

CONFIDENTIAL

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SECURITY AGREEMENT

By and among

[_____],

as Company,

EACH OTHER DEBTOR FROM TIME-TO-TIME PARTY HERETO,

**FEDERAL DEPOSIT INSURANCE CORPORATION,
AS RECEIVER OF [_____] ,
as PMN Designee,**

AND

**FEDERAL DEPOSIT INSURANCE CORPORATION,
AS RECEIVER OF [_____] ,
as Collateral Agent**

Dated as of [_____] , 202[]

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Schedules and Exhibits

<u>Exhibit A</u>	Form of Joinder Agreement
<u>Exhibit B</u>	Location of Records for the Company
<u>Exhibit C</u>	Form of Debtor Allonge
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<u>Exhibit F</u>	Fields for Trial Balance Report
<u>[Exhibit G]</u>	RESERVED]
<u>Schedule 1</u>	Definitions for Custodial and Paying Agency Agreement and Security Agreement
<u>Schedule 7.6</u>	Management Standards – Servicing, Administration, and Management Obligations

SECURITY AGREEMENT

THIS SECURITY AGREEMENT, effective as of the [] day of [], 202[] (this “**Agreement**”), is entered into by and among: (i) [] (the “**Company**”); (ii) each of the other entities (if any) listed on the signature pages hereof under the caption “Debtor” other than the Company, or that becomes a party hereto as a “Debtor” pursuant to Section 7.12 (each individually a “**Debtor**” and, together with the Company, collectively, the “**Debtors**”); (iii) the Federal Deposit Insurance Corporation (acting in any capacity, the “**FDIC**”), as receiver of [] (the “**Failed Bank**”) (the FDIC, in such capacity, the “**Receiver**”); (iv) the FDIC, as the Receiver, as PMN Designee (as such term is defined below) and (v) the FDIC, as the Receiver, as Collateral Agent (as such term is defined below).

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

WHEREAS, contemporaneously with, and in connection with, the execution and delivery hereof, the Company, the Receiver, as the PMN Designee and the Collateral Agent, [], as Custodian, and [], as Paying Agent, are entering into the Custodial and Paying Agency Agreement (as such term is defined below).

NOW, THEREFORE, in consideration of the promises contained in this Agreement and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I **Definitions**

Section 1.1. Definitions.

(a) Unless otherwise defined herein, capitalized terms used in this Agreement (including Schedule 1 hereto) have the meanings provided in, or by reference in, (i) Schedule 1 hereto, which is hereby incorporated into this Agreement by reference, or (ii) if not defined herein or in, or by reference in, Schedule 1 hereto, the Custodial and Paying Agency Agreement.

(b) Unless the context clearly requires otherwise, certain terms used herein (including in Schedule 1 hereto) without definition that are defined in the NY UCC have the meanings given to them in the NY UCC (such meanings to be equally applicable to both the singular and plural forms of the terms defined).

Section 1.2. Other Interpretive Provisions. This Agreement (including Schedule 1 hereto) shall be construed and interpreted in accordance with the following:

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

(b) References to “the Debtors” are to the Debtors, jointly and severally.

(c) The term “or” is not exclusive.

(d) A reference to a Law includes any amendment, modification or replacement to such Law.

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

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

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

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

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

(j) Unless otherwise specified, any references to security interests or Liens granted in the Collateral shall refer to Liens granted in the Debtors’ right, title and interest in, and to, the Collateral and, for the avoidance of doubt, shall not refer to security interests or Liens granted in any Borrower’s or Obligor’s right, title or interest in, or to, any Underlying Collateral.

ARTICLE II

Obligations of All Debtors Absolute

Section 2.1. Obligations of All Debtors Absolute. The obligations of each Debtor pursuant to this Agreement shall be absolute, unconditional and irrevocable, and shall be discharged strictly in accordance with the terms set forth herein, under all circumstances whatsoever, including, without limitation, the following circumstances:

(a) any lack of validity or enforceability of this Agreement, any Purchase Money Note, the Custodial and Paying Agency Agreement or any other Transaction Document;

(b) any amendment or waiver of or any consent to departure from all or any of the provisions of this Agreement, any Purchase Money Note, the Custodial and Paying Agency Agreement or any other Transaction Document;

(c) the existence of any claim, setoff, defense or other right that any Debtor may have at any time against any Note Holder, the PMN Designee, the Collateral Agent, the Receiver or any other Person, whether in connection with any Transaction Document or any unrelated transaction; and

(d) any other act or omission to act or delay of any kind by any Note Holder, the Collateral Agent, the PMN Designee or any other Person or any other event or circumstance whatsoever that might, but for the provisions of this Section, constitute a legal or equitable discharge of or defense to any Debtor's obligations hereunder.

ARTICLE III **Security Interest**

Section 3.1. Granting of Security Interest. To secure the payment and performance when due (whether at stated maturity, by acceleration or otherwise) of the Secured Obligations, each Debtor hereby transfers, assigns, sets over, pledges, conveys, mortgages, hypothecates and grants to the Collateral Agent for its benefit and the benefit of the Secured Parties, and hereby grants to the Collateral Agent for its benefit and the benefit of the Secured Parties a continuing security interest in, lien on, and right of setoff against, all of the right, title and interest of such Debtor in, to or under all of the following, in each case, whether now owned or hereafter acquired, whether now existing or hereafter arising, and wherever located:

(a) the Collateral Loans;

(b) the Collateral Loan Documents (including the Custodial Documents);

(c) all amounts payable to such Debtor pursuant to the Collateral Loan Documents and all obligations owed to such Debtor in connection with the Collateral Loans and the Collateral Loan Documents;

(d) all of such Debtor's right, title and interest in, to or under the Collateral Loan Underlying Collateral;

(e) all claims, suits, causes of action and any other right of such Debtor, whether known or unknown, against a Borrower, any Obligor or other obligor or any of their

respective Affiliates, agents, representatives, contractors, advisors or any other Person arising under or in connection with the Collateral Loans or the Collateral Loan Documents or that is in any way based on or related to any of the foregoing, including contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity arising under or in connection with the Collateral Loan Documents or the transactions related thereto or contemplated thereby;

(f) all cash and other property received by or for the account of such Debtor under the Collateral Loans, including all distributions received through redemption, consummation of a plan of reorganization, restructuring, liquidation or otherwise of a Borrower, Obligor or other obligor under or with respect to the Collateral Loans, and any interest, dividends or other property that may be distributed or collected with respect to any of the foregoing;

(g) the Debtor Accounts and any other accounts established by any Debtor pursuant to the Custodial and Paying Agency Agreement, and all amounts and financial assets on deposit therein;

(h) to the extent applicable to any Collateral Loan, all servicing fees payable to such Debtor with respect to the Collateral Loans under any Servicing Agreement, any servicing rights accruing to such Debtor with respect to the Collateral Loans any Servicing Agreement, and any Servicing Records; and

(i) (x) all Collateral Loan Proceeds, and any and all other distributions on, or cash or non-cash proceeds or products of or with respect to, any of the foregoing (including any proceeds of insurance, indemnity, warranty, or guaranty thereon), and the rights to receive such proceeds and products, payments (in any form whatsoever) made or due and payable to such Debtor from time to time in connection with any requisition, confiscation, condemnation, seizure or forfeiture of all of any part of any of the foregoing by any Governmental Authority (or any Person acting on behalf of a Governmental Authority), and (y) to the extent related to any of the foregoing or such Collateral Loan Proceeds, distributions, proceeds or products, all of such Debtor's right, title and interest in, to or under any and all books, correspondence, credit files, records, invoices, documents and other papers, including all tapes, cards, computer runs and other papers and documents, in the possession or under the control of such Debtor or any computer bureau or service company from time to time acting for such Debtor (including all files, books and records maintained from time to time pursuant to Section 7.13(a) hereof) (collectively, the "**Collateral Books and Records**") (all of the property described in the foregoing clauses (a) through (i), collectively, the "**Collateral**").

Section 3.2. Custodial Documents.

(a) All of the Collateral Loan Notes and other Custodial Documents shall be held by the Custodian as set forth in Section 7.3 (except and to the extent the same are permitted to be removed from the Custodian's possession as provided in the Custodial and Paying Agency Agreement and subject to the immediately following sentence). Any term of the Loan Sale Agreement or Section 7.3 hereof to the contrary notwithstanding, the Collateral Agent may in its discretion secure and retain possession of any or all of the Collateral Loan Notes and other

Custodial Documents with respect to the Collateral Loans until such time as the Company retains the Custodian pursuant to the provisions of Section 7.3 and causes the Custodian to take possession of the Collateral Loan Notes and other Custodial Documents with respect to the Collateral Loans; the Company hereby irrevocably authorizes and directs the Receiver, and any other Person now or hereafter holding any such Collateral Loan Notes or Custodial Documents, to turn over to the Collateral Agent such Collateral Loan Notes or Custodial Documents as the Collateral Agent may specify (or, if and to the extent the Collateral Agent, on the one hand, or the Receiver or any such other Person, on the other hand, may so agree, to hold such Collateral Loan Notes and/or Custodial Documents as bailee for the Collateral Agent).

(b) Each Debtor shall, at its expense, deliver to the Custodian within six (6) months after the Closing Date, for each Collateral Loan: (i) (x) an executed Debtor Allonge effecting the current endorsement of the original Collateral Loan Note in blank, (y) the following endorsement in blank stamped on and executed on the original Collateral Loan Note:

PAY TO THE ORDER OF _____.

[_____]

By: _____

Name: _____

Title: _____

or (z) if such Collateral Loan Note is not available, an executed Debtor Assignment and Lost Instrument Affidavit; and (ii) for each Collateral Loan secured by a Mortgage, (x) a Debtor Mortgage Assignment, executed in blank, together with any necessary intervening assignments and (y) such other documents as the Collateral Agent shall deem reasonably necessary or appropriate to effect, perfect or protect the priority of the Liens granted (or purported to be granted) in this Section 3.1. Such Debtor Allonges (and Debtor Assignment and Lost Instrument Affidavits), Debtor Mortgage Assignments, and other documents shall be held by the Custodian with the Collateral Loan Notes and other Custodial Documents. The Collateral Agent may use a Debtor Allonge to effect the endorsement of a Collateral Loan Note or a Debtor Mortgage Assignment to effect the assignment of a Mortgage at any time if an Event of Default occurs and is continuing.

Section 3.3. Continuing Security Interest. This Agreement shall create a continuing security interest in any and all of the Collateral and shall remain in full force and effect, except as otherwise expressly provided herein, including Section 9.1, until the satisfaction and discharge of all Secured Obligations in full. It is the intent of each Debtor and the Collateral Agent to create a continuing, perfected first priority security interest in the Collateral for the benefit of the Secured Parties (subject only to the Permitted/Excluded Liens). The release of the security interest in any or all of the Collateral, the taking or acceptance of additional security, or the resort by the Collateral Agent to any security it may have in any order it may deem appropriate, shall not affect the liability of any Person on the Secured Obligations secured hereby or the security interest and Lien granted hereby (other than in respect of the released Collateral).

Section 3.4. Destruction of Collateral. No injury to, or loss or destruction of, the Collateral or any part thereof shall relieve any Debtor of any of its obligations hereunder or any of the Secured Obligations.

Section 3.5. Releases of Collateral Loan Underlying Collateral. Each Debtor is authorized to cause the release or assignment of any Lien granted to or held by such Debtor on any Collateral Loan Underlying Collateral, solely to the extent necessary, (a) upon a final, nonappealable order of a court of competent jurisdiction permitting or directing disposition thereof, (b) upon payment of any Collateral Loan in full and satisfaction in full of all of the secured obligations with respect to a Collateral Loan or upon receipt of a discounted payoff as payment in full of a Collateral Loan, (c) in connection with the foreclosure on a Mortgaged Property, acceptance of a deed in lieu thereof or modification or restructuring of the terms thereof, (d) in connection with such Debtor's sale of a Collateral Loan or any Collateral Loan Underlying Collateral in accordance with Section 7.12(c), (e) pursuant to the terms of the Collateral Loan Documents, or (f) in the case of condominium units, individual land parcels and similar portions of the Collateral Loan Underlying Collateral, as are permitted in, and to the extent required by, the applicable Collateral Loan Documents; provided, however, that the proceeds of such sale or disposition are immediately deposited into the [applicable] Collection Account.

Section 3.6. Financing Statements. Each Debtor hereby irrevocably authorizes and ratifies and retroactively authorizes any filing made on or prior to the date hereof, the filing, at any time and from time to time, of any financing statements or continuation statements, and amendments to such financing statements or any similar document in such jurisdictions and with such filing offices as the Collateral Agent may determine are necessary or advisable to perfect the security interest granted to it hereunder. Such financing statements may indicate the Collateral in any manner as the Collateral Agent may determine is necessary, advisable or prudent to ensure the perfection of the security interest in the Collateral granted to Collateral Agent herein pursuant to the terms hereof.

ARTICLE IV **Events of Default**

Section 4.1. Events of Default. Any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body) shall constitute an "Event of Default" hereunder:

(a) Any Debtor fails to pay (including to prepay) (i) when and as required to be paid (or prepaid) herein or in any Purchase Money Note (whether at stated maturity, by acceleration, by notice of voluntary prepayment, by mandatory prepayment or otherwise), any amount of principal of any Purchase Money Note, or (ii) within three (3) Business Days after the same becomes due, any interest on any Purchase Money Note, or (iii) within three (3) Business Days after the same becomes due, any other amount payable by such Debtor under any Purchase Money Note, this Agreement, the Custodial and Paying Agency Agreement or any other Transaction Document; or

(b) the occurrence of an Insolvency Event (without any cure period other than as may be provided for in the definition thereof) with respect to any Debtor [or any Recourse Guarantor], or the determination by the Collateral Agent that such an Insolvency Event has occurred; or

(c) any money judgment, writ or warrant of attachment or similar process involving (i) in any individual case an amount in excess of one million dollars (\$1,000,000) or (ii) in the aggregate at any time an amount in excess of five million dollars (\$5,000,000) (in either case not adequately covered by reserves which the Company has set up or by insurance as to which a solvent and unaffiliated insurance company has acknowledged coverage without any material reservations of right) shall be entered or filed against the Company or any of its respective assets by a court of competent jurisdiction and shall remain undischarged, unvacated, unbonded or unstayed for a period of sixty (60) days (or in any event later than five (5) days prior to the date of any proposed sale thereunder); or

(d) [RESERVED]

[Remainder Intentionally Left Blank]

; or

(e) the failure of any Debtor to remit or cause to be remitted all Collateral Loan Proceeds to the Note Holder or the Paying Agent as and when required pursuant to this Agreement and/or the Custodial and Paying Agency Agreement; or

(f) any representation, warranty, certification or other written statement of fact made by or on behalf of any Debtor [or any Recourse Guarantor] in any Purchase Money Note, this Agreement, the Custodial and Paying Agency Agreement or any other Transaction Document, or in any written statement or certificate at any time delivered pursuant to or in connection with any Transaction Document (including any Distribution Date Report), shall be (i) false or incorrect when made, to the extent such representation, warranty, certification or written statement of fact is qualified by materiality, or (ii) false or incorrect in any material respect when made, to the extent such representation, certification or written statement of fact is not qualified by materiality; or

[(g) [RESERVED]; or]

(h) a Material Adverse Change shall occur; or

(i) any Debtor fails to perform or observe in any respect any covenant or agreement contained in (i) Section 7.7, 7.8, 7.12(a), 7.12(f), 7.12(g), or Section 7.2 of this Agreement, or (ii) Section 3.1(b), 11.3 or 11.4 of the Custodial and Paying Agency Agreement; or

(j) any Debtor [or [RESERVED]] fails to perform or observe in any material respect any covenant or agreement (not specified in subsections (a) through (i) above) contained in any Purchase Money Note, this Agreement, the Custodial and Paying Agency Agreement or any other Transaction Document on its part to be performed or observed and such failure continues unremedied for thirty (30) days after the earlier to occur of (i) such Debtor [or [RESERVED]] obtaining actual knowledge of such failure or (ii) receipt by such Debtor[or [RESERVED]] of written notice thereof from the Collateral Agent, the PMN Designee, the Custodian or the Paying Agent; or

(k) any material provision of any Purchase Money Note, this Agreement, the Custodial and Paying Agency Agreement or any other Transaction Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all the Secured Obligations, ceases to be in full force and effect; or any Debtor [and/or [RESERVED]] contests in any manner the validity or enforceability of any provision of any Purchase Money Note, the Custodial and Paying Agency Agreement or any other Transaction Document; or any Debtor [and/or [RESERVED]] denies that it has any or further liability or obligation under any Purchase Money Note, this Agreement, the Custodial and Paying Agency Agreement or any other Transaction Document other than as expressly provided herein or therein, or purports to revoke, terminate or rescind any provision of any Purchase Money Note, this Agreement, the Custodial and Paying Agency Agreement or any other Transaction Document; or

(l) (i) this Security Agreement shall for any reason (other than pursuant to the express terms hereof) fail or cease to any extent to create a valid and perfected first priority Lien on all or any portion of the Collateral (disregarding any Permitted/Excluded Lien), or (ii) any Debtor shall so assert, and (with respect only to clause (i) and then only if such failure is not material) such failure continues unremedied for thirty (30) days after the earlier to occur of (x) such Debtor obtaining actual knowledge of such failure or cessation or (y) receipt by such Debtor of written notice thereof from the Collateral Agent, the Custodian or the Paying Agent.

