and assigns from all claims, demands, and causes of action that any such Obligor may have against any such released party arising from or in connection with any act or omission occurring prior to the date of such release. If Buyer fails to obtain such release, Buyer agrees to protect, save, indemnify, defend, and hold harmless Seller from any expense or damage Seller suffers that might have been prevented had Buyer obtained the release.

5.21. **Indemnification.** Buyer agrees to pay, or reimburse to Seller, and to protect, save, indemnify, defend, and hold harmless Seller, Seller's agents, employees, and affiliates, from and against any and all losses, liabilities, claims, causes of action, damages, demands, taxes, fees, costs, and expenses of whatever kind, arising out of, incurred in connection with or otherwise relating to Buyer's actions or inactions in performing, or failing to perform, the Obligations of Buyer. Buyer further agrees to pay when due, or promptly reimburse Seller for, any fees, taxes, costs, and expenses incurred by Seller in connection with the performance or nonperformance by Buyer of all of the Obligations of Buyer.

Article VI
Loans Sold "As Is" and Without Recourse

6.1. Loans Sold "As Is," No Warranties or Representations. The Loans are sold "AS IS" and "WITH ALL FAULTS," without any representation, warranty, or recourse whatsoever as to either collectability, condition, fitness for any particular purpose, merchantability, or any other warranty, express or implied. Seller specifically disclaims any warranty, guaranty, or representation, oral or written, past or present, express or implied, concerning the Loans, the stratification of packaging of the Loans, the Collateral, or the Collateral Documents.

6.2. **No Warranties or Representations with Respect to Escrow Accounts.** Seller makes no warranties or representations of any kind or nature as to the sufficiency of funds held in any escrow account to discharge any obligations related in any manner to an escrow obligation, as to the accuracy of the amount of any monies held in any escrow account or as to the propriety of any previous disbursements or payments from any escrow account.

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6.3. **No Warranties or Representations as to Amounts of Unfunded Principal.** Seller makes no warranties or representations of any kind or nature as to the amount of any additional or future Disbursements of Principal Buyer is obligated to make.

6.4. **Disclaimer Regarding Calculation or Adjustment of Interest on any Loan.** Seller makes no warranties or representations of any kind or nature as to the accuracy of any calculation or adjustment of interest on any Loan, including, without limitation, any adjustable rate mortgage Loan, whether such calculation or adjustment is made by the Failed Bank, Seller, any agent or contractor of Seller, or any predecessor-in-interest of Seller or any other party.

6.5. **No Warranties or Representations Regarding Due Diligence Data.** Seller makes no warranties or representations of any kind or nature as to the completeness or accuracy of the Information Package. As an example, and not by way of limitation, some Loan Files may be missing forms or notices, or may contain incomplete or inaccurate forms or notices, that may be required by one or more federal or state consumer protection statutes. Buyer's exclusive remedies with respect to any inaccurate or incomplete information provided by Seller are an adjustment to the Purchase Price in accordance with Section 2.4 or an option to repurchase under Article VII, and such exclusive remedies are available only if all other conditions set out in this LSA have been met.

6.6. **Buyer's Waiver of Cause of Action.** Buyer waives any right or cause of action it might now or in the future have against Seller as a result of its purchase of the Loan Pools subject to this LSA; provided, however, that this waiver does not include any action taken as a result of Seller's failure to perform under the terms of this LSA.

6.7. **Intervening or Missing Assignments.** Buyer acknowledges and agrees that Seller has no obligation to secure or obtain any missing intervening assignment or any assignment to Seller that is not contained in the Loan File or among the Collateral Documents. Buyer will have the sole responsibility and expense of securing any intervening assignment or any assignment to Seller that may be missing from the Collateral Documents from the appropriate source.

6.8 **No Warranties or Representations as to Documents.** Seller makes no warranties or representations of any kind or nature as to the effectiveness or enforceability in any jurisdiction of this LSA, the Bill of Sale, the Assignment and Assumption, or any other document or instrument prepared in connection with this Sale, whether or not prepared and executed in the forms provided with the LSA, all of such forms being provided for reference only.

Article VII
Repurchases by Seller

7.1. **Repurchases at Buyer's Option.** Buyer may, at its option, and upon satisfaction of the procedures and other requirements set forth below, require Seller to repurchase a Loan, if, and only if, prior to the Closing Date one of the following events set forth below has occurred. **In no event will the occurrence of any such event be evidence of bad faith, misconduct, or fraud, even in the event that it is shown that Seller in any capacity, any Failed Bank, or any of their**

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respective directors, employees, officers, or agents knew or should have known of the existence of any facts relating to the occurrence of such event:

7.1.1. The Borrower had been discharged in a no asset bankruptcy proceeding and no collateral exists out of which the Loan may be satisfied, and other Obligors on the Note, if any, or the obligations contained in the Note, have similarly been discharged in no asset bankruptcies.

7.1.2. A court of competent jurisdiction had entered a final judgment (other than a bankruptcy decree or judicial foreclosure order) holding that no Obligor owes an enforceable obligation to pay the holder of the Note or its assignees.

7.1.3. The Failed Bank or Seller had executed and delivered to all Obligors a release of liability from all obligations under the Note.

7.1.4. A title defect exists in connection with the property that is the subject of a Contract for Deed and the title defect requires a prior order or judgment of a court to enable Buyer to convey title to such property in accordance with the terms and conditions set forth in the Contract for Deed.

7.1.5. Seller is not the owner of the Loan (or, in the case of a Participated Loan, Seller is not the owner of the *pro rata* interest in such Loan set forth on the attached Schedule of Loans).