ARTICLE V

Remedies

Section 5.1. Remedies.

(a) **General.** If an Event of Default shall have occurred and be continuing:

(i) Each Purchase Money Note is subject to acceleration as set forth in such Purchase Money Note;

(ii) The Collateral Agent may institute Proceedings for the collection of all other amounts then payable by any Debtor pursuant to this Agreement, whether by declaration or otherwise, enforce any judgment obtained, and collect from such Debtor moneys adjudged due;

(iii) The Collateral Agent may institute Proceedings from time to time for the complete or partial foreclosure of the Collateral or collateral pursuant to any other Transaction Document;

(iv) The Collateral Agent may exercise any rights or remedies pursuant to this Agreement and/or one or more of the other Transaction Documents and/or any rights or remedies of a secured party under the UCC, and take any other appropriate action to protect and enforce the rights and remedies of the Collateral Agent;

(v) The Collateral Agent may sell the Collateral or any portion thereof or rights or interest therein;

(vi) Without limiting the generality of the foregoing, if an Event of Default shall have occurred and be continuing, the Collateral Agent may exercise on behalf of the Secured Parties all the rights of a secured party under the UCC (whether or not in effect in the jurisdiction where such rights are exercised) with respect to any Collateral and, in addition, the Collateral Agent may, without being required to give any notice, except as herein provided or as may be required by mandatory provisions of Law, sell or otherwise dispose of the Collateral or any part thereof in one or more parcels at public or private sale, at any exchange, broker's board or at any of the Collateral Agent's offices or elsewhere, for cash, on credit or for future delivery, at such time or times and at such price or prices and upon such other terms as the Collateral Agent may deem commercially reasonable, irrespective of the impact of any such sales on the market price of the Collateral. If any notice of a proposed sale or other disposition of Collateral shall be required by Law, such notice shall be deemed reasonable and proper if given at least ten (10) days before such sale or other disposition. To the maximum extent permitted by Law, any Secured Party may be the purchaser of any or all of the Collateral at any such sale and (with the consent of the Collateral Agent, which may be withheld in its discretion) shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply all of or any part of the Secured Obligations as a credit on account of the purchase price of any Collateral payable at such sale. Upon any sale of Collateral by the Collateral Agent (including pursuant to a power of sale granted by statute or

under a judicial proceeding), the receipt by the Collateral Agent or the officer making the sale of the purchase price for such Collateral shall be a sufficient discharge to the purchaser or purchasers of the Collateral so sold and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid to the Collateral Agent or such officer or be answerable in any way for the misapplication thereof. Each purchaser at any such sale shall hold the property sold absolutely free from any claim or right on the part of any Debtor, and each Debtor hereby waives (to the extent permitted by Law) all rights of redemption, stay or appraisal that it now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted. The Collateral Agent shall not be obliged to make any sale of Collateral regardless of notice of sale having been given. The Collateral Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. To the maximum extent permitted by Law, each Debtor hereby waives any claim against any Secured Party arising because the price at which any Collateral may have been sold at such a private sale was less than the price that might have been obtained at a public sale, even if the Collateral Agent accepts the first offer received and does not offer such Collateral to more than one offeree. The Collateral Agent may disclaim any warranty, as to title or as to any other matter, in connection with such sale or other disposition, and its doing so shall not be considered adversely to affect the commercial reasonableness of such sale or other disposition;

[(vii) [RESERVED]]

[Remainder Intentionally Left Blank]

;] and/or

(viii) The Collateral Agent may exercise any and all rights and remedies of any Debtor under or in connection with any Servicing Agreement or otherwise in respect of the Collateral, including, without limitation, any and all rights of any Debtor to take or refrain from taking any action thereunder, or to receive, demand or otherwise require payment of any amount thereunder, or to require the performance of any provision thereof. In furtherance and not in limitation of the foregoing, the Collateral Agent, on behalf of the Secured Parties, may: (A) notify any and all obligors under the aforementioned contracts that the same have been assigned to the Collateral Agent, for the benefit of the Secured Parties, that the Collateral Agent, on behalf of the Secured Parties, is entitled to exercise all rights pertaining thereto, and that all payments thereon and other performance thereunder are to be made and rendered directly and exclusively to the Collateral Agent, for the benefit of the Secured Parties; (B) renew, extend, modify, amend, accelerate, accept partial payments or performance on, make allowances and adjustments and issue

credits with respect to, release, settle, compromise, compound, collect or otherwise liquidate or deal with, on terms acceptable to the Collateral Agent, on behalf of the Secured Parties, in whole or in part, the rights to the Collateral and any amounts owing thereon or any performance due thereunder or any of the Debtors' rights or interests therein; (C) enter into any other agreement relating to or affecting the rights to the Collateral; and (D) give all consents, waivers and ratifications in respect of the rights of each Debtor and exercise all other rights, powers and remedies and otherwise act with respect thereto as if it were the owner thereof. Each Debtor hereby releases the Collateral Agent and the Secured Parties from, and agrees to hold each of them harmless from and against, any claims arising out of any action taken or omitted to be taken with respect to any such contracts.

If the Collateral Agent sells any of the Collateral upon credit, the Debtors will be credited only with payment actually made by the purchaser, received by the Collateral Agent and applied in accordance with Section 5.2 hereof. In the event the purchaser fails to pay for the Collateral, the Collateral Agent may resell the same, subject to the same rights and duties set forth herein.

(b) Cooperation to Facilitate Transfer.

(i) In furtherance of, and not in limitation of the respective rights of the PMN Designee and the Collateral Agent, and the obligations of the Debtors, under the Custodial and Paying Agency Agreement, while an Event of Default shall have occurred and be continuing, and, in any event, from and after any exercise of any of the remedies specified in Section 5.1(a), each Debtor forthwith shall (x) execute (and have acknowledged) and deliver to the Collateral Agent (in such form as the Collateral Agent may specify) such endorsements and allonges to Collateral Loan Notes and such other documents of assignment, conveyance or transfer as the Collateral Agent may specify to evidence the transfer to the Collateral Agent (including of record) of the Collateral Loans, the Collateral Loan Underlying Collateral and the Collateral Loan Underlying Collateral Documents, and (y) deliver to the Collateral Agent such originals or copies of the Collateral Books and Records and Servicing Records, and in such format (including electronic format), as the Collateral Agent may specify, and (in each case) shall cause any Servicer for such Debtor to assist in effecting the foregoing.

(ii) While an Event of Default shall have occurred and be continuing, and, in any event, from and after any exercise of any of the remedies specified in Section 5.1(a), each Debtor shall, and shall cause any Servicer for such Debtor to, provide the Collateral Agent and any Servicer engaged by it in a timely manner with all documents, records and data (including electronic documents, records and data) requested by any of them to enable it (and any Servicer) to service, manage or otherwise administer the Collateral Loans and the Collateral Loan Underlying Collateral, and to cooperate with the Collateral Agent and any Servicer engaged by it in effecting the transfer of such responsibilities from the Company (or any Servicer of the Company), including (A) the transfer within one (1) Business Day of all cash amounts that, at the time, shall be or should have been credited to the [applicable] Collection Account or are thereafter received with respect to any Collateral Loans or Collateral Loan Underlying Collateral, (B) the transfer of all lockbox accounts with respect to which payments or other amounts with respect to

the Collateral Loans are directed or the redirection of all such payments and other amounts to such account as the Collateral Agent might specify, and (C) the assignment to the Collateral Agent (or any Person designated by it) of the right to access all such lockbox accounts, the Debtor Accounts and any other account into which Collateral Loan Proceeds or Borrower escrow or other payments are deposited or held; provided, however, that the documents, records and data delivered by any Debtor pursuant to this Section 5.1(b)(ii) shall be limited to those documents in the possession of any Debtor (or any Servicer of any Debtor) at the time of such transfer or which any Debtor (or any Servicer of any Debtor) acquires thereafter and shall not include or be deemed to include any documents, records or data in the possession of the Custodian. The Debtors shall be liable for all costs and expenses incurred by the Collateral Agent (I) associated with the complete transfer of the servicing data, (II) associated with the completion, correction or manipulation of servicing data as may be required to correct errors or insufficiencies in the servicing data to enable the Collateral Agent and/or any successor Servicer to service the Collateral Loans properly and effectively, and (III) to retain and maintain the services of a successor Servicer (and any subservicers). Within a reasonable time after receipt of a written request of the applicable Debtor for the same, the Collateral Agent shall provide reasonable documentation evidencing such costs and expenses.

(iii) In furtherance of the foregoing, the Debtors shall procure and deliver to the Collateral Agent the agreement of each Servicer with respect to any Debtor, for the express benefit of the Collateral Agent, on behalf of the Secured Parties, that (x) the Collateral Agent may, upon notifying such Servicer that an Event of Default shall have occurred and be continuing, terminate the relevant Servicing Agreement, or assume or assign the relevant Debtor's rights thereunder (in each case insofar as such Servicing Agreement relates to the Collateral), without any further consent, or additional or incremental cost or restriction payable by the Collateral Agent, of any kind, and (y) regardless of whether or not the Collateral Agent exercises rights under clause (x), upon delivery of such notice and to the extent so requested from time to time by the Collateral Agent, as the case may be, such Servicer shall perform the actions specified in Sections 5.1(b)(i) and/or (ii) at its ordinary and customary rates (including expense reimbursement), or, if lower, at the rates (including expense reimbursement) applicable under the relevant Servicing Agreement, for such services.

(c) General Power of Attorney. Each Debtor hereby irrevocably constitutes and appoints the Collateral Agent and any officer or agent thereof, as its true and lawful attorney-in-fact for the purposes of this Agreement and allowing the Collateral Agent to perfect, preserve the validity, perfection and priority of, and enforce any Lien granted by this Agreement and, after the occurrence and during the continuance of any Event of Default, to exercise its rights, remedies and powers and privileges under this Agreement. Without limiting the generality of the foregoing, the Collateral Agent shall be entitled under this Section 5.1(c) to do or effect (and to employ the power of attorney set forth above in this Section 5.1(c) to do or effect) any of the following if an Event of Default has occurred and is continuing: (i) ask, demand, collect, sue for, recover, receive and give receipt and discharge for amounts due and to become due under and in respect of any or all of the Collateral Loans; (ii) file any claims or take any action or proceeding in any court of law or equity that the Collateral Agent may reasonably deem necessary or advisable for the collection or other enforcement of all or any part of the Collateral Loans, defend any suit, action or proceeding brought against any Debtor with respect to any Collateral Loan, and settle, compromise or adjust any such suit, action or proceeding; (iii) execute, in connection with any sale or

disposition of the Collateral Loans, any endorsements, assignments, bills of sale or other instruments of conveyance or transfer with respect to all or any part of the Collateral Loans; (iv) enforce the rights of any Debtor under any provision of any Servicing Agreement to the extent permitted thereunder; (v) pay or discharge taxes and Liens levied or placed on the Collateral Loans; (vi) generally, sell, transfer, pledge and make any agreement with respect to or otherwise deal with any of the Collateral Loans as fully and completely as though the Collateral Agent were the absolute owner thereof for all purposes; (vii) make, execute, sign, acknowledge, deliver or file any certificate, document or other instrument that such Debtor is required to execute and deliver pursuant to Section 5.1(b)(i) or (ii) hereof; and (viii) generally, at the Collateral Agent's option and the Debtors' expense, at any time and from time to time, all acts and things that the Collateral Agent reasonably deems necessary to enforce all rights, interests and remedies of such Debtor with respect to the Collateral, to protect, preserve, or realize upon the Collateral Loans and the Collateral Agent's security interests in any Collateral and to effect the intent of this Agreement, all as fully and effectively as such Issuer might do. Each power of attorney granted hereby by any Debtor (i) is granted to each of the Person or Persons specified with full power of substitution in the premises, (ii) is coupled with an interest and is irrevocable, (iii) shall survive and not be affected by the subsequent death, incapacity, disability, dissolution, termination or bankruptcy of such (or any other) Debtor or the transfer of all or any portion of such (or any other) Debtor's properties or assets and (iv) shall extend to such Debtor's successors, assigns and legal representatives.

Section 5.2. Application of Proceeds. After the exercise of remedies provided for in Section 5.1(a) (or after the Purchase Money Notes shall have automatically become immediately due and payable as set forth in such Purchase Money Notes), any amounts received by the Collateral Agent in respect of the Collateral or otherwise on account of the Secured Obligations shall be applied by the Collateral Agent in the following order of priority (in each case until the specified amount is paid in full):

First, to payment of that portion of the Secured Obligations constituting fees, indemnities, expenses and other amounts payable to the Agents, in their respective capacities as such (i.e., for the Agents' respective own accounts and not for the account of other Persons), ratably among such Persons in proportion to the respective amounts described in this clause *First* payable to them;

Second, to payment of that portion of the Secured Obligations constituting fees, indemnities and other amounts (other than principal and interest and Withholding Tax Gross-up Payments) payable to any Note Holder or the FDIC, ratably among such Persons in proportion to the respective amounts described in this clause *Second* payable to them;

Third, to payment of that portion of the Secured Obligations constituting accrued and unpaid interest on the Purchase Money Notes, ratably to each Note Holder in proportion to the respective amounts described in this clause *Third* payable to them;

Fourth, to payment of that portion of the Secured Obligations constituting unpaid principal of the Purchase Money Notes, ratably to each Note Holder in proportion to the respective amounts described in this clause *Fourth* payable to them;

Fifth, to payment of that portion of the Secured Obligations constituting Withholding Tax Gross-up Payments payable to any Person, ratably among such Persons in proportion to the respective amounts described in this clause *Fifth* payable to them;

Sixth, to payment of that portion of any other Secured Obligations owed to any Agent (*i.e.*, not for their respective own accounts but for the accounts of other Persons), or any Note Holder or any Agent under the Purchase Money Note, this Agreement, the Custodial and Paying Agency Agreement and the other Transaction Documents, ratably among the Note Holder and the Agents in proportion to the respective amounts described in this clause *Sixth* payable to them;

Seventh, to payment of that portion of any other non-contingent Secured Obligations owed to any Person pursuant to the indemnification obligations of the Debtors under this Agreement, ratably among such Persons in proportion to the respective amounts described in this clause *Seventh* payable to them;

Eighth, to payment of that portion of any other non-contingent Secured Obligations owed to any Person, ratably among such Persons in proportion to the respective amounts described in this clause *Eighth* payable to them; and

Ninth, to the Collateral Agent, such amount as the Collateral Agent shall determine in good faith is necessary or advisable to cash collateralize the contingent indemnification obligations of the Debtors under this Agreement, to be held by the Collateral Agent (or its designee) as such cash collateral;

Last, the balance, if any, after all of the Secured Obligations (other than contingent indemnification obligations which have not been asserted) have been paid in full, to the Company (for the account of itself and the other Debtors) or as otherwise required by Law.