7.1.6. The Failed Bank, its officers, directors, or employees fraudulently caused the Borrower to receive less than all of the proceeds and benefits of a Note. Buyer's recourse with respect to this Section 7.1.6 is conditioned upon Buyer delivering, along with the notice required by Section 7.4, written evidence of such fraud, which evidence must be satisfactory in form and substance to Seller in its sole discretion.

7.1.7. The Loan was made after the Bid Valuation Date.

7.2. **Securities Laws Right of Rescission by Buyer.** In the event that Buyer is entitled to and desires to exercise its rescission rights under any federal or state securities law, Buyer must deliver the notice required by Section 7.4, together with written evidence of the circumstances giving rise to Buyer's right to rescission, which evidence must be satisfactory in form and substance to Seller in its sole discretion.

7.3. **Defects not Qualifying for Repurchase at Buyer's Option.** Neither the absence of any intervening assignment or any assignment to Seller, nor the existence of any lien, claim, or encumbrance on the Loan or its Collateral, nor any defect in the lien or priority of Seller's security interest in the Collateral will give rise to any claim for repurchase at Buyer's option under this Article VII.

7.4. **Notice to Seller.** Buyer must notify Seller of each Loan with respect to which Buyer seeks repurchase. Such notice must be on Buyer's letterhead paper and include the following

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information: (1) Buyer's tax identification number, (2) Buyer's wire transfer instructions, (3) the subsection under Section 7.1 for which Buyer is seeking repurchase, and (4) a summary of the reasons Buyer believes that the Loan should be repurchased. The notice must be accompanied by evidence supporting the basis for repurchase of such Loan. Promptly upon request by Seller, Buyer must supply Seller with any additional evidence that Seller may require. Seller has no obligation to repurchase any Loan pursuant to this Article VII for which notice and all supporting evidence reasonably required by Seller have not been received by Seller at the addresses specified in Article VIII no later than: (x) in the case of New Loan, the first Business Day after the expiration of 30 calendar days after the Closing Date; or (y) in the case of a Contract for Deed, the first Business Day after the expiration of one year after the Closing Date; or (z) in any case other than a New Loan or a Contract for Deed, the first Business Day after the expiration of 180 calendar days after the Closing Date.

7.5. **Waiver of Buyer's Repurchase Option.** Seller will be relieved of its obligation to repurchase any Loan for any reason set forth in Section 7.1.1 through Section 7.1.7 if Buyer: (1) modifies any of the terms of the Loan (including the terms of any Collateral Document or Contract for Deed); (2) exercises forbearance with respect to any scheduled payment on the Loan; (3) accepts or executes new or modified lease documents assigned by Seller to Buyer; (4) sells, assigns, or transfers the Loan or any interest in the Loan; (5) fails to employ usual and customary care in the maintenance, collection, servicing, and preservation of the Loan, including usual and customary delinquency prevention, collection procedures, and protection of collateral as warranted; (6) initiates any litigation in connection with the Loan or the Mortgaged Property securing the Loan other than litigation to force payment or to realize on the Collateral securing the Loan; (7) completes any action with respect to foreclosure on, or accepts a deed-in-lieu of foreclosure for, any Property securing the Loan; (8) causes, by action or inaction, the priority of title to the Loan, Mortgaged Property, and other security for the Loan to be less than that conveyed by Seller; (9) causes, by action or inaction, the security for the Loan to be different than that conveyed by Seller, except as may be required by the terms of the Collateral Documents; (10) causes, by action or inaction, a claim of third parties to arise against Buyer that, as a result of repurchase under this LSA, might be asserted against Seller; (11) causes, by action or inaction, a security interest, lien, pledge, or charge of any nature to encumber the Loan to arise; (12) is the Borrower or any Related Party under such Loan; or (13) makes a disbursement other than an Advance.

7.6. **Repurchases at Seller's Option.** Buyer agrees, upon written notice from Seller to Buyer, to immediately sell, assign, transfer, convey, and deliver to Seller all of Buyer's right, title, and interest in and to any Loan (together with all documents evidencing or pertaining to such Loan) determined by Seller, in its sole and absolute discretion, to be essential to Seller because it is (a) secured by collateral which also secures any asset owned by Seller, or (b) related to any asset or liability of Seller.

7.7. **Redelivery of Notes, Documents, and Files.** For any Loan that qualifies for repurchase under this Article VII, Buyer agrees to: (1) re-endorse and deliver the Note to Seller, (2) reassign all Collateral Documents associated with such Loan and reconvey any real property subject to a Contract for Deed or transferred by quitclaim deed pursuant to Section 2.6, together with such other documents or instruments as are necessary or appropriate to convey the Loan back

SAMPLE

to Seller, (3) redeliver to Seller the Loan File, along with any additional records compiled or accumulated by Buyer pertaining to the Loan, and (4) deliver to Seller a certification, notarized and executed under penalty of perjury by a duly authorized representative of Buyer, certifying that as of the date of repurchase none of the conditions relieving Seller of its obligation to repurchase the Loan as specified in Section 7.5 has occurred. The documents evidencing such reconveyance must be substantially the same as those executed as of Closing pursuant to Article III. In all cases where Buyer recorded or filed among public records any document or instrument evidencing a transfer of the Loan to Buyer, Buyer agrees to record or file among such records a similar document or instrument evidencing the reconveyance of the Loan to Seller. Upon compliance by Buyer with the provisions of this LSA, Seller will pay to Buyer the Repurchase Price.

Article VIII
Notices

8.1. **Notices.** All notices or deliveries required or permitted under this LSA must be in writing and will be deemed given when personally delivered to the individual designated below or when actually received by means of email, overnight mail, or certified mail, return receipt requested, at the addresses set forth below or such other address as either party may hereafter designate by notice to the other party, making specific reference to this Article VIII.

8.2. **Notice Addresses.** Notices must be delivered to:

BUYER: _____
_____
_____
Attention: _____
Email Address: _____

SELLER: Federal Deposit Insurance Corporation
Attention:
Manager, Asset Marketing
600 N Pearl Street, Suite 700
Dallas, Texas 75201
Email:

and

Federal Deposit Insurance Corporation
Attention: [Add name of Section Chief or Acting SC]
Counsel, [Acting] Section Chief, Asset Disposition
600 N Pearl Street, Suite 700
Dallas, Texas 75201
Email: [Add e-mail address]

SAMPLE

8.3. **Additional Section 5.7 Notice Address**. In addition to the notice addresses listed in Section 8.2, notice required by Section 5.7 must also be delivered to:

Federal Deposit Insurance Corporation
Attention:
Supervisory Counsel, Section Chief, Litigation
600 N Pearl Street, Suite 700
Dallas, Texas 75201
Email:

Article IX
Condition Precedent

The obligations of the parties to this LSA are subject to the Receiver and the Corporation having received at or before the Bank Closing Date evidence reasonably satisfactory to each of any necessary approval, waiver, or other action by any Governmental Entity, the board of directors of Buyer, or other third party, with respect to this LSA and the transactions contemplated hereby, of the closing of the Failed Bank and the appointment of the Receiver, the chartering of the acquiring institution, and any agreements, documents, matters or proceedings contemplated hereby or thereby.

Article X
Miscellaneous Provisions

10.1. **Severability.** Each part of this LSA is intended to be severable. If any term, covenant, condition, or provision of this LSA is unlawful, invalid, or unenforceable for any reason whatsoever, such illegality, invalidity, or unenforceability will not affect the legality, validity, or enforceability of the remaining parts of this LSA, and all such remaining parts of this LSA will be valid and enforceable and have full force and effect as if the invalid or unenforceable part had not been included.

10.2. **Construction.** Unless the context otherwise requires, singular nouns and pronouns will be deemed to include the plural and vice versa, and impersonal pronouns will be deemed to include the personal pronoun of the appropriate gender.

10.3. **Survival.** Each and every covenant made by Buyer or Seller in this LSA survives the Closing and will not merge into the closing documents, but instead will be independently enforceable.

10.4. **Governing Law.** This LSA and the rights and obligations under it is governed by and will be construed in accordance with the federal law of the United States. To the extent that federal law does not supply a rule of decision, this LSA will be governed by and construed and enforced in accordance with the laws of the State of New York, without reference to any conflict of laws rule or principle that might refer the governance or construction to the law of another jurisdiction.

SAMPLE

10.5. **Costs, Fees, and Expenses.** Except as otherwise provided, each party agrees to pay all costs, fees, and expenses that it incurred in connection with or incidental to the matters contained in this LSA, including, without limitation, any fees and disbursements to its accountants and counsel; provided, however, that Buyer will pay (by reimbursement to Seller, if applicable) all fees, costs, and expenses (other than attorneys' fees incurred by Seller) incurred in connection with the transfer to Buyer of any Loan under this LSA.

10.6. **Nonwaiver, Amendment, and Assignment.** No provision of this LSA may be amended or waived except in a writing executed by all of the parties. This LSA and the terms, covenants, conditions, provisions, obligations, undertakings, rights, and benefits of this LSA, including the Attachments, are binding upon, and inure to the benefit of, the parties and their respective heirs, executors, administrators, representatives, successors, and assigns. Notwithstanding the foregoing, this LSA may not be transferred or assigned by Buyer without the express prior written consent of Seller, and any attempted assignment without such consent will be void. FDIC in its corporate capacity is a third-party beneficiary with respect to this LSA, and there are no other third-party beneficiaries with respect to this LSA.

10.7. **Drafting Presumption.** This LSA will be construed fairly as to each party regardless of which party drafted it.

10.8. **Controlling Agreement.** Seller and Buyer acknowledge and agree that this LSA will in all instances be the controlling document with respect to the terms of the sale and transfer of the Loans, Collateral Documents, and Collateral, and the assignment and assumption of all Obligations under this LSA. In the event of a conflict between the terms of this LSA and the terms of any other document or instrument executed in connection with this LSA and the Sale (including, without limitation, any translation into a foreign language of this LSA, any Collateral Document, or any other document or instrument executed in connection with this LSA that is prepared for notarization, filing, or any other purpose), the terms of this LSA will control. Furthermore, the terms of this LSA will in no way be or be deemed to be amended, modified, or otherwise affected in any manner by the terms of such other document or instrument.

10.9. **Venue.** Buyer and Seller agree that any legal action arising under or in connection with this LSA or the Sale must be instituted in the United States District Court in and for the District of Columbia. Buyer assents and submits to the exclusive jurisdiction of such court in any such action or proceeding.

10.10. **Execution and Delivery; Counterparts; Waiver.**

10.10.1. **Execution and Delivery.** This LSA must be executed and delivered, at Seller's option, either electronically (for example, digitally through a document execution platform such as DocuSign) or by Electronic Transfer, in accordance with Seller's instructions. If executed and delivered in accordance with Seller's instructions, each of the LSA, any amendments to the LSA, and any related documents, will be treated in all manner and respects as an original and considered to have the same binding legal effect as if it were an original.

SAMPLE

10.10.2. **Counterparts.** This LSA, any amendments to the LSA, and any related documents, may be executed in any number of counterparts, and each counterpart of the LSA or other document, if executed and delivered in accordance with Seller's instructions, will be deemed an original, and all of which when taken together constitute one and the same document.

10.10.3. **Waiver.** No signatory to this LSA, any amendments to the LSA, or any related documents may raise the manner of execution or delivery chosen by Seller as a defense to the formation or enforceability of a contract, and each party to this LSA, any amendments to the LSA, or any related documents forever waives any such defense.