Amounts used to cash collateralize contingent indemnification obligations pursuant to clause *Ninth* above shall be applied to satisfy such indemnification obligations if and when, and to the extent, they become non-contingent.

Section 5.3. Sale of Collateral.

(a) The power to effect any sale or other disposition during the existence of an Event of Default (a “**Sale**”) of any portion of the Collateral shall not be exhausted by any one or more Sales as to any portion of the Collateral remaining unsold, but shall continue unimpaired until the entire Collateral shall have been sold or all Secured Obligations shall have been paid. The Collateral Agent from time to time may postpone any public Sale by public announcement made at the time and place of such Sale. The Collateral Agent hereby expressly waives its right to any amount fixed by Law as compensation for any Sale.

(b) In connection with a Sale of all or any portion of the Collateral:

(i) The Collateral Agent may bid for and purchase the property offered for sale, and upon compliance with the terms of sale may hold, retain and possess and dispose of such property, without further accountability;

(ii) The Collateral Agent may bid for and acquire the property offered for Sale in connection with any Sale thereof, and, subject to any requirements of, and to the extent permitted by, Law in connection therewith, may purchase all or any portion of the Collateral in a private sale, and, in lieu of paying cash therefor, may make settlement for the purchase price by crediting the gross Sale price against the sum of (A) the amount which would be distributable by the Collateral Agent as a result of such Sale in accordance with Section 5.2 on the Distribution Date next succeeding the date of such Sale and (B) the expenses of the Sale and of any Proceedings in connection therewith which are reimbursable to it;

(iii) The Collateral Agent may execute and deliver an appropriate instrument of conveyance transferring the respective interests of the Debtors in any portion of the Collateral in connection with a Sale thereof;

(iv) The Collateral Agent is, pursuant to Section 5.1(c) of this Agreement, appointed the agent and attorney-in-fact of each Debtor to transfer and convey its interest in any portion of the Collateral in connection with a Sale thereof, and to take all action necessary to effect such Sale; and

(v) No purchaser or transferee at such a Sale shall be bound to ascertain the Collateral Agent's authority, inquire into the satisfaction of any conditions precedent or see to the application of any monies.

Section 5.4. No Impairment of Action. The Collateral Agent's right to seek and recover judgment pursuant to this Agreement shall not be affected by the seeking, obtaining or application of any other relief under or with respect to this Agreement. Neither the Liens created hereby nor any rights or remedies of the Collateral Agent shall be impaired by the recovery of any judgment by Collateral Agent against any Debtor or by the levy of any execution under such judgment upon any portion of the Collateral or upon any of the assets of such Debtor. Any money or property collected by Collateral Agent shall be applied in accordance with Section 5.2.

Section 5.5. Remedies Cumulative; Waiver. The rights and remedies of each of the Collateral Agent, the PMN Designee and the Note Holder pursuant to this Agreement shall be in addition to, and not in limitation or exclusion of, any other rights and remedies that they may have (whether by operation of law, in equity, under contract (including any other Transaction Document) or otherwise) and without prejudice and in addition to any right of setoff, recoupment, combination of accounts, Lien or other right to which it is at any time entitled. Each of the Collateral Agent, the PMN Designee and the Note Holder may enforce any of its remedies in its sole discretion. No delay or failure on the part of the Collateral Agent, the PMN Designee, or the Note Holder to exercise any right or remedy to which it may become entitled hereunder upon an Event of Default shall constitute abandonment or waiver of any such right and the Collateral Agent, the PMN Designee, or the Note Holder shall be entitled to exercise such right or remedy at any time during the continuance of an Event of Default.

Section 5.6. Waiver of Certain Rights and Remedies. To the extent permitted under Law, each Debtor hereby waives all rights and remedies of a debtor or grantor under the NY UCC or other Law, and all formalities prescribed by law relative to the sale or disposition of the Collateral (other than notice of sale and any other formalities expressly provided in this Agreement), after the occurrence and during the continuation of an Event of Default and, except as otherwise set forth herein, all other rights and remedies of such Debtor with respect thereto.

ARTICLE VI

Representations and Warranties

Section 6.1. Representations and Warranties. Each Debtor hereby represents, warrants and covenants, to each of the PMN Designee and the Collateral Agent, as of the date hereof (or, in the case of any Person first becoming a “Debtor” hereunder after the date hereof, as of the date such Person becomes a “Debtor” hereunder) and at all times until the satisfaction and discharge of all Secured Obligations in full, that:

(a) Such Debtor (i) is a corporation, limited liability company or other legal entity that is validly existing and in good standing under the Laws of the jurisdiction of its organization, and (ii) has qualified to do business as a foreign corporation, limited liability company or other legal entity and will remain so qualified, and is and will remain in good standing, in each jurisdiction in which the character of its properties or the nature of its activities makes such qualification necessary and in which failure to so qualify would have a material adverse effect upon such Debtor or its ability to perform its obligations under the Debtor Transaction Documents, and (iii) has full power to own its property, to carry on its business as presently conducted, and to enter into and perform its obligations under the Debtor Transaction Documents. The execution, delivery and performance by such Debtor of each Transaction Document to which such Debtor is a party have been duly authorized by all requisite corporate or analogous action on the part of such Debtor and/or its stockholders or analogous Persons. Each Debtor Transaction Document has been duly executed by such Debtor and constitutes a legal, valid and binding obligation of such Debtor, enforceable against such Debtor in accordance with its terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity.

(b) There are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of such Debtor, threatened in writing, at law, in equity, in arbitration or before any Governmental Authority affecting such Debtor or any of its properties or revenues that may adversely affect the grant by such Debtor, or the perfection, of the security interest purported to be created hereby or by the other Debtor Transaction Documents in the Collateral, or the exercise by the Collateral Agent, the PMN Designee, or the Note Holder of any of their respective rights or remedies hereunder or under any other Debtor Transaction Document.

(c) The Debtors are and will be at all times (except as a result of a sale permitted under Section 7.12(c) hereof) the sole and exclusive owners of the Collateral free and clear of any Lien other than Liens in favor of the Collateral Agent (and disregarding any Permitted/Excluded Lien). No effective financing statement or other instrument similar in effect covering all or any part of the Collateral (except in favor of the Collateral Agent) is on file, to Debtor’s knowledge, in any recording or filing office (disregarding any financing statement with respect to any Lien on the Collateral in favor of any Person claiming by, through or under the Failed Bank).

(d) The execution, delivery and performance by such Debtor of, and the consummation of the transactions contemplated by, the Debtor Transaction Documents do not and will not (A) violate (1) any applicable provision of any Law or of the Organizational Documents of such Debtor, (2) any order of any Governmental Authority or arbitrator or (3) any material provision of any indenture or any agreement or other instrument to which such Debtor is a party or by which it or the Collateral is or may be bound, (B) constitute (alone or with notice or lapse of time or both) a default pursuant to any such indenture or agreement or other instrument, (C) result in the creation or imposition of any security interest in or Lien upon the Collateral (other than the security interest and Lien created thereon pursuant to this Agreement) or (D) require the consent of any party for the granting of the security interest created hereby.

(e) No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority or other regulatory body, or any other Person, is required on the date hereof for (i) the due execution, delivery and performance by such Debtor of the Debtor Transaction Documents, or (ii) the grant by such Debtor of the Lien purported to be created hereby in the Collateral. No authorization or approval or other action by, and no notice to or filing with, any Governmental Authority or other regulatory body, or any other Person, is required for the perfection of the Lien purported to be created hereby in the Collateral, except for (A) the filing of a UCC-1 financing statement properly describing the Collateral and identifying such Debtor and Collateral Agent in the applicable jurisdiction required pursuant to the Uniform Commercial Code, (B) execution and delivery of the Account Control Agreement pursuant to the Uniform Commercial Code, (C) execution and delivery by the Custodian of the Custodial and Paying Agency Agreement containing an acknowledgment by the Custodian that it holds possession of the Custodial Documents for the Collateral Agent's benefit and (D) the taking of any action required to maintain continuing perfection with respect to proceeds which cannot be perfected by the filing of financing statements under the Uniform Commercial Code (subclauses (A), (B), (C) and (D), each a "**Perfection Requirement**" and collectively, the "**Perfection Requirements**").

(f) This Agreement creates a legal, valid and enforceable security interest in favor of the Collateral Agent, for the benefit of the Secured Parties, in the Collateral, as security for the Secured Obligations. The compliance with the Perfection Requirements will result in the perfection of such security interests. After compliance with the Perfection Requirements, such security interests, including in the case of Collateral in which such Debtor obtains rights after the date hereof, will be perfected, first priority security interests, subject only to the Permitted/Excluded Liens. Such Perfection Requirements and all other action necessary or desirable to perfect and protect such security interest have been duly made or taken, except for the other filings and recordings and actions described in Section 6.1(e) above.

(g) (i) Such Debtor is not engaged nor will it engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock, and no proceeds of any Purchase Money Note will be used for any purpose that violates Regulation U; and (ii) none of such Debtor, or any Person Controlling such Debtor, is or is required to be registered as an "investment company" under the Investment Company Act of 1940.

(h) None of such Debtor or, any of its Affiliates is in violation of any Law relating to terrorism or money laundering (“**Anti-Terrorism Laws**”), including Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the “**Executive Order**”), the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56, and any related compliance programs. None of such Debtor or, any of its Affiliates or any broker or other agent of such Debtor acting in any capacity in connection with, or receiving funds as a result of, the financing pursuant to any Transaction Document is any of the following:

(i) a Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(ii) a Person owned or controlled by, or acting for or on behalf of, any person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(iii) a Person with which any Note Holder is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law;

(iv) a Person that commits, threatens or conspires to commit or supports “terrorism” as defined in the Executive Order;

(v) a Person that is an Embargoed Person;

(vi) a Person that engages in any dealings or transactions, or is otherwise “associated with” (as defined in 31 C.F.R. 594.101, et seq.), any Embargoed Person; or

(vii) a Person that is named as a “specially designated national and blocked person” on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control (“**OFAC**”) at its official website or any replacement website or other replacement official publication of such list.

None of such Debtor or, to the knowledge of such Debtor, any broker or other agent of such Debtor acting in any capacity in connection with the financing pursuant to any Transaction Document (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Person described in the immediately preceding paragraph, (ii) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order, or (iii) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law, in each case, except to the extent permitted by Law. To the extent that any representations or warranties in this Section 6.1(h) are qualified by the knowledge of the Person making them, such knowledge shall be deemed to be based upon such person’s due inquiry and investigation.

(i) No part of the funds used by the Company to acquire the Loans under the Loan Sale Agreement constitute the assets of (i) any employee benefit plan (as defined in section 3(3) of ERISA) that is subject to part 4 of Title I of ERISA or Section 4975 of the Code or (ii) any entity, the assets of which would be treated as assets of any such plan pursuant to Department of Labor Regulation 29 C.F.R. §2510.3-101, as modified by Section 3(42) of ERISA.

(j) No consideration that such Debtor or any of its Affiliates pledges or pays hereunder or under any Transaction Document in connection with any transaction regarding any assets will have been derived from or related to any activity that is deemed criminal under United States Law.

(k) No report, financial statement, certificate or other written information furnished (prior to, at or after the Closing) by or on behalf of such Debtor or any of its Affiliates to any Agent, or any Note Holder, in each case, in connection with the negotiation of, or the transactions contemplated by, any Transaction Document (excluding for this purpose the Loan Sale Agreement) or pursuant to the terms hereof or of any other Transaction Document, when considered in its entirety, contained any material misstatement of fact or omitted to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not materially misleading; *provided* that, with respect to projected financial information, such Debtor represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time of preparation; it being understood that such projections may vary from actual results.

ARTICLE VII

Covenants

Section 7.1. Debtor Accounts. The Debtors shall establish and maintain with the Paying Agent the Debtor Accounts in accordance with the Custodial and Paying Agency Agreement.

Section 7.2. Debtor Status; Licensing. Each Debtor shall, at all times, constitute a corporation, limited liability company or other legal entity organized under the Laws of the jurisdiction of its formation. Each Debtor shall at all times maintain all such licenses as are required to conduct its business, including qualifications to conduct business in jurisdictions other than its jurisdiction of formation and licenses to purchase, own or service the Collateral Loans, if the failure to so obtain such licenses would reasonably be expected to result in the imposition of fines, penalties or other liabilities on such Debtor, claims and defenses being asserted against such Debtor (including counterclaims and defense asserted by Borrowers), or materially adversely affect such Debtor or such Debtor's ability to foreclose on the Collateral Loan Underlying Collateral securing or otherwise realize the full value of any Collateral Loan.

Section 7.3. Custodian and Paying Agent.

(a) The Company shall establish the Collection Account[s] and the Distribution Account[s] at the Paying Agent in accordance with the Custodial and Paying Agency Agreement and shall at all times be party to a Control Agreement. At no time shall the Debtors have more than one Paying Agent. The fees and expenses paid to the Paying Agent shall be as set forth in

the Custodial and Paying Agency Agreement, and the Paying Agent shall be terminable by the Collateral Agent upon no more than thirty (30) days' notice without cause thereunder. The Debtors shall ensure that the Collateral Agent and the PMN Designee receive a copy of each material demand, notice or other communication given to or by Paying Agent pursuant to the Custodial and Paying Agency Agreement at the time that such notice or other communication is given thereunder. If the Person then serving as the Paying Agent shall, at any time and for any reason, cease to be a Qualified Paying Agent, the Company forthwith shall replace such Person with a new Paying Agent that is a Qualified Paying Agent.

(b) The Custodian at all times shall have custody and possession of the Collateral Loan Notes and other Custodial Documents to the extent required pursuant to the Custodial and Paying Agency Agreement. At no time shall the Debtors have more than one Custodian. The fees and expenses paid to the Custodian shall be no more than market rates, and the Custodian shall be terminable by the Collateral Agent upon no more than thirty (30) days' notice without cause thereunder. In the event that the Debtors remove any Collateral Loan Notes or other Custodial Documents from the possession of the Custodian (which shall be done only in accordance with the Custodial and Paying Agency Agreement), (a) any loss or destruction of or damage to such Collateral Loan Notes or Custodial Documents shall be the liability of the Debtors (who shall be responsible for safeguarding such Collateral Loan Notes and Custodial Documents), and (b) such Collateral Loan Notes shall be returned to the Custodian as required by the terms of the Custodial and Paying Agency Agreement. If any Collateral Loan Notes or other Custodial Documents are removed in connection with the modification or restructuring of a Collateral Loan, the modified or restructured Collateral Loan Notes and other Custodial Documents removed in connection therewith shall be returned to the Custodian as soon as possible following the completion of the restructuring or modification (and, in any event, in accordance with clause (b) of the immediately preceding sentence), along with the delivery to the Custodian of any other documentation required by Section 6.1(c)(iii) of the Custodial and Paying Agency Agreement. The Debtors shall ensure that the Collateral Agent and the PMN Designee receive a copy of each material demand, notice or other communication given to or by Custodian pursuant to the Custodial and Paying Agency Agreement at the time that such notice or other communication is given thereunder. If the Person then serving as the Custodian shall, at any time and for any reason, cease to be a Qualified Custodian, the Company forthwith shall replace such Person with a new Custodian that is a Qualified Custodian. To the extent that there is a conflict between the terms of this Section 7.3(b) and the terms of the Custodial and Paying Agency Agreement, the Custodial and Paying Agency Agreement shall prevail.

Section 7.4. Compliance with Law. Each Debtor shall, at all times, comply with Law in connection with the performance of its obligations pursuant to this Agreement and the other Transaction Documents.

Section 7.5. No Conflicting Obligations. Each Debtor shall comply with the Purchase Money Notes, this Agreement, the Custodial and Paying Agency Agreement and the other Transaction Documents in accordance with their terms, and shall not, at any time, enter into or become a party to any agreement that would conflict with any of the terms thereof.

Section 7.6. Servicing.

(a) Management Standards. The Debtors shall cause a Qualified Servicer to service, administer and otherwise manage the Collateral Loans and the Collateral Loan Underlying Collateral in accordance with the requirements and obligations of the Debtor regarding servicing, administration and management of the Collateral Loans and the Collateral Loan Underlying Collateral set forth in this Agreement, including in this Section 7.6 and on Schedule 7.6 attached hereto (collectively, the “**Management Standards**”). Without limitation of the preceding sentence, whenever the consent of the Receiver is required in accordance with the Management Standards, the Debtors also shall be required to secure the consent of the Collateral Agent. Without limiting the generality of the foregoing, the Company shall work diligently to locate the missing information or otherwise take such steps as might be necessary or appropriate to correct any matter noted as an “Exception” on any “Collateral Certificate” (as such terms are defined in the Custodial and Paying Agency Agreement).

(b) Servicers and Affiliates.

(i) Replacement of Qualified Servicers.

(A) The applicable Debtor shall notify the Receiver at least forty (40) days prior to the proposed replacement of any Qualified Servicer hereunder. Such notice must include information regarding the proposed replacement Qualified Servicer’s relevant experience, qualifications, financial strength and any pending litigation in relation to servicing activities and information regarding contact persons and contact information for such Qualified Servicer. In the case of a Qualified Servicer that is an Affiliate of a Debtor, the notice shall include an express statement that the Qualified Servicer is an Affiliate. The Receiver may object to the proposed replacement of such Qualified Servicer by giving the Debtor notice that it so objects within thirty (30) days following the Receiver’s receipt of the notice of the proposed replacement. The appointment of a replacement Qualified Servicer by the Debtor or any of its Affiliates shall not release any Debtor from any obligation or liability pursuant to this Agreement or otherwise with respect to a Collateral Loan or Collateral Loan Underlying Collateral, and such Debtor shall be responsible to the Receiver for any and all acts or omissions of each Qualified Servicer.

(B) Each Debtor must provide to the Receiver written notification immediately following the execution of any contract pursuant to which a Qualified Servicer (other than an Affiliate of such Debtor) will manage, administer or collect any of the Collateral Loans and the Collateral Loan Underlying Collateral.

(C) Each Debtor must provide to the Receiver written notification immediately following any action that such Debtor or any of its Affiliates takes with respect to the actions of a Qualified Servicer, including the removal of any Qualified Servicer, the adjustment of the duties or responsibilities of a Qualified Servicer, any change in the contact persons or contact information for a Qualified Servicer and any merger, consolidation, name change or other corporate or entity activity with respect to a Qualified Servicer.

(ii) Actions of Qualified Servicers. Each Debtor shall ensure that the practices, procedures and guidelines of each Qualified Servicer comply with the obligations of the Debtors pursuant to this Agreement and applicable law. Each Debtor shall provide to the Receiver a copy of the written agreement between the Debtor or any of its Affiliates and each Qualified Servicer and shall ensure compliance by each Qualified Servicer with the Debtors' obligations pursuant to this Agreement, including amending such agreement with each Qualified Servicer to the extent necessary.

(c) [Duties with Respect to Affiliates.

(i) Each Debtor must provide to the Receiver prior written notification of any transaction with or by any Affiliate of a Debtor with respect to any Collateral Loan and Collateral Loan Underlying Collateral, including the execution of any contract pursuant to which an Affiliate of a Debtor will own, service, administer or manage amounts owing with respect to any Collateral Loan and Collateral Loan Underlying Collateral (each a "**Collateral Loan Affiliate**"). Each Debtor must notify the Receiver at least forty (40) days prior to a proposed transaction with a Collateral Loan Affiliate. Such notice must include information regarding the Collateral Loan Affiliate's relevant experience, qualifications and financial strength and information regarding contact persons and contact information for the Collateral Loan Affiliate. The Receiver may object to the proposed transaction with a Collateral Loan Affiliate that is not on an arm's length basis or commercially reasonable terms by giving the applicable Debtor notice that it so objects within thirty (30) days following the Receiver's receipt of the notice of the proposed transaction.

(ii) Each Debtor must provide to the Receiver written notification immediately following any action that such Debtor takes with respect to a Collateral Loan Affiliate, including the removal of any Collateral Loan Affiliate as the servicer, administrator or manager of any Collateral Loan and Collateral Loan Underlying Collateral, the adjustment of the duties or responsibilities of a Collateral Loan Affiliate, any changes in the contact persons or contact information for any Collateral Loan and Collateral Loan Underlying Collateral and any merger, consolidation, name change or other corporate or entity activity with respect to a Collateral Loan Affiliate.]

Section 7.7. Certain Restrictions. No Debtor shall:

(a) dissolve or liquidate at any time prior to the satisfaction and discharge of all Secured Obligations in full and the termination of this Agreement (except for any entities that may have been created solely for holding Collateral and that no longer hold any assets); or

(b) place or permit (voluntarily or involuntarily) to exist any Lien on any of the Collateral other than a Permitted/Excluded Lien or take any action to interfere with Collateral Agent's rights as a secured party with respect to the Collateral.

Section 7.8. Change in Jurisdiction, Name, Location or Identity. Each Debtor agrees to provide the Collateral Agent with not less than thirty (30) days' prior written notice of any change (a) in the jurisdiction in which it is organized, (b) in its company name, identity or corporate

structure (or the equivalent), (c) in the location of its principal place of business or executive office, or (d) in its federal taxpayer identification number. Each Debtor agrees not to effect or permit any change referred to in the preceding sentence unless all filings have been made under the Uniform Commercial Code or otherwise that are required in order for the Collateral Agent to continue following such change to have a valid, legal and perfected first priority security interest in the Collateral to the extent a security interest therein may be perfected by filing pursuant to the Uniform Commercial Code.

Section 7.9. Certain Payments and Distributions. The Company will duly and punctually pay, or cause the Paying Agent to pay, the principal of, and accrued interest on, the Purchase Money Note in accordance with the terms thereof, and each Debtor shall duly and punctually pay, or cause the Paying Agent to pay, all other amounts payable by such Debtor under this Agreement and/or the Custodial and Paying Agency Agreement. Subject to Section 5.2 of the Custodial and Paying Agency Agreement, on each Distribution Date, the Debtors will direct the Paying Agent to distribute amounts on deposit in the Distribution Account in accordance with Section 5.1 of the Custodial and Paying Agency Agreement and the other terms thereof.

Section 7.10. Protection of Collateral; Further Assurances. Promptly upon reasonable request by any Agent, the Company shall (a) correct any defect or error that may be discovered in the execution, acknowledgment, filing or recordation of any Transaction Document or other document or instrument relating to any Collateral, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as any Agent may reasonably request from time to time in order to: (i) perfect, ensure the continued perfection of, or protect the assignment and security interest granted or intended to be granted hereby; (ii) enable the Collateral Agent to exercise and enforce its rights and remedies hereunder with respect to any Collateral; or (iii) carry out more effectively the purposes of any Transaction Document.

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Section 7.11. [RESERVED]

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SAMPLE

Section 7.12. Transfers and Holding of Collateral.

(a) Except as permitted pursuant to Section 7.12(b), (c), (d) or (e) below (and except for the Liens and other rights granted to the Collateral Agent under any Transaction Document), no Debtor may Dispose of any Collateral (and, without limitation of the foregoing, each Debtor covenants that, except as permitted pursuant to this Section 7.12(b), (c), (d) or (e) below (and except for the Liens and other rights granted to the Collateral Agent under any Transaction Document), it shall not Dispose of any Collateral).

(b) A Debtor may transfer outright (subject to the Lien of this Security Agreement and the Custodial and Paying Agency Agreement) any Collateral Loan to a Person that is a wholly-owned Subsidiary of such Debtor (and the Company), subject to the satisfaction of the following conditions precedent:

(i) no Event of Default shall have occurred and be continuing and each representation and warranty in Article VI hereof shall be true and correct in relation to such transferee and in relation to the Collateral Loan to be transferred to such transferee, in each case as of the date of such transfer, both immediately before and immediately after giving effect to such transfer;

(ii) without limiting the generality of clause (i), (x) the proposed transferee shall have executed and delivered to the Collateral Agent a Joinder Agreement, and, pursuant to the terms of such Joinder Agreement, shall have become a “Debtor” and a “Debtor” for all purposes of this Agreement and the Custodial and Paying Agency Agreement, (y) all Perfection Requirements shall have been complied with in relation to such proposed transferee and the Collateral proposed to be transferred to such transferee, such that the Collateral Agent shall retain uninterrupted a perfected, first priority Lien with respect to such Collateral Loan after giving effect to such transfer, and (z) without limiting the generality of clause (y), (A) the proposed transferee shall have fully complied with the requirements of Section 3.1 hereof with respect to the Collateral Loan proposed to be transferred to the proposed transferee and (B) the proposed transferee shall have executed and delivered to the Custodian, and the Custodian shall have executed and delivered to the Collateral Agent, such instruments and other documentation (including further Custodial Documents and amendments to the Custodial and Paying Agency Agreement) as the Collateral Agent may specify to reflect, or otherwise in respect of, the proposed transfer (including to maintain for the Note Holder, the PMN Designee, and the Collateral Agent, in relation to the proposed transferee becoming the owner of the Collateral Loan proposed to be transferred to it, the benefits intended to be afforded to the Note Holder, the PMN Designee, and the Collateral Agent under this Agreement and/or the Custodial and Paying Agency Agreement), all of the foregoing described in this clause (ii) to the satisfaction of the Collateral Agent; and

(iii) the Collateral Agent shall have (x) received satisfactory legal opinions addressing such matters as it may reasonably deem appropriate in connection with such proposed transfer, (y) completed any due diligence that it may desire to conduct with respect to the proposed transferee, including the conduct of lien searches, and the results thereof shall be reasonably satisfactory to the Collateral Agent, and (z) received satisfactory information

concerning anti-money laundering and know your customer requirements, in each case in relation to the proposed transferee.

(c) Any Debtor may sell outright any Collateral for cash, provided that upon the consummation of such sale, all of such cash proceeds are deposited into the [applicable] Collection Account immediately upon receipt. Any Debtor also may sell outright any Collateral to the Receiver as and when required to do so in accordance with, or in accordance with any right to do so set forth in, the terms of the Loan Sale Agreement.

(d) [Reserved].

(e) The Debtors may Dispose of Collateral as expressly permitted under Section 3.5 of this Agreement. The Debtors, in the ordinary course of business and in the good faith exercise of their business judgment, and in any event subject to the Management Standards, may modify (including release) their rights against Borrowers or Obligors.

(f) Each Debtor other than the Company covenants to the PMN Designee and the Collateral Agent that, prior to the consummation of any transaction, or the occurrence of any other event, as a result of which such Debtor would cease to be a wholly-owned Subsidiary of the Company, it shall transfer, in accordance with Section 7.12(b) hereof, all Collateral then held by it to the Company or another wholly-owned Subsidiary of the Company. The Company shall cause each other Debtor to comply with the preceding sentence. From and after full compliance with this Section 7.12(f), with respect to a Debtor (other than the Company) that has ceased to constitute a wholly-owned Subsidiary of the Company, such Debtor shall cease to constitute a “Debtor” or a “Debtor” for any purpose of this Agreement or the Custodial and Paying Agency Agreement.

(g) No Debtor will (i) merge or consolidate with or into any other Person or (ii) sell or lease all or substantially all its assets to another Person, unless (A) (x) in the case of (i), either such Debtor shall be the continuing entity or (y) in the case of (i) (not within the ambit of (x)) or (ii), the successor, transferee or lessee entity (if other than the Company) shall expressly assume, by an agreement supplemental hereto for the express benefit of each of the Note Holder, the PMN Designee and the Collateral Agent, executed and delivered (to the Collateral Agent and the PMN Designee) by such entity prior to or simultaneously with such consolidation, merger, sale or lease, the due and punctual payment of all obligations, and the due and punctual performance and observance of all of the provisions, under this Agreement and the other Transaction Documents, to be paid, performed or observed by such Debtor, and (B) the consummation of such transaction will not result in any Default or Event of Default hereunder. For the avoidance of doubt, (I) no instrument delivered by a successor, transferee or lessee entity pursuant to the preceding sentence shall release any Debtor (including the Debtor party to the transaction described in the preceding sentence) from any of its obligations under any Transaction Document and (II) the provisions of this Section 7.12(g) are in addition to, and do not modify in any respect, the other covenants and restrictions set forth in this Agreement (including Sections 7.12(a) and (f)).

(h) Upon execution of a Joinder Agreement by the Collateral Agent and a prospective “Debtor” and/or “Debtor”, such prospective “Debtor” and/or “Debtor”, as the case

may be, shall thereafter for all purposes hereof (including for purposes of Section 3.1 hereof) be a party hereto as a “Debtor” and/or as a “Debtor” as applicable, with the same effect as if it had executed this Agreement. Each Debtor and Debtor expressly agrees that its obligations arising hereunder shall not be affected or diminished by the addition or release of any other Debtor hereunder, nor by any election of the Collateral Agent not to cause any particular Person to become a Debtor and/or a Debtor hereunder. This Agreement shall be fully effective as to any Person that is or becomes a party hereto as a “Debtor” and/or a “Debtor” regardless of whether any other Person becomes or fails to become or ceases to be a “Debtor” and/or a “Debtor” hereunder.

Section 7.13. Books and Records; Reports; Certifications; Audits.

(a) Maintenance of Books and Records. Each Debtor shall keep and maintain, or cause to be kept and maintained (including by any Servicer with respect to such Debtor, and including records transferred by the Receiver in connection with its conveyance of the Collateral Loans pursuant to the Loan Sale Agreement), at all times, at the locations set forth on Exhibit B (in the case of the Company), at the chief executive office of any other Debtor, or at such other location or locations as may be approved by the Collateral Agent (such approval not to be unreasonably withheld), a complete and accurate set of files, books and records regarding the Collateral, the Collateral Loans and the Collateral Loan Underlying Collateral held by it and such Debtor’s and the Collateral Agent’s interests in the Collateral, the Collateral Loans and the Collateral Loan Underlying Collateral, including records relating to the Debtor Accounts and the disbursement of all Collateral Loan Proceeds. This obligation to maintain a complete and accurate set of records shall encompass all files in the custody, possession or control of such Debtor pertaining to the Collateral, the Collateral Loans and the Collateral Loan Underlying Collateral, including (except as required to be held by the Custodian pursuant to the Custodial and Paying Agency Agreement) all original and other documentation pertaining to the Collateral, the Collateral Loans and the Collateral Loan Underlying Collateral, all documentation relating to items of income and expense pertaining to the Collateral, the Collateral Loans and the Collateral Loan Underlying Collateral, and all internal memoranda of such Debtor or any Servicer with respect to such Debtor pertaining thereto. Each Debtor shall also maintain complete and accurate records reflecting the status of taxes, ground leases or other recurring charges which would become a Lien on any Collateral Loan Underlying Collateral held by it. The foregoing notwithstanding, no Debtor shall be deemed to be in breach of this Section 7.13(a) with respect to maintaining complete and accurate files, books and records to the extent that such failure existed at the Failed Bank immediately prior to the Closing Date, provided that the exception provided by this sentence shall only apply to the extent, and for so long as, such Debtor shall be using all commercially reasonable efforts to remedy such failure within a commercially reasonable time frame.

(b) Retention of Books and Records. Each Debtor shall cause all of the books and records described in Section 7.13(a) to be maintained and retained until the expiration of the later of (i) three (3) years after the satisfaction and discharge of all Secured Obligations in full, and (ii) six (6) years after the Closing Date. All such books and records shall be available during such period for inspection by any Agent or its representatives (including any Governmental Authority) and agents at the chief executive office of such Debtor (or such other location or locations at which such books and records may be maintained pursuant to Section 7.13(a)) at all reasonable times during business hours on any Business Day (or, in the case of any such inspection after the term hereof, at such other location as is provided by notice to the Collateral Agent and the PMN

Designee), in each instance upon not less than two (2) Business Days' prior notice to such Debtor unless an Event of Default shall have occurred and be continuing, excluding any privileged material which is maintained by the Company confidentially. Upon request by any Agent, each Debtor, at the sole cost and expense of the requesting Agent (unless an Event of Default shall have occurred and be continuing, in which event at the Debtors' sole cost and expense), promptly shall send copies (the number of copies of which shall be reasonable) of such books and records to the requesting Agent. The Debtors shall provide the Collateral Agent and the PMN Designee with reasonable advance notice of any Debtor's intention to destroy or dispose of any documents or files relating to the Collateral Loans and, upon the request of the Collateral Agent or the PMN Designee, shall allow such Person, at its own expense (unless an Event of Default shall have occurred and be continuing, in which event at the Debtors' sole cost and expense), to recover the same from such Debtor.