10.11. Waiver of Jury Trial. Each party irrevocably and unconditionally waives, to the maximum extent permitted by applicable law, all right to trial by jury in or to have a jury participate in resolving any dispute, action, proceeding, or counterclaim, whether sounding in contract, tort, or otherwise, arising out of or relating to or in connection with this LSA or any of the transactions contemplated by this LSA.

10.12. **Incorporation by Reference.** The Bid Documents will be considered part of this LSA as if fully set forth in this LSA.

This LSA is executed on the day and year first set forth above.

BUYER:	SELLER:
_____,	FEDERAL DEPOSIT INSURANCE CORPORATION, AS RECEIVER FOR
a _____	[BANK NAME], [CITY], [STATE]
By: _____	By: _____
Name: _____	Name: _____
	Attorney-in-Fact
Title: _____	

SAMPLE

ATTACHMENT A
to
Loan Sale Agreement

SCHEDULE OF LOANS
LOAN POOL NUMBER[S] _____

This list will be provided on the Closing Date to accurately reflect the Loans, Loan Pools, Book Value of such Loans as of the Calculation Date, and Seller's designation of the Loans as Performing or Non-Performing.

ATTACHMENT B
to
Loan Sale Agreement

REPURCHASE PERCENTAGES
LOAN POOL NUMBER[S] _____

Repurchase Percentages represent Seller's allocation of a Buyer's Bid Amount among the Loans purchased in a Loan Pool. The calculation of the Repurchase Percentage for each Loan will be at Seller's sole discretion, based on Book Value. The final Repurchase Percentage for each Loan will be reflected on Attachment B at Closing. Repurchase Percentages will be carried to the ten thousandth of one percent (e.g., 10.1255%).

SAMPLE

ATTACHMENT C
to
Loan Sale Agreement

BILL OF SALE
LOAN POOL NUMBER[S] _____

For value received and pursuant to the terms and conditions of the Loan Sale Agreement by and between the Federal Deposit Insurance Corporation, as Receiver for *[Institution Name], [City], [State]* ("**Seller**"), and _____ ("**Buyer**"), dated as of *[Month]* ___, 20__ (the "**LSA**"), Seller does hereby sell, assign, and convey to Buyer, its successors and assigns, all of Seller's right, title, and interest in and to those assets described in Exhibit A, attached to and made a part of this Bill of Sale for all purposes, that consist of tangible personal property.

This Bill of Sale is executed without recourse and without representations or warranties, whether express, implied, or created by operation of law, except as provided in the LSA.

EXECUTED AS OF THE _____ DAY OF *[MONTH]*, 20__.

SELLER:

FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver for *[INSTITUTION NAME], [City], [State]*

By: _____

Name: _____
Attorney-in-Fact

SAMPLE

ATTACHMENT D
to
Loan Sale Agreement

ASSIGNMENT AND ASSUMPTION OF INTERESTS AND OBLIGATIONS
LOAN POOL NUMBER[S] _____

THIS ASSIGNMENT AND ASSUMPTION OF INTERESTS AND OBLIGATIONS (this "**Assignment and Assumption**") is made and entered into as of the ____ day of *[Month]*, 20__, by and between the Federal Deposit Insurance Corporation, as Receiver for *[Institution Name], [City]*, *[State]* ("**Assignor**"), and _____, a _____, organized and existing under the laws of _____ ("**Assignee**").

Whereas, Assignor and Assignee have entered into that certain Loan Sale Agreement dated as of *[Month]* ____, 20__ (the "**LSA**"), pursuant to which Assignor has agreed to sell, assign, transfer, and convey to Assignee all of the assets identified on Exhibit A attached to this Assignment and Assumption, together with any obligations of Assignor under any Related Agreements (as defined in the LSA), and all rights and obligations arising out of any asset or appurtenant to any asset (the "**Assets**").

Whereas, pursuant to a Bill of Sale of even date with this Assignment and Assumption, Assignor has conveyed to Assignee that part of the Assets which consists of tangible personal property.

Whereas, part of the Assets consists of documents and instruments evidencing loans (including, without limitation, promissory notes, loan agreements, shared credit or participation agreements, inter-creditor agreements, letters of credit, reimbursement agreements, drafts, bankers' acceptances, transmission system confirmations of transaction, and other evidences of indebtedness, including loan histories, affidavits, general collection information, correspondence, and comments pertaining to such obligations), and equipment leases (the "**Agreements to Pay**").

Whereas, another part of the Assets consists of documents securing Agreements to Pay, such as mortgages, deeds of trust, security agreements, loan agreements, and other documents or instruments of similar nature relating to the Agreements to Pay (the "**Collateral Documents**").

Whereas, another part of the Assets consists of real estate, Contracts for Deed to real estate, and leases, tenancies, concessions, licenses, and other rights of occupancy or use related to real estate (including any related security deposits in Assignor's possession) (the "**Real Estate Interests**").

Whereas, another part of the Assets is affected by contracts relating to the Assets, such as collection and service agreements (the "**Miscellaneous Agreements**"). The term "Miscellaneous

SAMPLE

Agreements" does not include loan servicing agreements between Assignor and independent contractors.

Whereas, under the LSA, Assignor has agreed to assign and convey to Assignee all of Assignor's right, title, and interest to the Agreements to Pay, the Collateral Documents, the Real Estate Interests, and the Miscellaneous Agreements related to the Assets.

Whereas, Assignee has agreed to accept and assume all of Assignor's duties, obligations, and liabilities under the Agreements to Pay, Collateral Documents, Real Estate Interests, Miscellaneous Agreements, and regarding Assets in litigation as set out in the LSA (the "**Obligations**").