(c) Reporting.

(i) As soon as practicable following, but no later than ninety (90) days immediately after, the end of each Fiscal Year, the Company shall deliver to the Collateral Agent and the PMN Designee an audited consolidated balance sheet of the Company and its Subsidiaries as at the end of such Fiscal Year, and audited consolidated statements of operations and cash flow of the Company and its Subsidiaries for such Fiscal Year, each prepared in accordance with GAAP and accompanied by the Accountants' report thereon, which shall be certified in the customary manner by the Accountants.

(ii) As soon as practicable following, but no later than thirty (30) days immediately after, the end of each quarter of each Fiscal Year (other than the last quarter of such Fiscal Year), the Company shall deliver to the Collateral Agent and the PMN Designee an unaudited consolidated balance sheet of the Company and its Subsidiaries as at the end of such calendar quarter and an unaudited consolidated statements of operations and cash flow of the Company and its Subsidiaries for such calendar quarter, each prepared in accordance with GAAP.

(iii) Promptly after any Debtor shall obtain knowledge thereof, such Debtor shall notify the Collateral Agent and the PMN Designee:

(x) of the occurrence of any Default or Event of Default; or

(y) of any matter that has resulted or could reasonably be expected to result in a Material Adverse Change.

Each notice pursuant to this Section 7.13(c)(iii) shall be accompanied by a written statement of a Responsible Officer of the Company (A) that such notice is being delivered pursuant to Section 7.13(c)(iii)(x) or (y) (as applicable) and (B) setting further details of the occurrence referred to therein and stating what action the Company has taken and proposes to take with respect thereto.

(iv) The Debtors shall cause to be delivered to the Collateral Agent and the PMN Designee such other information relating to the Collateral Loans, the Collateral Loan Underlying Collateral, the Collection Account[s] or the Debtors as the Collateral Agent or the

PMN Designee might reasonably request from time to time and, in any case, shall ensure that the Collateral Agent is promptly advised, in writing, of any matter of which any Debtor becomes aware relating to the Collateral Loans, the Collateral Loan Underlying Collateral, the Collection Account[s], or any Borrower or Obligor that materially and adversely affects the interests of any of the Secured Parties.

(d) Monthly Reports. Each calendar month, the Company shall cause to be furnished to the Collateral Agent, the Paying Agent and the PMN Designee, on or prior to the day of the month specified in Section 11.3 of the Custodial and Paying Agency Agreement, (i) the Monthly Report with respect to the prior Due Period and (ii) the Distribution Date Report with respect to the prior Due Period, which Distribution Date Report shall specify the amounts and recipients of all funds to be distributed by the Paying Agent on the immediately following Distribution Date, in each case, in accordance with the terms of the Custodial and Paying Agency Agreement to the extent applicable. Each of the Monthly Report and Distribution Date Report shall be certified by the chief financial officer or treasurer (or an equivalent officer) of the Company. The Company shall also cause to be furnished to the Collateral Agent and the PMN Designee the Paying Agent Report in accordance with the terms of the Custodial and Paying Agency Agreement. The first such Monthly Report shall be delivered by the Company in [] 202[] with respect to the immediately preceding Due Period.

(e) Quarterly Compliance Certificates. The Company shall deliver to the Collateral Agent and the PMN Designee, on or before the 45th day after the end of each calendar quarter, an officer's certificate stating, as to the signer thereof, that (i) a review of the Debtors' respective activities during such preceding calendar quarter (or portion thereof) and of its performance pursuant to this Agreement, the Custodial and Paying Agency Agreement and the other Transaction Documents has been made under such officer's supervision, and (ii) to the best of such officer's knowledge and belief, based on such review, each of the Debtors has fulfilled all of its obligations pursuant to this Agreement, the Custodial and Paying Agency Agreement and the other Transaction Documents in all material respects throughout such calendar quarter or portion thereof or, if there has been a failure to fulfill any such obligation in any material respect, specifying each such failure and the nature and status thereof. The first such officer's certificate shall cover the period commencing on the Closing Date and continuing through the end of [] 202[].

(f) Compliance Reviews. Until the later of the date that is six (6) years after the Closing Date or the date that is three (3) years after the satisfaction and discharge in full of the Secured Obligations, each Debtor shall, and shall cause any Servicer for such Debtor to (i) provide each Agent and any of its representatives (including independent contractors), during normal business hours and on reasonable notice, with access to all of the books of account, reports and records relating to the Collateral, the Collateral Loan Underlying Collateral, the Management Standards, the Debtor Accounts, or any other matters relating to, or to the rights or obligations of the Agents or the Debtors under, this Agreement or any other Transaction Document, (ii) permit each Agent and any of its representatives (including independent contractors) to make copies of and extracts from the same, (iii) allow each Agent to cause such books to be reviewed by accountants or other professionals selected by the Agent seeking the audit and (iv) allow each

Agent and any of its representatives (including independent contractors) to discuss the affairs, finances and accounts (of the Debtors or any Servicer with respect to any Debtor), as they relate to the Collateral, the Collateral Loan Underlying Collateral, the Management Standards, the Debtor Accounts or any other matters relating to, or to the Agents, or the Debtors' respective rights or obligations under, this Agreement or any other PA Transaction Financing Document, with such Debtor's officers, directors, employees, accountants (and by this provision such Debtor hereby authorizes such accountants to discuss such affairs, finances and accounts with such representatives), any Servicer with respect to such Debtor and attorneys ((i) through (iv), collectively, a "**Section 7.13(f) Review**"). Any out-of-pocket expense incurred by any Agent in connection with the exercise by such Agent of its rights in this Section 7.13(f) shall be borne by such party; provided, however, that any expense incident to the exercise by any Agent of its rights pursuant to this Section 7.13(f) shall be borne by the Debtors (x) with respect to one (for all of the Agents combined) full Section 7.13(f) Audit per year occurring other than during the continuance of an Event of Default and (y) with respect to any and all Section 7.13(f) Reviews occurring (or commenced) during the continuance of an Event of Default.

(g) **Trial Balance Reports**. Promptly following any request from time to time of the Collateral Agent, the Company shall provide a trial balance report with respect to such Collateral Loans as the Collateral Agent shall specify and containing the information described on Exhibit F, in electronic form.

Section 7.14. **Insurance**.

(a) The Debtors shall, from and after the Closing Date, cause to be maintained, for the Collateral Loan Underlying Collateral (with respect to which the Borrower has failed to maintain required fire, hurricane, flood and hazard insurance with extended coverage), such insurance coverage that meets or exceeds the insurance requirements in the applicable Collateral Loan Documents.

(b) The Debtors shall, and shall cause any Servicer with respect to any Debtor to, at all times maintain in such insurance as is customary and usual for servicers.

(c) The Debtors shall provide the Collateral Agent with (i) certificates evidencing the fidelity bonds or insurance coverage required pursuant to this Section 7.14 on the Closing Date and each year thereafter on the anniversary of the Closing Date for as long as this Agreement is in effect and otherwise upon request of the Collateral Agent and (ii) copies of fidelity bonds and insurance policies required to be maintained pursuant to this Section 7.14 upon request of the Collateral Agent, for as long as this Agreement is in effect.

Section 7.15. Debtors' Duty to Advise Collateral Agent and PMN Designee; Delivery of Certain Notices. In addition to such other reports and access to records and reports as are required to be provided to any Agent hereunder, the Debtors shall cause to be delivered to any Agent such information relating to the Collateral Loans, the Collateral or any Debtor as such Agent may reasonably request from time to time and, in any case, shall ensure that the Collateral Agent and the PMN Designee are promptly advised, in writing, of any matter of which any Debtor becomes aware relating to the Collateral Loans, the Collateral, the Debtor Accounts or any Borrower or Obligor that materially and adversely affects the interests of any of the Secured Parties hereunder.

Without limiting the generality of the foregoing, the Debtors shall cause to be delivered to the Collateral Agent and the PMN Designee information indicating any possible Environmental Hazards with respect to any Collateral or Collateral Loan Underlying Collateral. To the extent the Collateral Agent or the PMN Designee requests information that is dependent upon obtaining such information from a Borrower, Obligor or other third party, the Debtors shall cause to be made commercially reasonable efforts to obtain such information but it shall not be a breach by any Debtor of this Agreement if the Debtors fail to cause such information to be provided to the Collateral Agent or the PMN Designee because a Borrower, Obligor or other Person (other than a Servicer with respect to any Debtor) has failed to provide such information after such efforts have been made.

ARTICLE VIII

Required Consent; Limits Liability

Section 8.1. Required Consents; Limits Liability. Notwithstanding anything to the contrary contained in this Agreement, the Company shall not enter into, or consent or otherwise agree to, any amendment or modification to, or waiver of, any terms of the Loan Sale Agreement without the prior written consent of the PMN Designee, which consent may be withheld or conditioned in the sole and absolute discretion of the PMN Designee.

Section 8.2. Limitation of Liability.

(a) Liability Generally. Neither the Secured Parties nor any of their respective Affiliates, nor any of their respective officers, directors, employees, partners, principals or agents, shall be liable for any action taken or omitted to be taken by them or any one of them under this Agreement or in connection with any Collateral or any portion thereof, except that this sentence shall not apply to any act or omission constituting bad faith or willful misconduct. In the event the Collateral Agent, the PMN Designee, or the Note Holder exercises its or their rights pursuant to Article V of this Agreement, none of the Secured Parties, nor any of their respective Affiliates, nor any of their respective officers, directors, employees, partners, principals or agents, shall be liable for any action taken or omitted to be taken by them or any one of them pursuant to this Agreement or in connection with any Collateral or any portion thereof, except this sentence shall not apply to any act or omission constituting willful misconduct.

(b) Reliance on Notices, etc. No Secured Party shall incur any liability to any Debtor or any other Secured Party by acting in good faith upon any notice, consent, certificate or other instrument or writing (including telegram, cable, telex or telecopy) that is reasonably believed by such Secured Party to be genuine and to have been signed or sent by the proper party and that on its face is properly executed.

(c) No Consequential Damages. In addition to and without limitation of the exculpatory effects of Sections 8.2(a) and (b), regardless of the legal theory upon which any claim against any Secured Party is based, including any claim based on contract, tort, strict liability, or fraud, no Secured Party shall be liable for, and no Debtor may recover from any Secured Party, any amounts other than actual losses, costs and expenses incurred by the party asserting the claim. Without limiting the foregoing, no Secured Party shall be liable for, and no Debtor shall be entitled

to recover from any Secured Party, any consequential, special, indirect, punitive, treble, nominal or exemplary damages, business interruption costs or expenses, or damages for lost profits, operating losses or lost investment opportunity (regardless of whether any such damages are characterized as direct or indirect), each of which is and all of which are hereby excluded, regardless of whether the party against whom such damages may be claimed has been advised of the possibility of any such damages, unless (in each case) such losses are incurred by the party asserting the claim as a direct result of a claim asserted against such party by a third party. For purposes of this Section 8.2, any claims asserted against any Debtor by (i) any Affiliate of such, or any other, Debtor, or (ii) any officer, director, employee, partner, principal, Servicer or agent of or for such, or any other, Debtor, or of any Affiliate of such, or any other Debtor, shall not constitute claims asserted by a third party.

ARTICLE IX

Release of Collateral

Section 9.1. Release of Collateral by Collateral Agent. The Collateral Agent shall release its Lien on any Collateral, solely to the extent necessary:

- (a) upon a final, nonappealable order of a court of competent jurisdiction permitting or directing disposition thereof;
- (b) upon payment of any Collateral Loan in full and satisfaction in full of all of the secured obligations with respect to a Collateral Loan or upon receipt of a discounted payoff as payment in full of a Collateral Loan;
- (c) upon the Underlying Collateral for any Collateral Loan becoming Acquired Property by foreclosure on a Mortgaged Property or the acceptance of a deed in lieu thereof or otherwise;
- (d) in connection with any Debtor's sale, transfer or other Disposition of a Collateral Loan to the extent permitted under Section 7.12(c) or Section 7.12(e), provided, that the proceeds of such sale, transfer or other Disposition are deposited into the [applicable] Collection Account; or
- (e) following the Collateral Agent's receipt of a Distribution Date Report accompanied by a written notice from an Authorized Representative of the Company requesting the removal of any Collateral Loan identified in Part D of such Distribution Date Report, provided that after giving effect to such release, (i) the aggregate UPB of the remaining Collateral Loans (excluding, for the avoidance of doubt, any Collateral Loans that have been released from the Collateral Agent's Lien pursuant to the other clauses of this Section 9.1) equals or exceeds (ii) [125]% of the aggregate unpaid balance of the Purchase Money Notes as of such Determination Date, less any voluntary prepayment in respect of the Purchase Money Notes to be made by the Company under Section 3.3 of the Custodial and Paying Agency Agreement identified in Part A of such Distribution Date Report. Any release of Collateral permitted under the foregoing clause (e) shall be effective as of the Distribution Date immediately following such Distribution Date Report.

Section 9.2. Removal of Collateral. Subject to Section 9.1, the Company shall have the right to remove any Collateral from the Lien created hereunder pursuant to Section 3.1 at any time by delivering a written notice from an Authorized Officer to the Collateral Agent identifying the Collateral to be so removed. Each Monthly Report and Distribution Date Report delivered pursuant to Section 7.13 shall specify, with respect to the immediately prior Due Period, all Collateral Loans identified for removal, or as having been removed, from the pool of Collateral Loans on the basis of Section 9.1.

ARTICLE X

Collateral Agent

Section 10.1. Appointment and Authorization of Collateral Agent. The Collateral Agent is hereby irrevocably appointed, designated and authorized to act as the agent of (and to hold any security interest created by any Transaction Document for and on behalf of or on trust for) the Note Holder and each other Secured Party for purposes of (i) acquiring, holding and enforcing any and all Liens on the Collateral granted by any Debtor to secure any of the Secured Obligations, together with such powers and discretion as are reasonably incidental thereto, and (ii) making such determinations, and exercising or fulfilling such powers, rights, remedies, obligations, discretion and/or authority, as are expressly set forth in, and otherwise acting as the “Collateral Agent” as expressly set forth in, any Transaction Document. In this capacity, the Collateral Agent (and any co-agents, sub-agents and attorneys-in-fact appointed by the Collateral Agent for the purposes set forth in the preceding sentence), shall be entitled to the benefits of all provisions of this Article X as though such co-agents, sub-agents and attorneys-in-fact were the Collateral Agent hereunder. Notwithstanding any provision to the contrary contained elsewhere herein or in any other Transaction Document, the Collateral Agent shall have no duties or responsibilities, except those expressly set forth herein or in the other Transaction Documents, nor shall the Collateral Agent have or be deemed to have any fiduciary relationship with any Secured Party or participant of a Secured Party, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Transaction Document or otherwise exist against the Collateral Agent. Without limiting the generality of the foregoing sentence, the use of the term “agent” herein and in the other Transaction Documents with reference to the Collateral Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any Law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties. Nothing in any Transaction Document shall be construed to limit the right of the PMN Designee and the Collateral Agent to enter into such further agreements as they, in their sole discretion, deem necessary or appropriate with respect to the purposes of the Collateral Agent’s appointment as described in the first sentence of this Section 10.1(a), including the manner in which the Note Holder and/or the PMN Designee may instruct the Collateral Agent to act under any Transaction Document, voting among the Note Holder(s), and indemnification by the Note Holder of the Collateral Agent. Anything in Section 11.11 hereof to the contrary notwithstanding, the PMN Designee and the Collateral Agent may amend this Article X in any manner (with respect to the subject matter of this Article X) without the approval of (but with notice to) the Company so long as such amendment does not adversely affect the Company in any material respect.

Section 10.2. Delegation of Duties. The Collateral Agent may execute any of its duties under this Agreement or any other Transaction Document (including for purposes of holding or

enforcing any Lien on the collateral (or any portion thereof) granted under any Transaction Document or of exercising any rights and remedies thereunder) by or through agents, sub-agents, employees or attorneys-in-fact as shall be deemed necessary by the Collateral Agent and shall be entitled to advice of counsel and other consultants or experts concerning all matters pertaining to such duties, and to rely on any such advice. The Collateral Agent shall not be responsible for the negligence or misconduct of any agent or sub-agent or attorney-in-fact that it selects in the absence of bad faith or willful misconduct (as determined in the final judgment of a court of competent jurisdiction).

Section 10.3. Liability of Collateral Agent. Neither the Collateral Agent, nor any of its Affiliates or officers, directors, employees, agents, sub-agents or attorneys-in-fact of any of them, shall (a) be liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other Transaction Document or the transactions contemplated hereby (except that this clause (a) shall not apply to the Collateral Agent's own bad faith or willful misconduct, as determined by the final judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein), or (b) be responsible in any manner to any Secured Party for any recital, statement, representation or warranty made by any Debtor or any officer thereof, contained herein or in any other Transaction Document, or in any certificate, report, statement or other document referred to or provided for in, or received by the Collateral Agent under or in connection with, this Agreement or any other Transaction Document, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Transaction Document, or the perfection or priority of any Lien or security interest created or purported to be created under any Transaction Document, or for any failure of any Debtor or any other party to any Transaction Document to perform its obligations hereunder or thereunder. Neither the Collateral Agent, nor any of its Affiliates or officers, directors, employees, agents, sub-agents or attorneys-in-fact of any of them, shall be under any obligation to any Secured Party or participant to (i) ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement, or any other Transaction Document or (ii) inspect the properties, books or records of any Debtor, Borrower or Obligor or any of their respective Affiliates.

Section 10.4. Reliance by the Collateral Agent. The Collateral Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, communication, signature, resolution, representation, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex or telephone message, electronic mail message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to any Debtor), independent accountants and other experts selected by the Collateral Agent. The Collateral Agent shall be fully justified in failing or refusing to take any action under any Transaction Document unless it shall first receive such advice or concurrence of the PMN Designee as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by, the Note Holder and/or the PMN Designee against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Collateral Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Transaction Document in accordance with a request or consent of the PMN Designee and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Secured Parties. Anything in this Section 10.4 (or the rest of this Agreement) to the contrary

notwithstanding, the Collateral Agent may not agree to any amendment of, or grant any waiver in respect of any of the provisions of, any Transaction Document except at, and shall execute any amendment of, or waiver in respect of any of the provisions of, any Transaction Document at, the direction of the PMN Designee (provided that the Collateral Agent shall not be required to execute any such amendment or waiver that affects the rights or duties of, or any fees or other amounts payable to, the Collateral Agent under this Agreement or any other Transaction Document).

Section 10.5. Knowledge of Collateral Agent. The Collateral Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default, unless the Collateral Agent shall have received written notice from a Debtor or any Secured Party referring to this Agreement, describing such Default or Event of Default and stating that such notice is a “notice of default.” The Collateral Agent will notify the PMN Designee of its receipt of any such notice. The Collateral Agent shall take such action with respect to any Event of Default as may be directed by the PMN Designee in accordance with Article V; provided, however, that (i) the Collateral Agent may not release any substantial portion of the Collateral (except as required pursuant to the express terms of this Agreement) without the prior written consent of the PMN Designee and (ii) unless and until the Collateral Agent has received any such direction, the Collateral Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Event of Default as it shall deem advisable or in the best interest of the Secured Parties.

Section 10.6. Successor Collateral Agent. The Collateral Agent may resign as the Collateral Agent upon thirty (30) days’ notice to the PMN Designee and the Company. If the Collateral Agent resigns under this Agreement, the PMN Designee shall appoint a successor collateral agent for the Secured Parties. If no successor collateral agent is appointed prior to the effective date of the resignation of the Collateral Agent, the retiring Collateral Agent may appoint, after consulting with the PMN Designee, a successor collateral agent. Upon the acceptance of its appointment as successor collateral agent hereunder, and upon the execution and filing or recording of such financing statements, or amendments thereto, and such other instruments or notices, as may be necessary or desirable, or as the PMN Designee may request, in order to continue the perfection of the Liens granted or purported to be granted to the Collateral Agent by the Transaction Documents, the Person acting as such successor agent shall succeed to all the rights, powers, discretions, privileges and duties of the retiring Collateral Agent and the term “Collateral Agent” shall mean such successor collateral agent, and the retiring Collateral Agent’s appointment, powers, discretions, privileges and duties as the Collateral Agent shall be terminated. After the retiring Collateral Agent’s resignation hereunder as the Collateral Agent, the provisions of this Article X, and Sections 11.2 and 11.4, shall continue in effect for the benefit of such retiring Collateral Agent in respect of any actions taken or omitted to be taken by it while it was acting as the Collateral Agent.

Section 10.7. Collateral Agent May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Debtor, the Collateral Agent (irrespective of whether the principal of the Purchase Money Notes shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Collateral Agent shall

have made any demand on any Debtor) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Purchase Money Notes and all other Secured Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Secured Parties (including any claim for the reasonable compensation, expenses and disbursements of the Secured Parties and their respective agents and counsel and all other amounts due the Secured Parties under Section 11.2 and/or Section 11.4) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same.

Any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized to make such payments to the Collateral Agent and, in the event that the Collateral Agent shall consent to the making of such payments directly to the Note Holder, to pay to the Collateral Agent any amount due the Collateral Agent under Section 11.2 and/or Section 11.4.

Nothing contained herein shall be deemed to authorize the Collateral Agent to authorize or consent to or accept or adopt on behalf of the Note Holder any plan of reorganization, arrangement, adjustment or composition affecting the Secured Obligations or the rights of the Note Holder or to authorize the Collateral Agent to vote in respect of the claim of the Note Holder in any such proceeding.

ARTICLE XI

Miscellaneous

Section 11.1. [Reserved].

Section 11.2. Attorney Costs, Expenses and Taxes. Each party shall bear its own costs and expenses incurred in connection with the preparation and negotiation of this Agreement, the Custodial and Paying Agency Agreement and the Account Control Agreement (as originally executed). The Company agrees to pay or reimburse the Agents and the Note Holder for all reasonable costs and expenses (including Attorney Fees) incurred in connection with (a) the preparation, negotiation and execution of any amendment, waiver, consent or other modification of the provisions hereof and any other Transaction Document requested by any Debtor (whether or not the transactions contemplated thereby are consummated), (b) any workout proceeding relating to the Secured Obligations, (c) the enforcement of any rights or remedies under this Agreement or any other Transaction Document (including all such costs and expenses incurred during any legal proceeding, including any proceeding under any Debtor Relief Law, and including all Attorney Fees of counsel to the Agents and the Note Holder) or (d) any proposed transfer pursuant to Section 7.12(b) hereof. Any such obligation of the Debtors under this Section 11.2 shall become part of the Secured Obligations secured by this Agreement. The foregoing costs and expenses shall include all reasonable search, filing, recording and title insurance charges and fees

and taxes related thereto, and other expenses incurred by the applicable Person. The agreements in this Section shall survive the termination of this Agreement and repayment of all other Secured Obligations. All amounts due under this Section shall be payable on demand.

Section 11.3. Termination of Security Interest. Upon the satisfaction and discharge in full of the Secured Obligations, the security interest and all other rights granted hereby shall terminate and all rights to the Collateral shall revert to the applicable Debtor. Upon any such satisfaction and discharge, the Collateral Agent (a) upon the written request of the Company shall promptly execute and deliver all such documentation, Uniform Commercial Code termination statements and instruments as are necessary to release the Liens created pursuant to this Agreement and to terminate this Agreement, and (b) agrees, at the reasonable request of the Company, to furnish, execute and deliver such documents, instruments, certificates, notices or further assurances as the Company may reasonably request as necessary or desirable to effect such termination and release, all at the Company's sole cost and expense.

Section 11.4. Indemnification.

(a) The Debtors shall indemnify and hold harmless (A) each Agent, each Note Holder, and the FDIC, (B) each of the respective Affiliates of the Persons listed or described in clause (A), and (C) the respective officers, directors, employees, partners, principals, agents and contractors of each of the Persons listed or described in clauses (A) or (B) ((A), (B) and (C), collectively, the "**Indemnified Parties**"), from and against any losses, damages, disbursements, liabilities, costs and expenses (including reasonable documented attorneys' fees and litigation and similar costs, and other out-of-pocket expenses incurred in investigating, defending, asserting or preparing the defense or assertion of any of the foregoing), deficiencies, claims, interest, awards, amounts paid in settlement, judgments, penalties and fines (collectively, "**Losses**") incurred by or asserted against any Indemnified Party directly or indirectly arising out of, in connection with, or resulting from, in whole or in part, (i) the execution or delivery of, or the existence of, this Agreement or any other Transaction Document, or any other document contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder the consummation of the transactions contemplated hereby or thereby, (ii) any breach of a representation or warranty made by any Debtor in this Agreement or any other Transaction Document, (iii) any breach by (x) any Debtor, (y) any Affiliate of any Debtor or (z) any of the respective officers, directors, employees, partners, principals, agents or contractors of any Debtor or any Affiliate of any Debtor ((x), (y) and (z) collectively, "**Related Entities**") of any of their respective obligations under or covenants or agreements contained in this Agreement, or any other Transaction Document (including any claim asserted by any Secured Party against any Debtor to enforce its rights pursuant to Article V hereof), or any third-party allegation or claim based upon facts alleged that, if true, would constitute such a breach, (iv) the negotiation, enforcement, amendment or other modification of any Transaction Document, (v) any actual or asserted Environmental Hazard related to any Mortgaged Property, (vi) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by any Debtor or any of their respective Related Entities, shareholders or creditors, and regardless of whether any Indemnified Party is a party thereto, in all cases, whether or not caused by or arising, in whole or in part, out of the comparative, contributory or sole negligence of any Indemnified Party, or (vii) any gross

negligence, bad faith or willful misconduct of any of the Related Entities (including any act or omission constituting theft, embezzlement, breach of trust or violation of any Law); provided that such indemnity shall not, as to any particular Indemnified Party, be available to the extent that such Losses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnified Party. (Each of the foregoing clauses (i) through (vii) is in addition to, and not in limitation of, any of the other such clauses.) Such indemnity shall survive the termination of this Agreement. Insofar as this Section 11.4(a) applies to the FDIC or applies to the Receiver as such (as opposed to the Receiver as the initial Note Holder and/or as an Agent), references in this Section 11.4(a) to any Transaction Document shall exclude the Loan Sale Agreement. This Section 11.4(a) shall continue to apply to any Person that was, but has ceased to be, an Indemnified Party, but only with respect to the period during which such Person was an Indemnified Party.

(b) If for any reason the indemnification provided for herein is unavailable or insufficient to hold harmless the Indemnified Parties, the Debtors shall, jointly and severally, contribute to the amount paid or payable by the Indemnified Parties as a result of the Losses of the Indemnified Parties in such proportion as is appropriate to reflect the relative fault of the Indemnified Parties, on the one hand, and the Debtors, on the other hand, in connection with the incurrence of such Losses.

Section 11.5. Governing Law. EACH PARTY TO THIS AGREEMENT AGREES AND ELECTS THAT, IN ACCORDANCE WITH SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, THIS AGREEMENT IS TO BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK, EXCLUDING ANY CONFLICT OF LAWS RULE OR PRINCIPLE THAT MIGHT REFER THE GOVERNANCE OR THE CONSTRUCTION OF THIS AGREEMENT TO THE LAW OF ANOTHER JURISDICTION, AND EACH PARTY TO THIS AGREEMENT UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT EITHER (1) THE LAWS OF ANY OTHER JURISDICTION GOVERN THIS AGREEMENT OR (2) THE PROVISIONS OF THIS SECTION 11.5 DO NOT APPLY TO ANY OTHER TRANSACTION DOCUMENT. NOTHING IN THIS AGREEMENT SHALL REQUIRE ANY UNLAWFUL ACTION OR INACTION BY ANY PARTY TO THIS AGREEMENT.

Section 11.6. Jurisdiction, Venue and Service.

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

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

(A) remove or transfer such suit, action or proceeding to any court or dispute-resolution forum other than the court in which the FDIC (in the capacity in which

it is a party in such suit, action, or proceeding) files the suit, action or proceeding without the consent of the FDIC (in the capacity in which it is a party in such suit, action, or proceeding);

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

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

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

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

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

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

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

(iv) agrees, if the United States District Court for the Southern District of New York and the United States District Court for the District of Columbia both lack jurisdiction to hear a suit, action or proceeding falling within Section 11.6(a)(iii), to bring that suit, action or proceeding exclusively in the Supreme Court of the State of New York, and waives any right to remove or transfer such suit, action or proceeding to any other court or dispute-resolution forum without the consent of the FDIC (in the capacity in which it is a party in such suit, action or proceeding); and

(v) agrees, in any suit, action or proceeding that is brought in the Supreme Court of the State of New York for New York County in accordance with the above

provisions of this Section 11.6(a), to request that such suit, action or proceeding be referred to the Commercial Division of such Court.

(b) Each of the Debtors and the Company, on behalf of itself and its Affiliates, hereby irrevocably and unconditionally agrees that any final judgment entered against it in any suit, action or proceeding falling within Section 11.6(a) may be enforced in any court of competent jurisdiction.

(c) Subject to the provisions of Section 11.6(d), each of the Debtors hereby irrevocably and unconditionally agrees that service of all writs, process and summonses in any suit, action or proceeding pursuant to Section 11.6(a) or Section 11.6(b) may be effected by the mailing of copies thereof by registered or certified mail, postage prepaid, to it at its address for notices pursuant to Section 11.8 (with copies to such other Persons as specified therein); provided, however, that nothing contained in this Section 11.6(c) shall affect the right of any party to serve process in any other manner permitted by Law. Each of the Debtors and the Company, in each case on behalf of itself and its Affiliates, further agrees that any such service of writs, process or summonses in any suit, action or proceeding pursuant to Section 11.6(a) or Section 11.6(b) on FDIC (in any capacity) is to be in accordance with requirements of applicable Law (including 12 CFR Section 309.7(a)), with additional delivery of a copy of such writ, process or summons to the FDIC (in its applicable capacity(ies)) pursuant to the notice provisions in Section 11.8.

(d) Nothing in this Section 11.6 shall constitute consent to jurisdiction in any court by the FDIC (in any capacity), or in any way limit the right of the FDIC (in any capacity) to remove, transfer, seek to dismiss, or otherwise respond to any suit, action, or proceeding against it in any forum.

Section 11.7. Waiver of Jury. EACH DEBTOR AND EACH OTHER PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY OF ANY DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT AND AGREES THAT ANY SUCH DISPUTE SHALL BE TRIED BEFORE A JUDGE SITTING WITHOUT A JURY.

Section 11.8. Notices. All notices, requests, demands, and other communications required or permitted to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be delivered (x) in the case of the PMN Designee or the Collateral Agent, to the applicable electronic mail address specified below and (y) in the case of any other party, to the applicable address or (to the extent electronic mail addresses are provided by any party) electronic mail address of the parties specified below for such Person. All such notices and other communications shall be deemed to be given or made upon the earlier to occur of (i) actual receipt (or refusal thereof) by the relevant party hereto and (ii) (A) if delivered by hand or by nationally recognized courier service, when signed for (or refused) by or on behalf of the relevant party hereto; (B) if delivered by mail, four (4) Business Days after deposit in the mails, postage prepaid; and (C) if delivered by electronic mail, when delivered. In no event shall a voice mail message be effective as a notice, communication or confirmation hereunder. From time to time, any Person may designate a new address for purposes of notice hereunder by notice to such effect to the other Persons identified below.