Whereas, the term "**Advances**" as used in this Assignment and Assumption means the sum of all unreimbursed amounts advanced by or on behalf of the failed institution that once owned the Assets or by Assignor (1) to protect the noteholder's lien position or the collateral, including payment of ad valorem taxes and hazard and forced placed insurance as permitted by the terms of any loan, or (2) to meet required scheduled payments. The term "Advances" does not include (a) incremental funding of loan proceeds under an Agreement to Pay, such as in the case of a revolving credit loan or a construction loan, or (b) the payment of appraisal fees, broker opinion fees, attorney fees and associated legal fees, foreclosure fees, trustee fees, property inspection fees, property preservation and operating cost fees, tax penalties, title policies, lien search fees, or any other cost that can be directly associated with the collection and servicing of a loan.

NOW THEREFORE, in consideration of the foregoing and the sum of $10, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. **Assignor's Assignment**. Assignor hereby transfers, grants, conveys, and assigns to Assignee all of Assignor's right, title, and interest in the Agreements to Pay, the Collateral Documents, the Real Estate Interests, and the Miscellaneous Agreements related to the Assets.

2. **Assignee's Acceptance**. Assignee does hereby accept such assignment from Assignor and assumes all Obligations arising from and after the Closing Date. The Obligations assumed include, without limitation, any and all obligations to (1) make payments relating to Agreements to Pay serviced by Assignor; (2) make Advances with respect to Agreements to Pay serviced by Assignor; (3) reimburse third-party servicers for Advances on Agreements to Pay; (4) make incremental disbursements of loan proceeds, such as in the case of a revolving credit loan or a construction loan; and (5) perform Buyer's obligations regarding Assets in litigation as set out in the LSA.

3. **Assignee's Covenants**. Assignee hereby represents and warrants to, and covenants with, Assignor as follows:

   a. Assignee understands that (1) neither the Assets, nor any interest in the Assets or evidence of such interest, has been registered or qualified

SAMPLE

under the Securities Act of 1933, as amended (the "**Securities Act**"), or the securities laws of any state or any other jurisdiction, and (2) Assignor is not required, and does not intend, to so register or qualify the Assets.

b. Assignee is a substantial, sophisticated investor having such knowledge and experience in financial and business matters, and in particular in matters relating to the purchase, sale, origination, or ownership of notes and loan participations such as the Assets, that it is capable of evaluating the merits and risks of investment in the Assets and understands and is able to bear the economic risks of such an investment (including a total loss of its investment and the risk that Assignee might be required to hold the Assets for an indefinite period of time).

c. Assignee is acquiring the Assets for investment, for its own account, and not for or on account of any other person or entity, and not with a view to or for sale in connection with a distribution within the meaning of § 5 of the Securities Act.

d. Assignee has been furnished with, and has had an opportunity to review and understands, all information relating to the Assets as has been requested and as is considered necessary by Assignee, and has had all questions arising from or relating to such review answered to the satisfaction of Assignee.

e. Neither Assignee nor anyone acting on its behalf has (1) offered, transferred, pledged, sold, or otherwise disposed of any of the Assets (or any interest in or evidence of the Assets), or (2) solicited any offer to buy or accept a transfer, pledge, or other disposition of any of the Assets (or any interest in or evidence of the Assets), or (3) otherwise approached or negotiated with respect to any of the Assets (or any other interest in or evidence of the Assets) with any person or entity in any manner, or taken any other action that would constitute a distribution under, or render the disposition to Assignee or the disposition by Assignee to any other party of any of the Assets (or any interest in or evidence of the Assets) a violation of the Securities Act or of any other securities law or require registration or qualification pursuant any such law, nor will it act, nor has it authorized or will it authorize any person or entity to so act, in any such manner with respect to the Assets (or any interest in or evidence of the Assets).

f. Either (1) Assignee is not an employee benefit plan within the meaning of § 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("**ERISA**") or a plan within the meaning of § 4975(e)(l) of the Internal Revenue Code of 1986 of the United States, as it may be amended from time to time ("**IRC**"), and Assignee is not, directly or indirectly, purchasing the Assets on behalf of, as investment manager of, as named fiduciary of, as trustee of or with assets of any such plan; or (2)

SAMPLE

Assignee's purchase of the Assets (a) will not cause Assignor to be deemed a fiduciary of any such plan, or (b) either will not result in a prohibited transaction under § 406 of ERISA or § 4975 of the IRC or will be exempt from the prohibited transaction rules in § 406 of ERISA and § 4975 of the IRC.

4. **Assignee's Indemnification**. Assignee hereby indemnifies and holds harmless and agrees to defend Assignor and Assignor's agents, employees, and affiliates (the "**Indemnified Parties**") from and against any and all damages, liabilities, losses, costs, charges, liens, deficiencies, and expenses of any nature (including, without limitation, reasonable attorneys' fees and all other actual litigation costs) suffered or incurred by or assessed against the Indemnified Parties from and after the date of this Assignment and Assumption as a result of (1) Assignee's failure to perform the assumed Obligations, or (2) Assignee's failure to pay the assumed liabilities identified in Section 2 above, or (3) Assignee's breach of any representation, warranty, or covenant contained in this Assignment and Assumption.

5. **Beneficiaries of this Assignment and Assumption**. This Assignment and Assumption will be binding upon and will inure to the benefit of Assignor and Assignee and their respective heirs, executors, administrators, representatives, successors, and assigns. The Federal Deposit Insurance Corporation in its corporate capacity is a third-party beneficiary with respect to this Assignment and Assumption, and there are no other third-party beneficiaries with respect to this Assignment and Assumption.