Address for notices or communications to the Company:

[_____]
[_____]
[_____]
Attn: [_____]
Email: [_____]

with copies to:

[_____]
[_____]
[_____]
Attn: [_____]
Email: [_____]

and

[_____]
[_____]
[_____]
Attn: [_____]
Email: [_____]

Address for notices or communications to the Collateral Agent or the PMN Designee:

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

and

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

Section 11.9. Assignment. This Agreement shall inure to the benefit of and be binding on and enforceable against the parties hereto and their respective successors and assigns (including, for the avoidance of doubt, the Persons from time to time serving as the Collateral Agent and/or the PMN Designee (in their respective capacities as such)); provided, however, that no Debtor shall assign its rights hereunder in whole or in part without the prior written consent of the Collateral Agent, and any such assignment without such consent shall be null and void ab initio.

Section 11.10. Entire Agreement. This Agreement, together with the other Transaction Documents, contains the entire agreement among, and supersedes any and all other prior agreements whether oral or written among the parties with respect to the subject matter hereof and thereof, provided that any confidentiality agreement between the FDIC and the Company with respect to the transactions that are the subject of this Agreement and/or any other Transaction Document shall remain in full force and effect to the extent provided therein.

Section 11.11. Amendments and Waivers. No provision of this Agreement may be amended or waived except in writing executed by, and any provision of this Agreement may be amended or waived in a writing executed by, all of the parties to this Agreement (in the case of the Collateral Agent, acting at the direction, or with the consent, of the PMN Designee). Nothing in this Section 11.11 limits or qualifies the last sentence of Section 10.1 hereof or the third-to-last, or penultimate, sentence of Section 12.1 hereof. Anything in the first sentence of this Section 11.11 to the contrary notwithstanding, neither Section 11.4 or 11.6 hereof may be modified or waived in relation to the "FDIC" without the prior written consent of the FDIC in its corporate capacity.

Section 11.12. Confidentiality. Each Debtor shall keep confidential and shall not divulge to any party, without the prior written consent of the Collateral Agent and the PMN Designee, any information pertaining to this Agreement, any Joinder Agreement, the Custodial and Paying Agency Agreement, or the Account Control Agreement, except to the extent that it is necessary and appropriate for such Debtor to do so in working with legal counsel, auditors, taxing authorities, regulatory authorities or any other Governmental Authority; provided, however, that, to the extent that disclosure should be required by Law, rule, regulation (including any securities listing requirements or the requirements of any self-regulatory organization), subpoena, or in connection with any legal or regulatory proceeding (including in connection with or pursuant to any action, suit, subpoena, arbitration or other dispute resolution process or other legal proceedings, whether civil or criminal, and including before any court or administrative or legislative body), such Debtor will use all reasonable efforts to maintain confidentiality and will (unless otherwise prohibited by Law) notify the Collateral Agent and the PMN Designee within one (1) Business Day after its knowledge of such legally required disclosure so that the Collateral Agent and/or the PMN Designee may seek an appropriate protective order. Notice shall be by telephone, by email and in writing. In the absence of a protective order or waiver, such Debtor may make such required disclosure if, in the written opinion of its outside counsel (which opinion shall be provided to the PMN Designee and the Collateral Agent prior to disclosure pursuant to this Section 11.12), failure to make such disclosure would subject such Debtor to liability for contempt, censure or other legal penalty or liability. Nothing in this Section 11.12 shall restrict the Debtors from divulging information to the extent necessary or required in order to assist the Receiver with effecting a

Receiver Facility Disposition as contemplated by Section 2.11 of the Custodial and Paying Agency Agreement.

Section 11.13. Reinstatement. This Agreement shall continue to be effective or be automatically reinstated, as the case may be, if at any time payment pursuant to this Agreement is rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, reorganization, liquidation of any Debtor or upon the dissolution of, or appointment of any intervenor or conservator or, or trustee or similar official for, any Debtor or any substantial part of any Debtor's assets, or otherwise, all as though such payments had not been made, and the Debtors shall pay each Secured Party on demand all reasonable costs and expenses (including Attorney Fees) incurred by such Secured Party in connection with such rescission or restoration.

Section 11.14. Interpretation; No Presumption. Headings are intended solely for convenience of reference and shall not affect the meaning or interpretation of the provisions of this Agreement. This Agreement shall be construed fairly as to each party hereto and if at any time any such term or condition is desired or required to be interpreted or construed, no consideration shall be given to the issue of who actually prepared, drafted or requested any term or condition of this Agreement or any agreement or instrument subject hereto.

Section 11.15. Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall be ineffective, but such ineffectiveness shall be limited as follows: (a) if such provision is prohibited or unenforceable in such jurisdiction only as to a particular Person or Persons and/or under any particular circumstance or circumstances, such provision shall be ineffective, but only in such jurisdiction and only with respect to such particular Person or Persons and/or under such particular circumstance or circumstances, as the case may be; (b) without limitation of clause (a), such provision shall in any event be ineffective only as to such jurisdiction and only to the extent of such prohibition or unenforceability, and such prohibition or unenforceability in such jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction; and (c) without limitation of clauses (a) or (b), such ineffectiveness shall not invalidate any of the remaining provisions of this Agreement. Without limitation of the preceding sentence, it is the intent of the parties to this Agreement that in the event that in any court proceeding, such court determines that any provision of this Agreement is prohibited or unenforceable in any jurisdiction (because of the duration or scope (geographic or otherwise) of such provision, or for any other reason) such court shall have the power to, and shall, (p) modify such provision (including without limitation, to the extent applicable, by limiting the duration or scope of such provision and/or the Persons against whom, and/or the circumstances under which, such provision shall be effective in such jurisdiction) for purposes of such proceeding to the minimum extent necessary so that such provision, as so modified, may then be enforced in such proceeding and (q) enforce such provision, as so modified pursuant to clause (p), in such proceeding. Nothing in this Section 11.5 is intended to, or shall, limit (x) the ability of any party to this Agreement to appeal any court ruling or the effect of any favorable ruling on appeal or (y) the intended effect of Section 11.5.

Section 11.16. Survival. All representations and warranties made hereunder and in any other Transaction Document shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Secured Parties, regardless

of any investigation made by or on behalf of the Secured Parties (or any of them) and notwithstanding that the Secured Parties may have had notice or knowledge of any Default at the Closing Date, and shall continue in full force and effect as long as any Purchase Money Note, or any other Obligation shall remain unpaid or unsatisfied. All obligations made herein shall survive the execution and delivery of this Agreement. Except as otherwise provided in this Agreement or implied by Law, the obligations of each Debtor set forth in this Agreement shall terminate only upon the satisfaction and discharge in full of the Secured Obligations.

Section 11.17. No Third-Party Beneficiaries. This Agreement is made for the sole benefit of the Secured Parties and the Debtors and their respective successors and permitted assigns, and no other Person or Persons (including Borrowers, Obligors, or any co-lender or other Person with any interest in or liability under any of the Collateral Loans) shall have any rights or remedies under or by reason of this Agreement. The preceding sentence notwithstanding, (i) to the extent that this Agreement confers directly any rights, remedies or other benefits upon any Note Holder, or any other Person (not a party to this Agreement), this Agreement (subject to Sections 11.5 and 11.7 hereof as if such other Person was a party hereto, and in any event to Section 11.11 hereof) also shall inure to the benefit of, and may be enforced by, such Note Holder, or such other Person, as the case may be, and (ii) each party hereto, and each Note Holder may enforce Section 11.4 hereof on behalf of or otherwise with respect to any other Indemnified Party in relation to itself.

Section 11.18. Counterparts; Signatures. This Agreement shall be valid, binding, and enforceable against a party only when executed and delivered by an authorized individual on behalf of the party by means of (i) any electronic signature permitted by the federal Electronic Signatures in Global and National Commerce Act, state enactments of the Uniform Electronic Transactions Act, and/or any other relevant electronic signatures law, including relevant provisions of the Uniform Commercial Code (collectively, “**Signature Law**”); (ii) an original manual signature; or (iii) a faxed, scanned, or photocopied manual signature. Each electronic signature or faxed, scanned, or photocopied manual signature shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original manual signature. Each party hereto shall be entitled to conclusively rely upon, and shall have no liability with respect to, any faxed, scanned, or photocopied manual signature, or other electronic signature, of any party and shall have no duty to investigate, confirm or otherwise verify the validity or authenticity thereof. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute one and the same instrument. For avoidance of doubt, original manual signatures shall be used for execution or indorsement of writings when required under any Signature Law due to the character or intended character of the writings.

Section 11.19. USA PATRIOT Act. The Note Holder hereby notifies each Debtor, that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “**Act**”), it may be required to obtain, verify and record information that identifies each Debtor, which information includes the name and address of each Debtor and other information that will allow the Note Holder to identify each Debtor in accordance with the Act.

Section 11.20. Cooperation With Future Receiver Facility Dispositions. The Company and each Debtor (i) acknowledge and agree that the Receiver may, without restriction, assign, sell,

transfer, securitize, participate, pledge, syndicate, or otherwise hypothecate the Purchase Money Notes, and all of its related rights and obligations under the Transaction Documents in whole or in part, directly or indirectly, in each case, without the consent of the Company or any other Debtor and (ii) covenant and agree that the Company and each Debtor shall cooperate with and assist the Receiver, on a time-of-the-essence basis, in any such actual or proposed transaction, as may be requested by the Receiver from time to time, in each case as more fully set forth in Section 2.11(e) of the Custodial and Paying Agency Agreement.

ARTICLE XII

PMN Designee

Section 12.1. Appointment and Authorization of PMN Designee. The PMN Designee is hereby irrevocably appointed, designated and authorized to make such determinations, and to exercise or fulfill such powers, rights, remedies, obligations, discretion and/or authority, as are expressly set forth in, and otherwise to act as the “PMN Designee” as expressly set forth in, any Transaction Document. In this capacity, the PMN Designee (and any co-agents, sub-agents and attorneys-in-fact appointed by the PMN Designee for the purposes set forth in the preceding sentence) shall be entitled to the benefits of all provisions of this Article XII as though such co-agents, sub-agents and attorneys-in-fact were the PMN Designee hereunder. Notwithstanding any provision to the contrary contained elsewhere herein or in any other Transaction Document, the PMN Designee shall have no duties or responsibilities, except those expressly set forth herein or in the other Transaction Documents, nor shall the PMN Designee have or be deemed to have any fiduciary relationship with any Secured Party or participant of a Secured Party, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Transaction Document or otherwise exist against the PMN Designee. Without limiting the generality of the foregoing sentence, the use of the term “designee” herein and in the other Transaction Documents with reference to the PMN Designee is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any Law. Instead, such term is intended to create or reflect only a contractual relationship between independent contracting parties. Nothing in any Transaction Document shall be construed to limit the right of the Note Holders and the PMN Designee to enter into such further agreements as they, in their sole discretion, deem necessary or appropriate with respect to the purposes of the PMN Designee’s appointment as described in the first sentence of this Section 12.1(a), including the manner (if at all) in which the Note Holders may instruct the PMN Designee to act under any Transaction Document, voting among the Note Holders (to the extent applicable in relation to the PMN Designee), and indemnification by the Note Holders and/or the PMN Designee. Anything in Section 11.11 hereof to the contrary notwithstanding, the Majority Note Holders and the PMN Designee may amend this Article XII in any manner (with respect to the subject matter of this Article XII) without the approval of (but with notice to) the Company so long as such amendment does not adversely affect the Company in any material respect. Furthermore, to the extent that there is a conflict between the terms of this Article XII and the terms of any agreement between the PMN Designee and the Majority Note Holders, such agreement shall prevail. This Article XII is solely for the protection of the PMN Designee; nothing in this Article XII imposes any duty, obligation or liability on the PMN Designee.

Section 12.2. Delegation of Duties. The PMN Designee may execute any of its duties under this Agreement or any other Transaction Document (including for purposes of exercising any rights and remedies thereunder) by or through agents, sub-agents, employees or attorneys-in-fact as shall be deemed necessary by the PMN Designee and shall be entitled to advice of counsel and other consultants or experts concerning all matters pertaining to such duties, and to rely on any such advice. The PMN Designee shall not be responsible for the negligence or misconduct of any agent or sub-agent or attorney-in-fact that it selects in the absence of bad faith or willful misconduct (as determined in the final judgment of a court of competent jurisdiction).

Section 12.3. Liability of PMN Designee. Neither the PMN Designee, nor any of its Affiliates or officers, directors, employees, agents, sub-agents or attorneys-in-fact of any of them shall (a) be liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other Transaction Document or the transactions contemplated hereby (except that this clause (a) shall not apply to the PMN Designee's own bad faith or willful misconduct, as determined by the final judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein), or (b) be responsible in any manner to any Secured Party for any recital, statement, representation or warranty made by any Debtor or any officer thereof, contained herein or in any other Transaction Document, or in any certificate, report, statement or other document referred to or provided for in, or received by the PMN Designee under or in connection with, this Agreement or any other Transaction Document, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Transaction Document, or the perfection or priority of any Lien or security interest created or purported to be created under any Transaction Document, or for any failure of any Debtor or any other party to any Transaction Document to perform its obligations hereunder or thereunder. Neither the PMN Designee, nor any of its Affiliates or officers, directors, employees, agents, sub-agents or attorneys-in-fact of any of them, shall be under any obligation to any Secured Party or participant to (i) ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement, or any other Transaction Document or (ii) inspect the properties, books or records of any Debtor, Borrower or Obligor or any of their respective Affiliates. After any PMN Designee is replaced as the PMN Designee, the provisions of this Article XII, and Sections 11.2 and 11.4, shall continue in effect for the benefit of such former PMN Designee in respect of any actions taken or omitted to be taken by it while it was acting as the PMN Designee.

Section 12.4. Reliance by PMN Designee. The PMN Designee shall be entitled to rely, and shall be fully protected in relying, upon any writing, communication, signature, resolution, representation, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex or telephone message, electronic mail message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to any Debtor), independent accountants and other experts selected by the PMN Designee. The PMN Designee shall be fully justified in failing or refusing to take any action under any Transaction Document unless it shall first receive such advice or concurrence of the Note Holders as it deems appropriate (provided that nothing in this Article XII requires the PMN Designee to seek any such advice or concurrence) and, if it so requests, it shall first be indemnified to its satisfaction by the Note Holders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take

any such action. The PMN Designee shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Transaction Document in accordance with a request or consent of the Majority Note Holders and such request and any action taken or failure to act pursuant thereto shall be binding upon all of the Note Holders (provided that nothing in this Article XII requires the PMN Designee to act, or refrain from acting, in accordance with any request or direction of the Note Holder(s)).

Section 12.5. Knowledge of PMN Designee. The PMN Designee shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default, unless the PMN Designee shall have received written notice from a Debtor or any Secured Party referring to this Agreement, describing such Default or Event of Default and stating that such notice is a “notice of default.” The PMN Designee may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Event of Default as it shall deem advisable.

Section 12.6. PMN Designee May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Debtor, the PMN Designee (irrespective of whether the principal of the Purchase Money Notes shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the PMN Designee shall have made any demand on any Debtor) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Purchase Money Notes and all other Secured Obligations that are owing and unpaid to the Note Holders and to file such other documents as may be necessary or advisable in order to have the claims of the Note Holders (including any claim for the reasonable compensation, expenses and disbursements of the Note Holders and their respective agents and counsel and all other amounts due the Note Holders under Section 11.2 and/or Section 11.4) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized to make such payments to the PMN Designee and, in the event that the PMN Designee shall consent to the making of such payments directly to the Note Holders, to pay to the PMN Designee any amount due the PMN Designee under Section 11.2 and/or Section 11.4.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto, by their officers duly authorized, intending to legally bound, have caused this Agreement to be duly executed.