6. **Incorporation of terms of LSA**. This Assignment and Assumption is made, executed, and delivered pursuant to the LSA, and is subject to all of the terms, provisions, and conditions of the LSA.

7. **Controlling Law**. This Assignment and Assumption will be governed by and construed in accordance with the federal law of the United States. To the extent that federal law does not supply a rule of decision, this Assignment and Assumption will be governed by and construed and enforced in accordance with the laws of the State of New York, without reference to any conflict of laws rule or principle that might refer the governance or construction to the law of another jurisdiction.

8. **Execution and Delivery; Counterparts; Waiver**. This Assignment and Assumption must be executed and delivered, at Seller's option, either electronically (for example, digitally through a document execution platform such as DocuSign) or by a document signed in ink, scanned in its entirety, and sent by secure email attachment, in accordance with Seller's instructions, and will be treated in all manner and respects as an original and considered to have the same binding legal effect as if it were an original. This Assignment and Assumption may be executed in any number of counterparts, and each counterpart will be deemed an original, and all of which when taken together constitute one and the same document. No signatory to this Assignment and Assumption may raise the manner of execution or delivery chosen by Seller as a defense to the formation or enforceability of an agreement, and each party to this Assignment and Assumption forever waives any such defense.

SAMPLE

IN WITNESS WHEREOF, each of the parties has caused this Assignment and Assumption to be executed and delivered by its duly authorized officer or agent as of the day and year first written above.

ASSIGNOR:

FEDERAL DEPOSIT INSURANCE CORPORATION, AS RECEIVER FOR *[INSTITUTION NAME], [City], [State]*

By: _____

Name: _____
Attorney-in-Fact

ASSIGNEE:

_____,
a _____ _____

By: _____

Name: _____

Title: _____

SAMPLE

ATTACHMENT E
to
Loan Sale Agreement

STATE OF _____ §
§
COUNTY OF _____ §

LOST INSTRUMENT AFFIDAVIT
LOAN POOL NUMBER[S] _____

Before me, the undersigned authority, personally appeared _____, who upon being duly cautioned and sworn deposes and says, to the best of his /her knowledge, as follows:

1. That s/he is the Attorney-in-Fact for the Federal Deposit Insurance Corporation ("**FDIC**") acting in its [ ] corporate capacity [ ] capacity as Receiver for *[Institution Name], [City], [State],* whose address is 600 N Pearl Street, Suite 700, Dallas, Texas 75201 ("**Seller**").

2. That at the time of the preparation of transfer to _____("**Buyer**"), Seller was the owner of that certain loan, obligation or interest in a loan, or obligation evidenced by a promissory note, evidencing an indebtedness or evidencing rights in an indebtedness (the "**Instrument**"), as follows:

Loan Number: _____

Name of Maker: _____

Original Principal Balance: _____

Date of Instrument: _____

3. That the original Instrument has been lost or misplaced. The Instrument was not where it was assumed to be, and a search to locate the Instrument was undertaken, without results. Prior to the transfer to Buyer the Instrument had not been assigned, transferred, pledged, or hypothecated. A copy of the Instrument is attached to this affidavit as Exhibit A.

4. That if Seller subsequently locates the Instrument, Seller will use reasonable efforts to provide written notice to Buyer and deliver and endorse the Instrument to Buyer in accordance with written instructions received from Buyer (or from such other party designated in writing by Buyer).

5. That the purpose of this affidavit is to establish such facts. This affidavit does not confer any rights or benefits, causes or claims, or representations or warranties (including, without

SAMPLE

limitation, regarding ownership or title to the Instrument or the obligations evidenced thereby) upon Buyer, its successors or assigns. All such rights, benefits, causes or claims, and representations and warranties, if any, are as set forth in the Loan Sale Agreement (the "**LSA**") between Buyer and Seller dated as of *[Month]* _____, 20__.

FEDERAL DEPOSIT INSURANCE CORPORATION, ACTING IN THE CAPACITY STATED ABOVE

By:_____

Name:_____
Attorney-in-Fact

JURAT

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

_____
Notary Public

[SEAL] My Commission expires:_____

SAMPLE

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 document, as Attorney-in-Fact of the Federal Deposit Insurance Corporation acting in the capacity stated above, and acknowledged to me that s/he executed the document as the act of the Federal Deposit Insurance Corporation, 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: _____

SAMPLE

ATTACHMENT F
to
Loan Sale Agreement

(For use with Loans in Bankruptcy)

STATE OF _____ §
§
COUNTY OF _____ §

ASSIGNMENT OF BANKRUPTCY CLAIM
LOAN POOL NUMBER[S] _____

The Federal Deposit Insurance Corporation, acting [ ] in its corporate capacity [ ] in its capacity as Receiver for *[Institution Name], [City], [State]* ("**Assignor**"), acting by and through its duly authorized officers and agents, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged does hereby sell, transfer, assign, and set over to _____ ("**Assignee**") of *{insert Buyer's address}* _____ _____, _____, _____, his/her/its successors and assigns, all of Assignor's interest in any claim in the bankruptcy case commenced by or against *{insert Obligor's name}*_____ ("**Obligor**") in the {*insert appropriate U.S. Bankruptcy Court, including the district of the court, such as for the Western District of Texas}* _____ _____, being designated as Case Number {*insert docket number assigned case}* _____ _____ ("**Bankruptcy Claim**"), or such part of said Claim as is based on the promissory note of *{insert the names of the makers of the note exactly as they appear on the note}*, dated *{insert the date the note was made}*, and made payable to *{insert the name of the payee on the note exactly as it appears on the note}*, provided, however, that this Assignment of Bankruptcy Claim **("Bankruptcy Assignment")** is made pursuant to the terms and conditions as set forth in that certain Loan Sale Agreement between Assignor and Assignee dated *{insert the date of the governing Loan Sale Agreement}*_____ (the "**LSA**").

For purposes of Bankruptcy Rule 3001, this Bankruptcy Assignment represents the unconditional transfer of the Bankruptcy Claim or such part of the Claim as is based on the promissory note or notes described above and constitute the statement of the transferor acknowledging the transfer and stating the consideration for the transfer as required by said Rule 3001.

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

This Bankruptcy Assignment also evidences the unconditional transfer of Assignor's interest in any security held for the Bankruptcy Claim.

SAMPLE

IN WITNESS WHEREOF, Assignor has executed this Bankruptcy Assignment on this __ _____ day of _____, _____.

FEDERAL DEPOSIT INSURANCE CORPORATION, ACTING IN THE CAPACITY STATED ABOVE

By:_____

Name:_____

Attorney-in-Fact

SAMPLE

ATTACHMENT G
to
Loan Sale Agreement

LIMITED POWER OF ATTORNEY
LOAN POOL NUMBER[S] _____

KNOW ALL PERSONS BY THESE PRESENTS, that the FEDERAL DEPOSIT INSURANCE CORPORATION, a corporation organized and existing under an Act of Congress ("**FDIC**") hereby designates each of the officers or employees of _____ ("**Buyer**") set out below as Attorney-in-Fact (the "**Attorneys-in-Fact**") for the sole purpose of executing the documents outlined below:

_____
_____
[names of individual officers or employees of Buyer]

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

NOW THEREFORE, FDIC grants to each of the Attorneys-in-Fact the authority, subject to the limitations herein, as follows:

1. To execute, acknowledge, seal, and deliver on behalf of FDIC, as Receiver for *[Institution Name], [City], [State]* ("**Receiver**"), all instruments of transfer and conveyance, appropriately completed, with all ordinary or necessary endorsements, acknowledgments, and supporting documents as may be necessary or appropriate to evidence the sale and transfer of any asset contained in the Loan Pools referenced above, pursuant to and in accordance with the terms of that certain Loan Sale Agreement dated as of _____ *[date of LSA]* (the "**LSA**"), between Receiver and Buyer. Notwithstanding the generality of the foregoing, the LSA expressly precludes the Attorneys-in-Fact from executing deeds or other conveyances of real property.

The form which the Attorneys-in-Fact must use for endorsing promissory notes or preparing allonges to promissory notes is as follows:

Pay to the order of

_____
Without Recourse

FEDERAL DEPOSIT INSURANCE
CORPORATION, AS RECEIVER FOR
[INSTITUTION NAME], [City], [State]

By: _____
Name: _____
Attorney-in-Fact

SAMPLE

All other documents of assignment, conveyance, or transfer must contain this sentence: "This assignment is made without recourse, representation, or warranty, express or implied, by the Federal Deposit Insurance Corporation (FDIC) in its corporate capacity or in its capacity as receiver."

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

This LPOA will be effective from _____ *[date of LSA]* (the "**Effective Date**"), and will continue in full force and effect through _____ *[two year anniversary of date of LSA]*, unless otherwise terminated by an official of FDIC authorized to do so by the Board of Directors (a "**Revocation**"). Upon a Revocation, this LPOA will be automatically revoked. Additionally, upon the termination of employment from Buyer (for any reason) of any Attorneys-in-Fact named herein, such terminated employee's power and authority provided pursuant to this LPOA will immediately be revoked and be of no further force and effect as of the date of such termination. Any third party may rely upon this document as to the named individuals' authority to exercise the powers herein granted unless (1) a Revocation has been recorded in the public records of the Office of the County Clerk of Dallas County, Texas; (2) a Notice of the Receivership Termination has been published in the *Federal Register*; or (3) a third party has received actual notice of a Revocation.

The FDIC ratifies, adopts, and agrees to be bound by the documents executed by an Attorney-in-Fact acting on the FDIC's behalf during the term between the Effective Date and the execution of this LPOA, to the extent that said acts were within the scope of the authority granted to the Attorney-in-Fact pursuant to this LPOA.

[Remainder of page intentionally left blank.]

SAMPLE

IN WITNESS WHEREOF, FDIC, by its duly authorized officer empowered by appropriate resolution of its Board of Directors, and redelegations thereof, has caused these presents to be executed and subscribed in its name, effective as of the Effective Date.

FEDERAL DEPOSIT INSURANCE CORPORATION

By:_____

Name:_____

Title:_____

Signed in the presence of the following witnesses by means of an interactive two-way audio and video communication:

_____
Witness
Name:_____

_____
Witness
Name:_____

STATE OF TEXAS §
§
COUNTY OF DALLAS §

Before me, _____, on this day personally appeared by means of an interactive two-way audio and video communication _____, duly authorized officer for the FDIC, who is known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed. This notarial act was an online notarization.

Given under my hand and seal of office on _____.

_____

Name: _____
Notary Public in and for the State of Texas

My Commission Expires: _____

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[ATTACHMENT H
to
Loan Sale Agreement

This document is used only if the FDIC in its sole discretion approves Seller Financing.

SELLER FINANCING TERMS AND CONDITIONS ADDENDUM
(Purchase Money Note)

This Seller Financing Terms and Conditions Addendum ("**Addendum**") is made pursuant to and as of the date of that certain Loan Sale Agreement (the "**LSA**") between Seller and Buyer, to which this Addendum is attached.

1. Defined Terms. This Addendum forms a part of the LSA. If any inconsistency arises between this Addendum and any other provision of the LSA, the terms and conditions of this Addendum control. Capitalized terms used but not otherwise defined in this Addendum have the meanings set forth in the LSA. The following terms as used in this Addendum, or the LSA, have the meanings set forth or referenced in this Section 1:

"**Account Control Agreement**" means the "Account Control Agreement" as such term is defined in the Custodial and Paying Agency Agreement in the form shared in the data room.