Company and Debtor

[_____]

By: _____

Name:

Title:

PMN Designee

FEDERAL DEPOSIT INSURANCE

CORPORATION, as Receiver of

[_____], as PMN Designee

By: _____

Name:

Title:

Collateral Agent

FEDERAL DEPOSIT INSURANCE

CORPORATION, as Receiver of

[_____], as Collateral Agent

By: _____

Name:

Title:

EXHIBIT A

FORM OF JOINDER AGREEMENT

THIS JOINDER AGREEMENT, dated as of _____, 20__, is delivered pursuant to Section 7.12 of the Security Agreement, dated as of [____], 202[___], by and among (i) [____], (ii) FEDERAL DEPOSIT INSURANCE CORPORATION (acting in any capacity, the “**FDIC**”), as receiver of [____] (the “**Failed Bank**”) (the FDIC, in such capacity, the “**Receiver**”); (iii) the FDIC, as the Receiver, as PMN Designee (as such term is defined below), and (iv) the FDIC, as the Receiver, as Collateral Agent (as such term is defined below). Capitalized terms used but not defined herein shall have the respective meanings given in, or by reference in, the Security Agreement.

By executing and delivering this Joinder Agreement, the undersigned hereby becomes a party to, and bound by, [(i)] the Security Agreement as [a “Debtor” and] a “Debtor” [and (ii) the Custodial and Paying Agency Agreement as a “Debtor”], [in each case] with the same force and effect as if the undersigned had executed the Security Agreement [and the Custodial and Paying Agency Agreement] as such and, without limiting the generality of the foregoing, as collateral security for the prompt and complete payment and performance when due (whether at stated maturity, by acceleration or otherwise) of the Secured Obligations, hereby mortgages, pledges and hypothecates to the Collateral Agent for the benefit of the Secured Parties, and grants to the Collateral Agent for the benefit of the Secured Parties a lien on and security interest in, all of its right, title and interest in, to and under the Collateral and expressly assumes all obligations and liabilities of [a “Debtor” and/or] a “Debtor” under the Security Agreement [and of a “Debtor” under the Custodial and Paying Agency Agreement].

Without limiting the foregoing, the undersigned hereby consents in all respects to the terms and conditions of, including all of the rights and remedies afforded to the Collateral Agent under the Account Control Agreement. The undersigned hereby agrees to be bound by the Account Control Agreement as fully as if it had been named therein in the place of the Company.

The undersigned hereby certifies to the each of the PMN Designee and the Collateral Agent that each of the representations and warranties contained in Article VI of the Security Agreement applicable to it and/or any Collateral owned (or on the date hereof to be transferred to it) is true and correct with respect to it on and as the date hereof as if made on and as of such date.

This Joinder is expressly for the benefit of, may be enforced by, each of, and may not be amended, modified or waived without the written consent of each of, the PMN Designee and the Collateral Agent.

IN WITNESS WHEREOF, the undersigned has caused this Joinder Agreement to be duly executed and delivered as of the date first above written.

[ADDITIONAL DEBTOR/DEBTOR]

By: _____
Name:
Title:

ACKNOWLEDGED AND AGREED as of the date first above written:

[COLLATERAL AGENT]

By: _____
Name:
Title:

EXHIBIT B

LOCATION OF RECORDS FOR THE COMPANY

SAMPLE

EXHIBIT C
FORM OF DEBTOR ALLONGE

THIS ALLONGE IS TO BE ATTACHED TO AND MADE AN INTEGRAL PART of
the following instrument:

Collateral Loan Note [Insert proper name of Collateral Loan Note]

Dated: [Insert Date of Execution of Collateral Loan Note]

Payable by _____ [Insert Name of Borrower], a _____
[Insert State of Formation] [Kind of Entity] [If known]

Payable to the Order of: [Insert name of Original Payee]

Original Principal Amount: _____ Dollars [Insert Original Principal
Amount in words] (\$) _____ [Insert amount in numerals.]

PAY TO THE ORDER OF _____.

[NAME OF DEBTOR OR OTHER ENDORSER]

By: _____
Name: _____
Title: _____

Dated as of _____

EXHIBIT D

FORM OF DEBTOR MORTGAGE ASSIGNMENT

Upon recordation, return to:

Name:

Address:

Tax Map No. or Tax Parcel Identification No.: _____

**ASSIGNMENT OF REAL ESTATE MORTGAGE
(Book _____, Page _____)**

KNOW ALL MEN BY THESE PRESENTS:

THAT, [NAME OF DEBTOR OR OTHER ENDORSER] (hereinafter referred to as "Assignor" or "Debtor"), at [_____] , for value received, does by these presents, pledge, grant, bargain, sell, assign, transfer and set over to the entity designated below as "Assignee", its successors and assigns (hereinafter referred to as "Assignee" or "Grantee"), all right, title and interest in and to that certain:

Note and Real Estate Mortgage, each dated [Insert Date], executed by [Insert Name of Borrower], a [Insert Kind of Entity] (the "Debtor"), each being in the original principal sum of [Write out amount] and ____/100 Dollars (\$[Insert Numerals]) and which Note was made payable to [Insert name of original lender] and which Mortgage was recorded on [Insert Date], in Book _____, Page _____ with the [Register of Deeds, [Insert] County, State of [Insert]] ("Register's Office").

Such Note and Mortgage were assigned by Federal Deposit Insurance Corporation as Receiver of [_____] to the Company pursuant to that certain Assignment of Real Estate Mortgage dated [Insert Date] and recorded on [Insert Date] in Book _____, Page _____ in the Register's Office ("Assignment").]

[or]

[Such Note and Real Estate Mortgage were modified pursuant to that certain [Insert Correct Name of Document, e.g., Modification and Ratification of Note and Real Estate Mortgage Agreement] dated [Insert Date] and recorded on [Insert Date] in Book _____, Page _____ in the Register's Office ("Modification").]

The Mortgage, as such may have been assigned and modified, covers the following described property:

SEE ATTACHED EXHIBIT A

TO HAVE AND TO HOLD THE SAME UNTO SAID ASSIGNEE, ITS SUCCESSORS AND ASSIGNS.

THIS ASSIGNMENT IS MADE WITHOUT RECOURSE, REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WRITTEN OR ORAL, BY THE COMPANY. THE LOAN IS CONVEYED "AS IS" AND "WITH ALL FAULTS," WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER, INCLUDING AS TO COLLECTABILITY, ENFORCEABILITY, VALUE OF COLLATERAL, ABILITY OF ANY OBLIGOR TO REPAY, CONDITION, FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED, BY ANY PERSON, INCLUDING THE COMPANY OR ITS OFFICERS EMPLOYEES, AGENTS OR CONTRACTORS.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, [NAME OF DEBTOR OR OTHER ENDORSER] has caused this instrument to be executed this _____ day of _____, 20____, effective as of the _____ day of _____, 20____.

ASSIGNOR:

Signed, sealed and delivered
in the presence of:

[NAME OF DEBTOR OR OTHER ENDORSER]

ATTEST: _____
Print Name: _____
Title: _____

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

Witness #1
Print Name: _____

SEAL

Witness #2
Print Name: _____

ASSIGNEE: _____

ACKNOWLEDGMENT

STATE OF _____)
) SS:
COUNTY OF _____)

On this _____ day of _____, 20____, before me personally appeared _____, known to me or proved to me on the basis of satisfactory evidence to be the person(s) who executed the foregoing instrument, and he/she thereupon duly acknowledged to me that he/she executed the same to be his/her free act and deed.

WITNESS my hand and official seal.

Name of Notary: _____
My commission expires: _____

EXHIBIT E

FORM OF DEBTOR ASSIGNMENT AND LOST INSTRUMENT AFFIDAVIT

STATE OF _____ §

§

COUNTY OF _____ §

ASSIGNMENT AND LOST INSTRUMENT AFFIDAVIT

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 _____ for the [Name of Debtor or other Endorser] (the "Company").

2. That at the time of the preparation of transfer to the entity designated below as "Assignee", the Company was the owner of (or otherwise has the requisite right and authority to assign in accordance with the terms hereof) 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, to the knowledge of the undersigned, 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 the Assignee the Instrument had not been assigned, transferred, pledged or hypothecated by the Company.

4. That if the Company subsequently locates the Instrument, the Company shall provide written notice to the Collateral Agent and deliver the Instrument to the Custodian,

endorsed in blank, in accordance with written instructions received from the Collateral Agent (or such other party designated in writing by the Collateral Agent).

5. That the purpose of this affidavit is to establish such facts. This affidavit shall not confer any rights or benefits, causes or claims, representations or warranties (including, without limitation, regarding ownership or title to the Instrument or the obligations evidenced thereby) upon the Collateral Agent, its successors or assigns. All such rights, benefits, causes or claims, representations and warranties (if any) shall be as set forth in the Security Agreement, between the Company, the Collateral Agent, Federal Deposit Insurance Corporation, as Receiver of [____], as Collateral Agent, and as PMN Designee, dated as of [____], 202[] (the "Security Agreement").

6. That pursuant to the terms and conditions of the Security Agreement, the Instrument (including, without limitation, any and all rights the Company might have to enforce payment and performance of the Instrument, including any rights under Section 3-309 of the Uniform Commercial Code) is hereby assigned effective as of the date hereof, without recourse, representation or warranty, to the entity designated below as "Assignee". A copy of the Instrument is attached to this affidavit, if available.

ASSIGNEE: _____

[DEBTOR OR OTHER ENDORSER]

By: _____

Name: _____

Title: Attorney-in-Fact

Signed and sworn to before me this ____ day of _____, 20____.

Notary Public

[SEAL]

My Commission expires: _____

EXHIBIT F

FIELDS FOR TRIAL BALANCE REPORT

UPON REQUEST		
<u>LOAN LEVEL TRIAL BALANCE AND ACTIVITY REPORT (via Electronic Submission)</u>		
Current Loan Number		
Prior Servicer Loan Number		
P&I Constant		
Collateral Loan Note Rate		
Next Due or Paid-Thru Date		
Payoff Date (if applicable)		
Principal Balance, end of prior month		
Principal collections - regular		
Principal collections - payoffs		
Principal proceeds – loan sales		
Principal Write-Off Amount		
Other Non-Cash Principal Adjustment		
Transfer to REO		
Principal Balance, end of current month		
Escrow balance		
Other Advances Balance		
Interest collections		
Non-Cash Interest Adjustment		
Late Charges		
Pre-Payment Penalty Paid		
Other Fee Income		

Schedule 1

Definitions for Custodial and Paying Agency Agreement and Security Agreement

[See Schedule 1 of Custodial and Paying Agency Agreement]

SAMPLE

Schedule 7.6

Management Standards – Servicing, Administration, and Management Obligations

During the term of this Agreement, in the discharge of each Debtor's obligations under Section 7.6, each Debtor at all times shall act in accordance with usual and prudent business and banking practices, Customary Servicing Procedures, and their best business judgment. Without limiting the generality of the foregoing, each Debtor shall observe and adhere to the specific obligations set forth in Section 7.6 and this Schedule 7.6.

(a) Charge-Offs and Recoveries. Each Debtor shall effect charge-offs and collect recoveries with respect to each Collateral Loan and the Collateral Loan Underlying Collateral in a manner consistent with such Debtor's (or, if applicable, the Qualified Servicer's) practices and procedures, applicable law, and the written internal credit policy guidelines of such Debtor (or, if applicable, the Qualified Servicer) in effect from time to time, with respect to the effectuation of charge-offs and the collection of recoveries with respect to loans, real estate and repossessed collateral that do not constitute Collateral Loans or the Collateral Loan Underlying Collateral.

(b) Losses and Collections. Notwithstanding any other provision of this Schedule 7.6 to the contrary, at all times each Debtor shall (and shall cause each of its Affiliates and Servicers) to minimize losses and maximize collections with respect to, and to service, administer, and manage each Collateral Loan and the Collateral Loan Underlying Collateral without favored treatment for any assets owned by such Debtor or any of its Affiliates that are not Collateral Loans or Collateral Loan Underlying Collateral.

(c) Loss Mitigation Procedures. At the request of the FDIC, each Debtor shall deliver its existing written internal credit policy statements/guidelines governing loan restructuring and modifications ("**Loss Mitigation Policies**") which should include, among other things, such Debtor's policies governing A/B note restructures, balloon loans approaching maturity, interest only loans, short sales, deeds in lieu of foreclosure, foreclosure sales, charge-offs, appraisal policies and recoveries of deficiencies. Each Debtor shall adopt loss mitigation procedures for the Collateral Loans and the Collateral Loan Underlying Collateral which are consistent with such Debtor's Loss Mitigation Policies.

(d) Loss Mitigation Plans. Each Debtor shall implement appropriate loss mitigation plans with respect to Collateral Loans and the Collateral Loan Underlying Collateral in default or for which a default is reasonably foreseeable for the minimization of losses:

(i) the loss mitigation plans shall require each Debtor to evaluate the feasibility of prudent loan restructurings, loan workout and any other appropriate methods of loss mitigation prior to taking any foreclosure or other legal actions.

(ii) Each Debtor's documentation of its evaluations and cost analysis of the loss mitigation strategy used to maximize collections on Collateral Loans and the Collateral Loan Underlying Collateral will be utilized for purposes of evaluating loss claims and also such Debtor's compliance with the Management Standards of this Agreement.

(iii) each Debtor shall conduct an evaluation of the governing provisions of all agreements and related loan documents regarding Collateral Loans that are not wholly owned by a Debtor such as syndicated loans, shared national credits and loan participations (“**Participated Loan Agreements**”) to determine if any such Debtor’s rights and obligations under such agreements are inconsistent with the Management Standards of this Agreement. Each such evaluation shall be documented and retained by such Debtor. Loan modification and management strategies for Collateral Loans subject to the Participated Loan Agreements that are in conflict or inconsistent with the terms of this Agreement should be evaluated by the applicable Debtor and presented to the FDIC for a case specific approval, if such Debtor’s analysis indicates that the particular strategy will minimize the loss on the Collateral Loan(s) subject to the terms of such Participated Loan Agreement. The Debtor’s credit analysis for Collateral Loans subject to the Participated Loan Agreements must be consistent with such Debtor’s current underwriting practices for non-participated Collateral Loans.

(e) Certificates, Notifications and Reports. Each Debtor shall provide to the Receiver in a timely manner such certificates, notifications and reports either the Debtors are required to provide pursuant to this Agreement or that the Receiver reasonably requests, including the certificates, notifications and reports required by Section 7.13.

(f) Monitoring by Receiver. At any time each Debtor shall permit the Receiver to monitor such Debtor’s performance of its responsibilities and duties pursuant to this Agreement.

(g) Adoption and Implementation of Systems. Each Debtor shall adopt and implement accounting, reporting, record-keeping and similar systems with respect to each Collateral Loan and the Collateral Loan Underlying Collateral that are required pursuant to Section 7.13.

(h) Sufficient Staff. At all times each Debtor shall retain sufficient staff to discharge its obligations pursuant to this Agreement.

(i) Adherence to Management Standards. Each Debtor shall cause each of its Affiliates to which it transfers any Collateral Loan and Collateral Loan Underlying Collateral and each Qualified Servicer to act in accordance with the Management Standards.

(j) [MERS Requirements].

(i) In the event that any of the Collateral Loans and Collateral Loan Underlying Collateral are (or are required by the terms hereof to be) registered on the MERS® System, and unless and until no Collateral Loans nor Collateral Loan Underlying Collateral so remain registered on the MERS® System in accordance herewith, (i) each Debtor and the Qualified Servicer engaged to service such Collateral Loans and Collateral Loan Underlying Collateral must be (or become) a member of MERS and must maintain itself as a MERS member in good standing (including paying all dues and other fees required to maintain its membership and complying with MERS policies and procedures).

(ii) All such Collateral Loans and Collateral Loan Underlying Collateral registered on the MERS® System must remain registered on the MERS® System unless default, foreclosure or similar legal or MERS requirements dictate otherwise.

(iii) The Qualified Servicer must provide the Collateral Agent with such reports from the MERS® System as the Collateral Agent, from time to time, may request, including to allow the Collateral Agent to verify the Persons identified on the MERS® System as having any interest in any of the Collateral Loans and Collateral Loan Underlying Collateral and to confirm that Collateral Loans and Collateral Loan Underlying Collateral required to be registered on the MERS® System are so registered.]

SAMPLE