"**Collateral Agent**" means the "Collateral Agent" as such term is defined in the Custodial and Paying Agency Agreement.

"**Custodial and Paying Agency Agreement**" means the Custodial and Paying Agency Agreement by and among Buyer and each other Debtor, the PMN Designee, the Collateral Agent, the Paying Agent and the Custodian in the form shared in the data room.

"**Custodian**" means the Person identified as the "Custodian" in the Custodial and Paying Agency Agreement.

"**Debtor**" means a "Debtor" as such term is defined in the Custodial and Paying Agency Agreement.

"**Loan Commitment Fee**" means that certain loan commitment fee in an amount equal to [__ bps] of the original [aggregate] principal amount of the PM Note payable by Buyer to the Receiver on the Closing Date.

"**Paying Agent**" means the "Paying Agent" as such term is defined in the Custodial and Paying Agency Agreement.

"**PMN Designee**" means the "PMN Designee" as such term is defined in the Custodial and Paying Agency Agreement.

"**Purchase Money Note**" means the "Purchase Money Note" as such term is defined in the Custodial and Paying Agency Agreement in the form shared in the data room (as the same

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may hereafter be amended, supplemented, restated, replaced, increased, extended, consolidated or severed from time to time).

"**Qualified Custodian**" means a "Qualified Custodian" as such term is defined in the Custodial and Paying Agency Agreement.

"**Qualified Paying Agent**" means a "Qualified Paying Agent" as such term is defined in the Custodial and Paying Agency Agreement.

"**Qualified Servicer**" means a "Qualified Servicer" as such term is defined in the Custodial and Paying Agency Agreement.

[RESERVED]

[RESERVED]

"**Security Agreement**" means the "Security Agreement" as such term is defined in the Custodial and Paying Agency Agreement in the form shared in the data room.

"**Seller Financing**" is defined in Section 2.1 of this Addendum.

2. Secured Seller Financing Provisions.

2.1 Buyer has elected to pay a portion of the Purchase Price by issuing the Purchase Money Note[s] in the amount of _____ Dollars ($_____) and entering into the other Transaction Documents with Seller, which Transaction Documents Buyer will execute and deliver, and/or cause to be executed and delivered by all parties other than Seller, to Seller on the Closing Date. Subject to Section 2.2 of this Addendum, Seller will accept the Purchase Money Note[s] and the secured financing contemplated by the other Transaction Documents (such financing, the "**Seller Financing**") and Buyer's obligations with respect to Seller Financing, as payment for such portion of the Purchase Price.

2.2 Seller's acceptance of Seller Financing and Buyer's obligations with respect to the Seller Financing, as payment for the portion of the Purchase Price identified in Section 2.1, will be subject to the satisfactory completion of Seller's due diligence with respect to all aspects of the Seller Financing, in its sole discretion, and satisfaction of the following conditions on or before the Closing Date:

2.2.1 The LSA must have been fully executed and delivered to Seller by all parties thereto, and all conditions to Closing contained therein must have been satisfied;

2.2.2 Buyer must have: (i) at least [__] Business Days prior to the Closing Date, identified a proposed Qualified Custodian and Qualified Paying Agent, each of which is acceptable to Seller in its sole discretion, (ii) at least [__] Business Days prior to the Closing Date, identified a proposed Qualified Servicer that is acceptable to Seller in its sole discretion, and (iii) at least [__] Business Days prior to the Closing Date, established the Collection Account with the Qualified Paying Agent;

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2.2.3 The Purchase Money Note[s] and the other Transaction Documents, all in forms acceptable to Seller in its sole discretion, must have been fully executed and delivered to Seller by all parties thereto;

2.2.4 Seller must have received fully executed closing legal opinions acceptable to Seller, including, but not limited to, security interest perfection and priority, general corporate matters and enforceability (including, without limitation, enforceability of any electronically or digitally executed Transaction Documents) , and Investment Company Act matters. These opinions will be delivered at the expense of Buyer. Seller will accept opinions from the in-house counsel of Buyer, licensed to practice in the jurisdiction with respect to which the opinion is issued, as to opinion matters other than perfection and priority. If the in-house counsel is rendering an opinion as to enforceability or security interest attachment, the in-house counsel must be licensed to practice law in New York as the Transaction Documents will be governed by New York law. Opinions with respect to perfection and priority must be rendered by a law firm licensed to practice law in the jurisdiction whose law governs perfection;

2.2.5 Seller must have received officers' certificates and standard closing and borrowing documents and closing and borrowing certificates with respect to Buyer, each in a form acceptable to Seller;

2.2.6 There must be no material pending or threatened litigation against Buyer that would reasonably be expected to adversely affect the ability of Buyer to issue and perform its obligations under the Purchase Money Note[s] or the other Transaction Documents or enter into any related documentation or to perform its obligations with respect thereto; and

2.2.7 The Loan Commitment Fee and all other fees and expenses due and payable by Buyer as of the Closing Date must have been paid.

2.3 If Seller is required to make any payment to Buyer pursuant to Section 2.4.1 or Section 7.7 of the LSA, Seller will have the option of either making such payment in cash, by delivery of such payment to the Paying Agent, or by setting off such payment against the outstanding principal amount[s] of the Purchase Money Note[s]. Any such payment to the Paying Agent and any such offset against the outstanding principal amount[s] of the Purchase Money Note[s] will constitute payment to Buyer. The payment made to the Paying Agent will be applied in accordance with the Custodial and Paying Agency Agreement.]

SAMPLE